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THE PROCEEDINGS AND DEBATES

OF THE

FIFTY-NINTH CONGRESS, FIRST SESSION,

ALSO

SPECIAL SESSION OF THE SENATE.

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CONGRESSIONAL RECORD,

FIFTY-NINTH CONGRESS, FIRST SESSION.

to discontinue or in any respect affect the supervisory authority of the Secretary of the Interior relative to any mineral lease or mineral leases heretofore executed by any allottee of said tribe.

Mr. LA FOLLETTE. I should like to make a parliamentary inquiry. I should like to know if an amendment to the pending proposition would be in order?

The VICE-PRESIDENT. It is not in order now, but the Chair will recognize the Senator to offer his amendment after the bill reaches the Senate.

Mr. CLAPP. I ask now that the bill be reported to the Senate.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. The bill is as in Committee of the Whole and still open to amendment.

Mr. McCUMBER. I have a couple of short amendments which relate to the removal of restrictions in individual cases, and I will offer them now, to come in at the proper time.

The VICE-PRESIDENT. The amendment sent to the desk by the Senator from North Dakota will be stated.

The SECRETARY. On page 91, after line 7, insert the following:

That the Secretary of the Interior be, and he is hereby, authorized to issue a fee-simple patent to Demas Eastman, a Santee Sioux allottee, No. 837, and the issuance of said patent shall operate as a removal of all restrictions as to the sale, incumbrance, or taxation of the land so patented.

The amendment was agreed to.

Mr. McCUMBER. I offer another amendment of the same character.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 151, after line 15, insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to cancel the certificate of patent No. 426, issued to Charley Adass on December 11, 1891, for lot 11, section 6; lots 11, 13, and the southeast quarter of the southwest quarter of section 5, township 38 north, range 5 east, west meridian, Olympia land district, State of Washington, and issue in lieu thereof a patent in fee simple to his widow and heirs.

The amendment was agreed to.

Mr. LONG. I offer an amendment.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. On page 91 insert after the amendment just agreed to:

That the restrictions upon the alienation of Manda Proctor, deceased, a Creek Indian, for 26.39 acres, it being the west half of the southeast quarter of the southeast quarter, and the southeast quarter of the southeast quarter of the southeast quarter, section 12, township 7, north of range 8, 26.39 acres.

Mr. TILLMAN. I think there should be an explanation of the allottee named. He is a full blood, I judge, and there must be an oil well or something on that 26 acres or there would not be any necessity to have some special Indian allotment excepted from the general rule.

Mr. CLAPP. I raise the point of order on that amendment. I think the amendment is subject to a point of order.

Mr. LONG. This is adjoining the town of Holdenville, in the Indian Territory.

Mr. CLAPP (to Mr. TILLMAN). Does the Senator want to debate it?

Mr. TILLMAN. No; I am not going to debate it. The Senator has made a point of order against it.

Mr. CLAPP. I withdraw the point if it is not going to be debated, and will let the amendment be voted on.

Mr. TILLMAN. I simply want to know what explanation there is as to why this particular allottee by name should be exempted from the general provision, which we just now incorporated.

Mr. LONG. If the general provision that we have incorporated becomes a law it will apply to this allottee.

Mr. TILLMAN. Is he a white Indian?

Mr. LONG. No; a mixed blood.

Mr. TILLMAN. Then why put it in?

Mr. LONG. The other provision may not be incorporated in the bill.

Mr. TILLMAN. It is already incorporated in the bill—that is, we have agreed to it.

Mr. LONG. It may not become a law.

Mr. TILLMAN. I want them all to fare alike. I do not believe there ought to be any discrimination by name in that way, and I object to it, just as I have objection to another discrimination here on account of color.

Mr. CLAPP. I raise the point of order against the amendment.

The VICE-PRESIDENT. The point of order is sustained.

Mr. CLAPP. I ask to have the bill reported to the Senate.

Mr. LA FOLLETTE. I desire to offer the amendment which I send to the desk, to be added after line 21, page 162.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to insert, after line 21, page 162, and after the amendment already adopted, inserted at the same place, the following:

That the Secretary of the Interior is hereby authorized and directed to pay, in his discretion, on the order of the business committee of the Menominee tribe of Indians, on the Menominee Indian Reservation, in the State of Wisconsin, the indebtedness of said committee and its councils, incurred by said committee in the transaction of tribal business, to be taken from any of the funds in the Treasury of the United States to the credit of said Indians as a tribe, and said committee shall file annual account with the Secretary of the Interior.

Mr. LODGE. I should like to inquire if that amendment has been reported by the committee.

Mr. CLAPP. No, sir; it has not been reported by the committee.

Mr. LODGE. It does not seem to me, Mr. President, that we ought to insert a provision for a payment of that kind which has never been investigated by a committee. I make the point of order on the amendment.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. LA FOLLETTE. If I may be permitted, I should like to make a statement with respect to the amendment, and I think the Senator from Massachusetts will then not insist on the point of order.

Mr. LODGE. Oh, certainly. I withdraw the point of order to permit the Senator to do that.

Mr. LA FOLLETTE. Mr. President, this proposition follows properly an amendment which has already been adopted to provide for the disposition of certain down and dead timber on the Menominee Indian Reservation. A committee known as the "business committee" of that tribe of Indians, in looking after the interests of the tribe with respect to their timber lands, have incurred certain expenses and advanced some money for the benefit of the Indians as a whole. It will be noticed that the amendment leaves it entirely within the discretion of the Secretary of the Interior as to whether any claim which this business committee may present shall be paid. It seems to me very clear that the Secretary will have better opportunity to investigate the validity of such claim than any committee of the Senate. It ought to be perfectly safe to leave this matter in the hands of the Secretary of the Interior when he is invested with full discretion with reference to it.

Mr. LODGE. Mr. President, if the claim be a proper one, I certainly should not interfere with it in any way or desire to do so; but my objection is that it has never been investigated by anybody; that there is no estimate sent here for it from the Department; and that no investigation has been made by the committee. It seems to me that as to payment of money in that way, before the Senate passes it, it should have some knowledge in regard to the amount involved, and not leave it entirely as a matter of discretion in any Department. I think, therefore, that I shall have to insist on my point of order.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. TILLMAN. Mr. President, I have here a rather long letter, which I do not wish to read, from D. C. McCurtain, Choctaw delegate, protesting against the amendment beginning at the top of page 36, which I will read in order that his protest may be understood:

That all Choctaw and Chickasaw freedmen whose names appear upon the rolls of said tribes as approved by the Secretary of the Interior shall each have the preference right to purchase, at a valuation to be ascertained by appraisement to be hereafter made under rules and regulations prescribed by said Secretary, 80 acres of the unallotted lands of said tribes.

Mr. McCurtain objects to this discrimination as against all the other Indians, and this letter explains his objection; but the chairman of the committee has agreed that, so far as he is concerned about the Senate amendment, he is willing that there shall be a reconsideration of the vote by which the amendment was adopted in order that it may be stricken out.

The VICE-PRESIDENT. The Senator from South Carolina moves that the Senate reconsider the vote by which it adopted the committee provision at the top of page 36, which he has just read.

Mr. HALE (to Mr. TILLMAN). Ask that the Senate disagree to the amendment when the bill gets into the Senate.

Mr. TILLMAN. Very well.

The VICE-PRESIDENT. The question is on the motion of the Senator from South Carolina.

The motion to reconsider was agreed to.

The VICE-PRESIDENT. The question now is on the amendment reported by the committee.

The amendment was rejected.

Mr. CLAPP. Now, Mr. President, I hope the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The VICE-PRESIDENT. The question is on concurring in the amendments made as in Committee of the Whole. The amendment made on the motion of the Senator from Missouri [Mr. WARNER], on which the Senator from Wisconsin desires to have a separate vote, will be reserved. Is it desired that any other amendment be reserved? If not, all the other amendments made as in Committee of the Whole will be regarded as concurred in.

Mr. LA FOLLETTE. I offer the following amendment, to come in at an appropriate place after the amendment heretofore adopted:

And provided further, That such sales shall be made, with the approval of the Secretary of the Interior, by advertising the same and receiving sealed bids therefor.

Mr. WARNER. Let me make a suggestion. The Senate has just removed the restrictions from the Indian allottees, excepting as to full bloods and minors. By this amendment the restrictions are replaced. I think the Senator from Wisconsin would hardly want those words added to the amendment, as they nullify the action which the Senate has just taken.

Mr. LA FOLLETTE. I do not so understand it, Mr. President. I believe it places a reasonable restriction upon the sale or alienation of these lands.

Mr. LODGE. I should like to hear the amendment read at the desk.

The VICE-PRESIDENT. The Secretary will state the amendment.

Mr. LODGE. I should like to have it read as it will read if the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE] be added.

Mr. NELSON. I should like to have the whole paragraph read, so that we can see the connection.

The VICE-PRESIDENT. The Secretary will read as requested by the Senator from Minnesota [Mr. NELSON].

The Secretary read as follows:

That all restrictions upon the alienation of lands of Indian allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, except Indians of full blood and Indians under 21 years of age, are, except as to homesteads, hereby removed, to take effect July 1, 1906: *Provided*, That nothing in this act contained shall be held or construed to discontinue or in any respect affect the supervisory authority of the Secretary of the Interior relative to any mineral lands or mineral leases heretofore executed by any allottee of said tribe: *And provided further*, That such sale shall be made with the approval of the Secretary of the Interior by advertising the same and receiving sealed bids therefor.

Mr. LODGE. Mr. President, I am unable to see that the amendment of the Senator from Wisconsin destroys the general amendment adopted by the Senate. It limits the provision to mineral lands, as I understand it.

Mr. WARNER. Oh, no.

Mr. LODGE. No; I do not mean the restriction; I mean the amendment of the Senator from Wisconsin. The amendment which he proposes to add there refers to mineral lands.

Mr. WARNER. If the Senator will pardon me, I think he will find it does not refer to mineral lands.

The VICE-PRESIDENT. The Secretary will again read the provision as it will read if amended.

The Secretary again read the provision heretofore adopted, together with the amendment of Mr. LA FOLLETTE.

Mr. LODGE. Mr. President, that seems to me, I confess, again on hearing it read, to relate to mineral lands.

Mr. CLARK of Wyoming. The first provision relates to mineral lands and the latter proviso relates to all lands.

Mr. BAILEY. The first provision relates to mineral lands or mineral leases, and the last provision relates to sales. It expressly uses the words "such sales."

Mr. LODGE. I thought it referred to mineral land. The Senator from Wisconsin [Mr. LA FOLLETTE] can state.

Mr. LA FOLLETTE. My purpose was to have all sales——

Mr. LODGE. All sales?

Mr. LA FOLLETTE. Yes; to have all sales take place under the supervision of the Secretary of the Interior upon sealed bids. The Secretary of the Interior recites in his report that wherever sales have been made in any other manner very much less than the value of the land has been received, and it seems to me that if these lands are to be sold this is a wise provision to attach to the sale. We surely ought to endeavor to realize the fair value of these lands for the benefit of the Indians whenever they are sold.

Mr. BAILEY. I hope the Senator from Wisconsin [Mr. LA FOLLETTE] will not insist on this amendment. Probably when he has become more familiar with conditions in the Indian Territory he will attach less importance to what the Secretary of the Interior says about it.

I confess, Mr. President, that I have greater interest in the white people of that Territory than I have in the Indians, because the white people outnumber the Indians something like ten to one. I know, besides, that the future of that country depends upon the white people there more than upon the Indians. I know, also, that as you render the land of that country inalienable, you not only retard its progress, but you reduce the people, who must make it great, to the condition of tenants instead of home owners.

It is a happy circumstance that in the nature of things it will be forever impossible for the land of that Territory—soon, I hope, to become a State—to be concentrated in large bodies in the hands of any one man or in the hands of any one interest, or, as the Senator from South Carolina [Mr. TILLMAN] says, in the hands of any corporation.

I venture to say that under this amendment it will soon come to pass that more men in the Indian Territory will cultivate their own farms and fewer men cultivate the farms of landlords than in any other State of this Union.

The tracts of land made marketable by this amendment are not such as to tempt the avarice of those who are looking for great transactions with large profits, because what the Indian can sell under this liberalization of the law is only what makes a moderate holding for a self-respecting American farmer.

If I could have had my way, I would have provided that the lands should be sold not to anybody but to the tenants who now occupy them, and at a price which should be a fair appraisal of their value; but I recognize that the Indian owns the land, and is therefore entitled to obtain the highest market price for it.

Our experience is that it has never been possible to obtain anything like a fair value for any property in the Indian Territory under any system of appraisement, and for that reason it has seemed to me that, in order for the Indian to realize the highest price obtainable for his land, he should be permitted to sell it in the open market under competitive conditions. At last, however, when the Indian comes to sell from 80 to 160 acres, he will find only the purchaser who wants to make it a homestead and devote it to the uses of agriculture.

It signifies vastly more to the future welfare of that country that they should now be permitted to make homes of that land than that they should be postponed for many years until the gradual, but constant, increase in value will put even the moderate acreage of 160 beyond the purchasing power of the average farmer there. I therefore believe that the American Congress can do no service so valuable to that new country as to let the people who have gone there to make it with their brain, their muscle, and their industry a great Commonwealth, as to give them an opportunity to come into the possession of this land.

Mr. LONG. Mr. President, I fully agree with the Senator from Texas [Mr. BAILEY] as to the necessity for a provision removing the restrictions from the mixed bloods of the Five Civilized Tribes. I am opposed to the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE], for it nullifies the amendment which has been adopted. Providing that sales can only be made on sealed bids, with the approval of the Secretary of the Interior, places greater restrictions on the disposal of lands in the Indian Territory than exist now. Under existing law restrictions can be removed by the Secretary of the Interior after an investigation on the merits of each particular case.

The objection to the present law is that it is impossible for the Secretary to investigate these cases and dispose of them. I call the attention of the Senate to the record made last year under existing law. During the last fiscal year there were 2,245 applications made for the removal of restrictions. Of this number 388 were recommended for approval by the Indian agent in the Indian Territory and 982 for disapproval, leaving the remainder unacted upon at the end of the fiscal year. The amendment that has been adopted removes the restrictions, except as to minors and except as to full bloods.

This is not a new question at this session of Congress. In the bill providing for the final disposition of the affairs of the Five Civilized Tribes the following provision was passed by the House of Representatives:

That all the restrictions upon the alienation and leasing of lands of Indian allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, except Indians of full blood and except minors, are, except as to "homesteads," hereby removed.

That provision passed the House of Representatives. It was reported to the Senate with but slight modification by the Committee on Indian Affairs. It was stricken out in the Senate, but the Senate adopted this provision, very similar in its terms:

That all restrictions upon alienations and leasing of lands of Indian allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes of less than full blood are, except as to homesteads, hereby removed.

This was practically the same as that contained in the amendment now pending.

A provision was agreed to in the conference practically identical with this, and it was reported to the Senate. Objection was made to a certain part of that report. The report was withdrawn and a second report was made, leaving out this provision. So that this provision substantially has passed the Senate and the House of Representatives at this sesion of Congress. I believe that the amendment of the Senator from Wisconsin should be rejected and that the provision which was adopted by the Senate as in Committee of the Whole should be agreed to in the Senate.

Mr. HALE. The Senator understands that the point of order made in the Senate now against the provision adopted as in Committee of the Whole is just as good as it was in Committee of the Whole; and if this discussion is to proceed and that amendment is to be changed and modified I shall make the point of order against the original amendment.

Mr. LONG. I hope we may have a vote on the amendment of the Senator from Wisconsin.

Mr. CLARK of Wyoming. I desire to ask the Senator from Kansas whether or not it is a fact that this same provision, as it appeared in the House bill and as it passed the House and substantially as it passed the Senate, was not prepared by and received the sanction of the Interior Department?

Mr. LONG. I so understand.

Mr. LA FOLLETTE. In justification of the amendment which I have proposed, I wish to read from the report of the Secretary of the Interior. Referring to the sale of lands by this method, the Secretary says:

> This method of selling Indian lands is most satisfactory from a departmental standpoint, having in view the best interests of the allottee. It does not so well meet the approval of the prospective purchaser. It requires him to bid against any and all who desire to compete for the same land, and also makes it necessary for him to bid above the amount of an unknown Government appraisement. The records show that by the present method of sale of land by sealed bids lands have been sold for a much higher price than by previous private sales, which were disapproved by the Department.

Mr. President, I wish to say a word with reference to the date of the proposed sale of these lands. The amendment offered by the Senator from Missouri [Mr. WARNER] fixes July 1 as the date of such sale. At that time farmers are occupied with their crops and would not be free to look after the purchase of lands. It is the busy season for the cotton raiser and the grain grower. I have had many letters from farmers in the Indian Territory urging if the lands are to be sold that the date of such sale be fixed as late as September or October, giving them an equal opportunity with the land speculators to be present when the lands are offered for sale. If in order, when the proposition now under discussion is disposed of I shall offer an amendment changing the date when these sales are to take place.

I am in accord with what the Senator from Texas [Mr. BAILEY] has said about this Territory. It will be retarded in its development if these lands can not be sold, the country opened up, and the lands made productive. The amendment which I have offered does not propose to postpone the sale of the lands. It simply provides that the owners of these lands shall receive the highest prices possible for them whenever they are sold.

Mr. SPOONER. Mr. President, I have read this amendment and the amendment proposed to it. There is such a diversity of opinion in the Senate as to the policy which ought to be pursued on this subject that I am constrained to think that it would be better if the Senate did not undertake permanently to solve it to-day. I think in all human probability next winter the Congress will assemble again, and in the meantime, if another body does its duty, as I view it, Oklahoma will come into the Union as a State. We can then take the requisite time to discuss this matter from every possible standpoint and arrive at a conclusion which will alike be honorable to the Government of the United States and in the interest of the Indians. I feel it to be my duty, all things considered, to renew the point of order which I made but withheld.

Mr. WARNER. Will the Senator pardon me a moment?

Mr. SPOONER. Certainly.

Mr. WARNER. The same reasons given for delay now for another Congress to further investigate this matter were the identical reasons that were given in 1893, when the Dawes Commission was formed so as to enable the various tribes to become civilized, and that is thirteen years ago.

Mr. SPOONER. This is not thirteen years.

Mr. BAILEY. I want to make this suggestion to the Senator from Wisconsin before he insists upon that point of order: If these people could have been permitted to sell, and the people who have gone into that country could have been permitted to buy these lands ten years ago, there was no man of industry, even without capital, who could not have bought them and paid for them and been the owner of an American farm to-day. The increase in value has been very great in that country, and if we wait until it becomes a State, with the stimulation of all enterprise and the enhancement of all values that will inevitably follow statehood, it is true we will get the Indians more for their land, but we will make it more difficult for an American citizen with a white skin to buy a home. I make no concealment; I repeat it for the second, and I would repeat it for the thirty-second time, that I am vastly more interested in the white man than I am in the Indian, because, as I said—the Senator from Wisconsin was not here a moment ago when I said it—there are so many more white men there whose interests are to be consulted than there are Indians.

If the sale of these lands is to be postponed and this increase in value is to go on, it is as certain as that we live that the lands will reach a purchase price where a man can not buy them and hope to pay for them out of the profits of his farm, and they must pass into the hands of men who buy them because they have money to invest, and who will hold them for the purpose of renting them.

I want to see as many home owners and as few tenants there as possible, and I regret sincerely that those people were not able to buy land five years ago when they could have bought it for 20 per cent of its present value. I apprehend that in the course of another twelve months or two years the enhancement in value will be so great as enormously to diminish the num- of people who will be able to buy those lands for the purpose of making them their homes. I hope the Senator from Wisconsin will not insist upon postponing nearly a million of American citizens in the opportunity to get an excellent, and, at present prices, a reasonably cheap farm.

Mr. SPOONER. Mr. President, the observations of the Senator from Texas [Mr. BAILEY] confirm me in the wisdom of delay. The fact that the Indian is in so great a minority relatively to the white man and that the white man alone makes the laws which involve the rights of the Indian ought to lead the Senate of the United States for once to think mainly of the Indian.

I am very glad, from the standpoint of the interest of the Indian, that these lands were not sold five years ago, so that they could have been acquired from the Indian by the white man at a much less price than they can be acquired to-day. It is no argument against the delay which my point of order involves that a year from now the Indian will be able to obtain a better price for his land than he would be able to obtain for it to-day.

Mr. BAILEY. Will the Senator from Wisconsin permit me to remind him that except for the white men who have gone there to build up that country the land would hardly be worth 50 cents an acre to-day?

Mr. SPOONER. Very likely.

Mr. BAILEY. And it does look a little hard——

Mr. LODGE. They did not go there for philanthropic purposes.

Mr. BAILEY. The Senator from Massachusetts suggests that they did not go there for philanthropic reasons. That is true, but it is not more true than it is that men do not fish along the coast of New England for philanthropic reasons.

Mr. LODGE. Certainly not.

Mr. BAILEY. Men go everywhere in this world to better their condition or to entertain their time and to promote their pleasure. I rejoice to say that the people in the Indian Territory have no waste time to entertain, and they are too busy trying to provide for their future generations to have much time for promoting their pleasure. They went there, I grant, for the purpose of improving their condition, and I am pleading with the Senate not to make it harder for them to accomplish that laudable purpose.

Mr. SPOONER. I wish to see the Indian get all he can get for his land. He can not utilize it as the white man can, and he must rely upon the proceeds of its sale and the income derived from the proceeds of its sale.

The Indian race is a vanishing race. It will not be long until every acre of land in Oklahoma will be occupied by a white man. I have a picture at my house which beautifully, but pathetically, illustrates the decay of the Indian race. Two Indians appear in the picture, hardly discernible, riding their ponies in the deep twilight to the West. As a Government we have betrayed them into the hands of the white man. What is left of their ancient patrimony I think this Government ought, as far as it may, to conserve.

The whole basis of this amendment is that the Indian, at least the half-breed, is able to take care of his own business interests. So be it. As to the majority that is true. As to the large minority confessedly it is not true. If we delay yet a little while until another session of the Congress, the Senator

from Texas thinks the lands of the Indians will have appreciated in value. Is that, from the standpoint of the traditional guardian of the Indian—the Government of the United States—an objection to delay?

Mr. BAILEY. Will the Senator from Wisconsin permit me?

Mr. SPOONER. Certainly.

Mr. BAILEY. It is not. But if you hold the land until it is worth $100 an acre, as to many of these Indians it will be no profit to them. As to the others——

Mr. SPOONER. Did the Senator say as to most of them?

Mr. BAILEY. As to many——

Mr. SPOONER. Oh.

Mr. BAILEY. It will be no profit to them. Whatever they get out of it and whenever they get it, it will go. As to those who would profit at any time, they are quite capable of taking care of themselves now; and some of these very Indians in whose behalf the Senator from Wisconsin speaks so beautifully would be buying out their brother Indians, because they are thrifty enough to take care of themselves in any trade.

But my view is this: In trying to perform the duty of fully protecting the Indians you are imposing a great hardship upon the white man. Mr. President, it touches me deeply when Senators talk about this vanishing race. That is a beautiful sentiment, but I must be permitted to say it is not practical statesmanship.

Mr. SPOONER. It is not politics.

Mr. BAILEY. No; I would not accuse the Senator from Wisconsin of being a politician.

Mr. SPOONER. No.

Mr. BAILEY. He is a statesman. It is not practical statesmanship to try to preserve for those who can not keep and thus withhold from those who would make great advantage of it if they could obtain it now.

Mr. SPOONER. The argument of the Senator is the justification by the white man of the policy of the white man toward the Indian from the beginning.

Mr. BAILEY. No, Mr. President——

Mr. SPOONER. From the beginning.

Mr. BAILEY. Let the Senator better understand me. I do not justify it.

Mr. SPOONER. I said the argument justified it.

Mr. BAILEY. No; I would even dissent from that statement. I am recognizing, to borrow a famous phrase, "a condition and not a theory."

Mr. SPOONER. The Senator has at heart, apparently, in this question the interest of the white man and not the interest of the Indian. Is there nobody in the United States whose duty it is to have at heart the interest of the Indian? If there be a body in the United States whose duty it is to have at heart the interest of the Indian, that is the Congress of the United States, including this body.

I have been importuned by many men from different States during the pendency of this bill not to object to the proposition to remove generally all restrictions upon alienation of Indian lands in the Indian Territory. I have not been importuned, Mr. President, by any Indian, except one by telegraph, or by anyone who claimed to speak for the Indians, save one who, I thought, spoke more infinitely for the white man than he did for the Indian.

The Senator spoke of the land becoming so high in price that the white man will not buy it, if I understood him correctly.

Mr. BAILEY. The white man who would work it can not buy it if it advances much beyond its present price.

Mr. SPOONER. Ah, Mr. President, if it becomes so high in price that only the rich can buy it, should not the Indian have the benefit of that enhancement in price? There is no justification for urging that we should so legislate as to bring about an environment in which the Indian this year must sell his land for a lower price than he would sell it next year, except the proposition of the Senator, that no matter what the price is it would be of no benefit to the Indian, for he could not properly utilize it. That is only an added reason why we should take greater care of the interest of the Indian.

Mr. TELLER. Will the Senator from Wisconsin allow me to make a suggestion?

Mr. SPOONER. Certainly.

Mr. TELLER. The Indian does not have to sell his land unless he chooses to do so. He can hold it if he wishes.

Mr. SPOONER. "The Indian does not have to sell his land unless he chooses to do so." But from the beginning the Indian has been beguiled in one way and another into selling his land, sometimes through the inspiration of fire water, sometimes in another way, and again in another. Every man knows that from the beginning he has been the prey of the white man, and he will continue to be. No matter what the law is, as the Senator from Colorado [Mr. TELLER] said a little while ago, whether the Indian is authorized by law to sell his land or not, it will be occupied by a white man. He will get it in one way or another. But the Indian is not remediless if his title does not pass.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Certainly.

Mr. TILLMAN. Sympathizing with the Senator's plea for justice to and humane treatment of the Indians, I wish to ask him whether or not the delay in the transfer does not becloud the title somewhat and give opportunity for any man who is seeking to purchase an Indian's land to get from him his obligation to sell? I was in that country four or five years ago, and I was told by a prominent lawyer that in all his dealings—and he had been in the Territory fifteen years—he had never known an Indian to break his word. Under the condition which the Senator is seeking to perpetuate, an Indian enters into an agreement with some tenant to sell his land as soon as he can, and the price is already fixed, and the Senator is only bearing down and destroying the value of the land and making the Indian get less than he otherwise would.

I think the Senator from Texas is in error in regard to the increase in value. The actual value will increase, but the contract already made by the Indian will, as a matter of fact, result in the Indian getting less for the land than he would if he were free to sell.

Mr. BAILEY. The mistake of the Senator from South Carolina is that it is not the tenant who as a rule makes the bargain. It is a speculator who makes the bargain, and then he——

Mr. TILLMAN. Some of the merchants have roped in the Indian trade and have obtained the Indian's confidence in one way or another, like the instance the other day involving a man named Brown, of whom the Senator from Wisconsin has heard. I will say, by the way, that that man Brown, out of $153,000 which he received, paid himself as participant or partner in a company and a lawyer $103,000 and the Indians got $50,000.

Mr. SPOONER. Yes; that is the old story.

Mr. TILLMAN. That is the way it will go in spite of all the Senator from Wisconsin can do.

Mr. SPOONER. Then why not remove all restrictions?

Mr. TILLMAN. I am willing to do it right now.

Mr. SPOONER. I am not.

If the Indian as a race in the Indian Territory is so much better than the white man as a race that he never breaks his word, I think we ought to take care of him.

Mr. BAILEY. The Senator must remember that there are thousands of white men in the Indian Territory who would not break their word.

Mr. SPOONER. Yes.

Mr. BAILEY. But they are not the men who drive the hard bargains with the Indians. It is the conscienceless speculator.

Mr. SPOONER. They are not the men from whom the Indian needs protection. But if there is an Indian tract of land anywhere between the oceans which is worth having there will be hundreds of white men after it.

Mr. BAILEY. And they will get it.

Mr. SPOONER. Ready to swindle the Indian out of it.

Now, Mr. President, I want the Indian to get the highest price he can for his land. Does the Senator from Texas want him to?

Mr. BAILEY. If I thought he would keep it and make good use of it, yes. But since I know that the improvident ones will waste it, I prefer to see a thrifty, industrious, intelligent American farmer get a farm when he can buy it at a reasonable price rather than to see him compelled to wait until he can not buy it at all.

Mr. SPOONER. But the Senator ignores the relation in which this Government stands to the Indian.

Mr. LONG. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. SPOONER. Certainly.

Mr. LONG. Has the Senator from Wisconsin visited the Indian Territory in recent years?

Mr. SPOONER. I have never visited it.

Mr. LONG. Then I suggest to the Senator that while he understands the Indian question in a general way, he should visit the Indian Territory. If he does, he will come away with the same opinion which the Senator from South Carolina has just stated to the Senate. Under existing conditions, which the Senator would perpetuate by not removing these restrictions, it

is the man who makes a contract with the Indian, in which he agrees to have the Indian's restrictions removed, or acts for him in securing the removal, who gets the land for less than its value. The present system prevents the Indian from selling his land for its real value, as he would be able to do if the restrictions were removed.

I entirely agree with the Senator from South Carolina as to the conditions there. They would be very much improved by this amendment, and the existing conditions are injurious to the interests of the Indian.

Mr. SPOONER. I have no doubt there is a very strong public sentiment in the States which border on the Indian Territory in favor of removing all restrictions upon Indian alienation.

Mr. LONG. Not only is there such a public sentiment there, but also among the Indians of the Five Civilized Tribes.

Mr. SPOONER. Represented by the Senator from Kansas?

Mr. LONG. Represented before the Committee on Indian Affairs of the Senate.

Mr. SPOONER. By whom?

Mr. LONG. By Indians and by petitions and letters from these Indians.

Mr. TILLMAN. If the Senator from Wisconsin will permit me, just one other phase of this question occurs to me which I want him to contemplate while he is going on, and that is this:

Some ten or twelve years ago—I do not exactly recall the date—the Indian lands in what is now known as "Oklahoma" were purchased by the United States Government and were thrown open to settlement at a fixed rate of $2 or $2.50 an acre, or something like that; perhaps $4; I do not recall the exact amount. But I know there was a terrific rush of white men from all parts of the country to get in and try to get a home at even that price, because arable land that gets water from the clouds has grown very scarce in this country, so far as settlement is concerned.

The settlers rushed in, and they got eighty or a hundred and sixty acres, whatever apportionment they could get hold of. Then, in a few years—three or four or five years—there came the most doleful, pitiful appeals to Congress that these people never would be able to pay for the land, and we, in our liberality and love for our own kind, gave them their homes. We just said: "Here, we will make you a present of your homes. Take them and go. We will give you a title." The Senator wants to have the white men who have gone into the eastern end of the Indian Territory pay ten, twenty, thirty, forty, and fifty dollars an acre, whereas the Government gave the other white men their land.

The land is all equally valuable. I have been near the arid lands in Oklahoma, and those lands produce magnificent wheat crops and alfalfa, and also cotton, which is a dry plant and likes sunshine. No one knows exactly where the border of the great American desert is. It is nearly on the western edge of Oklahoma.

But the Senator ought to recollect, in his solicitude for the Indians in the eastern end of the Territory, that the white men in the western end have been given their lands by the Government of the United States, and he ought not to make it so hard upon the others to buy from the Indians.

Mr. SPOONER. My solicitude is for the Indian, not for the Indian in the east end or the west end, but for the Indian.

Mr. TILLMAN. You ought to have some little solicitude for the white man in the eastern end, inasmuch as Congress has had such solicitude for the white man in the west.

Mr. SPOONER. If the Government is to buy the land from the Indians and give it to the white men, let the Government buy it and give it to the white man——

Mr. TILLMAN. That has not been proposed, however.

Mr. SPOONER. But let the Government buy it for an honest price.

Mr. TILLMAN. Surely.

Mr. SPOONER. Giving the Indian the appraised value of it, what it is really worth, and then this matter and all the points which the Senator from Texas makes can be easily adjusted. But that is not this proposition.

Mr. BAILEY. Will the Senator from Wisconsin allow me?

Mr. SPOONER. Certainly.

Mr. BAILEY. I want no misunderstanding of my position. I do not agree with the Senator from Kansas [Mr. LONG] that it is in the interest of the Indian to remove these restrictions. I seek the removal of them purely in the interest of the white man. I make no concealment of that. I do not mean to insinuate that the Senator from Kansas has any opinion which he conceals. Of course he believes what he says, and I support the amendment for a precisely opposite motive, and I want to say so frankly to the Senate.

Mr. SPOONER. I so understood.

Mr. BAILEY. I want to add that I believe it is no hardship on the Indian to make him divide with the white man the enormous increase in the value of the land which has come with the advent of the white men.

Mr. SPOONER. In view of the fact that the white man has always been dividing with the Indian, of course the Indian ought to divide with the white man. That is reciprocity; and the Senator from Texas is in favor of reciprocity, I suppose.

Mr. President, the Senator from Texas is frank and manly about it. He—and he knows quite as much about it as the Senator from Kansas [Mr. LONG] can know—concedes frankly that he speaks not for the interest of the Indian, but he speaks for the interest of the white man. There is some one always to speak for the interest of the white man. He can generally speak for his own interest. But it does not always happen that there is some one to speak for the interest of the Indian. When the Senator from Texas says—and he speaks in a manly way the truth about it—that this is not for the interest of the Indian, and he justifies his attitude upon the converse proposition that it is for the interest of the white man, what ought the Senate to do? Ought we to conserve the interest of the Indian in this Indian bill or ought we to be blind to the interest of the Indian, with wide-open eyes only to the interest of the white man? That brings it, like a common-law pleading, down to the point, and upon that point the Senate could well divide. There ought to be few on one side of it, from my standpoint, and many on the other.

Mr. LONG. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. SPOONER. Certainly.

Mr. LONG. I hope the Senator from Wisconsin will permit the Senate to divide on that proposition, and not insist upon his point of order.

Mr. SPOONER. The Senator from Wisconsin has become more and more convinced that the interest of the Indian is to delay this legislation until he can get a higher price next year for his land.

Mr. LONG. And not permit the Senate to divide?

Mr. SPOONER. No, sir; I propose to make the point of order.

Mr. CLARK of Wyoming. Will the Senator from Wisconsin withhold the point of order for just a moment?

Mr. SPOONER. Yes, sir.

Mr. CLARK of Wyoming. I want to say to the Senator from Wisconsin that I am of the opinion that the Indian for whom he is so solicitous is not the Indian concerned in this amendment. The Indian concerned in this amendment is the Indian who has been appealing to Congress time after time, year after year, to be allowed to become, as Congress by express legislation said he should become, a citizen of the United States. It is not the blanket Indian of the western plains; it is the Indian who lives in houses, who has his household implements, who has his home, who has his property, who has his boys and girls away at college, who comes to the Supreme Court and argues cases, who is concerned in this amendment. The full-blood Indian is expressly reserved.

Mr. LONG. And the Indian who is a citizen of the United States.

Mr. CLARK of Wyoming. And who is a citizen of the United States in all except being allowed to exercise the right of citizenship.

Mr. SPOONER. Let me inquire, is the mixed-blood Indian who comes to the Supreme Court of the United States and argues cases any more a citizen of the United States than the full-blood, who does not?

Mr. CLARK of Wyoming. Not at all, but he is better able to manage his own concerns. So this bill provides that he shall have the right to alienate his land, but the full blood shall still be kept from it.

The Senator says he has had but one letter or has not heard from any of the Indians upon this matter. I have had many interviews; I have had many letters; I have received many petitions from the Indians and but one from the whites. The Indians themselves are concerned in this matter, and the Indians themselves say that those who really wish to befriend them, many of them not understanding the circumstances, are in effect tying their hands.

Mr. President, in view of the situation and of the facts, I believe the Senate on this question ought to express its opinion upon the record. I suggest that the point of order might well be considered by the Chair under section 2 of Rule XX, which provides that "the Presiding Officer may submit any question of order for the decision of the Senate."

Mr. HALE. That applies only to relevancy things.

Mr. SPOONER. That is a question of relevancy.

Mr. CLARK of Wyoming. "Any question of order."

Mr. LODGE. I beg the Senator's pardon, only as to relevancy.

Mr. McCUMBER. Mr. President, I desire to call the attention of the Senator from Wisconsin to one fact that appeared in the testimony. Yesterday, when we had a committee meeting, I asked Mr. Owen, who was representing the Indians, to give me the average quantum of Indian blood in those known as mixed bloods, and he stated that it was from an eighth to a sixteenth; that the great number of them were above that; that there were very few of what you might call "half bloods" now; that even the half or the quarter bloods are almost unknown. So I consider that we are treating practically with white men rather than Indians.

Mr. SPOONER. Mr. President, there is a pressure for this proposition outside of this Chamber which is not at all persuasive upon me in its favor. Under existing law I understand that the Secretary of the Interior may remove restrictions upon alienation in all cases where it is made to appear to him that in justice to the applicant it should be done. If the Senator from Colorado is right, that Congress has no jurisdiction whatever over this subject, it is very easy to raise that question.

Mr. TELLER. Oh, I have never said that Congress did not have jurisdiction over the real property the Indians have taken subject to certain restrictions and limitations. Of course we control that, because the control remains in the United States.

Mr. SPOONER. Yes.

Now, Mr. President, every appeal which has been made to me has been based upon one of two grounds. A gentleman came to me from the State of Wisconsin who represents capitalists in the State who were making investments and loaning money in the Indian Territory, and he was extremely anxious, representing them, that all restrictions upon the power of alienation should be removed. I said to him, "I can readily understand your position and the motive which inspires it, but bring me something from the Indian with whom you want to deal." Others have come claiming that if these restrictions were not removed there would be a large amount of property in the Indian Territory exempt from taxation. Well, what of it?

I do not want to retard the growth of Oklahoma. I hope with all my heart that before this session adjourns she will become a State in the Union. Mr. President, if she does not it will be impossible of explanation upon any theory of justice.

Mr. LONG. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. SPOONER. Yes.

Mr. LONG. Does the Senator think it is to the interest of the future State of Oklahoma, and fair to the present Territory of Oklahoma, that there should be a large amount of real estate in the Indian Territory not subject to taxation?

Mr. SPOONER. Mr. President, that is reducing this question to a very low plane.

Mr. LONG. It is only one of the points in this controversy.

Mr. BAILEY. Will the Senator from Wisconsin allow me?

Mr. SPOONER. One at a time.

Mr. BAILEY. I want to ask the Senator from Kansas if he thinks it is right to keep Oklahoma out of the Union until New Mexico and Arizona are brought in?

Mr. LONG. I presume that question will be presented to the Senate for consideration in the near future.

Mr. BAILEY. How will the Senator from Kansas vote on that proposition?

Mr. LONG. I will then announce my position by my vote.

Mr. SPOONER. Mr. President, I intend to occupy three minutes, and then invoke the judicial power of the Vice-President.

I want to see Oklahoma come into the Union. She will make a magnificent State. Her resources are boundless in climate, soil, and variety. Her population already is very, very great compared with the population of Territories heretofore admitted into the Union as States. Her population, I believe, is a population of broad-minded, just, generous, patriotic American citizens. I do not believe that the people of Oklahoma want that great State to be builded in any sense upon injustice to a vanishing people, who, for a time, are to live under her laws and in the midst of her white population. I believe the people of Oklahoma, if they are fit to come into the Union at all, would pay no heed, in solving the question of justice to the Indians who live within her borders, to the question of the exemption from taxation of the Indian lands. It is a trifle, in a way, compared to Oklahoma and her future and her wealth and her power. It is a question of justice to the Indian. That is what it is.

But, Mr. President, it seems to me, and I can not divorce myself from it, that in this time of all times, with the tribal relation soon to be broken, with these people to pass into a condition of statehood, we ought, as far as we may, to conserve their interest. There are thousands, I think my friend from Colorado said, even of half blood there are 20,000 or more——

Mr. TELLER. Twenty-five thousand.

Mr. SPOONER. Who concededly are incapable of taking care of their own interest, who will fall an easy prey to the white man. Why, Mr. President, should we legislate here forgetful of them? They have the wife and the children, they have posterity to depend more or less upon either their thrift or our care. Why should we pay no heed to them and those who are dependent upon them and upon the wisdom or the power of their action? Is it possible that the Congress of the United States, that the Government of the United States, can devise no system which will enable us to ascertain by investigation from whom the full power of alienation should be withheld and to whom it should be given?

We are impotent if we can not, and, Mr. President, if we can, why should we not? No reason has been given; no reason will be given except that if we wait the Indian lands will be worth more; that is all.

For the life of me I can not see how any harm can come to Oklahoma, how any public interest can be sacrificed, if we wait until another session, in the meantime, by a later bill, providing for a commission, if you please, so that the Indian will not be obliged to come in a posture distasteful to him to an executive officer to investigate this subject; and then let us, intelligently, deliberately, carefully discriminating where we can, free those who ought to be free and keep in this mild pupilage those not capable of protecting their own interest and the interest of their families.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Colorado?

Mr. TELLER. I will wait until the Senator is through.

Mr. SPOONER. I yield to the Senator.

Mr. TELLER. I will wait.

Mr. SPOONER. I want to make my point of order, but I will withhold it.

Mr. President, I am constrained to insist upon my point of order, although I can not urge it against the Senator from Colorado.

Mr. TELLER. Mr. President, I do not care to discuss the point of order. I do not propose that the Senator from Wisconsin shall appear as the special champion of justice here to our detriment, who have been dealing with this subject for the last two months. We have believed that the interests of the Indians would be promoted by the sale of this land. We have believed that there was a fair price now ready to be paid for it. It is true that if you will withhold this land for a year or five years or ten years you may get more for it, but does our duty to the Indian, whether he be a ward or whether he be a citizen, require that of us? There are people down there who are white and who are citizens and they are entitled morally and legally to all the sympathy of this Government that the red man is, especially since he has become a citizen of the United States.

We have dealt with the red men down there as generously as any people in the history of mankind ever dealt with the natives. The people of the Indian Territory have not any right to complain. We gave them the best land there was in the United States for farming purposes. We gave them a home in a climate that was equal to that of any other in the United States. We guaranteed to them the undisturbed occupation of it, and we never allowed that occupation to be invaded, except when they themselves consented to it. Every white man in that Territory to-day who is there is there by the approval and with the assent and consent of the Indians.

Mr. President, there are a million and a half white men in Oklahoma and the Indian Territory. There are 700,000 or 800,000 white men in the Indian Territory. There are not to exceed in the whole of Oklahoma and Indian Territory 90,000 Indians.

Now, the Senator from Wisconsin may get up his enthusiasm, and he may appeal to us here that we must look after these Indians because they are Indians. What better right have they than the white men have who settled and made this country? Has it been the Indian who has built up this great Government of ours and given it a place amongst the people of the world that no people have ever held before? It is the very men who are looking for homes. It is the very men, Mr. President, who want land, not to wander over, as the Indian does, but land to cultivate, and who propose to bring up families of citizens of the United States on that land. The Indian will occupy but little of that land. An inconsiderable part of it will be cultivated by the Indian now or hereafter. That land is to be cultivated by white men. That land is to

be the home of white men. And there is where the strength and glory of this people will come—from the men who cultivate the soil.

Mr. President, if the Senator had thought some years ago of protecting these Indians in land, if that was what they need, he ought to have seen to it that the act of 1887 was not passed. He ought to have stood with me when I was objecting to the opening of this land to white settlement. But that policy was adopted twenty-odd years ago, and that has been the policy ever since.

The white men who went down there went there with the understanding on the part of the Indian and the Government that this land was to be theirs if they were willing to pay what it was worth when the time came for opening it to settlement. Every interest in that country of Indian and white man alike requires that that land should be opened to settlement and occupation, not that it should be withheld until some time later when there may be a demand by capitalists for it, but that it may be taken now by the men who want to work it and to occupy it.

Mr. President, there has been no suggestion of despoiling these Indians. They will get for the land a price that will make it extremely difficult for a white man to go there and make a living. If the land is put up for sale on competition with an appraisement—as it was proposed in this bill, although I believe that has been stricken out—if it shall be appraised, it will bring a price that will make the man who buys it labor and toil for many years before he will be able to pay for it unless he has the necessary capital when he begins.

I know something of what it costs to settle a new country. I know the men who have made land in Oklahoma and the Indian Territory worth $30 or $40 an acre are not the Indians, but the white men who are down there; and if it is to be a State it is to be a State governed and controlled by white men. If we did not believe that the white men would control it, there is not a man here who would vote for its admission.

Mr. President, it is not beneath the dignity of this nation to sympathize with the men who want to own their homes. Every interest that is worthy of our attention requires that this land should be put on the market. It should be put on the market now unless there is to be an inadequate price paid for it. Will the Senator say that that is the fact? Does he know for certain that it will bring more a year from now? Is it more certain that it will bring more ten years from now? Would he suggest that you should keep it for ten years?

No, Mr. President. Sympathy for the Indian is one thing and justice to the white men down there is another. It is obligatory upon me and upon the Senator from Wisconsin to deal justly with those men as it is to deal justly with the Indian. We allowed the white men to go there. The Indian consented that they should go there, and they went there with the understanding that they should buy that surplus land when an allotment was made to the Indian, and the Indian should get his land not a generation later. They are the men who have made it worth from practically nothing to $30 and $40 an acre and some of it over $100 an acre.

Mr. President, as far as I am concerned, I believe the best thing that we can do is to give those people an opportunity to become landowners. I am one of those who believe that the strength and the hope of this nation is with the men who till the soil and who own the soil that they till. I have heard a great deal said about the man who follows the plow. Mr. President, the man who follows the plow on some other man's land is a serf. If he follows it on his own he is a freeman, and he becomes a good citizen. That is what I want to see. If it could be done I would like to see the Government buy this land and turn it over to every man who would go there and make a home on it. I believe it would have added to our wealth and strength and to our glory to have done that. But that is not the policy.

Men want to go down there now and pay $30 or $40 an acre for the land. They will not buy very big tracts, because if they do they will not be able to pay for it. There are some sections of country where possibly they can pay $50 or $100 an acre, but those are exceptions.

Now, Mr. President, I suppose the Senator can make his point of order, and judging from the ruling of the Chair heretofore the point of order will be well taken. Then the land will not be sold, and then the men who are down there waiting and anxious to make homes, not to become tenants, but to become owners and landlords, will not be able to buy homes. Mr. President, so far as I am concerned they shall not lay it at my door. If the Senator is willing that they should lay it at his, he may have all the glory he can get out of it.

Mr. LONG. Mr. President, I wish to say a word further on this question. I stated that I believed it was to the interest of the Indian that these restrictions should be removed. I so state again. It is not only to the interest of the Indian, but it is to the interest of the Indian Territory and of all the people living there that this should be done. So far as I know, there is no division of sentiment among the Indians or the white people upon this proposition. It should be done, because it is to the interest of the Indian. He may, if he holds his land, obtain more for it a year from now, and he may obtain less. The fact is the land is being sold now, not upon the open market to the highest bidder, but sold by an arrangement with a speculator, who agrees to get the restrictions removed and makes a side contract at the same time.

The Senator from Wisconsin [Mr. SPOONER] may know more about this question than the Committee on Indian Affairs of the House of Representatives, that reported a provision similar to this, or the House of Representatives, that put the provision in the Five Civilized Tribes bill. He may know more about the question than the Committee on Indian Affairs of the Senate, that investigated it for many days, but he will pardon me for saying that I doubt if he does. I regret that the Senator has made the point of order upon this amendment, that is substantially the same that passed the Senate in the other bill to which I have referred.

I believe that there is a majority of the Senate in favor of this amendment. I hope that the Senator from Wisconsin will permit the Senate to express its judgment upon the proposition, for if he does not do so now, I say to him that the question must be settled at the next session, and that we must meet it then. It is better to settle it now and let this amendment be adopted, for it is justice to the white people of the Indian Territory and also to the Indians who are in favor of its adoption.

Mr. SPOONER. Mr. President, the sarcasm of the Senator from Kansas [Mr. LONG] is very withering, but I still have life enough left to make a point of order.

I think the Senator from Colorado [Mr. TELLER] was not quite generous when he twitted me, if not reprobated me, for not espousing the cause of the Indian in this particular behalf in 1887. The Senator must remember that I was only a year old then as a Senator; and in those days I did not feel at liberty, in fact I was afraid of the Senate, and I did not dare differ from any old Senator. I had fallen into the notion that whatever an old Senator said must be right, and it took me quite a while to discover that that is not always so [laughter], although generally it may be.

Mr. TILLMAN. Accidentally, I suppose.

Mr. SPOONER. The Senator from Colorado to-morrow will not think that it was exactly just to impute to me the opinion that I am the sole champion of the Indians here. I only speak what I think and what it seems to me I ought to say after thinking all I have been able to of the matter before the Senate and do what I ought to do.

Mr. TELLER. That is right.

Mr. SPOONER. There are two sides to this matter. It is a difficult and intricate question. I admit, of course, that the Committee on Indian Affairs has given it careful consideration. I should have thought once that the committee were infallible, but after an experience of sixteen years here, while I think they are pretty nearly infallible, I have been forced to the conclusion that no committee of the Senate is absolutely infallible, and that there is a borderland upon which a man can differ from a committee without impeaching either the good faith or the patriotism or the ability of the committee.

Mr. President, I will cooperate to the utmost of my power to devise, for passage at this session, some law—and there could be no difficulty in passing it—which will enable us to discriminate between those who need the protection now thrown around them and those who need it not.

Mr. President, I make the point of order on the amendment.

The VICE-PRESIDENT. Rule XVI provides that—

> No amendment which proposes general legislation shall be received to any general appropriation bill.

That the proposed amendment is general legislation the Chair has no doubt. Therefore, the amendment being obnoxious to the rule, the Chair thinks it not in order; and he sustains the point of order.

Mr. TELLER. Mr. President, I understand that practically closes this bill. I do not intend to bring up any question that will delay the Senate in disposing of the bill; but in justice, I think, to the committee, I want to call attention to the amendment which was reported by the committee on page 36, which has since been stricken out on motion of the Senator from South Carolina [Mr. TILLMAN]. I am not going to ask to re-

place it, unless the Senator who objected to it is satisfied. It provides:

That all Choctaw and Chickasaw freedmen whose names appear upon the rolls of said tribes as approved by the Secretary of the Interior shall each have the preference right to purchase, at a valuation to be ascertained by appraisement to be hereafter made under rules and regulations prescribed by said Secretary, 80 acres of the unallotted lands of said tribes.

Mr. President, those colored people, freedmen, had each about from 20 to 40 acres of land. They were supposed to have had in the first instance 40 acres, but an appraisement was put on the land, and when they took certain high-priced lands some got less, but none of them got more than 40 acres. Some of those men have orchards, gardens, and fields adjoining their 40 acres. They were anxious to buy those lands. The Indians opposed their purchasing, because the appraisement was made some years ago and was supposed to be very low. Thereupon the committee, in order that there should be no injustice done to the Indians, provided that they should have a preference right to purchase at the valuation to be ascertained by appraisement, to be hereafter made under rules and regulations prescribed by the Interior Department.

It was, as I understood it, the policy of the Department to have an appraisement made of all this land. Certainly that ought to be done, and there should be a price below which none of this land should be sold. This amendment was simply put in the bill for the purpose of allowing the Indians to have the enhanced price—the present price. The Senator who moved to strike it out said they ought to buy at the market price, but the appraised price will be the lowest possible market price. If the Senator insists upon his objection to the amendment, I do not want to go into a discussion of it at this time, and therefore I shall let the matter drop.

Mr. TILLMAN. Mr. President, I must insist on it; but, in justice to myself, I wish to have inserted in the RECORD a letter written to me by Mr. D. C. McCurtain, Choctaw delegate, whose reasons appear to be so eminently just and proper that I could not help moving to strike the provision out. I want that letter to be printed in the RECORD as an explanation of why I offered the amendment.

The VICE-PRESIDENT. Without objection, the letter will be printed in the RECORD, as requested.

The letter referred to is as follows:

WASHINGTON, D. C., *April 18, 1906.*

Hon. BENJAMIN R. TILLMAN,
United States Senate, Washington, D. C.

DEAR SIR: The Choctaw tribe of Indians, through me, as their delegate and a member of their tribe, desires to object to the committee amendment on the Indian appropriation bill now pending before the Senate as follows:

"That all Choctaw and Chickasaw freedmen whose names appear upon the rolls of said tribes as approved by the Secretary of the Interior shall each have the preference right to purchase, at a valuation to be ascertained by appraisement to be hereafter made under rules and regulations prescribed by said Secretary, 80 acres more of the unallotted lands of said tribes"—

And would ask that you present their objections on the floor of the Senate.

In the first place, what right has Congress got to say that the lands belonging to the Choctaw and Chickasaw Indians shall sell for not more than a certain price, to be ascertained, to a certain class of people? This method of disposing of the Indians' property without their consent is not far from appropriating the Indians' property for private purposes, and, indeed, it may amount to the same thing so far as this provision is concerned, for it will be observed that the language of the amendment is that the freedmen shall have the "right to purchase at a valuation to be ascertained, etc.," not at the actual or market value of said lands. It can hardly be successfully contended that this proposed sale of the Indians' lands to the Choctaw and Chickasaw freedmen under a special privilege is a disposition of the land to the public or to public uses when it is considered that the Choctaw and Chickasaw freedmen constitute a very small part even of the Indian public.

What right has this class of tribal citizens to concessions or privileges that are not extended to other classes of tribal citizens? If the freedmen are to be permitted to buy so much land in excess of their lawful allotments at a refusal price, why are not the Indian citizens and the intermarried white citizens extended the same privilege? It can not be that the freedmen have rights which the Indians and the intermarried white citizens have not, for the freedmen's rights are limited under the law to 40 acres of the average allottable land of the Choctaw and Chickasaw nations, while the other citizens, the Indians and the intermarried white citizens, in addition to their respective allotments, have an undivided interest in the residue lands—that is, the lands that will be left after all the allotments have been made. These residue or unallotted lands, under the present law, are to be sold, not allotted, and the money divided among the citizens, exclusive of freedmen. So it will be seen that the right of the Indian and intermarried citizens is superior to that of the freedmen, yet it is proposed here to give to the freedmen a privilege which is not accorded to other citizens of a superior right. Indeed, the Supreme Court of the United States has held in a case appealed from the United States Court of Claims that the Chickasaw freedmen, to whom it is now proposed to extend special privileges, are not entitled to allotments of land in the Choctaw and Chickasaw nations, and that the allotments given them will have to be paid for by the United States Government according to the terms of the act of Congress approved July 1, 1902. Under the law the Choctaw freedmen are entitled to 40 acres of the average allottable land of the Choctaw and Chickasaw nations, *and nothing more*, not even to any part of the tribal funds from whatever source they may arise.

The Choctaw freedman occupies an entirely different position to that of the Choctaw Indian with respect to his right of property; he does not take property by virtue of any tribal status he ever had as the slave of a Choctaw Indian citizen, for as such he never had any tribal status, but he takes his limited rights by operation of the treaty of 1866 and subsequent laws, while the Indian takes his property by virtue of his Indian citizenship. As one of the penalties for the Choctaws having cast their lot with those of the "lost cause," they were required by the United States Government to take care of their freedmen, and this they did most magnanimously by giving to the former slave and each of his descendants 40 acres of land, something that was not done by or required of any other people of the South. This fact is not mentioned in a spirit of resentment, for I live in a second generation since that unpleasantness; but I call attention to this as showing how the Choctaw freedman came to have any rights at all to Choctaw land—that they do not take it by virtue of any inherent right thereto, but purely by operation of law, and limitedly at that. The Choctaws can see no right that the freedmen have to this special privilege proposed in the amendment complained of, and having no right, we hope that the privilege will not be extended to them of buying our lands at a refusal price.

Aside from the fact that the freedmen have no right, as the Choctaws can see, to this special privilege, we do not think it would be good policy to thus dispose of the Indian's lands. The freedman, in his ordinary circumstances, and there are as many freedmen of ordinary circumstances in the Indian Territory as elsewhere, will not be able to buy this land even if given the privilege, unless it is sold to him on long credit, and very long credit at that. The Indian race will have disappeared before the freedmen can finish paying for as much land as they would be permitted to take under the proposed amendment, and from this standpoint alone the Indian has good ground for opposing the amendment. Furthermore, the interests of the country will not be materially advanced, if at all, by putting this much land in the hands of the freedmen, for they are not by nature creative geniuses, and barring a few exceptions, remarkable for their fewness, the Choctaw freedmen will not work the forty acres they already have.

The Choctaws would prefer, if the surplus or residue lands are to be sold, that such lands be sold as now provided by law. This plan will enable an industrious and enterprising class of white people to come into the Territory and buy lands upon which to build homes, and we figure that by getting some of the lands into the hands of a class of people who will improve them, besides those already improved, the value of the unimproved lands in the hands of the Indians will be thereby enhanced. Not only that, but the lands will bring more if put upon an open market than they would under a "valuation to be ascertained" and sold to the freedmen. Sell the land, if at all, under the present law, and the country will advance, and the Indians will receive full value for the lands. Sell it to the freedmen under the proposed plan, and no one, except a few freedmen, perhaps, will be materially benefited by such a sale.

I regret, Senator, the necessity of having to worry you with the consideration of our matters, but you will remember we are political orphans down there and must depend upon the indulgence of some one up here to represent us on the floors of Congress.

Trusting that you will have time to give consideration to this matter when the consideration of the report on the Indian bill is resumed in the Senate, I beg to remain,

Yours, very respectfully,

D. C. MCCURTAIN,
Choctaw Delegate, the Savoy.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. CLAPP. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until Monday, April 30, 1906, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April 28, 1906.*

The House met at 12 o'clock m.

Prayer by Rev. CHARLES ALVIN SMITH, of Peck Memorial Chapel, Washington, D. C., as follows:

O our merciful God, Thou who art so good and so great and so supernal, we acknowledge our great indebtedness to Thee for this beautiful day and for all it means to our hearts, giving us another day in which to work, to think, to love, to live; and we pray Thee that we may use our energy of mind and body and soul in the service of our country and our fellow-man. Bless these our servants, we beseech Thee, O God, who are gathered here this morning and this day to do the nation's business amidst all the pressure of life and the many things they have to do. Give them clear minds and loving hearts that they may devote these things to this great and loyal and magnificent service, to the end that Thy name and righteousness may be honored and glorified.

We thank Thee, O God, that Thou hast blessed us so much, and we pray Thee that as we gather together from time to time to do the work Thou hast assigned us in our several spheres of activity that Thou wilt help us to remember that what we do here is recorded yonder. Bless these dear men and their families—wives and children and homes. Bless their States, their districts, and all whom they love and whom Thou lovest, that this nation may be one that shall be a beacon light that shall blaze abroad that which is good and true and worth living for.

We would remember this morning that dear man of God, the Chaplain of this House, who is engaged upon that sad duty of burying his dear boy. Will there ever come a time, O our God,

will our boys ever be too old but that they shall always be our boys? We pray Thee that in this his hour of bereavement and sadness and tears that there may come to him Thy comfort, Thy consolation, and our sympathy. Amidst all life, O God, amidst its prosperity and adversities, with its tears of laughter or tears of joy, may we never lose our grip upon Thee, knowing that Thou art our Father and that Thou lovest us. We beseech Thee to hear the prayer we pray because of this fact:

Our Father who art in heaven, hallowed be Thy name; Thy kingdom come, Thy will be done on earth as it is done in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

NAVAL APPROPRIATION BILL.

Mr. FOSS, from the Committee on Naval Affairs, reported the bill (H. R. 18750) making appropriation for the naval service for the fiscal year ending June 30, 1907, and for other purposes, which was read a first and second time, and referred to the Committee of the Whole House on the state of the Union, and, with accompanying report, was ordered to be printed.

Mr. PADGETT. Mr. Speaker, I desire to reserve all points of order on the bill.

THE PRACTICE OF PHARMACY IN THE DISTRICT OF COLUMBIA.

Mr. CAMPBELL of Kansas. Mr. Speaker, I call up the conference report on the bill H. R. 8997, being a bill to regulate the practice of pharmacy in the District of Columbia.

The conference report and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8997) entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, and 49, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the matter proposed by the Senate insert:

"*Provided*, That applicants shall be not less than twenty-one years of age, and shall have had at least four years' experience in the practice of pharmacy or shall have served three years under the instruction of a regular licensed pharmacist, and any applicant who has been graduated from a school or college of pharmacy recognized by said board as in good standing shall be entitled to examination upon presentation of his diploma."

And the Senate agree to the same.

P. P. CAMPBELL,
E. L. TAYLOR, Jr.,
ADOLPH MEYER,
Managers on the part of the House.

J. H. GALLINGER,
E. J. BURKETT,
THOMAS S. MARTIN,
Managers on the part of the Senate.

STATEMENT OF MANAGERS ON THE PART OF THE HOUSE.

The House recedes from its disagreement to all of the amendments of the Senate except No. 7, and agrees to the same.

These amendments are all in the nature of correcting phraseology or making minor changes in the text, and result in perfecting and strengthening the bill.

The House recedes from its disagreement to the amendment numbered 7, and agrees to the same with an amendment providing that the applicants for licenses as pharmacists in the District of Columbia shall have had at least four years of experience in the practice of pharmacy. The amendment of the Senate required but three years of experience. The conference agreement on amendment numbered 7 will make this requirement of four years conform to the practice in the surrounding States.

Mr. CAMPBELL of Kansas. Mr. Speaker, I move that the House concur in the conference report.

The question was taken; and the conference report was agreed to.

HOUR OF MEETING SUNDAY.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent that when adjournment is taken to-day it be to meet at 11 o'clock to-morrow, in order that at that hour memorial services may be begun of Judge PINCKNEY, of Texas.

The SPEAKER. The gentleman from Texas asks unanimous consent that the House adjourn to-day to meet at 11 o'clock to-morrow, instead of 12, as fixed by prior order of the House, for reasons stated by him. Is there objection? [After a pause.] The Chair hears none.

AGRICULTURAL APPROPRIATION BILL.

Mr. WADSWORTH. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. FOSTER of Vermont in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the State of the Union for the further consideration of the bill H. R. 18537—the agricultural appropriation bill.

Mr. WILLIAMS. Mr. Chairman, after the Republican party had been awakened from its insolent sense of false security and had concluded that it had better take the field and carry the war into Africa, when it cast its eyes over this body it could find nobody better fitted to act the part of Scipio Africanus than the gentleman from Iowa [Mr. HEPBURN], the sledge-hammer debater on that side. He does not indulge in Addisonian phrase, and he was never known, until yesterday, to take a back track. He did not, like the other partridges, either pursue a partridge circle or run along the ground, but he did what I never heard of but one partridge doing in my life—he took to the woods. That reminds me of a story that a friend of mine told me about a partridge. He said he went out and flushed a covey; some of the birds ran along the ground, here one ran along by himself, and here was a clump of three or four, and there the main body. He took a shot at them, and then he noticed that one old he-bird had done the thing contrary to all rules of partridge life—he had taken to the woods, to a limb in a tree on the edge of a deadening. The hunter said, "I have vowed never to kill a bird sitting, but you have outraged all partridge practice, and I am going to take a shot at you." The gentleman from Iowa on yesterday violated all the laws of his own being, as hitherto illustrated by his acts at any rate, and took to a tree—took to the woods; hence we may take a shot at him, even though sitting. [Laughter.]

He stood out at first like Ajax defying the lightning. "I am tired of statements; I want proofs; I must have proofs." He repeated that more than once. How majestic he looked! With what a bold front did he face this side of the House! Like Ajax he defied the lightning; but unlike Ajax, at the third flash of the lightning, which came from his "stalwart" colleague, as he called him, the young gentleman from Georgia [Mr. HARDWICK], he incontinently fled. This is the first time in my life I have ever seen the gentleman from Iowa fail to follow up an attack. He called for the proof; proof was forthcoming. The Chair said: "To whom will the gentleman yield?" The gentleman from Illinois, Mr. RAINEY, and I, both being on our feet. This colonel from Iowa, my friend Mr. HEPBURN, said: "To either of them, or both." Then the gentleman from Illinois [Mr. RAINEY] gave him a part of the proof. He referred him to the testimony of James J. Hill, president of the Great Northern Railway, which testimony I will come to in the course of my remarks, saying that his company, the Great Northern Railroad Company, had bought rails, shipped along the same line, sold by the same company, of American steel rail makers, at $7 a ton less for that part of the rails to be laid on Canadian soil than for that part of the shipment to be laid upon American soil. And when I gave him some more of the proof—and I repeat it over again—that the late Daniel Lamont, who, whatever may have been his political faults, was a man of splendid business integrity and of absolute truthfulness, so far as I know or ever heard, told me in the Manhattan Club, in the city of New York, during the last Presidential campaign, that I could make the same assertion Hill made with regard to the Great Northern Railway whenever I chose upon the stump, and the first time it was questioned refer questioners to him. He was a member of the board of directors and one of the officers of the Great Northern company, and he stated it to me as a matter of his own knowledge. In that campaign, at Brooklyn, N. Y., and elsewhere, I made the

statement of fact, challenged denial, and said that in case of denial I had the permission of one of the highest officers of the Great Northern to refer to him. It was never denied to my knowledge until yesterday, by the gentleman from Iowa. The steel trust had every reason to deny if it could. Then it was that the gentleman from Georgia arose with a book in his hand, and then it was that the old he bird of the covey took to a tree [laughter], and called upon the Chair in a pathetic tone of voice to protect him from the "stalwart Member" from Georgia. [Laughter.]

Meantime there came popping up from all quarters on this side of the Chamber Members having pamphlets, books—everything. I gathered them and ran over there by the side of the gentleman from Iowa and said, "I am ready now to furnish the gentleman with the proof which he challenges." He said, "Furnish us with the proof in your own time and not in mine." I said, "Oh, the gentleman has called for the proof now," and then he replied that I would have time. Yes; and I hazarded the remark then that when I got time I would not challenge proof on any proposition from any Member on this floor and then refuse to take the proof when it was handed to me. Now, let us analyze the speech of the gentleman from Iowa [Mr. HEPBURN], the sledge hammer of debate—the ablest debater on either side upon this floor, by long odds—and it will be seen how weak the present position of the Republican party must be when it is noticed how feebly it was defended by this strongest debater in this House. What was his speech when he got through with all of it, when we bring it down to its rationale? It was this: "Republican prosperity"—and I have heard him make the same speech several times, and several times better than he made it yesterday, although he made it very well even then—"Republican prosperity accompanying Republican tariff;" "hard times under Democratic government;" a few words about "slavery and the war;" a trumpet tone to Republicans "to stand by" the party; and that was all, as far as any connection between that speech and present existing industrial conditions is concerned, except his attempted denial of a fact that has been admitted by everybody else in the United States that I know of except himself, to wit, that our protected manufacturers—some of them; many of them—sell habitually abroad at prices cheaper than they charge at home.

Let us now run further in detail into the speech of the gentleman from Iowa [Mr. HEPBURN]. I am going to give an impartial résumé of his talk as well as I can. The first position taken by my friend from Iowa was that the position of the Democratic party "had been at all times that of free traders," and he quoted the platform of 1848 and the platform of 1856 and several other platforms in which were used the words "free trade" in rather a loose sense, until he came down to that celebrated Democratic platform which rang with the slogan of "free trade and sailors' rights." In connection with that last platform, the gentleman from Iowa [Mr. HEPBURN] seemed to think that it had something to do with the tariff. The free trade referred to in that slogan was, if I remember aright, the freedom of American commerce from foreign attack upon the ocean [applause], and had no more to do with this question than I have to do with the opinions of St. Peter as to who should enter the kingdom of heaven. Yet the gentleman was replying to a statement of mine that the Democratic party had "never 'stood for' free trade before the war or since the war." Instead of answering that statement, he quotes party platforms; instead of citing party action, which would have shown not what the party delegates in conventions *said*, but what the party itself "*stood for*."

What had all that to do with present conditions anyhow? Suppose I was wrong; what had it to do with the pressing questions growing out of present conditions? But I am not wrong. The Democratic party, while it has used the words "free trade" in a loose manner in several platforms, has never yet enacted or attempted to enact a free-trade tariff law. It could not under our constitutional limitations, if it had wanted to.

Mr. GILBERT of Kentucky. Mr. Chairman——

Mr. WILLIAMS. Let me finish this. Unless it is pertinent to this very remark, I would like to finish this particular matter. Now I will explain to the gentleman from Iowa the difference between a tariff for free trade and a tariff for revenue only, and I hope that hereafter he will never confuse them. The present British tariff is a tariff for free trade. The Walker tariff and the tariff of 1857 were tariffs for revenue only. How do they differ? The British tariff for free trade levies a tariff only on a few articles and they only noncompeting articles—that is, articles that are not produced in the country levying the tariff—and if it levies any tariff upon any other articles at all it is only for the purpose of countervailing internal-revenue duties upon those other articles; as in the case of the British high tariff upon tobacco and upon beer and whisky to countervail the internal-revenue duty. Then there may be a small duty for statistical purposes—5 per cent, or less than 5 per cent—on a few things, not for the purpose of doing anything except to keep tab upon those things entering the custom-house for statistical purposes. The British writers call these last "statistical duties." Now, that is the British tariff; that is tariff for free trade, levied purposely upon things not produced in the country, purposely upon noncompeting articles, so as not to disturb one way or the other the business of the people living in Great Britain, who produce things there. Now, what is a tariff for revenue only? The Walker tariff is an illustration. It is a low tariff spread over nearly all importations. If my memory serves me right, salt was the only thing of any importance imported and not taxed under the Walker tariff. Being levied for the purpose of revenue only, such a tariff is levied impartially upon competing and noncompeting products and regardless of the fact that even the very lowest tariff levied upon a given article does carry with it, necessarily and unavoidably a certain measure of protection.

A tariff of 5 per cent even gives the home producer 5 per cent advantage, at any rate, of the foreigner who would export the same goods into the American market. Under the British tariff they would not even levy that 5 per cent, because they would not want to give any advantage, incidental or otherwise, to the home producer. Their object is more to preserve free trade than it is to get revenue. Under our system, where we have not the direct taxes of the British Empire to resort to as a main source of revenue, we not only have always had a tariff for revenue only, as the thing for which the Democracy practically "stood" when it came to pass an act—sometimes it did not get down to it, but it never got below it—but we have been forced to rely on it because our Constitution requires that "direct taxes shall be apportioned amongst the States," and therefore makes it impractical to levy direct taxes for the use of the Federal Government at all, and now since the Supreme Court has set aside the uniform rulings of a hundred years and declared an income tax unconstitutional it is the more necessary that we should have a tariff as our chief reliance for revenue. Now, then, the Walker tariff and other tariffs of this revenue and not free-trade character were in force and effect when these very platforms which the gentleman read were adopted, some of the platforms being adopted before and some of them afterwards, two platforms being adopted while the Walker tariff was upon the statute books and one during the tariff of 1857, both being samples of "tariff for revenue only." America has never had free trade, and from the very nature of our fundamental law it can not have free trade and run the Government at all. [Applause.] Now I will yield to the gentleman from Kentucky.

Mr. GILBERT of Kentucky. I want to suggest to the gentleman from Mississippi that, in view of the fact that the gentleman from Iowa emphasized yesterday the statement that the Democratic party was a party in favor of free trade, he remind the gentleman of the fact that the nearest approach that this country ever made to a free-trade policy was in the tariff of 1857, which was a reduction below the Walker tariff of 1846, and that the tariff of 1857 was enacted when a stanch Republican, Nathaniel P. Banks, was Speaker of this House, and when Lewis D. Campbell, a protectionist of Ohio, was chairman of the Ways and Means Committee, and when there were only three Democrats on the Ways and Means Committee, in the Thirty-fourth Congress. [Applause on the Democratic side.]

Mr. WILLIAMS. That is absolutely true, and not only true, but it was enacted because the Walker tariff by its working had so completely justified itself in the popular mind that there was no desire even upon the part of the Whigs to raise any of the duties, but a desire to lower them wherever it could be done consonantly with keeping up the revenue of the Government, as they did lower them by the act of 1857.

Mr. HAMILTON. I desire to ask the gentleman if there was a panic in 1857?

Mr. WILLIAMS. There was a panic in 1857, and there was a panic in 1867 with a Republican tariff; a panic in 1873 with a Republican tariff. [Applause on the Democratic side.] And a great panic, which began in 1890, with farmers in Kansas burning their corn for fuel and farmers in Mississippi selling their cotton below the actual cost of production, until it had swept itself away from the farmer, who first suffered, to the banker and caused an acute bursting in high financial circles in 1893. [Applause on the Democratic side.] The panic of 1873—horrible in its aspects, with "Molly McGuires" and all that—was under a Republican tariff. And the hard times and panic from 1890 to 1893 saw its incipiency and its end under a Republican tariff. By the way, it was a very small panic in 1857 and a bigger panic—the most serious we have ever had—in 1873.

Mr. Chairman, I have been trying for a long time to get to my analysis of the speech of my friend from Iowa [Mr. HEPBURN], and I am a little afraid if I do not get to it sometime to-day people will think that I have taken to a tree myself; so, with the good will of the House, I shall proceed. After the gentleman from Iowa had gone as far as he did into ancient history, he finally admitted the truth about our position, which is that we are simply "antiprotectionists," but not free traders; that we are tariff-for-revenue people; that we do want to maintain the Government of the United States; that we know we have got to have money to maintain it; that we know we must raise the major part of that money by a tariff. We may regret the latter fact, but we face it and surrender to it, as we do to all facts. We would not inaugurate protectionism where it does not now exist. We would remove it wherever it does exist as rapidly as it can be safely done.

We would continue in this course until we could levy tariff taxes with an eye single to public needs, regardless of private schemes. We would not permit the taxing power to be used with the paramount or sole end of protection; for the purpose of favoritism, in a word. Our purpose is revenue. If, as an unavoidable and necessary incident to getting needed revenue, there came somewhat of protection, that of course we could not help. I have already stated that even a 5 per cent duty carries at least 5 per cent of advantage for the home producer against the foreign producer who would export from his country to the United States. That is unavoidable. But our purpose will be to get revenue. Our method will be to tax consumers as nearly as possible equally in proportion to their ability to bear the needful burden. Now, we do hold, as the gentleman from Iowa said we did, that protectionism is robbery, and I am coming to that in a minute and am going to show why it is robbery. We do not hold that *a tariff* is robbery. Why, a tariff levied for the purpose of supporting the Government, no matter whether there go with it (as an unavoidable incident but not as an end) a certain degree of protection or not, is no more robbery than any other form of taxation for public purposes levied upon the citizen is. We do hold that taking money out of my pocket or the pocket of anyone else, not for the purpose of supporting the Government, not for *public* use or a *public* end, but for the purpose of supporting some other producer—for *private* use and *private* end—is a totally unjustifiable prostitution of governmental functions, and that as such it is robbery—a legislative confiscation of my means *pro tanto* in order to benefit somebody else. I hold moreover that we can not repeat nor emphasize that idea too often or too much.

What is robbery? Robbery is a taking in whole or in part of what belongs to one for the use of another. So much for that.

Then the gentleman said that there was a certain degree of "dumping" going on. Now dumping, Mr. Chairman, is a spasmodic act. Dumping is not a habit; dumping is not a constant practice; dumping is not a part of ordinary business, and when I get to the proof which the gentleman asked for I will show that these processes we have been going through of selling cheaper abroad than at home have been too extensive as to articles and too long enduring as to time to be dismissed with a phrase; "dumping." Yesterday the gentleman from Iowa was very careful not to come down to present existing industrial conditions.

Not a single bill pending before this House did the gentleman mention. In connection with not a single question of tariff abuse now attracting our attention concerning any schedule of the tariff did he concern himself in speaking. He only made a general all-around "whoop-it-up-you-Republicans-and-stand-to-the-party" speech. He said that the "measure of protection" for which he stood was this, "The difference between cost of production here and the cost of production abroad;" and yet I have introduced a bill into this House to reduce duties (except, of course, upon alcohol and tobacco, where the duty must countervail the internal-revenue tax)—to reduce duties wherever they are above 100 per cent down to 100 per cent. Can it be possible that *the difference* between the cost of production at home and abroad is ever more than the entire cost of production? Yet I heard not the gentleman raise his voice to help me with that bill before the Committee on Ways and Means. I want his constituents in Iowa to know that he has never been before the Committee on Ways and Means to ask them to consider that or a similar bill, *or any other bill*, to correct or revise a single schedule of the Dingley bill, however much of an abuse. I ask him now to get upon this floor before this session closes and tell his constituents in Iowa whether he will or will not vote for such a bill. Will he stand by his own "measure of protection?" Or will he again fly to a tree?

Mr. Chairman, upon yesterday I was interrupted to such an extent that I did not reach the body of my argument. Indeed, I was interrupted so rapidly and so furiously that something happened to me that never happened before in my life. I began to tell an anecdote and forgot to finish it. I have no idea of finishing the anecdote now. It is too late for the effect. I mention that to show the character of interruptions. I shall ask gentlemen this morning, in the interest of the House itself, not to interrupt me unless with questions, and those questions must be pertinent to the very point upon which I am at the time dwelling. I do not say that in defense of myself. But I fear I may wear out the patience of the House beyond all measure—may become *persona non grata* to the House.

Now I shall go on with the analysis of the speech of the gentleman from Iowa [Mr. HEPBURN]. The next thing I noted, as I have partially said already, was the gentleman's "dumping" theory. He undertook to account for the fact that a great many of our manufacturers were selling goods cheaper abroad than at home upon the theory that they were "dumping" goods there; and the gentleman seemed to think that we were complaining of the process of dumping. He misunderstood the gravamen of our complaint. *Our complaint is that they do not dump on us.* Whenever they have anything good and cheap we think they might dump it upon the American consumer. We think that if there were a natural course of business, a normal state of affairs, that they would just as soon sell goods cheap to you and me as sell them cheap to the Frenchman and the Englishman.

The gentleman quoted from Mr. Ashley; but Ashley's dumping theory was a totally different thing. It was where an association of manufacturers are purposely "dumping" goods at less than the cost, or at less than a reasonable profit, for the purpose of obtaining a start in a new market. This American "dumping," which has been carried on by the United States Steel Association, for example, for over ten years, has been in markets which they hold very much more nearly than the manufacturers of any other country. Ashley also refered to the dumping which is founded upon the idea of retaining an old market from the attacks of new competitors. But neither of these cases is like the American dumping system, if, indeed, the word "dumping" might apply to the latter at all. Our "dumping," if it may be called dumping, is under agreement between American manufacturers not to sell in the American markets at less than a fixed price. Anything that can not be sold at this fixed price is by agreement shipped abroad, not at a loss, though at a less price than the domestic price. It is not an emergency sale now and then, but an habitual business.

Then there comes the "surplus" theory. Gentlemen say, "We send only our surplus abroad." Now, Mr. Chairman, what is a surplus? I understand how there could be a surplus at a certain price, but if the price is lowered it decreases the surplus. There is always a price at which there is no surplus at all, and if there be a price at which there is no surplus at all, and that be a profitable price, we think that American tariff-protected manufacturers ought not to resort to this scheme of selling cheaper abroad than at home, but ought to let us have equal advantage; and if it be that they accept an unprofitable price now and then under the dire necessities of trade, when they must dispose of a certain quantity of goods at a loss, then, I reply, the American people ought to obtain the incidental benefit of the misfortune of the American manufacturer rather than the foreigner.

Now, the truth is, Mr. Chairman, that our selling abroad, except in individual and exceptional instances, is neither a surplus nor a dumping process. It is a surplus process in this sense, that at the price which the combinations fix for the sale of their goods in America there is a surplus—a surplus over and above an effective demand at the exploitation price charged the American home consumer. The moment that surplus arises at the exploitation price, instead of reducing their price to the home consumer down to a reasonable profit, they prefer to maintain the exploitation price unbroken at home and to ship abroad this exploitation-price surplus—this so-called surplus—to be sold to the foreigner at the lower price, and thus "save their home market," as they express it. That is the situation in a nutshell. And I now tell gentlemen upon the other side in connection with this well-to-be-remembered thing that they need not attempt to surround it, to avoid it; it is a fact, it is irrefutable; it is an indisputable fact, and I am going to prove it before I get through to-day to every man who has not sufficient information already to know it. It will do gentlemen no good to blink it. It will do gentlemen no good to try to evade it.

Gentlemen can not walk over it nor around it; gentlemen have got to consider what the fact is, what it means, and what justifiable, logical conclusion can be drawn from it, and whether they wish the conditions to continue which make it a fact. They must defend this system or they must destroy it, one of the two. I say they have either got to reduce the tariff

to a point where, when the American manufacturer is exploiting the American consumer at an unreasonable profit, while he is selling abroad at a reasonable profit, the foreign goods may come in and stop the process of exploitation, or else they must go before the country and defend the system itself. They can neither deny the fact nor can they get out of it as the gentleman from Illinois [Mr. BOUTELL] attempted to do about the watch matter. What was his plea there? After first denying, or seeming to deny, that there was any system of this sort, he finally said, "Yes; it is going on, but it is only going on about what they call 'nickel watches' or gilt watches."

It reminds me of the man who was arrested in Texas and was about to be hung by a mob to a tree for stealing a horse. At first he denied that he had stolen the horse, and he made all sorts of proof, much even of an irrelevent character. He tried to prove an alibi, and did prove a good character, and did everything else, but they kept crowding him and crowding him and crowding him, and after a while he had to meet the issue squarely. He said: "Yes, boys; remember my mother, remember my wife, remember how much they depend on me; I did steal the horse, but it wasn't any big horse, hardly a horse at all; it was nothing but a little bit of a colt, and the colt of a Mexican pony at that." [Laughter.]

Why, the gentleman from Iowa [Mr. HEPBURN], in the course of his remarks, quoted from Mr. Schwab himself testimony against his own statement, but I leave that to the record as it stands. The gentleman gave you "his measure of protection," I have quoted it to you. The President has given his "measure of protection." It is slightly different from the "measure of protection" of the gentleman from Iowa. I was about to give it yesterday when I yielded the floor for adjournment. The President's measure of protection advocacy is "the difference between the scale of wages here and the scale of wages abroad."

Now, I say that any fair-minded man will admit that the *difference* between the scale of wages abroad and the scale of wages here can never amount to the *total labor cost* entering into the total cost of a given product. Now, then, the total labor cost entering into a product will not be on an average over 25 or 30 per cent of the total cost of its production—labor, material, transportation to America, and all. There are some products so near the state of raw material that it may be slightly more, but the more highly finished the product is the more is the work of transformation done by machinery, and the less comparatively is the proportion of man-labor cost entering into the total cost of the finished product.

I say that in consequence of that fact few men will deny the statement that a reasonable revenue tariff will more than make up for any difference that exists between the scale of wages abroad and the scale of wages here, especially if the lowest revenue duty is placed on tools and raw materials, "the necessaries of industry." For example, take cheviots manufactured here and manufactured in the English markets. I have the amount of *labor* cost entering into the goods in each country, and I have the amount of the *total* cost entering into the goods in each country, and I think it will astonish some of you gentlemen to know that as regards this article, which I am using only as an illustration, the proportion that the labor cost bears to the total cost in Great Britain is 30 per cent plus, and the proportion which the labor cost bears to the total cost in America is only 24 per cent plus. In other words, the proportion is less in Great Britain. This is true also of steel products, as I shall incidentally show later on. Why? Because our people have in the business better machinery and more efficient labor and laborers that tend more machinery and work longer hours than in Great Britain—eight hours there universally against ten here generally; labor which moreover turns out more product per hour while working.

I quote from the unpublished manuscript of a book entitled "Tariff Reform," being prepared by Professor Conner, some time an instructor in economics in the University of Iowa and later holding the same position in the University of Pennsylvania. He quotes from the Report of the Bureau of Labor, Senate Document No. 20, Fifty-fifth Congress, third session, as an illustration, the figures concerning cost and labor cost of cheviots. Here are the tables:

Men's sack suits, United States, 1897, cheviot:

Cost of labor in transforming materials	$1.17
Cost of all items except labor	3.58
Total cost	4.75

In Great Britain the cost of making the cheapest grades of sack suits, whether of worsted, serge, or tweed (no cheviot given), was each as follows:

Cost of labor in transforming materials	$1.56
Cost of all other items	3.18
Total	4.74

Here note that the labor cost in Great Britain is both absolutely and relatively greater than in the United States.

There are articles, of course, where the labor cost in Great Britain forms a larger proportion of the total cost than it does here; but I venture to say that in no case can any gentleman find a case where the difference between the two labor costs will amount to over 15 or 20 per cent—mark me, the *difference* between the two items of labor cost entering into the yard, the pound, or the bale of goods; not the total cost of labor in either country, nor the per diem wage. So I am willing to take the President's "measure of protection," if he will only stand by it; because it will require only a revenue tariff, and one under the maximum revenue-yielding point at that.

But the gentleman from Iowa says that the Republican platform said that the tariff was to be revised "without injury to any American industry." I noticed that word "any." It is going pretty far. What does it mean when you bring it down to the final and practical analysis? It means that they will not revise it *when "anybody" complains*. Now, what does that mean? Why, it is the old fallacy, as old as the world; the claim of vested right in an existing wrong. It is the old, old appeal—as old as the world—the appeal not to remedy an evil, however palpable and great the evil may be, lest the men who are being benefited at the time by the existence of the evil shall lose their benefit.

You can not stand upon that, gentlemen. Then the gentleman from Iowa [Mr. HEPBURN] went on to boast of our great foreign commerce, "our intercourse with foreign nations," as he called it. I have had already the honor once before at this session of demonstrating upon this floor that our intercourse with foreign nations—our volume of foreign trade—imports added to exports—is less in proportion to our population and is less in proportion to our wealth than that of Canada or that of the Argentine Republic. So another of your Republican positions, founded on a false boast, goes by the board. Then he went on to show our progress under the tariff for the last ten years. Upon yesterday, in reply to a question from Mr. LANDIS, of Indiana, I took up the figures of increase in the last ten census years, and compared them with the increase of the decade from 1850 to 1860 under the lowest tariff we have ever had, and I demonstrated yesterday that in production of corn, in railroad mileage, in manufacturing increase, even, in both capital and product, the percentage of increase from 1850 to 1860 had exceeded the percentage from 1890 to 1900.

The gentleman then made one of the most wonderful arguments I ever heard of. He said people talk about "the good old times," but he described how hard the times were as compared with our good times. How did he prove his statement? He proved it by an assertion which, if true, is the most astonishing demonstration of unparalleled prosperity in those "hard old times" that the world ever saw. What was it? It is his assertion; it is not mine. He says that in those early days in Iowa men paid 40 per cent for money when they went out upon their homesteads and cleared the forests, and yet that they built themselves homes and saved those homes. Ah, what a state of prosperity that must have been when men could pay 40 per cent and still build for themselves homes in the wilderness and come out free of debt. [Applause on the Democratic side.] Why, a man could not do it to-day on 10 per cent. High rates of interest are not indicia of hard times. On the contrary, whenever times are flush productive enterprises are growing; men want to add to existing plants or found new plants, and so anxious are they that they borrow to do it; consequently the number of borrowers increases—that is, the number of men who can, or think they can, make money by borrowing money—and the number of lenders decreases, both because they are already lending so much and because most men having money think they can get a better return by using it themselves on farm or in mill than by lending. As the rate of interest depends upon the number of borrowers or would-be borrowers on the one side, which constitutes the demand for loans, and the number of lenders or can-be lenders on the other side, which constitutes the supply in the loan market, the rate of interest necessarily goes up. The demand for loans is large; the supply of loanable funds is small. All flush times have been periods of comparative high rates of interest and all dull times have been periods of comparative low rates of interest. In flush times men are seeking to put their energies and money into productive enterprise and are willing to borrow rather than not go in; while in dull times they are seeking to put their money into bonds and stocks and fixed things, where the principal is absolutely safe, but the interest low, because they are afraid of losing it if put in active productive enterprises. There does not exist upon the American continent to-day a place where anybody could borrow money at 40 per cent, as in the olden days,

and come out whole—going into a wilderness at that and clearing the forest and building homes. I remember when I borrowed money at 18 per cent and paid off old debts as well as new and laid up money. It was during Cleveland's first Administration—not that his being President had anything to do with it, but I am fixing the date.

The gentleman says that in the silver campaign we cried out for high prices, and that now we are crying out for low prices. The gentleman ought to know the difference between that sort of a high price which is created by a toll, a toll levied upon products in commerce on their way from the producer to the consumer, and that sort of a high price which is created by an abundance of metallic price-fixing money, enabling people to do their business easily. The former sort of high price is created by restriction of the supply, by shutting out goods which would compete for sale. Every restriction of supply makes for scarcity and makes against abundance, and makes, therefore, for poverty and against wealth, because abundance of what men need is wealth, and a scarcity of things needed is poverty for the mass, whatever it may mean for the few; but when the price is high, owing to the fact of an abundance of money (as it was after the discovery of gold in California in the early days, and as it is now to the greatest extent possible (caused by the increased discoveries of gold and owing to cheapened processes of extracting gold ore), then that price is not really an increase in the price of corn as compared with cotton, or an increase in the price of cotton as compared with silk, but it is a decrease simply in the price of money as compared with everything else—as measured in terms of other things, and therefore an increase in the price of everything else as measured in terms of money—and it therefore merely goes to show that money itself is not as high priced as it used to be. This is simply because it is more abundant. Abundance is a blessing; scarcity is a curse. That is the sole difference.

Mr. Chairman, in that connection I will say that, in my opinion, this present ascending scale of prices which has led to this present prosperity not only in the United States, but in Canada and the Argentine and in Mexico and in Germany and all over the world—a degree of prosperity lasting longer than any the world has seen in a long time and greater than any, except that which immediately followed the discovery of gold in California—has been due to the gradually increasing annual crop of gold in this world. This year the gold product will be over $250,000,000. In 1893 it was about $120,000,000. Higher prices have been very largely due not to the condition of things amongst products themselves, but to the fact that the price of money has gone down, and the price of money has gone down because of the increase in the quantity of money, just as the price of wheat would go down because of the increase in the quantity of wheat. [Applause on the Democratic side.]

Why, the very thing that the Democracy contended for in the silver campaign has been justified. Once more I congratulate the gentlemen upon this side of the Chamber. The acceptance of the quantitative theory of money (never disputed except in the early and late nineties) is once more universal. The gentlemen on the other side of the Chamber themselves constantly boast of "the amount of gold circulating in the United States," dragged from the mines of South Africa, from the Klondike, from Colorado, and even got out of silver ores that were formerly thrown upon the dump as useless for gold purposes, but now yielding from 10 to 20 per cent of gold. We of the United States have received more than our proportionate share, owing to our exports, mainly of cotton and grain, neither of which benefits from the protective system. Ah, we asked that legislation should increase the volume of metallic money by adding silver to it; but God, who is kinder to his children than his children's legislators—aye, kinder to them than they are to themselves—answered our prayer by increasing the volume of metallic money in the shape of gold. True, He answered it in a different way, but it was answered. We have received what we asked for—an immensely increased volume of metallic money. Without waiting upon your legislators, prosperity came just as we said prosperity would come if basic money could be increased in volume, and now, like the humbugs you are, you are claiming that that prosperity that exists all over the world, and which is due to the gradually ascending scale of prices that, in its turn is due to an annually increasing volume of metallic, price-fixing gold money, is the result of the passage of the Dingley tariff bill in the United States of America. [Applause on the Democratic side.] That ascending scale of prices, encouraging productive enterprise, and the present comparatively high prices will continue how long? It will continue until one of three things happens—either until the annual crop of gold ceases to be an increasing crop, or until productive enterprise shall have caught up with and passed in its demand the supply coming from the increased crop of gold, or until some great national catastrophe or overspeculation upsets all reckonings. So the truth of the quantitative theory of money was never more undeniably demonstrated than now, and that is all we fought for, and was what some of you denied at that time. We lost. Silver as a money is now, and perhaps forever, doomed. But we got, in a different shape, what we fought for. Moreover, paradoxical as it may seem, the fact that we got it rendered our defeat on that particular question permanent. The high price that comes from an abundance of metallic money is wealth itself, as all abundance is; but the high price that comes by subtracting from production a part of itself, by levying a toll or tariff upon it on its way from the producer to the consumer, tends to the restriction of supply, tends to scarcity—raises prices that way, and in that way only. It necessarily therefore tends toward the decrease of the total volume of wealth of the country in which the process takes place. A decrease of wealth is a decrease of the fund out of which wages must be paid, and hence tends to decrease wages. Mr. Chairman, let me read you something upon that subject. I am going to get one of my friends to read it, I am so tired.

Mr. GILBERT of Kentucky. I will read it for you.

Mr. WILLIAMS. I wish you would. This is from Bastiat's Sophisms of Protection, and speaks of "dearness and cheapness." Neither high prices nor low prices are in themselves a blessing or a curse. It depends upon what produces the high price, what produces the low price. If the high price be produced by scarcity of supply, that is not a blessing, but a curse, no matter whether the scarcity of supply is caused by failure of crops or by the artificial restriction of legislation. If the high price is brought about by increase in demand caused by increased purchasing power among the sons and daughters of men, that is a blessing to the community and not a curse. If the low price exists because there is a decrease of demand, because of a cutting off of the purchasing power of the people, that is a curse; but if the low price comes about by cheapened cost of production, by new inventions of things that enable men by the same expenditure of labor to get increased results from that labor, then the low price is a blessing.

Mr. GILBERT of Kentucky (reading)—

If we wish to judge between freedom of trade and protection, to calculate the probable effect of any political phenomenon, we should notice how far its influence tends to the production of *abundance or scarcity*, and not simply of *cheapness or dearness* of price. We must beware of trusting to *absolute price;* it would lead to inextricable confusion.

Mr. Mathieu de Dombasle, after having established the fact that protection raises prices, adds:

"The augmentation of price increases the expenses of life, and consequently the price of labor, and everyone finds in the increase of the price of his produce the same proportion as in the increase of his expenses. Thus, if everybody pays as consumer, everybody receives also as producer."

It is evident that it would be easy to reverse the argument and say: If everybody receives as producer, everybody must pay as consumer.

Now, what does this prove? Nothing whatever, unless it be that protection *transfers* riches uselessly and unjustly. Robbery does the same.

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Now, I can perfectly well understand that *restriction* will diminsh the supply of coal, and consequently raise its price; but I do not as clearly see that it increases the demand for labor, thereby raising the rate of wages. This is the less conceivable to me because the sum of labor required depends upon the quantity of disposable capital; and protection, while it may change the direction of capital and transfer from one business to another, can not increase it one penny.

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All this is nonsense. The simple truth is, that whether men destroy their corn and cloth by fire or by use the effect is the same *as regards price* but not *as regards riches*, for it is precisely in the enjoyment of the use that riches—in other words, comfort, well-being—exist.

Protection may in the same way, while it lessens the abundance of things, raise their prices, so as to leave each individual as rich, numerically speaking, as when unembarrassed by it.

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I must continually repeat that restriction by impeding commerce, by limiting the division of labor, by forcing it to combat difficulties of situation and temperature, must, in its results, diminish the quantity produced by any fixed quantum of labor.

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Man does not live on *nominal values*, but on real articles of produce; and the more abundant these articles are, no matter what price they may bear, the richer is he.

I consider it my duty to say a few words in regard to the delusion caused by the words "dear" and "cheap." At the first glance I am aware you may be disposed to find these remarks somewhat subtile, but whether subtile or not the question is whether they are true. For my part I consider them perfectly true and particularly well adapted to cause reflection among a large number of those who cherish a sincere faith in the efficacy of protection.

Whether advocates of free trade or defenders of protection [or advocates of a tariff for revenue, the only constitutional substitute for protectionism in the United States—J. S. W.], we are all obliged to make use of the expression "dearness" and "cheapness."

The former take sides in behalf of *cheapness*, having in view the interests of consumers. The latter pronounce themselves in favor of *dearness*, preoccupying themselves solely with the interests of the producer. Others intervene, saying *producer and consumer are one and the same*, which leaves wholly undecided the question whether cheapness or dearness ought to be the object of legislation.

In this conflict of opinion it seems to me that there is only one position for the law to take—to allow prices to regulate themselves naturally. But the principle of "let alone" has obstinate enemies. They insist upon legislation without even knowing the desired objects of legislation. It would seem, however, to be the duty of those who wish to create high or low prices artificially to state and to substantiate the reasons of their preference. The burden of proof is upon them. Liberty is always considered beneficial until the contrary is proved, and to allow prices naturally to regulate themselves is liberty.

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There evidently is a misunderstanding, an illusion, which must be dispelled. This I will endeavor to do.

Suppose two isolated nations, each composed of a million inhabitants. Admit that, other things being equal, one nation had exactly twice as much of everything as the other—twice as much wheat, wine, iron, fuel, books, clothing, furniture, etc. It will be conceded that one will have twice as much wealth as the other.

There is, however, no reason for the statement that the *absolute prices* are different in the two nations. They possibly may be higher in the wealthiest nation. It may happen that in the United States everything is nominally dearer than in Poland, and that, nevertheless, the people there are less generally supplied with everything; by which it may be seen that the abundance of products, and not the absolute price, constitutes wealth. In order, then, accurately to compare free trade and protection the inquiry should not be which of the two causes high prices or low prices, but which of the two produces abundance or scarcity.

For observe this: Products are exchanged, the one for the other, and a relative scarcity and a relative abundance leave the absolute price exactly at the same point, but not so the condition of men.

Let us look into the subject a little further.

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There are *two causes* for high prices, and not one merely.

The same is true of low prices. One of the best established principles of political economy is that price is determined by the law of supply and demand.

The price is then affected by two conditions—the demand and the supply. These conditions are necessarily subject to variation. The relations of demand to supply may be exactly counterbalanced, or may be greatly disproportionate, and the variations of price are almost interminable.

Prices rise either on account of augmented demand or diminished supply.

They fall by reason of an augmentation of the supply or a diminution of the demand.

Consequently there are two kinds of *dearness* and two kinds of *cheapness. There is a bad dearness, which results from a diminution of the supply; for this implies scarcity and privation.* There is a good dearness—that which results from an increase of demand, for this indicates the augmentation of the general wealth.

There is also a good cheapness, resulting from abundance. And there is a baneful cheapness—such as results from the cessation of demand, the inability of consumers to purchase.

And observe this: Prohibition [the author uses the word as synonymous with "protection"—J. S. W.] causes at the same time both the dearness and the cheapness which are of a bad nature; a bad dearness, resulting from a diminution of the supply (this, indeed, is its avowed object), and a bad cheapness, resulting from a diminution of the demand, because it gives a false direction to capital and labor and overwhelms consumers with taxes and restrictions.

So that, *as regards the price*, these two tendencies may neutralize each other; and, for this reason, the protective system, restricting the supply and the demand at the same time, does not always realize the high prices which are its object.

But with respect to the condition of the people these two tendencies do not neutralize each other; on the contrary, they unite in impoverishing them.

The effect of free trade is exactly the opposite.

Possibly it does not cause [and in a lesser degree of tariff for revenue only—J. S. W.] the cheapness which it promises, for it also has two tendencies—the one toward that desirable form of cheapness resulting from the increase of supply, or from abundance; the other toward that dearness consequent upon the increased demand and the development of the general wealth.

These two tendencies may neutralize themselves as regards the *mere price;* but they concur in their tendency to ameliorate the condition of mankind. In a word, under the protective system men recede toward a condition of feebleness as regards both supply and demand.

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Price is not a good criterion of wealth. It might continue the same when society had relapsed into the most abject misery or had advanced to a high state of prosperity.

Mr. WILLIAMS. Now, Mr. Chairman, in another part of this book there is a letter which Bastiat wrote to a protectionist who was supposed to have written to him questioning this double operation of this natural law. Here it is:

MY DEAR PROTECTIONIST: We say that the end and aim of your restrictive measures is a wrongful one—*artificial dearness*. But we do not say that they always realize the hopes of those who initiate them. It is certain that they inflict on the consumer all the evils of dearness. It is not certain that the producer gets the profit. Why? Because if they diminish the supply they also diminish the *demand*.

This proves that in the economical arrangement of this world there is a moral force, a *vis medicatrix*, which in the long run causes inordinate ambition to become the prey of a delusion.

You gentlemen see that if this supply be diminished by prohibition of imports, that *pari passu* with the degree and the length of the prohibition the price goes up, and then that the effective demand necessarily is also diminished, because there are fewer people who can buy at the higher price. But to continue the reading of the letter to My Dear Protectionist:

Pray, notice, sir, that one of the elements of the prosperity of each special branch of industry is the general prosperity. The rent of a house is not merely in proportion to what it has cost, but also to the number and means of the tenants. Do two houses which are precisely alike necessarily rent for the same sum? Certainly not, if one is in Paris and the other in Lower Brittany. Let us never speak of a price without regarding the *conditions*, and let us understand that there is nothing more futile than to try to build the prosperity of the parts on the ruin of the whole. This is the attempt of the restrictive system.

Competition always has been, and always will be, disagreeable to those who are affected by it. Thus we see that in all times and in all places men try to get rid of it. We know, and you too, perhaps, a municipal council where the resident merchants make a furious war on the foreign ones. Their projectiles are import duties, fines, etc., etc.

Now, just think what would have become of Paris, for instance, if this war had been carried on there with success.

Suppose that the first shoemaker who settled there had succeeded in keeping out all others, and that the first tailor, the first mason, the first printer, the first watchmaker, the first hairdresser, the first physician, the first baker had been equally fortunate. Paris would still be a village with twelve or fifteen hundred inhabitants. But it was not thus. Each one, except those whom you still keep away, came to make money in this market, and that is precisely what has built it up. It has been a long series of collisions for the enemies of competition, and from one collision after another Paris has become a city of a million inhabitants. The general prosperity has gained by this, doubtless, but have the shoemakers and tailors, individually, lost anything by it? For you, this is the question. As competitors came, you said: "The price of boots will fall." Has it been so? No; for if the *supply* has increased, the *demand* has increased also.

Thus will it be with cloth; therefore let it come in. It is true that you will have more competitors, but you will also have more customers and richer ones. Did you never think of this when seeing nine-tenths of your countrymen deprived during the winter of that superior cloth that you make?

This is not a very long lesson to learn. If you wish to prosper, let your customers do the same.

When this is once known, each one will seek his welfare in the general welfare. Then jealousies between individuals, cities, provinces, and nations will no longer vex the world.

Now, the next thing that is noteworthy which was said by the gentleman from Iowa [Mr. HEPBURN] was that "the people less than two years ago indorsed" the present position of the Republican party. Now, Mr. Chairman, was it that? Or was it an ill-founded confidence—ill-founded as it now turns out—that the Republican party would observe that other plank of its platform, to wit, the promise to revise the tariff "to meet changed conditions" and to have that revisal "by its friends?" Now, I say that that promise, together with the personality of your President, was what you won upon. Indeed, you were nearly everywhere throughout the campaign apologizing for the present existing rates of the Dingley bill and were making promises to the people all over this land that you yourselves would revise the tariff; that it was well that you should do it, because you were "the friends of the tariff," and that if we did it we would "destroy the principle," as you call it, of protectionism, while you would "retain the principle" and still change the bad schedules.

Now, the gentleman from Iowa comes into this forum of American legislation and politics, after having won upon a pretext like that, and states that the very confidence of the people in the fact that you would keep your promise is the reason why you should not keep your promise and why you are not keeping it. [Applause on the Democratic side.] If you attempt it next year it will be too late to do you much good, because by that time the American people, who are not fools, will have seen that it is we who have driven you to the work if you do it at all. If your President urges you by message to do it, you will plead "No time at a short session," and the people will know that your President's message and your plea are alike humbug and pretense and a specious trick to win one more election. Then they will say that you have not kept the promise that you made to them after the last election and they do not believe you will keep the new one if you win the next. In either event, I tell you, verily you are now between the devil and the deep blue sea, and there are some of you who will go to the deep blue sea and some who will go [great laughter]—to the other horn of the dilemma [renewed laughter], and some of you who will take to the woods so as to avoid both sides of it. [Laughter and applause.]

I have run over about all of the speech of the gentleman from Iowa that amounted to anything, except when he stood Ajax-like defying proof—proof that rails were sold abroad cheaper than the same manufacturers at the same time sold them at home.

I do not want that proposition to be disputed any more; and I am going to proceed to prove it as to rails and many other things by putting in proof that can not be questioned. I am going, first, to read from the Report of the Merchant Marine Commission, volume 3, page 77, at the bottom of that page, the

testimony of Mr. Nixon, a shipbuilder known to all the world as a man of character, who answers the following question from Senator MALLORY, who was examining him, in the following way:

Senator MALLORY. There is another question. Some years ago we were shipping steel plates to the Clyde. As I remember, we had some very good evidence to that effect before Congress. Quite a large contract was made, and it was said that we were underselling the British steel-plate makers on their own ground. Do you remember whether or not that was correct? That was about four or five years ago.

PRICES OF MATERIALS.

Mr. NIXON. I heard the statement at the time. I have no doubt that some contracts were placed in this country. I merely had to take the statement as I saw it printed. I had no connection with it.

Senator MALLORY. Since then these plates have gone up so that at the present time there is about one-third difference?

Mr. NIXON. They are selling approximately at $38 a ton here as against $31 there. *But that is the price here for American materials.* Undoubtedly *American material can be bought in England very much more cheaply than here at present.*

The italics are mine.

Now, on page 79 of the same volume, Representative MCDERMOTT, of New Jersey, questioning him:

Representative MCDERMOTT. Your proposition is this: American plates can be sold abroad, or are sold abroad, for some business reason, at a less price than they are sold here?

Mr. NIXON. Yes.

Representative MCDERMOTT. Plates of equal quality, but of foreign manufacture, can be imported for less than you can buy domestic plates here?

Mr. NIXON. Yes.

Mr. HAMILTON. Can the gentleman give the date of that testimony?

Mr. WILLIAMS. I have given you the page and volume of the hearings of the Merchant Marine Commission. It was in 1905, at the hearing held in New York City, beginning on May 23.

Now, my friend from Texas [Mr. GILLESPIE] has been kind enough to make up a statement of the various other portions of this record of the Merchant Marine Commission hearings where witnesses testify to the same effect. He cites the pages, and I shall ask leave to read a part of it and insert the balance in the RECORD. I want now to thank my friend for having done that for me, for I have so much work to do of various sorts it is really a need to have such help.

After hearing this testimony you will conclude with me that there is, else there seems to be, much, repeated, and long-continued "dumping."

Our manufacturers seem to have contracted the habit of "dumping" as a rule of business.

The so-called "surplus" is very nearly, if not quite, annual.

The trust "surplus" is only what can not be sold in America at sheltered market exploitation prices.

Mr. A. A. Moss (p. 1722, vol. 3): I believe that the steel trust is responsible to a great extent in discriminating against the American shipbuilder in the way of prices, as plates and other material made by the American steel trust are shipped to England and sold at 25 to 33 per cent less than they can be had in this country.

Mr. McGregor (p. 782, vol. 2): I picked up a newspaper in the month of February and read as a piece of news that one of the independent steel companies, not in the trust, in Pennsylvania, had just sold 40,000 tons of steel rails to the Canadian Pacific Railroad at $21.50 per ton. * * * You remember that when Congressman Johnson was in the House he made the statement, as a steel manufacturer, that he could make steel rails at a profit of $2 per ton and deliver them on the cars at Johnstown, on the Cambria Works, at $18.50. That statement is on record in Congress, and it is not disputed. * * * Oh, they did contradict him, but the question here for us, I think, gentlemen, is, Did they successfully contradict him? Because he was at that time one of the largest manufacturers of steel rails in the United States. As a manufacturer of steel rails, he simply took his books and showed that he paid higher wages than any other concern in the trust, and he was then a member of the steel trust. Those are facts on record.

The above statement was made before the Commission June 27, 1904.

Mr. James C. Wallace, of the American Shipbuilding Company, on June 28, 1904, gave this testimony before the Commission:

* * * Recently one of our largest steel mills sold abroad 100,000 tons of steel plate. They delivered it, I understand, at Belfast at $24 per ton. That would practically mean, with ocean rates as they are, $22 a ton at tide water. They are charging us to-day at Pittsburg $32 per ton. About four years ago our company took a contract from the American Navigation Company for building here on the Lakes two 7,000-ton ocean ships. * * * We took the contract at a price about equal to the price for which they could be built in England at that time. Steel was then very much lower than it is to-day. Steel pools had not then been formed.

Representative GROSVENOR. I want to know who bought the steel you speak of?

Mr. WALLACE. The Harland & Wolfe Company.

Representative GROSVENOR. From whom did they buy it?

Mr. WALLACE. The United States Steel Corporation.

Representative GROSVENOR. Do you know where it was shipped from?

Mr. WALLACE. I do not. I presume from the Carnegie Steel Company. I do not know that, though, for a fact, as they have so many mills.

Representative GROSVENOR. And their present price to you is $32?

Mr. WALLACE. Thirty-two dollars a ton, Pittsburg.

Representative GROSVENOR. And that was laid down at Belfast at $22?

Mr. WALLACE. At $24.

The CHAIRMAN. What does it cost to transport it from this country to Ireland?

Mr. WALLACE. As near as I understand, the rates at the present time are $2 a ton. That would be $22 a ton at tide water. * * *

Representative GROSVENOR. What is the freight from Pittsburg to tide water?

Mr. WALLACE. I think it is about $1.40 a ton. I am not positive about that, though.

Mayor JOHNSON. That would make $11.40 difference between the Pittsburg price to you and the price abroad?

Mr. WALLACE. Yes. I am not positive about just what that rate is. * * *

Representative MINOR. Mr. Wallace, would there be the same difference between all material that goes into your frames—your shapes, I suppose?

Mr. WALLACE. Yes, sir.

Representative MINOR. Beams, rivets, etc.—would the same difference be maintained between the cost in Europe and the cost here?

Mr. WALLACE. It is so to-day. Plates, beams, angles, and channels are now $32 per ton, Pittsburg. * * *

Mr. GOULDEN. Is the price as low abroad on other things as it is on the plate?

Mr. WALLACE. Yes, sir. Roll prices are the same at the present time.

Representative MINOR. Do they lay that down in England at the present time at that price?

Mr. WALLACE. Twenty-four dollars a ton in Belfast. They made no secret of it. It was published in the papers at the time.

* * * * * * *

The CHAIRMAN. I presume that in the instance you have cited as to the sale of steel abroad, you have taken the pains to verify it beyond peradventure?

Mr. WALLACE. It was given to me by the assistant sales agent of the Carnegie Steel Company.

Senator PENROSE. Was any reason given for the difference in price?

Mr. WALLACE. Nothing but that they wanted to keep their mills in operation.

Representative MINOR. I think, Mr. Chairman, that the testimony of Mr. Edwin S. Cramp is about the same as that of Mr. Wallace on prices abroad and here.

The CHAIRMAN. Yes; I think it is. I want to say what I think I am privileged to say, as chairman of this Commission, that, if the situation is as has been described, it is a great outrage. [Applause.]

Mr. WALLACE. We have thought so for some time, and we have thought that in some way it ought to be remedied.

The above testimony of Mr. Wallace appears on pages 811, 812, 813, and 814, volume 2 of the report.

One of the witnesses—McGregor, I believe—says, as you will remember:

When Mr. Tom Johnson, of Ohio, was in the House, himself a steel-rail manufacturer, he made the statement that he could, with a profit of $2 a ton, deliver rails on board of the cars at the Cambria Works, Johnstown, at $18.50. That statement is in the RECORD, in Congress, and is not disputed. They undertook to contradict him, but he was not successfully contradicted. At that time he was one of the largest manufacturers of steel rails in the United States.

By the way, I will stop to say that Tom Johnson may be a single taxer and all that, but if there is a man with a much higher sense of honor and of more absolute veracity and truth that I have ever met personally than Tom Johnson I am not certain who he is.

The witness went on:

As a manufacturer of steel rails, he simply took his books and showed that he paid higher wages than any other concern in the trust.

He was then a member of the steel trust, which he confessed. My friend from Missouri [Mr. CLARK] will remember, as I do, the incident. When somebody twitted Tom Johnson about it, he in substance said:

Yes, it is a bad law; it is a mean law; the duty ought to be removed; but do you think when I am in the business that I am going to be a fool and not get my share of the profit while it is going on? Of course I joined the trust, and I am working under the system as long as I am in the business.

Now, that statement I have just quoted was made before the Commission June 27, 1904. Mr. James C. Wallace, of the American shipbuilding concern, on June 28, 1904, gave this testimony, which I have cited:

Recently one of our largest steel mills sold abroad 100,000 tons of steel plate. They delivered it at Belfast at $24 per ton. That would practically mean, with ocean rates as they are, $22 a ton at tide water. They are charging us to-day at Pittsburg $32 per ton.

That is a difference of $10 in favor of the foreign shipbuilder.

And here comes in the gentleman from Ohio, General GROSVENOR, and wants us to take out of the money of the poor, out of the pockets of the poor sewing women of this country, who wear the goods that are taxed by the tariff, and out of the pockets of the dentists and the doctors and the preachers and the farm laborers, and the darkies in my field, who are harming nobody, and from everybody else—money to compensate the American shipbuilders for the amount that they lose by the tariff-enabled robbery of the American steel trust. [Applause

on the Democratic side.] Why not deprive the steel trust of its "big stick"—of its power to rob?

Mr. CHARLES B. LANDIS. Will the gentleman yield for a question.

Mr. WILLIAMS. Is it pertinent to this?

Mr. CHARLES B. LANDIS. Yes.

Mr. WILLIAMS. Yes; I will yield.

Mr. CHARLES B. LANDIS. I should like to ask the gentleman when the American steel trust sold 40,000 tons of steel rails to the Canadian government for $21.50 a ton? What year was that?

Mr. WILLIAMS. You mean what I have quoted from McGregor's statement?

Mr. CHARLES B. LANDIS. Yes; or when did any independent steel company do that?

Mr. WILLIAMS. This testimony was given on June 28, 1904, and the witness says that "recently" it was done. That is as near as I can come to it.

Now, Mr. Chairman, I want to read from the CONGRESSIONAL RECORD a statement made upon this floor by Mr. Lind of Minnesota, a Member of the last Congress and a man of the highest personal integrity and veracity. It is the statement of a matter of his own knowledge.

I was out on the Pacific coast for a couple of weeks just before I came down here, and I learned of an occurrence that impressed the situation with reference to our iron and steel schedule on my mind in a greater degree than anything that has yet come to my notice.

As you all know, there is an immense packing industry on the Pacific coast. A great deal of tin plate is used in that industry. There is also a large demand for sheet steel and sheet iron for Alaska. On the trip referred to I learned what I am now about to state. I am not going to give names, but what I shall say is capable of verification by anyone who is curious. The Northern Pacific Railroad Company, to which I shall refer, will give you the data and the facts.

A firm in Portland, Oreg., dealing in hardware and handling large quantities of tin plate and sheet steel found that they needed some six or seven carloads of such material. This was about a year ago last summer. They wrote to Pittsburg, the only place where those commodities could be bought, to one of the subsidiary companies of the steel trust, and received quotations. These people at Portland found that the price made by the Pittsburg company was exorbitant, that it left no profit to them on the basis of the contracts that they had entered into, so they sent up to Vancouver, a thriving town just over the Canadian line, I think within 15 miles of the United States boundary, and they procured a firm of Canadian brokers to write to the same concern a letter similar to that which they had sent, to ascertain at what prices they could buy these seven carloads of tin plate and sheet steel.

The Canadians were given quotations ranging from eight to eleven dollars per ton less than the quotations to the American applicants. At the instance of the Portland firm the Canadian brokers immediately ordered the tin plate and the sheet steel. In due course of time the orders were filled and the bills of lading, with drafts annexed, were sent to the bank at Vancouver. Those of you who are at all familiar with dealings in that kind of commodities know that the manufacturer usually advances the freight, directs the route of shipment, and sends draft with bill of lading. These cars had been routed from Pittsburg to Chicago, from Chicago to St. Paul via the Burlington road, and from St. Paul to the Pacific via the Northern Pacific Railroad.

In due time, as I say, the bills of lading, with drafts attached, arrived in Vancouver, and the Vancouver brokers promptly paid the drafts, indorsed the bills of lading, and sent them to their Portland customers.

They immediately put themselves in communication with the Northern Pacific Railroad and found that the cars were in transit somewhere in North Dakota. They demanded that the cars should be diverted, so as to be sent—three to Portland, two to Seattle, one to Tacoma, and one to another point, I think, instead of being carried through to Vancouver. They had the title papers—the bills of lading—indorsed; the drafts duly receipted. The railroad company could do nothing else than comply with the demand, and the cars were diverted, and this clever Portland firm saved about $3,000 by the transaction.

Mr. HAMILTON. I wanted to ask the gentleman if he knew that that statement of Mr. Wallace which he quoted was contradicted by Judge Gary before the Merchant Marine Committee on April 11?

Mr. WILLIAMS. Yes; I did, and I have an article here from the Washington Post, that I will ask to have read now, in answer to the gentleman's question. Yes; I knew it was contradicted by this Gary. The shipbuilders were seeking a ship subsidy, and they came here giving various reasons why they ought to have it, and one of them was that the American steel producers were charging them more than they were charging the foreigner; and then the "system," as Lawson calls it, began to find out that this thing might cut both ways—that is, that it might hurt the steel trust or revive tariff agitation—and lo and behold, they sent for "witnesses." Gary came in to break the force of Wallace's testimony.

Mr. HAMILTON. Before that is read, inasmuch as the gentleman has asked that the editorial from the Post be read, may I quote the language of Judge Gary?

Mr. WILLIAMS. No; you may not, because all he did was to contradict it. I have already declined to yield for that purpose. I decline again to yield.

Read that article, Mr. Clerk.

Mr. HAMILTON. I want to ask you——

Mr. WILLIAMS. I have declined to yield to the gentleman any further.

Mr. HAMILTON. His testimony is better than the statement of the Washington Post.

Mr. WILLIAMS. I have said that a part of what he said is quoted from him in the Washington Post.

Mr. HAMILTON. Oh, very well.

Mr. WILLIAMS. Let the Clerk read.

The Clerk read as follows:

CONFLICTING CONGRESSIONAL "HEARINGS."

Before the House Committee on the Merchant Marine and Fisheries was fairly through with the "hearings" on the ship subsidy, it proceeded to allow "hearings" in vindication of the steel trust. In the hearings granted to the shipmasters it was deposed and reiterated that the steel trust sold material for building ships to foreigners for considerably less than the same was sold to Americans. That fact was emphasized in the testimony of numerous witnesses, and it is one of the "conclusive arguments" with which Congress is deluged.

But those "arguments" are for subsidy only. The steel trust was much concerned, for it is manifest that the American people will put the enemies of protection to reforming the tariff if its office be for the benefit of foreigners, affording them lower prices for American goods than is exacted of the American customer; and so the steel trust came to town and demanded a "hearing."

* * * * * * *

One of the head men of the steel trust—a Mr. Gary—appeared before the committee and said it was all a mistake—that there was no *considerable difference* in the domestic prices of steel products and the export prices. That was news to the committee, and it is news to the country. If it be true, there has been some tall lying done in this vicinity the past half a dozen years, and we hope the Committee on the Merchant Marine and Fisheries will persist in holding most exhaustive "hearings" on the subject, and not be satisfied with anything short of the truth, the whole truth, and nothing but the truth.

Mr. Gary volunteered this information: The home price of steel rails in Canada is $33 a ton, in Germany it is $30, in France it is $31, in Austria it is $31, in Belgium it is $30, in Great Britain it is $31.50, while in the United States the price is $28 a ton.

Now, the question naturally and inevitably obtrudes, What is the use of exorbitant duties to protect the cheapest steel rails in the world from the dearer rails of other countries?

No doubt that can be satisfactorily explained at a Congressional "hearing."

Mr. WILLIAMS. Now, Mr. Chairman, you will note that Mr. Gary is one of the magnates of the steel trust, and therefore his testimony is, at the best, "suspect."

Mr. HAMILTON. Will the gentleman put in the RECORD, as a part of his speech, the fact that he does not want Mr. Gary's answer to Mr. Wallace's statement?

Mr. WILLIAMS. Oh, Mr. Chairman, that sort of a thing is unworthy of the gentleman from Michigan. I surely need not repeat for the third time my declination. Now, I will go ahead. In the next place I will read a letter which was written by Mr. Schwab on May 15, 1899, and you all know that Mr. Schwab was then and is now, I suppose, connected with the Carnegie-Frick steel trust. This was published first in the Indianapolis News and was reproduced by Senator BACON, from whom I read it as quoted. It was written by Mr. Schwab to Mr. Frick, and bears date of May 15, 1899. It is a "heart-to-heart talk" between two steel magnates, with no intention of fooling the public and no idea that the letter would become public. He says:

As to the future, even on low prices, I am most sanguine. I know positively that England can not produce pig iron at the actual cost for less than $11.50 a ton, even allowing no profit on raw materials, and can not put pig iron into a rail with their most efficient work for less than $7.50 a ton. This would make rails at net cost to them at $19. We can sell at this price and ship abroad so as to net us $16 at works for foreign business, nearly as good as home business has been. What is true of rails is equally true of other steel products. As a result of this we are going to control the steel business of the world. You know we can make steel rails for less than $12 a ton, leaving a nice margin on foreign business. Besides this, foreign costs are going to increase year by year because they have not the raw material, while ours is going to decrease. The result of all this is that we will be able to sell our surplus abroad, run our works full all the time, and get the best practice and costs in this way.

Senator BACON well adds:

There is a concrete instance from which, by the testimony of Mr. Schwab himself, it appears that while rails are selling at $28 a ton in the United States he alleges that he can deliver them in England at a cost that will compete with the English rails at $16 a ton, and that that is $4 a ton above what it will cost him to do it—even at that rate he would have $4 a ton profit.

If Mr. Schwab knows his own business—and he has never been accused of not knowing it—our steel makers have the capacity to "dump" steel on Europe forever at a profit now and at an increasing profit from year to year.

"While our surplus abroad sells at a profit of $4 a ton." What sort of a surplus? Surplus produced by the high prices fixed in the American market. If he had reduced the price at which he sold the goods in the American market to the same price as that at which he sold them in the English market

or to a price nearly the same, but higher even, there would have been no "surplus."

Now, here is a letter written by J. T. Wright, a native of the State of Indiana, a Republican, dated February 23, 1904, and addressed to Senator BACON, parts of which I am going to read:

MACON, GA., *February 23, 1904.*

Hon. A. O. BACON, *Washington, D. C.*

MY DEAR SIR: I beg to own receipt of yours of the 20th, and have carefully noted same.

I recall very distinctly my conversation with you on the subject of steel rails purchased by my company from the ——— company, and I take pleasure in giving you the details of the transaction, asking you, however, to refrain from mentioning the names of the parties.

The extension of our road, some 40 miles, was decided upon and cash provided for it early in the spring of 1901. Owing to the demand at that time for steel in all forms and the probability of the advance in price, it seemed wise to take up the matter of the purchase of the necessary rails at once. Inquiries therefore were addressed and mailed to all the leading steel-rail manufacturers in the country asking for tenders on the 60 miles of 70-pound steel rail delivered at Savannah or Macon, the point of delivery to be optional with us.

We received prompt responses, but there was practically no difference in the bids, the eastern rail mills contiguous to tide water quoting practically the same price delivered at Savannah and a correspondingly higher price for Macon delivery, the interior rail mills making a lower price for Macon delivery and a higher price for Savannah delivery. It was very evident to me that the field had been divided by the manufacturers and that no one of them would encroach upon the territory assigned to the others.

After endeavoring in vain to obtain better prices than those quoted, we finally accepted the bid of the ——— Steel Company and placed our order with them for 5,618 tons of rail at $29 per ton based upon delivery at tide water. This would enable us to arrange our own freight rate to Savannah and effect some saving in the cost of the rails. The order was declined on these terms, the ——— Steel Company refusing to make any price f. o. b. mill, but insisting upon delivered price.

* * * * * * *

I made one more effort. Some friends of mine were interested in a railroad project in Central America, and I broached the subject to the representative of the ——— Steel Company, who had come here to close the matter with me. I told him that my friends had made some inquiry of me as to the cost of construction in that country, and I should like to know at what price he would sell me steel rails delivered at tide water for shipment to Honduras. He promptly quoted me $20 per ton. Further inquiry developed the fact, however, that they would only load vessels chartered to a foreign port, and that the charter should be an essential part of the contract. The wall was complete. There was nothing left for me to do but to place my order and to thank God it was no worse; so within two days thereafter steel rails advanced $2 per ton.

Allowing a liberal amount for cost of delivery at tide water, which in this particular case would have been very small, we American citizens paid to this American industry $33,000 in excess of what foreigners would have been compelled to pay. And $33,000 would have put up a very handsome library filled with standard books on protection.

And this was a very small transaction—only 50 miles of railroad. Payments were cash, and we neither needed nor asked any concessions in the matter of time. Because we were Americans, interested in the development of a small section of our country, involving faith and sacrifices, we were compelled to pay out as a bonus in excess of $600 per mile.

But they "would only load vessels *chartered to a foreign port*"—had to be certain the $20 a ton steel was going abroad; growing suspicious of people "buying for export"—afraid they might buy for export and then lay the rails on American soil!

The same steel-rail makers quoting the same rails to the same man at the same time at $29 at tide water if to be laid on our soil, and at $20 at the mill if to be laid in Central America! That ought to satisfy the gentleman from Iowa.

Mr. Wright closes this letter, by the way, by saying that "if the statement is of any use to you, I shall be glad, as an American and as a Republican." Now, this is not speculation; this is from the man who was president of the railroad which negotiated for the rails, and he himself did the negotiating and the buying. What was the name of the railroad?

Mr. BARTLETT. The Macon, Dublin and Savannah Railroad. I want to say that I know Mr. Wright personally and his statement is absolutely entitled to the credit of any gentleman. [Applause on the Democratic side.]

Mr. WILLIAMS. Now, Mr. Chairman, I do not like to bore the House too much, but I want to read from a letter written by W. G. Raoul to Senator BACON, of Georgia, and dated February 25, 1904. It is necessary for me to tell you who Mr. Raoul is. He is president of the National Railroad Company of Mexico, or was when he wrote this letter, and I suppose still is. The National Railroad Company of Mexico is owned by Englishmen, in the main, and the president is a railroad man from the State of Georgia. He had formerly been president of the Central Railroad of Georgia. This Mexican National is a long railroad, extending from Laredo, Tex., to the City of Mexico—840 miles. It runs through the soil of Mexico and of our own country.

Now, this is the statement of Mr. Raoul in that letter. He says:

In 1902 I secured bids on steel rails for Mexico from the United States mills for about $24, delivered at Tampico—

What the freight was from Pittsburg to Tampico I, of course, do not know, but it must have been $3 or $4 a ton. He says, as I have read:

In 1902 I secured bids on steel rails for Mexico from the United States mills for about $24, delivered at Tampico, while the price I paid at the same time for rails for our road in Texas was $28 at the mill.

[Applause on the Democratic side.]

That ought to satisfy the gentleman from Iowa. That must have made the price about $30 or $31 when the rails were landed, after paying freight at the Texas points, along the line of railroad. He goes on:

I have understood that the Canadian Pacific has just bought a large lot of rails from the United States Steel Corporation at $21. It is asserted and denied that the $21 is for delivery at Montreal. If it is, the price at the mill would be about $19, while the price for United States roads is still $28 at the mill. I do not know this of my own knowledge, and it is mere current rumor.

So these goods are sold certainly at $21 a ton mill price for those of the rails to be laid on Mexican soil, and possibly lower than that, and at the same time they were sold at $28 to the same railway for so much of the rails as were to be laid on American soil. In that connection, Mr. Chairman, I wish to say that I have not heard of the companies in the steel trust or any of their officials having been prosecuted, yet I saw yesterday where they had met and solemnly "fixed the price" of steel rails at $28 for the next year or two. Of course, there is no "combination in restraint of trade" among them—God forbid!—else the President would enforce the law.

On April 25–26, in the Senate, Senator BACON, of Georgia, refers to the results of the investigations of a well-known American:

In a recent pamphlet Mr. Henry Loomis Nelson, former editor of Harper's Weekly, shows the utter fallacy of the assertion, so frequently made, that the trusts have reduced prices. He shows, for instance, that the average yearly "base" price of wire nails per keg has increased since 1894 from $1.11 to $2.60, the present price being $3.53, and the price of barbed wire from $1.80 in 1897 to $3.17 in 1899, the present price being $4.13. The profits of the trust run from $8,000,000 to $15,000,000 a year, the increase of price being nearly all profit. It has, however, by its increase of prices greatly reduced the consumption of wire fencing, and in 1896 the consumption of cut and wire nails was reduced by a former trust about 1,000,000 kegs. While the trust raises the price of its goods to the American farmer and mechanic, it sells to the foreigner for much less. In 1896, for example, the price of nails to foreigners was $1.30 and to Americans $2.70. In 1898 the retail price to Americans was about $4.50 and to foreigners $2.14 "base," or about $3.10 retail, a keg. It was possible to buy at export price, ship the goods to Europe, bring them back, and even then undersell the trust's domestic prices. In 1899 the trust exported 51,000,000 pounds of wire nails to its former foreign customers and 215,000,000 pounds of wire.

During the last campaign, Mr. Chairman, the Democratic party hoped that there was going to be a real issue made about this very matter. They therefore collected from trade journals in this country all the information on the subject that they could. The New York World published for the committee an offer, which was made to people generally, to bring in these trade journals with their export prices. Those trade journals were brought in and they are at Democratic headquarters and can be seen by anybody. I furnish you the first list from the American Export Monthly of June 18, 1904, published by Arkle & Douglas at 5 to 11 Broadway, New York City. The Douglas of this firm was the Hon. William Harris Douglas, a Republican Representative from the Fifteenth Congressional district of New York. The second table, which is taken from that same paper, I insert following the first.

FIRST TABLE.—*Showing differences in discounts from price lists for foreign and home consumers and the per cent of difference between export and home prices; many varieties and sizes are often included under one discount.*

NOTE.—Where several discounts are quoted the first figure is the discount from list price, the second figure is the discount from the remainder, the third figure is the discount from that remainder, and so on. Thus, in the line for "Augers" below, the home discount is given as "50, 10, 5." If the list price was $1 these discounts would mean 50 per cent off from $1 (50 cents), less 10 per cent of remainder (5 cents), less 5 per cent of that remainder (2½ cents), leaving 42½ cents as net price to buyer.

Firm or corporation and article.	Export discount from list.	Home discount from list.	Difference.
Russell & Erwin Manufacturing Co.:	*Per cent.*	*Per cent.*	*Per ct.*
Auger bits, Swan's Jennings	60	50	25
Locks, door	50	40	20
Bells, cow	50, 15	50	12
Snell Manufacturing Co.:			
Augers	75	50, 10, 5	72
John S. Fray & Co.:			
Braces	70	60	33
Enterprise Manufacturing Co.:			
Coffee and spice mills	40, 10	25 to 30	30

FIRST TABLE.—*Showing differences in discounts, etc.*—Continued.

Firm or corporation and article.	Export discount from list.	Home discount from list.	Difference.
A. M. Hayden & Russell, Burdsall & Ward Bolt and Nut Co.:	*Per cent.*	*Per cent.*	*Per ct.*
Bolts, tire	80, 10	72, 10	28
Bolts, carriage	80, 10	75	39
Bridgeport Chain Co.:			
Chains, halter	70, 10, 7	60, 10	44
Covert Manufacturing Co.:			
Halters, jute	50, 10, 10	40, 5, 5	33
Halters, sisal	40, 10	30	30
Handles, fork, rake, hoe, and shovel	50	45	10
Beamis & Call Hardware Co.:			
Pipe wrenches, adjustable "S"	50	40	20
Pike Manufacturing Co.:			
Scythe and oil stones	50	33	50
Henry Disston's Sons:			
Saws, hand	40 and 5	25	43
Saws, crosscut	60 and 10	45	53
Stanley Rule and Level Co.:			
Rules, boxwood	50, 10, 10, 10	60 to 60, 10	35

SECOND TABLE.—*Showing difference between export and home prices on sample specified articles.*

Firm or corporation and article.	Export price.	Home price.	Difference.
Russell & Erwin Manufacturing Co.:			*Per ct.*
Auger bits, Swan's Jenning No. 3, dozen	$1.60	$2.00	25
Snell Manufacturing Co.:			
Auger bits, solid cast steel car No. 7, dozen	2.70	3.60	33
A. & M. Haydon:			
Bolts, tire, 1-inch, per hundred	.27	.30	10
Bolts, carriage, 2-inch, per hundred	.98	1.35	34
John S. Fray & Co.:			
Braces, Spofford No. 7, per dozen	4.80	6.40	30
Braces, Woodhead No. 117, per dozen	10.80	14.40	30
Braces, ratchet No. 141, per dozen	12.60	16.80	30
Enterprise Manufacturing Co.:			
Coffee and spice mills, wall, each	.67	.88	30
Coffee and spice mills, counter, No. 4, each	4.32	5.60	30
Coffee and spice mills, counter, No. 212, each	16.20	21.00	30
Bridgeport Chain Co.:			
Chains, halter, Brown, No. 4, 6 foot, dozen	2.00	2.80	40
Beamis & Call Hardware Co.:			
Wrenches, "S," adjustable pipe, 8 inches, dozen	7.50	9.00	20
Do	4.50	5.55	22
Wrenches, combination, 10 inches, dozen	13.75	14.25	6

I call your attention to these lists:

[List from Exporters and Importers' Journal of June 18, 1904, published by Henry W. Peabody, 17 State street, New York City, N. Y.]

FIRST TABLE.—*Showing differences in discounts.*

Firm or corporation and article.	Export discount from list.	Home discount from list.	Difference.
Henry Disston's Sons:			*Per ct.*
Levels and plumbs	70, 10, 10, 10	70	36
Saws, band	60, 10, 10	60	23
Saws, hand	45, 5	25	43
Saws, compass	45, 5	25	43
Shears	50	30	40
Squares, try	70, 10, 10, 10	70	36
Andrew B. Hendrix & Co.:			
Bird cages, brass	50	40, 10	8
Enterprise Manufacturing Co.:			
Fruit seeders, Nos. 36 and 38	40	30	16
Collins & Co.:			
Hinges, japanned spring	25, 20, 10	25, 10	24
Hinges, acme, brass	40, 10	30	30
Springs, door, gem coil	35	30	16
Covert Manufacturing Co.:			
Harness snaps	50	35	42
Breast chains	50, 10	40	30
Cleveland Twist Drill Co.:			
Bit stocks and drills	65, 10	60, 10, 5	8
Boston and Lockport Block Co.:			
Tackle blocks	75	70, 10	8
Charles Parker Co.:			
Vises	25, 10, 5	25	17
Miller's Falls Co.:			
Wrenches, Coes	40, 10, 5, 5, 7	40, 5, 5, 7	13

SECOND TABLE FROM SAME JOURNAL.—*Showing samples of differences between export and home prices in specific articles.*

Firm or corporation and article.	Export price.	Home price.	Difference.
Andrew B. Hendrix Co.:			*Per ct.*
Bird cages, No. 301, fancy, with R. mats...dozen	$15.00	$16.20	11
Henry Disston's Sons:			
Hardware, saws, band, 3 to 14 ...per foot	1.00	1.22	22
Hardware, saws, band, 2 to 3 ...do	.75	.92	24
Hardware, saws, hand, 18 in ...per dozen	6.00	8.36	43
Hardware, saws, hand, Acme, 16 in ...do	11.51	16.50	43
Hardware, saws, hand, No. 7, 14 in ...do	6.37	8.40	16
Hardware, saws, compass, No. 2, 16 in ...do	2.61	3.65	43

SECOND TABLE FROM SAME JOURNAL.—Continued.

Firm or corporation and article.	Export price.	Home price.	Difference.
Henry Disston's Sons:			*Per ct.*
Hardware, saws, back, No. 4, 12 in ...per dozen	$6.00	$8.36	43
Hardware, saws, butcher, No. 7, 18 in ...do	7.00	8.70	24
Hardware, saws, wood, No. 69 ...do	6.00	7.80	30
Hardware, trysquare, No. 1, 5 in. ...do	1.06	1.43	40
Hardware, trowels, No. 12 ...do	10.00	12.95	29
Hardware, bunghole borers, No. 2 ...each	1.00	1.25	25
Hardware, levels and plumbs, No. 8...per dozen	4.60	6.30	37
Smith & Egge Manufacturing Co.:			
Hardware, shears, Eureka, No. 2	10.00	14.00	40
Ames Manufacturing Co.:			
Hardware, shovels, spades, D. H., sq. pt...dozen	4.68	5.10	9
Hardware, shovels, spades, R. D., sq. pt ...do	4.95	5.40	9
Hardware, shovels, spades, long H., sq. pt ..do	4.81	5.25	9
Columbian Hardware Co.:			
Hardware, hinges, Acme, 2 I., No. 2, dozen pairs	.75	.98	17
Hardware, hinges, Acme, W. B., No. 2, doz. pairs	1.08	1.40	30
Hardware, hinges, door springs, Gem coil, gross	7.80	8.40	7
Boston & Lockport Block Co.:			
Hardware, tackle block, 14 in., single, each	1.75	2.00	11
Hardware, tackle block, 14 in., double, each	2.63	2.83	8
Collins & Co.:			
Hardware, wrenches, Coes, 10 in., per dozen	5.46	5.86	7
L. S. Starrett Co.:			
Hardware, hack-saw blades, 9 in., per dozen	.48	.53	10
Enterprise Manufacturing Co.:			
Fruit presses, No. 3, each	1.80	2.40	33
Raisin seeder, No. 36, per dozen	7.20	9.00	25
Covert Manufacturing Co.:			
Hardware, snaps, har. Derby, gross	3.20	4.25	30
Hardware, snaps, har. Jockey, gross	2.39	3.00	25
Hardware, snaps, har. Trojan, gross	1.84	2.63	42
Hardware, snaps, har. Yankee, gross	2.40	3.12	30
Hardware, jacks, carriage, per dozen	5.00	6.88	36
Hardware, jacks, wagon, per dozen	6.40	8.80	33
Hardware, jacks, automobile, per dozen	7.60	10.45	33
Hardware, jacks, automobile, screw, per dozen	18.00	23.95	33
Sampson Cordage Works:			
Hardware, sash cord, No. 7, per pound	.24	.33	34
Hardware, sash cord, Mass., per pound	.20	.28	40
M. S. Benedict Manufacturing Co.:			
Hardware, teaspoons, gross	1.00	1.10	10
Hardware, dessert spoons, gross	1.50	1.65	10
Hardware, tablespoons, gross	2.00	2.20	10
Hardware, forks, gross	2.30	2.53	10
Cleveland Twist Drill Co.:			
Hardware, twist drill, bit stock, 1 in., per dozen	8.86	10.13	14
Hardware, twist drill, taper sh., 1 in., each	.94	1.08	13
Charles Parker Co.:			
Hardware, vises, No. 5, X, each	15.40	19.20	25
Hardware, coffee mills, box, No. 401, per dozen	1.44	1.80	25
Hardware, coffee mills, side, No. 90, per dozen	2.88	3.60	25
Columbian Hardware Co.:			
Hardware, vises, solid box, No. 90, each	6.40	8.00	25
Hardware, vises, parallel, 5 in., each	2.25	3.00	30
Malin & Co.:			
Hardware, wire ann. tin, 1-lb. spools, per dozen	.70	.80	14
Hardware, wire ann. tin, 1-lb. spools, per dozen	.90	.98	9
Hardware, wire, barb pr. hd., lbs	2.20	2.70	23
Hardware, wire, black fencing, p. hd., lbs	1.25	2.00	60
Geo. W. Korn Razor Manufacturing Co.:			
Razors, safety, each	1.08	1.20	11

Also to this:

[List from the Export World and Herald of July 5, 1904, published by the American Trading Company, Broad Exchange Building, New York City, N. Y.]

FIRST TABLE.

Firm or corporation and article.	Export discount from list.	Home discount from list.	Difference.
E. C. Atkins & Co., Indianapolis, Ind.:			*Per ct.*
Hardware, saw (circular)	50, 10	50	11
Hardware, saw (band)	50, 10, 5	50, 10	6
Hardware, saw (crosscut)	35, 5	16	33
Hardware, saw (hand)	50, 10	40	33
Hardware, saw (back)	50	40	20

SECOND TABLE.

Firm or corporation and article.	Export price.	Home price.	Difference.
J. S. Barron & Co.:			*Per ct.*
Freezers, ice cream, Alaska, 4-quart, each	$1.82	$2.40	33
Washboards, single zinc, per dozen	1.50	2.40	60
Washboards, single zinc, per dozen	2.25	2.65	17
Washboards, solid zinc, per dozen	2.40	3.00	25
Henry Chesney Hammer Co.:			
Hammers, farriers', No. 54, per dozen	4.44	4.80	8
Hammers, machinists', No. 91, per dozen	7.00	8.51	20
Knowles Scale Works:			
Scales, square platform, with wh., each	14.97	17.50	17

In February, 1904, the literary bureau of the Democratic Congressional committee received a letter from Henry Rossell & Co. (Limited), Sheffield, England, large manufacturers and dealers in files and tool steel. This letter says:

"As an illustration of the unfair manner in which home buyers of files are treated by the United States manufacturers, I inclose you here-

with a comparison of the prices charged to the buyers in the United States with those offered by the same manufacturers here."

Some of the prices on the list inclosed follow:

Comparative prices, per dozen, of American files in America and England.

Article.	England.	United States.	Difference.
			Pr. ct.
Flat bastard, 4 inches	$0.34	$0.92	170
Flat bastard, 6 inches	.50	1.07	114
Flat bastard, 10 inches	1.08	1.75	62
Hand bastard, 4 inches	.38	.92	142
Hand bastard, 6 inches	.62	1.07	73
Hand bastard, 10 inches	1.30	1.87	44
Half-round bastard, 4 inches	.34	1.20	253
Half-round bastard, 6 inches	.50	1.52	204
Half-round bastard, 10 inches	1.08	2.27	108
Round bastard, 4 inches	.34	.75	121
Round bastard, 6 inches	.50	.87	74
Round bastard, 10 inches	1.08	1.40	30
Square bastard, 4 inches	.34	.95	179
Square bastard, 6 inches	.50	1.15	130
Square bastard, 10 inches	1.08	1.85	71

From these figures we see that the American File Association, which has not revised its price list to American buyers since November 1, 1899, is charging us for most kinds of its small files more than twice as much as it charges Englishmen for these same files, and for half-round files we must pay them three times the price charged Englishmen.

Let us see what a great trade journal in sympathy with the steel makers, when not talking politics but giving the news of the trade to the trade, says:

On November 12, 1903, the Iron Age quoted American bars in England at 82 shillings, or less than $20 per ton, and in America at $1.42½, or $31.92 per ton. Thus the independent manufacturer of tin plate in America, who has to buy his bars of the steel trust, must pay more than 50 per cent more for his chief raw material than is paid by his foreign competitor. This is "protection to home industries" with a vengeance.

The same number of the Iron Age tells us that American steel beams, plates, angles, channels, and rivet steel are being sold in Canada at from $9 to $11 per ton less than the prices charged here.

The Iron Age of December 17 enumerated a great number of articles of American make which sold largely in South Africa. Nearly all are sold there at prices far below those charged here. Thus it appears that shovels, which our shovel trust sells here at 90 cents each, are sold there at 36½ cents. This Iron Age also contains information showing that United States Steel Corporation was, early in January, offering steel billets in Lanarkshire, England, at 75 shillings per ton. Deducting $5 for freight and other transportation costs, the trust gets about $14 per ton for billets for export, while its price to American consumers is $23.

Now the testimony of a newspaper which is *the* authority for bankers and business men; on July 30, 1904, the New York Journal of Commerce and Commercial Bulletin contained the following:

One of the most interesting features of the steel situation is an important sale of several thousand tons of steel plates for export, the price of £5 delivered at Newcastle-on-the-Tyne netting the mills about 90 cents per net ton, f. o. b. Pittsburg. It should be remembered that sales are made in the English market by the gross ton; allowing $3.50 freight rates and a slight allowance for insurance, this price would net the mills $20 gross, or $1.80 per net ton, or 90 cents per hundred, against $1.60 per hundred for domestic business.

The following is from the August, 1900, report of the Bureau of Statistics on commerce and finance. There is much good sense in it. It proves, first, that this "dumping" was then, as it is now, no dumping at all, but a fixed and profitable export business; and, second, that even Republican Government employees see and are forced to take note of the fact and its cause. The italics are mine. It likewise shows what chiefly ails our merchant marine, and points a cheaper way to its revival than taxing the poor on what they consume in order to subsidize it out of the people's Treasury:

The progress of work on shipbuilding in the United States has likewise been retarded, because makers of steel materials required a higher price from the American consumers than they did from the foreign consumers for substantially similar products. Of course, American exporters have to get foreign contracts in competition with foreign plate makers, who are excluded from our domestic market. In addition to this, American export plate makers are interested in preventing the establishment of plate manufacturing in their customer nations abroad, and to that end bid low enough to discourage foreign nations from entering the field for producing their own plate at home. The progress of domestic manufactures of iron and steel goods may likewise be handicapped by the sale of iron and steel in their manufactured state at so much lower a price to foreigners than to domestic consumers as to keep the American competitor out of foreign markets generally. The natural limit to such a policy of maintaining a higher level of prices for these materials at home than abroad is found *in the restriction of domestic consumption and the import duty.* If restriction of consumption at home does not operate to prevent the short-sighted policy of discrimination against domestic development of manufacturing industries, *the other contingency is more or less sure to rise, namely, the demand for the reduction of the tariff* on unfinished iron and steel, in order to equalize the opportunity of makers of finished products in foreign markets. To this policy the domestic consumer is usually ready to lend himself, thus making a powerful combination of interests to set limits to the rise of domestic prices of iron and steel materials.

* * * * * * *

Of the two policies open to iron and steel makers, the far-sighted one of keeping the domestic and foreign markets as near as possible on a par in the price of these materials of manufacture seems by far the wiser one to follow, both in the interest of a steadier course of prices, which means steadier consumption, and on account of the competition of manufacturers of finished goods with foreign manufacturers in the neutral markets of the world.

The other policy of maintaining prices to manufacturers at the highest level at home leaves little margin for experiment in seeking new markets, and restricts the application of iron and steel to additional uses at home. The depressing effects of an agitation for tariff revision to remedy this inequality are sure to cause a far greater business loss, not only to the country as a whole, but to the producers of iron and steel themselves, than is to be gained by selling at low prices abroad, which they can not help, and at high prices at home, which they can help. Nor can the home-market price be sustained beyond certain limits by export sales. Certain American manufacturers of steel materials tried this policy up to April, 1900. It resulted in a very positive shrinkage in domestic consumption at the then high rates. Farmers had ceased to purchase barbed wire for wire fences, retail hardware dealers had complained for months of diminished business in nails and wire. Jobbers had gotten in the way of doing a hand-to-mouth business on prices that had advanced from $1.35 to $3.20 in the course of a year. Hence the reduction of $1 in April, 1900, became a necessity in order to keep the mills in operation.

If steel rails, for example, sell at Pittsburg for $35 per ton for months in succession for home consumption, while the foreign consumer is purchasing them for $22 to $24 per ton, the domestic market is sure to order no more than it is obliged to have for the time being.

Note the words which I have italicized, forming the last sentence. What an apt practical illustration of Bastiat's natural law, of the sort of high prices which kill by choking demand! A Republican "Daniel come to judgment" is this.

I shall now ask my friend Mr. TOWNE, who has a better voice than I, to read what is said by Secretary Shaw on page 19 of the Republican Campaign Text-Book of 1904, and which contains an admission by Senator GALLINGER of the "True, but it is nothing-but-a-colt-and-the-colt-of-a-yellow-Mexican-pony" class.

Mr. TOWNE read as follows:

Our opponents lay much stress upon the fact that some American manufactures are sold abroad cheaper than at home. Our friends sometimes deny this, and they sometimes apologize for it, and a few in times past have downed our opponents in recommending a removal of tariff from all such articles. It is useless to deny, in my judgment, unwise to apologize, and a little short of foolishness to attempt to remedy the assumed evil in the manner proposed by the opposition.

Mr. WILLIAMS. Mr. Chairman, I stop the reading at this point for a moment to express a wonder if the present Secretary of the Treasury, being from Iowa, would have used that unparliamentary term "foolish" if he had known it was going to apply on day before yesterday to the dean of the Iowa Republican delegation. [Applause on the Democratic side.] I will now ask Mr. TOWNE to continue the reading.

Mr. TOWNE continued, as follows:

Senator GALLINGER, of New Hampshire, in a speech made in the United States Senate on April 23 last, placed the value of exports sold at lower price abroad than at home at $4,000,000. I can not find that the substantial correctness of this estimate was ever questioned by the opposition.

Mr. WILLIAMS. Mr. Chairman, "the substantial accuracy" of that statement was "questioned," of course, and has been questioned with conclusive success. Why, I doubt not, there have been individual transactions that have amounted to nearly a million dollars, for that matter. I should judge that the amount thus bought by the Mexican National, the Canadian Pacific, and the Great Northern railroads of rails alone went nearly to $4,000,000. But rails are not all. From a plow or a sewing machine to a locomotive or steel for a bridge this abuse extends.

Everybody except the gentleman from Iowa [Mr. HEPBURN] knows and acknowledges the existence of this great wrong. Even the man most trusted by Republican campaign managers, Representative BABCOCK, of Wisconsin, in an impulse of disgust and revolt, cried out in its presence.

The following from Representative BABCOCK, of Wisconsin, the chairman of the Republican national Congressional committee, appeared in the Washington Post September 21, 1901:

One of the points which impresesd me of the desirability of revising the steel schedule was information I obtained in Scotland of the placing of an order for 20,000 tons of American steel. When you stop to think that 20,000 tons of steel mean more than 1,000 carloads, it will not do to say that such an order placed abroad by our manufacturers is only their surplus product.

This, too, as far back as 1901. It is old history! What a long, long extended "dump!"

Now I want to quote from the Industrial Commission. The Industrial Commission summed up its conclusions as to export prices in volume 19, on pages 626 and 627 of that volume, as follows. I quote:

In about 20 per cent of the cases—

Says the Industrial Commission, a bipartisan commission, a majority of Republicans upon it—

In about 20 per cent of the cases covered by the Commission's returns the export prices have ruled lower than those charged to home consumers. The practice is quite common in all countries, etc.

Now let me go on. Here is what the Commission recommends:

That in view of the extent and protection of our manufactures, of our growing export trade and the sharp competition being encountered in foreign markets, of the practice by some exporters of making lower prices abroad than at home, and the desirability of protecting the consumer as well as the producer, without awaiting other legislation, the Congress provide for a commission to investigate and study the subject and to report as soon as possible *what concessions in duties may be made without endangering wages or employment at home*, what advantages abroad may be obtained therefor, and also to suggest measures best suited to gain the end desired.

The italics are mine.

Not "whether concessions" in duties shall be made, but "what concessions." That some must be made goes without saying, in their opinion. Ah, that recommendation from this nonpartisan body, with a majority of Republicans upon it, has been lying before you now for several years, and you have paid no heed to it, and you will not pay any heed to it, I predict, until the day of your reckoning comes. [Applause on the Democratic side.]

Mr. BATES. May I ask the gentleman a question?

Mr. WILLIAMS. Allow me to finish this first. One of the members of that Commission, Thomas W. Phillips, did not sign the majority report, and in his supplemental statement he said what I will ask my friend [Mr. TOWNE] to read.

Mr. TOWNE (reading):

There are a large number of industries in which it is in evidence that the domestic price is much higher than the export price. I do not agree that the answers to inquiries addressed by the Commission to exporters indicate that the trusts are not chargeable with this practice to any serious extent. Out of 2,000 schedules of inquiries sent out, there were received only 416 replies, and only a very few of these replies came from corporations known popularly as trusts. (Vol. XIII, p. 726.) The fact that about 75 answers indicated lower prices abroad than at home is significant, when it is noted that more than four-fifths of those addressed failed to answer, and that naturally those who are chargeable with such discrimination would be the ones who would decline to reply.

Several witnesses before the Commission on behalf of the trusts admitted that their export prices were lower than their domestic prices, but they contended that this was necessary in order to work off their surplus and to keep their establishments running full time, and that the fact that their surplus products could also be worked off by lower prices at home, and that it is the tariff which encourages them to cause a domestic surplus *by restricting domestic consumption through high prices.*

Mr. WILLIAMS. The four-fifths who failed to answer failed or refused for the most part, it is fair to assume, because it was not to their interest to answer and acknowedge the fact and thus incite revolt against the present protectionist trust system and encourage the movement for tariff reduction.

Now, Mr. Chairman, I give you certain testimony given before the Chamberlain tariff commission of Great Britain from British people who were testifying before that commission in 1904 to what American goods were sold at in Great Britain, and comparing those prices with certain prices prevailing in Pittsburg at the same time. "The report of this commission fairly bristles with such items as these," and were from firms in Great Britain:

Firm No. 312: "We have an offer this week of Siemens-Martin billets, made at Pittsburg, delivered *c. i. f. British port, of 75 shillings per ton.* This week's quotation for pig iron for steel-making purposes (see Iron Age, Jan. 21, 1904) is about $13 per ton at Pittsburg. The best-equipped works in Pittsburg sell at present raw material, wages and prices, manufactured pig iron into Siemens-Martin open-hearth billets at $6.50 per ton—that is, equal to *$19.50 per ton at Pittsburg.* The selling (pool) price at Pittsburg to-day for *open-hearth billets is $24.*

In other words, the Siemens-Martin billets, which were offered to firm No. 312 at 75 shillings per ton, were costing American consumers that same week $24, or 98.36 shillings per ton—23.36 shillings more to the American than to the foreigner.

Firm No. 898: "Pig iron from United States of America is imported into this country (England) below cost price here; our consumers are buying at 5 shillings per ton less than we can produce it, and the Americans are reported to be selling for export to England at a price equivalent to 8 shillings per ton lower than the price at which they are supplied in their own country."

COMPETITION IN THE COLONIES.

Witness No. 1 (505): "In Canada we suffer from American competition; I lost an order for 1,000 tons of steel rails there last week. America also competes in Australia and at the Cape, but not so keenly as in Canada. I can not give you the reason for the loss of the order for 1,000 tons of rails. The order was intended for Cape Breton, and was worked through Glasgow merchants, who assured us we would get the order. We lost it in spite of the 33 per cent preference."

So this "infant" American industry (the steel makers) are underselling Great Britain in Canada against a Canadian tariff handicap of 33⅓ in favor of Great Britain! What need has it of any "protective" duty? Why not pass my bill to cut duties on steel and iron from 50 to 60 per cent? How can they undersell Great Britain and why? Read this testimony before the Chamberlain commission and you will learn.

Witness No. 16 (1023, 1026, 1045, 1046): "The cost of converting pig iron into steel in the United States must, in the majority of cases, be somewhat less than the corresponding cost in this country, despite the fact that wages there are materially higher. But the cost is not in any two cases the same. The cost of labor was phenomenally low. In the case of a rod mill brought to my notice, it was less than 4s. per ton of rods. In the case of billets it has been under 4s. per ton. In the case of rails, it is probably, on an average, not more than 65 per cent what it is in this country. In the more finished forms of material it is more than in the lower forms, but whatever it may be, it is always controlled by the fact that *the output of a given plant is usually two or three times that of kindred plants in Europe, with only half to two-thirds the number of hands here employed to run it. The industrial commission stated the average cost of the conversion of pig iron into steel billets at 6s. 6d.*, and the average incidental expenses at 3s., but this is much too high for the best plants.

"The combination of up-to-date plants, economies, and improvements has enabled our American rivals, *paying the highest wages* known in the trade, to produce plates at a *cost of only about 3s. 6d. per ton for labor*, averaging some 225 tons of plates per shift. One mill at Homestead works has produced 1,049 tons of sheared plates in twenty-four hours, which is at the rate of 315,000 tons in three hundred working days. A 40-inch cogging mill at the Illinois works at Chicago produces 200,000 to 250,000 tons per year. These results are not equaled in our own mills. And yet there is no reason to suppose that our plate-mill practice is generally much behind that of other countries. It was until lately, if it is not now, in advance of that of any other country. If it has now fallen somewhat behind the best American practice, probably not much ground has been lost.

"In the matter of *nominal* wages, Great Britain occupies an intermediate place between Germany and the United States, being, however, not so much higher than the Germans as we are below the American level.

"The higher American nominal wage rates do not, generally, appear to operate to the detriment of American mnufacturers. On the contrary, *it is universally admitted that the real wage rate—the labor cost per unit of production—is less in the United States than in any other country.* The best comparison of American and Britishers' wages that I know of, and one of the most recent, is that contained in the report of my colleague on the American Commission of the British Iron Trade Association in 1901, Mr. Axel Sahlin, who obtained from the managers of a considerable number of representative works actual wage rates, which showed that at blast furnaces, hour for hour, there was then but little difference in the rates paid as between Great Britain and America, *while some of the American furnaces produced 3,500 to 4,000 tons per week, compared with 850 to 620 tons in England*, with nearly the same number of hands. For unskilled labor, the British rate is materially lower than the American.

"I do not hesitate to say that if the Canadian had been charged the same prices as were nominally charged on the other side of the line, hardly any American iron and steel would have found its way into Canada during the last five years in competition with the cheaper prices quoted for British material."

"Nominal wages"—"real wages." "There's the rub!"

Mr. BATES. Mr. Chairman, the gentleman was reading a moment ago from the report of the Industrial Commission, was he not? I call his attention to the line in which he read that "the practice they found as generally indulged in, etc.," and he ceased reading. Does not the report of the Industrial Commission then go on to state that the practice was indulged in of selling abroad cheaper than at home by other countries than America, and notably England, which is a tariff for revenue country?

Mr. WILLIAMS. It does not note England, as I remember, nor say "notably England," but it says it is "common in all countries"—a loose phrase. Now, in that connection I want to say to the gentleman that it is a common thing in all high protective-tariff countries. There is not a country anywhere with a high protective tariff where the system does not lead its people sooner or later to this result of having its home producers sell to foreigners cheaper than they sell to their own people. It is a necessary result of the system. It is both necessary and rendered possible by protectionism—rendered possible because successful combination is possible in most things only in a single country, from whose market the goods concerning which combination as to prices is sought to be made can have no competition from other lands, this competition being prohibited absolutely wherever the tariff is high enough.

Even England has a tobacco trust, because tobacco has there a high duty levied on it. Steel makers could not successfully combine and establish and for any time maintain exploitive prices in the home market there unless they could includue in the combination German, French, Spanish, Swedish, and American iron masters, all of whom, having free access to the British market, could (and would, unless in the combination) overwhelm it with competition. A combination of that magnitude, world wide, among antagonistic nationalities, struggling for markets, is unthinkable.

We are selling in Great Britain cheaper than at home, the Germans are selling in London cheaper than at home, the Frenchmen are selling some few things in London cheaper than in France, and in all cases it has grown out of this pernicious system of passing laws for the express purpose, or at least with the effect, of allowing men to exploit the home market.

Mr. HINSHAW. Will the gentleman permit me just one question? Is it not true that in England, a free-trade country, the domestic price of steel rails is $31.50 a ton, and for exportation from Great Britain the price is $25 a ton?

Mr. WILLIAMS. I should be very much astonished, indeed, if that were true.

Mr. HINSHAW. The gentleman will find it to be absolutely true.

Mr. WILLIAMS. I do not believe it is true, and the reason

why I do not believe it is true I will give. I do not mean to say that I do not believe it is true that there never was an individual sale of that sort made, or here and there a short season of exceptional sales. But I lay this down as a fundamental conclusion from which no sound-minded man can escape; that where trade is free and untrammeled there can exist for no considerable length of time a system under which a man sends his goods away to sell them at a smaller profit in another country than the profit he can get in his own. The only inducement for that system is the possibility of controlling prices by combination at home, and that can be only when the competition of the world is shut out by law or nature. That there may have been individual instances in Great Britain or in any free-trade country of a man having unloaded a part of his goods either upon the home market or a foreign market at less than cost I can understand. But it is not consonant with any sort of human reason—unless the man had a sheltered market at home, where he by combination could fix his prices, which it was a matter of great profit to maintain—that he would of his own accord pay freight to sell goods somewhere else at a given price when he could sell them at the same price at home, and when he *could be made to sell them* at the same price at home by the in-rushing competition of the whole world. He would have no chance of recoupment in his home price because it itself—the home price—would be a *world price*. It is impossible for a combination to be formed which extends over free and untrammeled trade throughout the world. It is only in a sheltered market, in a restricted market, in a circumscribed market, that you find producers few enough and homogenous enough to enable them to enter into a successful combination and maintain it for any time worth the trouble.

Mr. HILL of Connecticut. Is not the gentleman aware that Europe is districted up on the steel-rail business?

Mr. WILLIAMS. Continental Europe, which is protectionist, perhaps. Does the gentleman desire to ask me a question pertinent to just what I have been discussing?

Mr. HILL of Connecticut. In view of the courtesy extended yesterday to me, I do not think I will ask the question.

Mr. WILLIAMS. If the gentleman means by that that I was lacking in courtesy to him yesterday, I am surprised to hear it and hurt to know it.

Mr. HILL of Connecticut. I desired simply to ask a question now; that was all. I desire to ask if the gentleman was not aware that Europe was divided up, and its portion of steel rails was not assigned to Great Britain, its portion assigned to Germany, and its portion assigned to France, and precisely the thing which the gentleman now complains of is carried on in Great Britain as the result of combination in the free-trade country? [Applause on the Republican side.]

Mr. WILLIAMS. I do not know it, and I defy the gentleman to furnish any authoritative and authentic and reliable proof of any such thing. [Applause on the Democratic side.] A free market—and Great Britain is for steel a free market—can not be apportioned out or "divided up." Continental markets in protectionist countries can be and doubtless are.

Mr. BATES. May I ask the gentleman one more question?

Mr. WILLIAMS. Yes.

Mr. BATES. May I read the answer of Mr. Gary, on page 279——

Mr. WILLIAMS. I have already declined to have this steel-trust magnate's—Mr. Garys'—steel-trust stump speech inserted into the belly of my speech. I decline. He is an officer of a criminal corporation which fattens on constant violations of the unenforced law of his country. [Applause on the Democratic side.]

Mr. BATES. Does not the gentleman know——

Mr. WILLIAMS. I decline.

Mr. BATES. May I ask one question?

Mr. WILLIAMS. Oh, yes.

Mr. BATES. Is not the testimony of Mr. Gary before the Merchant Marine and Fisheries Committee that they sold their steel rails——

Mr. WILLIAMS. I beg the gentleman's pardon. He can not do by indirection that which I refused him the right to do by direction. I decline to yield to the gentleman for that purpose.

Now, the gentleman may ask me any question he chooses, but he must not, under the guise of asking me a question, do what I decline to let him do, to wit, put Mr. Gary's utterances in my speech.

Mr. BATES. Does the gentleman mean to say that he does not believe that Mr. Gary told the truth to this Commission?

Mr. WILLIAMS. I would hate to answer that question. Mr. Gary is not here. I do not think I ought to answer. It would be unfair to him. I hate to do it.

Mr. CHARLES B. LANDIS. But the gentleman had already said that Mr. Gary used a falsehood.

Mr. WILLIAMS. I also just stated that I had said it in the heat of debate, and that I ought not to have said it, and that I was going to strike it out of the RECORD.

Mr. BATES. I did not think the gentleman meant it.

Mr. WILLIAMS. That is a different thing. The gentleman from Pennsylvania can not put words in my mouth. If "the gentleman from Mississippi" did say it he ought not to have said it. I said that I ought not to *say* it. But you can not make me appear as not having *meant* it. That is a different proposition. [Applause on the Democratic side.]

Mr. BATES. I merely said I did not think the gentleman meant it. I do not want to annoy the gentleman.

Mr. WILLIAMS. And yet you seem to be seeking to do it by putting words in my mouth that I never uttered nor meant to utter. You are seeking persistently to insert what I do not desire to have inserted in my remarks.

Mr. BATES. I know the gentleman recoils from the figures of prices of steel of England sold abroad and at home because it is a so-called free-trade country.

Mr. WILLIAMS. I beg the gentleman's pardon, I have not recoiled from that proposition. Give me reliable figures from a reliable and unsuspected source. I recoil from Gary, the criminal trust magnate, as a witness in his own behalf; that is all.

Mr. BATES. I merely asked the price that Mr. Gary fixed for steel rails for home consumption.

Mr. WILLIAMS. I have read that.

Mr. BATES. And those sold abroad?

Mr. WILLIAMS. And the price of English rails. That was read. If the gentleman had listened to the reading of the article from the Post, that part of Mr. Gary's testimony which stated the prices he gave as the prices of rails in the markets here and there was read in that article.

I know my friends are actuated by the highest motives of courtesy to me, although to a small boy on the side it might look a little as if they were trying to make their speeches and, what I like less, Gary's steel speech in his own defense in my time. I do not know whether Gary swore to his speech or not!

Now, Mr. Chairman, I desire to have read from volume 3 of the Senate hearings before the Committee on Interstate and Foreign Commerce, page 1983, the testimony of Mr. Ramsey; and before it is read I want to tell you that Mr. Ramsey is the president of the Wabash and Ann Arbor Railroad, and, as he says, "some few other smaller roads." How many I do not know. But he is president of the Wabash and Ann Arbor road, or was when he testified, and that railroad runs through Canadian and through American territory both, and he has actually bought rails to be laid in both countries, and here is his testimony. I will ask the gentleman from New York [Mr. TOWNE] to read it, and I especially wish those gentlemen who agree with the gentleman from Iowa [Mr. HEPBURN] in his views to listen to this testimony. Senator CULLOM had asked him a question, and I will ask order while the House hears this part of his answer:

Mr. TOWNE read as follows:

Senator, if you will permit me, I will illustrate it by the rail question: Railroads in this country pay $28 at the mill for rails. *The same maker will sell those rails to the Wabash for use in Canada at $20 to $21, provided they are used in Canada.* We dare not use them in the United States. Now, we say to the makers of the rails, "We can buy English rails, delivered on these shores, at $20 a ton." Then Uncle Sam steps in and says, "Yes; you can do that, but if you buy those rails you will have to pay to Uncle Sam $8 a ton tariff on them." On lumber there is a $2 tariff rate, and that, Senator DOLLIVER, would add $75 to your house in Kansas or Iowa, four times as much as the railroad rate will. The tariff duties on steel and all these things force the railroads to pay to the makers of steel these high rates. Why does Uncle Sam do that? Why did they do it originally? To promote industry and commerce. And that is why they should permit the railroads to make low rates on traffic going abroad and low rates between various communities on the long haul, to do the very same thing. The Government pays a bonus in one case. In the other case they do not.

Senator CULLOM. I am not arguing the tariff question to-day.

Mr. RAMSEY. *Neither am I. I am in favor of the tariff,* and *so are all railroad men,* because while they pay $10 a ton more for their rails they probably get 10 tons more traffic by paying that and keeping up other industries. We do not object to paying a slight difference of that kind if we can get the traffic.

[Applause on the Republican side.]

Mr. WILLIAMS. The important part of this testimony is *the fact* testified to, which I have italicized, and that it comes from one evidently friendly to protectionism and the Republican party.

Now, I note that some of the Republicans applauded right there at the statement of Mr. Ramsey that he did not mind

paying these prices and the reason he gave why he did not mind it. Now, do you want me to tell you the two real reasons why he did not mind it? The first is that the railroads do not, in the long run, pay for the rails. They get the price of them back in freight and dividends. The people—the shippers—do the ultimate paying. I will tell you the second real reason why few of the existing railroads mind it. It is because they have already bought their rails, and have already put them down, and new railroads to be built, which would be competitors of theirs, would buy their rails at one-third less if fair prices prevailed, as would be the case with a revenue duty, and that would hurt existing roads in their business—their dividends—very much. It would enable new roads to earn a larger percentage as a dividend, while undercarrying them on both freight and passengers. Therefore they are not anxious that the tariff should be reduced. [Applause on the Democratic side.]

Now, Mr. Chairman, I shall proceed with the speech of the gentleman from Iowa [Mr. HEPBURN]. The gentleman from Iowa concluded his speech by saying that the Grand Old Party "was a party of progress," but that "it never progressed beyond the limitation of its principles." Why, Mr. Chairman, protectionism is not a question of *principles;* protectionism is a question of *interests.* Protectionism is a question of schedules, and schedules generally allied with one another and hanging together, lest "if they do not hang together, each will hang separately." Why, you can not make things go forward or progress by a system like protectionism. They may go forward under and in spite of your system, but they can not go forward because of it. It is a system of Sisyphism, and as Bastiat could always express himself more clearly than any other human being when he talked about these things, I shall ask you to follow what he has written in his Sophisms of Protection, beginning on page 18. He explains the system of Sisyphism, which is a system amounting to about as much profitably as rolling stones from one place to another and back. You Republicans are all disciples of Sisyphus.

Here is what Bastiat says:

OBSTACLE—CAUSE—SISYPHISM.

The obstacle mistaken for cause—scarcity mistaken for abundance. The sophism is the same. It is well to study it under every aspect.

Man naturally is in a state of entire destitution.

Between this state and the satisfying of his wants there exists a multitude of obstacles which it is the object of labor to surmount. It is interesting to seek how and why he could have been led to look even upon these obstacles to his happiness as the cause of it.

* * * * * * *

Through the journey of life, in the long series of days from the cradle to the tomb, man has many difficulties to oppose his progress. Hunger, thirst, sickness, heat, cold are so many obstacles scattered along his road. In a state of isolation he would be obliged to combat them all by hunting, fishing, agriculture, spinning, weaving, architecture, etc., and it is very evident that it would be better for him if these difficulties should exist to a less degree, or even not at all. In a state of society he is not obliged personally to struggle with each of these obstacles, but others do it for him, and he in return must remove some of them for the benefit of his fellow-men.

Again, it is evident that, considering mankind as a whole, it would be better for society if these obstacles should be as weak and as few as possible.

But if we examine closely and in detail the phenomena of society and the private interests of men as modified by exchange of produce, we perceive without difficulty how it has happened that wants have been confounded with riches and the obstacles with the cause.

The separation of occupations, which results from the habits of exchange, causes each man, instead of struggling against all surrounding obstacles, to combat only *one,* the effort being made not for himself alone, but for the benefit of his fellows, who in their turn render a similar service to him.

Now, it hence results that this man looks upon the obstacle which he has made it his profession to combat for the benefit of others as the immediate cause of his riches. The greater, the more serious, the more stringent may be this obstacle the more he is remunerated for the conquering of it by those who are relieved by his labors.

A physician, for instance, does not busy himself in baking his bread or in manufacturing his clothing and his instruments; others do it for him, and he in return combats the maladies with which his patients are afflicted. The more dangerous and frequent these maladies are the more others are willing, the more even are they forced, to work in his service. Disease, then, which is an obstacle to the happiness of mankind, becomes to him the source of his comforts. The reasoning of all producers is, in what concerns themselves, the same. As the doctor draws his profits from disease, so does the shipowner from the obstacle called *distance;* the agriculturist from that named *hunger;* the cloth manufacturer from *cold;* the schoolmaster lives upon *ignorance,* the jeweler upon *vanity,* the lawyer upon *quarrels,* the notary upon *breach of faith.* Each profession has, then, an immediate interest in the continuation, even in the extension, of the particular obstacle to which its attention has been directed.

Theorists hence go on to found a system upon these individual interests and say: Wants are riches; labor is riches; the obstacle to well-being is well-being; to multiply obstacles is to give food to industry.

Then comes the statesman; and as the developing and propagating of obstacles is the developing and propagating of riches, what more natural than that he should bend his efforts to that point? He says, for instance, if we prevent a large importation of iron, we create a difficulty in procuring it. This obstacle severely felt, obliges individuals to pay in order to relieve themselves from it. A certain number of our citizens, giving themselves up to the combating of this obstacle, will thereby make their fortunes. In proportion, too, as the obstacle is great and the mineral scarce, inaccessible, and of difficult and distant transportation, in the same proportion will be the number of laborers maintained by the various branches of this industry.

The same reasoning will lead to the suppression of machinery.

Here are men who are at a loss how to dispose of their wine harvest. This is an obstacle which other men set about removing for them by the manufacture of casks. It is fortunate, say our statesmen, that this obstacle exists, since it occupies a portion of the labor of the nation and enriches a certain number of our citizens. But here is presented to us an ingenious machine, which cuts down the oak, squares it, makes it into staves, and, gathering these together, forms them into casks. The obstacle is thus diminished, and with it the profits of the coopers. We must prevent this. Let us proscribe the machine!

To sift thoroughly this sophism it is sufficient to remember that human labor is not an *end,* but a *means. It is never without employment.* If one obstacle is removed it is free to seize another, and mankind is delivered from two obstacles by the same effort which was at first necessary for one. If the labor of coopers becomes useless, it must take another direction. But with what, it may be asked, will they be remunerated? Precisely with what they are at present remunerated. For if a certain quantity of labor becomes free from its original occupation, to be otherwise disposed of, a corresponding quantity of capital to pay wages must thus also become free. To maintain that human labor can end by wanting employment it would be necessary to prove that mankind will cease to encounter obstacles. In such a case labor would be not only impossible; it would be superfluous. We should have nothing to do, because we should be all powerful, and our *fiat* alone would satisfy at once our wants and our desires.

EFFORT—RESULT—SISYPHISM.

We have seen that between our wants and their gratification many obstacles are interposed. We conquer or weaken these by the employment of our faculties. It may be said, in general terms, that industry is an effort followed by a result.

But by what do we measure our well-being? By the *result* of our effort, or by the *effort itself?* There exists always a proportion between the effort employed and the result obtained. Does progress consist in the relative increase of the second, or of the first term of this proportion?

Both propositions have been sustained, and in political economy opinions are divided between them.

According to the first system riches are the result of labor. They increase in the same ratio as *the result does to the effort.* Absolute perfection, of which *God* is the type, consists in the infinite distance between these two terms in this relation, viz, effort none, result infinite.

This second system maintains that it is the effort itself which forms the measure of and constitutes our riches. Progression is the increase of the *proportion of the effort to the result.* Its ideal extreme may be represented by the eternal efforts of Sisyphus.

The first system tends naturally to the encouragement of everything which diminishes difficulties and augments production; for example, powerful machinery, which adds to the strength of man; the cheap exchange of produce, which allows us to profit by the various natural agents distributed in different degrees over the surface of our globe; the intellect which discovers, experience which proves, and emulation which excites.

The second as logically inclines to everything which can suggest the difficulty and diminish the product, as privileges, monopolies, restrictions, prohibitions, suppression of machinery, sterility, etc.

It is well to remark here that the universal practice of men is always guided by the principle of the first system. Every *workman,* whether agriculturist, manufacturer, merchant, soldier, writer, or philosopher, devotes the strength of his intellect to do better, to do more quickly, more economically—in a word, *to do more with less.*

The opposite doctrine is in use with legislators, editors, "statesmen," men whose business is to make experiments upon society. And even of these we may observe that in what personally concerns *themselves* they act, like everybody else, upon the principle of obtaining from their labor the greatest possible quantity of useful results.

It may be supposed that I exaggerate, and that there are no true *Sisyphists.*

I grant that in practice the principle is not pushed to its extremest consequences. And this must always be the case when one starts upon a wrong principle, because the absurd and injurious results to which it leads can not but check it in its progress. For this reason practical industry never can admit of *Sisyphism.* The error is too quickly followed by its punishment to remain concealed. But in the speculative industry of theorists and statesmen a false principle may be for a long time followed up before the complication of its consequences, only half understood, can prove its falsity; and even when all is revealed the opposite principle is acted upon, self is contradicted, and justification sought in the incomparably absurd modern axiom that in political economy there is no principle universally true.

Let us see, then, if the two opposite principles I have laid down do not predominate, each in its turn—the one in practical industry, the other in industrial legislation.

I have already quoted some words of Mr. Bugeaud [Bugeaud was a French legislator and landlord, contemporary of Bastiat.—J. S. W.], but we must look on Mr. Bugeaud in two separate characters, the agriculturist and the legislator.

As agriculturist Mr. Bugeaud makes every effort to attain the double object of sparing labor and obtaining cheap bread. When he prefers a good plow to a bad one; when he improves the quality of his manures; when, to loosen his soil, he substitutes as much as possible the action of the atmosphere for that of the hoe or harrow; when he calls to his aid every improvement that science and experience have revealed, he has, and can have, but one object, viz, *to diminish the proportion of the effort to the result.* We have, indeed, no other means of judging of the success of an agriculturist or of the merits of his system but by observing how far he has succeeded in lessening the one while he increases the other, and as all the farmers in the world act upon this principle we may say that all mankind are seeking, no doubt for their own advantage, to obtain at the lowest price bread or whatever other article of food they may need, always diminishing the effort necessary for obtaining any given quantity thereof.

This incontestable tendency of human nature, once proved, would, one might suppose, be sufficient to point out the true principle to the legislator and to show him how he ought to assist industry—if, indeed, it is any part of his business to assist it at all—for it would be absurd to say that the laws of men should operate in an inverse ratio from those of Providence.

Yet we have heard Mr. Bugeaud, in his charactor of legislator, exclaim, "I do not understand this theory of cheapness; I would rather see bread dear and work more abundant." And consequently the

deputy from Dordogne votes in favor of legislative measures whose effect is to shackle and impede commerce, precisely because by so doing we are prevented from procuring by exchange and at low price what direct production can only furnish more expensively.

Now, it is very evident that the system of Mr. Bugeaud the deputy is directly opposed to that of Mr. Bugeaud the agriculturist. Were he consistent with himself, he would as legislator vote against all restriction, or else as farmer he would practice in his fields the same principle which he proclaims in the public councils. We should then see him sowing his grain in his most sterile fields, because he would thus succeed in *laboring much* to *obtain little*. We should see him forbidding the use of the plow, because he could, by scratching up the soil with his nails, fully gratify his double wish of "*dear bread* and *abundant labor*."

Restriction has for its avowed object and acknowledged effect the augmentation of labor. And, again, equally avowed and acknowledged, its object and effect are the increase of prices—a synonymous term for scarcity of produce. Pushed, then, to its greatest extreme, it is pure Sisyphism, as we have defined it—labor infinite, result nothing.

Baron Charles Dupin, who is looked upon as the oracle of the peerage in the science of political economy, accuses railroads of injuring shipping, and it is certainly true that the most perfect means of attaining an object must always limit the use of a less perfect means. But railways can only injure shipping by drawing from it articles of transportation. This they can only do by transporting more cheaply, by diminishing the proportion of the effort employed to the result obtained, for it is in this that cheapness consists. When, therefore, Baron Dupin laments the supression of labor in attaining a given result, he maintains the doctrine of Sisyphism. Logically, if he prefers the vessel to the railway, he should also prefer the wagon to the vessel, the pack saddle to the wagon, and the wallet to the pack saddle, for this is, of all known means of transportation, the one which requires the greatest amount of labor in proportion to the result obtained.

"Labor constitutes the riches of the people," said Mr. De St. Cricq, a minister who has laid not a few shackles upon our commerce. This was no elliptical expression, meaning that the "results of labor constitute the riches of the people." No; this statesman intended to say that it is the intensity of labor which measures riches; and the proof of this is that from step to step, from restriction to restriction, he forced on France (and in so doing believed that he was doing well) to give to the procuring of, for instance, a certain quantity of iron double the necessary labor. In England iron was then at 8 francs; in France it cost 16. Supposing the day's work to be worth 1 franc, it is evident that France could, by barter, procure a quintal of iron by eight days' labor taken from the labor of the nation. Thanks to the restrictive measures of Mr. De St. Cricq, sixteen days' work were necessary to procure it by direct production. Here, then, we have double labor for an identical result; therefore double riches; and riches measured not by the result, but by the intensity of labor. Is not this pure and unadulterated *Sisyphism?*

That there may be nothing equivocal, the minister carries his idea still further, and on the same principle that we have heard him call the intensity of labor *riches* we will find him calling the abundant results of labor and the plenty of everything proper to the satisfying of our wants *poverty*. "Everywhere," he remarks, "machinery has pushed aside manual labor; everywhere production is superabundant; everywhere the equilibrium is destroyed between the power of production and that of consumption." Here, then, we see that, according to Mr. De St. Cricq, if France was not in a critical situation, it was because her productions were too abundant; there is too much intelligence, too much efficiency in her national labor. We are too well fed, too well clothed, too well supplied with everything. The rapid production was more than sufficient for our wants. It was necessary to put an end to this calamity, and therefore it became needful to force us, by restrictions, to work more in order to produce less.

I also touched upon an opinion expressed by another minister of commerce, Mr. d'Argout, which is worthy of being a little more closely looked into. Wishing to give a deathblow to the beet, he said: "The culture of the beet is undoubtedly useful, *but this usefulness is limited.* It is not capable of the prodigious developments which have been predicted of it. To be convinced of this it is enough to remark that the cultivation of it must necessarily be confined within the limits of consumption. Double, treble if you will, the present consumption of France, and *you will still find that a very small portion of her soil will suffice for this consumption.* (Truly a most singular cause for complaint.) Do you wish the proof of this? How many hectares were planted in beets in the year 1828? Three thousand one hundred and thirty, which is one-ten thousand five hundred and fortieth of our cultivable soil. How many are there at this time, when our domestic sugar supplies one-third of the consumption of the country? Sixteen thousand seven hundred hectares, or one-one thousand nine hundred and seventy-eighth of the cultivable soil, or 45 centares for each commune. Suppose that our domestic sugar should monopolize the supply of the whole consumption, we still would have but 48,000 hectares, or one-six hundred and eighty-ninth of our cultivable soil in beets."

There are two things to consider in this quotation. The facts and the doctrine. The facts go to prove that very little soil, capital, and labor would be necessary for the production of a large quantity of sugar, and that each commune of France would be abundantly provided with it by giving up 1 hectare to its cultivation. The peculiarity of the doctrine consists in the looking upon this facility of production as an unfortunate circumstance, and the regarding the very fruitfulness of this new branch of industry as a *limitation to its usefulness.*

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I began by saying that a variable proportion exists in all industrial pursuits between the effort and the result. Absolute imperfection consists in an infinite effort without any result; absolute perfection, in an unlimited result without any effort, and perfectibility, in the progressive diminution of the effort compared with the result.

But Mr. d'Argout tells us that where we looked for life we shall find only death. The importance of any object of industry is, according to him, in direct proportion to its feebleness. What, for instance, can we expect from the beet? Do you not see that 48,000 hectares of land, with capital and labor in proportion, will suffice to furnish sugar to all France? It is then an object of limited usefulness—limited, be it understood, in the work that it calls for—and this is the sole measure, according to our minister, of the usefulness of any pursuit. This usefulness would be much more limited still if, thanks to the fertility of the soil or the richness of the beet, 24,000 hectares would serve instead of 48,000. If there were only needed twenty times, a hundred times, more soil, more capital, more labor, to attain the same result! Oh, then some hopes might be founded upon this article of industry! It would be worthy of the protection of the state, for it would open a vast field to national labor! But to produce much with little is a bad example, and the laws ought to set things to rights!

What is true with regard to sugar can not be false with regard to bread. If, therefore, the usefulness of an object of industry is to be calculated, not by the comforts which it can furnish with a certain quantum of labor, but, on the contrary, by the increase of labor which it requires in order to furnish a certain quantity of comforts, it is evident that we ought to desire that each acre of land should produce little corn and that each grain of corn should furnish little nutriment; in other words, that our territory should be sterile enough to require a considerably larger proportion of soil, capital, and labor to nourish its population. The demand for human labor could not fail to be in direct proportion to this sterility, and then truly would the wishes of Messrs. Bugeaud, St. Cricq, Dupin, and d'Argout be satisfied; bread would be dear, work abundant, and France would be rich—rich according to the understanding of these gentlemen.

All that we could have further to hope for would be that human intellect might sink and become extinct, for while intellect exists it can but seek continually to increase the *proportion of the end to the means; of the product to the labor.* Indeed, it is in this continuous effort, and in this alone, that intellect consists.

Sisyphism has then been the doctrine of all those who have been intrusted with the regulation of the industry of our country. It would not be just to reproach them with this; for this principle becomes that of our ministry only because it prevails in the chambers; it prevails in the chambers only because it is sent there by the electoral body, and the electoral body is imbued with it only because public opinion is filled with it to repletion.

Let me repeat here that I do not accuse such men as Messrs. Bugeaud, Dupin, St. Cricq, and d'Argout of being absolutely and always *sisyphists.* Very certainly they are not such in their personal transactions; very certainly each of them will procure for himself *by barter* what by *direct production* would be attainable only at a higher price. But I maintain that they are Sisyphists when they prevent the country from acting upon the same principle.

Bastiat wrote this in 1856, the year the gentleman from Illinois [Mr. BOUTELL] was born. It has been written a long time, it is old, but, like the Sermon on the Mount and the Ten Commandments, which were reduced to writing even earlier, it is clear, because true, and, like all truth, as true now as when I was 2 years old and when the gentleman from Illinois was born.

How wonderfully strange and yet natural it is that all you have to do to bring it down to date and transplant it to America is to change the names Bugeaud, Dupin, St. Cricq, and l'Argout to Shaw and the names of the three leaders of this House. They are Sisyphists all.

Mr. BOUTELL. Right in that connection, may I ask just one little question, very short and very pertinent to this?

Mr. WILLIAMS. Yes.

Mr. BOUTELL. Bastiat is the recognized apostle of free trade?

Mr. WILLIAMS. Yes.

Mr. BOUTELL. The gentleman from Missouri [Mr. DE ARMOND], the distinguished and scholarly economist who is the gentleman's associate on the Committee on Rules, says that free trade is "an idle and an academic dream." I should like to know whether that applies also to this book.

Mr. WILLIAMS. Oh, now, that is not pertinent to what I said. Free trade is "an idle and an academic dream" in the United States with our Constitution. It is not in any other country. It does seem curious that a man of such magnificent sense should take the trouble to rise at all to ask that question. Suppose Bastiat had been an apostle of the Campbellite Church, of which my friend, CHAMP CLARK, is also a member? What in the name of common sense has that to do with what I am talking about or with the truth or soundness of what I read? Bastiat's words speak for themselves the damnation of your system. What matter whether he who speaks them be free trader or tariff-for-revenue man, if only his reasonings against protectionism be sound and clear and true, as they are? The point of touch between him and me is that we are both antiprotectionists, though he was a free trader and I am a tariff-for-revenue man.

Mr. BOUTELL. Mr. Chairman, if the question is not pertinent I withdraw it.

Mr. WILLIAMS. Now, Mr. Chairman, I want rapidly to say a few words myself. I mean by that to make a speech of my own, and not merely to be chained down by the limitations of the utterances of the gentleman from Illinois [Mr. BOUTELL] and the gentleman from Iowa [Mr. HEPBURN].

Mr. Chairman, my objections to the system of protectionism are, mainly, threefold. I object to it because it is an immoral system and suggestive of corrupting influence in public life. I object to it because it is a socialistic system and suggestive of other forms of state socialism and communism. I object to it as a fiscal system because it is an inelastic system.

Now, as a question of morals, I say that there is no moral right vested in government to take the proceeds from my cotton or wheat or labor, or the proceeds of the sweat and toil of the bricklayer, or of a sewing woman, or the proceeds of the wheat of my friend [Mr. WADSWORTH] away from me or them or him, for any other purpose except for *some public use.* Certainly not to enrich or to better the condition of another citizen. It is rank favoritism, under the form of law, to take from me

to serve the private financial advancement of another. Even if you could prove, gentlemen of the Republican party, that protectionism could create an industry for somebody else's enrichment—and I admit that it can; I admit that it has done it, and I admit that it may do it again—or that it could make a lagging industry prosperous, the truth of what I have already asserted would still stick.

It is in this sense, Mr. Chairman, that we say that protectionism is robbery. We do not say that a tariff is robbery, as the gentleman from Iowa seems to think we say, but that a tariff *levied for such a purpose* is robbery. We do not mean by that that the men who get the advantage of it are robbers, but that the system itself is robbery. I may live under a system under which I *must* live; I do not make the law, the legal environment is made for me. It is not wrong for me to work in that environment, it is indeed needful that I should; it is not wrong for me to make the profits that the environment permits me lawfully to make. But I say the system, in so far as it lessens *pro tanto* the result of the exercise of the intellect or of the muscle of one man to the enrichment of another, or for the creation of an industry, or for the purpose of spurring into activity a lagging industry, is to that extent taking his property without due and proper process of law and without any just compensation. [Applause on the Democratic side.]

Now, Mr. Chairman, a tariff for revenue is for the public use. It is no more robbery, even if there shall be some little incidental and unavoidable but not purposed protection in connection with it, than any other form of taxation. Why? Because, although the Government takes the money *from* the people, the money goes into the Treasury, and from the Treasury it goes *back* to the people. When it goes into the Treasury and is paid out, it is its own compensation, and in many cases it is a compensation of many fold greater value than the cost of the tax; as, for example, when it hurls back a foreign enemy; as, for example, when it deepens rivers and harbors and frees commerce from the tyranny of extortionate freight rates, thereby accomplishing the very opposite of the aim and effect of protectionism; it is compensation a thousandfold when it educates children to be competent citizens of a great Republic, or when it secures an equal administration of equal laws.

But where a tariff is levied for the purpose of enriching somebody, making somebody prosperous, or keeping somebody prosperous or for any private use; where the proceeds go not to the Treasury, and hence back to the people, but to the upbuilding of the private business of individuals or corporations, it is taking from me to give to another, or from another to give to me, and is a confiscation *pro tanto* of the property of the former for the benefit of the latter. The Government has no right to put its hands into the pockets of a citizen save only to get money to defend the national life or the national territory, to preserve the public health or morals, or to protect the individual in his life, limb, property, the pursuit of his happiness, or from injustice. It is not only immoral in itself, but it suggests other forms of like immorality; other ways of appropriating the property of others under the forms of law to one's own private use and advancement, or to the use or advancement of one's friends or adherents; other ways of making the law—making the power of the nation, State, or city—subservient to private interests and private enterprise. If I may, as a Congressman, use the taxing power for my own enrichment or for the enrichment of some of my constituents, regardless of whether they are capitalists or laborers (though somehow it makes no laborers rich, with all its pretense of doing it), if this be an allowable legislative end, and not at most the mere incident unsought—a necessary evil—of the accomplishment of a right end, why may not I indulge in other forms of national *legislative favoritism* for myself or for my friends? If I am not a national legislator, but a member of a town council, why may not I, on the same ground, warp the city ordinances so as to put money into the pockets of my friends or myself? Why may not I so act that through the granting of an ordinance for some great trolley car line, or the laying out of some boulevard, or through the passage of some contract law so worded that only one contractor can get it, or however else it might be, so act as to "put money in my purse," or in that of client, friend, or adherent? Why not, as a director or officer of a great insurance company, so direct the investment of the funds intrusted to my care as a trustee as to build up a syndicate in which my friends, perhaps I, have an interest? Where is the precise line of demarcation between these several forms of graft? You are more accustomed to one than to the others; that is all. Protectionism may or may not be the mother of trusts. It certainly makes the formation and maintenance of trusts more easy. It is in this far the mother of graft: *It accustoms men's minds to the idea of legislating for private benefit* rather than *public need.*

Mr. Chairman, some Republican answers that a protective tariff "creates national wealth;" that it is, therefore, a national benefit. That protectionism can create an *industry*, I grant you—an industry that never would have existed without the tariff, or one that would not have existed for many years but for a tariff.

It can also hasten certain processes of industrial development at the expense of the balance of your citizenry. It can create an industry, I repeat, but it can not create *wealth*. These are by no means the same thing. All it can do is to induce the *transfer* of capital from some one industry to some other industry. From what sort of industry to what sort of industry? Generally from a naturally profitable industry to a naturally unprofitable industry, which, without artificial legislative boosting, would, for the present at any rate, remain unprofitable. There would be no necessity for legislative inducement to go into an industry already profitable. What boots it a people to legislate so as to transfer the capital of the country from naturally profitable channels of industry to channels of industry never to be, or not yet become, naturally profitable?

Ah, but you say it "gives employment to labor." It does no such thing. Here again, it can only *transfer* labor from one form of employment to another form of employment. It can not increase the sum total of the work which labor can do. It can not decrease the birth rate. It can not make fewer laborers. It can not increase the fund from which wages must be paid. It can of course take a man out of the field and induce him to go into the factory, and early in the history of this country that was what it did. It would not have to be done now even if there were no tariff, for that matter. We have reached that density of population, that paucity of return from agriculture—in a word, that industrial stage—where factories would have come of themselves. But you say this transfer of the man from the cotton or the wheat field to the cotton factory is a benefit to the cotton and wheat planter, because there are that many more people to wear cotton and to eat wheat? Not so. The tariff does not increase the birth rate, i. e., the number of men, and the individual man does not buy any more clothes or eat any more bread because he is working in the protected factory than he would have bought if he were working on the farm or in some other factory. The only difference is, he would have had to buy such clothes made out of my cotton as he had to have anyway, and such bread as he had to have anyhow, and if he had stayed where he was at first I would not have had to pay him for buying them. That is all.

Mr. HAMILTON. Mr. Chairman, may I ask the gentleman a question here?

Mr. WILLIAMS. Certainly.

Mr. HAMILTON. The gentleman believes that protection is wrong. Now, if protection is wrong, would it not be fairer from the gentleman's standpoint to impose a pure tariff for revenue only—that is, a tariff upon things the like of which we do not grow or produce in this country?

Mr. WILLIAMS. That would not be a tariff "for revenue only." That would be a tariff "for free trade." I answered that yesterday. Therefore I shall not answer it to-day.

I spent twenty minutes yesterday in which I made the distinction between a tariff for free trade and a tariff for revenue only, and the gentleman in his question has precisely defined a tariff for free trade. I told why I stood for tariff for revenue. I would be glad to do it now, but it is already in my remarks.

It is said that protectionism "gives employment to labor." Now, my friends, it can only induce a transfer of labor from one field of employment to another and this only to the loss or at the cost of all. A great deal of this fallacy grows out of the confusion in the minds of people about what wealth is. People say that labor is wealth. Labor is not wealth. Labor never was wealth and labor never will be wealth. Wealth is the abundance which is created at a profit by labor, but not labor itself. Labor operating on material is the source of wealth or abundance, but it is not wealth. It is the result of labor that is wealth and the more result you can get with the less labor expended the wealthier you are as a man or a nation, and therefore if under your natural condition you can without legislative boosting employ labor so as to make that which is suited to your climate and your soil and your industrial development, and with the price of that product can buy something that somebody else can make cheaper than you can make it for yourself, you grow wealthy by the process. Labor employed constantly one hundred years at a naturally unprofitable occupation, whether made profitable *to those engaged in it* by legislation or not, can create nothing but a loss of wealth. It does not make any difference who suffers the loss of wealth, whether the employer or the laborer, or whether by some legislative legerdemain the employer can shift the loss off upon the consumers—the mass of the peo-

ple—*somebody* is paying that loss, somebody is paying the cost. The only thing that is being created is a loss. This occurs by misdirection of both labor and capital. And yet the individual enterprise may be in the highest degree profitable to those who conduct it and collect the tax from the consumer on each sale.

Now, I am going to have my friend TOWNE read from page 289 of Bastiat, a chapter containing a conversation between Friday and Robinson Crusoe upon this very subject. I ask gentlemen to listen to this because it is delightful. Remember that Robinson Crusoe represents the Republican party and its protectionist argument, and then, when this is read, gentlemen will see how Robinson Crusoe was perfectly justifiable from the Republican standpoint in refusing to take the plank that was floating in from the ship free, because it would deprive him of the employment in labor which would be necessary for him to make the plank for himself, although at the end of his labor he had after all only a plank; which he might have had for nothing, if he had not been a Sisyphist.

Mr. TOWNE read as follows:

THE SOMETHING ELSE FOR LABOR AND CAPITAL TO DO WHEN NOT MISDIRECTED BY LEGISLATION INTO NATURALLY UNPROFITABLE ENTERPRISE, INCLUDING A CONVERSATION BETWEEN ROBINSON CRUSOE AND HIS GOOD MAN FRIDAY.

What is restriction?

A partial prohibition.

What is prohibition?

An absolute restriction.

So that what is said of one is true of the other?

Yes; comparatively. They bear the same relation to each other that the arc of the circle does to the circle.

Then if prohibition is bad, restriction can not be good?

No more than the arc can be straight if the circle is curved.

What is the common name for restriction and prohibition?

Protection.

What is the definite effect of protection?

To require from men *harder labor for the same result.*

Why are men so attached to the protective system?

Because, since liberty would accomplish the same result *with less labor,* this apparent diminution of labor frightens them.

Why do you say *apparent?*

Because all labor economized can be devoted to *something else.*

What else?

That can not and need not be determined.

Why?

Because, if the total of the comforts of France [or America—J. S. W.] could be gained with a diminution of one-tenth on the total of its labor, no one could determine what comforts it would procure with the labor remaining at its disposal. One person would prefer to be better clothed, another better fed, another better taught, and another more amused.

Explain the workings and effect of protection.

It is not an easy matter. Before taking hold of a complicated instance it must be studied in the simplest one.

Take the simplest you choose.

Do you recollect how Robinson Crusoe, having no saw, set to work to make a plank?

Yes. He cut down a tree, and then with his ax hewed the trunk on both sides until he got it down to the thickness of a board.

And that gave him an abundance of work?

Fifteen full days.

What did he live on during this time?

His provisions.

What happened to the ax?

It was all blunted.

Very good; but there is one thing which, perhaps, you do not know. At the moment that Robinson gave the first blow with his ax, he saw a plank which the waves had cast up on the shore.

Oh, the lucky accident! He ran to pick it up?

It was his first impulse, but he checked himself, reasoning thus:

"If I go after this plank, it will cost me but the labor of carrying it and the time spent in going to and returning from the shore.

"But if I make a plank with my ax, I shall, in the first place, obtain work for fifteen days, then I shall wear out my ax, which will give me an opportunity of repairing it, and I shall consume my provisions, which will be a third source of labor, since they must be replaced. Now, *labor is wealth.* It is plain that I will ruin myself if I pick up this stranded board. It is important to protect my *personal labor,* and, now that I think of it, I can create myself additional labor by kicking this board back into the sea."

But this reasoning was absurd!

Certainly. Nevertheless, it is that adopted by every nation which *protects* itself by prohibition. It rejects the plank which is offered it in exchange for a little labor, in order to give itself more labor. It sees a gain even in the labor of the custom-house officer. This answers to the trouble which Robinson took to give back to the waves the present they wished to make him. Consider the nation a collective being, and you will not find an atom of difference between its reasoning and that of Robinson.

Did not Robinson see that he could use the time saved in doing *something else?*

What *"something else?"*

So long as one has wants and time, one has always *something* to do. I am not bound to specify the labor that he could undertake. I can specify very easily that which he would have avoided. I assert, that Robinson, with incredible blindness, confounded labor with its result—the end with the means—and I will prove it to you.

It is not necessary, but this is the restrictive or prohibitory system in its simplest form. *If it appears absurd to you, thus stated, it is because the two qualities of producer and consumer are here united in the same person.*

Let us, then, pass to a more complicated instance.

Willingly. Some time after all this, Robinson having met Friday, they united and began to work in common. They hunted for six hours each morning and brought home four hampers of game. They worked in the garden for six hours each afternoon and obtained four baskets of vegetables.

One day a canoe touched at the Island of Despair. A good-looking stranger landed, and was allowed to dine with our two hermits. He tasted, and praised the products of the garden, and before taking leave of his hosts, said to them:

"Generous Islanders, I dwell in a country much richer in game than this, but where horticulture is unknown. It would be easy for me to bring you every evening four hampers of game if you would give me only two baskets of vegetables." [Leaving R. & F. to work only nine hours instead of twelve hours, and yet to get the same result.]

At these words Robinson and Friday stepped on one side, to have a consultation, and the debate which followed is too interesting not to be given *in extenso:*

FRIDAY. Friend, what do you think of it?

ROBINSON. If we accept we are ruined.

FRIDAY. Is that certain? Calculate!

ROBINSON. It is all calculated. Hunting, crushed out by competition, will be a lost branch of industry for us.

FRIDAY. What difference does that make, if we have the game?

ROBINSON. Theory! It will not be the product of our labor.

FRIDAY. Yes; it will, since we will have to give vegetables to get it.

ROBINSON. Then what shall we make?

FRIDAY. The four hampers of game cost us six hours' labor. The stranger gives them to us for two baskets of vegetables, which take us but three hours. Thus three hours remain at our disposal.

ROBINSON. Say rather that they are taken from our activity. There is our loss. *Labor is wealth,* and if we lose a fourth of our time, we are one-fourth poorer.

FRIDAY. Friend, you make an enormous mistake. The same amount of game and vegetables and three free hours to boot make progress, or there is none in the world.

ROBINSON. Mere generalities. What will we do with these three hours?

FRIDAY. We will do *something else.*

ROBINSON. Ah, now I have you. You can specify nothing. It is very easy to say *something else—something else.*

FRIDAY. We will fish. We will adorn our houses. We will read the Bible.

ROBINSON. Utopia! Is it certain that we will do this rather than that?

FRIDAY. Well, if we have no wants, we will rest. Is rest nothing?

ROBINSON. When one rests, one dies of hunger.

FRIDAY. Friend, you are in a vicious circle. I speak of a rest which diminishes neither our gains nor our vegetables. You always forget that by means of our commerce with this stranger nine hours of labor will give us as much food as twelve now do.

ROBINSON. It is easy to see that you were not reared in Europe. Perhaps you have never read the Moniteur Industriel [or the American Economist.—J. S. W.]. It would have taught you this: "All time saved is a dear loss. Eating is not the important matter, but working. Nothing which we consume counts if it is not the product of our labor. Do you wish to know whether you are rich? Do not look at your comforts, but at your trouble." This is what the Moniteur Industriel would have taught you. I, who am not a theorist, see but the loss of our hunting.

FRIDAY. What a strange perversion of ideas. But——

ROBINSON. No *buts.* Besides, there are political reasons for rejecting the interested offers of this perfidious stranger.

FRIDAY. Political reasons?

ROBINSON. Yes. In the first place, he makes these offers only because they are for his advantage.

FRIDAY. So much the better, since they are for ours also.

ROBINSON. Then by these exchanges we shall become dependent on him.

FRIDAY. And he on us. We need his game, he our vegetables, and we will live in good friendship.

ROBINSON. Fancy! Do you want I should leave you without an answer?

FRIDAY. Let us see. I am still waiting a good reason.

ROBINSON. Supposing that the stranger learns to cultivate a garden and that his island is more fertile than ours. Do you see the consequences?

FRIDAY. Yes. Our relations with the stranger will stop. He will take no more vegetables from us since he can get them at home with less trouble. He will bring us no more game since we will have nothing to give in exchange, and we will be then just where you want us to be now.

ROBINSON. Short-sighted savage! You do not see that after having destroyed our hunting by inundating us with game he will kill our gardening by overwhelming us with vegetables.

FRIDAY. But he will do that only so long as we give him *something else*—that is to say, so long as we find *something else* to produce which will economize our labor.

ROBINSON. *Something else; something else!* You always come back to that. You are very vague, friend Friday; there is nothing practical in your views.

The contest lasted a long time, and, as often happens, left each one convinced that he was right. However, Robinson, having great influence over Friday, his views prevailed, and when the stranger came for an answer Robinson said to him:

"Stranger, in order that your proposition may be accepted, we must be sure of two things: The first is that your island is not richer in game than ours, for we will struggle, but with *equal arms.* The second is that you will lose by the bargain. For, as in every exchange there is necessarily a gainer and a loser, we would be cheated if you were not. What have you to say?"

"Nothing, nothing," replied the stranger, who burst out laughing and returned to his canoe.

The story would not be bad if Robinson was not so foolish.

He is no more so than the committee in Hauteville street.

Oh, there is a great difference. You suppose one solitary man, or, what comes to the same thing, two men living together. This is not our world; the diversity of occupations and the intervention of merchants and money, change the question materially.

All this complicates transactions, but does not change their nature.

What! Do you propose to compare modern commerce to mere exchanges?

Commerce is but a multitude of exchanges; the real nature of the exchange is identical with the real nature of commerce, as small labor is of the same nature with great, and as the gravitation which impels an atom is of the same nature as that which attracts a world.

Thus, according to you, these arguments, which in Robinson's mouth are so false, are no less so in the mouths of our protectionists?

Yes; only error is hidden better under the complication of circumstances.

Well, now, select some instance from what has actually occurred.

Very well. In France, in view of custom and the exigencies of the climate, cloth is a useful article. Is it the essential thing *to make it or to have it?*

A pretty question! To have it, we must make it.

That is not necessary. It is certain that to have it some one must make it; but it is not necessary that the person or country using it should make it. You do not produce that which clothes you so well, nor France the coffee it uses for breakfast.

But I purchased my cloth and France its coffee.

Exactly, and with what?

With specie.

But you did not make the specie, nor did France.

We bought it.

With what?

With our products which went to Peru.

Then it is in reality your labor that you exchange for cloth and French labor that is exchanged for coffee?

Certainly.

Then it is not absolutely necessary to make what one consumes?

No; if one makes *something else* and gives it in exchange.

In other words, France has two ways of procuring a given quantity of cloth. The first is to make it, and the second is to make *something else* and exchange *that something else* abroad for cloth. Of these two ways, which is the best?

I do not know.

Is it not that which, *for a fixed amount of labor, gives the greatest quantity of cloth?*

It seems so.

Which is best for a nation, to have the choice of these two ways or to have the law forbid its using one of them at the risk of rejecting the best?

It seems to me that it would be best for the nation to have the choice, since in these matters it always makes a good selection.

The law which prohibits the introduction of foreign cloth decides, then, that if France wants cloth it must make it at home, and that it is forbidden to make that *something else* with which it could purchase foreign cloth?

That is true.

And as it is obliged to make cloth and forbidden to make *something else* just because the other thing would require less labor (without which France would have no occasion to do anything with it), the law virtually decrees that for a certain amount of labor France should have but 1 yard of cloth, making itself, when, for the same amount of labor, it could have had 2 yards by making *something else.*

But what other thing?

No matter what. Being free to choose, it will make *something else* only so long as there is *something else* to make.

That is possible; but I can not rid myself of the idea that foreigners may send us cloth and not take something else, in which case we shall be prettily caught. Under all circumstances this is the objection, even from your own point of view.

You admit that France will make this *something else,* which is to be exchanged for cloth, with less labor than if it had made the cloth itself?

Doubtless.

Then a certain quantity of its labor will become inert?

Yes; but people will be no worse clothed—a little circumstance which causes the whole misunderstanding. Robinson lost sight of it, and our protectionists do not see it, or pretend not to. The stranded plank thus paralyzed for fifteen days Robinson's labor, so far as it was applied to the making of a plank, but it did not deprive him of it. Distinguish, then, between these two kinds of diminution of labor, one resulting in *privation* and the other in *comfort.* These two things are very different, and if you assimilate them you reason like Robinson. In the most complicated, as in the most simple, instances the sophism consists in this: *Judging of the utility of labor by its duration and intensity and not by its results,* which leads to this economic policy, *a reduction of the results of labor, in order to increase its duration and intensity.*

Mr. WILLIAMS. Now, Mr. Chairman, protectionism is not only the suggestion of the prostitution of public functions to private ends, and thus the mother of graft in very many ways, but it is the mother of State socialism and of a spirit of communism. It is the mother of them, because it plants and waters and develops to fruitage the idea that the citizen has a right to look to the Government for support and enrichment; because it undermines the old cardinal American principle that the citizen should support the State and not the State the citizen.

Mr. Chairman, if it be governmentally allowable to levy a tax on what I consume—an indirect tax—in order to increase somebody's dividend, or to create a dividend for somebody—an ironmaster, for example—or to increase the wage of somebody who is laboring, or to create for somebody who is laboring a wage (and the latter—pretense, as it is—is the strongest statement of the case for protectionism that has ever been made), then it is equally allowable to reach either of the same ends directly by taxing my land or horses and dividing the proceeds to the capitalists or laborers in the "protected" industry—paying it directly over to them out of the Treasury.

You say it "encourages industry!" Yes; it encourages *my* industry to the extent of requiring more work from me to pay the tax to keep up the other fellow's establishment! dead certain! The idea being once planted in the mind of the citizen that it is the duty of government, or that it is permissible for the Government, to make men in certain industries prosperous by use of the taxing power, then why not make prosperous other men in other industries? All come clamoring. And then why not make all those who are needy prosperous? What dreams of prosperity by legislation! It would simply be Tittlebat Titmouse's game of gammon over again, "to give everybody everything without taking anything from anybody."

Now, Mr. Chairman, I have written what follows for a few sentences, because I have wanted to measure my words right here when I say; I would rather live in a country that taxes my property directly—houses and lands and cattle and poll—and pays out the proceeds directly once a week from the subtreasuries to all needy laborers working at less than a given wage—supposed to be a living wage—than to live under the present system. I would rather do it for two reasons: First, because I would know exactly how much I was paying, and now I do not; and, secondly, because I would know exactly who was getting what I paid in, and now I do not. [Applause on the Democratic side.] I know quite well who does not get overmuch of it—the laborer—the pretended beneficiary.

I would rather, Mr. Chairman, be taxed directly 5 or 9 mills a year, and know that the money was given once a week to poor women in sweat shops, or to men and women in order that their children might be kept out of factories and mines, than to have myself and my laborer in my cotton field, black as he is, taxed indirectly on what he and I wear and eat, as we are now, on the pretense that the money goes dribbling through the hands of Carnegies, and Schwabs, and Cramps, and various steel-trust and glass-trust magnates, to these same laborers. If you want to give it to workingmen, give it to them. *But see to it that they get it.* If you want to tax me that they may earn a higher wage, tax me, *but see that they get it.* Let there be no lie in the belly of the act. Do not let the wrong man get it; do not dribble it through somebody who keeps it by the way. Do away with the pretended intermediary of your pretended charity.

Mr. Chairman, others may deceive themselves, but as for me, I see no difference between these two forms of state socialism. Nor do I see any difference between either one of them in kind (though, of course, I see some in degree) and the system that prevailed in the latter days of the Roman republic, the system of furnishing *panem et circenses,* of giving bread and circuses to the Roman populace. I will go further; I would rather be taxed directly to give bread and circuses to the laboring poor (or even to the idle poor, if only they were poor and not poor, by criminality), than be taxed indirectly to give French opera and turtle soup to those richer than I, who reward my patience under burden-bearing by charging me more for what they are able to make and sell me, by virtue of having taxed me, than they charge to the foreigner who buys from them. [Applause on the Democratic side.]

You say all this is rank socialism, rank agrarianism, rank communism? So it is; and I am not in favor of any of it, of course. But I am more nearly in favor of it than of protectionism. It is at least what it is. It is honestly itself. There is no humbug nor pretense of other thing about it. Protectionism is equally rank socialism, rank agrarianism, rank communism, even under the pretext you make for it as a principle—namely, that you are taxing one man in order that another man may earn a higher wage. It is worse when you consider that its real aim, effect, and result is to tax one man *that another may earn a higher dividend.*

Now, it is not true that the purpose or effect of the system is to benefit labor. Abundant proof shows that it is not true and that it is not your intent—especially the fact that you have no protective tariff on labor itself. But if it were true, I would still come back to the gist of things and say that if it be an allowable governmental object, then let it be done so that I may know what I pay and know who will get it and when he gets it and who will not get it. You have taught socialism. You have planted the seed. You have poisoned the chalice. Watch and see if it does not return to your own lips. Go to the steel factories; go to the coal mines; go where they blow glass; go to the iron works of this country; go to the silk mills, and you will find that in minds of greedy soil have grown the fruitage from the seed which you have planted—from the concept that men have a right to demand legislative support, instead of supporting themselves. They are to-day demanding the direct system rather than the indirect system. Where do you find all the communism and socialism, aye, and anarchy, that you find in this country? Every bit of it is right around the crowded tenements, which are right under the shadows of your highly protected industries, where you have induced men to gather in unhealthy hordes. It encourages socialism in another way. It encourages men to leave the country and move to town, instead of living a mentally, morally, and physically healthy life upon the land; to be gathered and cooped up in great hordes in the tenements. In this hothoused atmosphere they have learned your lesson. They are beginning to preach it.

Mr. FASSETT. I should like to ask the gentleman a question. I have been unable to gather how much better incidental protection is than if it is intentional protection?

Mr. WILLIAMS. If I travel from here to the Treasury and incidentally step upon an ant by the way, it would be just the same thing to the ant as if I had stepped upon it on purpose; but not the same thing so far as I am concerned. In the one case I would have purposely crushed out the life of a poor, inoffensive creature I had met in going to the Treasury, not because I did not see it or could not avoid it, but because I wanted to; in the other case while I was going to the Treasury, and had the right to go to the Treasury, I had stepped upon it because I could not help it. I need not tell a gentleman of your astute intellect that a man hunting ants to kill will kill many more than he who is merely going to the Treasury. I want tariff taxes merely to go to the Treasury. The act of a man who stepped on an ant accidentally would not furnish an argument to lead a life of ant killing, nor suggest other forms of killing. I do not think your question or my answer adds much to the discussion.

Now, Mr. Chairman, one or two more words, and I am through. You would say to me, "Would you revolutionize the whole system in a single act?" No; I would not; nor would I, had I been living in Rome in "bread-and-circus" days, have put an end to "bread and circuses" overnight, or by one act. Too many men and women, who were not responsible for the system under which they merely existed, would have been hurt; but I would, none the less, have sought to inaugurate—to make a beginning toward—a system whereby I could gradually and safely, but completely and forever, rid the body politic—and what is of more importance, the soul politic—of the "bread-and-circus" theory of Government—and all its corrupting and communistic and independence-undermining tendencies.

So in modern America I would work toward the Democratic ideal, toward the ultimate goal, which is a tariff for revenue only. I would gradually take down and not violently knock down the unnecessary artificial scaffolding. I have said protectionism is immoral and that it suggests further immoralities; that it is socialistic and suggests other forms of socialism. I want to show that it is inelastic as a fiscal system.

I shall take the liberty of using the language of another, both to save time and strength and because he amplifies the point better than I can.

I quote from the manuscript of Professor Conner, to whom I have already referred and the perusal of whose book on Tariff Reform I highly recommend when it shall be published, although he is a tariff-reform Republican and I am a tariff-reform Democrat, and in many respects we see things from widely separated standpoints. What of that? He talks much sense, and his aim is to cure abuses. Whosoever is not against us in this struggle is with us. In Chapter II of his forthcoming work he says:

THE NATURE OF FEDERAL FINANCE.

It is desired in this chapter to present two contrasts and the consequences flowing from them; the first briefly, the second at greater length. The first of these is the contrast between *public* and *private* finance; the second is the contrast between *Federal*, or national, finance and *local*, or State and municipal finance. The point of contrast in each case is to bring out the difference in their nature.

It is but natural at first thought to infer the nature of public finance from a false analogy to private finance, but a moment's reflection will show this to be fallacious. Many nations, indeed, have proceeded upon this false assumption, heaping up wealth in their treasuries and supposing thereby to add to their stability, permanence, and security, just as a man, for the same reason, adds to his estate. It lies in the nature of the physical man to become decrepit as old age advances, and for this period he must prepare. Not so, however, with the metaphysical *state*, for though it, too, may reach a period of decrepitude, it should proceed upon the assumption of perpetual life, each year's revenue sufficing for each year's needs, neither a surplus nor a deficit in any year's budget. [I am of the opinion that there ought always to be a small surplus—a "working margin"—to meet not unreasonable contingencies.—J. S. W.] An overflowing treasury is a menace to a state; to an individual it is not so, except he be a spendthrift. Hence a state is not to be regarded as a money-making institution, for it accumulates only to spend in public service. It does for its citizens collectively only those things which they can not do for themselves equally well individually. Its fiscal aim should be, assuming that it has a resourceful people and perfect revenue machinery, to have an empty treasury at the close of each fiscal year in all ordinary times of public tranquillity.

The second point of contrast mentioned, namely, as between Federal and local finance, is now to be noticed.

The revenue domain of any division of government is affected by the nature of its functions and the relationship thereof to its needs. Thus the needs of State and local governments are regular and constant, varying but little from year to year. Those needs should be met by a revenue system based upon property or income and not upon a fluctuating source.

* * * * * * *

Federal needs, on the other hand, change more frequently and more violently. By virtue of the exercise of its constitutional sovereignty the Federal Government is charged with the power to make and declare war. In consequence it bears the onus of the financial responsibility. Again, it is charged with the duty, exercised through Congress, of regulating coinage and controlling the currency. Thus the credit of the country is in its keeping as well as the enormous responsibility of providing a safe monetary system. It is incumbent upon it, therefore, to be able promptly to meet sudden financial and industrial changes in order to restore confidence and avert a panic. Again, the transactions of the Government are on a magnificent scale; and when a given task is to be undertaken or finished there is necessarily a change in the volume of revenue to be demanded or to be discontinued. Moreover, the national budget bears so large a proportion to the total currency of the country that it augments the danger of a financial stringency. Summing up what has just been said, it is evident that the chief difference between Federal and local finance is that the former must constantly be able to meet emergencies. It has its regular and constant needs, just as the local divisions, but there is a much larger element of uncertainty and fluctuation to be provided for.

This important conclusion certainly follows from the foregoing: That the Federal revenue system should be elastic, flexible, easily expansive to meet an exigency whether foreseen or unforeseen, and as easily contracted when that exigency is past. How the tariff has met and is now meeting this requirement we are to consider in the next chapter.

It was stated above that the aim in fiscal legislation should be to secure each year an exact balance of receipts and expenditures, neither surplus nor deficit. Manifestly in a budget of over five hundred millions, involving the handling of twice that sum, such an exact balance would be a miracle of luck as well as of good management. A surplus or a deficit of only a million or two in our national fiscal management would be much below the average deviation from an exact balance. Since, therefore, we are reduced to the practical necessity of choosing between a prospective deficit or a prospective surplus, we must inquire what are the considerations affecting such a choice.

Manifestly a surplus means on the face of it that more revenue has been collected than was needed—more, perhaps, than was voted or desired. Regarding it as a tax exacted from the citizens, it is purely an unjustifiable exaction, though perhaps unavoidable. The best justification of a surplus in any year is its unpreventability.

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The fiscal machinery for such a great emergency as a war must be, like guns, ammunition, and battle ships, in readiness for instant use. The financier must know where additional revenue may be obtained—that should go without saying. Much more than this, *he must have the machinery for collecting it in full operation in time of peace.* The importance of this observation can not be overemphasized. The creation and installation of revenue-collecting machinery is not the work of a moment; it can not be done by act of Congress; it is an administrative evolution and may take years for its completion. Here, let us say, is a great need arising for double or even ten times the ordinary budget. The people are able and anxious to contribute, but owing to the lack of revenue machinery the burden is unequally distributed, the cost of collection is high, incompetent and dishonest officials have to be weeded out, the tax is unproductive, the disappointing results impair the public credit, and finally drastic attempts may be made to obtain revenue by debasing the currency. All this actually happened during our civil war.

It may seem superfluous to dwell upon so patent a proposition, but the excuse for doing so shall be the importance thereof and the aptness of our financial experience as illustration.

It is well known now that at the close of the Revolution there was a superabundance of coin in this country. The people were prosperous and resourceful. Both the English and the French armies were paying cash for their supplies, and the coin could not leave the country owing to the war embargo. At the close of the war the volume of specie exports was sufficient to alarm American statesmen, who declaimed loudly against the squandering of money upon foreign finery. But how about the Government at this time—that is a more familiar tale and needs no rehearsing. There *was* no national revenue system at this time—not a penny could be raised, all had to depend upon the voluntary contributions of the constituent parts. The wonder is that under such circumstances anything could be raised.

So far Professor Conner. What he says is well said.

I may add that formerly an income tax could have been resorted to in cases of emergency, leaving the balance of the fiscal system intact and undisturbed, or comparatively so, thus introducing, *outside* of the tariff system of taxation, an element of flexibility. Since the decision of the Supreme Court of the United States declaring the income tax to be direct taxation, and therefore rendering the levying and collecting of it impracticable, it is all the more important that any tariff system which we may have should contain within itself the element of elasticity. It is self-evident almost that a protective tariff can not answer this condition. Its schedules are arranged so as to be prohibitive of importation in many regards, and so as, to be, more or less nearly, an approximate prohibition with regard to all schedules. It follows that additional revenues can not be obtained by *raising* the rates of a genuine protective tariff. That would result only in lessening revenues. True, import duties might be levied upon numerous articles not already taxed, but even that would present itself to the minds of orthodox protectionists as an attack upon "the system," and would cause all the interested beneficiaries of it to fly to its rescue. If, in order to increase the revenues accruing under a protective tariff, the rates were lowered, it would add business excitement to war excitement and antagonize powerful interests, whose aid, good will, and capital would be needed. As Professor Conner says, "the supreme danger of protection is that it is so hard to be shaken off or even diminished when the need of it has been outgrown." Witness our steel and iron, our leather and boot and shoe, and our window-glass schedules. It would be hard to diminish the rates, even when public stress and strain demanded more money for public defense and therefore a diminution of protective rates in order to get it.

Look at the other side of the picture. A revenue tariff, so adjusted as to obtain only the money actually needed in times of peace, is in the highest degree elastic as well as economy-encouraging. Why? Because the rates would not in peace times be

placed at the maximum revenue point, but at a point lower than that. When an increase of revenue was required for war or other emergency purposes the duties could be raised up to, but not beyond, the maximum revenue point. I say not beyond, because the moment that point was passed revenues would decrease. This could be done without disturbing existing conditions, without creating industrial dislocation.

After the war or other emergency was passed the reduction of duties could, in turn, be made without a revolution of the entire fiscal system. To illustrate, say that the maximum revenue point on a given article (A) were 10 per cent, on another article (B) 20 per cent, on another article (C) 50, and on article D 80 per cent—that is, that these rates would indicate the points beyond which increased rate of duty levied and collected would not make up for loss of revenues caused by diminution in the volume of imports. If this were the case, then in times of peace, when only a moderate revenue was needed, the duty on A would be probably 5 per cent, on B 10, on C 25, and on D 40. Now, it is evident that you could increase the duty on A to anything short of 10 per cent, that on B to anything short of 20 per cent, that on C to anything short of 50 per cent, and that on D to anything short of 80 per cent, procuring at each step of the increase an increased revenue, while providing at the same time a little stimulation, but not enough to be harmful, to business. It is evident that there is a wide margin of revenue possibilities for increase and decrease alike between the extremes of minimum revenue rates and maximum revenue rates, and that, too, without revolutionary effect on commerce or industrialism. Not so with a protective tariff. Its rates are, to some extent—sometimes altogether—*the guaranty of the stability of a "system;"* false system, it is true, because artificial, but still a system. If the so-called "principle" of protection be adhered to, no reduction large enough to result in serious importation, and therefore in any considerable increase of revenue, can be looked for. Controlling interests, allied together and all wrapped up in "the system," would prevent. They would force war even to be carried on almost entirely by immense bond issues, mortgaging posterity, and by issues of legal-tender currency, resulting probably in a cessation of specie payments, and therefore entailing future "resumption," with all its necessary stringency and hardships. Rely upon it, the protected interests will be no less selfish and no less powerful in legislative halls in times of war than in those of peace. Under a revenue tariff, however, there are too few people vitally interested in any rate, or all rates, to enable them to form a controlling influence. Such interests as exist under a revenue tariff are natural, not artificial, and not dependent upon legislation, therefore not obstructive of legislation which is otherwise just or which is needed for fiscal purposes. So much for the question of elasticity.

One last thought in conclusion. We can, I think, learn a lesson from our neighbor to the north of us—Canada. In the United States, when a great combination of capitalists, controlling a product, violates all ethics by shocking exploitations, under the shelter of "the system," we have to wait, as in the anthracite coal case, until the cumbersome machinery of Federal legislation can be brought into play and a special act of Congress passed to repeal the duty, so that the exploitation may be stopped. The anthracite coal case was a peculiar one. Nothing less than the immense suffering and the acute revolt in the public mind could have forced a Republican Congress to apply the remedy, to wit, the repeal of the duty. They do things better in Canada. Section 18, clauses 1, 2, and 3, of the Canadian tariff act, reads as follows:

Whenever the governor in council has reason to believe that with regard to any article of commerce there exists any trust, combination, association, or agreement of any kind among manufacturers of such article or dealers therein to unduly enhance the price of such article, or in any other way to unduly promote the advantage of the manufacturers or dealers at the expense of the consumers, the governor in council may commission or empower any judge of the supreme court or exchequer court of Canada, or of any superior court in any Province of Canada, to inquire, in a summary way, into and report to the governor in council whether such trust, combination, association, or agreement exists.

Clause 2 gives the powers of the commissioners.

Clause 3: If the judge reports that such trust, combination, association, or agreement exists, and if it appears to the governor in council that such disadvantage to the consumers is facilitated by the duties of customs imposed on a like article, when reported, then the governor in council shall place such article on the free list, or so reduce the duty on it as to give to the public the benefit of reasonable competition in such article.

By this act Canada virtually says to all men that, when protectionism has had the effect of breeding a trust, she will either none of it or less of it; that if the protection on an article has to be decreased, or even to go entirely, in order to kill a trust, it shall be decreased or shall go entirely, and for this purpose she in this act gives power and authority *to the executive department* of the government to meet the evil at once, and summarily, without waiting to convene the Canadian Parliament, and without waiting after that for the slow processes of careful legislation. It seems to me that she has set us an example well worth imitating.

I have tried to answer the gentleman from Iowa. I have tried to show what I believe—to wit, that protectionism is hurtful to the body politic and to the soul politic; that it is a breeder of immorality and state socialism, and that it is, as a fiscal system, from its nature inelastic and inflexible.

I thank the House for its courtesy and patience. [Loud applause on the Democratic side.].

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none. The gentleman from Washington is recognized for an hour.

Mr. LAMB. I would like to make this statement. Between now and half past 3 the time was agreed to be divided equally between the two sides, and if the gentleman from Washington has one hour he will take from the Democratic side what belongs to them. I believe gentlemen on this side want to be just and fair in this matter.

Mr. CLARK of Missouri. I suggest that the committee do now rise and make a new arrangement as to the time we go into the five-minute debate. The gentleman from Mississippi has made a very interesting speech of four hours and some minutes long.

Mr. DALZELL. Four hours and fifteen minutes.

Mr. CLARK of Missouri. I suggest that course. I do not intend to take the management of it out of the hands of the gentlemen on the committee.

Mr. LAMB. I do not see the chairman on the other side.

Mr. DALZELL. I think we ought to have a chance for a hearing.

Mr. LAMB. I would say you have had more than your chance already. You have had thirty-five minutes more on your side already.

Mr. WADSWORTH. That is a fact, according to the time kept by the clerk at the desk. There is an hour and ten minutes left, and that time ought to be equally divided between the two sides. That is about forty minutes. The House has agreed to adjourn at half past 3 o'clock.

I think the general debate on the bill has been liberal and long, and there are other appropriation bills to come, when the matter can be thrashed out.

Mr. LAMB. I ask unanimous consent that the remaining time be equally divided between the two sides.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the remaining time be equally divided between the two sides. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Washington [Mr. CUSHMAN] is recognized for half the balance of the time.

Mr. WADSWORTH. Let me say that the naval appropriation bill follows immediately after this, and gentlemen who wish to speak will have plenty of opportunity then.

Mr. CUSHMAN. Mr. Chairman, I conceive that it is most unfortunate for me that it should come my turn to make a few remarks immediately upon the close of that brilliant speech of the gentleman from Mississippi [Mr. WILLIAMS]. And that was indeed a brilliant speech of his. I think I may justly congratulate the gentleman upon *that* speech, because in the last seven years that I have been a Member of this House each and every time the gentleman has delivered *that* speech I think I have been able to note a decided improvement in added emphasis, an increased elegance of inflection, and far more eloquent gesture. And, sir, the perfection which *that* speech of his will have attained by the time it is heard by the next generation is a subject the pleasant contemplation of which absolutely overcomes me. [Laughter.]

HEBREWS, XIII, 8.

Once there was a man of God, and, lo, it came to pass that he was temporarily domiciled in one certain boarding house where the distinguishing characteristic of the daily menu was *hash*.

They had hash on workdays and hash on holidays, hash on week days and hash on Sundays, hash for breakfast, hash for dinner, and hash for supper.

After ye man of God had endured this changeless programme in silence for some time, one day, when the landlady passed him his usual plate of hash, as he received it he bowed his head reverently and murmured aloud: "*Hebrews, thirteen, eight.*"

The lady of the house was much mystified thereby, and as soon as she could excuse herself she hastened to her room and took down the good book and tenderly blew the dust off of it, and then she turned over the pages to the thirteenth chapter of Hebrews and to the eighth verse thereof and read as follows:

"Jesus Christ, the same yesterday, to-day, and forever."

[Laughter.]

Sir, I have been in this House long enough, and heard that same speech often enough from the gentleman from Mississippi [Mr. WILLIAMS], that whenever he rises to his feet in this House to speak I always bow my head reverently and say to myself:

"Hebrews, thirteen, eight."

[Prolonged laughter.]

However, I do not wish to be understood as criticising the gentleman's speech. I consider that there were at least two strong and masterful points about that speech, namely, *latitude* and *platitude*. [Laughter on the Republican side.]

I will cheerfully admit that when any gentleman arises before this or any other assembly and attempts to justify and glorify the past record of the Democratic party he necessarily labors under unusual burdens, and no one ought intentionally to add to his embarrassment.

One of the gentleman's strongest points seemed to be in talking about the future, and in prophesying to the American people about what is going to happen hereafter. But, sir, the gentleman and his party are singularly weak when it comes to the matter of explaining to the American people some things that have occurred in this country in the not remote past.

The few remarks that I have to make to-day upon the tariff question will not be addressed to the imagination of the American people, but will be dedicated to their recollection and their memory. There is only one thing which may operate to bring the Democratic party into power in the future, and that is that the American memory may become a little frayed around the edges. But happily, sir, the minute the Democratic party gets into power then the seat of the American trousers becomes frayed, and then American memory revives in a corresponding degree. [Laughter.]

The gentleman from Mississippi [Mr. WILLIAMS] proclaimed loudly that his party was sure to win in the near future. I do not believe that is true; but if they do, it will not be altogether an unmixed evil. It may be hard on the country at large and the people in general, but it will vastly benefit the Republican party. The last victory which the Democratic party won in this country did more for the Republican party than an eternity of campaigning would have done. [Applause.] Gentlemen, it may be a little hard on the country to have you win, but the Republican party can stand it, because any temporary victory you might win on your present principles would bring to this country another unmeasured industrial calamity akin to the last one we had. And then the Democratic party would again go out of power and have to wait for another twenty-one years for a new crop of American "suckers" to mature. [Laughter and applause.]

THE GENTLEMAN FROM NEW YORK, MR. TOWNE.

During the course of his lengthy speech the gentleman from Mississippi became very tired, and some of the extracts from documents which he desired incorporated in his speech he had read aloud by another in order to save his own strength.

I was particularly interested to note that the distinguished gentleman, formerly from Minnesota and now a Member from New York [Mr. TOWNE], was called upon to read these extracts. This hydra-headed performance seemed all the more remarkable to me when I recalled the fact that only a few years ago that same gentleman [Mr. TOWNE] occupied a seat on this, *the Republican, side of this House* and was one of the ardent champions of a protective tariff. And when he bade farewell to the Republican party he announced that he only did so on the single issue of *money*. And yet, after affiliating with that party and indorsing one political heresy, the gentleman seems to have let all holds go and embraced all their heresies, including free trade. At any rate that was the conclusion I came to when I heard him read with such beautiful and polished diction the choice free-trade slush which his Democratic colleague from Mississippi [Mr. WILLIAMS] handed to him.

And as I meditated upon the singular downfall of my friend [Mr. TOWNE], I thought of the lines of that old poem:

> Vice is a monster of so frightful mien,
> As to be hated needs but to be seen;
> Yet seen too oft, familiar with her face
> We first endure, then pity, then embrace.

[Laughter.]

But be that as it may, I can frankly say that I greatly admire the distinguished ability of the gentleman from New York [Mr. TOWNE]. He and I are warm personal friends and have been for years. And I am certainly fond of hearing him speak. He is a magnificent orator. And his voice—ah, sir, that is the superb and particular gift of his that has fairly driven me to despair with envy. That rich, rotund, mellifluous, oratorical voice of his is indeed matchless in quality. I have often wondered, sir, how the human voice could be cultivated to that point of admirable perfection that his has attained. And the only conclusion I could come to was that the use of *one single voice* in speaking for *all political parties* and on *all sides of all questions* has tended to cultivate the gentleman's voice to a point of perfection that the more modest of us can never hope to attain. [Great laughter.]

THE AMERICAN WHITTLER.

Mr. Chairman, one of the time-honored customs of all American citizens is to *whittle* with a jackknife when they have nothing else to do. Just where this ancient custom had its origin I am not able to say. Its origin is lost in the dim mists of American antiquity. It even antedates "the crime of '73!" [Laughter.]

There never was as much whittling done in America since the day that George Washington amputated the cherry tree with his hatchet as was done by idle American citizens between the years of 1892 and 1896. [Laughter and applause on the Republican side.]

As a "whittling period" I undertake to say that during those years we broke the world's record. Every empty dry-goods box along every abandoned highway of American commerce was marked with these peculiar and distinguished American hieroglyphics. Every hitching rack in front of every corner grocery store was marked and scarred by the "Ancient Sons of Rest," who had nothing to do but to whittle and to yell for Bryan and for panic! [Laughter and applause on the Republican side.]

In the autumn of the good old Democratic year of 1896 I campaigned through the State of Washington against the continuance of the free-trade policy that had brought us to industrial disaster, and likewise campaigned against free silver—that crazy complement of free trade that would have added complete financial ruin to our other woes. [Applause.]

In the little city of Centralia, in the State of Washington, I distinctly remember that a large telephone pole stood at the corner at the junction of the two main streets. Around the base of that pole there daily gathered a vast and idle horde of good but misguided men, whose chief occupations were reading "Coin's Financial School" and discussing "the crime of '73!"

From the top of that old pole floated a monster Bryan banner just exactly 262 feet long—one foot for each one of the $262,000,000 worth of gold bonds that that panic Administration had issued to keep itself afloat! [Laughter on the Republican side.]

I stood there on the outskirts of that throng and looked about me. And on every side as far as the jaundiced eye could see, in the midst of a land of natural plenty, I beheld business wrecks, financial ruin, and industrial decay—and above it all brooded the gaunt and somber specter of *famine*. There was not a single human being within sight that had a job or was on a pay roll. They were all *whittling!* And that old pine pole, two feet thick, had a circle cut around the base of it half way through—and every gash represented a Populist vote! [Laughter.]

Sir, it was my fortune to again visit that little city of Centralia in the month of August in the glorious year of 1905. The old pole was still there—and it was the only thing in sight that looked natural. Everything else had changed. Perhaps the reason the town had *changed* so much was because all of the inhabitants had more "*change!*" [Laughter.] That slumbering old town had been touched by the quickening hand of renewed industrial life, even as the sleeping inmates of the old castle were wakened when the wand of the prince touched the eyes of the sleeping princess.

Out of sheer reverence for that old pole I walked up to take a look at the old Bryan landmark; and as sure as I am alive there was posted on the base of that old pole the advertisement of a sawmill company asking for fifty laboring men immediately. Ye gods and little fishes! If a man had put up a sign on that pole in 1896 advertising for one man to help dig the grave of some victim who had starved to death, a multitude of idle men would have torn that pole down trying to get there first. [Laughter and applause on the Republican side.]

Mr. MACON. Will the gentleman from Washington [Mr. CUSHMAN] state what was the worst year in that period—that is, between the years of 1892 and 1896?

Mr. CUSHMAN. Well, Mr. Chairman, that is a most melancholy subject for reflection at best. If my experience is to be taken as a criterion it was all very bad.

Mr. MACON. Does not the gentleman from Washington know that the worst year was the year of 1893?

Mr. CUSHMAN. No, Mr. Chairman. I will say to the gentleman from Arkansas [Mr. MACON] that I not only do not know that to be a fact, but on the contrary I do know it to be a fact that it was in the year of 1894 that the panic reached its height—after your party, sir, was in power.

Mr. MACON. Doesn't the gentleman from Washington know that there was the greatest financial depression in the year of 1893?

Mr. CUSHMAN. No, sir; I do not know anything of that kind. That was what you and your party tried to demonstrate to the American people in the political campaign of 1896, and on that issue you and your party were kicked out of power by the people, and you haven't got back since. [Laughter and applause on the Republican side.]

Mr. MACON. It was not on that issue alone; that had a very small part to do with it. It was on the silver question.

Mr. CUSHMAN. Well, Mr. Chairman, the American people also settled the silver question just exactly opposite the manner in which the Democratic party insisted that it ought to be settled, and the country, sir, is entirely content with the solution of that question, too. [Applause.]

The gentleman from Mississippi [Mr. WILLIAMS] has just closed a speech of more than four hours' length, in which he has discoursed ably and eloquently and theoretically upon the absolute fairness and complete success of that system which is called "a tariff for revenue only."

I do not mean to speak in any contemptuous sense when I say that a complete and overwhelming answer to him, in my judgment, could be made by asking him one question, as follows: "You and your party tried this system in 1894, when you enacted the Wilson 'tariff for revenue only' law. *How did it work then?*" It didn't work at all. That is the truth about it.

Mr. Chairman, my observation and personal experience in regard to that thing called "a tariff for revenue only" is that under a practical trial of it we never get the revenue. No; we never get the revenue. What do we get? Why, we get the "only;" that's what we get. [Applause and laughter on the Republican side.]

We are continually told from the Democratic side of this House how beautifully this free-trade theory is going to work out in the future if we will only let them try it. What I want to ask is, Why did it not work successfully when you did try it in 1894 and 1895?

We have the same country now that we had then. We have the same people now we had then. We have the same soil beneath us and the same atmosphere all about us. If it was not a success then, what makes any man think it is going to be a success if you try it again?

There seems to be a disposition at present in the ranks of the Democratic party to crowd to the front the free-trade idea, or at least the idea of tariff revision.

We are continually told how much cheaper things are sold in other countries, and how much cheaper all articles can be bought abroad than at home. And this is quoted as a reason why we should adopt a domestic policy which would, in effect, turn the American market over to the foreigner.

Upon this general subject I desire to submit a few observations.

WHY GIVE THE FOREIGNER OUR MARKET?

Why should the foreigner be given the American market place? The foreigner builds no home here; he tills no soil here; he pays no taxes here. Why should he be permitted to sell the product of his labor in a country that he does not help support and to which he owes no allegiance, and in competition with the labor of the American citizen, whose little all is wrapped up in this nation? It is the *American citizen* who pays the taxes of this country in time of peace and fights its battles in time of war.

In the plain and homely philosophy of Abraham Lincoln I find this utterance, the words of which ought to be emblazoned above the gateways of this nation. Lincoln said: "*This country, with its institutions, belongs to the people who inhabit it.*" [Applause on the Republican side.]

That is a sentiment that ought to awaken at least a faint echo even in the hearts of the men who persistently advocate a system the legitimate effect of which is to trade off the employment and the prosperity of American citizenship to the aliens and paupers of other lands.

Let no man say that I have no sympathy for the poor of other lands, because I have.

The philosophy of American manhood and the genius of American statesmanship raises no objection to the outside world climbing up to the exalted industrial and economic level of America; but, in the name of 90,000,000 of industrious, prosperous, and patriotic people, we protest that we shall not be dragged down to their level. [Applause.]

THE UNITED STATES.

A small and narrow country, with few resources and limited productions, may be forced by the very logic of environment to purchase many of the necessities of her people abroad.

But pause for a moment, if you please, and sketch in your mind a geographical map and an industrial picture of the United States—reaching practically into the three zones of the Northern Hemisphere and stretching wide between earth's two mightiest oceans; possessing almost every resource and producing almost every product that the breast of nature and the genius of man, working in harmony, have ever produced; and peopled with a race of 90,000,000, whom statisticians and scientists tell us—measured by their energy, their genius, and their productive capacity—are equal to almost twice that number of people on any other portion of the habitable globe.

Sir, why should a nation of this description and a people of this character sit idly down in the midst of plenty and become dependent upon the productive capacity of any other race beneath the stars? [Applause.]

"CAPTURING THE MARKETS OF THE WORLD."

Every now and then you will hear some patriotic but misguided American citizen saying that he wishes to see the tariff reduced so that our nation can capture the markets of the world.

In answer to that hysterical clamor a few years ago the Democracy of this nation lowered the tariff, and we tried the experiment. And did we capture the markets of the world then? Oh, no. As my friend from Michigan [Mr. HAMILTON] says, "the reason we did not was because we were too hungry to get that far from home." [Applause and laughter on Republican side.] And I might add as a corollary to that proposition—that we didn't have anything to take with us.

Instead of America penetrating the markets of the world, the markets of the world penetrated the vitals of American industry.

Those were the years when our foreign trade was the least, and our industrial situation at home the most deplorable. And now, in the height of a protective-tariff era, we are capturing the markets of the world from behind the fortifications of protected and prosperous industry. [Applause.]

Now, what are the best methods and means by which to extend the foreign trade and commerce of this nation? The first essential is to become the master of our own home market.

You never heard of an army marching very far into an enemy's country, did you, unless they had a base of supplies behind them? Well, that is a rule that works in peaceful commercial conquest as well as in military warfare.

If we throw our home market open and let other nations invade and capture it, then the business of the home manufacturer is destroyed, and the employment of the home workingman is gone. And when you put the American manufacturer and the American laborer out of business, you likewise destroy the prosperity of the agricultural producer who leans upon them. And when you have destroyed the prosperity of those three classes then you have bankrupted your nation at home. Do you think that the nation is then in a good condition to go out and battle for the markets of the world?

No. A large and flourishing home market, diversified resources, and a high state of prosperity among all our people here at home—these are the engines and the weapons that enable a nation and its people to wage a peaceful and successful battle for the conquest of foreign markets.

There are some so-called "economists" and self-styled statesmen who seem to think that the proper way to fit a nation for industrial conquest abroad is to first bankrupt and impoverish it at home. But my philosophy and the history of the world teach me that industrial paupers and manufacturing mendicants make mighty poor commercial travelers with which to capture the markets of the world. [Applause.]

Mr. GAINES of Tennessee. Will the gentleman from Washington [Mr. CUSHMAN] yield for a question?

Mr. CUSHMAN. Well, I have but little time; but——

Mr. GAINES of Tennessee. All right; go ahead.

Mr. BYRD. Will the gentleman from Washington yield to me for one question? You stated a few moments ago, as I understood it, that during the reign of the Wilson bill we as a nation had nothing to export, did you not?

Mr. CUSHMAN. Oh, no; not at all. There has never been a time since this Government was founded that we did not have something to export. I spoke in a *comparative* sense when I spoke of our foreign trade being less then than it is now. I

stated that our foreign trade was at that time in a more deplorable condition by far than it is now.

Mr. BYRD. Did you not state, further, that it was like an army leaving its base of supplies; that we would not venture on the high seas, meaning that we had but little to export; did you not say that?

Mr. CUSHMAN. I fear the gentleman from Mississippi [Mr. BYRD] did not understand me correctly. What I said in substance was that when we as a nation adopted a free-trade policy, or tariff-for-revenue policy, as was the case under the Wilson bill, that the effect upon the general prosperity of our people at home was ruinous, and they were in effect reduced to poverty. And being in a condition of poverty they were not then in a condition to go out and battle for the markets of the world. What I have stated is more especially true of the manufacturer than it is of the farmer. We produce in this country a surplus of agricultural products; what we do not consume at home is bound to go abroad to market. But when we have prosperous conditions here at home we consume a greater proportion of our agricultural products than when we are having a panic.

Mr. BYRD. You did not say that, then, as I understood you.

Mr. CUSHMAN. Now, Mr. Chairman, I was——

Mr. BYRD. What did you say on that point? If we had nothing to export, then what did we do when we had been for thirty years under high protection?

Mr. CUSHMAN. I'll tell you what we have been doing for thirty years under high protection. We have been prospering as no other nation on the face of God's footstool has prospered. [Applause.]

Mr. BYRD. Did you not say just now; did I not understand you to say that we did not have anything to live on?

Mr. CUSHMAN. We have always had an abundance of agricultural products in this country to live on. But there have been times when the people of the nation did not have money to buy what they needed. And when that occurred the farmer who had these products to sell likewise became poor. Poverty is like many another disease, it is both infectious and contagious. I was endeavoring in my feeble way to show that during periods of poverty in this nation all the people of the nation suffered from poverty, and that people who were poverty stricken at home could not expect to go out and make as successful battle for foreign markets as if they were prospering at home.

THE DECLINE OF ENGLAND.

When I was a child it was ultrafashionable in free-trade circles in this country to continually picture the prosperity of England and assert to the unthinking that a protective tariff in this country was bankrupting the United States and enriching England. Some way or other that argument does not seem to be as much of a stage favorite now as it was in former days. Other political fairies are before the footlights now.

In the last decade the wealth and the production of America have grown beyond the fondest dreams of those other days, and the melancholy tale of England's lost prosperity and prestige is the most tragic and pathetic story of the commercial world.

When the Democratic party was last in power in this nation, then there was the hum of industry in the factories of England and prosperity among the workingmen of Manchester and Sheffield and Cardiff.

But at the same time in America a vast horde of our own unemployed and destitute formed into the ranks of "Coxie's army" and the "Commonwealers," and in ragged, pathetic procession they marched down upon this the Capitol of their country, and uttered their protests within the shadow of its mighty Dome.

To-day, while we are under the rule of the Republican party, the daily press tells us of the mighty army of the unemployed of England, in hunger and in rags marching through the streets of the citadel of England, and giving voice to their lamentations at the gates of Hyde Park.

But to-day, here at home, the mighty army of American labor marches forth to fairer fields and richer rewards than ever known before. [Applause.]

Sir, the last few years have brought forth a great outcry from England, and to-day Hon. Joseph Chamberlain, her foremost statesman, is pleading with his people to adopt a protective tariff as their sole salvation. And at the same time a few half-baked statesmen on this side of the ocean want us to adopt the policy that has bankrupted England and discard the policy that has enriched us. [Loud applause.]

Our nation has been prosperous since the year of 1897. No truthful man can deny that. From the very hour of the election of President McKinley there was a gradual uplift in all the industrial conditions of this nation. Why was there an uplift?

Because, sir, the manufacturer knew that the dynamite of free trade was not going to blow up his factory; because the capitalist knew that the hand of repudiation could not destroy his contribution to the realm of industry [applause], and because the laborers of this nation once more saw the sun shining through the clouds, and their multiplied millions once again formed into the ranks and battalions of labor's peaceful army and moved out again to occupy the vast and fruitful plain of American industry. [Applause.]

CLAMS AS A DIET.

My memory harks back to the days when the Democratic party was in full control of this Government. What kind of times did we have then? There is only one way that I can describe the conditions that then existed: Times got just as bad as they could possibly be, and remained that way for a long time, and then they got *worse*. [Laughter.]

It was a most fortunate circumstance for me that in those days of panic and starvation that I lived in the city of Tacoma, on the shore of the ocean, because along the seashore there is always an abundance of raw clams. [Laughter.] Whenever the tide is out the table is set. [Laughter.] And if Almighty God had not made that wise and beneficent provision I would never have been able to live through that last Democratic Administration. [Laughter.]

And, sir, I pledge you my word that during the last Administration of Grover Cleveland I ate clams, and ate clams, and ate clams till my stomach rose and fell in harmony with the tides. [Great laughter and applause.]

And, Mr. Chairman, when I look abroad over my nation to-day and behold its boundless prosperity I have that faith in the American people that assures my heart that they will not turn their backs in ingratitude upon the substance of a prosperity that is as general and as genuine as the all-pervading air, and follow off after the polished language but unfruitful promises of a political acrobat from Mississippi.

A TOTAL ECLIPSE.

Mr. Chairman, when I was a boy at school, years and years ago, I studied the rudiments of astronomy, the science of the planets and the stars. I distinctly remember that I was greatly interested in that peculiar phenomena, the eclipse. And particularly so after my teacher informed me that it could always be figured out in advance to a mathematical certainty *just when* a total eclipse was going to occur.

Well, sir, I lived to see one total eclipse in this country that wasn't down on the books. I lived to see one total eclipse which the astrologers and astronomers of earth never foresaw or foretold. I lived to see the dense, opaque, and bulky body of Grover Cleveland and the allied Democracy move slowly across the face of the sun of American prosperity, and instantly every legitimate industry under the Stars and Stripes went into a condition of total eclipse 365 times as long and 40 times as black as any celestial phenomenon ever dreamed of or foretold by any mundane star gazer. [Great laughter and applause.]

And I may say, Mr. Chairman, when that total eclipse occurred I quit studying astronomy and began studying domestic economy and the science of American statesmanship. [Applause.]

When I say that the welfare of this nation and the prosperity of its people are best served and promoted by the protective-tariff policy, I don't ask any man to take my word for it. I point to the history of this nation and the varying experiences of its people. I point out to you the last seven years of the history of this nation—like unto the seven fat years of which Joseph prophesied and foretold unto Pharaoh.

Then I point back to the four years that preceded those seven years—the four years that this nation experienced under the Administration of Grover Cleveland. During the first two of those four years we were under the threat of free trade and during the last two we were actually under free trade.

Those were the four lean years, if you please. Ah, yes. Neither Joseph in his wisdom nor Pharaoh in his nightmare ever dreamed of anything like that period. [Laughter.]

And yet those were four years in which bountiful crops blessed the nation. There was no pestilence in the air. There was no blight upon the harvest. The sun didn't cease to shine and the rain didn't cease to fall. American muscle didn't wither nor American genius fade. The laws of nature and of nature's God were not suspended during those four years. There existed every reason why those four years should have been as prosperous as the years before them or the years after them, except that labor had been knocked in the head, the manufacturing business destroyed, and the productive capacity of this nation crippled by an academic and asinine free-trade law, under the operation of which men were unable to prosper. [Great applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. KEIFER. Mr. Chairman, I would like to know if it is in order to ask that the gentleman's time be extended?

The CHAIRMAN. Under the arrangement only thirty-five minutes remain, and those thirty-five minutes are given to the other side.

Mr. LAMB. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. RANSDELL.]

Mr. RANSDELL of Louisiana. Mr. Chairman, I ask the indulgence of the House for a few moments while I discuss some features of the present bill. There has been a great deal said in the course of this discussion about protection. I wish to appeal to you, sir, and to the Members of this House, for protection to one of the greatest industries of the section of the country that I represent—the cattle industry of the South, which is now menaced most seriously by the Texas cattle fever.

As a result of that disease the South—and by the South I mean not only what we generally have in mind when we speak of the South, but the entire southern portion of this Union, from the Atlantic to the Pacific—is caused an annual loss of $63,250,000, according to the report of Doctor Mohler, Chief of the Pathological Bureau of the Agricultural Department. This terrible disease affects practically all the cattle of the southern country, and because of its ravages and the danger of the importation of cattle from that section to other parts of the country our Government in 1889 established a strict quarantine, and no cattle can come from a point south of that quarantine to a point north without being subjected to the strictest quarantine regulations. This line is over 5,000 miles long. It extends from a little north of Norfolk, Va., across the State of Virginia, through northern North Carolina, part of Georgia, the southern part of Tennessee, northward into a small part of Kentucky, then south again, west between Arkansas and Missouri, then in a southwesterly direction through Oklahoma, Indian Territory, and Texas; thence along the southern boundary of Arizona and New Mexico; thence along the eastern boundary of California and west to the Pacific, taking in about a third of California—upward of 5,000 miles in length.

As I remarked, no cattle can come from a point south of that line without being subjected to the most stringent quarantine regulations. As a result of that Texas fever, it is estimated by the most careful and expert scientists that every full-grown bovine in that country fails by fully 200 pounds to reach its normal development. Now, as I stated before, Doctor Mohler, one of the eminent scientists of the Agricultural Department, says, in a bulletin issued recently, to which I call the attention of every Member of this House, that the South loses annually $63,250,000 from the ravages of the cattle tick. Some of our southern scientists claim that the damage is much greater annually. Mr. August Mayer, a very prominent agriculturist and cattle raiser in Louisiana, says that the annual loss from the cattle tick is $150,000,000.

Now, gentlemen, this is a terrible handicap on a very great industry of our nation. Doctor Mohler says that the loss amounts to 16 per cent annually. There are over 15,000,000 cattle in the portions of our Union that are affected by this cattle tick, and 16 per cent loss on that number of cattle, as you see, is a very large amount.

Several years ago because of this Texas cattle fever Germany placed an embargo on the importation of live cattle from this country. Because of this tick fever every animal raised in the South and brought north for sale suffers a diminution in value of from one-quarter to one-half a cent per pound, and as the northern market is the best market for our cattle that means that every animal of the South suffers a loss in value of from one-fourth to one-half of a cent per pound because of this cattle tick.

Now, sir, does this interest the people of the South only? No. Anything that causes a diminution of national wealth of $63,250,000 a year interests the people of the entire Union. Mind you, sir, that is the lowest estimate—$63,250,000 a year—while the highest is $150,000,000, and a fair average is perhaps $100,000,000. Does it interest the northern grower of pure-bred cattle? Undoubtedly; because the southern people are trying all the time to introduce these pure-bred cattle from the North. They are introducing them in large numbers, and would gladly introduce more; but when these pure-bred cattle are carried South they invariably take this fever and a very large percentage of them die from it. Consequently it does not pay us to introduce these pure-bred cattle, and northern growers lose this magnificent field for the sale of their cattle.

Now, what do we propose to do about this? The National Agricultural Department and the State departments of agriculture have been investigating it for some years, and have decided that the cattle tick can be eradicated and destroyed; that this quarantine line can be pushed south to the Gulf of Mexico; that this can be done at a reasonable cost, and the southern people and the people of southern California are asking Congress to assist in doing it. In the bill now under discussion is a provision appropriating $65,000 to enable the Secretary of Agriculture to undertake experimental work in cooperation with State authorities in eradicating the tick transmiting southern cattle fever.

We ask, Mr. Chairman, that that amount be raised to at least $100,000. We think that $65,000 is too small a sum, considering the magnitude of the interests involved, and considering the immense scope of country which this quarantine line now covers. And I wish to say, sir, in passing, that it now costs our Government between fifty and sixty thousand dollars a year to maintain this quarantine line. If we could eradicate the tick, if we could drive it into the Gulf of Mexico, we would not only save to the people of the southern portion of our Union between $63,000,000 and $150,000,000 a year, but we would save this annual sum now being appropriated to maintain the quarantine line of between $50,000 and $60,000. So, as a business proposition, it will certainly pay us to undertake this. The States below the quarantine line are doing their best to eradicate this tick. They are investigating in every way; they are moving with unity and accord. But, sir, this question is beyond the power of the States. This quarantine line, as I have explained to you, extends from the Atlantic to the Pacific Ocean. It is truly a national question, because it is beyond State lines, and because the quarantine line was established, not by the States, but by the National Government.

Mr. CAMPBELL of Kansas. Has there been any substantial progress made by the experiments you have had down there stopping the progress of this disease among your cattle?

Mr. RANSDELL of Louisiana. Why, yes, I think there has been substantial progress, but unfortunately we did not understand this subject until very recently. Our scientists have only recently come to a thorough understanding of it, and it is impossible for the States to handle this, as I said, because when they eradicate the ticks in any given area it is not in the power of the States to move the quarantine line below that area, but it is in the power of the National Government, and therefore we want the cooperation of the Government.

Mr. CAMPBELL of Kansas. I fully appreciate that and quite agree with the gentleman, for many of the southern cattle come just across the quarantine line into my own State.

Mr. RANSDELL of Louisiana. And endanger your cattle.

Mr. CAMPBELL of Kansas. Endanger our cattle, many thousands of them, every year.

Mr. RANSDELL of Louisiana. Right on that line, a Member of this House from the State of Kentucky told me a few moments ago that one of his constituents had bought some tick-infested cattle in the city of Cincinnati about three years ago and taken them home to Kentucky; that they died, and not only they, but the balance of the herd, causing him a loss of thousands of dollars, and all due to this cattle tick.

Mr. TIRRELL. Will the gentleman yield for a question?

Mr. RANSDELL of Louisiana. Certainly.

Mr. TIRRELL. Is it not a fact that very little is known about the tick; that the Government experts themselves can not tell how long it takes to germinate them?

Mr. RANSDELL of Louisiana. No; they have determined exactly how long it takes to germinate them. They understand that thoroughly, my dear sir; a great deal better than they understood the foot-and-mouth disease; and you remember a few years ago we appropriated $500,000—not a paltry $65,000—to eradicate the foot-and-mouth disease in New England, and our magnificent Secretary of Agriculture went to work vigorously, and at an expense of $300,000 very promptly stamped out the foot-and-mouth disease from New England.

Now, we do know about this cattle tick. The Agricultural Department has determined to eradicate it. Our own scientists have determined to eradicate it, but our farmers do not know how. We must educate them. It is a long process to educate the people who live along 5,000 miles of boundary, and in a territory covering several hundred thousand square miles.

Mr. TIRRELL. I agree with the gentleman in all he has said, but I wish to say that I have had occasion to investigate this matter, and I have found that the Government experts vary from thirteen or fourteen days to twenty-one days in the germination of the tick, as communicated from one animal to another.

Mr. RANSDELL of Louisiana. I will not have time to discuss the scientific feature of it, but if you will read this bulletin by Doctor Mohler, gotten out recently, and will read the hearings had before the Agricultural Committee on the 6th of February last, where Doctor Butler, of North Carolina; Doctor Morgan, of Tennessee; Doctor Soule, of Virginia, and Doctor

Dalrymple, of Louisiana, and many other eminent scientists discussed this question, you will find that they practically agree on this question. There is a little difference in the number of days, just as fever affects one man for a certain length of time and another man for another length of time, but the disease is well understood; and if we can get the active cooperation of the National Government we can in a few years entirely eradicate it. Our southern scientists are a unit on this proposition, and our Secretary of Agriculture, Mr. Wilson, says that if he is given the money "he will drive the tick out of the South" just as he drove the foot-and-mouth disease out of New England, and as he is now driving out the scab in sheep and the mange among cattle in the Western States. He earnestly asks for $100,000 to begin this great work, and when we consider the magnitude of the interests involved and the vast area of country infested by the tick, together with the great length of the quarantine line, that seems like a very small sum.

The large conference of Congressmen and southern agriculturists held here on the 14th day of February last passed unanimous resolutions asking $200,000 for this purpose; the commissioners of agriculture of the South at their meeting in Richmond Va., November, 1905, asked $500,000; the American Veterinary Medical Association at its meeting in Cleveland, Ohio, August, 1905, asked "substantial Federal assistance to the Southern States in their effort to exterminate the greatest present menace to the cattle interest of a large part of our country;" the Interstate Association of Live Stock Sanitary Boards, at Guthrie, Okla., September, 1905, passed the following strong resolutions:

Whereas the Federal Government, in the exercise of its duties in protecting and fostering the live-stock industry of the nation, has expended large sums of public money in the successful control and eradication of such diseases as contagious pleuro-pneumonia, foot-and-mouth disease, scabies, etc.; and

Whereas the southern cattle tick, tick fever, and the Federal quarantine restrictions cause much greater loss to southern cattlemen than the diseases above named ever caused the Northern States; and

Whereas the cattle tick and the resulting Federal quarantine restrictions are the greatest obstacles to the development of the cattle industry of the South; and

Whereas the work of tick extermination already done demonstrates that it is entirely feasible to eradicate the cattle tick: Therefore, be it

Resolved, That it is the sense of this meeting that the time has arrived for active and substantial assistance and cooperation from the Federal Government with the Southern States in their effort to exterminate the southern cattle fever tick; and the Oklahoma Cattlemen's Association, at Oklahoma City in March last (1906), asked for $500,000. Moreover, Doctor Melvin, Chief of the Bureau of Animal Industry, Agricultural Department, concurs with Secretary Wilson in thinking $100,000 a proper sum to begin this fight.

Therefore, Mr. Chairman, I earnestly hope that the bill will be amended before it reaches the President, and $100,000 be appropriated for this most laudable purpose.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HIGGINS having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills of the following titles:

H. R. 11348. An act granting an increase of pension to Cynthia Cordial, now Vernon;

H. R. 14227. An act granting an increase of pension to Anna C. Bassford;

H. R. 12407. An act granting an increase of pension to Robert Bivans;

H. R. 12888. An act granting an increase of pension to Jacob Sannar;

H. R. 12415. An act granting an increase of pension to Elizabeth Bodkin;

H. R. 12019. An act granting an increase of pension to Henry Jacob Fox;

H. R. 11907. An act granting an increase of pension to August Danieldson;

H. R. 13139. An act granting an increase of pension to William Walrod;

H. R. 11824. An act granting an increase of pension to Jennie P. Starkins;

H. R. 15683. An act granting an increase of pension to Thomas Brown;

H. R. 15835. An act granting an increase of pension to George M. Thompson;

H. R. 15670. An act granting an increase of pension to Daniel E. Durgin;

H. R. 15431. An act granting a pension to Theresa Creiss;

H. R. 15484. An act granting an increase of pension to Robert Dick;

H. R. 15396. An act granting an increase of pension to John T. Jacobs;

H. R. 14553. An act granting an increase of pension to Jesse Lienallen.

H. R. 14552. An act granting an increase of pension to Henry Davey;

H. R. 14853. An act granting an increase of pension to Helen C. Sanderson;

H. R. 14782. An act granting an increase of pension to Michael Manahan;

H. R. 13928. An act granting an increase of pension to Harvey Foster;

H. R. 15840. An act granting an increase of pension to Edgar B. Hughson;

H. R. 15548. An act granting an increase of pension to Jacob Ferber;

H. R. 15256. An act granting an increase of pension to Benjamin F. Greer;

H. R. 14117. An act granting an increase of pension to William H. H. Fellows;

H. R. 13840. An act granting an increase of pension to Absalom Shell;

H. R. 13738. An act granting an increase of pension to Henry Hahn;

H. R. 13726. An act granting a pension to Sarah J. Manson;

H. R. 14116. An act granting an increase of pension to John P. Rains;

H. R. 13741. An act granting an increase of pension to George R. Scott;

H. R. 13504. An act granting an increase of pension to Elizabeth Thompson;

H. R. 13345. An act granting an increase of pension to Frank Clendenin;

H. R. 14498. An act granting an increase of pension to Eliza Davidson;

H. R. 14688. An act granting an increase of pension to Robert Timmons;

H. R. 12996. An act granting an increase of pension to Eugene B. McDonald;

H. R. 13961. An act granting an increase of pension to Julius Buxbaum;

H. R. 15321. An act granting an increase of pension to Charles Skaden;

H. R. 15621. An act granting an increase of pension to Caleb M. Tarter;

H. R. 15487. An act granting an increase of pension to Truman Aldrich;

H. R. 14990. An act granting an increase of pension to Lucius D. Whaley;

H. R. 15569. An act granting an increase of pension to Harriett A. Duvall;

H. R. 15701. An act granting an increase of pension to William Brown;

H. R. 15616. An act granting an increase of pension to Pleasant Calor;

H. R. 15277. An act granting an increase of pension to George W. Pierce;

H. R. 15050. An act granting an increase of pension to William H. Near;

H. R. 13862. An act granting an increase of pension to Luther S. Holly;

H. R. 12526. An act granting an increase of pension to Solomon Johnson;

H. R. 14780. An act granting an increase of pension to John A. Royer;

H. R. 10408. An act granting an increase of pension to Anna E. Middleton;

H. R. 13437. An act granting an increase of pension to Samuel R. Lowry;

H. R. 11692. An act granting an increase of pension to John P. Wishart;

H. R. 14993. An act granting an increase of pension to Riley M. Smiley;

H. R. 15061. An act granting an increase of pension to Ethan Allen;

H. R. 15780. An act granting an increase of pension to Peter Cole;

H. R. 10424. An act granting a pension to Emanuel S. Thompson;

H. R. 14915. An act granting an increase of pension to Andrew W. Tracy;

H. R. 14566. An act granting an increase of pension to Robert E. Kiernan;

H. R. 15380. An act granting an increase of pension to Valentine Gunselman;

H. R. 11654. An act granting a pension to Emma A. Smith;

H. R. 8687. An act granting a pension to William I. Lusch;
H. R. 10591. An act granting an increase of pension to Sarah A. Scott;
H. R. 12534. An act granting an increase of pension to Richard Reynolds;
H. R. 14989. An act granting an increase of pension to Arcatie E. Thompson;
H. R. 15240. An act granting an increase of pension to James W. Fowler;
H. R. 8475. An act granting an increase of pension to John F. Tathem;
H. R. 12059. An act granting an increase of pension to Mildred W. Mitchell;
H. R. 12099. An act granting a pension to Charlotte A. McCormick;
H. R. 12755. An act granting an increase of pension to Nathaniel W. Plymate;
H. R. 14698. An act granting an increase of pension to William F. Drake;
H. R. 14442. An act granting an increase of pension to Esther M. Lowe;
H. R. 15007. An act granting an increase of pension to Henry Hares;
H. R. 13171. An act granting an increase of pension to Jonathan K. Porter;
H. R. 11143. An act granting an increase of pension to Levi B. Noulton;
H. R. 13217. An act granting a pension to Joshua Barnes;
H. R. 13823. An act granting an increase of pension to William Van Keuren;
H. R. 7844. An act granting a pension to Phoebe Keith;
H. R. 9287. An act granting a pension to Eliza Byron;
H. R. 9288. An act granting an increase of pension to Catherine E. Bragg;
H. R. 12715. An act granting a pension to George B. Kirk;
H. R. 517. An act granting an increase of pension to Luke Waldron;
H. R. 7232. An act granting a pension to Alba B. Bean;
H. R. 6949. An act granting a pension to Alice W. Powers;
H. R. 11538. An act granting an increase of pension to Eli Duvall;
H. R. 11606. An act granting an increase of pension to Edmund W. Bixby;
H. R. 11703. An act granting a pension to Laura McNulta;
H. R. 15717. An act granting an increase of pension to Ebenezer A. Rice;
H. R. 15794. An act granting an increase of pension to Samuel Pepper;
H. R. 1565. An act for the relief of Theodore H. Bishop;
H. R. 12663. An act granting an increase of pension to Frederick Friebele;
H. R. 12556. An act granting an increase of pension to Joseph W. Coppage;
H. R. 13445. An act granting an increase of pension to Thomas T. Blanchard;
H. R. 12017. An act granting an increase of pension to James B. Simkins;
H. R. 12389. An act granting an increase of pension to Isaiah B. McDonald;
H. R. 13871. An act granting an increase of pension to William Delany;
H. R. 12390. An act granting an increase of pension to John W. Raynor;
H. R. 14534. An act granting an increase of pension to Jasper N. Harrelson;
H. R. 14657. An act granting an increase of pension to David W. West;
H. R. 14677. An act granting a pension to Reuben H. Ballenger;
H. R. 15415. An act granting an increase of pension to Ann R. Nelson;
H. R. 15119. An act granting an increase of pension to Cornelius Westman;
H. R. 15216. An act granting an increase of pension to Truman C. Stevens.
H. R. 14001. An act granting an increase of pension to Nathan S. Ruddock;
H. R. 16504. An act granting an increase of pension to Thomas W. Barnum;
H. R. 2778. An act granting an increase of pension to Patrick Mahoney;
H. R. 2796. An act granting a pension to Benjamin T. Odiorne;
H. R. 15011. An act granting an increase of pension to John Eldridge, jr.;
H. R. 10775. An act granting a pension to Ellen S. Cushman;
H. R. 9441. An act granting a pension to Clara N. Scranton;
H. R. 4242. An act granting an increase of pension to Mary A. Foster;
H. R. 15956. An act granting an increase of pension to Walter F. Bean;
H. R. 16296. An act granting an increase of pension to Henry C. Coffin;
H. R. 16433. An act granting an increase of pension to Marius S. Cooley;
H. R. 3456. An act granting an increase of pension to David B. Ott;
H. R. 13881. An act granting an increase of pension to Amos Dyke;
H. R. 1953. An act granting an increase of pension to Susan S. Theall;
H. R. 16972. An act granting a pension to Harriet L. Morrison;
H. R. 531. An act granting an increase of pension to Ebenezer Rickett;
H. R. 1910. An act granting an increase of pension to Andrew H. Nichols;
H. R. 2102. An act granting an increase of pension to Eugenie Tilburn;
H. R. 4069. An act granting a pension to Joseph E. Green;
H. R. 3689. An act granting an increase of pension to Charles W. Lyons;
H. R. 2794. An act granting an increase of pension to Richard E. Davis;
H. R. 4264. An act granting a pension to Frances E. Maloon;
H. R. 3430. An act granting an increase of pension to Peter M. Culins;
H. R. 2801. An act granting an increase of pension to Alexander M. Lowry;
H. R. 14299. An act granting an increase of pension to Rose V. Mullin;
H. R. 17589. An act granting an increase of pension to Sidney A. Lawrence;
H. R. 9442. An act granting a pension to Dora C. Walker;
H. R. 3979. An act granting an increase of pension to Paul Stang;
H. R. 1567. An act granting an increase of pension to Edward Duffy;
H. R. 5853. An act granting an increase of pension to Quincy Corwin;
H. R. 15024. An act granting an increase of pension to Henry C. Keyser;
H. R. 2852. An act granting an increase of pension to James Dayton;
H. R. 16190. An act granting an increase of pension to James T. Caskey;
H. R. 16210. An act granting an increase of pension to Abraham G. Long;
H. R. 16250. An act granting an increase of pension to Augustus J. Morey;
H. R. 16334. An act granting an increase of pension to Enos Day;
H. R. 16428. An act granting an increase of pension to Edwin Hicks;
H. R. 16520. An act granting an increase of pension to Edward Farrell;
H. R. 1138. An act granting an increase of pension to Joseph S. Rice;
H. R. 667. An act granting an increase of pension to George H. Gaskill;
H. R. 2173. An act granting an increase of pension to Thomas H. Padgett;
H. R. 16582. An act granting an increase of pension to Ellen T. Sivels;
H. R. 16650. An act granting an increase of pension to Robert B. Williby;
H. R. 17274. An act granting an increase of pension to Andrew J. Mosier;
H. R. 17273. An act granting a pension to Mary B. Watson;
H. R. 1375. An act granting an increase of pension to Silas Mosher;
H. R. 5822. An act granting an increase of pension to Miner L. Braden;
H. R. 15894. An act granting an increase of pension to Alma L. Wells;
H. R. 15928. An act granting an increase of pension to Herbert D. Ingersoll;
H. R. 16182. An act granting an increase of pension to Samuel F. Williams;
H. R. 1893. An act granting an increase of pension to Henry C. Maxwell;

H. R. 10881. An act granting an increase of pension to Jerry Edwards;
H. R. 1018. An act granting an increase of pension to Silas Flournoy;
H. R. 5274. An act granting an increase of pension to William T. Branam;
H. R. 17235. An act granting an increase of pension to Martha Howard;
H. R. 17151. An act granting an increase of pension to William T. Morgan;
H. R. 16454. An act granting an increase of pension to Samuel E. Carlton;
H. R. 17194. An act granting an increase of pension to Jennie White;
H. R. 16455. An act granting an increase of pension to John Long;
H. R. 14374. An act granting an increase of pension to Benjamin B. Cahoon;
H. R. 16376. An act granting an increase of pension to Joseph Muncher;
H. R. 16442. An act granting an increase of pension to John A. Powell;
H. R. 16523. An act granting an increase of pension to Charles P. Hopkins;
H. R. 1734. An act granting an increase of pension to William H. Lee;
H. R. 1858. An act granting an increase of pension to James Jacobs;
H. R. 1340. An act granting a pension to Robert Kennish;
H. R. 3738. An act granting an increase of pension to Daniel Boughman;
H. R. 17608. An act granting an increase of pension to Sidney S. Brewerton;
H. R. 15863. An act granting an increase of pension to William Louther;
H. R. 4763. An act granting an increase of pension to John C. Matheny;
H. R. 13730. An act granting an increase of pension to Joseph Shroyer;
H. R. 15982. An act granting an increase of pension to Henrietta W. Wilson;
H. R. 3419. An act granting an increase of pension to John Biddle;
H. R. 12803. An act granting a pension to Emma C. Waldron;
H. R. 3347. An act granting an increase of pension to Orrestes B. Wright;
H. R. 8711. An act granting an increase of pension to James Howard;
H. R. 4294. An act granting an increase of pension to Annie R. E. Nesbitt;
H. R. 16445. An act granting an increase of pension to Henry H. Sibley;
H. R. 5178. An act granting an increase of pension to Elijah Pantall;
H. R. 4230. An act granting an increase of pension to William H. Miles;
H. R. 15895. An act granting a pension to Harry D. McFarland;
H. R. 16024. An act granting an increase of pension to Katie B. Meister;
H. R. 16266. An act granting an increase of pension to Margaret A. Rucker;
H. R. 16514. An act granting an increase of pension to John W. Barton;
H. R. 16578. An act granting an increase of pension to Edward Lilley;
H. R. 11565. An act granting a pension to Sarah A. Brinker;
H. R. 7968. An act granting an increase of pension to Palmetto Dodson;
H. R. 7737. An act granting a pension to William H. Winters;
H. R. 8780. An act granting an increase of pension to Abraham M. Barr;
H. R. 8778. An act granting an increase of pension to George Henderson;
H. R. 11306. An act granting an increase of pension to John C. Parkinson;
H. R. 10727. An act granting an increase of pension to Aquilla M. Hizar;
H. R. 10686. An act granting an increase of pension to George W. Adams;
H. R. 10358. An act granting an increase of pension to Charles Dorin;
H. R. 6864. An act granting an increase of pension to Henry Good;
H. R. 9833. An act granting an increase of pension to James C. Miller;
H. R. 9829. An act granting an increase of pension to William J. Thompson;
H. R. 11918. An act granting a pension to Mary A. Weigand;
H. R. 9606. An act granting a pension to Martha Jewell;
H. R. 9627. An act granting an increase of pension to Daniel Craig;
H. R. 9601. An act granting an increase of pension to John B. Page;
H. R. 10494. An act granting an increase of pension to Hannah C. Reese;
H. R. 9415. An act granting an increase of pension to John E. Murphy;
H. R. 9417. An act granting an increase of pension to George A. Havel;
H. R. 10250. An act granting an increase of pension to Ephraim Marble;
H. R. 7720. An act granting an increase of pension to Stephen M. Sexton;
H. R. 8518. An act granting an increase of pension to Samuel Meadows;
H. R. 7902. An act granting an increase of pension to Eugene Orr, alias Charles Southard;
H. R. 7837. An act granting an increase of pension to Mary J. McKim;
H. R. 12521. An act granting an increase of pension to Alice Eddy Potter;
H. R. 6238. An act granting an increase of pension to Jesse Woods;
H. R. 6256. An act granting an increase of pension to Solomon Riddell;
H. R. 601. An act granting an increase of pension to Israel Munger;
H. R. 16930. An act granting a pension to Virginia A. Hilburn;
H. R. 16985. An act granting an increase of pension to Gilson Lawrence;
H. R. 16583. An act granting an increase of pension to David R. Walden;
H. R. 16023. An act granting an increase of pension to Sheldon B. Fargo;
H. R. 16437. An act granting an increase of pension to Samuel H. Frazier;
H. R. 11898. An act granting an increase of pension to Lars F. Wadsten;
H. R. 9578. An act granting an increase of pension to Alfred B. Menard;
H. R. 9556. An act granting an increase of pension to Thomas C. Jackson;
H. R. 9261. An act granting an increase of pension to William C. Herridge;
H. R. 9046. An act granting a pension to William Berry;
H. R. 7745. An act granting an increase of pension to Wheeler Lindenbower;
H. R. 8046. An act granting an increase of pension to James Thompson Brown;
H. R. 7821. An act granting an increase of pension to Mathias Brady;
H. R. 10456. An act granting an increase of pension to William T. Edgemon;
H. R. 7687. An act granting an increase of pension to Charles Hammond, alias Hiram W. Kirkpatrick;
H. R. 8948. An act granting an increase of pension to John W. Hammond;
H. R. 9257. An act granting an increase of pension to Nathaniel M. Stukes;
H. R. 8277. An act granting an increase of pension to Samuel S. Garst;
H. R. 10924. An act granting an increase of pension to Thomas J. Sizer;
H. R. 10580. An act granting an increase of pension to Samuel Fish;
H. R. 10473. An act granting an increase of pension to John B. Gerard;
H. R. 10161. An act granting an increase of pension to Benjamin R. South;
H. R. 10173. An act granting an increase of pension to John H. Lockhart;
H. R. 10030. An act granting an increase of pension to Arby Frier;
H. R. 7540. An act granting an increase of pension to William F. Griffith;
H. R. 6985. An act granting a pension to Susan C. Smith;

H. R. 6452. An act granting an increase of pension to William H. Doherty;
H. R. 6213. An act granting an increase of pension to Hiram Linn;
H. R. 11593. An act granting an increase of pension to Evans Blake;
H. R. 11591. An act granting an increase of pension to John B. Hall;
H. R. 11532. An act granting an increase of pension to Andrew J. Speed;
H. R. 11374. An act granting an increase of pension to Fanny L. Conine;
H. R. 9791. An act granting an increase of pension to Amelia E. Grimsley;
H. R. 6919. An act granting an increase of pension to Joseph A. C. Curtis;
H. R. 6450. An act granting an increase of pension to Nannie L. Schmidt;
H. R. 8820. An act granting a pension to Inez Talkington;
H. R. 8157. An act granting an increase of pension to Milton H. Wayne;
H. R. 8151. An act granting an increase of pension to Valentine Bartley;
H. R. 1245. An act granting an increase of pension to David Rankin;
H. R. 4679. An act granting an increase of pension to Franklin D. Clark;
H. R. 3333. An act granting a pension to William Simmons;
H. R. 5956. An act granting an increase of pension to Joseph H. Wagoner;
H. R. 5044. An act granting an increase of pension to Hiram G. Hoke;
H. R. 2721. An act granting an increase of pension to Ashford R. Matheny;
H. R. 4350. An act granting an increase of pension to Joseph W. Vance;
H. R. 2731. An act granting an increase of pension to James M. Eddy;
H. R. 17028. An act granting an increase of pension to Lorenzo D. Hartwell;
H. R. 16179. An act granting an increase of pension to William N. J. Burns;
H. R. 11367. An act granting an increase of pension to Manning Abbott;
H. R. 11361. An act granting an increase of pension to Thomas Hughes;
H. R. 8290. An act granting an increase of pension to Lloyd D. Bennett; and
H. R. 9993. An act granting a pension to George W. Warren.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5668. An act granting an increase of pension to George P. Sealey;
S. 5378. An act removing the charge of desertion from the name of William R. Garner;
S. 3164. An act to correct the military record of Patrick F. McDermott;
S. 5702. An act granting an increase of pension to Anna C. Bingham;
S. 5522. An act granting an increase of pension to Charles E. Sischo;
S. 1508. An act granting an increase of pension to James A. Murch;
S. 4718. An act granting an increase of pension to George W. Gilson;
S. 1513. An act granting an increase of pension to Harriet A. Rawles;
S. 4569. An act granting an increase of pension to Augustus A. Nevins;
S. 1211. An act to correct the military record of John Alspaugh;
S. 2624. An act granting an honorable discharge to Henry G. Thomas, deceased, Company C, Second Kentucky Cavalry;
S. 1166. An act to correct the military record of Peleg T. Griffith;
S. 4197. An act authorizing and directing the Secretary of the Treasury to enter on the roll of Capt. Orlando Humason's Company B, First Oregon Mounted Volunteers, the name of Hezekiah Davis;
S. 3271. An act granting an increase of pension to Margaret E. Brown;
S. 5680. An act granting an increase of pension to Thomas J. Bowser;
S. 5780. An act granting an increase of pension to Lorenzo E. Johnson;
S. 5562. An act granting an increase of pension to John Hull;
S. 5754. An act granting a pension to Hannah McCarty;
S. 5532. An act granting an increase of pension to Simon A. Snyder;
S. 5735. An act granting an increase of pension to Andrew Danley;
S. 4488. An act granting an increase of pension to J. F. Amis;
S. 5736. An act granting an increase of pension to Mary Clark;
S. 557. An act granting an increase of pension to Mariot Losure;
S. 869. An act granting an increase of pension to Baltzar Mowan;
S. 678. An act granting an increase of pension to Albert Butler;
S. 2467. An act granting an increase of pension to Martin Clark;
S. 5163. An act granting an increase of pension to John Marah;
S. 3483. An act granting an increase of pension to William L. Sheaff;
S. 4358. An act granting an increase of pension to Thomas McCormick;
S. 4005. An act granting an increase of pension to Michael Quill;
S. 5082. An act granting an increase of pension to David N. Winsell;
S. 4361. An act granting an increase of pension to John W. Daley;
S. 5523. An act granting an increase of pension to Thomas J. Pickett;
S. 5349. An act granting an increase of pension to William H. H. Robinson;
S. 4460. An act granting an increase of pension to Ann J. Thompson;
S. 5247. An act granting an increase of pension to Jacob Wigel;
S. 4457. An act granting an increase of pension to L. A. Tyson;
S. 3299. An act granting an increase of pension to Spencer C. Stilwell;
S. 4692. An act granting a pension to Adaline M. Thornton;
S. 394. An act granting an increase of pension to Amanda Lucas;
S. 4796. An act granting an increase of pension to Lorinda J. White;
S. 522. An act granting an increase of pension to Emma Worrall;
S. 3033. An act granting an increase of pension to Aaron F. Patten;
S. 4401. An act granting an increase of pension to George W. Tomlinson;
S. 5671. An act granting an increase of pension to Richard L. Delong;
S. 5579. An act granting an increase of pension to Henry T. Sisson;
S. 5704. An act granting an increase of pension to Ruth P. Pierce;
S. 4177. An act granting an increase of pension to Harlan P. Cobb;
S. 3040. An act granting an increase of pension to Mary C. Wilsey;
S. 5379. An act granting an increase of pension to Otto A. Risum;
S. 5516. An act granting an increase of pension to Alfred M. Hamlen;
S. 5670. An act granting an increase of pension to Isaac L. Duggar;
S. 4665. An act granting an increase of pension to Louis Du Bois;
S. 1705. An act granting an increase of pension to Lewis S. George;
S. 4752. An act granting an increase of pension to Thomas J. Tidswell;
S. 4525. An act granting an increase of pension to David Oglevie;
S. 5054. An act granting an increase of pension to George H. Woodward;
S. 3219. An act granting an increase of pension to Joseph M. Allison;
S. 4239. An act granting an increase of pension to Job Rice;
S. 5659. An act granting an increase of pension to William I. Brewer;

S. 5343. An act granting an increase of pension to Ernest H. Wardwell;
S. 5658. An act granting an increase of pension to Nancy Pruit;
S. 2139. An act to remove the charge of desertion from the military record of Anton Ernst;
S. 3862. An act to correct the military record of Lora E. Reed;
S. 3738. An act granting an increase of pension to Lisania Judd;
S. 993. An act granting a pension to Samuel J. Langdon;
S. 4048. An act granting an increase of pension to Henry S. Knecht;
S. 5492. An act granting an increase of pension to Joseph F. Tebbetts;
S. 5359. An act granting an increase of pension to William H. Ward;
S. 4175. An act granting an increase of pension to John Caverly;
S. 5603. An act granting a pension to Kate S. Hutchings;
S. 5691. An act granting a pension to Kate Sloan;
S. 5631. An act granting an increase of pension to Isaac M. Howard;
S. 5539. An act granting an increase of pension to Hermann Muehlberg;
S. 3485. An act granting an increase of pension to Mathias Hammes;
S. 2043. An act granting an increase of pension to Andrew H. Wolf;
S. 5504. An act granting an increase of pension to Joseph Dickson;
S. 2978. An act granting an increase of pension to Eli W. Knowles;
S. 442. An act granting an increase of pension to Francis Colton;
S. 3797. An act granting an increase of pension to A. E. Wood;
S. 3798. An act granting an increase of pension to Charles Farrell;
S. 2851. An act granting an increase of pension to George Chambers;
S. 5536. An act granting an increase of pension to William O. Clark;
S. 5640. An act granting an increase of pension to Clinton B. Wintersteen;
S. 5673. An act granting an increase of pension to Hilton Springsteed;
S. 5641. An act granting an increase of pension to John W. Fletcher;
S. 5571. An act granting an increase of pension to Betsey B. Whitmore; and
S. 5789. An act to regulate the publication of notices issued under the public-land laws.

The message also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 15397. An act granting an increase of pension to Edward Gillespie;
H. R. 15687. An act granting an increase of pension to William F. M. Rice;
H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;
H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;
H. R. 8226. An act granting an increase of pension to Laura B. Ihrie;
H. R. 16215. An act granting an increase of pension to Mary Dagenfield; and
H. R. 15907. An act granting an increase of pension to Lewis De Laittre.

AGRICULTURAL APPROPRIATION BILL.

The committee resumed its session.

Mr. LAMB. I yield ten minutes to the gentleman from Louisiana [Mr. WATKINS].

Mr. WATKINS. Mr. Chairman, let us come back to our moorings.

As we are considering in the Committee of the Whole House on the state of the Union the bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907, which carries with it an appropriation of $6,880,300, besides $320,000 for the cotton-boll weevil, gypsy and brown-tail moth, and the Texas cattle-tick emergencies, which appropriation asked is an increase of $187,610 over the appropriation of the last fiscal year, it is well to consider whether this appropriation is commensurate with the important industries which it seeks to foster. A daily New York paper yesterday criticised this bill as being extravagant.

The agricultural industry is the backbone and sinew, the mainstay and support, of all other industries. Without it the railroads would be idle, the banks would be useless, the factories stopped, the merchant, the lawyer, the physician, and all other occupations would be devoid of resources.

The corn crop during last year aggregated in value $1,216,000,000; hay, $605,000,000; cotton, $575,000,000; wheat, $525,000,000; oats, $282,000,000; potatoes, $138,000,000; barley, $58,000,000; tobacco, $52,000,000; sugar cane and sugar beets, $50,000,000; rice, approximately $14,000,000; butter and milk, $665,000,000; poultry products, $500,000,000. Horses and mules in the United States last year were valued at $1,452,000,000; milch cows, $482,000,000; other cattle, $662,000,000; sheep and swine, $283,255,000. These values alone aggregate $7,559,255,000, not including goats and other animals on the farm, peanuts, sorghum, peas, melons, fruits, berries, vegetables, and a multitude of other commodities produced upon the farm.

It can not, then, be deemed extravagant when an appropriation of only $7,200,300 is asked to maintain the Agricultural Department for this fiscal year, when we consider that for the last fiscal year there was expended for the legislative department of the Government, $11,748,459.59; for the executive department, $3,853,914.79; State Department, $1,517,492.91; Treasury Department, $70,725,731.97; War Department, $123,670,023.90; Navy Department, $115,908,324.27; Interior Department, $161,413,100.12; Post-Office Department, $17,284,522.68; Department of Commerce and Labor, $9,322,385.94; Department of Justice, $684,580.49. There was spent for pensions alone last year $141,773,964.57.

Mr. Chairman, in the ten minutes which are allowed me, the parts of this bill to which I desire to call particular attention are the appropriations asked for in the interest of the destruction of the Mexican cotton-boll weevil in the Southern States and the cattle tick and in support of the upbuilding of the roads of the country. In the emergency appropriation $105,000 are asked to be appropriated for the extermination of the Mexican cotton-boll weevil, and $65,000 for the extermination of the cattle ticks, and as a basis for experimental good roads $60,000. These appropriations asked are so reasonable, and, in fact, meager compared with the vast results to be accomplished that there could certainly be no hesitancy on the part of any Member of this House in voting for these appropriations.

THE MEXICAN COTTON-BOLL WEEVIL.

The estimated loss in cotton alone last year from the ravages of the boll weevil in Texas and Louisiana amounted to 450,000 bales, representing a value, including the seed, of $22,000,000.

The weevil has spread over an area of 100,000 square miles in Texas and Louisiana, and has now reached a point in Louisiana within 40 miles of the Mississippi River, and is going eastward and northeast at the rate of 50 miles each year. It is carrying terror and destruction in its wake, and ere long its ravages will aggregate in dollars and cents the recent terrible catastrophe on the western shores of this continent.

About one-third of the cotton acreage of the United States is now infested with the boll weevil. The Government officials in the Bureau of Entomology are not only teaching the farmers how to make more cotton by cultural methods in spite of the boll weevil, but are encouraging them to diversify their crops and to cultivate on the intensive plan, resulting in enormous yields compared with former methods. The money will be profitably invested for which this appropriation calls.

The devastation caused by the Mexican cotton-boll weevil makes it necessary for those engaged in agriculture in the cotton-growing States to look to some other source of revenue than cotton.

THE CATTLE TICK.

Heretofore the raising of cattle in the South has received very little attention outside of the State of Texas; but if it were not for the destruction of cattle by the Texas fever, caused by the cattle tick, and the fact that the tick itself seriously damages cattle where fever is not produced by it, the cattle industry in the South would be a source of tremendous profit.

There is no part of this great country where cattle can be raised more cheaply and with greater profit, if the tick is eliminated.

The cattle tick causes a loss to the agriculturists of the South of at least $100,000,000 annually, and the estimate of $150,000,000 is not unreasonable.

The first estimate of $100,000,000 is made by the officials of the United States Government, and the estimate of $150,000,000 by Mr. August Mayer, of Shreveport, La., who personally has lost $10,000 within four years from the cattle tick. He has

made vast research into the question, and I wish to give you the benefit of his investigations:

THE POSSIBLE PROGENY OF ONE FEMALE TICK.

In the Gulf States four generations will be often hatched in one season. Say we have two eggs carried over the winter that hatch by April 15 a male and female. This female will have become engorged and laid 3,000 eggs by May 15, which will have hatched by June 15. One thousand five hundred of these seed ticks will be females, and will have become engorged and laid 1,500×3,000=4,500,000 by July 15. By August 15 these eggs will have hatched; one-half females equals 2,250,000 by September 15 will have engorged and laid 2,500,000× 3,000=6,750,000,000, which will hatch by October 15. One-half of these being females—that is, 3,375,000,000—will engorge and drop irregularly and go through the winter as adults, or will lay eggs that will pass through the winter.

Of course this can not happen, as such a number of parasites would destroy their hosts, and the species would thus destroy itself. Nature does not work that way. To preserve the species she destroys a goodly number of all broods, and thus preserves the host and tick. But the figures show that if the host is furnished the ticks will multiply so enormously as to endanger the existence of the host; i. e., it is quite possible for the ticks to kill the cattle outright.

THE DANGERS OF SMALL PASTURES ON THE FARM.

Stocking these pastures to their full capacity always means ticks in ruinous numbers. Where cattle are confined to a certain tract, especially where wooded or spotted with shade trees, they habitually gather in certain places, here in the forenoon and there in the afternoon; they may be found at certain favorable resting places every day. In summer time, when the flies are bad, the whole herd may be found together in the deepest shade in the woods. These favored and regularly frequented spots become extremely infested and remain so the whole year round, and it is very evident that the cattle when lying down here must become literally covered with the seed ticks.

THE DRAIN ON THE ANIMAL BY TICK INFESTATION.

An engorged female tick weighs about 5 grains; 1,500 average size ticks will weigh 1 pound; nearly all these consist of blood drawn from the host during two or three days, the period of inflation of the tick. Three hundred thousand ticks, which number may be permanently carried by a good-sized animal during the height of the tick season, will draw during a couple of weeks 200 pounds of blood from its body; and since four broods may mature upon one animal, it will be seen that the ticks may deprive the beast in one season of 800 pounds of its substance! Since a growing animal can put on 400 pounds of flesh on pasture during one season, it can be readily perceived why it is that cattle on the richest pasture, when the same is tick infested, may grow poorer from day to day, or even starve to death. Then there is, in addition to the actual loss of blood, the never-ceasing irritation of the ticks and hence no rest for the animal. Its existence is beset by continuous torture.

ROTATION OF PASTURES.

A remedy possessing real merit for evading or mitigating the damage done by the tick has been found in the rotation of pastures. Owing to the fact that this tick can only live a certain length of time without food, it is possible to rid a pasture of the parasite by keeping all stock out of it for this length of time. This will, of course, necessitate a double set of pastures, so arranged that tick communication from one to another—or from the outside—is impossible. Water courses running through these pastures, and coming from tick-infected territory, may bring eggs and seed-ticks from a distance and reinfest them.

ERADICATION OF THE TICK.

What have these experiments in the rotation of pastures and feed lots determined? They have brought to light the most vital fact in the whole tick problem, viz, that the tick can be surely and easily destroyed in a manner entirely practical throughout the infested territory. The methods will probably not be exactly the same everywhere, owing to climatic and probably other differences. These conditions will have to be studied and thereafter methods adopted for each locality. We know, for instance, that one summer's starvation here, or complete exclusion of cattle from a pasture there during the winter months, will suffice to kill the ticks. If we are now so located that reinfection can not take place, then we have the tick problem solved, by simply starving the ticks out and be done with them forever, and from now on have "above quarantine" conditions. Should this freeing of the pastures from the ticks happen along the present quarantine line, as has been done in a number of counties in North Carolina, then the newly cleaned area will be admitted to the favored cattle-growing region "above the quarantine line." Should it occur deep within the quarantined territory, then the newly made tick-free land could be granted favor in its cattle industry by the Government not enjoyed by the ticky territory surrounding it. Of course this isolated piece of tick-free land would be protected by a strict quarantine against all neighbors, which would once more complicate trade relations. However, whatever methods of tick eradication may be found best suited to the different localities, the tick can be made to go, and will only remain a terror to southern cattle and a great handicap to southern agriculture by suffrage.

THE COST.

Below the quarantine line we have something over 15,000,000 cattle, the total farm value of which is given by the last census as nearly $183,000,000. The dairy cattle are credited with a value of about $58,650,000, and the other cattle with over $124,000,000. From observation and experience I estimate that a shrinkage in value of 20 per cent in cattle other than dairy cattle is due to the effects of the cattle tick, which, in round figures, would mean a direct annual loss of $25,000,000 for beef cattle. The dairy cattle, being better cared for and confined to a large extent in lots where the ticks can not flourish or even exist, suffer less damage. Nevertheless considerable damage is experienced in a great many instances, especially in the country, for extra feed required and in the shrinkage in the flow of milk in tick infestation. It is believed that an estimate of 5 per cent of the total value of the dairy cattle is not overcharging the cattle tick, which means an annual loss of nearly $3,000,000.

The total loss, then, of southern cattle on account of the tick, under these heads, would be $28,000,000.

But there is also chargeable to the tick a great number of deaths, either from acute Texas fever or acute depletion, or induced tuberculosis or kidney diseases, which deaths are often attributed to some other cause or are not understood at all. In the writer's opinion there is a further loss to be recorded against the infection of the tick in the reduction of fecundity in the female cattle, and also in the greater proness of tick-infested cattle to diseases on abnormal conditions of the reproductive organs, bringing about abortion. This loss is often severely felt, especially in herds of full-blood animals.

Then there is also chargeable to the tick the greater expense of providing pasturage for the cattle or extra feed during heavy infestation, for dips and other preventive measures, extra care and supervision. It is deemed a conservative estimate to place the annual loss under these three heads at 10 per cent of the actual value of all our cattle, or nearly $18,500,000. Then there is another very material charge to be entered against the tick. With tick infestation at babyhood, the only time when the animal may with a degree pass the ordeal, there is very little chance to ever bring cattle to early maturity. The stunting they usually receive obliges us to carry them until they are 3 or 4 years old. A baby-beef industry, with the cattle tick infesting our cattle, is not possible. Therefore instead of being able, like the farmers above the quarantine line, to market cattle when they are 24 to 30 months old, we have to carry ours two years longer. That means two years of extra feed and care and capital tied up unnecessarily by adverse conditions. It costs easily $5 per year to provide and care for a cow; and to keep our 12,000,000 beef cattle over one year would mean an extra outlay of $60,000,000 yearly, not mentioning the interest of the dead capital of some $125,000,000.

Then there is the loss caused by the special transportation and yard facilities that have to be provided, which will all finally come out of the pockets of the Southern cattle owners. There is the loss caused by interference with free and unmolested traffic and the lower price obtained at the markets on account of the necessary regulations. Then there is also the cost of the inspection service and the maintenance of the quarantine. It is very easily seen that the annual loss sustained by the Southern States to-day amounts yearly to the enormous sum of $150,000,000.

Let us look at this subject in still another light. The average value of southern cattle is $7 below the average value of northern cattle. In the State of Arkansas the beef cattle are given a value of $7.50 per head. Those of Iowa, also situated in the Mississippi Valley, are valued at $19.42, almost three times as much. It can be quite well imagined that if the southern cattle were not infected with this tick they would very soon produce cattle of average value equaling those of the Northern States. In other words, over 12,000,000 beef cattle would be worth $84,000,000 more than they are now. It is also easy to believe that the Southern States, with everything favorable to cattle growing, would soon double and even treble their number of cattle, if the tick were gone. The benefits that would accrue from this additional asset are denied us because of the tick.

Then who can estimate the benefit that would result from the increased fertility of the soil which would naturally result from a great cattle industry. Instead of exporting now to foreign countries over 820,000,000 pounds of cotton-seed meal, we could feed it to our cattle and thus keep the enormous amount of fertilizer, of which we now rob our farms, at home; and thereby secure the future of our agricultural greatness. If for no other object but to prevent exporting the fertility of our soil, to see our cotton seed fed to cattle on the farms where this seed is produced, any amount of money spent in the complete eradication of the cattle tick would be a bagatelle compared to the benefits derived. To speak of an annual loss of $100,000,000, chargeable in the aggregate to the cattle tick, does not nearly approach the true loss sustained by our country because of its presence. To eradicate the cattle tick from the Southern States means to preserve the Egypt of our hemisphere. It means the preservation of the supremacy of American agriculture.

In his circular, Dr. Tait Butler, State veterinarian of North Carolina, states:

Special attention is hereby called to the changes in the cattle quarantine lines in North Carolina to prevent the spread of tick fever. Those interested in the cattle industry and the removal of the most serious obstacle to its development, the fever tick, will note with satisfaction the increase in the free or unquarantined area of the State.

Fig. 1,[a] page 2, shows the Federal quarantine line as it was in 1902, while Fig. 2,[a] page 2, shows the line in force during 1906.

It will be noted that ten entire counties—Wilkes, Caldwell, Burke, Alexander, Iredell, Davie, Surry, Catawba, Lincoln, Gaston, and parts of two others, Rowan and McDowell—have been exempted from all Federal quarantine restrictions during the past four years. This is the result of a campaign of tick extermination which has been carried on by the North Carolina department of agriculture, and is certainly a gratifying success. It not only demonstrates the feasibility of exterminating the fever ticks in all "stock-law" sections, but the small cost at which the work has been done also proves that it is easy, practicable, and profitable. Those who have given such matters consideration know that an embargo on a free exchange of the products of any industry is the most serious obstacle to its development, and it is safe to state that the present undeveloped condition of the southern cattle industry is, to a very great extent, the result of the ravages of the fever tick and the attendant Federal quarantine restrictions. To reach the best markets our cattle must go north of the quarantine line, and must be slaughtered at once or go back home. The buyers know this and pay from one-fourth cent to one-half cent per pound less for them than for cattle of the same quality from north of the quarantine line.

The ten counties which have been released from all Federal quarantine restrictions, because we have exterminated the fever ticks within their borders, sell about $288,000 worth of cattle annually. If the price of these cattle was reduced only one-fourth of a cent per pound it meant an annual loss of one-twelfth of $288,000, or $24,000, which is double the entire amount expended in exterminating the ticks in those counties. In other words, any "stock-law" county in North Carolina now under quarantine can be freed from ticks, and as a result exempted from Federal quarantine restrictions, for less money than is now lost each year solely because of the presence of the ticks.

Briefly stated, the method of extermination found most applicable to our conditions is as follows: Inspectors are employed, who make a farm-to-farm canvass of the territory with a view to locating tick-infested farms, which are at once quarantined and the owners carefully instructed as to the importance and object of the work, and especially as to the easiest and best means of exterminating the ticks on their places. The means of killing the ticks found most practicable in this State is what is known as the "starvation method." All cattle, horses, and mules are taken out of the tick-infested pastures, lanes, and lots for one season—that is, a new pasture is provided; or all cattle, horses, and mules are taken out of the pastures, lanes, or lots to be cleared of ticks not later than September 1 and kept out until the following May.

Attention is also directed to Fig. 3,* page 4. The heavy dark line shows the State and Federal quarantine line across North Carolina which will be enforced during 1906. The dotted line shows a provisional quarantine line adopted by the State and Federal authorities for the purpose of preventing the reinfection of those counties lying between the two lines. It is in these counties that we are prosecuting the work of tick extermination, and it is evident this work can not be successful unless we prevent the introduction into them of ticks from farther south and east; hence the necessity of rigidly enforcing this provisional or second quarantine line. It should be further understood that this second quarantine line offers a double protection to those counties entirely free of ticks and above the Federal quarantine line; for to enter that territory tick-infested cattle must cross both lines and the whole of the intervening territory in which State inspectors are constantly at work.

GOOD ROADS.

The bill seeks to have appropriated for experiments looking to the betterment of our public highways $60,000. If it were for $60,000,000 for building good roads throughout the length and breadth of these United States, it would meet with my most hearty approval and earnest support. Nothing is more conducive to the material upbuilding of a country than good roads, and nothing more destructive to the financial welfare of the agricultural interests of the country than the miserable highways over which the agricultural products have to be transported. I regret that the ten minutes time limit allowed me does not permit of an elaborate and exhaustive discussion of this most important subject.

At some more opportune time I shall present this question for consideration, and trust to be able to demonstrate that the advantages to be derived by all classes from the construction of good roads will more than compensate for all the expense incident thereto.

At this time suffice it to say that the building of good roads will do more to bring the people together in fraternal relations, to promote their educational facilities and their religious zeal, to extend the trade and commerce of the country, and add more to their happiness than anything else.

The enormous amount of agricultural products of our country have to be transported over the public highways to get to the open markets of the world.

Good roads save money, time, labor, and annoyance. They are conducive to the social development of the people; enhance property values and increase the profits from agricultural products, as of all other commodities transported over them, begetting a spirit of contentment among the people, cementing them in a more compact union, and imbuing them with a spirit of patriotism, making them better citizens in time of peace and producing out of them heroes in the time of war. [Applause.]

Mr. LAMB. Mr. Chairman, I now yield eight minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Chairman, in the time allotted to me the other day, in what I had to say about the rural free-delivery boxes, I did not have time to put in the RECORD the letter from the Fourth Assistant Postmaster-General referring to a proposed route mentioned by me at that time. I have asked for this time to read the letter and comment on it.

The letter is as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE FOURTH ASSISTANT POSTMASTER-GENERAL,
Washington, April 26, 1906.

Hon. T. W. SIMS,
House of Representatives.

SIR: Referring to your personal call at the Department on the 5th instant to present a letter from H. B. Wade, of Enville, Tenn., concerning route No. 2 from that office, you are advised that establishment of the route in question has been postponed on account of the failure of the patrons to provide for approved rural mail boxes. The postmaster was advised some time ago that of the 114 families reported by the rural agent as convenient for service on the route, three-fourths, or 80, would be required to pledge themselves "to provide for approved rural mail boxes." It appears that the patrons have construed this requirement to mean that eighty approved boxes must be erected. This is a misunderstanding on the part of the postmaster. Families to the number of five are permitted to use a single box, but rural carriers are not permitted to deliver mail outside of approved rural boxes.

A letter has been this day addressed to the postmaster at Enville, explaining the Department's requirement in this particular, and upon receipt of the necessary certificate the question of establishment will be given further consideration.

Very respectfully,
P. V. DE GRAW,
Fourth Assistant Postmaster-General.

This letter proves conclusively, as I said before, that the Fourth Assistant Postmaster-General is now administering his Department so as to make it mandatory that the patrons must buy and put up the box which he requires and approves before the route will be established. What could be more tyrannical? What could be more arbitrary? Has the Czar of Russia ever prescribed what his subjects shall buy for their private use? Has he ever prescribed that they shall buy government-approved property for private use, thereby creating a monopoly in favor of those who manufacture the property he approves? In the above letter he says five families may use the same box.

* Not printed.

What is the use of a box at all? What is the use of a private box? The idea has been held out to us that on account of the importance of protection to the mail put in those boxes, that they had been required to procure and put up such boxes as the Department approves, to the end that the protection of the mail of the private citizen in his private receptacle should be secured. But here he says that five families may use one box. On the route referred to in that letter, which is being held up, it is inconvenient for five families to use the box, as they live widely scattered along the route. But suppose they can and suppose they do so, what protection is afforded to their mail if five families use the same box with the possibility of endless confusion, with the possibility of the mail getting mixed and going astray, and with the prospect of these five families falling out and having neighborhood difficulties, mutually accusing each other of getting the wrong mail?

All that is possible; neighborhood troubles may easily grow out of this arbitrary, despotic, unreasonable, and foolish requirement. One would think that no officer of the Government would ever be guilty of such conduct unless he was required by statute to do so. All the scandals, or nearly all, that have existed in the Post-Office Department in the last few years have grown out of this question of furnishing supplies—mail boxes, painting mail boxes, fasteners, satchels, and straps—and yet here we find arbitrarily and without just excuse that a Department official prescribes that a private citizen shall buy and use from some other private interest a particular kind of property. Is it any wonder that people naturally suspect such conduct when there can be no reason for its enforcement except that the Post-Office Department may create a monopoly in favor of the men who make and sell these boxes at an unreasonable and unjust profit?

Ever since I have been in this House, in conversation with the proper officials of the Post-Office Department, and in discussing this matter with the members of the Committee on Post-Offices and Post-Roads, I have contended that patrons on rural routes should be permitted to put up and use such boxes as they saw fit, and that the requirement to use approved boxes was unjust and served no good purpose. While the Department continued to require the use of the approved boxes, it did not require it as a condition precedent to putting in the service. But now, not being satisfied with simply approving boxes and demanding that mail for patrons shall not be deposited in any other, it goes a step further and requires that the pledge to put up boxes to at least the number of 75 per cent of the families on the route to be served must be certified before the service will be established. The Department thus shows its hand, and boldly comes out on the side of its pets, the fortunate makers of boxes whose handiwork has thus been approved. The farmers of the country, who pay the taxes to support the Government and fight its battles, must be coerced to pay tribute to Mammon before a Department of the Government will permit them to be beneficiaries of a law of the land.

Requiring the use of approved boxes makes combination among the manufacturers thus favored easy and practical. Such approval is a highly valuable asset. The temptation to secure such approval by the use of corrupt means is great. It may be that the officials now in charge are so honest as to be above and beyond the power and influence of the grafter. I hope this is true. But why continue a practice that subjects them to suspicion? The patrons of rural routes do not want it. It is utterly useless, unjustly burdensome and expensive to the patrons. Then why continue it? There must be a controlling reason somewhere. There must be an interest to be served, and it is evident that it is not that of the patrons. Why this requirement should be continued by the Department until other scandals develop, until another Machen and another Beavers, the natural products of such environments, are discovered and exposed is to my mind incomprehensible.

To-day an ex-United States Senator, one who was a very noted member of that body, told me in the presence of several Members of this House that a gentleman had brought to him one of the best and cheapest rural mail boxes that he had ever seen, perfect in all its parts and cheap, and told him that the Department had refused to approve it, and wanted him to take the matter up for him. Now, why was this box not approved? Perhaps for what may have been to these officials, according to their standards, a good reason. Perhaps it did not weigh within 1 ounce of the expert conception of those who passed on it. Perhaps its parts were not so artistically proportioned as required by the æsthetic tastes of the red-tape brigade. Perhaps it was of durable material and would last too long. Perhaps it was offered too cheap and bore some evidence of having been made by "pauper labor." Perhaps it was made by "union labor." Of course it is all "perhaps," and we will never know

just why this box spoken of by the former illustrious Senator was not approved.

Mr. Chairman, I say, Away with such tyranny! Down with such petty despotism! Let the best and most patriotic of our citizens, the landowners and soil tillers of this great country, say for themselves what character of boxes they desire for their private use, and let no red-tape official say nay.

Mr. Chairman, I have just commenced this fight, and I never intend to surrender until these rural-route patrons have a right to provide themselves in their own way with just such a receptacle as they want to use, and no subordinate Department official will ever prevent me from doing so. He may hold up every route in my district, he may discontinue every route in it, and I will continue to fight this miserable, arbitrary, unjust, unreasonable, and foolish ruling of the Post-Office Department as long as I am honored with a seat in this House. [Applause.]

The CHAIRMAN. The time for general debate having expired, the Clerk will read the bill.

The Clerk read the first paragraph of the bill.

Mr. WADSWORTH. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FOSTER of Vermont, Chairman of the Committee of the Whole House on the state of Union, reported that that committee had had under consideration the bill H. R. 13537—the agricultural appropriation bill—and had directed him to report that it had come to no resolution thereon.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 4197. An act authorizing and directing the Secretary of the Treasury to enter on the roll of Capt. Orlando Humason's Company B, First Oregon Mounted Volunteers, the name of Hezekiah Davis—to the Committee on Military Affairs.

S. 2624. An act granting an honorable discharge to Henry G. Thomas, deceased, Company C, Second Kentucky Cavalry—to the Committee on Military Affairs.

S. 1166. An act to correct the military record of Peleg T. Griffith—to the Committee on Military Affairs.

S. 1211. An act to correct the military record of John Alspaugh—to the Committee on Military Affairs.

S. 4718. An act granting an increase of pension to George W. Gilson—to the Committee on Invalid Pensions.

S. 4569. An act granting an increase of pension to Augustus A. Nevins—to the Committee on Invalid Pensions.

S. 5668. An act granting an increase of pension to George P. Sealey—to the Committee on Invalid Pensions.

S. 5378. An act removing the charge of desertion from the name of William R. Garner—to the Committee on Military Affairs.

S. 3164. An act to correct the military record of Patrick F. McDermott—to the Committee on Military Affairs.

S. 5702. An act granting an increase of pension to Anna C. Bingham—to the Committee on Invalid Pensions.

S. 5522. An act granting an increase of pension to Charles E. Sischo—to the Committee on Invalid Pensions.

S. 1508. An act granting an increase of pension to James A. Murch—to the Committee on Invalid Pensions.

S. 5562. An act granting an increase of pension to John Hull—to the Committee on Invalid Pensions.

S. 3271. An act granting an increase of pension to Margaret E. Brown—to the Committee on Invalid Pensions.

S. 5680. An act granting an increase of pension to Thomas J. Bowser—to the Committee on Invalid Pensions.

S. 5754. An act granting a pension to Hannah McCarty—to the Committee on Invalid Pensions.

S. 5532. An act granting an increase of pension to Simon A. Snyder—to the Committee on Invalid Pensions.

S. 5735. An act granting an increase of pension to Andrew Danley—to the Committee on Invalid Pensions.

S. 4488. An act granting an increase of pension to J. F. Amis—to the Committee on Pensions.

S. 5736. An act granting an increase of pension to Mary Clark—to the Committee on Invalid Pensions.

S. 557. An act granting an increase of pension to Mariot Losure—to the Committee on Invalid Pensions.

S. 678. An act granting an increase of pension to Albert Butler—to the Committee on Invalid Pensions.

S. 2467. An act granting an increase of pension to Martin Clark—to the Committee on Invalid Pensions.

S. 5163. An act granting an increase of pension to John Marah—to the Committee on Invalid Pensions.

S. 3483. An act granting an increase of pension to William L. Sheaff—to the Committee on Invalid Pensions.

S. 4358. An act granting an increase of pension to Thomas McCormick—to the Committee on Invalid Pensions.

S. 4005. An act granting an increase of pension to Michael Quill.

S. 5082. An act granting an increase of pension to David N. Winsell—to the Committee on Invalid Pensions.

S. 4361. An act granting an increase of pension to John W. Daley—to the Committee on Invalid Pensions.

S. 5523. An act granting an increase of pension to Thomas J. Pickett—to the Committee on Invalid Pensions.

S. 5349. An act granting an increase of pension to William H. H. Robinson—to the Committee on Pensions.

S. 4460. An act granting an increase of pension to Ann J. Thompson—to the Committee on Invalid Pensions.

S. 5247. An act granting an increase of pension to Jacob Wigel—to the Committee on Invalid Pensions.

S. 4457. An act granting an increase of pension to L. A. Tyson—to the Committee on Invalid Pensions.

S. 3299. An act granting an increase of pension to Spencer C. Stilwell—to the Committee on Invalid Pensions.

S. 4692. An act granting a pension to Adaline M. Thornton—to the Committee on Invalid Pensions.

S. 5789. An act to regulate the publication of notices issued under the public land laws—to the Committee on the Public Lands.

S. 993. An act granting a pension to Samuel J. Langdon—to the Committee on Invalid Pensions.

S. 394. An act granting an increase of pension to Amanda Lucas—to the Committee on Invalid Pensions.

S. 4796. An act granting an increase of pension to Lorinda J. White—to the Committee on Invalid Pensions.

S. 522. An act granting an increase of pension to Emma Worrall—to the Committee on Invalid Pensions.

S. 3033. An act granting an increase of pension to Aaron F. Patten—to the Committee on Invalid Pensions.

S. 4401. An act granting an increase of pension to George W. Tomlinson—to the Committee on Invalid Pensions.

S. 5671. An act granting an increase of pension to Richard L. Delong—to the Committee on Invalid Pensions.

S. 5579. An act granting an increase of pension to Henry T. Sisson—to the Committee on Invalid Pensions.

S. 5704. An act granting an increase of pension to Ruth P. Pierce—to the Committee on Invalid Pensions.

S. 3040. An act granting a pension to Mary C. Wilsey—to the Committee on Invalid Pensions.

S. 2139. An act to remove the charge of desertion from the military record of Anton Ernst—to the Committee on Invalid Pensions.

S. 3862. An act to correct the military record of Lora E. Reed—to the Committee on Military Affairs.

S. 4239. An act granting an increase of pension to Job Rice—to the Committee on Invalid Pensions.

S. 5659. An act granting an increase of pension to William I. Brewer—to the Committee on Pensions.

S. 5658. An act granting an increase of pension to Nancy Pruit—to the Committee on Invalid Pensions.

S. 5343. An act granting an increase of pension to Ernest H. Wardwell—to the Committee on Invalid Pensions.

S. 4752. An act granting an increase of pension to Thomas J. Tidswell—to the Committee on Invalid Pensions.

S. 4525. An act granting an increase of pension to David Oglevie—to the Committee on Invalid Pensions.

S. 5054. An act granting an increase of pension to George H. Woodward—to the Committee on Invalid Pensions.

S. 3219. An act granting an increase of pension to Joseph M. Allison—to the Committee on Invalid Pensions.

S. 1705. An act granting an increase of pension to Lewis S. George—to the Committee on Invalid Pensions.

S. 5670. An act granting an increase of pension to Isaac L. Duggar—to the Committee on Invalid Pensions.

S. 4665. An act granting an increase of pension to Louis Du Bois—to the Committee on Invalid Pensions.

S. 5379. An act granting an increase of pension to Otto A. Risum—to the Committee on Invalid Pensions.

S. 5516. An act granting an increase of pension to Alfred M. Hamlen—to the Committee on Invalid Pensions.

S. 5691. An act granting a pension to Kate Sloan—to the Committee on Pensions.

S. 5631. An act granting an increase of pension to Isaac M. Howard—to the Committee on Invalid Pensions.

S. 5539. An act granting an increase of pension to Hermann Muehlberg—to the Committee on Invalid Pensions.

S. 3485. An act granting an increase of pension to Mathias Hammes—to the Committee on Invalid Pensions.

S. 2043. An act granting an increase of pension to Andrew H. Wolf—to the Committee on Invalid Pensions.

S. 5504. An act granting an increase of pension to Joseph Dickson—to the Committee on Invalid Pensions.

S. 2978. An act granting an increase of pension to Eli W. Knowles—to the Committee on Invalid Pensions.

S. 442. An act granting an increase of pension to Francis Colton—to the Committee on Invalid Pensions.

S. 3797. An act granting an increase of pension to A. E. Wood—to the Committee on Invalid Pensions.

S. 3798. An act granting an increase of pension to Charles Farrell—to the Committee on Invalid Pensions.

S. 2851. An act granting an increase of pension to George Chambers—to the Committee on Invalid Pensions.

S. 5536. An act granting an increase of pension to William O. Clark—to the Committee on Pensions.

S. 5492. An act granting an increase of pension to Joseph F. Tebbetts—to the Committee on Invalid Pensions.

S. 5359. An act granting an increase of pension to William H. Ward—to the Committee on Invalid Pensions.

S. 4175. An act granting an increase of pension to John Caverly—to the Committee on Invalid Pensions.

S. 5603. An act granting a pension to Kate S. Hutchings—to the Committee on Invalid Pensions.

S. 3738. An act granting an increase of pension to Lisania Judd—to the Committee on Pensions.

S. 4048. An act granting an increase of pension to Henry S. Knecht—to the Committee on Invalid Pensions.

S. 5641. An act granting an increase of pension to John W. Fletcher—to the Committee on Invalid Pensions.

S. 5571. An act granting an increase of pension to Betsey B. Whitmore—to the Committee on Invalid Pensions.

S. 5673. An act granting an increase of pension to Hilton Springsteed—to the Committee on Invalid Pensions.

S. 5640. An act granting an increase of pension to Clinton B. Wintersteen—to the Committee on Invalid Pensions.

S. 5658. An act granting an increase of pension to Nancy Pruit—to the Committee on Invalid Pensions.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 17757. An act extending to the subport of Spokane, in the State of Washington, the privileges of the seventh section of the act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement;

H. R. 11946. An act to amend section 6 of an act approved February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians on various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes;"

H. R. 11037. An act relating to the transportation of dutiable merchandise without appraisement; and

H. R. 15911. An act to amend the laws of the United States relating to the registration of trade-marks.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4046. An act to incorporate the Edes Home;

S. 3045. An act to incorporate the American Cross of Honor within the District of Columbia;

S. 956. An act providing for the election of Delegate to the House of Representatives from the Territory of Alaska; and

S. 47. An act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes.

Mr. WADSWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly the House (at 3.38 o'clock p. m.) under its previous order, adjourned until to-morrow, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for payment of claim of Ponciano Tionson, executor of estate of Justa Santiago—to the Committee on Claims, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Treasurer of the United States submitting an estimate of appropriation for increase of the clerical force in his office—to the Committee on Appropriations, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for replacing military stores destroyed at San Francisco—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Elk River, Maryland—to the Committee on Rivers and Harbors, and ordered to be printed, with accompanying illustrations.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the Penobscot River at Bangor, Me.—to the Committee on Rivers and Harbors, and ordered to be printed, with accompanying illustrations.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a communication from the Surgeon-General of the Public Health and Marine-Hospital Service, submitting an estimate of appropriation for the leprosy hospital, Hawaii—to the Committee on Appropriations, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of War submitting an estimate of appropriation for the power-house plant at the Rock Island Arsenal—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. CALDER, from the Committee on the Census, to which was referred the House joint resolution (H. J. Res. 139) to provide for the publication of the names of the heads of families returned at the First Census of the United States, reported the same with amendment, accompanied by a report (No. 3640); which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MILLER, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 2355) to reorganize the corps of dental surgeons attached to the Medical Department of the Army, reported the same with amendment, accompanied by a report (No. 3642); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DAWES, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 12105) for the relief of Thomas Ross, reported the same with amendment, accompanied by a report (No. 3641); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. FOSS, from Committee on Naval Affairs: A bill (H. R. 18750) making appropriations for the naval service for the fiscal year ending June 30, 1907, and for other purposes—to the Union Calendar.

By Mr. WANGER: A bill (H. R. 18751) to provide for the temporary government of the Canal Zone, Isthmus of Panama; the protection of the canal works; confer jurisdiction upon the supreme court of the Canal Zone to hear and determine cases involving the title of the United States to real estate and other property in the Canal Zone, and to confer jurisdiction upon the Supreme Court of the United States to hear and determine appeals from the final judgment of the supreme court of the Canal Zone in certain cases—to the Committee on Interstate and Foreign Commerce.

By Mr. PEARRE (by request): A bill (H. R. 18752) to regu-

late the issuance of restraining orders and injunctions and procedure thereon, and to limit the meaning of "conspiracy" in certain cases—to the Committee on the Judiciary.

By Mr. MOORE: A bill (H. R. 18753) to amend section 4132 of the Revised Statutes of the United States and to repeal all laws in conflict therewith—to the Committee on the Merchant Marine and Fisheries.

By Mr. DUNWELL: A bill (H. R. 18754) fixing the compensation of the night inspectors of customs at the port of New York—to the Committee on Ways and Means.

By Mr. HAMILTON: A bill (H. R. 18755) permitting the construction of a ship canal between Lakes Michigan and Superior via Whitefish River, Mud Lake, and Au Train River and Lake, in the State of Michigan—to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ACHESON: A bill (H. R. 18756) granting an increase of pension to Hiram Woods—to the Committee on Invalid Pensions.

By Mr. ADAMS of Wisconsin: A bill (H. R. 18757) granting an increase of pension to Barbara Minch—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 18758) granting an increase of pension to Mary A. Daniel—to the Committee on Pensions.

By Mr. BONYNGE: A bill (H. R. 18759) granting an increase of pension to Wilbert B. Teters—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 18760) for the relief of Capt. William N. Hughes—to the Committee on Claims.

Also, a bill (H. R. 18761) granting an increase of pension to Benjamin Bolinger—to the Committee on Invalid Pensions.

By Mr. BURLEIGH: A bill (H. R. 18762) for the relief of Robert G. Rutherford, jr.—to the Committee on Claims.

By Mr. CAMPBELL of Ohio: A bill (H. R. 18763) granting an increase of pension to Emerson F. Zedaker—to the Committee on Invalid Pensions.

By Mr. DALZELL: A bill (H. R. 18764) granting an increase of pension to Mary Stone—to the Committee on Invalid Pensions.

By Mr. DICKSON of Illinois: A bill (H. R. 18765) granting a pension to George Bingaman—to the Committee on Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 18766) granting a pension to Hannah A. Clark—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18767) granting an increase of pension to Amanda M. Powell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18768) granting an increase of pension to William Dunlap—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18769) granting an increase of pension to Louisa Storey—to the Committee on Pensions.

Also, a bill (H. R. 18770) granting an increase of pension to Napoleon B. Kidwell—to the Committee on Invalid Pensions.

By Mr. DUNWELL: A bill (H. R. 18771) granting an increase of pension to William G. Bailey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18772) granting an increase of pension to Lorenzo G. Tomaselli—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 18773) granting a pension to Hattie Tanner Spor—to the Committee on Invalid Pensions.

By Mr. FLOYD: A bill (H. R. 18774) granting a pension to Thomas B. Hall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18775) granting a pension to D. Holman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18776) granting a pension to Alfred Hulsey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18777) granting a pension to Thomas J. Hamilton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18778) granting a pension to Hiram N. Henry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18779) granting a pension to Samuel Minnick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18780) granting a pension to Joseph M. Yarnell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18781) granting a pension to William C. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18782) granting an increase of pension to Edward C. Lane—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18783) to correct the military record of James Fanning—to the Committee on Military Affairs.

By Mr. FORDNEY: A bill (H. R. 18784) granting an increase of pension to Patrick Fitzgerald—to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 18785) granting an increase of pension to Samuel T. Hilton—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 18786) granting a pension to

By Mr. DICKSON of Illinois: A bill (H. R. 18765) grant-Isadore Wright Terry—to the Committee on Invalid Pensions.

By Mr. HIGGINS: A bill (H. R. 18787) granting an increase of pension to William E. Chambers—to the Committee on Invalid Pensions.

By Mr. LAMAR: A bill (H. R. 18788) granting an increase of pension to Josephine Glover—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18789) granting an increase of pension to Robert Alsobrook—to the Committee on Pensions.

By Mr. LINDSAY: A bill (H. R. 18790) granting an increase of pension to James Murphy—to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 18791) granting a pension to Michael Bocoskey—to the Committee on Pensions.

By Mr. McCARTHY: A bill (H. R. 18792) granting an increase of pension to William Gregg—to the Committee on Invalid Pensions.

By Mr. MACON: A bill (H. R. 18793) granting a pension to Eli Craig—to the Committee on Pensions.

By Mr. MOORE: A bill (H. R. 18794) granting an increase of pension to William C. McRoy—to the Committee on Pensions.

Also, a bill (H. R. 18795) granting an increase of pension to James E. Raney—to the Committee on Pensions.

By Mr. PADGETT: A bill (H. R. 18796) for the relief of the Grand Lodge, Independent Order of Odd Fellows, of the State of Tennessee—to the Committee on War Claims.

Also, a bill (H. R. 18797) granting an increase of pension to John M. Defoe—to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 18798) granting an increase of pension to Andrew Estes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18799) granting an increase of pension to Sarah E. Fancher—to the Committee on Pensions.

By Mr. TIRRELL: A bill (H. R. 18800) to refund legacy taxes illegally collected—to the Committee on Claims.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 6393) granting an increase of pension to William J. Smith—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8142) granting a pension to Edward G. Hansen—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17907) granting an increase of pension to Caroline Pettengill—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18628) granting an increase of pension to William E. Chambers—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 18655) granting an increase of pension to Leander Gilbert—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of the Western Branch of Pennsylvania of the Consumers' League, for the regulation of child labor in the District of Columbia (S. 50 and H. R. 4462)—to the Committee on the District of Columbia.

Also, petition of the board of directors of the Sabbath Association of Philadelphia, Pa., against Sunday opening of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

Also, paper to accompany bill for relief of Hiram Woods—to the Committee on Invalid Pensions.

Also, petition of the Woman's Club of New Brighton, Pa., for an appropriation to investigate the industrial conditions of women in the United States—to the Committee on Appropriations.

By Mr. ADAMS of Wisconsin: Paper to accompany bill for relief of Edward G. Hansen (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

Also, petition of W. W. Warner, of Madison, Wis., for consolidation of third and fourth class mail matter, under title of "merchandise," at the rate of 2 cents per each 2 ounces—to the Committee on the Post-Office and Post-Roads.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Mrs. Mary A. Daniel—to the Committee on Pensions.

By Mr. BONYNGE: Petition of citizens of Mooreland, Denver, and Hygiene, Colo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BOWERSOCK: Petition of the World, Lawrence, Kans., against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BUCKMAN: Paper to accompany bill for relief of Martin A. Luther—to the Committee on Invalid Pensions.

By Mr. BURLEIGH: Letter from George E. Fellows, president of the University of Maine, relative to sending an educational commission to China—to the Committee on Education.

By Mr. CAPRON: Paper to accompany bill for relief of Horace B. Tanner—to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: Petition of citizens of Margaret, Mo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. CURRIER: Petition of Montcalm Grange, Enfield Center, N. H., for enactment of law to enable the Postmaster-General to establish a parcels post—to the Committee on the Post-Office and Post-Roads.

Also, petition of Montcalm Grange, Enfield Center, N. H., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DRAPER: Petition of the Delaware Society of New York, for a battle ship to be named the *Delaware*—to the Committee on Naval Affairs.

Also, petition of the Frankfort Business Men's Club, against amendments to the pure-food bill calculated to impair its usefulness as a law—to the Committee on Interstate and Foreign Commerce.

By Mr. FLOYD: Paper to accompany bill for relief of William R. Flood—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of John M. Harris—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of George Kidwell—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of W. C. Mahaffey—to the Committee on Pensions.

Also, paper to accompany bill for relief of Elias Yarbrough—to the Committee on Invalid Pensions.

By Mr. GILLETT of Massachusetts: Petition of citizens of Willimansett, Mass., for an investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. GRANGER: Petition of citizens of the Business Men's Association of Newport, R. I., for bill H. R. 13381, relative to an increase of the United States Coast Artillery forces—to the Committee on Military Affairs.

By Mr. GROSVENOR: Petition of the National Council, Junior Order United American Mechanics, of New Jersey, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HOWELL of New Jersey: Paper to accompany the bill for relief of John P. Veach—to the Committee on Invalid Pensions.

Also, petition of Washington Camp, No. 14, Patriotic Order Sons of America, of Trenton, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LEVER: Paper to accompany bill for relief of Eliza Rebecca Sims—to the Committee on Pensions.

By Mr. LINDSAY: Petition of the Caddo Commercial Club, to remedy the Five Civilized Tribes (Indian) bill by attaching a proper provision to the Indian appropriation bill—to the Committee on Indian Affairs.

Also, paper to accompany bill for relief of Christian Schlosser—to the Committee on Invalid Pensions.

Also, petition of Alexander Jackson, of the International Federation of Sunday Rest Associations of America, for Sunday closing of the Jamestown exposition—to the Select Committee on Industrial Arts and Expositions.

Also, petition of the Sitka Chamber of Commerce, against transfer of the capital of Alaska from Sitka to Juneau—to the Committee on the Territories.

By Mr. MAHON: Paper to accompany bill for relief of J. A. McDonald, heir of James McDonald—to the Committee on War Claims.

By Mr. PADGETT: Paper to accompany bill for relief of the Grand Lodge, Independent Order of Odd Fellows, of Tennessee—to the Committee on War Claims.

By Mr. RYAN: Petition of the Buffalo Employers' Association, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. TIRRELL: Petition of Local Union No. 563, Painters, Decorators, and Paper Hangers of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. VAN WINKLE: Petition of Clinton Council, No. 18, Junior Order United American Mechanics, of Jersey City, N. J., for the Howell naturalization bill and favoring restriction of immigration—to the Committee on Immigration and Naturalization.

HOUSE OF REPRESENTATIVES.

SUNDAY, *April 29, 1906.*

The House met at 11 o'clock a. m., and was called to order by its Chief Clerk, Mr. WILLIAM J. BROWNING, who stated that the Speaker had designated Hon. JAMES L. SLAYDEN, a Representative from the State of Texas, to act as Speaker pro tempore for this day.

Mr. SLAYDEN took the chair as Speaker pro tempore.

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Eternal and ever-living God, our heavenly Father, out of the deeps we cry unto Thee, "Our refuge and our strength, a very present help in trouble." We thank Thee for the spirit which brings us together here to-day, a spirit of profound regard and affection for one who, for a short time, became a Member of the Congressional family and left behind him a sweet and tender memory in the minds and hearts of those who knew him.

His was a life of struggle, a noble effort to high ideals. Seizing every opportunity he sought to bring out the highest and best in his nature, sacrificing in childhood and youth to obtain an education. A soldier, fighting for what he conceived to be right, meeting defeat with that splendid courage which was a part of his being, he laid down his arms and strove to fit himself for the new conditions that he might be of use as a public servant, and reaching a position of which any man may justly be proud. He died beloved and honored by a host of friends. We mourn his loss and mingle our tears with his dear ones. Comfort them, we beseech Thee, O heavenly Father, with the blessed hope of the Christian religion, and may his life be an incentive to all who knew him to strive after the best. And honor and praise be Thine through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, April 28, was read and approved.

THE LATE REPRESENTATIVE PINCKNEY.

Mr. STEPHENS of Texas. Mr. Speaker, I offer the resolutions which I send to the Clerk's desk.

The resolutions were read, as follows:

Resolved, That the business of the House be now suspended, that opportunity may be given for tributes to the memory of Hon. JOHN M. PINCKNEY, late a Member of this House from the State of Texas.

Resolved, That as a special mark of respect and honor to the memory of the deceased and in due recognition of his distinguished career as a citizen of his State and as a Member of this House, that the House, at the conclusion of the exercises of this day, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

The resolutions were agreed to.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent that Members of the House have leave for thirty days to print memorial addresses upon the life, character, and distinguished services of the late Representative PINCKNEY.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent that Members desiring to do so have leave for thirty days to print remarks on the life, character, and distinguished services of the late Representative PINCKNEY. Is there objection?

There was no objection.

Mr. MOORE. Mr. Speaker, it is with profound sorrow that I offer this poor tribute to the memory of a departed friend, my immediate predecessor in this honorable body, JOHN M. PINCKNEY, whose tragic death occurred at his home town, Hempstead, Tex., on the night of April 24, 1905. The Congressional Directory of

the Fifty-eighth Congress contains the following brief sketch of our deceased friend's life:

JOHN MCPHERSON PINCKNEY, Democrat, of Hempstead, was born in Grimes County, Tex., May 4, 1845, and was reared near the place of his birth; the only education he received was in the public schools near the place of his birth and what he has secured by his own study; was a Confederate soldier, serving four years in the Fourth Texas Regiment, Hood's brigade; entered upon the practice of law in 1875; served ten years as district attorney of the twenty-third judicial district of Texas and three years as county judge of Waller County; was elected to the Fifty-eighth Congress November 17, 1903, to fill the vacancy caused by the resignation of Hon. Thomas H. Ball.

That his services were satisfactory and his efforts were appreciated by the people of his district is evidenced by the fact that he was reelected to the Fifty-ninth Congress.

Living in an adjoining county to his home, and in one of the counties composing the twenty-third judicial district of Texas at the time he was attorney for such district, it was my privilege to know Judge PINCKNEY intimately for fifteen years. A strong advocate of law and order, he was a terror to the law-breaker, always doing his whole duty, prosecuting the influential citizen with the same earnestness and vigor with which he prosecuted the friendless criminal. He was a stranger to fear, and I have often heard many of his old comrades praise his services as a soldier. One incident that I remember having heard related by one of his comrades, now a prominent citizen of my home county, which fairly illustrated the determined character of the man, was that during a certain battle he received a severe wound in the head, was carried to the rear, his wound dressed, and in less than an hour he was again in the front ranks in the thickest of the battle.

The short time that he was a Member of this body probably did not give his colleagues the opportunity to know him as it was my privilege and pleasure. He was faithful to every trust, modest and unassuming, but courageous and determined. He was a true and loyal friend, devoted to his brothers and to his maiden sister, who shared his home. That sister and one brother survive him. Their loss is irreparable; and in his death his country has sustained the loss of a faithful and honest servant, and Texas, his native State, a noble, loyal, and devoted son.

Mr. FIELD. Mr. Speaker, about one year ago, in this beautiful month, when the earth was covered with its mantle of green and the genial sunshine had coaxed from their hiding the myriads of flowers on the prairies of Texas, JOHN M. PINCKNEY, a Member of this House, at a public assembly of his own people, in his own loved town, fell under the deadly fire of passionate and misguided men. He was pierced by many bullets from behind, "and died so instantly that he passed without pain from the service of his country to the service of his God," and "from the rounds of fame's ladder he stepped to the sky."

Those about him tell me that in the last moments of his life he was advocating a cause which he believed to be right and was contending for the supremacy and enforcement of the law for which he always stood; and though unarmed and under deadly fire, he exhibited that superb courage which had distinguished him on so many fields of battle. His tragic death was a shock to the people of Texas, and especially did the women mourn, for he boldly championed the cause of temperance, so dear to them.

The time of his service in this House was short, and, being unfamiliar with the rules of procedure that govern here, he took no part in debate upon the floor, but each day found him in his place voting intelligently and honestly on all questions thus determined. His manner was so quiet and reserved, his modesty was such that, in this brilliant, ambitious, pushing throng of men, he was scarcely observed, and outside of his own State delegation was known by only a few Members of this House; and yet had the record of his life been known to you, and could you have looked through the window of his soul and seen the man behind the garb, all who love the brave, the true, and the unselfish ones in life would have drawn close to him and hailed him as a brother. He moved in that quiet, unobtrusive rank where each day's duty is well performed, and where in the great emergencies of life heroes and leaders are found. I knew him well; he was my friend and comrade. And "it is not fit that such a man should pass unheralded to the tomb; it is not fit that such a life should steal unnoticed to its close;" but if my old friend was living now, or if, from beyond the stars, he still has knowledge of the affairs of men, he would not have me add one thing to the record he has made, use one flattering word, or magnify his virtues by too partial praise.

JOHN PINCKNEY belonged to the distinguished family of that name of South Carolina, from which State his father moved with his family to Texas before the civil war. His mother died when he was about 16 years of age, his father was a cripple and an invalid, and JOHN was the main support of his father, two sisters, and a little brother. Extreme poverty deprived him of early educational advantages, and it seemed would forever shut the door of opportunity in his face.

Unaided he bore his loving burden cheerfully and well, and by his own efforts, supported by his sister's, raised and educated orphan children. He secured a fair education, studied law, and took good rank at the bar. He was elected district attorney for ten consecutive years in his district without opposition, and was recognized as one of the ablest, most fearless, and successful prosecuting attorneys in Texas, and perhaps no one in that State had ever prosecuted to conviction in so many cases of homicide. He was elected without opposition as county judge of his county, then elected to Congress, though opposed for the nomination by some of the ablest lawyers in south Texas. His success in public life was largely due to his splendid character, devotion to duty, and honesty and integrity, and close sympathy with the masses of the people.

Mr. PINCKNEY was never neutral; every question of public interest was to him either right or wrong. If right, he conceived it to be his duty to uphold it; if wrong, to publicly condemn, and whatever position he assumed he made no concessions, was influenced by no policy, and deterred by no danger. He preserved to the end of his life a character which never knew a stain and a courage which never surrendered a principle.

He was never married; he supported his sister and orphan children; he lived for others and never thought of self. He had but little of this world's goods. He earned no money by sharp practice or by overreaching his fellow-men, and whatever he earned by honest toil he had no coffers wherein to place it. For those dependent upon him he provided well according to his means, and all the rest, with generous heart and open hands, he gave in charity to the needy and the poor.

At the outbreak of the civil war PINCKNEY, then a boy 16 years of age, enlisted as a private soldier in the Fourth Texas Regiment of Hood's immortal brigade, and in that four years of unequal contest, where might at last prevailed, this boy in gray became a hero—not such an one as a partial press makes for acts of little valor, but in that great struggle where gray and blue alike did noble deeds. He received his baptism of fire at Elthams Landing, and at Gaines Mill he and the boys of his command, by their valor, placed the general's wreath around the colonel's stars of John B. Hood. He was at Second Manassas. He was at Sharpsburg, or Antietam, in the cornfield, where the rank growth was mown by the sickles of battle, and where more than half of his comrades were left dead and wounded on the field. He was at the Wilderness, and saw Captain Harding, of his command, lead the great commander's horse back to the rear from the line of certain death, and he fell wounded on the field just as the shout of victory was raised. He came with Longstreet and Hood to Chickamauga, where the veterans of the Army of Northern Virginia touched elbows on the firing line with the veterans of the Tennessee, and, united, contended on that bloody field with men of equal valor who wore the blue. He was at the storming of Round Top Mountain at Gettysburg, where human valor reached its highest flood tide, and where, could the crest of the mountain have been held for a few brief moments, the Confederacy would have lived and the history of the world been changed. He was in every great battle of the Army of Northern Virginia, except the first Manassas and Fredericksburg, and was one of the 8,000 immortals in gray who laid down their muskets at Appomattox. He was a private infantry soldier from the beginning to the end of the war, but the heroes of war are not always on horseback, nor do they always bear the insignia of rank, but more often are the man who bears the battle flag and the color guard who around him stand to raise it when he falls, and there is where JOHN PINCKNEY often stood. When the cause for which he contended was lost and his country's flag was forever furled in gloom and in glory, PINCKNEY in good faith accepted his parole from a brave and generous foe, which from that time he honestly observed. He turned his face to the South, and, though worn by war and enfeebled by wounds, he tramped 2,000 miles to his loved Texas home.

He stood with other returned Confederates through all the dark days of reconstruction, days more trying than war, more humiliating than defeat, but never losing hope, and he and those like him redeemed the Southland from radical misrule and placed it in the way of progress, and to them is due its present wonderful prosperity. In war and in peace he bore himself so well that the people loved and trusted and greatly honored him; and the uneducated country boy in gray who forty years before with rifle in hand stood picket on the banks of the Po-

tomac, with scant clothing to shield him from the winter's blast, returned a Representative in the Congress of this great, happy, and reunited country.

Mr. Speaker, I witnessed once, in this splendid Capitol, the honors paid to one who died high in place and power. Grand and imposing were the obsequies. The great ones of the nation and those who represent the nations of the earth were here, and many thousands came to pay deserved honor to the distinguished dead. In the Senate Chamber the coffin rested on a bed of roses and the pomp and ceremony was befitting the grand and solemn occasion, and it was well, for a great man was dead and the nation mourned. But all this did not so impress me as did the simple services on the occasion of PINCKNEY'S death. When I reached there the old soldier lay at rest in his little humble, vineclad home; a brother, who gave his life in his defense, lay dead beside him, and his dear old sister—sister and mother both to him—could not be comforted, for death had sent too many darts of late into her devoted heart. The excitement of the day was over, the passions of men had subsided, the day was as beautiful and quiet as was the first Sabbath at creation's dawn, the funeral bell tolled slowly as if each stroke would be the last, and as though reluctant to bear the sad, sad tidings.

It was the warm springtime and the air was laden with the perfume of the jasmine and the rose. The people came by thousands from miles around—the rich and poor—in buggies, wagons, on horseback, and on foot. A few old soldiers, the remnant of his gallant command, who had placed many of his fallen comrades in shallow trenches on the battlefield, stood by to bear him to his final resting place. An earnest, simple prayer was said, tears were falling, and many heart sobs could be heard. The hearse moved out and all the people followed in slow and long procession far across the prairie to the little country churchyard. Loving hands placed the clods above him, an humble prayer was said while the people knelt, a brief tribute was spoken, and then the women banked high the roses and prairie flowers on his lonely grave. I thought this is indeed the tribute my plain old friend would like, and such as his brave, useful, and unselfish life so well deserved, and looking at his quiet, peaceful resting place and thinking of the struggles he had had in life, the battles fought, the dangers past, the victories won, the many wounds upon his weary body, his comrades gone before, that could he have spoken he would have said:

Dear friends, what the women lave
For the last sleep of the grave,
Is a hut which I am quitting,
Is a garment no more fitting,
Is a cage from which, at last,
Like a bird, my soul has passed.

Love the inmate, not the room,
The wearer, not the garb,
The plume of the eagle, not the bars
That hold me from those splendid stars.

I cast a clod upon his lonely grave, have paid a last poor, but loving tribute to his memory, and now, my old friend and comrade, for a time, farewell and good cheer to you and all the boys, I'll meet you on the river at the crossing in the morning when the reveille shall sound.

Mr. PADGETT. Mr. Speaker, I avail myself of this opportunity to endeavor to pay a merited tribute of respect to the memory of a departed associate. I wish, sir, that I were able to pay a tribute commensurate with his deserts, but poverty of language denies to me that privilege.

I did not know Mr. PINCKNEY before our association here. I did learn here to know him well. He was a retiring, modest, unassuming gentleman. Ofttimes during the sessions of the House he would meet me and talk in that quiet, friendly, comforting way that drew us close together. He was not the dazzling sunflower nor the gorgeous rose; he was not one who startled or commanded men; but he was more like the violet, modest and retiring, that we have to search for, but that when found we gather to ourselves to be admired and loved.

As a boy Mr. PINCKNEY had not the advantages of wealth or of influential station, but as the son of an invalid father, was cast upon his own efforts and resources and had to bear much of the burden of the support of his family. He met the duties and responsibilities of a noble son in a way befitting the nobility of his character and his purpose. Growing into manhood, entering into the estate of citizenship, he ever met and discharged the duties and responsibilities that came to him in a way that won for him the esteem, the confidence, and the respect of his fellow-citizens. Early in his life came that trying epoch in our nation's history when, as he saw his duty, it became incumbent upon him to enter upon the field of battle and assume the obligations of a soldier. Those who knew him during those times have testified to-day and others will testify to the splendid life and character and to the unsullied bravery which he displayed on the field of battle.

He came out of the war in the very prime of young manhood and began to enter upon the duties of citizenship. He had so won the respect and confidence of his people that they honored him, as has been told you, by election to the judgeship for a series of years to preserve the order and maintain the Government among his people. He was also elected, for a longer number of years, as prosecuting attorney, to conduct the active administration of the duty of prosecuting offenders against the law and dignity of his State. In both of these positions, with unflinching courage, with unwavering devotion, with an impartiality which commended him for more exalted station, he honored himself and he honored his people, and they commissioned him to represent them in this august body. When he came here he brought with him the same devotion to duty, the same purity of purpose, which had characterized his life and his public service at home.

Mr. Speaker, JOHN M. PINCKNEY was an honorable man. When I say that I do not limit him to that narrow view of honesty which renders to Cæsar the things that are Cæsar's. I do not place him upon the low level of the motto attributed to Benjamin Franklin, that "honesty is the best policy." It is true, sir, that honesty is the best policy; but may we not stop for a moment to think upon what a low plane that places this virtue—to be honest because it is politic, to be honest because it may be profitable, to be honest because it may serve a purpose or promote a selfish interest? Nay, verily, Mr. Speaker, JOHN M. PINCKNEY was an honorable man who rose into the higher clime of integrity of character and nobility of purpose. He was honest because he loved the truth. He was honorable because falsehood was hateful to his soul. He was honorable because the truth was congenial to his very being. JOHN M. PINCKNEY, Mr. Speaker, was a good man. As I intimated a moment ago, I would not say that he was a great man. He was not one of those whose brilliance and genius shone out as an overpowering light. We often impress upon others and upon our children the truth that it is a good thing to be a great man. I commend it, and it is true. But let us turn that proposition around, and it is equally true that it is a great thing to be a good man.

JOHN M. PINCKNEY was a good man, and in the superlative character of his goodness he was great. Mr. PINCKNEY was a man of convictions. He believed something. What he declared he believed, and he declared what he believed. He was not afraid for the world to know his purpose; he did not desire to withhold from his fellows his belief and his convictions. One thing he believed that I may properly refer to here, Mr. Speaker, and that is, he believed in temperance. He believed in private and public sobriety. He believed that it was to the uplifting of his fellow-men and to the betterment of his Commonwealth to have sober citizens, and to that conviction he gave his life; and no grander tribute can be paid to his memory, no better testimony can be borne to his character, than the solemn fact that he gave his life for the betterment of his people in upholding that principle of individual and public sobriety which he believed was a foundation principle in human society. It was a holy moment, a noble cause in which to die. Mr. Speaker, we can not understand the mystery of death—why it is that he should have been cut down just at that moment, or why others go in such mysterious and, as it seems to us, inopportune times. It is not my purpose here to philosophize about death, but one thought does occur to me. The seed must be planted to grow. As long as it remains unplanted it is circumscribed and limited by its own circumference; but plant the seed in the soil, in the sunshine and rain, and the body breaks and there comes forth the plant with its foliage, its fruitage, and its flowers; and so it has been said of us: Except we be planted we shall not live; earth to earth, dust to dust; the manacles of the flesh broken loose, the limitation of the senses removed, and the soul in communion with the universe, in fellowship with eternity. In that life, Mr. Speaker, where the good and the true and the brave are gathered, there we shall expect to find JOHN M. PINCKNEY, and to be with the true, the good, and the brave of the earth forever will be satisfaction.

Mr. HENRY of Texas. Mr. Speaker, one year and five days have elapsed since Hon. JOHN M. PINCKNEY, in a deplorable tragedy, at the town of Hempstead, Tex., in an unexpected moment, was hurled into eternity. His death came without warning while he was attending a citizens' meeting of his home town. It grew out of one of those unfortunate differences so frequently engendered by a discussion of the liquor problem. JOHN M. PINCKNEY sprang from a talented and chivalrous race

of men who have made the history of more than one Southern State rich in deeds of valor and patriotism. His name is linked with those of the Prestons, Sims, Bees, and others of the South who have contributed to the glory and achievement of this Republic.

In the early days of this Government, while Washington and Adams were President, there were complications of our commerce on the high seas with France, and citizens of that country were committing depredations against us. Adams sent an embassy to France to adjust the differences between the two nations. The French Directory insulted our embassy by refusing to give audience until a liberal sum was paid the French Government and a quarter of a million dollars was given to Talleyrand, who was on the Directory. In reply to this disgraceful demand, one of our embassy made the immortal answer: "Millions for defense, but not one cent for tribute." Thus answered Charles Cotesworth Pinckney, a citizen of South Carolina. From this patriotic name and distinguished ancestry sprang JOHN M. PINCKNEY. He ever proved himself a worthy son of the noble race of men preceding him. Their ardent patriotism and conscientious regard for right never abated in the slightest degree in the brain and heart of the latter-day Pinckneys.

In the life of our deceased brother may be gleaned many lessons worthy to be emulated by the youth of the land. Through his whole career, public and private, the noblest and best impulses of humanity were ever present and predominant. The good ran through his whole existence. Evil never found lodgment in his make-up. The history of this man is worthy to be held up before all mankind. It is deserving the best study and the deepest scrutiny of everyone.

Let me briefly portray his career. He was a native Texan, born in Grimes County in May, 1845. When the war between the States came on in 1861, a beardless youth, he enlisted under the flag of the Confederacy. He joined Company G, Fourth Texas Regiment Volunteer Infantry, organized at Camp Texas, near Richmond, Va., in September, 1861, under Col. John B. Hood. He participated in all the battles of his regiment (except Fredericksburg) from the first, in the woods at Eltham Landing on the Virginia peninsula, through the campaigns in Virginia, Maryland, Pennsylvania, Georgia, Tennessee, and Virginia again, until the immortal Robert E. Lee surrendered at Appomattox. Among the notable battles of his career were the great struggles at Gaines Mill, Second Manassas, Sharpsburg, Gettysburg, Chickamauga, and the Wilderness. Once captured, he remained a prisoner only fifteen days. Thrice wounded, once seriously, he languished on the battlefield of the Wilderness for two days. His wounded Texas comrades stricken down by his side on that fateful day have testified to his soldierly bearing through that terrible ordeal. Rising from the blood-stained and cruel battle ground a veteran of many conflicts, though not yet 20 years of age, he emerged from that terrific struggle and returned to his home and native State. As soon as he could gather means and get himself in readiness, he took up the study of law, and in 1875 was admitted to the bar. Locating at Hempstead, the place where rest his mortal remains, he was elected district attorney, and for ten years, without opposition, held this responsible office, achieving most signal distinction as a prosecutor, so fair, honorable, vigilant, efficient, and courageous was his administration in office. In 1900, without opposition, he was chosen county judge of his county and filled that place with great credit until 1903, when he was elected to the United States Congress to fill out the unexpired term of the Hon. Thomas H. Ball, of Houston, Tex.

It is but fair and appropriate in giving a brief history of this splendid man, without reference to who was right or wrong, to set down a short allusion to the causes leading to his untimely death. It is truly lamentable that the question of local option in his county had wrought good men up to fever heat and arrayed friends and neighbors in warring and opposing factions. In his races for Congress his friends importuned him and said: "John, give up prohibition or you will not win the Congressional race." So zealously imbued with the righteousness of his cause he promptly replied: "I will never go back on women and children for Congressman or any other office!" Passions of men rose to the highest pitch, the citizens' meeting at Hempstead came, and in its midst, in the twinkling of an eye, the unsullied and knightly spirit of JOHN M. PINCKNEY was hushed forever. Without warning, without a murmur, his dauntless soul left his body while he calmly remarked: "They have killed me." A martyr to the cause he advocated and loved with all the intensity of his brave heart.

Men slay the prophets; fagot, rack, and cross
Make up the groaning record of the past;
But evil's triumphs are her endless loss,
And sovereign beauty wins the soul at last.

No power can die that ever wrought for truth;
Thereby a law of nature it became,
And lives unwithered in its sinewy youth,
When he who called it forth is but a name.

To-day we pay tribute to a man noble in every sense of the word. A brave soldier in Hood's superb and immortal Texas brigade; a prosecuting officer of the highest and most efficient order for ten years: an upright judge of the county where he now lies buried among those who knew and loved him best. With a stainless record he put aside the judicial ermine for higher honors. The youth of Texas could not well find a better prototype revealing all the elements of true manhood in a greater degree than the late JOHN M. PINCKNEY. He was never married, but lived with his brothers and the devoted sister, Sue M. Pinckney. The story of his life would not be complete without a reference to the love between this sister and brother. Their heartstrings were entwined with one another in the most tender devotion ever witnessed by men and women.

In all my experience and reading of history, fiction, romance, and poetry I have never met such complete love between sister and brother. This good man, who, in his youth, as a mere boy, had cared for a crippled father and his brothers with an affection that can not be portrayed by language, had made this sister the very heart of his desires, his hopes, his love. This guardian angel of his existence was the cynosure of every aspiration and every effort.

From her own language I know that for all the years of his life, after he became a man, he was never away from her a single day without sending to her through the mails some message of tenderness and cheer. Each day he wrote her a letter filled with affection and brotherly solicitude. What devotion from brother to sister! To know the life and love of this family thrills the heart and moves to tears, but when the tears are gone it makes us better for the exalted lessons that have been indelibly written in our innermost souls. Let me recite, substantially as another has given it, a brief incident illustrating the attachment between our deceased brother and this devoted sister. He worshiped at the shrine of his sister. The affection between Miss Sue Pinckney and JOHN M. PINCKNEY was most extraordinary. Miss Pinckney is a writer of no mean ability, having been a contributor, on more than one occasion, to the local press. She is the author of Douglas, Tender and True, a story of life before and during the civil war, which has been published in book form, and another book just printed, A Tale of the South. She is a Christian who says "Our Father which art in Heaven" reverently, confidingly, and sincerely. She has no more doubt of her faith than of the sun.

The night that JOHN M. PINCKNEY was nominated for Congress in Houston he boarded the first train for home. The news had already been telegraphed ahead, and the town was lurid with bonfires. A band was at the depot to meet him, and when the familiar form of the nominee descended the steps the air was rent with shouts. He did not heed them, however, for he saw advancing toward him the familiar form of one who had been for years his comforter and companion. It was the form of his sister. Though her figure was bent with the weight of years, and her face was not, in the common acceptance of the word, beautiful, it was lighted with the love of one whom she knew was happy on achieving the ambition of a lifetime. She was not attired in the latest Parisian garb, but on her head rested a plain white sunbonnet. To JOHN PINCKNEY, however, the face was radiantly beautiful, and when they met he grasped her in his arms and showered kisses upon her brow. It was the happiest moment of his lifetime, and the onlookers stood back and deeply impressive silence reigned over the crowd that a few moments before had been tumultuously applauding. More than one eye was wet with tears of sympathetic joy. He once said:

I owe more to my sister than can ever be expressed, and the ambition of my life is to so live that I will be worthy of her affection.

In 1903 he came to Congress as the Representative of the Eighth Congressional district. His service here was brief, but was characterized by the strictest fidelity to official duty. He was at all times a Democrat of the purest and best type. He honored his constituency, Texas, and his party on all occasions.

It can be truly said that JOHN PINCKNEY never faltered at the discharge of public or private obligation. He knew not fear, physical or moral. I pronounce no empty declaration when saying he hated wrong and loved all righteous things. With an honorable and distinguished life's work ended, he has gone to that—

Mysterious world, untraveled by the sun,
Where Time's far-wandering tide has never run.

In far-off Texas, 'neath a billowy blue sea of April flowers, he sleeps in the congenial soil of his native State. Texans knew, honored, and loved him. His memory will not soon be forgotten

by her generous people. In one sphere alone did I know him best. He was my friend and here he proved himself—

Constant as the northern star,
Of whose true-fixed and resting quality
There is no fellow in the firmament.

The life of JOHN PINCKNEY was filled with those things that live after men to bless them. He will not be lost in the oblivion of forgetfulness. Neighbors, friends, Texans will cling tenaciously to his memory. Those grizzled veterans yet living who faced death on a hundred fields of carnage will glory in his career, which shed luster on their joint deeds of valor and patriotism.

Valiant soul, farewell!
And though the warrior's sun has set,
Its light shall linger round us yet,
Bright, radiant, blest.

Mr. GREGG. Mr. Speaker, it is but fitting that we, Members of this body, which deals so much with the statistics of material prosperity and the worth and value of material products, should pause occasionally and devote some of our time, thought, and energy to a consideration of the material of which men are made; that we now and then should turn from glorifying partisan policies and political deeds to the exaltation of the deeds of men; that we occasionally should turn from the prose of life to its poetry.

This is why to-day, in pursuance of a custom handed down to us from the beginning, has been set aside to pay tribute to the memory and virtues of our friend who has passed over the river and now rests under the shade of the trees.

In the Fifty-eighth Congress there came to us one whom, though he stayed with us but a short time, all of us who knew him learned to love. This one, Mr. Speaker, was JOHN M. PINCKNEY of Texas.

The history of this man's active participation in the affairs of his country may be divided into two clearly separate and distinct periods or epochs, in each of which he builded for himself a monument more lasting than brass, the period of boyhood, for it was as a boy he fought the battles of his country and inscribed his name upon the imperishable records of valor as the bravest of the brave; the period of manhood, for in this he battled with the adversities of destroyed fortune and an oppressed and desolated land and inscribed his name upon the records of those trying times as the truest of the true.

JOHN M. PINCKNEY sprang from a long line of illustrious ancestors. He was a scion of the Pinckney stock who, in Colonial times and for the first third of the nineteenth century, dominated the political activities and governmental agencies of the States of Maryland and South Carolina.

After serious financial reverses in 1837 his father settled in Texas. Here in Grimes County JOHN M. PINCKNEY was born on the 5th day of May, 1845.

While a boy in his teens the tocsin of war sounded. His country summoned, he answered her summons and gave to her all his boyhood and young manhood. He enlisted on the 20th day of April, 1861, in Company G, Fourth Texas Infantry, then commanded by Col. John B. Hood. Immediately he left his home and saw it no more until the cause for which he fought was lost, his government overthrown, and his president a shackled prisoner in the chilly, gloomy casement at Fortress Monroe. He was a famous member of the famous Hood's Texas Brigade. This brigade, it is the sober truth to say, was the best body of infantry that ever mustered on this globe. Xenophon has told of the advance and retreat of the 10,000 Greeks; no poet has sung, no historian has chronicled, the achievements of Hood's Texas Brigade.

When JOHN M. PINCKNEY and his brave companions in arms started on the long and toilsome journey from Houston, Tex., to Richmond, Va., they compassed in their march twice the distance of Xenophon and his 10,000 Greeks. To their infinite chagrin they reached Richmond the day after the first battle of Manassas was fought. They were then incorporated into the army of northern Virginia and were the star brigade of that illustrious army.

What the Macedonian phalanx was to Alexander, the Tenth Legion to Cæsar, the Ironsides to Cromwell, the Old Guard to Napoleon, Hood's Texas Brigade was to General Lee.

In the most desperate charge of the civil war—of any war—that at Gaines Mill, in July, 1862, this brigade, under the immediate command of Gen. John B. Hood, and under the eyes of their great commander, Lee, stormed three lines of bristling intrenchments, captured twenty-two pieces of artillery, and drove Sykes's division of regulars and Porter's whole corps in confusion from the field of battle. The gallant Hood, at the head of his victorious troops, was the first who leaped over the intrenchments; he turned, and there by his side stood the modest, brave, heroic JOHN M. PINCKNEY.

He was, with his stout-hearted brothers in arms, in the second Manassas, at Sharpsburg, and Suffolk.

When Longstreet's corps reached the fatal field of Gettysburg, in the early morning of the 2d day of July, 1863, JOHN M. PINCKNEY and five others of his regiment were sent out on a scout to ascertain the enemies line, position, and designs. Secretly, cautiously, and successfully they passed around the flank of the Federal Army, ascended the summits of Little and Big Round Top, and there beneath them, saw all the trains of the Union Army, its artillery, and thousands of its troops huddled together, not suspecting that the enemy was so near. The brave PINCKNEY immediately dispatched two of his scouts to General Hood with the information that they were on the flank of General Meade's army, and that that army, and all its trains and artillery, by bold and resolute attack, could be made the easy prize of General Lee, and urged that these positions be at once occupied by all the forces possible. When the messenger, with this information, reached General Hood he was just forming his division for an assault on Peach Orchard. He begged General Longstreet for permission to make the movement suggested by PINCKNEY, but Longstreet could not grant it, as General Lee had given him imperative orders to charge with his corps up the Emmitsburg Pike. Could this movement have been made, the result of the fearful struggle might have been different.

When General Lee's broken legions retreated from their murderous and hopeless assault on Cemetery Hill back to Virginia, JOHN M. PINCKNEY was ever with his command, at the point of danger, and when his division was hurried off to Chickamauga he went along, and under their veteran commanders, Longstreet and Hood, this division, with PINCKNEY in the front rank, stormed Snodgrass Hill, and drove the enemy in confusion from the bloody field.

At Knoxville, Bull's Gap, the Wilderness, Spottsylvania Court House, Cold Harbor, and at 100 battles and skirmishes around Richmond and Petersburg JOHN M. PINCKNEY was always in the van, and bore a hero's part. But amid all these scenes of carnage and death the Supreme Arbiter of life and death suffered him not to be seriously harmed, but spared him, that he might become a factor in the material and social upbuilding of his beloved Southland, to whose cause he had devoted his boyhood and the flower of his young manhood.

Forty-one years ago from the 8th day of this month he stood in the last line of battle of the Army of Northern Virginia, at Appomattox. On the following day he stacked his arms, and with streaming eyes and heavy heart took up his melancholy march to his far-distant home in Texas.

While in war his character was grand, yet in the arts of peace, in his efforts for the enforcement of law and order, in his devotion to duty, in his fidelity to his friends, and in his ardent affection for his loved ones his character was sublime.

Though brave in war, he was heroic in peace. Though he devoted, in war, four years of his life in an effort to uphold the sovereignty of his State, he spent the remainder of his life in an effort to uphold the dignity and sanctity of her laws. In war he was a terror to honorable foes, in peace he was a terror to evildoers, and a shield to righteousness and virtue, and a protector of the innocent.

The same courage and the same fortitude, heightened in degree by his added years, he carried into civil life. He studied law by torchlight, and was admitted to the bar in 1875. In 1890 he was appointed district attorney of his district by Governor Ross, and for ten years faithfully and efficiently prosecuted all violators of the law. None were high enough or rich enough to secure immunity from just prosecution and punishment, and none low enough or poor enough to be subjected to unjust prosecution or punishment.

If I were asked what were the strongest traits of his character, I would say the honesty with which he formed his conclusions and the courage displayed in maintaining his convictions. He won the sobriquet of "Honest John." Time will not permit me to mention more than one illustration of this courage of conviction. Prior to his becoming a candidate for Congress he had been a Prohibitionist—that is, he favored the adoption by his community of the local laws provided by the State of Texas to prohibit the open saloon. These laws were very unpopular in certain parts of his district, and certain friends wrote him: "John, let prohibition alone, or you are beat for Congress." This manly reply was sent: "I will not go back on my convictions for Congress or any other office." Like the great Clay, he had rather be right, as he saw it, than be President. This won the respect and admiration of the most bitter opponents of his views on this subject, for all of us admire a man who fearlessly stands for his convictions, regardless of whether we agree with or differ from these convictions.

If I were asked what was the crowning trait of his character I would say his heaven-born devotion for those bound to him by ties of blood and family—his loved ones. While his love for his brothers was such that he would have given his life for them, the chords of his tenderest and sweetest affection naturally twined about his only sister.

These two, the brother and sister, were all love and devotion; they grew up together, and shared each other's every joy and sorrow. To her he was an idol; to him she was a solace and inspiration and incentive to lofty ideals and deeds.

He has been taken and now she is left. My heart goes out to her in her desolation. Alone, with no companion save the memory of his glorious life—alone to nurse that agony of grief which only a devoted heart like hers can feel, until she receives the summons to join again her loved ones upon the shore of that great beyond.

Mr. BURGESS. Mr. Speaker, JOHN MCPHERSON PINCKNEY is dead, and his colleagues and friends meet here to-day to pay our last tribute of respect to his memory. He died a sudden and a tragic death, the circumstances and manner of which furnish but another of which history is full of those striking, bitter commentaries upon the frailty of mankind. That human beings should become aroused by reason of religious or political differences to the height of passion and prejudice and to engage in the destruction of each other seems in our peaceful moments in a Christian age incomprehensible, and that is exactly what did occur—a sad picture which furnishes for us food for the profoundest reflection. The victim in this case was a man of notable characteristics. Other colleagues have spoken already of his matchless career as a soldier, of his devotion to civic duty. Certain it is that a review of this man's career as a soldier in Hood's Texas brigade stirs human hearts, and is a matter in which not only every Texan, not only every son of the South, not only every American, but every brave man can rejoice.

For many years Mr. PINCKNEY represented a judicial district, many counties of which were a part of the Congressional district in which I was first elected. We had very many warm mutual personal friends, and while I had known him for many years more or less intimately it was but natural that when he came to Congress we became at once intimate, warm personal friends. I wish to speak, out of my friendship for him and knowledge of his personal characteristics, of some of the elements of his character, all of which will be abundantly confirmed by what has been said of both his public and his private career. He came of an illustrious family, and while his environment as a young man was not equal to many more favored men in this life, it developed the fact that to be a fine character, to be a genuine gentleman, blood—family—cuts some figure and is a potent factor to that result. His early educational advantages were meager. His environment was not of the highest kind, which we term "polite society," but he came of good, honest stock. He was born and reared among good, honest people, and he lived and died a genuine gentleman that invokes those beautiful lines by Eliza Cook:

> Nature, with a lavish hand, sends forth her nobly born,
> And laughs the paltry attributes of wealth and rank to scorn.
> She molds with care a spirit rare, half human, half divine,
> And cries, exulting, "Who can make a gentleman like mine?"

The profoundest characteristic of this worthy man may be summed up in the simple and trite expression, "He was an honest man." And by honesty I mean more than that mere sense of obligation of which we sometimes speak as commercial honor. I mean more than a mere sense of duty to obey law and to discharge legal obligations. I mean a far deeper thing than that. That is superficial honesty; that is an honesty that may spring of policy and may be forced by intellectual recognition of its advantages.

The Great Teacher, in the profoundest of his parables, in which He likens men to soil and the Word to seed sown, depicts the fact that only that seed prospered which fell in "good and honest soil." Real honesty is a gift of God worked out in those infinite processes which compose the law of heredity, and under all circumstances, under any environment, they will work out true results.

Such an honest man was JOHN M. PINCKNEY, a man inherently honest, a man built to be honest, a man who desired to be nothing else but honest, a man whose fiber of soul was as true to truth as the magnet to the current that animates it.

He also was a brave man, and I mean here, as in the other case, more than that bravery partaken of by the brute, more than that physical nerve to engage in a personal encounter. I mean that bravery which springs up in the human soul as a result of the sense of right, and which is the sister of honesty in the human heart; that bravery which knows no fear when once it conceives its duty. This man's career, as strikingly as any of the great of earth, revealed the fact that he was brave in the highest and best sense. Whether you differed with him as to his convictions upon which he went into the great civil conflict, whether you differed with him in his views in this or that case when he prosecuted in the courts of the country, whether you differed from him in his views that led in part, unfortunately, to his tragic death, whatever your view may have been, as opposed to his upon any issue, if you knew him you recognized that they were sincere, honest, manly, brave, and that he would not be swerved and would not be turned by any consideration of the result of his advocacy of the conviction.

It follows from these two things, that were deep in the man's soul, as day follows night, that he was a loyal patriot; that he was a sincere, unwavering friend; that he was devoted to every object of his affection. I have never heard, and I believe no other living man ever heard, in all the bitter contests of JOHN M. PINCKNEY'S life, his worst enemy proclaim that he had ever been false to a friend. He was as intense in this respect as any man I ever knew. I never came in personal contact with any man in all my experience who I thought had a higher sense of loyalty to his friendship, as well as his devotion to his principles and his duties. The man had a great heart. Not only his career as a soldier and as a citizen, not only his devotion as a friend, but his matchless affection, long-continued, for his sister, is one of the most wonderful things in the career of any man I know in history, in any age—anywhere.

His maiden sister managed his home. She was mother, sister, daughter, sweetheart, all rolled into one. And no fond father, no devoted brother, no lover ever worshiped the object of his affection more deeply and continuously than JOHN M. PINCKNEY worshiped his sister, Miss Sue, as she was commonly and generally called. You have heard it described here by other colleagues how for years, when separated from her in the discharge of his duties as district attorney and in other positions in life, it was his daily custom to write this sister a letter. Ah, it is the little things in life that touch our hearts; it is the little things in life that go to make up the great sum of human character that at last, in the day of final account, glorify the human soul.

This devotion was really pathetic. No mention of the man's life would be complete without a mention of this remarkable affection borne between this maiden sister and this old bachelor. No language can soften the grief of that heart. I would that I had power, I would that language had not so great limitation, so that it were possible that some of us could utter something here that would fall with softening effect upon that sorrowing heart.

Nothing can be said, humanly speaking, that can soften her sorrow. If, as we hope and fondly believe, she be one of those whose faith is anchored within the vale, who can look with Christian eyes beyond the dark river and contemplate the glories of a future state beyond this, she may soften her grief and her sorrow by the hope that is left her, and all who grieve as she does, in the great beyond.

Mr. BEALL of Texas. Mr. Speaker, I can add nothing to what has already been said in beautiful tribute to the memory of JOHN M. PINCKNEY. It is fit that on this beautiful Sabbath day, this day that is dedicated to rest and worship, when tree and flower are feeling the touch of a new resurrection, we should meet to honor the memory of as brave and lofty a spirit as ever walked among men. We speak no cold and formal words of eulogy of our dead to-day, for if he could speak to us from that mysterious and echoless shore JOHN M. PINCKNEY would spurn such words if spoken.

We come to voice a grief that is sincere, and to honor ourselves and our State by paying tribute to our colleague who has solved the mysteries of death.

The birth of our friend was under humble conditions, but in his veins flowed the blood of a heroic race and an illustrious family, he being a descendant of the old Pinckney stock so distinguished in the early days of this Republic. He was a native of the district which he so faithfully represented here. His whole life was spent among these people, and they, better than all others, were acquainted with his virtues and his frailties, and the love his own people had for him is the surest testimonial to his worth.

I know of no surer test to apply to determine the worth of a man than to judge him in this way. A man here is viewed through a light that diminishes and reduces him below what he really is. If he is viewed through the partial glasses of relatives or intimate friends, he is unduly enlarged; but when he is measured by the regard of his own people as a whole, where neither intense friendship nor intense hostility refract the light, a fair estimate of his character can be reached.

At the time of his birth Texas was just laying aside the scepter as an independent republic and was taking her place as a State of this Union. It was then far out upon the border line of civilization. Her vast prairies were then unsettled and her great forests were unpeopled. His early years were spent amidst the dangers and hardships of this frontier life. His opportunities for an education were limited. While he was but a slender, beardless boy, he donned the uniform of the Confederacy and went out with the other brave spirits who formed Hood's immortal brigade of Texans. At second Manassas, at Gaines Mill, at Sharpsburg, Gettysburg, Chickamauga, the Wilderness, and upon a hundred other battlefields he looked death in the face without faltering. He fell, seriously wounded, in the Wilderness, but finally recovered. He suffered the horrors of captivity, but escaped. He was with the ragged and famishing battalions that Lee, the knightliest soldier of all time, surrendered to Grant, the generous one.

To me there is something inexpressibly sad in the thought that this House is now honored by the presence of so few of those who participated in that great struggle upon either side. As the years go by their ranks are growing thinner and thinner here on earth, and fewer and fewer are those who answer to roll call in either branch of Congress. They were the choicest spirits that the world ever saw, and their record here has been no less honorable than their conduct upon the field of battle.

When he returned from the war he became the support of his invalid father and of his brothers and sisters. He had neither child nor wife to lavish his affection upon and so he gave it in generous measure to brothers and sister and orphan children. Mention has already been made of the sweet and tender love between him and his sister. To him she represented all that was tender and beautiful and good in woman; to her he was all that was noble, brave, and heroic in man. When separated, as they rarely were, neither the labor of his profession nor the cares of official position ever prevented him from sending his daily message of love to his "Sukey," as he fondly called her.

When the convention met that first nominated him, the contest was bitter and the result uncertain. When finally he was nominated, he was sent for to address the convention, and amidst the applause of friends he was escorted to the platform. In that hour he forgot all about personal triumphs, but with tearful eyes said, "Boys you have made my sister the happiest woman in all the world to-day."

It was told of him that when in the heat of the campaign it was charged that he really belonged to the Prohibition party because of his bitter opposition to the liquor traffic, he said: "I am a Democrat. If you don't believe that I am, go ask my sister Sue." In the mind of this brave and simple old man there was no right of appeal from the judgment of that sister.

I pray God to pity her and care for her in this night of loneliness and sorrow to her. Within a few short months she was bereft of three brave brothers by the hand of violence. In a letter to one of my colleagues she says: "Had any woman such awful trouble as is on me? Day and night I think of them. If the sun shines, my soul is sick; there are no dear boys here to enjoy it. If it rains, the raindrops that fall on their graves also fall upon my heart."

While we conduct these exercises here today, in far-off Texas, in a little cottage she sits with streaming eyes and breaking heart, caressing the blood-stained garments of her loved one, whispering to herself his name and living over in sorrowful memory the years of the past with him.

I rejoice that it was my privilege to serve with JOHN PINCKNEY in this House, and to know him. I admired and loved him because he had lived such a life of sacrifice for others; because he had been such a knightly soldier; because he was as gentle as a women and as simple as a child.

He was not a politician, as the word is commonly used. He despised all the arts of the demagogue and all the practices of trickery and hypocrisy. He did not pretend to be what he was not. He was a plain, old-fashioned Texan, faithful to truth as he saw it and to duty as he understood it.

I thank God that we live in a land that produces such men and that honors such men and that is blessed with the memory of such men. He was not a great man, as the world usually measures greatness. Limited in opportunity and education he possessed but ordinary ability and ordinary attainments. Yet he was a great man as measured by the truer standards of greatness. He was a man who dared to look his duty in the face and to follow, though by doing so he walked alone and in the night. He was a man who loved truth above all things else. He was a man who forgot himself and by the light of that sacrifice dedicated himself to the service of his fellow-man.

His death was a cruel and needless sacrifice. His heart was pierced by the bullet of a cowardly assassin. He died as he had lived, pleading for the supremacy of the law and the protection of the helpless.

The tired hands of our colleague are folded now and the weary eyes are closed forever. Above his grave the blue skies of his beloved Texas bend, but he sees them not; the flowers are blooming about him, but he catches not their fragrance, the southern breezes whisper above his resting place, but he feels them not; the mocking bird sings wondrous melodies above his dust, but he hears them not. Let us hope that his spirit abides 'neath e'en fairer skies, where sweeter flowers blossom and gentler breezes blow and where the strains of heavenly music thrill his soul.

Mr. GARNER. Mr. Speaker, JOHN M. PINCKNEY was a genuine son of the old South. He had the virtues and characteristics of a long line of slave-holding ancestors, with but few of their vices. He was brave, honest, patriotic, unselfish, and the ruling principle of his nature was the performance of every duty intrusted to him.

While he was yet a raw boy in his teens, on his father's plantation, the great civil war burst upon the country. With youthful ardor he threw aside his school books and enlisted in Company G, Fourth Texas Infantry, then commanded by the Marshal Ney of the Confederacy, John B. Hood. He was with the Confederacy from its beginning to its end. He sat by its cradle; he followed its hearse.

He marched with his command from Houston, Tex., to Richmond, Va. There his regiment was incorporated, with other Texas regiments, into Hood's famous brigade, which was the finest brigade of the finest division of the finest corps of the finest army that ever marched to battle, that body of incomparable infantry, that array of tattered uniforms and bright muskets, the Army of Northern Virginia, which, as has been eloquently and truly said, "carried for four years the revolt of the South on its bayonets and died only with its annihilation."

If the many battles, marches, and victories of Hood's Texas brigade could be written, truly its story would rival the Odyssey in adventure, romance, and thrilling interest. They won glorious victories in Virginia, Maryland, Pennsylvania, North Carolina, Georgia, and Tennessee. More than a half dozen States were the theater of their brilliant exploits in arms. At Yorktown, Williamsburg, Seven Pines, and the seven days' battles around Richmond, second Manassas, South Mountain, Sharpsburg, Fredericksburg, Suffolk, Gettysburg, Chickamauga, Campbell Station, Knoxville, Bulls Gap, the Wilderness, Spottsylvania Court-House, Cold Harbor, in a hundred battles around Petersburg and Richmond, its plume floated bravely and defiantly on the red crest of battle and where the storm was fiercest, there was JOHN M. PINCKNEY.

Often have I heard him tell how, in the late afternoon of the 15th day of September, 1862, Hood's brigade, with worn and wasted ranks, stood on the fatal field of Sharpsburg, and right across the Antietam River they beheld McClellan's vast army unrolling for battle. When Hood's heroes saw this mighty host arrayed against them and looked around on their thin, gray line they shuddered, but just then they turned around and there on the hill behind them they saw outlined against the sky the heroic figure of their great commander, that god of battles, General Lee, seated on his charger and calmly surveying the scene of the coming contest. When Hood's brave veterans saw their great commander they raised a shout of exultation which cheered their comrades all down the line and carried defiance to the brave foes in front of them. In the crisis of the battle of the Wilderness, when General Lee put himself in front of Hood's Texas brigade to lead a desperate charge against the victorious enemy, it was a comrade of JOHN M. PINCKNEY who seized hold of his horse's bridle, and JOHN M. PINCKNEY joined in the shout, "General Lee to the rear, and then we will go to the front." Where the strife was direst there was the Texas Brigade.

In the very forefront of all of its desperate battles stood JOHN M. PINCKNEY.

In the winter of 1864 and 1865, when this gallant band had been reduced to hardly a respectable company in numbers, it was proposed to consolidate them with a North Carolina brigade. A delegation, of which JOHN M. PINCKNEY was a member, was sent to General Lee to protest against their destruction as a brigade. General Lee joined in their protest and gave them a letter to President Davis. When old Howdy Martin, who was made the head of the delegation, found President Davis and eloquently protested against the destruction of their autonomy as a brigade, the stout heart of the inflexible and resolute Davis relented. He burst into tears and told the

ragged veterans in front of him to go back to their command; as long as the Confederacy lived and he was its chief executive never would that great, grand old brigade cease to preserve its original organization. The gray and grizzled veterans carried back this message to their comrades, and in all subsequent battles they made good the confidence reposed in them by General Lee and Jefferson Davis.

JOHN M. PINCKNEY marched with his brigade into Richmond on the Sunday preceding its evacuation. He there boarded the cars for Petersburg, and on the way looked back and saw the whole sky aflame with the conflagration of the capital of the Confederacy. When he reached Petersburg he there saw Generals Lee and Longstreet seated on their horses gazing woefully on the remnant of the brave old Army of Northern Virginia marching in the gloomy night away from the scene of its many trials and victories.

JOHN M. PINCKNEY fought all the way to Appomattox. There he stacked his arms with the few survivors of his brave old brigade, marched back to Texas with a broken heart, ruined fortune, and to a destroyed home. He girded himself anew for the battle of life, and in peaceful civil pursuits lived out his appointed days.

By the voluntary suffrage of his friends and countrymen he was elected to many honorable and responsible offices, the difficult duties of which he always performed successfully, faithfully, and well. In every conflict of opinion he always stood for righteousness and for right. Dying, he left behind him an untarnished name and spotless record. No monument marks his final resting place, but there where he sleeps are sepulchered the ashes of one of the best, the bravest, and noblest of men.

Mr. LAMB. Mr. Speaker, we turn once more on this Sabbath day to the contemplation of death. "All that live must die—passing through nature to eternity." The rich and the poor, the humble and the great alike, must fall before this enemy of mankind.

There is a spirit which haunts us night and day, in sunshine and sorrow, evermore repeating this warning:

Vain man, thy fond pursuits forbear;
Repent; thy end is nigh.
Death, at the farthest, can't be far—
Oh, think before thou die.

"All we know, or dream, or fear of agony" is embraced in death. Nature, experience, conscience all sound in our ears the melancholy truth:

To die, to sleep;
To sleep: perchance to dream: ay, there's the rub:
For in that sleep of death what dreams may come,
When we have shuffled off this mortal coil,
Must give us pause.

In the sad and tragic death of JOHN M. PINCKNEY the State of Texas lost a useful and loyal citizen; this House a patient, attentive, and valuable Member, and each one of us who knew him well a faithful and warm-hearted friend. Outside of his own delegation perhaps he had no better friend in this body than myself. We often walked up Pennsylvania avenue together after the adjournment of the House.

I was always interested in the accounts he gave of the various engagements in which Hood's celebrated brigade participated. Many of these occurred in the territory that now forms a part of the district I represent. The topography is familiar to me, and I participated in several of these engagements. The modesty with which he referred to his own part in these battles impressed me greatly. Gentleness was among the many virtues of our deceased colleague. I recall many conversations with him in and out of this Chamber that impressed this fact on my mind.

From the notices of his sad taking off, published in the Texas papers and loaned me by my friend and colleague Hon. MORRIS SHEPPARD, I could easily see that this trait of character had won him lasting friends in his district.

The poet had in his mind's eye just such a character when he sung:

His life was gentle, and the elements
So mixed in him that nature
Might stand up and say to all the world,
This was a man.

His love for his kindred, and devotion to his friends, as well as loyalty to his State and party are beautifully portrayed in the extracts from the papers published in Texas at the time of his death.

I may well leave these to be elaborated on by the members of his delegation, while in a few simple words I put on record my tribute to a friend, colleague, and old comrade in arms.

He showed in this House, in every conversation, his deeds on the battlefield, and even in the very last moments of his tragic death, that—

The bravest are the tenderest,
The loving are the daring.

In the death of our colleague and friend another private soldier of the immortal band that followed the fortunes of the Army of Northern Virginia through victory and defeat for four long years has answered the long roll call. He has joined the great majority. For all we know he may be now listening to debates such as this House can never hear, and could not comprehend if heard. In the *council chamber* of the spirit land he may have learned ere this why so often on our little earth—

Truth was on the scaffold and error on the throne.

He doubtless knows what he and others have strived oftimes to learn—why freedom and independence was denied a brave people who deserved, yet failed, to win success. For all we know, his emancipated spirit tries in vain to tell us, both in our waking and sleeping hours, the manifold truths of which we can not even dream.

Even the "laws of the spirit," of which we know so little, because fettered by a casket of clay, must have their metes and bounds. Some day we will know even as now he knows.

A soldier of the Army of Northern Virginia can well imagine a reunion of the choice spirits of that noble band that composed the rank and file of Hood's Texas Brigade.

Believing, as most of us do, that life has no end, and is one continuous progress and evolution, we can fancy no condition when the deeds and actions of a former state of being will not be food for thought and subject of comment.

If this be so—and there is no good reason for doubting it—then our colleague is enjoying spiritual communion with his old comrades in arms in a city not built with hands, where sorrows and disappointments are not known and death never enters.

Our deceased friend and colleague was a private soldier of that "incomparable body of men, the glorious infantry of the Army of Northern Virginia" that so often hurled back in confusion the splendidly equipped legions of the North. They immortalized Lee and glorified Jackson and will live in song and story while the history of Marathon and Thermopylæ fires the heart of patriotism and the charge of Balaklava brightens the lamp of chivalry.

Survivors of the war between the States on either side have observed and commented often on the unselfish devotion of the private soldier.

The general, the colonel, the major, the captain, charged with responsibility and nerved with ambition, too often soldiers of fortune, had a stimulus and hope of reward that did not often stir the private soldier. His breast was fired and his arm nerved by devotion to duty.

He was in many cases better born and more intelligent than his officers, yet he was obedient to orders and marched into the jaws of death with a heroism and courage that has challenged the admiration of the world. He knew in the story of the battles the officers' names would be mentioned, and, if among the slain, they would be borne to well-marked tombs, over which loving hands and grateful hearts would spread flowers and shed tears, while over his own grave, unmarked—unnamed most likely—the winds would sing a sad requiem, and no loving hand would plant a single flower.

A soldier of the Second Virginia Cavalry, in pathetic verse, has epitomized this subject, and a lady in Loudoun County, Va., has put the words to music.

Often around the camp fires I have heard soldiers sing:

"All quiet along the Potomac," they say,
Except here and there a stray picket
Is shot, as he walks on his beat to and fro,
By a rifleman hid in the thicket.

'Tis nothing—a private or two now and then
Will not count in the news of the battle;
Not an officer lost—only one of the men—
Moaning out, all alone, the death rattle.

All quiet along the Potomac to-night
Where the soldiers lie peacefully dreaming;
Their tents, in the rays of the clear autumn moon
Or in the light of their camp fires, gleaming.

A tremulous sigh as a gentle night wind
Through the forest leaves softly is creeping,
While the stars up above with their glittering eyes
Keep guard o'er the army while sleeping.

There is only the sound of the lone sentry's tread,
As he tramps from the rock to the fountain,
And thinks of the two on the low trundle bed
Far away in the cot on the mountain.

His musket falls back, and his face dark and grim,
Grows gentle with memories tender,
As he mutters a prayer for the children asleep,
For their mother—may heaven defend her!

The moon seems to shine as brightly as then,
That night when the love yet unspoken
Leaped up to his lips and when low murmured vows
Were pledged to be ever unbroken.

Then, drawing roughly his sleeve o'er his eyes,
He dashes off tears that are welling,
And gathers his gun close up to its place
As if to keep down the heart swelling.

He passes the fountain, the blasted pine tree,
His footsteps are lagging and weary;
Yet onward he goes through the broad belt of light
Toward the shades of the forest so dreary.

Hark! was it the night wind rustled the leaves?
Was it moonlight so wond'rously flashing?
It looked like a rifle. "Ha! Mary, good-by!"
And the lifeblood is ebbing and plashing.

All quiet along the Potomac to-night,
No sound save the rush of the river;
While soft falls the dew on the face of the dead—
That picket's off duty forever.

Again we may draw some useful lessons from the contemplation of our colleague as a type of the Confederate soldier who survived that struggle and entered at once upon another that challenged to the utmost his courage, patience, and endurance.

The obstacles overcome and the victories won by our friend in this field of endeavor will be told by others better equipped for the task than I can possibly be.

The way in which the southern soldiers gathered up the fragments and rebuilt their waste places after the war was simply marvelous. The cold facts, gathered from statistics, will show them as active in peace as they had been in war. Here, too, the individual apparently counted for little, but he helped to swell the sum total of the striving masses who have been laying surely, if slowly, the foundations of new structures destined to surpass in wealth and power those that went down in the fierce conflict of battle.

Toward this rehabilitation JOHN M. PINCKNEY contributed his full share in the State of Texas, as his colleagues from that State have shown this day.

We will cherish his memory and pray that peace and contentment may follow those who directly bind that memory to earth.

It will not be long before some of us shall join him on the other shore. Death is no more mysterious than life.

So live, that, when thy summons comes to join
The innumerable caravan that moves
To that mysterious realm where each shall take
His chamber in the silent halls of death,
Thou go not like the quarry slave at night
Scourged to his dungeon; but, sustained and soothed
By an unfaltering trust, approach thy grave
Like one that wraps the drapery of his couch
About him, and lies down to pleasant dreams.

Mr. SHEPPARD. Mr. Speaker, emotions weird and numberless overwhelm us as we turn from the grave whose gates are closing on the form of some beloved companion and wander among the castles of the dust. As meditation deepens we see the shadowy outlines rise until the melancholy habitations of the dead surround us in unending vistas. It is a universe of gloom, an empire of the night. On every wall and tower sits the scepter of the dark. In every chamber solitude is unquestioned monarch. We speak, but only an inaudible whisper leaves the lips. We tread the pallid passages, but no sound betrays our steps. We see the phantom multitudes—the fleshless fingers, the ghastly brows, the pulseless frames—myriads on myriads pouring from a vast and dim horizon, a noiseless Niagara of the dead. They swell the twilight avenues and flood the fragile palaces, a dismal pageantry that ceases not but ever multiplies. We see the forms of those we love. With grief unspeakable we observe the features stark, the bloodless lips, the lifeless eyes in which shine neither recognition nor affection, but only the feeble glimmer of decay. In the desperation of an agony which a strange paralysis chains unuttered in the soul we reel against that tide of death to find the vision vanished and in its place a cemetery with a city near at hand.

In contemplation of the grave a thousand fantasies arise. It is the theme of all themes most prolific in the literature of the world. In the oldest writings known to man—the Vedas, Brahmas, and Avestas—it was the source of the profoundest speculation. Its origin was conjectured in the strains of Hesiod. It was defied and satirized in the philosophy of Epicurus and Lucretius. It was exalted in the meditations of Aurelius. It gave a somber emphasis to the barbaric melodies of Beowulf and all the war chants of the Saxon time. It touched with resistless sorrow the flaunting cynicism of the Rubaiyat. It darkened the life of Petrarch, who emptied his heart in crimson sonnets on the tomb of Laura. It was apotheosized in Milton's classic grief for Lycidas, wherein the bard immortal bids

* * * amaranthus all his beauty shed
And daffadillies fill their cups with tears,
To strew the laureate hearse where Lycid lies.

It prompted the pathetic imagery of Robert Blair, the elegy of Thomas Gray. It suggested to the observant genius of Johnson the famous dirge upon the vanity of human wishes. It added horror to the wild imaginings of Poe. It freighted with a pathos deep and exquisite his lamentations for the lost Lenore, his distress for the death of Annabel Lee, and the journeyings to the tomb of Ulalume.

Down by the dank tarn of Auber,
In the ghoul-haunted woodland of Weir.

Such are the reflections with which we approach the commemoration of the death of JOHN MCPHERSON PINCKNEY, reflections saddened beyond all measure by the recollection of his infinite nobility. He combined the qualities of a brave and spotless manhood. Honor radiated from his soul, while truth sat on his brow as on a throne. He was in manner gentle and in action firm. His faith was perfect and his love sincere. Friendship was his altar and justice his shrine. Purity in purpose and courage in execution were the striking elements of his nature, and in his lofty philosophy duty was but another word for God.

Although a native of Texas, he was a descendant of the Pinckneys of South Carolina, who were conspicuous among the founders of the Republic and who adorned the history of their State and the nation with examples of patriotism and ability. His early existence was one of uneventful toil. From the reluctant earth he was compelled by stern conditions to aid in obtaining the necessities of life for a crippled father and a family of brothers and sisters. Thus was impressed upon his tender years the principle of unselfish love which ennobled his entire career. When he was 16 years of age the American civil war began, and he became a Confederate soldier. He took part as a private in Hood's brigade in nearly all the important battles and campaigns of that mighty struggle, surrendering with Lee at Appomattox. His bearing on the field and in the camp was flawless. He was faithful to comrade and loyal to commander. He was cheerful in the bivouac, tireless on the march, and terrible in the charge. His daring on one occasion led to his capture, but he was soon released. He was thrice wounded, once quite seriously. The close of the contest found him a veteran of one of the greatest wars in history at the age of 20.

He returned to his home to face the forces of reconstruction, enemies to be more dreaded than the forces of invasion by which he had been overpowered. In common with his countrymen he began the task of rebuilding a shattered land. He labored at various employments for ten years, being still the principal support of the family. Whatever respite he could secure was utilized in the study of law and general literature, and in 1875 he was admitted to the bar. When it is recalled that during the most impressionable period of his youth he had been subjected to the demoralizing influences of war, that after the conclusion of hostilities society was in an unsettled and perilous condition and that the demands upon his time and means strained his energies to the utmost, we may begin to comprehend the moral strength and resolution with which he discharged every obligation to his family and his country and yet found time to cultivate the gentler graces of the mind and to prepare successfully for the bar.

He was an able and progressive lawyer. He was a vigorous and convincing advocate, a frank and honest counselor. His professional conduct was above question. His conception of his relation to court, to client, and to adversary rested on the highest ethical basis. He would never sacrifice principle for gain nor truth for tainted victory. It was not purely as a lawyer, however, that he achieved a commanding position in the community. The people knew that above the lawyer stood the man. They came to love him for his worship of right, his devotion to justice, and for the stainless splendor of his integrity. The people as a whole, Mr. Speaker, possess a remarkable power of analysis, an unerring judgment of sincerity in public men. They seem to know by some mysterious instinct when public servants are prompted by proper or improper motives. It may be that for this reason the voice of the people is said to be divine. At any rate it is certain that the people of JOHN M. PINCKNEY'S section came intuitively to regard him as the embodiment of law, the personification of its majesty. He was elected to the office of prosecuting attorney. The people summoned him to combat the elements which threatened the overthrow of society, and his response was prompt and manful. For ten years he championed the peace and dignity of the State. As a prosecutor he was utterly fearless and wonderfully effective.

At the close of his service as district attorney he became, in 1900, county judge of his home county. When he was nominated for Congress at Houston in 1903 the people of Hempstead, the place of his residence, prepared a joyful reception. As he stepped from the train that had borne him home the shouts of multitudes, the peals of music, the clangor of bells united in a tumultuous but happy welcome. First to greet

him was his sister, Miss Sue Pinckney, whom he loved and worshipped with a constancy as rare as it was beautiful. Between them had existed a devotion for which the language of poets, the canvas of artists, the marble of sculptors have no adequate expression. For more than half a century they had walked hand in hand through shadow and through light. Hardly a day had ever passed that they did not communicate in some way. As he embraced her on this supreme occasion the clamor immediately ceased and the great throngs in reverent silence observed this expression of as pure a love, a loyalty as sublime, as ever flowered in the human heart. Of his sister he once said:

I owe more to her than can ever be expressed, and the ambition of my life is so to live that I will be worthy of her affection.

It was when he assumed his seat in Congress that I made his acquaintance. We were drawn together by the fact that we were, respectively, the youngest and oldest Members of the Texas delegation. From acquaintance to friendship, from friendship to affection, were but short and eager steps. Our association here was most intimate. I had thorough opportunity to observe him in every phase and mood of life, and admiration rivaled love. He gave the closest and most conscientious attention to the proceedings of the House. He would remain in his seat through the tedious deliberations on long appropriation bills, evincing the liveliest interest in every motion and in every debate. When death retired him he was rapidly taking a high place among the most conservative and useful Members of this body. Of the civil war he frequently spoke. Of his record as a Confederate soldier he was justly proud. He accepted, however, the logic of Appomattox. He gloried in a reunited country and a common flag. He believed with Jefferson Davis that on the arch of the Union should be written, "Esto perpetua"—be thou perpetual.

The significance of his life lies in the fact that he was a typical Confederate soldier. Earth has no higher title. As I heard from his laconic lips the story of that giant strife I saw the hosts in battle line. I saw the thinning rank through four tempestuous years yield slowly to superior force. I heard the thundrous prelude of Manassas. I saw the fires of Carthage, Lexington, Columbus, and Ball's Bluff. I saw the surge of Shiloh's thousands, the clash of the legions at Murfreesboro. I saw the crimson skies of Malvern Hill, of Antietam, and of Fredericksburg. I saw the carnage of Chickamauga and Missionary Ridge. I heard the crash of Jackson's columns against the opposing myriads at Chancellorsville. I saw the charge at Gettysburg. I saw the gleam of a million bayonets encircle the tattered groups of gray. In the gloom of the Wilderness I saw them approach the superbest martyrdom since Calvary's agonies made all defeat and sorrow holy. And when the tumult of the conflict fell there rose above the ashes of Southern hopes and homes a cross that bore the figure of a Confederate soldier. Beyond the waste of nineteen hundred years I saw that other cross on which a God had died; and I knew that through my tears I saw the two sublimest sacrifices of God for man, and man for his conception of the truth.

Sleep, warrior, sleep. Your unimprisoned soul now mingles with the armies in the tents of light, where blue and gray together welcome every comrade to the rank immortal, armies summoned to the peace of endless morning by reveilles from the lips of God—enemies no more, but brothers there and their united children brothers here, forever and forever.

[Mr. RANDELL of Texas addressed the House. See Appendix.]

And then, in pursuance of the resolution heretofore adopted, the House (at 12 o'clock and 47 minutes p. m.) adjourned.

SENATE.

MONDAY, *April 30, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. HALE, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

FINDINGS OF THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Phoebe N. Ver Neulen, widow of Edmund C. Ver Neulen, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, transmitted to the Senate resolutions of the House commemorative of the life and public services of Hon. JOHN M. PINCKNEY, late a Representative from the State of Texas.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

S. 47. An act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes;

S. 956. An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska;

S. 3045. An act to incorporate the American Cross of Honor within the District of Columbia;

S. 4046. An act to incorporate the Edes Home;

H. R. 11037. An act relating to the transportation of dutiable merchandise without appraisement;

H. R. 11946. An act to amend section 6 of an act approved February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians on various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes;" and

H. R. 15911. An act to amend the laws of the United States relating to the registration of trade-marks.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented the petition of Thomas S. Watkins, post commander, Department of the Potomac, Grand Army of the Republic, of Washington, D. C., praying that an appropriation of $5,000 be made for the marking of historical places in the District of Columbia; which was referred to the Committee on Appropriations.

He also presented petitions of members of the Metropolitan police department of Washington, D. C., the police department of New York City, N. Y., and of the police department of Baltimore, Md., praying for the enactment of legislation to increase the wages of patrol drivers of the Metropolitan police force of the District of Columbia; which were referred to the Committee on Appropriations.

He also presented a petition of the Department of the Potomac, Grand Army of the Republic, of Washington, D. C., praying for the enactment of legislation providing for the purchase of a temporary home in the District of Columbia for ex soldiers and sailors of the late wars; which was referred to the Committee on the District of Columbia.

He also presented a petition of sundry citizens of Washington, D. C., and the petition of George W. Evans, of Washington, D. C., praying that an appropriation of $8,400 be made for replacing granite block pavement with asphalt on Nineteenth street between I and L streets NW., in that city; which were referred to the Committee on Appropriations.

Mr. PLATT presented a petition of Local Council No. 50, Junior Order United American Mechanics, of Buffalo, N. Y., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented petitions of the Kemp & Burpee Manufacturing Company, of Syracuse; of the Warsaw-Wilkinson Company, of Warsaw; of Local Union No. 415, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Olean, and of Local Union No. 34, Brotherhood of Painters, Decorators and Paper Hangers of America, of Buffalo, all in the State of New York, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. HALE presented petitions of the Maine State Grange, Patrons of Husbandry; of Coopers Mills Grange, Patrons of Husbandry; of the New Century Grange, Patrons of Husbandry, of Dedham, and of sundry citizens of Waldo County, all in the State of Maine, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. BURNHAM presented the memorial of E. W. Poore, of Manchester, N. H., remonstrating against the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented the petition of Dr. F. M. Boyle, of Valdez, Territory of Alaska, praying for the enactment of legislation to regulate the practice of medicine in that Territory; which was ordered to lie on the table.

He also presented the petition of Herman G. Morrison, of Laconia, N. H., praying for the enactment of legislation to re-

move the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. ANKENY (for Mr. GAMBLE) presented the petition of Marvid Carlson and sundry other citizens of Centerville, S. Dak., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. PILES presented a petition of sundry citizens of St. Helen, Wash., and the petition of Ernest Aschau and sundry other citizens of St. Helen, Wash., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. KITTREDGE presented a petition of the Western South Dakota Stock Growers' Association, praying for the enactment of legislation to extend the time in the interstate transportation of live stock; which was ordered to lie on the table.

He also presented a petition of the Western South Dakota Stock Growers' Association, praying for the enactment of legislation providing for the segregation of agricultural from grazing land, and to provide a system of leasing said lands; which was referred to the Committee on Public Lands.

Mr. KEAN presented a memorial of sundry citizens of Elizabeth, N. J., remonstrating against the enactment of legislation placing the schools of Alaska under the supervision of the governor of that Territory; which was referred to the Committee on Territories.

He also presented sundry petitions of citizens of Newark, N. J., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

Mr. BURKETT presented a memorial of the Credit Men's Association of Lincoln, Nebr., remonstrating against the repeal of the present national bankruptcy law; which was referred to the Committee on the Judiciary.

Mr. FULTON presented a petition of sundry citizens of Weston, Oreg., praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

Mr. OVERMAN presented a statement and affidavits in support of the bill (S. 4602) for the relief of the Methodist Episcopal Church South, at Beaufort, Carteret County, N. C.; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 5937) for the relief of Leonidos H. Hall; which were referred to the Committee on Claims.

Mr. CULLOM presented a petition of Local Division No. 155, Brotherhood of Locomotive Engineers, of Decatur, Ill., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

Mr. RAYNER presented a petition of Local Union No. 1, Brotherhood of Painters, Decorators, and Paper Hangers, of Baltimore, Md., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. PENROSE presented a petition of the Presbyterian Ministerial Association of Philadelphia, Pa., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings and grounds; which was referred to the Committee on Public Buildings and Grounds.

He also presented a memorial of the Universal Peace Union of Philadelphia, Pa., remonstrating against the enactment of legislation appropriating money for the purpose of increasing the Army and Navy, the enrollment of a general militia, and for erecting additional coast fortifications; which was referred to the Committee on Naval Affairs.

He also presented a petition of Heilman Council, No. 140, Daughters of Liberty, of Falls of Schuylkill, Pa., and a petition of Springtown Council, No. 929, Daughters of Liberty, of Springtown, Pa., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented memorials of Local Division No. 169, Amalgamated Association of Street and Electric Railway Employees of America, of Easton, Pa., and of Local Division No. 173, Amalgamated Association of Street and Electric Railway Employees of America, of Hazleton, Pa., remonstrating against the repeal of the present Chinese-exclusion law; which were referred to the Committee on Immigration.

Mr. FRYE presented a petition of 66 citizens of Portland, Me., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. HOPKINS presented memorials of sundry citizens of Chicago, Ill., remonstrating against the ratification of the Isle of Pines treaty; which were ordered to lie on the table.

He also presented the petition of E. J. Goodall, of Chicago, Ill., praying for the adoption of amendments to the postal laws; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of sundry citizens of Aurora and Enfield, Ill.; of Detroit and Saginaw, Mich.; of Dayton, Ky., and of Pittsburg, Kans., praying for the enactment of legislation granting pensions to the children of deceased soldiers and sailors; which were referred to the Committee on Pensions.

He also presented petitions of sundry citizens of Batavia, Chicago, North Aurora, Decatur, Elburn, Sheffield, Hardinville, Gossett, Pekin, Moline, and Peoria, all in the State of Illinois, and of St. Louis, Mo., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

NAVAL AND POSTAL EMERGENCIES IN CALIFORNIA.

Mr. HALE. From the Committee on Appropriations I report back without amendment the bill (H. R. 18709) making additional appropriations for the public service on account of earthquake and attending conflagration on the Pacific coast, and I ask for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to appropriate $100,000 to enable the Secretary of the Navy to employ such additional laborers and mechanics as may, in his judgment, be necessary for immediate service under the Bureau of Steam Engineering in the navy-yard at Mare Island, Cal., to remain available until June 30, 1906, and to appropriate $70,000 to enable the Postmaster-General, in his discretion, to meet emergencies in the postal service in the State of California occasioned by earthquake and fire, to be paid out of the revenues of the postal service and to remain available until June 30, 1906.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5803) granting an increase of pension to William H. Meadows;

A bill (S. 5806) granting an increase of pension to Joseph D. Armstrong;

A bill (S. 5758) granting an increase of pension to Joshua J. Clark; and

A bill (S. 3750) granting an increase of pension to Wilbur F. Flint.

Mr. SMOOT, from the Committee on Pensions, to whom was referred the bill (S. 5085) granting an increase of pension to Ellen Donovan, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 14142) granting an increase of pension to James A. Scrutchfield;

A bill (H. R. 14980) granting an increase of pension to Matthew H. Bellomy;

A bill (H. R. 15201) granting an increase of pension to Edward O'Shea;

A bill (H. R. 15588) granting a pension to Hester Hyatt;

A bill (H. R. 15632) granting an increase of pension to Joseph B. Sanders;

A bill (H. R. 15675) granting an increase of pension to Harley Mowrey;

A bill (H. R. 15682) granting an increase of pension to Hannah M. Hayes;

A bill (H. R. 15807) granting a pension to Catharine Arnold;

A bill (H. R. 16372) granting an increase of pension to Andrew Dorn;

A bill (H. R. 16724) granting an increase of pension to James S. Burgess; and

A bill (H. R. 16902) granting an increase of pension to Dennis Winn.

Mr. ALGER, from the Committee on Pensions, to whom was referred the bill (S. 5046) granting a pension to George Amerine, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 1855) granting an increase of pension to J. J. Brown; and

A bill (S. 5731) granting an increase of pension to James McTwiggin.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5158) granting an increase of pension to Andrew J. Fosdick; and

A bill (S. 1224) granting an increase of pension to William A. Bowles.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 4458) granting an increase of pension to Andrea P. Quist;

A bill (S. 5557) granting a pension to Henry C. Sloan; and

A bill (S. 764) granting an increase of pension to Robert Carney.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5143) granting an increase of pension to Eugene V. McKnight;

A bill (S. 4784) granting an increase of pension to Lemuel Cross;

A bill (S. 2791) granting an increase of pension to John Lindt;

A bill (S. 4770) granting an increase of pension to Edward Hart; and

A bill (S. 668) granting an increase of pension to John C. Rassbach.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5809) granting an increase of pension to Hannah C. Church; and

A bill (S. 1849) granting an increase of pension to David T. Pettie.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15149) granting an increase of pension to William W. Ferguson; and

A bill (H. R. 15855) granting a pension to Will E. Kayser.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment and submitted reports thereon:

A bill (S. 2852) granting a pension to Bridget Manahan;

A bill (S. 4983) granting an increase of pension to John M. Farquhar;

A bill (S. 911) granting an increase of pension to Julius A. Davis; and

A bill (S. 1264) granting an increase of pension to Joseph Shiney.

Mr. BURNHAM, from the Committee on Pensions, to whom was referred the bill (S. 5834) granting an increase of pension to Charles F. Sheldon, reported it without amendment, and submitted a report thereon.

Mr. PILES, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5583.) granting an increase of pension to Foster L. Banister;

A bill (S. 2294) granting a pension to Michael Reynolds;

A bill (S. 3904) granting an increase of pension to George J. Thomas;

A bill (S. 5784) granting an increase of pension to Mahala F. Campbell; and

A bill (S. 5785) granting an increase of pension to Joseph W. Doughty.

Mr. PILES, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5501) granting an increase of pension to Jacob L. Kline;

A bill (S. 4497) granting an increase of pension to Augustus McDowell; and

A bill (H. R. 9812) granting an increase of pension to Joseph B. Newbury.

Mr. LA FOLLETTE, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 11466) granting an increase of pension to Benjamin F. Heald;

A bill (H. R. 12331) granting an increase of pension to Daniel J. Miller;

A bill (H. R. 15064) granting an increase of pension to Jacob Wagenknecht;

A bill (H. R. 15272) granting an increase of pension to Patrick Mooney;

A bill (H. R. 15783) granting an increase of pension to George W. Sutton;

A bill (H. R. 16098) granting an increase of pension to Frederick Fenz;

A bill (H. R. 16220) granting an increase of pension to George C. Powell;

A bill (H. R. 16522) granting an increase of pension to Charles Meyer;

A bill (H. R. 16632) granting an increase of pension to Louis Lepine;

A bill (H. R. 16884) granting an increase of pension to William D. Woodcock;

A bill (H. R. 3227) granting an increase of pension to Isaac Tuttle;

A bill (H. R. 4222) granting a pension to Otto Boesewetter;

A bill (H. R. 4743) granting an increase of pension to Hiram N. Goodell;

A bill (H. R. 4745) granting an increase of pension to Henry D. Stiehl;

A bill (H. R. 6490) granting an increase of pension to William H. Gilbert;

A bill (H. R. 6912) granting an increase of pension to Charles H. Weaver;

A bill (H. R. 7419) granting an increase of pension to James Scott;

A bill (H. R. 7495) granting a pension to Susie M. Gerth;

A bill (H. R. 7498) granting an increase of pension to Mary Hanson;

A bill (H. R. 7500) granting an increase of pension to John McCandless;

A bill (H. R. 7876) granting an increase of pension to Julius Beier;

A bill (H. R. 8138) granting an increase of pension to Similde E. Forbes;

A bill (H. R. 8144) granting a pension to Ada J. Lasswell;

A bill (H. R. 8662) granting an increase of pension to Edward P. Paramore;

A bill (H. R. 12194) granting a pension to Minnie Irwin;

A bill (H. R. 13861) granting an increase of pension to Wilhelm Dickhoff; and

A bill (H. R. 15002) granting an increase of pension to George E. Wood.

Mr. LA FOLLETTE, from the Committee on Pensions, to whom was referred the bill (H. R. 13787) granting an increase of pension to Malcolm Ray, reported it with an amendment, and submitted a report thereon.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3684) granting an increase of pension to George W. Hyde;

A bill (S. 5871) granting an increase of pension to William B. Ashton; and

A bill (S. 2429) granting an increase of pension to James Devor.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 2619) granting an increase of pension to William H. Willie;

A bill (H. R. 14994) granting an increase of pension to Daniel C. Joslyn;

A bill (H. R. 15499) granting an increase of pension to Elias Andrew;

A bill (H. R. 15500) granting an increase of pension to John W. Thomas;

A bill (H. R. 16319) granting an increase of pension to Orrin D. Nichols; and

A bill (S. 5842) granting a pension to Marie G. Lauer.

Mr. TALIAFERRO, from the Committee on Pensions, to whom was referred the bill (S. 5791) granting an increase of pension to Margaret Simpson, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5786) granting an increase of pension to Mary J. Ivey, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 16717) granting an increase of pension to Sterling Hughes;

A bill (H. R. 16941) granting an increase of pension to Thomas H. Hogan;

A bill (H. R. 11303) granting a pension to Joseph Matthews;

A bill (H. R. 16992) granting an increase of pension to John R. Baldwin;

A bill (H. R. 16993) granting an increase of pension to Melroe Tartar;

A bill (H. R. 15243) granting a pension to Artemesia T. Husbrook;

A bill (H. R. 15501) granting an increase of pension to Elizabeth Parks;

A bill (H. R. 16576) granting an increase of pension to Silas P. Conway;

A bill (H. R. 16577) granting an increase of pension to Joseph M. Pound;

A bill (H. R. 16602) granting an increase of pension to Christopher C. Reeves;

A bill (H. R. 16603) granting an increase of pension to Pleasant W. Cook;

A bill (H. R. 16881) granting an increase of pension to Joel R. Youngkin;

A bill (H. R. 16931) granting a pension to Cornelia Mitchell;

A bill (H. R. 16936) granting an increase of pension to Sherwood F. Culberson;

A bill (H. R. 16486) granting an increase of pension to Thomas Bosworth; and

A bill (H. R. 16466) granting an increase of pension to Asenith Woodall.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5775) granting an increase of pension to Harvey M. Traver;

A bill (H. R. 16828) granting an increase of pension to Georgia A. Hughs;

A bill (H. R. 16541) granting an increase of pension to Ambrose Y. Teague;

A bill (H. R. 16540) granting an increase of pension to Sarah M. Evans;

A bill (H. R. 15058) granting an increase of pension to Enoch Rector;

A bill (H. R. 16530) granting an increase of pension to William H. Gautier;

A bill (H. R. 16529) granting an increase of pension to James M. Sikes;

A bill (H. R. 16527) granting an increase of pension to William Martin;

A bill (H. R. 16526) granting an increase of pension to James R. Hilliard; and

A bill (H. R. 16224) granting an increase of pension to Francis M. Crawford.

Mr. OVERMAN, from the Committee on Pensions, to whom was referred the bill (S. 5326) granting an increase of pension to Annie A. West, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5801) granting an increase of pension to Andrew Jackson Parris;

A bill (S. 5800) granting an increase of pension to James N. Davis; and

A bill (S. 5742) granting an increase of pension to James A. Bryant.

Mr. GEARIN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4887) granting an increase of pension to Calvin C. Hussey;

A bill (S. 1174) granting an increase of pension to Edwin Morgan;

A bill (H. R. 8650) granting an increase of pension to Sewell F. Graves;

A bill (H. R. 9034) granting an increase of pension to Mary F. McCauley;

A bill (H. R. 12792) granting an increase of pension to William Wiley;

A bill (H. R. 13047) granting an increase of pension to Walter Saunders;

A bill (H. R. 13877) granting an increase of pension to Juan Canasco;

A bill (H. R. 15977) granting an increase of pension to Mary E. Ramsey;

A bill (H. R. 16186) granting an increase of pension to William T. A. H. Boles; and

A bill (H. R. 16271) granting an increase of penison to Edwin Elliott.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (S. 215) granting a pension to Elias Phelps, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4133) granting an increase of pension to George Brewster, reported it with an amendment, and submitted a report thereon.

REGULATION OF RAILROAD RATES.

Mr. DANIEL. Mr. President, I desire to give notice that to-morrow morning, after the morning business, I should like to address the Senate on the rate bill.

The VICE-PRESIDENT. The notice will be duly entered.

BILLS INTRODUCED.

Mr. DANIEL introduced a bill (S. 5951) to repeal section 3480 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 5952) granting an increase of pension to Hyacinth Dotey; which was read twice by its title, and referred to the Committee on Pensions.

Mr. RAYNER introduced a bill (S. 5953) to appropriate money for the payment of certain advances made to the United States by the State of Maryland; which was read twice by its title, and referred to the Committee on Claims.

Mr. McENERY introduced a bill (S. 5954) for the relief of the Union National Bank of New Orleans, as the successor of the Union Bank of Louisiana; which was read twice by its title, and referred to the Committee on Claims.

Mr. BLACKBURN introduced a bill (S. 5955) granting a pension to Mary Elizabeth McCann; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McCREARY, introduced a bill (S. 5956) to correct the military record of Milton Newcomb; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 5957) granting an increase of pension to Laban Rupard; which was read twice by its title, and, with an accompanying paper, referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 5958) granting a pension to Bernard Charles; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HOPKINS introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5959) granting a pension to Catherine A. Wright; and

A bill (S. 5960) granting an increase of pension to George H. Eastman.

Mr. CARTER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5961) granting an increase of pension to Eugene B. McSwyny; and

A bill (S. 5962) granting an increase of pension to John A. Richards.

Mr. KNOX introduced a bill (S. 5963) granting an increase of pension to James Reed; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. BACON introduced a bill (S. 5964) for the relief of the heirs of William Bullard, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

ISTHMIAN CANAL.

Mr. MORGAN. I introduce a bill, which I ask may be read at length on its second reading.

The bill (S. 5965) to establish the plan of a ship canal to be constructed in the Panama Canal Zone, ceded to the United States by the Republic of Panama, under the provisions of the treaty promulgated on the 26th day of February, 1904, was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That the President of the United States is authorized to construct a ship canal in pursuance of the general plan hereinafter described, between the 40-foot contour in the Bay of Limon, Caribbean Sea, and the 40-foot contour in the Bay of Panama, to connect the waters of the Atlantic and Pacific Oceans through the Panama Canal Zone.

The central section of said canal shall be constructed as a canal with locks, through the highlands of Culebra and Emperador, for the distance of about 8½ miles, to be connected with the sea-level sections at each end by means of locks to be located in the vicinity of Obispo and Miraflores. It shall be not less than 40 feet in depth between such locks, and shall be, at the surface thereof, not more than 85 feet, and not less than 65 feet above sea-level, as shall be determined by the President of the United States.

SEC. 2. For obtaining and securing a necessary supply of water to said central section, and for purposes of regulating the flow of the waters of the Chagres River, a sufficient and permanent dam shall be erected across said river in the vicinity of Gamboa on a suitable foundation of rock and in accordance with the general plan that is recommended in the report of the majority of the Board of Consulting Engineers submitted to Congress by the President in his message of February 19, 1906; and a channel shall be made between the lake created by such dam and the central section of the canal above mentioned, which shall be of sufficient dimensions, elevation, and capacity to supply water from such lake for all the purposes of floatation and lockage, the generation of power to aid in the construction and in the working said central section to its highest capacity and to serve its continued use for all commercial purposes, and also for service in the regulation of the waters impounded in such lake, which shall be known as "Lake Gamboa."

SEC. 3. That the northern sea-level section of the canal shall be constructed along the valleys of the Obispo and Chagres rivers, so as to connect with the northernmost lock of the central section in the vicinity of Obispo and shall extend to the 40-foot contour of the Bay of Limon.

Said northern section of the canal shall have a depth of 40 feet below mean sea level and shall correspond, practically, with the route, the location, the dimensions, and as to the protection of the same against inflowing waters, as the same are described in the report of the majority of the Board of Consulting Engineers above referred to, but the same shall be subject to such alterations thereof, in all respects except as to the sea-level plan, as the President of the United States shall direct or approve.

SEC. 4. That the southern section shall be a sea-level canal, to be constructed from the southernmost lock of the central section, and so as to connect with it in the vicinity of Miraflores, to the 40-foot contour in the Bay of Panama by the most practical route. It shall not be less than 40 feet deep below the mean sea level and not less than 200 feet wide at any place. It shall be provided with a sea gate or left without such protection according to the direction or approval of the President of the United States.

SEC. 5. That the locks of the canal shall be double or twin locks, with usual capacity of not less than 800 feet in length and not less than 80 feet in width or less than 40 feet in depth over the miter sills. The locks shall not be placed in flights, but shall be located as nearly in connection with each other as may be safe and convenient, having regard to the permanent stability of the foundations thereof, and the location of the respective sets of twin or double locks and the plan and method of construction of such locks shall conform to the best and most economical use of water supply from Lake Gamboa for the most advantageous operation of the central section of the canal, all under the direction or approval of the President of the United States.

Mr. MORGAN. I move the reference of the bill to the Committee on Interoceanic Canals.

The motion was agreed to.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. PILES submitted an amendment providing that leave of absence authorized by law to clerks in post-offices shall be construed exclusively of Sundays and holidays, intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. GALLINGER submitted an amendment relative to the pay and allowances of civil engineers and professors of mathematics in the Navy, intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

WITHDRAWAL OF PAPERS—FRANCES A. BLISS.

On motion of Mr. BURNHAM, it was

Ordered, That the papers in the case of S. 3631, first session Fifty-ninth Congress, "For relief of Frances A. Bliss," be withdrawn from the files of the Senate, there having been no adverse report thereon.

WITHDRAWAL OF PAPERS—FOREMAN S. WELLS.

On motion of Mr. FORAKER, it was

Ordered, That the papers relating to the bill (S. 3679), Fifty-seventh Congress, for the relief of Foreman S. Wells, may be withdrawn from the files of the Senate, there having been no adverse report thereon.

IRRIGATION FROM SACRAMENTO RIVER.

The VICE-PRESIDENT. The morning business is closed.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate.

The VICE-PRESIDENT. Without objection, the unfinished business, being House bill 12987, will be proceeded with.

Mr. CLARKE of Arkansas. My friend the Senator from California [Mr. PERKINS] has a little matter of routine business that he desires to have transacted, and I yield to him for that purpose.

Mr. PERKINS. I thank the Senator from Arkansas kindly for the courtesy he has extended to me.

I ask unanimous consent for the present consideration of the bill (H. R. 11796) for the diversion of water from the Sacramento River, in the State of California, for irrigation purposes.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill had been reported from the Committee on Commerce with amendments.

The first amendment was, in section 1, on page 1, lines 8 and 9, to strike out "900 cubic feet per second of water" and insert "an amount of water which, at a stage of said river of 2 feet above low water, as determined by the United States engineer in charge of the improvement of said river, or at any lower stage, shall not exceed 900 cubic feet per second;" so as to read:

That the Central Canal and Irrigation Company, a corporation organized and existing under the laws of the State of California, and its successors, are hereby granted the right to divert, at all seasons of the year, from the Sacramento River, in the State of California, while and so long as such diversion shall not seriously injure the navigation of said river, an amount of water which, at a stage of said river of 2 feet above low water, as determined by the United States engineer in charge of the improvement of said river, or at any lower stage, shall not exceed 900 cubic feet per second, to be used for irrigating the lands of the Sacramento Valley, on the west side of the Sacramento River, in said State of California.

The amendment was agreed to.

The next amendment was, in section 1, on page 3, line 23, after the word "hereunder," to insert "instituted by the Government or any of its officers or agents;" so as to make the additional proviso read:

And provided further, That all costs accruing in any suit or proceeding hereunder instituted by the Government or any of its officers or agents shall be borne by the said Central Canal and Irrigation Company, its successors or assigns.

The amendment was agreed to.

The next amendment was, in section 4, on page 4, line 23, after the word "within," to strike out "one year" and insert "two years;" and in line 24 to strike out "three" and insert "five;" so as to make the section read:

SEC. 4. That this act shall be null and void if the actual construction of the structures for diversion and measurement of water herein authorized be not commenced within two years and completed within five years from the date hereof.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

REGULATION OF RAILROAD RATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. CLARKE of Arkansas. Mr. President, the pending bill is supposed to be a legislative response to the public demand that something shall be done to put limitations on the power of the common carriers of this country to unfairly tax and control its commerce. The question has received fragmentary attention in Congress and in the legislatures of many of the States. But the remedies that have been worked out and applied from time to time have been so inadequate and inefficient that the public has become almost hopeless of getting relief from any scheme of mere regulation. The magnitude of the evils of extortion and discrimination by the public carriers has grown until it has forced itself upon the attention of the country to such an extent that Congress now finds itself appealed to to remedy the wrong by striking at the very source of it. I feel compelled to say that if the pending bill, without being amended liberally and substantially, is to be the response made by this Congress to that appeal, we shall stand before the country inviting one of two criticisms—either that we have a meager and erroneous conception of the overpowering and widespread evil that calls for correction, or a very limited capacity, and a much more limited disposition, to devise adequate remedies to suppress evils of magnitude after their existence become manifest.

The bill as it now stands, in my humble opinion, is based upon an erroneous theory of regulation from its very first provision to its last. It betrays a rare ignorance of the evils to be overcome and of the methods available to Congress in their suppression. In the first place, the bill provides for the correction of a single rate, or the rate upon a single classification of freight, rather than for a comprehensive regulation of the entire schedule of rates charged by any given carrier. Even the partial remedy provided in the correction of the evil presented by a single excessive rate is only to be made upon complaint involving the challenged rate. This should not be so. The business of compelling common carriers to discharge their duties to the public is governmental in its character, and should be approached with that independence and fairness that should characterize the discharge of public duties and the exercise of

public power. No shipper or patron of the railroad should be compelled to involve himself in an adversary contention over the rates to be charged with the carrier. The contest is an unequal one. The means available to the offended carrier to punish and destroy the complaining shipper are too numerous and subtle to warrant the belief that the right of complaint will be independently and courageously exercised. When a course of conduct has become so notorious as to constitute a part of the everyday knowledge of life, it is the duty of those who hold the governmental power of correction to assume the burden of applying the remedy without exposing the interests of any citizen to the aroused resentment of the powerful class whose abuse of permitted opportunities and powers has made necessary a resort to the remedial powers of the Government. That the transportation of the country has been and is afflicted by a systematic and all-pervading burden of extortion and discrimination practiced by the carriers is a matter that is not seriously disputed.

The transportation facilities of the country have been combined to such a wide extent and in such close alliance that the matters of fixing the tax on transportation and of practicing discrimination between shippers and places are subject to no limitation except the arbitrary edict of those who control the business. Unless it be true that the transportation tax imposed by the limited number of persons who control the transportation facilities of the country is extortionate and confiscatory, then the agitation for the passage by Congress of a comprehensive and effective system for prescribing rates must be viewed in the light of a gigantic conspiracy against the commercial tranquillity of this country. The universality of the demand that Congress shall interpose the strong hand of the National Government to prevent imposition being practiced is evidence that those who are interested in our commercial prosperity and opportunities do not so regard this movement. That this sentiment pervades all classes of our people, and is persistently and earnestly pressed upon our attention, ought to convince us that it represents the conservative sentiment of the country, and is not due to any spirit of temporary unrest artificially produced by the irresponsible and sensational elements of our population. The agitation is the outgrowth of the nullification of the law of competition by the abnormal development of the evil of combination. I do not cry out against the men who have brought about this situation, for in doing so they have only pursued methods allowed by law, and have simply followed the bent of human instincts and inclinations. What they have done others would do, similarly situated. They are merely doing the things that education, environment, and interest qualify them to do, only too well for the general welfare of society. But legislative power is created to restrain, in some measure, the unfair assertion of selfish instincts.

In a strictly private employment, as long as a man avoids doing those things for which he might be put in jail, no one can legally complain; but when he seeks to unfairly advance his interest, at the expense of those who have equal rights, through the agency of a public privilege or franchise, he must submit to such regulations as will protect the rights of others and accord to him all to which he is legally entitled. The power of Congress to delegate to a commission the authority to prescribe rates to be charged by common carriers engaged in interstate commerce has been much disputed. I do not share the belief that there is any doubt about the authority of Congress to confer plenary power for this purpose. I think the right to confer this authority is a logical and inevitable extension of the doctrines and practices that have been declared and established by the court decisions and the course of legislation that have for their ultimate purpose the widening and broadening of national authority. Unless the Supreme Court of the United States has been uncandid with the public in what has been said in more than a score of decisions, the existence of this power must be admitted. That that great Court has not perpetrated a deception in this behalf I am convinced beyond all doubt. The power of the States to interfere with or regulate to any extent interstate commerce has been so uniformly denied that none now are bold enough to complain that it is so, to say nothing of insisting that it is otherwise. The Constitution says that all powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States, respectively, or to the people. It is certain, therefore, that this power to regulate interstate commerce has not been reserved to the States, as their powers in this behalf have been defined by the Supreme Court of the United States, which is the final arbiter in such matters.

LEGALITY, DELEGATION OF RATE-MAKING POWER DOUBTFUL.

Notwithstanding I admit without reservation the power of Congress to delegate to a commission the power of fixing the tax to be imposed upon the transportation of the country by the carriers, I am not so sure that the delegation attempted by this bill is a valid exercise of the power. The power delegated is to prescribe just and reasonable rates, without fixing any standard by which this fact of justice and reasonableness is to be determined. The rule by which the validity or invalidity of a given delegation of legislative power is made to appear is laid down in the recent case of Buttfield *v.* Stranahan. (192 U. S., 496.) It is there said that the delegation will be valid if it appears that Congress has legislated on the subject as far as was reasonably practicable and then, from the necessity of the case, is compelled to leave to executive officials the duty of bringing about the results pointed out by the statutes. It is obvious to anyone who gives a moment's consideration to the question that a mere general direction to prescribe railroad rates that will be just and reasonable leaves to the Commission a vast field for the exercise of discretion as to the policy and wisdom of adopting one course or another, which, when it eventuates in completed form, may be said to prescribe just and reasonable rates. As there are many ways in which this business of fixing just and reasonable rates can be accomplished, according to the judgment of the person rendering the service, the choice as between these means is a legislative one. I think that Congress should formulate as definitely as practicable the basis upon which, or the standard by which, the justice and reasonableness of rates should be ascertained. I think that it is competent for Congress—in fact, I deem it to be the duty of Congress—to provide for the ascertainment of the value of the property of the several railroad corporations engaged in interstate commerce, and by an established method that will afford to each transportation company an opportunity to be represented and heard in the inquiry which is to result in fixing the value of its property.

As human intelligence must enumerate the elements that enter into this aggregate valuation, Congress should indicate which of these elements and how many are to be considered in fixing the value. If the franchise value is to be deemed a part of the value of the investment for the purpose of ascertaining a basis upon which a reasonable return to the carrier is to be computed, it should say so in terms, that the rule may be observed in all cases. If the bond and stock flotations are to be considered for any other purpose than as a mere particle of evidence, throwing light upon the ultimate question of value, definite directions as to this should be given. Then I believe that after the basis of actual value has been ascertained in a way that will challenge respect and be recognized and enforced in all tribunals where it may become a material inquiry, that Congress should indicate what is to be deemed the extent of income that will satisfy the carrier's right to just and reasonable rates. It may be that in a country where conditions differ as widely in the several sections as is the case in ours that an arbitrarily fixed percentage would not in all cases do justice. But this can be provided for by arranging a minimum and maximum, within the limits of which the Commission can be guided in any given case.

It is not my intention to discuss at length the many obvious defects in this bill, because it is my purpose to devote the greater part of the time I shall impose myself upon the patience of the Senate to the discussion of a defect which pertains to a matter of procedure, by which the orders of the Commission, when made, may be relieved of interference by the inferior Federal courts of the country in the exercise of the unlimited right to grant preliminary injunctions. It is a matter of common knowledge among the lawyers of the country that the right to issue injunctions of this character has been abused very greatly in recent years. But whilst it is my purpose to confine myself largely to the discussion of this particular defect, I have not thought it to be proper to entirely omit reference to others.

RIGHTS OF RAILROAD CONSTITUTIONALLY PROTECTED.

The property rights of the carrier, in so far as the same may be affected adversely by Congressional legislation, are absolutely secured against wrongful invasion by the Constitution of the United States and the decisions of the Supreme Court of the United States practically applying and adapting the guaranties of that instrument. There is no possible way by which the common carriers of the country can be compelled to serve the public without receiving for the service just compensation for the use of their property so employed. These companies enjoy absolute immunity from any wrongful invasion of their rights by legislation. This has been decided so often that it has come to be understood as part of the elementary knowledge of the subject. I therefore maintain that it is the duty of Congress to occupy, with a system of comprehensive, intelligent, and effective regulation, every square inch of the territory which lies outside of the barriers of the Constitution, behind which

the rights of the carriers are securely intrenched. Within this zone lie the rights of the public, and by the wrongful invasion of this domain by the carriers are the interests of the public injured and destroyed. The fact that the common carriers have not respected the rights of the public is our justification for seeking to devise and apply a remedy, as we are now doing. That some remedy should be applied all agree. The difference is as to the extent and effectiveness of the relief to be afforded. I believe that as our power is equal to our responsibility, the remedy we tender to the public should be as wide as the mischief, and that its execution should be along lines that will advance the remedy and suppress the mischief. In making these laws we should approach the duty in a frame of mind that will enable us to say that we have no conscientious scruples against doing what is right where the law and the evidence justify it.

The ingenuity of this particular class of lawbreakers has been strengthened and made familiar by an unobstructed exercise for many years, and any attempt upon the part of the lawmaker now to match his ingenuity against that of his adversary must be based upon a knowledge of the fact that he is dealing with one who has enjoyed his immunities so long that by toleration and acquiescence he has come to believe that his wrongdoing has become consecrated into a vested right. We shall not quit the subject with the consciousness of duty well performed if we put upon the statute book a law of meaningless generalities, that for practical purposes signifies nothing, and this, in my opinion, is what this bill unamended will do. We will find ourselves in the situation that the late John J. Ingalls said Kansas found herself in as the result of the adoption of a prohibition amendment to the State constitution. He said that the Prohibitionists of Kansas had all the law they wanted, and the whisky drinkers had all the whisky they wanted. I trust, therefore, that we shall not find that the railroad commission has all the law it wants, and the railroads are in the enjoyment of the right to collect all the rates they want. Although I say I trust that this will not be the result, if I were called upon to give a definite statement of my real opinion, I should find myself under the necessity of recording here and now the prediction that the passage of this bill, unamended in many substantial particulars, will result in a statutory condition that will never regulate, in the direction of a reduction, a single extortionate rate demanded by the railroads. It will amount simply to the introduction for a second time of the colorless regulation that was practiced by the Commission from 1887 to 1897, when it deemed itself to be possessed of the rate-making power. The power then supposed to exist was exercised so mildly that the railways of the country were unable to draw a distinction between the power of supervision exercised by the Commission and that exercised by their own traffic managers.

STATE AND INTERSTATE COMMERCE NOT DEFINED.

Another obvious defect in existing laws that is not remedied by the provisions of the pending bill is one made manifest in the decision of the Supreme Court in Smyth *v.* Ames, 169 United States. In that case the court says: "In our judgment, it must be held that the reasonableness or unreasonableness of rates prescribed by States for the transportation of persons or property wholly within its limits must be done without reference to the interstate business done by the carrier or the profits derived from it." Now, if a similar rule is to be applied, and there is no reason why it shall not be, in the ascertainment of the reasonableness or unreasonableness of rates fixed by the Interstate Commerce Commission, the result is that when the State commissions attempt to fix rates for that part of the traffic which is wholly within the State no notice whatever can be taken of the business interstate in character, and when the National Commission proceeds to ascertain what is a reasonable rate for interstate business no notice can be taken of that part of the carrier's business which originates and ends in a particular State. This is a practical difficulty growing out of the dual character of the government under which the railroads operate, and ought to be definitely and decisively provided for in this bill. Unless the court shall recede from its position as established in that case, the omission from the present bill of some proper provision on this subject will constitute a defect the existence of which is not in the slightest degree complimentary to the information of its framers, assuming always that they were inspired by an honest purpose to correct the defects that are within the limits of their knowledge.

CONGRESS HAS POWER TO PREVENT ISSUE OF PRELIMINARY INJUNCTION IN ANY CASE.

But, as I said a moment ago, my main purpose in taking the floor to-day is to say something in support of the proposition that Congress has power to prohibit the courts from issuing a preliminary injunction suspending the orders of the Commission pending a final disposition in the United States circuit court. I shall not only claim that Congress has this power, but I shall insist that the considerations which support the demand for its exercise in this instance are stronger than those that can be advanced in support of any one of the three distinct instances where Congress has exercised that power heretofore and to the satisfaction and approval of the Supreme Court of the United States.

I shall also have something to say upon the scope and effect of the court review of the orders of the Commission. I think Congress has nothing to do with the character of the review. I believe that the extent of judicial review is fixed by the Constitution itself, as expounded by the decisions of the Supreme Court. It has been exercised up to the present time to the utmost limit that it ever will be extended. The widest delegation of authority to the courts would confer no greater power in this behalf than the most specific limitation which we could incorporate into the statute.

Under ordinary circumstances it would be necessary for Congress to consider only the wisdom and policy of denying a resort to that feature of the judicial remedy afforded by the process of a preliminary injunction, in the light of the facts and circumstances brought forward in support of the particular application for such prohibition. The power to do so would be conceded. But the respect due to any contention seriously made by the distinguished Senators from Wisconsin [Mr. SPOONER] and Pennsylvania [Mr. KNOX] respecting a matter of law or procedure, presents a situation in which it well becomes those who would antagonize what they assert to be careful. Their deliberate support of any proposition will rescue it from any assault or criticism lightly made, and entitles it to be dealt with as one of the disputed questions of the law that can at least be attractively and plausibly exploited, if not successfully defended and maintained.

These Senators introduce for the first time, so far as any diligence I am capable of exercising has enabled me to locate any instance of its being done, a distinction between judicial power and the jurisdiction of a court to administer it. That courts can do many things incidental to the exercise of jurisdiction that are not specifically mentioned in the act creating the court and defining its jurisdiction is not denied. For instance, it inheres in the very function of the court that the judge or judges thereof shall have the right to choose as between conflicting or apparently conflicting principles those that will be recognized and applied as having the force of law in the decision of any given controversy. Nor can any legislative tribunal, in creating the court, direct the particular decision to be given, where the facts are conflicting or where the principles of law that would otherwise govern are established and recognized. The right to decide involves the right to choose the particular course of decision. But we have no such question here. We are dealing with the power of Congress to prescribe to one of the courts which owes its existence to legislative act a course of procedure in the merely incidental matter of issuing a process. The granting of a temporary injunction and the hearing incidental thereto rarely ever involve any consideration or decision as to the ultimate merits of the controversy. The effect is simply to preserve the subject-matter of the controversy in as nearly the same condition in which it is found as is practicable.

IF COURT HAS DISCRETION IN ONE CASE, CONGRESS HAS IN ALL OF A CLASS.

The grant or refusal of a preliminary injunction, therefore, only incidentally involves the ultimate rights of the successful litigant. In the very nature of things, the granting of such a process will disturb existing conditions, and it frequently calls for a nice balancing of consequences to determine whether greater harm will not result from the issue of the injunction than from its denial. The issue of the writ is therefore a matter of mere discretion with the judge or court to which application is made. This discretion is absolute, since no appeal will lie from a refusal to issue such a writ. It is not in any sense a suit or action, but is a mere process incidental to a suit or action. There is no such thing as a suit having for its independent and distinct purpose the mere issue of a preliminary injunction. It is the equivalent, in a court of equity, of the writ of attachment in a court of law. No reason is perceived why, if a writ of attachment may be denied in a court of law to seize and hold the property or its proceeds until the right thereto has been determined in an action, a similar right of abolition does not attach to the equivalent writ in a court of equity designed to accomplish the same purpose. There is nothing in the origin or history of the preliminary writ of injunction to controvert this suggestion to the extent of rendering it subject to the criticism of being unfairly applied here. This writ is the very counterpart

of the interdict of the prætor under the Roman law. When the English chancery jurisdiction began to develop as a branch of the royal prerogative, the peculiar character of relief necessary to do justice effectively made it inevitable that in many cases injunctive relief should be granted in advance of the hearing, if justice was to be fully done in the end. We accordingly find in the very earliest recorded history of the chancery jurisdiction, when its powers were exerted and its remedies administered by the king in person, that preliminary injunctions were employed as a part of the system. It is said that the first recorded instance of a preliminary injunction being issued occurred in the time of Henry II. As the chancery jurisdiction was extended to the numerous cases where the harsh and technical rules of the courts of the common law would not enable them to do full justice, the writ of preliminary injunction was accordingly made use of more frequently.

The courts of equity are said to have been invented for the correction of that wherein the law, by reason of its universality, was deficient. The wholesome and effective character of relief to be gained in many cases through employment of the preliminary injunction where there would otherwise be a miscarriage of justice made the writ exceedingly popular, and this very popularity caused it to be abused to such an extent as to make it manifest to those who are charged with the duty of making laws to put limitations upon the right that would operate to prevent its abuse without impairing its real usefulness. Accordingly, we find that by legislation notice to the adversary party is required wherever it is practicable to give the same before making application for the writ. Certain judges are empowered to grant the writ, while others are denied the right by not having the same conferred upon them. Bonds are required to indemnify, as nearly as such a provision can, the persons whose rights are interfered with by the writ in the event it should be subsequently determined that it was wrongfully applied for and issued, and in some cases, in the exercise of the sovereign power to make laws, the legislature has denied to the courts the right to issue the writ at all. Our statute books contain three well-known instances where Congress has denied to the courts power to issue this writ, and its action in doing so has been expressly recognized and loyally respected by the Supreme Court of the United States, as I shall undertake to show as I proceed. I am not willing to be numbered among those who declaim vociferously against the employment of the writ of injunction; neither am I to be numbered among those who treat it as a specific for all the ills of life that are subject to judicial inquiry and determination. Our complex governmental and commercial conditions imperatively require that in a just determination of the numerous controversies that come about between individuals this writ shall at all times be available for rational and equitable service. But while I admit this, I also insist that it is a process whose employment is to be regulated by law, and that the law-making power not only has power, but it rests under an imperative obligation to deny its use whenever, in the exercise of its best judgment, it is apparent that the exercise of the power rightfully belonging to other governmental agencies will be unfairly obstructed in the due administration of the powers permitted to them. Whilst the process is important, and is therefore to be interfered with cautiously, and only after the propriety of doing so has been thoroughly considered and determined, yet the power to do so when the necessity for its exercise is made manifest is what we insist upon now.

PRELIMINARY INJUNCTION A MERE PROCESS.

As indicating that the writ of injunction is invariably treated as a mere process to be employed for incidental purposes in the administration of justice, and as such is subject to legislative control, it is permissible to call attention to the fact that in many of the States a reformed system of pleading and practice, known as the "code system," has been adopted, and in nearly all of these the writ of injunction has been in terms abolished by statute, and provision made by statute for the issuing of restraining orders by the judges and under the conditions therein named. Wisconsin is among the States that have pursued this course, as will be seen from the following extract from its revised statutes:

SEC. 2773. The writ of injunction is abolished. The injunction provided by law is a command to refrain from a particular act. It may be the final judgment in the action or may be allowed as a provisional remedy, and when so allowed it shall be by order in the form prescribed in this chapter. The order may be made by the court in which the action is brought or by a judge in the cases provided in this chapter, and when made may be enforced as the order of the court.

But our inquiry on this occasion is as to the authority of Congress to provide that the orders of the Interstate Railway Commission fixing rates shall not be suspended or interfered with by any preliminary injunction in advance of a decision by the circuit court.

That this is true ought to be considered as established, when we consider the nature of the National Government and the powers that it can rightfully exercise. In the first place, the National Government is one of delegated powers. There is no such thing as a national common law. There are therefore no common-law courts nor common-law powers of courts, nor does there exist any common-law source upon which courts may draw to supply themselves with desirable powers, which are inadvertently or otherwise withheld by statute. That this is true was recognized by the Supreme Court of the United States at a very early date, as will appear in the following extract from the opinion of Chief Justice Marshall, in the case of Ex parte Bollman (8 Cranch, 93):

As preliminary to any investigation of the merits of this motion, this court deems it proper to declare that it disclaims all jurisdiction not given by the Constitution or by the laws of the United States. Courts which originate in the common law possess a jurisdiction which must be regulated by the common law until some statute shall change their established principles; but courts which are created by written law and whose jurisdiction is defined by written law can not transcend that jurisdiction. It is unnecessary to state the reasoning on which this opinion is founded, because it has been repeatedly given by this court, and with the decisions heretofore rendered on this point no member of the bench has, even for an instant, been dissatisfied. The reasoning from the bar in relation to it may be answered by the single observation that for the meaning of the term "habeas corpus" resort may unquestionably be had to the common law, but the power to award the writ by any of the courts of the United States must be given by written law.

It has not been denied in this debate nor anywhere else by those who are entitled to be heard in the discussion of such questions that all the courts of the United States inferior to the Supreme Court are of statutory origin and that only such part of the judicial power of the United States as Congress has assigned to these can be exercised by them, respectively. This is not only true as to the subject-matter of litigation, but it is true in reference to the pleadings, writs, and other matters of procedure through and by which the system of courts is created and in accordance with which they administer justice. None of these courts have ever attempted to issue any writ or to take cognizance of any proceeding without being able to predicate its action in doing so upon some statute either prescribing the rule or adopting the scheme of procedure prevalent in the States or in the high court of chancery of England. Attentive examination of the decisions of our Supreme Court will show that in every instance save one, that of Florida *v.* Georgia, in 17 Howard, that court has insisted upon statutory authority for every step taken by it or permitted to the inferior courts when challenged.

In the case of Florida *v.* Georgia the court did proceed to hear the controversy under a system of pleading and procedure established by itself, but in doing so it took occasion to say that it did this in the absence of legislation by Congress, in order that there might not be a failure of justice. But it broadly and unmistakably stated that if Congress had prescribed rules governing its procedure that it would be compelled to conform thereto. From the very earliest day, as early as 1789, Congress has assumed to provide the means by which the Federal courts could supply themselves with the necessary means and machinery for discharging the duties imposed upon them. I call attention to the following sections of the Revised Statutes, which were originally passed prior to 1842.

ALL PROCESS SUCH AS CONGRESS AUTHORIZES.

Section 716 of the Revised Statutes, indicated as section 14 of the act of 1879, provides:

The Supreme Court and the circuit and districts courts shall have power to issue writs of scirs facias. They shall also have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law.

Section 917 proves that—

The Supreme Court shall have power to prescribe, from time to time, and in any manner not inconsistent with any law of the United States, the forms of writs and other process, the modes of framing and filing proceedings and pleadings, of taking and obtaining evidence, of obtaining discovery, of proceeding to obtain relief, of drawing up, entering, and enrolling decrees, and of proceeding before trustees appointed by the court, and generally to regulate the whole practice to be used in courts of equity or admiralty by the circuit and district courts.

SEC. 913. The forms of mesne process and the forms and modes of proceeding in suits of equity and of admiralty and maritime jurisdiction in the circuit and district courts shall be according to the principles, rules, and usages which belong to courts of equity and of admiralty, respectively, except when it is otherwise provided by statute or by rules of court made in pursuance thereof; but the same shall be subject to alteration and addition by the said courts, respectively, and to regulation by the Supreme Court, by rules prescribed, from time to time, to any circuit or district court, not inconsistent with the laws of the United States.

The pleadings, practice, and writs employed in the trial of cases on the law docket of the Federal courts is the same as that in the

State courts of the State wherein the Federal court is sitting, except where expressly changed by Federal statute. This is so because of an express provision of an act of Congress that it shall be so. The practice in equity cases in the Federal court is the same in all the States, because Congress has so provided in the direction given to the Supreme Court to prescribe the rules which shall govern in such cases. At an early day, the Supreme Court, in execution of this statutory authority, formulated a number of rules which provided a system of procedure substantially similar to that which prevailed in the high court of chancery in England at the time of the adoption of the Constitution of the United States. In addition to the several rules covering particular features of the practice and procedure, the court adopted rule 90, indicating the source from which additional rules of procedure might be adopted and applied in the event a case should arise which was not covered by the provisions of any existing rule. Rule 90 of the Rules of Practice for the Equity Courts of the United States is as follows:

> In all cases where the rules prescribed by this court or by the circuit court do not apply, the practice of the circuit court shall be regulated by the present practice of the high court of chancery in England, so far as the same may reasonably be applied consistently with the local circumstances and local conveniences of the district where the court is held, not as positive rules, but as furnishing just analogies to regulate the practice.

The whole matter, therefore, of providing a system of pleading, practice, and procedure for the Federal courts is regulated by statute, directly or indirectly. That this is so has been recognized by the Supreme Court of the United States, and made the basis of its action when its judgment has been invoked in cases that involved the matter. There is no intimation anywhere in any of the cases to be found in the books that in the matter of processes to be employed the court itself acts, or permits the inferior courts subject to its supervision to act, in the exercise of any pretended inherent power to frame remedies independent of the action of Congress, simply because by so doing they might thereby more effectively protect the rights of persons who come into the courts for their vindication. Instances are to be found where the most meritorious writs and proceedings in the entire field of jurisprudence have been refused in cases that obviously called for a remedy, for the sole reason that Congress had not authorized the courts to employ them. It was true in the case of a writ of habeas corpus and in the most useful proceeding of mandamus. The court has not only insisted that there shall be statutory authority for every step that it takes, but it has not treated the legislation of Congress under that latitudinous rule of construction which would permit it to seize upon general phrases in the statute to include thereunder matters resting on the same reason as those mentioned. The construction has been rather strict than otherwise, and under this rule the court has limited the right of Federal courts to issue the writs of mandamus and other writs to such instances as they may be so employed in aid of a jurisdiction expressly conferred, and not to an unlimited extent as independent remedies. As indicating somewhat the extent to which the courts have gone in this direction, I will read here extracts taken from a number of the opinions of the Supreme Court.

SUPREME COURT RECOGNIZES CONTROL OF CONGRESS.

In Livingston *v.* Story (9 Pet., 656), it is said:

> That Congress has the power to establish circuit and district courts in any and all of the States, and confer on them equitable jurisdiction in cases coming within the Constitution can not admit of doubt. It falls within the express words of the Constitution. "The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." (Art. 3.) And that the power to ordain and establish carries with it the power to prescribe and regulate the modes of proceedings in such courts admits of as little doubt.

In speaking of the obligation assumed by sureties on injunction bond, the Supreme Court in Bein *v.* Heath (12 How., 178) says:

> Now, there is manifest error in subjecting parties to an injunction bond, given in a proceeding in equity in a court of the United States, to the laws of the State. The proceeding in a circuit court of the United States in equity is regulated by the laws of Congress and the rules of this court made under the authority of an act of Congress.

In United States *v.* Howland (4 Wheat., 113) the court says:

> And as the courts of the Union have a chancery jurisdiction in every State and the *judiciary act* confers the the same chancery *powers* on all, and gives the same rule of decision, its jurisdiction in Massachusetts must be the same as in other States.

In Ames *v.* Kansas (111 U. S., 472) the court says:

> The judicial power of the United States exists under the Constitution, and Congress alone is authorized to distribute that *power* among courts.

In Boyla *v.* Zacharie (6 Pet., 657) the court says:

> And the settled doctrine of this court is that the remedies in equity are to be administered, not according to the State practice, but according to the practice of equity in the parent country as contradistinguished from that of courts of law, subject, of course, to the provisions of the acts of Congress and to such alterations and rules as, in the exercise of the powers delegated by those acts, the courts of the United States may from time to time prescribe. (Robinson *v.* Campbell, 3 Wheat., 212; U. S. *v.* Howland, 4 ibid., 108.) So that, in this view of the matter, the effect of the injunction granted by the circuit court was to be decided by the general principles of courts of equity and not by any peculiar statute enactments of the State of Maryland.

In Bath County *v.* Amy (13 Wall., 244) the court says:

> Were there nothing more in the judiciary act than the grant of general authority to take cognizance of all suits at common law and in equity *it might well be doubted* whether it was intended to confer the extraordinary power residing in the British court of King's bench to issue prerogative writs. All doubts upon this subject, however, are set at rest by the fourteenth section of the same act, which enacted that circuit courts shall have power to issue writs of *scire facias* and *habeas corpus* and all other writs not specifically provided for by statute which *may be necessary for the exercise of their respective jurisdictions* and agreeable to the usages and principles of law. Among those other writs no doubt mandamus is included; and this special provision indicates that the power to grant such writs generally was not understood to be granted by the eleventh section, which conferred only to a limited extent upon the circuit courts the judicial power existing in the Government under the Constitution. Power to issue such writs is granted by the fourteenth section, but with the restriction that they shall be necessary to the exercise of the jurisdiction given. Why this grant if it had been previously made in the eleventh section? The limitation only was needed.

The Senator from Wisconsin, when he last addressed the Senate, sought to draw a distinction between the writs of habeas corpus and mandamus and the writ of preliminary injunction, by saying that the former, in Great Britain, were treated as high prerogative writs, whereas the writ of injunction was a judicial writ, entirely subject to control by the courts of equity, and not in any wise subject to be dealt with by the legislature in a way that any judge authorized to issue the same would deem to be an abridgment of his right. The judge who wrote the opinion in Bath County *v.* Amy said that at one time there was some doubt as to whether or not a general grant of jurisdiction to the Federal courts would carry with it the power to take jurisdiction of such proceedings as mandamus, but he also added that all doubt on that subject had been put at rest by the passage of the judiciary act of 1789, by the section as quoted above. He said that after the passage of that act all writs enumerated in the section or included in its provision should be dealt with in the same way. If these writs are to be dealt with in the same way and Congress has authority to abolish the use of the writ of mandamus in any case it may see proper, no reason is perceived why a similar right should not be exercised with reference to the writ of injunction. There is no distinction made in the Constitution of the United States between the rights, power, and authority of courts of equity and courts of law. It invests the courts with jurisdiction to hear and dispose of all cases of law or equity arising under the laws of the United States or belonging to certain other enumerated classes. But it will serve no really useful purpose to consume more time in attempting to show that Congress can rightfully deny the right to resort to the writ of preliminary injunction in any instance that, in its judgment, such a course should be adopted. The power of Congress to do so has not heretofore been denied, but, on the contrary, it has been exercised in three conspicuous instances, and the statutes by which the same has been done have been recognized and enforced by the Supreme Court of the United States without question or discussion as to policy or validity. In every instance where parties have relied upon the statute as a means of preventing an adversary from resorting to the remedy by injunction, the court has gone no further into the question than to determine whether or not the case made is one of those condemned by the statute denying the injunction. When this condition has been ascertained to exist, the court has invariably said in plain terms that the statute controls, and it was accordingly followed and made the rule of action in that particular case. There was no pretense made in any of the opinions in which it came under review that in the passage of the statute Congress had simply reenacted rules that were otherwise the law. It was treated simply as a case where the rule *ita lex scripta est* applies.

In order that the Senate may understand the scope and character of my contention in this behalf, I will now direct attention, in consecutive order, to the three instances to be found in our statutes where Congress has prohibited the courts from issuing the writ of injunction:

I call attention first to section 720 of the Revised Statutes, being a provision contained in the judiciary act of 1789. The section is as follows:

PROCEEDINGS IN STATE COURTS SHALL NOT BE ENJOINED.

> SEC. 720. The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy.

The statute has served a very useful purpose in promoting harmony of administration in the peculiar system of govern-

ment under which we live. The anomalous situation of having courts equal in authority and deriving their powers from different sovereignties, administering justice in the same locality and among the same people, afforded a fruitful source of strife, or at least the opportunity for it, by the inspired ingenuity which at times characterizes the legal profession in designing ways and means by which the law's delays are made no less. The Senator from Wisconsin, when he addressed the Senate on March 23, 1906, in referring to this statute and the reasons which prompted Congress to enact it, said:

> There were good reasons and strong reasons, peculiar to our form of government, which led Congress of that day to prohibit injunctions to restrain proceedings in State courts, for we have States.

It is no argument against the power of Congress to do a particular thing to say that good reasons and strong reasons should exist before the power is exercised. Good reasons and strong reasons ought to exist in support of any exercise of legislative authority by Congress at this late day, and especially should this be true when we come to curtail the power of a chancery court to issue a writ of preliminary injunction—a right of very ancient origin and usually of salutary effect. The reasons why I think the right to prohibit issuing preliminary injunctions should be still further exercised in this case is because I believe that the reasons which support our contention are not only strong reasons and good reasons, but they are stronger reasons and better reasons than exist in support of the enactment of section 720. But I think the consideration of this question has been taken out of the domain of debatable propositions by the action of the Supreme Court of the United States in the manner in which it has dealt with the several acts of Congress limiting the powers of the Federal judiciary in issuing injunctions by the numerous decisions rendered in controversies where such statutes were involved, and the explicit and decisive acceptance of the provisions thereof as the basis of decision. Among lawyers, where a practice or a principle is recognized and applied without question, in controversies, and among litigants, where objection to its validity should be urged by those interested, with a view of having these objections recognized or repudiated by the court, and this is not done, it is assumed that it was omitted because the formative stage of the discussion had been passed. I shall call to the attention of the Senate, without commenting on each case, the decisions of the Supreme Court in which this question of the right of Congress to deny the right of the chancery courts to issue the writ of injunction has been under consideration.

A very meritorious case was made in Haines *v.* Carpenter. It did not involve any actual conflict of jurisdiction. The matter was proceeding in a way that both courts might have gone on without the least inconvenience. Judge Bradley, in writing the opinion reported in 91 U. S., p. 254, says:

> In the first place, the great object of the suit is to enjoin and stop litigation in the State courts, and to bring all the litigated questions before the circuit court. This is one of the things which the Federal courts are expressly prohibited from doing. By the act of March 2, 1793, it was declared that a writ of injunction shall not be granted to stay proceedings in a State court. This prohibition is repeated in section 720 of the Revised Statutes, and extends to all cases except where otherwise provided by the bankrupt law. This objection alone is sufficient ground for sustaining the demurrer to the bill.

In the case of Sargent *v.* Helton (vol. 115, U. S. Ct. Rep., p. 350) Judge Wood, in writing the opinion, says:

> The circuit court of the United States was therefore—

After having quoted section 720 he continues—

> The circuit court of the United States was therefore deprived of the power—

Not of jurisdiction, but was deprived of the power—

> The circuit court of the United States was therefore deprived of the power, by the section just quoted, to protect the rights of the plaintiff, unless the writ of injunction was authorized by the law relating to proceedings in bankruptcy.

If there is any virtue in the contention that the right to issue injunctions is a part of the judicial power, and is not a simple matter of jurisdiction to be given or withheld by statute, the language of this decision must be deemed an authority against the position assumed by the Senators from Wisconsin and Pennsylvania. The thing of which the court was deprived by the statute was the power to issue the injunction.

In Dial *v.* Reynolds, in 96 United States, page 340, the same statute came before the court. The judge said:

> There are two objections to these bills: (1) The gravamen of what is desired as to Reynolds is an injunction to prevent his proceeding at law in the State court. Without this, all else is of no account. Any other remedy would be unavailing. Such an injunction, except under the bankrupt act, no court of the United States can grant.

For the simple reason that the statute said they could not grant it.

> With this exception, it is expressly forbidden by law.

The decision is placed squarely and explicitly upon the ground that the courts are expressly prohibited by statute from issuing an injunction in a case of that kind.

In Chapman *v.* Brewer (114 U. S., 172) it is said:

> It must be held that Congress, in authorizing a suit in equity in a case like the present, has, in order to make the other relief granted completely effective, authorized an injunction, as necessarily incidental and consequent, to prevent further proceedings under the levies already made and new levies under the judgment. But for the supposed inhibitory force of section 720, a court of equity in granting, on the merits, the other relief here granted, would necessarily have power to award the injunction. We think the circuit court was authorized to award it here within the exception in section 720.

That was a case where the court had to find warrant for the issuance of a writ of injunction, and it is said that the exception contained in section 720 affirmatively gave it power to interfere there.

In the case of In re Sawyer (124 U. S., 219), the judge who wrote the opinion says:

> The restraining order of the circuit court *was void*, because in direct contravention of the peremptory enactment of Congress, that the writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except when authorized by a bankrupt act.

In the case of the United States *v.* Parkhurst-Davis Company (176 U. S., 320), Judge Brewer disposes of the question presented by saying:

> Upon these admissions and facts the case comes clearly within the provision of section 720 of the Revised Statutes, to the effect that no writ of injunction shall be granted by a court of the United States to stay proceedings in any court of a State except in matters of bankruptcy.

After quoting from the decision of Judge Bradley in the case of Haines *v.* Carpenter (91 U. S., 254), he concluded:

> Without stopping to consider any other questions presented by counsel, this is sufficient to sustain the ruling of the circuit court, and the decree is affirmed.

There is not a single intimation in any of the opinions delivered in the cases mentioned that the validity of the restriction laid upon the chancery courts is to be sustained independently of the positive command of the statute, on the ground that the courts would refrain from issuing injunctions in such cases even in the absence of a statute, in pursuance of the well-known rule of comity which prevents courts of concurrent and equal authority from interfering each with the jurisdiction of the other. The provision is comprehensive, and its inhibitory effect is operative against any injunction issued by the Federal courts against instituting or maintaining litigation in the State courts. An anxious desire to avoid friction between the courts is, therefore, not the only consideration which prompted the enactment of the law. It is a fact within the knowledge of all lawyers that where actual friction exists by reason of the Federal court having first taken cognizance of the controversy which brings about the litigation, it will protect the prior pendency by enjoining the parties from instituting conflicting proceedings in the State court. An instance where this was done is furnished in the well-known case of the Railway Company *v.* Julian, reported in 193 United States, and heretofore given a prominent place in the discussion conducted by the Senator from Wisconsin [Mr. SPOONER] and the Senator from North Carolina [Mr. OVERMAN]. The statute applies to many cases, and has been enforced in many cases where no conflict of jurisdiction was possible. In its last analysis it is a mere exercise of the legislative power to limit the remedies administered in courts of equity, and the processes by which those remedies are made effective.

As a second instance where Congress has exercised the right to deny to the chancery court the power to issue a writ of injunction I call attention to section 3224 of the Revised Statutes, which is as follows:

> SEC. 3224. No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.
>
> FEDERAL TAXES SHALL NOT BE ENJOINED.

This statute was enacted May 27, 1872.

For eighty years of our history the Government was able to lay and collect taxes without finding it necessary to impose this restraint upon the courts, but in 1872 a condition became manifest which convinced Congress that it would be a wise exercise of its prerogative to take away from the courts of chancery the power to issue injunctions of this kind. The Senator from Wisconsin says that the right to issue an injunction or institute any other form of suit against the Government is a matter of grace, and that in extending permission to sue, it is competent for the sovereign to grant a qualified right or to deny entirely the right to sue; that it is of the highest importance to the sovereign that the taxes laid shall be collected, and that interference by the courts with such collection is not to be tolerated. He therefore argues that Congress could, by omitting to grant affirmative authority to bring a suit on any terms, and could thereby deprive the taxpayer of all judicial

remedy to litigate the validity of a tax; that what was done in the passage of section 3224 was really to enlarge the taxpayer's remedy by permitting him to apply in the first instance to the Commissioner of Internal Revenue for the return of the taxes exacted illegally from him, and in default of prompt action by the Commissioner be permitted to bring a suit at law. This contention is plausable, and it doubtless represents the opinion of the Senator from Wisconsin as to the reason why existing legislation was enacted. Admit all this, and it does not militate against the contention we are now making, that Congress has the power to judge for itself when and to what extent the right to issue a writ of injunction shall be denied. The inducements to the enactment of this section may be like those that prevailed in the enactment of section 720 in that they constitute good reasons and strong reasons why it should be done, but that Congress had power to pass the statute and that its validity has long been recognized and enforced by the courts is the pivotal fact with which I am now interested.

The Supreme Court of the United States, in the case of Shelton *v.* Platt (139 U. S., 592), indicates the reason why, in its judgment, legislation such as section 3224 was enacted, and it is somewhat different in nature from the opinion entertained by the Senator from Wisconsin. It is as follows:

> Legislation of this character has been called for by the embarrassments resulting from the improvident employment of the writ of injunction in arresting the collection of the public revenue; and, even in its absence, the strong arm of the court of chancery ought not to be interposed in that direction except where resort to that court is grounded upon the settled principles which govern its jurisdiction.

This explanation by the court, made at the time it was, represents the wide opportunities afforded by a survey by that great court of the whole judicial field of the United States, and a familiarity with the recklessness and want of care with which preliminary injunctions are usually issued. Whilst the Government was willing to still permit this practice to continue so far as the interests of private individuals are concerned, it manifested a purpose to provide a better remedy for itself.

This statute came under consideration by the Supreme Court in the case of Snyder *v.* Marks (109 U. S., 189). A citizen whose property was about to be seized for a tax levied under Federal authority, applied to the court for an injunction to restrain the officer from seizing his property, and sought to escape the force of section 3224 by alleging that the seizure was wholly unauthorized, because the tax was illegal, and in this connection contended that the courts were deprived of the right to issue an injunction only in cases where the tax itself was conceded to be lawful. The Supreme Court denied the validity of that contention, and said:

> The inhibition of section 3224 applied to all assessments of taxes made under color of their offices by internal-revenue officers charged with general jurisdiction of the subject of assessing taxes against tobacco manufacturers. The remedy of a suit to recover for the tax after it is paid is provided by statute, and a suit to restrain its collection is forbidden. The remedy was given as exclusive, and no other remedy can be substituted for it.

It will be noted that the court does not decide that the right to sue to recover back the tax after the citizen's property has been seized and sold to satisfy the illegal tax is an adequate remedy. It simply says that the remedy is exclusive. There is quite a difference between an exclusive remedy and an adequate remedy. This distinction was made by the court understandingly and for the reason that in the light of its own decisions it could not have made the statement that the remedy by action to recover taxes illegally exacted was adequate. In Ogden City *v.* Armstrong (168 U. S.) the court says, in dealing with this particular question:

> It often happens, however, that the case is such that the person illegally taxed would suffer irremedial damage, or be subjected to vexatious litigation, if he were compelled to resort to his legal remedy alone. For example, if the legal remedy consisted only of an action to recover back the money after it had been collected by distress and sale of the taxpayer's lands, the loss of his *freehold by means of a tax sale would be a mischief hard to be remedied.* Even the cloud cast upon his title by a tax under which a sale could be made would be a grievance which would entitle him to go into a court of equity for relief.

The decision of the Supreme Court in the celebrated income-tax case, reported as Pollock *v.* Farmers' Loan and Trust Co. (157 U. S., 429), demonstrated moré forcibly than any argument that I can make that the Federal courts regard section 3224 as nothing more than a positive assertion of power by the legislature in restraint of the power of a court to issue an injunction, and that there does not lie at the foundation of the statute a principle which, considered independent of it, is broad enough to do without the statute the things that it requires to be done. In other words, a tender consideration for the revenues of the country and a desire to remit persons to the remedies enacted by statute which deny a resort to the ordinary equity powers of the courts is not an inherent principle or practice of courts of equity, but is conformed to as a submission to positive restraints imposed by the sovereign authority of Congress. In the income-tax case the court entertained a complaint in equity brought by a stockholder against the officers of the trust company, alleging that it was the purpose of those officers to make returns under the income-tax provision of the Wilson bill, and that after making these returns it was their purpose to pay the tax to the officers of the United States Government. It further alleged that this tax was void because the statute which sought to impose it was unconstitutional. Now, here was a case that involved a vast volume of taxation, levied on the wealth of the country, and it would have been a most admirable opportunity for the court to have said that this suit, although nominally between persons who stood in nowise in adversary relations, was really brought for the purpose of interfering with the collection of the public revenue, and, looking through the mere form in which the action was brought, the court could see that its main purpose was such as brought it within the prohibitory effect of section 3224. Instead of doing that, the court proceeded to entertain the suit on the ground that it did not fall within the letter of the statute and that the restraint upon the court was no greater than the terms of the statute specifically imposed. It proceeded to hear the case, and decided that the tax was invalid.

Mr. Justice White, in his dissenting opinion, urges very strongly the contention that the action of the majority of the court was a plain evasion of the statute, because the litigation, although nominally between private persons, was really directed against the authority of the Government to lay and collect the tax. But the majority of the court stood upon the letter of the statute.

Mr. SPOONER. Mr. Justice Harlan also dissented upon the same ground.

Mr. CLARKE of Arkansas. Mr. Justice Harlan also dissented, and for the same reason, among others. But the court disregarded the restraint of the statute for the reason that the case before the court did not fall within the letter of it. It was not technically a suit against any officer who was attempting to collect the tax. Of course, in this collateral way, the trust company elicited the judgment of the court on the validity of the tax.

Mr. SPOONER. That case was decided on the ground that the law was unconstitutional.

Mr. CLARKE of Arkansas. Yes.

Mr. SPOONER. In the early part of the opinion the court lays down the rule and cites several cases which show that the court has the power in certain cases——

Mr. CLARKE of Arkansas. That is exactly what I am insisting on; that you can not deprive the citizen of the right to resist the tax collector or anybody else in an effort to take from him his property wrongfully. While the court, in the Income Tax case, admitted that an injunction can not be brought against an officer attempting to collect a tax, it allowed the same thing to be done in an indirect way. A suit to restrain the collection of illegal taxes has over and again been held not to be a suit against the sovereignty, but against the officer, on the theory that he is doing something that he is not authorized by law to do, and that he can only represent the sovereignty when acting lawfully in her behalf.

In re Tyler (149 U. S., 190), a case that came up from South Carolina, the court, in speaking of the distinction between suing the State directly and suing an officer thereof who is seeking to perform an illegal act, says:

> The subject was but recently considered in Pennoyer *v.* McConnaughy (140 U. S., 1), in which Mr. Justice Lamar, delivering the opinion of the court, cites and reviews a large number of cases. The result was correctly stated to be that where a suit is brought against defendants who claim to act as officers of a State and, under color of an unconstitutional statute, commit acts of wrong and injury to the property of the plaintiff to recover money or property in their hands unlawfully taken by them in behalf of the State; or for compensation for damages; or, in a proper case, for an injunction to prevent such wrong and injury; or for a mandamus in a like case to enforce the performance of a plain legal duty, purely ministerial, such suit is not, within the meaning of the amendment, an action against the State.

So I maintain that the restraint of this section is positive and represents the power of Congress to do what it purports to do. The decision in the Income Tax case shows how readily courts take advantage of the cases that lie without the letter of the statute, but are within its spirit, to do the things that they could not do in a case standing upon similar principles, but falling within the letter of the statute. It is the restraint of the statute, and not that of equitable principles, that prevents the courts from enjoining the officers of the National Government whenever a disputed tax is demanded. The court, in Shelton *v.* Platt, has indicated that it deemed the substituted remedy to be the exclusive remedy to which the taxpayer is entitled, but it does not state that it was an ade-

quate remedy. Nor could the court, as a matter of fact, have made any such declaration. Anybody, lawyer or layman, understands that where a citizen's property is levied upon, taken from his possession, and sold at a sacrifice at a public sale to satisfy an illegal demand made by the Government, which is charged with the duty of protecting his liberty and his property, that it is no adequate redress to send him to an official to receive back the amount of the tax illegally exacted from him, leaving him the loser by the loss and inconvenience of the deprivation of his property.

Mr. SPOONER. Will the Senator allow me a word?

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Wisconsin?

Mr. CLARKE of Arkansas. Yes, sir.

Mr. SPOONER. In the Nichols case, which the Senator will find cited, opposite the section 3224 itself, and from which I read the other day, the court puts it entirely on the ground that the Government will permit the collection of its revenues to be interrupted in any way by judicial proceedings; but it prescribes the conditions upon which such suit may be brought.

Mr. CLARKE of Arkansas. I am aware that the Supreme Court held in that case that the duty of a taxpayer, whose property had been seized to satisfy an illegal tax, was to pay the tax, and then apply to the officer of the Government for its refund. That was his exclusive remedy, but I insist that it was not an adequate remedy, and if the court intended to lay down the doctrine there that motives of high public policy, based upon the prompt collection of the public revenue, were the considerations which induced the court to refrain from interfering where the administrative collection of public revenues were involved, it lost a most admirable opportunity to have applied the doctrine in its perfection when it omitted to do so in the income-tax case, as I should like to say. No matter what the court may have said in the Nichols case, or in any other case, it is an outrage of the grossest character for the Government to authorize its officers to seize a citizen's property to pay a tax that it had no authority to levy, and then to advise him that he may reimburse himself for the loss by applying to certain officials for a return of the amount wrongfully exacted from him, denying to him all remedy to protect his possession and to raise the question of the validity of the seizure in advance of its being taken from him. And, then, after doing all this, an outcry is raised when an attempt is made to restrain courts from interfering with just as important an exercise of public authority in the matter of fixing the taxes upon the transportation interests of the country by a board specially selected and peculiarly well qualified to discharge the service.

I can not quite understand the arbitrary invasion in the one case and the tender solicitude for the interests involved in the other. If Congress can deny to a citizen all remedy to protect his possession when a seizure is made to satisfy an alleged tax, it would seem that such a remedy might be denied in any case without offending against the constitutional provision which provides that his property shall not be taken without due process of law. Under section 3224 the citizen's right in the abstract to defend his possession exists, but all remedy to make this right effective is taken away from him by the enactment of this section, as construed and sustained by the Supreme Court. A less effective remedy is provided, and in a case where the taking may be conceded to be wrongful. The fact that the pretext for the wrongful taking is to make certain the collection of the revenue does not alter the force of the principle. Congress has simply asserted its supreme power to say that as against an invasion of his property rights by an officer assuming to collect a tax, no preventive remedy shall be available to the citizen. This refusal is a mere exercise of power. That is what we contend for here. We justify its exercise here by considerations of wisdom and policy rarely to be found supporting such an appeal.

Mr. SPOONER. In the Income Tax case the situation was peculiar. That was not a suit against the tax collector; that was a suit brought by a stockholder of a corporation to restrain the corporation from voluntarily making returns under the income-tax act.

Mr. CLARKE of Arkansas. I am perfectly familiar with the facts, the character of relief sought, and the character of relief granted in that case. The allegation was made that the trust company was about to pay the tax. The object of the litigation was to prevent the payment of the tax, and it did prevent it. The statute says that no suit shall be brought against an officer for the purpose of arresting the payment of a tax. They worked out the same result by indirect methods, but they worked it out all the same. I assert again that when Congress denied to the taxpayer whose property was seized to satisfy an illegal tax, the most proper remedy for the protection of his possession, that it went far beyond anything we are now asking to be done. Before the enactment of section 3224 the taxpayer could, without infringing the sovereign's immunity from action, obtain an injunction against the officer who was threatening to seize his freehold. The principle upon which this was done is adverted to briefly in the extract that I gave a few minutes since in the case of In re Tyler (149 U. S.). The right to challenge the validity of taxes in this way is a matter of every-day occurrence, so far as State taxes are concerned, and there is scarcely a volume of the decisions of the Supreme Court of the United States for the past twenty years that does not contain a case where such a suit was maintained as not being a suit against the State. A similar objection was presented when the railroad commission cases began to make their appearance in the litigation of the country. It was urged in the Reagan case, in 154 United States. The court made the same disposition of it that had been done in the tax cases, justifying its action in so doing upon the broad proposition that a citizen had a right to protect not only the title to his property, but its possession. The distinction between an officer doing an illegal act and an officer doing a legal act was pointed out and maintained.

STATE COURT SHALL NOT ENJOIN NATIONAL BANK.

I now desire to call to the attention of the Senate the third instance in which Congress has denied to a court the right to issue a preliminary injunction, and in doing so I read part of section 5242 of the Revised Statutes. It is as follows:

SEC. 5242. * * * And no attachment, injunction, or execution shall be issued against such association (national bank) or its property before final judgment in any suit, action, or proceeding in any State, county, or municipal court.

The validity of this statute was established in the case of the Pacific National Bank *v.* Mixer (124 U. S., 721). The legality of an attachment issued by a State court against a national bank was the particular question submitted for adjudication, but as the statute which prohibited both attachment and preliminary injunction is the same, what was said by the court in disposing of the matter directly before it is applicable to the validity of the entire statute. The court held that the prohibition, in so far as the attachment was concerned, not only disabled the State court from issuing an attachment, but that by reason of the fact that attachments in the Federal courts are authorized only in cases provided for in State statutes, for the reason that the practice and procedure in the trial of law cases in Federal courts is the same as that which prevails in the State where the Federal court is sitting, it was held that as the Federal statute in effect so amended the State statute as to disable the State courts from issuing an attachment against the national banks, it took away from the Federal court the right to issue such an attachment. The court said that section 3224 likewise deprived the State courts of the power to issue injunctions. This the court expressly declared when it said:

It was further said that if the power of issuing attachments has been taken away from the State courts, so also is the power of issuing injunctions. This is true.

Now, if the right to issue a preliminary injunction pertains to the judicial power and is not a mere process, it will puzzle the wit of a wiser man than I am to know how it can be taken away from the State court by an act of Congress and that the same Congress can not take it away from a court created by it. It will not be maintained, and the contention sustained by sound principle or decisive authority, that Congress can take away from the State courts anything that it could not take away from the Federal courts.

I am aware that it is said that Congress could deprive the State courts entirely of the right to try a suit against a corporation created by national authority by simply providing an easy method of removal to the Federal courts. The Congress of the United States can enlarge the jurisdiction of the Federal courts so as to bring within it any class of cases described in the constitutional provision indicating extent to which jurisdiction can be conferred on Federal courts, but it has not seen proper to do so. On the contrary, Congress has conferred exclusive jurisdiction on the State courts in all cases by and against national banks where the sum or matter in dispute is of less value than $2,000, and in all cases it has placed such associations upon the same footing with corporations created by the State in which the bank is located and doing business. But it has denied to the courts the right to extend to litigants generally, and without exception or qualification, the right to have the benefit of the wholesome remedy of preliminary injunction. Some days since, in answer to a suggestion of the senior Senator from North Carolina, the Senator from Wisconsin instanced a case of excessive hardship, when he said that it would be a perversion of justice to deny to a citizen, whose negotiable promissory note had been obtained through fraud, the right to seize that note in the hand of a wrongdoer before he had indorsed the same to an innocent holder and had thereby

rendered absolute the liability of the maker. Now, this very thing can occur at the present day, if the holder of the note happens to be a national bank. The whole thing illustrates as strongly as any circumstances can that the right to deny the use of the process of preliminary injunction is a legislative matter and can be applied or withheld, according to the legislative judgment or whim. This statute came before the Supreme Court of the United States in a very recent case, that of Van Reed *v.* People's National Bank (198 U. S., 554). Its validity was affirmed, and the purpose of the court to enforce it was emphasized.

Judge Day, who delivered the opinion in the case, says that it is not only not affected by repeal or otherwise by any subsequent statute, but that it has been generally accepted and followed as the authoritative law by the courts of last resort of many of the States and by the inferior Federal courts. He cites cases wherein the validity of the statute has been affirmed and recognized from Massachusetts, Georgia, Minnesota, and Tennessee. The effect of this decision is to show that Congress has the power to take away from the court which is invested with exclusive jurisdiction of a large class of lawsuits the right to issue preliminary process either in the form of an attachment or preliminary injunction. It is a sheer exercise of power by Congress, which no judge or lawyer concerned in these cases ever questioned or denied.

It is altogether probable that the delicacy of the situation presented when the Supreme Court was called upon to consider the validity of a Congressional statute, taking away from a State court a part of its power, would have prompted the court on its own motion to have first determined the power of Congress to do such a thing.

INJUNCTION AN IMPORTANT PROCESS, BUT IS SUBJECT TO CONTROL BY CONGRESS.

The nature of the case raised the inquiry, and the character of the decision made shows that it was disposed of in favor of the power of Congress. I am greatly encouraged to assume with some confidence that in view of the fact that Congress has denied the right to resort to injunction proceedings in these three notable instances, and that its action in doing so has been so uniformly and emphatically sustained by the United States Supreme Court, that there is no longer any reason for saying that the authority in Congress does not exist. Its exercise in any given case is of course to be controlled by considerations of wisdom and policy. It is not to be arbitrarily done, nor done for the asking. The remedy by injunction is the outgrowth of the paramount obligation that rests upon courts to do justice, and the wholesome character of its aid in this direction vindicates its right to exist. I am not to be included in the number who would sacrifice it as a concession to the idle fear that some judge, into whose hands shall be committed the right to grant it, may abuse the power thus conferred upon him.

Notwithstanding I do not underestimate its importance as an agency in advancing the cause of justice, I believe there are instances where Congress should exercise its discretion to deny a resort to it.

The whole business of administering justice is confessedly imperfect. There are many instances where perfect justice is meted out, but there are many more where something short of a complete remedy is extended. This grows out of the fallibility and imperfection of human judgment and of the sagacity and industry of the wrongdoer. In this matter of making rates we take unusual care to provide for the employment of the very fairest class of men that can be found. A salary of $10,000 a year is provided, and a term of seven year duration is fixed. This ought to secure the service of persons as well qualified to understand the problems that are submitted for their consideration as a lesser salary will secure for service in the judicial branch of the Government. The membership of the Commission is fixed at seven, and they are supplied with all of the accessories necessary to complete mastery of the problems involved in the controversies submitted to them before they are called upon to decide. Any resort to the court to correct their work does not partake of the nature of an application to redress a wrong tortiously inflicted by a wrongdoer, but is rather in the nature of a plea for a second hearing of the questions which we must assume have been carefully and conscientiously decided by the Commission. My support of the proposition to deny the writ of preliminary injunction is therefore predicated upon the belief that the judicial investigation will be no more than a second hearing of a matter that has already been carefully and honestly considered. I believe that it would best effectuate the policy that lies behind this movement to invest the Interstate Commerce Commission with rate making power, to impose upon them such responsibilities as will sober their judgment and make them aware of the care and diligence with which they should discharge their duties. If the unlimited right of injunction is permitted, the Commission will inevitably assume that what they do is of a merely tentative character, and will become operative only when it meets the approval of the court. The railroad companies themselves will not fully develop before the Commission all of the testimony and arguments which make in favor of their own case, knowing that in the light of former experience they can make a very plausible appeal to the court, based upon the fact that what the court is asked to do is not to reverse the Commission, but to consider new developments which have been brought into the lawsuit, and which were not before the Commission.

I now repeat what I said a short time since. I do pretend that because Congress can constitutionally exercise a certain power therefore it should do so. The writ of injunction, both in its preliminary and permanent form, is a remedy of great and demonstrated efficiency, and it should not be dispensed with, in any case, except for reasons of the most convincing character. That these exist in this case I am persuaded beyond the necessity for further argument. I limit my insistence on this occasion, as I would do on every other application that is made to curtail the scope and effect of the writ of injunction, to the facts and circumstances that bear directly on this particular effort to circumscribe its use. I shall therefore proceed to enumerate briefly, without attempting to elaborate, the reasons which occur to me as justifying the adoption of the proposed amendment denying to the courts the right to issue a preliminary injunction to suspend the operation of the order of the Commission pending the final decree in the circuit court. These reasons are not of my own invention, but are based exclusively upon the peculiar nature of the official action to be assailed and on the principles and practices of the law, as these have been developed in the decision of kindred questions by the court of last resort.

Assuming power to deny right to issue preliminary injunction, six reasons why it should be done in this case:

FIRST. ISSUE OF WRIT IS WHOLLY DISCRETIONARY.

In the first place, the issue of a preliminary injunction is a matter that rests solely in the discretion of the judge to whom the application is made. Now, the principal argument made in opposition to the pending amendment is that when a constitutional right is threatened with invasion that the privilege of invoking a preliminary injunction for its protection is necessary to constitute due process of law, and that the denial of the writ in any case destroys the right indirectly by denying the proper remedy for its enforcement. I may say, in passing, that I do not concede that any more sacredness attaches to a right created by the Constitution than to one created by statute or in any other lawful way. The constitutional right has the one advantage that it is secured by a law that is not subject to legislative change. It is a lawful right, no more and no less. The scope and effect of it is the same as if it were created by a valid statute, and the remedies for its enforcement should be no greater or less. Judge Miller, in his dissenting opinion in Gelpoke *v.* Dubuque (1 Wall., 214), said on this subject:

> Where the construction of a constitution is brought to bear upon the question of property or no property, contract or no contract, I see no sound reason for any difference in the rules for determining the question.

But be that as it may, it is perfectly obvious that a remedy which may be given or withheld at the mere option of the judge to whom application is made is not the kind of a remedy that may be spoken of as part of a vested right. Rights are protected by positive remedies that the litigant is permitted to invoke as a matter of right, and that the court must grant as a matter of duty when proper proof is presented. Even if it were true that every right implies a remedy for its enforcement, and that the Congress has no discretion to prescribe the character of this remedy, the argument would not apply where the so-called remedy can be afforded or withheld at the whim or caprice of the judge, and his action in doing so will not partake of the judicial character to the extent that will warrant the appellate court in reviewing and reversing his actions if it appear that the discretion has been abused. This has in terms been decided by the Supreme Court, as will appear from the citations which I append.

In the case of Buffington *v.* Harvey (95 U. S., 100) it is said:

> The granting of a rehearing is always within the sound discretion of the court, and therefore granting or refusing it furnishes no ground for appeal. (Steines *v.* Franklin County, 14 Wall., 15.) The granting or dissolution of a temporary injunction stands on the same footing. The granting of a permanent injunction is part of the same decree and abides the fate of the decree itself.

In our practice there is, in point of fact, no such thing as a permanent injunction. It is included in the decree and becomes a part of the decree. It is called a permanent injunction because it gives injunctive relief.

In Russell *v.* Farley (105 U. S., 438) it is said:

It is a settled rule of the court of chancery, in acting on applications for injunctions, to regard the comparative injury which would be sustained by the defendant, if an injunction were granted, and by the complainant, if it were refused. (Kerr on Injunctions, 209, 210.) And if the legal right is doubtful, either in point of law or of fact, the court is always reluctant to take a course which may result in material injury to either party, for the damage arising from the act of the court itself is *damnum absque injuria*, for which there is no redress except a decree for the costs of the suit, or, in a proper case, an action for malicious prosecution. To remedy this difficulty, the court, in the exercise of its discretion, frequently resorts to the expedient of imposing terms and conditions upon the party at whose instance it proposes to act. The power to impose such conditions is founded upon, and arises from, the *discretion* which the court has in such cases, *to grant or not to grant the injunction applied for*. It is a power inherent in the court, as a court of equity, and has been exercised from time immemorial.

SECOND. IT ASSAILS JUDGMENT OF SPECIAL TRIBUNAL.

The second reason which should impel Congress to deny the right to suspend the orders of the Commission in advance of demonstrated invalidity is that the application is in its nature a collateral attack on the judgment of a special tribunal, created by law to determine a given state of facts. The rule in such cases is that the determination of the tribunal is to be respected as the decision and judgment of a special court, and its findings are to set aside only when it is made apparent that the erroneous character of its action is so pronounced as to raise a presumption that it acted fraudulently. This rule has been declared in cases where a single person constituted the tribunal, and in a notable case where three persons constituted that tribunal, and in many cases where the tribunal was composed of persons who were vested with authority to act very largely upon their own judgment, informed by such investigation as to matters of fact as they might see proper to institute on their own motion. The plan upon which the Interstate Commerce Commission is to be organized will invest it with a dignity and confer upon it authority that should exclude the possibility of mere wrongdoing and minimize the probabilities of gross error. The round salary and long term will attract men of the first order of ability and character, and the liberal provisions made for supplying the accessories of counsel and masters at least puts into its hands the means of acquiring full and reliable information. That the President will make judicious selections of its membership and that the Senate will act with fairness and independence in confirming their appointment is a presumption that ought to be indulged. If, however, there is no ground for assuming that a commission so selected can be trusted to deal with the subject-matter committed to it in a way that will entitle its completed work to be respected until it is shown, on issue joined, to be wrong to an extent that honest men will not differ about its being so—and that is the rule of invalidity laid down by the Supreme Court in dealing with similar questions—then this furnishes a good reason why the Commission should not be created at all. A commission constituted as this one should be ought to be able to discharge its duties in such a way as to command respect until error is affirmatively shown.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Indiana?

Mr. CLARKE of Arkansas. Certainly.

Mr. BEVERIDGE. Does not the Senator think that for these very reasons a court would be very slow indeed to issue a preliminary injunction against rates fixed by such a commission?

Mr. CLARKE of Arkansas. I have not any information derived from my experience and observation that justifies me in saying that courts are under any circumstances very slow to issue injunctions where large interests are involved. I think they are very swift.

Mr. BEVERIDGE. If the Senator will pardon me, I do not think that general answer is an answer to my question. Whether they are swift or not, they sometimes can not be, as we all know, too swift. But the Senator gave some excellent reasons why a rate fixed after wide investigation and mature deliberation by a commission would be very likely to be a correct rate. Does not the Senator think that as a practical matter a court would be very slow indeed to suspend that rate by a preliminary injunction?

Mr. CLARKE of Arkansas. I would not have any reason for saying so, based on my experience with the books and from actual observation. I think the first requisite of a railroad lawyer is to be able to draw offhand a bill of complaint showing that any law or official action interfering with the plans of the carrier invades its constitutional rights. If he can not do that, they would not have him around as an office boy.

In commenting on the respect due to the findings of a special tribunal, Judge Brewer, in delivering the opinion in Pittsburg, etc., Company *v.* Backus (154 U. S., 434), says:

Whenever a question of fact is thus submitted to the determination of a special tribunal, its decision creates something more than a mere presumption of fact, and if such determination comes into inquiry before the courts it can not be overthrown by evidence going only to show that the fact was otherwise than as so found and determined. Here the question determined by the State board was the value of certain property.

Just as here they determine the value of certain service.

That determination can not be overthrown by the testimony of two or three witnesses that the valuation was other than that fixed by the board.

The board had increased the valuation from $8,000,000 to $22,000,000.

It is true such testimony may be competent, and was received in this case because, taken in conjunction with other testimony, it might establish fraudulent conduct on the part of the board sufficient to vitiate its determination. It is not, however, contended by counsel that there was any actual fraud on the part of that board.

The same doctrine was declared in the United States *v.* California Land Company (148 U. S., p. 43).

Also in the case of French *v.* Fyan (93 U. S., 170).

So it is plain that we are not dealing with a situation where the right of an individual has been tortiously invaded, or deemed to be tortiously invaded, by another, but we are protecting from inconsiderate assault the completed work of a very carefully organized Commission, composed of able and conscientious men, and it should have the presumption of verity accorded to it. It ought not to be sent out by the Congress that authorizes its existence with a statutory badge of suspicion of wrongdoing and an invitation to attack.

THIRD. PARTY SEEKING CAN NOT BE COMPELLED TO DO EQUITY.

The third reason why I think Congress is warranted in denying the right to apply for a preliminary injunction is based on the fact that the nature of the litigation deprives the court of the correlative power to so mold its order as to do justice to all parties interested in the litigation. It can not apply its favorite maxim of requiring those who enter its portals to come with clean hands, and, while asking for equity, agree to do equity. The Supreme Court of the United States has fixed the limit of the judicial power to interfere with the orders of a railway commission in the matter of fixing rates at the point of determining whether or not the entire body of rates will yield a sufficient fund to satisfy the carrier's constitutional right to just compensation for the use of its property in the public service of transportation. The court will look to the action of the Commission for this single purpose, and if it finds that it is wanting in ever so small a degree in satisfying the constitutional right to just compensation, it will nullify the entire proceeding of the Commission. The court will not assume to modify the rate by increasing it to a point that will satisfy the carrier's constitutional right. On the other hand, it may affirmatively appear that the rate fixed by the carrier is in excess of what it should be, and yet the court is without power to require the abatement of any part of it pending a final disposition of the case. This feature is not involved in the litigation. The litigation concerns the validity of the Commission's order. The only thing the court can do is to condemn the Commission's rate entirely or permit it to stand as a whole. The court has no power of apportionment. The principal consideration which makes the right to issue a preliminary injunction tolerable and equitable is the power of the chancellor to impose terms that will come as near protecting the rights of all concerned as human intelligence and conscience will permit, as is manifest from the extract I read a short while ago from Russell *v.* Farley (150 U. S.). For the purpose of showing the extent and character of the relief granted by the court in these railroad-commission cases when the validity of a rate-making order is called in question, I read from Judge Brewer's opinion in Reagan *v.* Trust Company (154 U. S.):

It is doubtless true, as a general proposition, that the formation of a tariff of charges for the transportation by a common carrier of persons or property is a legislative or administrative rather than a judicial function. Yet it has always been recognized that, if a carrier attempted to charge a shipper an unreasonable sum, the courts had jurisdiction to inquire into that matter and to award to the shipper any amount exacted from him in excess of a reasonable rate; and also in a reverse case to render judgment in favor of the carrier for the amount found to be a reasonable charge. The province of the courts is not changed nor the limit of judicial inquiry altered because the legislature, instead of the carrier, prescribes the rates. The courts are not authorized to reverse or change the body of rates imposed by a legislature or a commission; they do not determine whether one rate is preferable to another, or what under all circumstances would be fair and reasonable as between the carriers and the shippers; they do not engage in any mere administrative work; but still there can be no doubt of their power and duty to inquire whether a body of rates prescribed by a legislature or a commission is unjust and unreasonable, and such as to work a practical destruc-

tion to rights of preporty, and if found so to be, to restrain its operation.

* * * * * * *

The challenge in this case is of the tariff as a whole, and not of any particular rate upon any single class of goods. As we have seen, it is not the function of the courts to establish a schedule of rates. It is not, therefore, within our power to prepare a new schedule or rearrange this. Our inquiry is limited to the effect of the tariff as a whole, including therein the rates prescribed for all the several classes of goods, and the decree must either condemn or sustain this act of quasi legislation. If a law be adjudged invalid, the court may not in the decree attempt to enact a law upon the same subject which shall be obnoxious to no legal objection. It stops with simply passing its judgment on the validity of the act before it. The same rule obtains in a case like this.

I also read from the opinion in Pittsburg Railway Company *v.* Board of Public Works (172 U. S.):

One of the reasons why a court should not thus interfere as it would in any transaction between individuals is that it has no power to apportion the tax or to make a new assessment, or to direct another to be made by the proper officers of the State. These officers, and the manner in which they shall exercise their functions, are wholly beyond the power of the court when so acting. The levy of taxes is not a judicial function. Its exercise, by the constitutions of all the States and by the theory of our English origin, is exclusively legislative. A court of equity is, therefore, hampered in the exercise of its jurisdiction by the necessity of enjoining the tax complained of, in whole or in part, without any power of doing complete justice by making, or causing to be made, a new assessment on any principle it may decide to be the right one. In this manner it may, by enjoining the levy, enable the complainant to escape wholly the tax for the period of time complained of, though it be obvious that he ought to pay a tax if imposed in the proper manner.

It is an inflexible rule of equity jurisprudence that unless the court can see that it can render a decree that will afford to all parties in interest complete justice it will decline to interpose at all, leaving the parties to such remedies as may be afforded by other courts. Applying that principle here, the court ought not to grant a preliminary injunction in cases of this kind, because by doing so the excessive rates charged by the carrier must be the measure of the shipper's liability pending the litigation, notwithstanding it may on final hearing turn out that the Commission rate was lawfully made.

Mr. SPOONER. Will the Senator from Arkansas allow me to ask him a question?

Mr. CLARKE of Arkansas. Certainly.

Mr. SPOONER. Has the Senator any doubt of the power of a court granting a preliminary injunction in a case where it is apparent to the court that it should be granted to prevent irremediable loss to grant it upon terms to be fixed by the court?

Mr. CLARKE of Arkansas. I think the court could grant a preliminary injunction on any terms that will be consistent with the relief it could include in its final decree.

Mr. SPOONER. Could not a court require every dollar of money collected by the railway company under the order representing the difference between the rate fixed by the Commission and the rate collected to be deposited in the court to await the final result?

Mr. CLARKE of Arkansas. You mean to appoint a collector to do that?

Mr. SPOONER. To require the party to pay into the court every dollar collected in excess of the rate fixed by the Commission, to be held in the registry of the court, subject to the order of the court to abide the result of the litigation?

Mr. CLARKE of Arkansas. As a mere abstract question of power the court might make such an order, but it would be attended by so many practical difficulties I am quite satisfied the court would never undertake to do the collecting and reporting.

Mr. SPOONER. Could not the court require the carrier to present with each payment the name of the person from whom collected and the point from which it was collected?

Mr. CLARKE of Arkansas. I suppose it could appoint an auditor or collector to stand at every station door and collect the money, but the courts have not done that in the case of ordinary taxation.

Mr. SPOONER. The court is not impotent in such respects.

Mr. CLARKE of Arkansas. It is fettered with so many difficulties that I will say, in a general way, the court will never make such an order, because the integrity of the return depends entirely upon the integrity of the litigant. It puts it in the hands of the litigant to say how much is collected and how much shall be turned over. The court would never know whether the order had been complied with or not. The people who collect the money, the station agents, would report if they saw proper. I do not think any court has ever made an order of that kind where the efficiency and integrity of its enforcement was so completely under the control of the party whose wrongful and oppressive conduct is primarily the cause of the litigation. But, then, such an order as that would not do justice if the court should make it. That would only enrich the shipper at the expense of the consumer and the producer. The real owner of the money never would get it back. It would be better to put it in the Treasury. Then the taxpayers would get the benefit of it, as it would be used for public purposes. There is no justice in returning it to the shipper. He has not, in fact, paid a dollar of it. The shipper has not been damnified in a single cent. The shipper deducts the freight rates he is to pay from the price paid for the product to be carried, or adds it to the price when sold to the consumer.

FOURTH. COURT HAS NO OPPORTUNITY TO MAKE NECESSARY EXAMINATION.

The fourth objection to the justice of allowing a preliminary injunction to issue in cases of this kind is found in the numerous and complicated facts and computations that are to be considered before an intelligent judgment can be arrived at. A preliminary injunction issued without an intelligent and definite knowledge of the scope and effect of the litigation, is a mere matter of guesswork, and this ought never to be tolerated when the judgment of a respected tribunal concerning a public matter is to be made the point of attack. The practical force of this objection will appear more plainly by reference to a case decided by the Supreme Court of the United States, where the decree of the United States circuit court was reversed principally upon the ground that the judge in the lower court had made the computations and findings by his own efforts and without the aid of a master. Judge Brewer, in writing the opinion of the court in the case of the Chicago Railway *v.* Tompkins (176 U. S., 169), comments on this practice, as follows:

It would doubtless be within the competency of this court on an appeal in equity to do this—

That is, to examine all the testimony—

but we are constrained to think that it would not (particularly in a case like the present) be the *proper course to pursue*. This is an appellate court, and parties have a right to a determination of the facts in the first instance by the trial court. Doubtless if such determination is challenged on appeal, it becomes our duty to examine the testimony and see if it sustains the findings, but if the facts found are not challenged by either party, then this court need not go beyond its ordinary appellate duty of considering whether such facts justified the decree. We think this is one of those cases in which it is especially important that there should be a full and clear finding of the facts by the trial court. The questions are difficult, the interests are vast, and therefore the aid of the trial court should be had. The writer of this opinion appreciates the difficulties which attend a trial court in a case like this.

In Smyth *v.* Ames, supra, a similar case, he, as circuit judge presiding in the circuit court of Nebraska, undertook the work of examining the testimony, making computations, and finding the facts. It was very laborious and took several weeks. It was a work which really ought to have been done by a master. Very likely the practice pursued by him induced the trial judge in this case to personally examine the testimony and make the findings. We are all of opinion that a better practice is to refer the testimony to some competent master to make all needed computations and find fully the facts. It is hardly necessary to observe that, in view of the difficulties and importance of such a case, it is imperative that the most competent and reliable master, general or special, should be selected, for it is not a light matter to interfere with the legislation of a State in respect to the prescribing of rates nor a light matter to permit such legislation to wreck large property interests.

We are aware that the findings made by the master may be challenged when presented to the trial judge for consideration, and it may become its duty to examine the testimony to see whether those findings are sustained, as likewise, if sustained by the trial court, it may become our duty to examine the testimony for the same purpose. But before we are called upon to make such examination we think we are entitled to have the benefit of the services of a competent master and an approval of his findings by the trial court. As we have said, those findings may not be challenged by either party, and if so, a large burden will be taken from the appellate court.

For these reasons we not merely reverse the decree of the trial court, but also remand the case to that court with instructions to refer the case to some competent master to report fully the facts, and to proceed upon such report as equity shall require.

Now, if a judge, after considering all the evidence offered by both parties, hearing the arguments of counsel, and having taken weeks to work out a result deliberately, can not render an intelligent final decree, what hope is there that it can do justice upon the partisan allegations of the bill of complaint, supported by *ex parte* affidavits, and issue a preliminary injunction? If the appellate court will not permit such work to be done in person by a judge in the lower court, who devotes weeks to making the examination and computations necessary to enable him to intelligently render a final decree, on the ground that the service to be performed is such as to require more care and labor than the judge is capable of bestowing, then what foundation is there for saying that he may temporarily grant, with the scant consideration usual in such cases, the same relief that the Supreme Court declares him, unaided, incapable of extending intelligently when he comes to announce his final decree?

The litigation in Railroad *v.* Tompkins related to a rate fixed by the State commission of South Dakota. The estimated division of the commerce of the country is one-fifth State commerce and four-fifths interstate commerce. If the court felt justified in making the observation it did in connection with a controversy that related to rate making in one of the smaller

States of the Union, how much more difficult will the task be when the larger volume of interstate commerce is drawn in question? It is perfectly plain that any examination that a judge can give on the mere application for a preliminary injunction will not carry with it authoritatively that extent and character of intelligent judicial condemnation that should be required to overturn even temporarily the work of the Commission. The deliberate findings of that Commission ought not to be overturned by the partial examination which the court or judge will make when granting a preliminary injunction.

The opinion of the court in the Tompkins case was written by Judge Brewer, who served as United States circuit judge for many years on the largest circuit in the United States, located in the northwestern section of the country, where controversies affecting public carriers were more numerous and more intelligently supported and assailed than in nearly any other section of the Union. In the development and advancement of the law to its present condition, Judge Brewer has not only been a pioneer, but a veteran. He has brought to bear upon that complicated question all the powers of his great intellect and his superb qualities of a farseeing statesman. If the pending bill shall become a law, and shall eventually be the means of applying a remedy to any of the abuses against which it is nominally directed, it will owe much to the formative aid of that courageous and sagacious judge in enforcing the equity of its purpose and spirit, rather than its scant and defective phraseology.

FIFTH. COURT CAN NOT PROTECT REAL PARTY IN INTEREST.

There is a fifth reason why I deem it to be the duty of Congress to prohibit the issue of a preliminary injunction to suspend the order of a Commission, that is as strong in its equities as any that can be mentioned, and if none other existed would be sufficient to justify the denial asked for. It is obvious that if the Commission rate is enjoined pending the trial that the carrier will continue to charge the rate fixed by itself. The shipper of freight is usually a middleman, or mere dealer in commodities that he causes to be transported from one point to another. In some instances he deducts from the price to be paid for products bought by him the freight rate necessary to transport his purchases to the place at which he expects to market them. In instances where the shipper is a jobber or distributer of products, he adds the freight paid to the price of the commodity, and thus fixes the price that the consumer must pay.

If it should turn out that the commission rate was wrongfully enjoined, payment to the shipper would in nine cases out of ten enable him to reap where he had really never sown. The real loser is either the producer or the consumer. These unrepresented classes should be protected if it is possible to do so, and if it seems utterly impracticable to do so, the court should not be allowed to pursue a course where their loss would be inevitable, without any hope of recoupment, directly or indirectly. If it shall turn out that the commission rate is too low, the carrier is not without remedy pending the litigation, since it may bring a practical demonstration of this fact to the notice of the Commission, which body is invested with authority to modify the rates fixed by it; and if in the end it shall turn out that the rate is too low and a deficiency in the income of the revenues of the carrier is thereby produced, it would not be an arbitrary and unwarranted exercise of discretion on the part of the Commission to allow such increase in the rates as would reimburse the carrier for the loss that had been imposed upon it by the action of the Commission itself. This matter of considering the rights of interested and unrepresented parties is a well-known principle in equity jurisprudence. The recent case of Beasley *v.* The Texas and Pacific Railway Company, 191 U. S., 498, is a case that amply presents this feature. The railway commission of the State of Louisiana had directed the railway company to erect a depot at a certain place 3½ miles distant from an existing station. Persons interested in the existing station sought an injunction against the railway company to prohibit it from complying with the order of the commission. It appeared in the progress of the trial that the railway company was perfectly willing for the injunction to issue, so that, in fact, the nominal parties to the litigation were in agreement as to the outcome desired. In denying the injunction, Judge Holmes said that it was one of the cases where public policy demanded that the rights of the unrepresented should not be ignored, and that the relief should be denied because of the inability of the court to protect their interest otherwise. Judge Holmes said:

> It is objected that the foregoing was not the ground of the demurrer. But, as was observed by the court below, other grounds are open on demurrer *ore tenus*, and apart from that consideration, if it appears that an injunction would be against public policy, the court properly may refuse to be made an instrument for such a result, whatever the pleadings. The defendant may desire the relief to be granted—

That is, in case the railroad company may desire to be successfully enjoined from building the depot—

> It is suggested that it does. But the very meaning of public policy is the interest of others than the parties, and that interest is not to be at the mercy of the defendant alone.

SIXTH. MOTIVE FOR DELAY REMOVED FROM RAILROAD AND MOTIVE FOR DILIGENCE FURNISHED.

As promptness in decision is secondary only to correctness of decision, there is a sixth ground for denying to the courts the right to issue a preliminary injunction that must not be overlooked nor its importance minimized. The very fact that the Commission's work is to become operative for a time without the scrutiny and support of the court will impress upon the Commission a sense of fairness and conservatism that will be very wholesome. On the other hand, the railroad company, being made aware of the fact that no unfair advantage is to be gained by delaying the final hearing, will be invested with the very strongest motives for accelerating the trial in every possible way. In the first place, the railroad company, knowing that the Commission's rate must become operative for a time, at least, will make a full and frank showing before the Commission, and thereby in many cases obviate the necessity of a resort to court, and this must be so unless we are to assume that the attitude of the Commission is to be habitually antagonistic to the railroad interest and that everything it does is to be dictated by a partisan and oppressive spirit toward the carriers.

The circumstance that the rate will, by very force of the statute, expire and become inoperative in two years is a strong reason why Congress should remove from the carrier all motive for delay, since it is common knowledge among those whose business it is to be familiar with the course of procedure in courts that it is a rare case that can be originated in the circuit court and finally disposed of in the Supreme Court within a period of two years. It is a practical impossibility to do this if either party is anxious to avail himself of the law's delays.

I will now direct the attention of the Senate to what I conceive to be its duty and power in the matter of providing for a judicial review of the action of the Commission in fixing rates under the delegation of power to it for that purpose. I have heard so much in the course of this discussion about a broad review by the courts of the action of the Commission and about a narrow review of its action that I felt interested to ascertain which of these was preferable and what my duty in this connection required me to do. I had a sort of surface impression, in the absence of an examination of the authorities, that as the work of the Commission was done by way of substitution for Congress itself that its action must partake of the immunity from judicial interference that inherently pertains to a legislative act or acts. As a result of such limited and imperfect examination, as all such work done by me must be, I have reached the conclusion, firmly and clearly, that Congress has no real power in connection with the matter. The only judicial feature of a rate-fixing order of the Commission is as to whether or not the constitutional right of the carrier to just compensation for the use of its property has been respected. If the rate fixed affords a revenue that will satisfy this demand, then the courts are without power to interfere. Speaking for myself alone, I would just as soon the senior Senator from Rhode Island [Mr. ALDRICH] should write the review provision to be incorporated in this bill, if one is to be so incorporated, as to write it myself. I would not provide for any review, while he would require everything the Commission does, and every phase of its action, to be subjected to the consideration of the courts, and he may logically and consistently do this, since he maintains that this whole business is an infamous proposition.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Rhode Island?

Mr. CLARKE of Arkansas. Certainly.

Mr. ALDRICH. I know the Senator does not mean to misrepresent me.

Mr. CLARKE of Arkansas. Oh, no.

Mr. ALDRICH. I said the proposition to make the decision of the Commission final, without any possible chance to have the rights of the parties litigated or maintained by the courts, was an infamous proposition. I do not understand that the Senator from Arkansas or anybody else at this day is contending for any such proposition.

Mr. CLARKE of Arkansas. I am not contending that I can do it, but I will say that I should like to do so. When you denounce that contention as an infamous proposition you denounce a position assumed and earnestly defended by Justices Bradley, Gray, and Lamar, in the dissenting opinion in the case of Railroad *v.* Minnesota (134 U. S., 460), for these judges insisted that, under the law, the Commission rate should be entirely free from judicial interference or control.

Mr. ALDRICH. That is from the legal standpoint. I was not discussing it from the legal standpoint, but from the ethical standpoint.

Mr. CLARKE of Arkansas. I think that if it be true that the President can not select seven railroad commissioners who possess sufficient character and ability to properly discharge the duty of prescribing railway rates without the necessity for submitting its action to the revision of the court for any purpose, other than to protect the constitutional rights of the carrier to just compensation, I should consider the circumstance to be a very strong argument against creating a commission at all.

Mr. ALDRICH. Then, I understand the Senator would be glad to make the decision of a political body upon the question of rates throughout the United States final if he could?

Mr. CLARKE of Arkansas. I would, in order to do so, constitute the Commission somewhat differently from the Commission proposed in this bill. I would confine their proceedings and power as largely as practicable to that of an organized judicial court and have an entirely distinct bureau to originate and prosecute the partisan aspect of the inquiry. I would invest it with the dignity, power, and responsibility of a court as largely as I could, and keep away from its members all the lobbying influences that frequently infest legislative and administrative bodies.

Mr. ALDRICH. The Senator is promptly running away from the question I asked him. I asked him whether he would be glad to make the decisions of this board, a political board, to be appointed and removed by the President at will, final.

Mr. CLARKE of Arkansas. That is what lawyers call an abstract question. There is no possibility of it. As the law is established, there is no power in Congress to make the orders of the Commission impervious to judicial assault when the carrier's constitutional right to just compensation is invaded.

Mr. ALDRICH. The Senator was saying what he would like to do.

Mr. CLARKE of Arkansas. I should not hesitate to create a commission and invest it with power to finally dispose of this business of rate making. But in doing so, I should select and equip the Commission in such a way as to give to its proceedings and decision such manifest fairness as to relieve these from every criticism that affected their fairness, save such as might arise from errors honestly made. No tribunal composed of merely human beings can escape the possibility of these, nor would I degrade the Commission into a mere figurehead to escape the fear that something of this kind might happen.

Mr. ALDRICH. The Senator would like to appoint the Commission, I suppose?

Mr. CLARKE of Arkansas. Not necessarily so. But if it were my duty to do so, I think I could select a commission that would do justice according to my idea of justice. Any officer competent in character himself, and endowed with sufficient knowledge of men to select judges to review the work of the Commission when completed, ought to be able to select a competent commission. I would not allow any commission to originate complaints and try them, and then make their action final. I would provide a bureau or force of attorneys to originate and prosecute complaints, limiting the power of the Commission to impartial judgment. I would not allow them to be personally approached and solicited by railroad men and subjected to all sorts of lobbying influences, as legislative and administrative bodies sometimes are. I would invest them with the same dignity as our courts and judges, and protect them by a public opinion that will make it improper to deal with them except in the public and fair presentation of matters to be considered by them.

Mr. ALDRICH. Then the Senator is not entirely pleased with the proposition to make this Commission prosecutors and judges and executors?

Mr. CLARKE of Arkansas. No; I am not at all pleased with the bill. I can make a better bill than this, in my humble opinion.

Mr. ALDRICH. I hope the Senator will offer some amendment before the discussion is over.

Mr. CLARKE of Arkansas. I would offer a new bill, and I would offer one that would effectually put the railroads in the business of hauling freight and passengers through the country, and out of the business of hauling fictitious bonds and watered stock through Wall street. I would confine the carriers to the discharge of their duties as public carriers, in the exercise of powers and rights that they can not enjoy for a single hour without public permission. But I should give them a fair return for doing it; and not only that, but pay them liberally for doing it, and to an extent that would furnish encouragement to build new railroads through Arkansas and all the western country, where others are needed beyond what is now there. I would not grind them down to any petty and precarious return on the real value of the property employed in the service of the public.

Mr. ALDRICH. How much does the Senator think they ought to pay in Arkansas in the way of dividends?

Mr. CLARKE of Arkansas. I would fix the sum at about 6 per cent.

Mr. ALDRICH. Would the Senator make that rule apply to the country at large?

Mr. BEVERIDGE. Based on investments?

Mr. CLARKE of Arkansas. No; on the actual value of the property at the time it is being employed in the service of the public.

Mr. ALDRICH. Without regard to the stocks and bonds outstanding?

Mr. CLARKE of Arkansas. I do not think that the condition of the stock and bond floatation of any railroad has a controlling influence as to what is a just compensation to the carrier for the use of its property by the public. The Supreme Court says that the basis of computation is the value of the property, not the extent of its debts nor the number of its stockholders, at the time the property is so employed, that is to control.

Mr. ALDRICH. I presume the railroads of Arkansas never issued securities improperly?

Mr. CLARKE of Arkansas. I am not making any particular complaint against, nor warfare on, the railroads of Arkansas or the railroads of the country. They are all about alike. I do not attach personal blame to the railroad men of Arkansas or the railroad men of the country for anything they are doing. They are simply doing the things the law permits them to do, and probably as I would do under the same circumstances.

Mr. ALDRICH. I am very glad to hear the liberal views of the Senator from Arkansas as to the amount of dividends to be paid. The average dividend paid in the United States is in the neighborhood of 4 per cent.

BASIS OF ADJUSTING JUST AND REASONABLE RATE.

Mr. CLARKE of Arkansas. The railroads are capitalized at an average valuation of $63,000 per mile. Official investigations made in three of the leading States, and in which investigation the railways had a right to take part, showed that for $25,000 per mile the railways there could be replaced and put in operation.

Mr. ALDRICH. Twenty-five thousand dollars a mile might build a railroad in Arkansas, but it would not in New York.

Mr. CLARKE of Arkansas. I am sure the railroads in Arkansas are as well equipped as those anywhere. I see no good reason why $25,000 per mile would not build a railroad anywhere, where the conditions were not exceptional.

Mr. ALDRICH. You have good railroads; but it costs a good deal more for the right of way to build a railroad in the East.

Mr. CLARKE of Arkansas. That may be true, but the territory embraced in the calculation is so wide that in reaching an average valuation of $25,000 a mile so many inferior roads are included at that rate without being worth so much that a wide margin remains to make up the deficiency of the estimate when the good ones are considered.

Mr. ALDRICH. A railroad might be built in sparsely settled regions of Arkansas if there were good grades for probably fifteen or twenty thousand dollars a mile, while in the mountain regions of Colorado and in some places in the East where the right of way is extremely expensive $150,000 a mile would be a very moderate sum.

Mr. CLARKE of Arkansas. That is very true. I have not any doubt that there are a few cases of that kind. I presume, however, that such situations could be fairly adjusted. I would have a system so completely adjustable that justice could be done to every particular enterprise. I would have it understood where the cost of construction was $150,000 a mile that owners should have a fair return upon their expenditure, but I would want to be first advised as to the cost of the railroad and of the fact that the amount had been really invested in the railroad. I would not accept the bond and stock flotations which represent the concreted evidences of the whole system of abuses, of extortion and discrimination practiced upon the public who patronize the railroads, as conclusive evidence that this sum had been so invested. I would deal fairly and liberally with the railroad companies. I do not believe in any parsimonious policy or in the inauguration of unjust warfare against the railroads of the country. We can not get along without them, but we ought to understand how much liberality we are extending to them, and not make them the sole account keepers of the whole business.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Indiana?

Mr. CLARKE of Arkansas. Certainly.

Mr. BEVERIDGE. I am very much interested in the Senator's argument, and I wish to ask him if he has thought of any method by which the railroads can be brought down to their actual value?

Mr. CLARKE of Arkansas. I should say that can be done just as satisfactorily as you can can estimate just compensation for rights of way and other similar things. Just compensation is a matter of market value; it is very largely a matter of opinion. The Constitution does not actually mean "just compensation," because that is an unknown standard—that is to say, it is a variable standard—it depends upon the judgment of a jury, board, commission, or court that decides the particular case. The witnesses who are called upon to testify, the skill of the lawyer, and many other things enter into it. I have heard of cases where equal undivided interests in the same tract of land have been differently valued by different juries where separate trials were necessary. I should say there was a way of finding that out. If the investigation should be conducted in good faith, I would not undertake to say that every doubt should be resolved against the railroads. In regard to the amount of income or wherever it was doubtful as to what the railroad cost, I would give proper weight to the representations made by the railroad company itself and those who represent it as to its value.

Mr. BEVERIDGE. How would the Senator——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Indiana?

Mr. CLARKE of Arkansas. With pleasure.

Mr. BEVERIDGE. How would the Senator from Arkansas reduce this improper overcapitalization? I think every student of this subject concedes that this is perhaps the most critical question in the whole series of questions—this overcapitalization issued and absorbed by the public more or less innocently. I addressed the same question the other day to the Senator from Wisconsin [Mr. LA FOLLETTE] as to how this improper overcapitalization, which is absorbed by the innocent public and held by them, can be reduced. That it ought to be reduced I suppose every man will concede; but how does the Senator propose to do that? I think the man who solves that problem will have won for himself fame that will almost amount to immortality.

Mr. CLARKE of Arkansas. I can get along on a great deal less than that.

Mr. BEVERIDGE. But how would the Senator reduce it? I am very much interested in that question.

Mr. CLARKE of Arkansas. I would adopt for myself the doctrine of the Supreme Court, that the carrier shall be entitled to a fair compensation on the value of his property used in the service of the public, and at the time it is being so used, and then I should let the overcapitalization take care of itself. I would put upon that part of the public who are patrons of the road a tax that would produce just compensation to the carrier, and base this upon the actual value of the property used, and I would not further tax the patrons to raise an additional fund to enable the companies to declare dividends on watered stock and to pay interest on fictitious bonds. That will be a matter for the carrier, and the so-called "innocent investors" will have to look out for themselves. The rule of caveat emptor applies to these.

WHAT TO DO WITH WATERED STOCKS AND BONDS.

Mr. BEVERIDGE. Mr. President, I do not wish the Senator to understand that I am in any sense by these questions defending overcapitalization. On the contrary, I am quite in sympathy with the Senator's stand that there should not be any overcapitalization; but I call the Senator's attention to the fact that when I also asked the Senator from Wisconsin the other day in regard to it, he made the same answer, and I have thought about it since. If you charge a rate which will produce a proper dividend upon the actual investment, and, as the Senator from Wisconsin the other day stated, let the overcapitalization take care of itself, this income will have to be distributed among the stockholders alike and among all the stock alike, both that which is proper capitalization and that which is overcapitalization. Where, then, would you make the dividing line and pay to the holders of stock who held proper stock a proper dividend and to those who hold watered stock no dividend? I should be very glad to hear the Senator's opinion upon that.

I say again that I am quite in sympathy with the idea that there should not be any overcapitalization nor any dividends, if possible, paid upon a single share of watered stock; but in the distribution of the dividends how will we differentiate the stock which represents a just valuation of the railroad from the stock which represents water?

Mr. CLARKE of Arkansas. In the first place, there are very few innocent holders of railroad stock. There may be such holders of railroad bonds.

Mr. BEVERIDGE. But suppose there are a thousand stockholders and that one is an innocent holder; while 999 are not innocent holders, you would have to distribute the income among all of them. How would you determine what was watered stock and what portion of the stock represented the exact actual investment?

Mr. CLARKE of Arkansas. That would be a matter for each stockholder to determine for himself before he bought the stock, whether or not he was buying stock in an enterprise that had been overcapitalized.

Mr. BEVERIDGE. I am not talking about the man who bought watered stock, but I am talking about the man who bought stock representing actual value before the watered stock was issued. After the income derived from the operation of the roads is in its treasury and the expenses are paid the excess must be distributed in the form of dividends among the stockholders, unless there is some provision to the contrary in the stock itself.

Mr. CLARKE of Arkansas. The Senator describes a condition that very rarely exists, as I think. There may be different series of stocks, where increases and additions are subsequently made after the so-called "innocent stockholders" have purchased shares of the issue whose amount is not open to the criticism of being excessive and fictitious, but these instances are so exceptional that their correction can be looked after by the ordinary courts of justice where remedies against fraud are administered. Certainly the remedy is not by taxing the public to make the scheme profitable. To do so would be to put a premium upon the dishonest manipulation of the finances of the carrier and impose a handicap on the honestly conducted corporation. The larger income would go to the least deserving. Nearly all the corporation laws that I know anything about provide that the stockholders shall be consulted and shall authorize, by a vote of three-fourths or two-thirds, the proposed increase. If any stockholder objects to the issuance of fictitious stock, and the same be issued notwithstanding, he would have his remedy in court. If he let the opportunity pass, then he would have to take his chances along with the others, and his stock would be no better than that of the holders of the more recent issue.

But I say without qualification that, so far as the public is concerned, no matter how innocent he may be in fact of any guilty participation in issuing the fictitious stock, he has no moral or legal right to call upon the public to pay him dividends on his stock simply because he happens to be associated with enterprises that have put upon the market fictitious or watered stock. That is a matter of adjustment between him and the corporation. The public ought to be required to pay and the carrier ought to be authorized to receive only a fair return upon the value of the property that it is using for the time being in the public service. If that sum does not enable the carrier to pay interest on its bonds and dividends on its stock, it is not a matter that concerns the public. They can not call on the shippers and producers of the country to furnish money to make profitable every fraudulent investment in which they may be interested. They have no right to ask that the power of Congress be exerted to insist that the irregularity of their business methods—not to characterize it more strongly—shall be made good. What the public is entitled to is the use of the railroads, and what the railroads are entitled to from the public is a fair and reasonable rate for doing the service. That reasonable rate is a mere matter of adjustment between shippers and the carriers as the law is now, or between the Commission and the court and the carrier as we now propose.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Rhode Island?

Mr. CLARKE of Arkansas. Certainly.

Mr. ALDRICH. If the Senator from Arkansas is right in his contention, it would be a very simple matter to arrive at a proper basis as to the rates of charge of the railroads of the United States.

Mr. CLARKE of Arkansas. Yes; I think so.

Mr. ALDRICH. If the railroads of the United States cost $25,000 a mile, and no more than that——

Mr. CLARKE of Arkansas. Taken as a whole.

Mr. ALDRICH. And they would be entitled to 6 per cent, which would be $1,500 a mile, it would be easy for the Commission, or somebody else charged with this matter, to ascer-

tain what rate would be required to pay that amount. It is true you would wipe out $8,000,000,000 of securities in the United States in the hands of innocent holders—although the Senator from Arkansas will not agree with me that they are innocent holders—but the Senator would see that justice would be done in that case in Arkansas, if not anywhere else. I think the plan of the Senator from Arkansas is a very simple one, and we do not need to adopt the amendment of the Senator from Wisconsin to ascertain the valuation of the railroads; but we can assume that $25,000 a mile is a proper valuation for the railroads of the United States, and that 6 per cent is a reasonable sum to be paid on that $25,000 a mile, which makes it a very simple proposition. Then, if you should reduce your rate to a rate per ton per mile and take the gross tonnage of those railroads, you could find out what the Pennsylvania road ought to charge, and what every other railroad ought to charge. It would be very easy and simple, according to the Senator's mathematical basis, to fix this whole matter.

ASSUME NOTHING, BUT FIX VALUE IN EACH CASE.

Mr. CLARKE of Arkansas. The Senator from Arkansas is not going to assume anything. I am going to take each railroad company and find out accurately, not by statistics nor by broad generalization that includes the whole 200,000 miles of railroad, but I am going to take each railroad and determine how much it is actually worth, how much its tonnage ought to be taxed to make a 6 per cent return on its actual value. I am not going to take $25,000 a mile as an arbitrary amount, for the reason that that is more than some are worth and it is vastly less than others are worth. I am satisfied in my own mind, from the little investigation I have made, that $25,000 a mile the country over would be an amount of money for which the whole railroad mileage could be reproduced.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Indiana?

Mr. CLARKE of Arkansas. Certainly.

Mr. BEVERIDGE. I do not wish to pursue the Senator with this inquiry——

Mr. CLARKE of Arkansas. I am very glad to hear the Senator. It is an important matter, and one that is involved in this inquiry, and it ought to be talked about.

Mr. BEVERIDGE. I think that, as the Senator from Wisconsin stated the other day, it is by far the greatest problem in this whole great problem, and I want to see if I can not put my question in still more concrete form. The Senator says that he would give to certain investors, representing the actual value of the road, 6 per cent upon their investment, and to other investors, representing watered stock, or representing overvaluation, nothing. How would he determine which stockholders were to get 6 per cent and which were to get nothing?

Mr. CLARKE of Arkansas. I would pay 6 per cent into the treasury of the railroad company and allow them to distribute it in any lawful way. If they had bonds enough out to require the whole income to pay interest on these, I would first pay to the bondholders the interest.

Mr. ALDRICH. Would the Senator leave that to the Commission?

Mr. CLARKE of Arkansas. The Commission has nothing to do with the distribution. The Commission simply fixes the rate.

Mr. ALDRICH. I thought, with the Senator's idea of the Commission, especially a political commission, that he would probably be willing to leave it to them.

Mr. CLARKE of Arkansas. No; I would not be willing to leave anything to them, except the adjustment of the rate and having it reviewed to prevent the invasion of any constitutional right, and then I should make the railroads do the business they contracted to do when they accepted the franchise they exercise. The income of the railroad company will presumably be disbursed to those lawfully entitled to receive it. If it is not voluntarily disbursed to them, the courts are open to enforce the rights of those unjustly deprived of their rights to the fund collected from the public.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Indiana?

Mr. CLARKE of Arkansas. Very cheerfully.

Mr. BEVERIDGE. I am very much obliged for the Senator's patience. I think the Senator will agree with me that his last answer was hardly an answer to the question. His answer was that in case there were bonds enough out which would absorb the entire 6 per cent or any other earnings of the railroad, they would be paid first. That is not an answer to the question that if, after the bonds were paid and the fixed charges were paid, or if there were no bonds still there was stock held by holders which represented the actual value of the road, and stock held by others which represented the excess value, how would the Senator determine which stockholders should have the excess after the bond interest was paid and which stockholders should have nothing? Suppose there are no bonds of the road, as an illustration, and the whole income, after the payment of charges, was to go in the form of dividends, the Senator says that certain stock should receive 6 per cent and certain other stock nothing. I am asking this question, as I asked it before and as I intend to ask it again of other Senators, How would that be determined? How would the Senator pick out certain stockholders and certain stock to receive the 6 per cent which he says they ought to have, and exclude other stockholders and other stock?

WHAT TO DO WITH WATERED STOCK NOT A MATTER THAT SHOULD CONCERN PUBLIC.

Mr. CLARKE of Arkansas. That is not a public question, nor is it one that any law we can enact will answer; therefore I can not give an answer to it as a Senator, but I could answer it if I belonged to one or the other named classes of stockholders. If I were a holder of stock that had represented the actual value, and fraudulent or watered stock had been put upon the enterprise in opposition to my consent, I would object to it, and in some proper form of action ask that the dividends should be declared and paid upon the valid stock certificates. If, upon the other hand, I was among those who held certificates representing the fictitious stock, I should, of course, be in favor of an equality of division of what was left after the bonds and fixed charges had been taken care of.

Mr. BEVERIDGE. How would you determine which was fictitious and which was not?

Mr. CLARKE of Arkansas. That is a matter that does not enter into the situation we are dealing with. It is not a public feature at all.

Mr. BEVERIDGE. Yes, Mr. President, I think, as has been said by many Senators here, it does. It is upon this overcapitalization, to which too severe epithets can not be applied, that these excess charges, which constitute in reality a tax upon the public, are based. That is what you are trying to cure by this and other legislation. What I am asking the Senator—as I asked the Senator from Wisconsin the other day and hope to have it answered before this debate is closed—is, How are you to determine what portion of the stockholders are to be paid and what portion are to be excluded?

Mr. CLARKE of Arkansas. With the utmost deference to my friend from Indiana, I will say that this is not a public question. It is not a question with which Congress has any possible concern. It is a question that arises between different classes of stockholders. What we are authorized to do is to authorize quasi public corporations to levy a tax upon the public sufficient to pay a proper return upon the value of the property that they use for the public good; but as to how they are to distribute that fund is a matter for them to determine. If it produces insolvency, then the railroad company must be reorganized; the railroad will not be torn up, and the country will not be deprived of it, but somebody will take it who is willing to run it for a fair return upon its value. If they have got its ownership scattered among stockholders of different character, so that they can not tell the good from the bad, the public is not interested in that, nor is it to be taxed any more on that account than it would if it were honestly conducted. In other words, it does not inhere in our duty to adjust controversies of that sort between parties. We leave them to be settled by the common sense and the ingenuity of the lawbreaker, without calling at all on the ingenuity of the Congressional lawmaker to furnish any additional remedies.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Rhode Island?

Mr. CLARKE of Arkansas. Very cheerfully.

Mr. ALDRICH. Can the Senator tell me what the average passenger rate is in the State of Arkansas on Arkansas roads?

Mr. CLARKE of Arkansas. About 3 cents a mile. That is the minimum.

Mr. ALDRICH. What is the average freight rate per ton per mile?

Mr. CLARKE of Arkansas. All the traffic will bear.

Mr. ALDRICH. Can the Senator tell me about what it will bear?

Mr. CLARKE of Arkansas. It is pretty high, but I have not the figures at hand.

Mr. ALDRICH. In other words, the truth is, I suppose, the rates in Arkansas are about twice what they are in other parts of the United States. I do not know whether it is the fault of the State of Arkansas or the fault of the railroads of Arkansas, yet I should think it would be a desirable proposition if the

Senator could spend a little time investigating that question, because his people are interested in it.

Mr. CLARKE of Arkansas. I want to put the railroads of Arkansas on the footing of "the most favored nation." I have no special complaint about the railroads of Arkansas that does not extend to every other railroad all over our country. I do not know any better roads in point of physical equipment. They are run, of course, by human beings.

Mr. BEVERIDGE. Mr. President, I hope the Senator will pardon me for another interjection, rather than a question, in response to the Senator's statement that this is not a public question. On the contrary, does not the Senator think the excuse for making these great charges that they are made in order to pay proper dividends upon overcapitalization, is really the greatest public question and the root public question of the whole thing? That is the reason why these so-called "excess charges" are made.

Mr. CLARKE of Arkansas. We differ about the character of the question, not its importance. I think it is a private question instead of a public one. I think what we are called upon to do here is to see that the public is not taxed for the use of this public facility, this public utilty, any more than the service is worth, and the worth of the service is a fair return upon the actual value of the property employed for the public purpose and at the time it is so employed.

I did not originate that idea. There is nothing peculiar about it. There is nothing about it that I claim. I got it out of recorded utterances of the Supreme Court of the United States.

NO DIFFERENCE IN LAW BETWEEN BROAD AND NARROW COURT REVIEW.

When interrupted I was just entering on that part of my remarks in which I hope to be able to show that the single purposes for which the courts will take cognizance of the action of the Interstate Commerce Commission in the matter of making rates is to determine whether or not the carrier's constitutional right to just compensation had been respected. The Supreme Court of the United States is the final arbiter in all disputes concerning the validity of Congressional legislation or that of the States. When that court decisively fixes the boundaries of legislative power and discretion it will accomplish no good purpose to insist that something in conflict therewith may be done, no matter how wholesome, as a matter of theory, it might prove to be if done. The doctrine of that court, as I think I will be able to show as I proceed, is that it will not hesitate to nullify the action of a legislative commission in fixing rates when it appears that the constitutional right of the carrier to just compensation would be invaded if it is compelled to charge and receive the rates as fixed. But the court has with equal emphasis decided that in determining this question it will not consider a single rate, but will take under review the entire body or schedule of rates which the railroad company is charging and collecting from its patrons. It is further established, as I think I may say without fear of successful contradiction, that the character of the service performed by the Commission in fixing rates is legislative and as such does not fall within the revisory powers of the court except for the single purpose of determining its harmony with the paramount restraints and guaranties of the Constitution. I read now from the opinion of the court in the case of San Diego Land Company *v.* National City (134 U. S., 754):

> But it should also be remembered that the judiciary ought not to interfere with the collection of rates established under legislative sanction unless they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just both to the owner and to the public—that is, judicial interference should never occur unless the case presents, clearly and beyond all doubt, such a flagrant attack upon the rights of property under the guise of regulations as to compel the court to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for the public use.
>
> * * * * * * *
>
> Each case must depend upon its special facts; and when a court, without assuming itself to prescribe rates, is required to determine whether the rates prescribed by the legislature for a corporation controlling a public highway are, as an entirety—
>
> Not a single rate, but as an entirety—
>
> so unjust as to destroy the value of its property for all the purposes for which is was acquired, its duty is to take into consideration the interests both of the public and of the owner of the property, together with all other circumstances that are fairly to be considered in determining whether the legislature has, under the guise of regulating rates, exceeded its constitutional authority, and practically deprived the owner of property without due process of law.
>
> * * * * * * *
>
> What the company is entitled to demand, in order that it may have just compensation, is a fair return upon the reasonable *value of the property at the time it is being used for the public.* The property may have cost more than it ought to have cost—
>
> And it may have outstanding more bonds and stocks than it ought to have—
>
> and its outstanding bonds for money borrowed and which went into the plant may be in excess of the real value of the property. So that it can not be said that the amount of such bonds should in every case control the question of rates, although it may be an element in the inquiry as to what is, all the circumstances considered, just both to the company and to the public.

The test is the value of the property used on behalf of the public and at the time so employed, not how many bonds or shares of stock have been issued by the corporation owner.

Continuing, the court says:

> It is sufficient to say, upon a careful scrutiny of the testimony, our conclusion is that no case is made that will authorize a decree declaring that the rates fixed by defendant's ordinance, looking at them in their entirety—and we can not look at them in any other light—are such as to be a taking of property without just compensation.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. CLARKE of Arkansas. Certainly.

Mr. ALDRICH. I infer from the Senator's remarks that he does not think that the courts can ascertain whether the constitutional rights of the carrier have been invaded without an investigation into the whole subject as to all the rates.

Mr. CLARKE of Arkansas. Yes, sir; that is my opinion.

Mr. ALDRICH. And as to the stocks and bonds and capital, etc. In other words, there can be no such thing as a narrow review.

Mr. CLARKE of Arkansas. No; there can not be a narrow and there can not be a broad review. The courts can review for one purpose, that of determining whether the income of the railroad allowed by the Commission is sufficient to satisfy the constitutional demand of just compensation. That is what it means; that is all it means; you can not limit it and you can not make it any broader.

I repeat, so far as I am concerned, I would just as soon that the Senator from Rhode Island would write the review amendment as to write it myself, because they would both mean the same thing in law. You can put it into the bill that the court shall not review it, but it will review it, as it did in the Minnesota case, in 134 United States. The supreme court of Minnesota had construed the statute of that State to mean that the action of the Commission was final; the United State Supreme Court reversed this ruling, holding that the carrier could not be denied the right to show that the rate was confiscatory.

Mr. BACON. Mr. President, will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Georgia?

Mr. CLARKE of Arkansas. Certainly.

IS RIGHT TO PREVENT DISCRIMINATION A JUDICIAL QUESTION?

Mr. BACON. The Senator has been giving very careful study to this particular branch, and I confess there are some features of the question which are troublesome to me. The question of review as to the particular matter of compensation is one thing. I want to know what is the Senator's view? I am asking this, not for the purpose of antagonizing whatever view he may express, but for the purpose of eliciting an expression from him. What is the Senator's view as to the power of Congress to confer upon the courts the right to call in question and review the orders of the Commission, not as to rates, but as to regulations and practices?

Mr. CLARKE of Arkansas. I can answer that question by saying that anything of a legislative character done by the Commission can not be reviewed by a judicial tribunal. If you can frame a system of regulations by which a judicial question may be made to appear, the court will take charge of that and dispose of it in a proper case.

Mr. BACON. Of course I recognize that as a general proposition. It covers the question of compensation and every other question as to what is done by the Commission under the delegation of authority from Congress; but it was for the purpose of finding out what was the Senator's view as to whether or not this fell within the particular class of questions which the courts could be given authority by Congress to review.

The Senator will pardon me a moment. I want to draw, if I can, a distinction between the class of questions where the authority of the court would obtain, under the suggestion of the Senator from Arkansas, regardless of what Congress might do on the question of compensation. Recognizing that now as correct, when it comes to the question of compensation, the power conferred or withheld by Congress, according to the view of the Senator, will not amount to anything, the courts having a certain jurisdiction which they will certainly, in the absence of any distinct denial of it, and even in some cases with the denial of it, exercise. The point I want the Senator's

expression upon—and I repeat I do it for the purpose of getting his view, as he seems to have given very careful study to this particular branch, as well as other branches of the subject—is as to the power of Congress to confer upon the courts the duty and the authority to review the orders of the Commission which do not relate to compensation, but which relate to regulation and practice, because there, it seems to me, is the doubtful domain.

Mr. SPOONER. Suppose it involves compensation?

Mr. BACON. I want to leave that out. The Senator from Wisconsin suggests, soto voce, "Suppose it involves compensation?" I want to leave that out of the present question, because I want to draw the distinction clearly, if possible, between the authority given to the court to review so much of the orders as involve the constitutional question of compensation and other orders which do not involve that, but which do involve questions of regulation and practice.

Mr. ALDRICH rose.

Mr. BACON. I hope the Senator from Rhode Island will pardon me just a moment until I finish my statement.

I started to give an illustration, but I do not know that I am sufficiently familiar with railroad matters to give it clearly, but I would rather enlarge what I have said. The same question might be suggested as to the orders of the Commission, which should be deemed to be preferential, which should be deemed to give a preference—and I use the word "preferential" not in its technical sense there—which should be deemed to give a preference to one community over another community upon the same line. That is not a question of compensation, but it may be a most vital question in the practical administration of this law as to whether or not the orders of the Commission in all these matters of regulation and practice shall be final with them, or whether the courts shall be distinctly vested by Congress with the power to pass them under review. I think it extremely important that the court should have the power to pass upon the question whether or not the Commission has given preference to one community over another. It may be at some time of most vital importance to the business of a community; it may involve its business life or death, and for that reason I am particularly anxious to hear the learned and distinguished Senator upon that particular phase from a legal standpoint, under the authorities, as to what is the power of Congress to devolve upon a court the authority to review orders which do not relate to matters of compensation, but which do relate to the vital matters of regulation and practice.

Mr. CLARKE of Arkansas. It is hard——

Mr. ALDRICH. When I sought to interrupt the Senator——

Mr. BACON. I beg the Senator's pardon; I ought to have yielded to him earlier.

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Rhode Island?

Mr. BACON. I hope the Senator from Rhode Island will let the Senator from Arkansas respond to my inquiry, because I am anxious to get a concrete answer, if possible.

Mr. ALDRICH. I will wait until the Senator from Arkansas answers that question, and then I will call the attention of the Senator from Georgia to some provisions of the pending bill.

Mr. CLARKE of Arkansas. I could not answer wholesale that question. Before I can answer intelligently I must have my attention directed to the particular practice called in question.

Mr. BACON. I will call the attention of the Senator to one, if he will pardon me. Suppose upon the same line of road—and I say the same line, I mean the connecting road—an order of the Commission is deemed to give a preference to one community over another, thinking it has equal rights in the matter of interstate commerce affected by that particular order. Does the Senator think, outside of the provisions of this bill—I am not speaking about that, I am speaking about constitutional power, because that is what the Senator is so earnestly and learnedly discussing—under the constitutional power it is within the province of Congress to give to the courts the power to review and set aside as unjust an order of the Commission which gives a preference to one community over another community?

Mr. CLARKE of Arkansas. Certain elements of discretion and policy enter into this whole business of rate making. There are different theories on which it may be done. There is the mileage basis, for instance; or, on the other hand, the Commission might take into consideration the question of the economic distribution of products, so that one rate would be relatively higher than another. Those are matters of policy and wisdom to be weighed and concluded by the Commission. In the exercise of that power the Commission may abuse it, and so obviously so as to be guilty of fraud, when it can be attacked by any shipper or community, where the instance of discrimination is so pronounced that honest men would not differ in saying that the Commission had not been actuated by proper motives in doing what it did. There is a measure of discretion in matters of that kind. That would probably be referred to the Commission. To what extent the courts would undertake to control them I am not prepared to say. I would have to know all the facts of the particular case.

Much that is said in Interstate Commerce Commission *v.* Baltimore and Ohio Railroad Company (145 U. S., 263) would indicate that the courts will interfere to prevent undue preferences as between individuals and localities. But in Interstate Commerce Commission *v.* Detroit (167 U. S., 646) the court says much must be left to the discretion of the Commission, but how much the courts will tolerate before interfering to enforce some constitutional right said to be violated is the question.

Mr. BACON. If the Senator will pardon me, and I do not unduly interrupt him, I am not limiting the question to what the courts would undertake to do as a matter of inherent jurisdiction, if I may so term it, but I am speaking with practical reference to what we do in the framing of this bill.

Mr. CLARKE of Arkansas. I think we can direct the Commission to make all the rates upon a mileage basis. When we do it we will hear from somebody.

Mr. BACON. I think so, too, and for one I would not——

Mr. FORAKER. Mr. President——

Mr. BACON. I hope the Senator from Ohio will pardon me for a moment, and let me finish the question. That is true. I think the Senator from Arkansas is correct, that we would hear from a number of people on that subject. But I wanted to know, with a view to guiding my own actions, whether, in the opinion of the Senator, we would be within constitutional bounds if we inserted in this bill what I think ought to be inserted in it—if we have the constitutional authority to do it—that if the Commission issues an order which gives a preference to one community over another community claiming the right to equal privileges——

Mr. SPOONER. An undue preference.

Mr. BACON. That is a question of degree; whether we can insert in this bill, and constitutionally insert in it, a provision giving to the courts the authority to review the order of the Commission giving a preference to one community over another community in the rate which it established.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Ohio?

Mr. CLARKE of Arkansas. Certainly.

Mr. FORAKER. If the Senator from Arkansas does not object, I will call the attention of the Senator from Georgia to the fact that the Supreme Court of the United States has already decided that under existing law a discrimination against a community made by the railroads in the fixing of their rates may be enjoined at the suit of the Interstate Commerce Commission, predicated upon a complaint made to it of such discrimination. The case is reported in 189 United States, page 274, and is known as the case of the Interstate Commerce Commission *v.* The Missouri Pacific Railroad, otherwise known as the Wichita case. It was a suit commenced before the passage of the Elkins law, and the jurisdiction of the court was contested, but when it went to the Supreme Court the Elkins law had been in the meanwhile passed, and the Supreme Court said, without regard to what the law prior to that time provided, under the Elkins law such a suit can be maintained.

If so, I do not see why we should be complicating the situation by seeking a remedy of that kind through some other sort of legislation. It is just as clear as anything can be, and it is upon that section of the Elkins laws—and that is the reason why I have broken in with this interruption, which I very much dislike to do—it is upon that section of the Elkins law that I think our attention ought to be turned. I have sought by the amendment I have offered to broaden and strengthen that provision, so as to have all suits of that character brought at the expense of the Government instead of at the expense of the individual litigant.

Mr. ALDRICH. That is one of the things——

Mr. BACON. I hope the Senator from Rhode Island will let the Senator from Arkansas give me a response to my question; but before he does so I want to say a word. I recognize that he has clearly indicated the correct line of cleavage between acts which are legislative and which can not be reviewed and acts which are not legislative; and I wanted to find out, as the result of the Senator's investigation, into which class he considers that this particular question falls; whether the action of the Commission in fixing a rate which is alleged to give a preference to one community over another community is

such a legislative act, or, rather, such a performance of a delegated legislative intent on the part of the Legislature as would exclude it from the class of questions which can be considered by the court, or whether it is, on the other hand, of the other class, where the court might voluntarily take jurisdiction, or where we could with propriety expressly and explicitly require it to be done in this bill.

Mr. CLARKE of Arkansas. The question as to whether any community or any shipper can complain of a discrimination of rates that are fixed by the Commission is not here. I have no hesitancy in saying that the Commission has a certain latitude of discretion and policy that is available to them in making up their orders and fixing rates which may upon their face appear to be discriminatory between communities. The extent of that would determine its legality. The court might say it was a fraudulent exercise of power, which presents an inquiry always the subject of judicial inquiry.

The case cited by the Senator from Ohio hardly answers the question of the Senator from Georgia, for the reason that there the Interstate Commerce Commission brought the action, whereas he is inquiring as to whether we can authorize the shipper or the community to bring an action against the Commission to correct its work.

Mr. FORAKER. I apprehend that if we can authorize the Commission to bring a suit on behalf of the shipper, we could authorize the shipper himself to bring it.

Mr. CLARKE of Arkansas. Against the Commission?

Mr. FORAKER. Against the railroad.

Mr. BACON. But that is not the question.

Mr. CLARKE of Arkansas. Against the Commission.

Mr. FORAKER. Oh! To bring it against the Commission?

Mr. BACON. I asked the question because I think it is perfectly proper for us in the enactment of this legislation to anticipate not simply the possibility, but the probability, that the time may come when the Commission will fall under the influence of the railroads.

Mr. CLARKE of Arkansas. And will Congress also fall under the influence of the railroads?

Mr. BACON. It is so charged by some, but I think unjustly.

Mr. CLARKE of Arkansas. I deem it to be rather an excessive fear to assume the existence of a condition when improper influences will not only control the action of the Commission, but the corrective power of Congress as well. The courts might not preserve their independence in such surroundings.

Mr. BACON. The Senator will recognize the fact that when it comes to an administrative officer, the ease with which such influence can be exerted is very much greater. It is different from where Senators and Representatives are chosen from the length and breadth of this land.

Mr. FORAKER. I had just come into the Chamber, and I may be under a misapprehension as to what preceded. But what difficulty is there about authorizing any person who may be aggrieved to bring a suit to test the validity of an order that has been made by the Commission? The law as it now stand authorizes anyone who is aggrieved by an order that is made to put it to the test in the court.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Rhode Island?

Mr. CLARKE of Arkansas. Yes, sir.

Mr. ALDRICH. I have been trying to get the attention of the Senator from Georgia to a statement which I desire to make, which is along the lines of that made by the Senator from Ohio.

The Senator from Georgia was asking this question, as I understood him—whether Congress could give to the courts power to review the decisions of the Interstate Commerce Commission affecting regulations and practices where no question of rates is involved.

Mr. BACON. Yes.

Mr. ALDRICH. And he cited questions of discrimination.

Mr. BACON. Yes.

Mr. ALDRICH. Now, what I was about to say was that we did that precise thing in the Elkins law. We gave to the courts power to review questions of discrimination where it had been once heard by the Commission, and the Supreme Court of the United States, as the Senator from Ohio has said, in the Wichita case upheld the validity of that act. I think that answers the Senator from Georgia. It seems to me it does clearly.

Mr. BACON. Where does the Senator draw the line? Does the Senator mean to say that, according to his view, we could give to the Commission—I am not speaking of the propriety of it, but of the power—certain powers, and, as to the exercise of each and every one of those powers, we could give to the courts the right to review?

Mr. ALDRICH. I did not make the statement as broad as that. The Senator's question was not as broad as that.

Mr. BACON. Is that the Senator's view?

Mr. ALDRICH. That is hardly a question which anybody ought to be required to answer. The Senator was putting a concrete case, and I was saying with respect to it that exactly what the Senator asked whether Congress had the power to do Congress had done, and the court upheld that action.

Mr. CLARKE of Arkansas. I will answer that question generally, and pass on. Courts have jurisdiction to hear any judicial question, and it is a difficult matter to keep them from doing it in a proper case. They have no jurisdiction to hear and determine anything which pertains to legislative policy or legislative discretion, and you can not confer upon them authority to do so. A question may partake of the nature of both. I think a legislative duty may be performed in a way to conflict with some constitutional right, and when that is the case the courts will take possession of the controversy for the purpose of settling it, just as they have taken possession of the rate-making question for the purpose of determining whether the completed action of the commission leaves to the carrier just compensation for the service it renders. I say there is a discretion there. It must not be granted simply because it is asked for. The court says the rule is that before it will interfere with rates fixed by legislative authority that the case must show such a palpable invasion of the right of the carrier that honest men will not differ about the result.

Now, I was insisting that the one function that the court would discharge in connection with this rate-making business—and I was on the rate-making branch of it at the time—was to determine the only judicial question in the controversy viewed from that standpoint, and that was whether or not the body of rates afforded to carriers just compensation for the use of its property.

COURTS DO NOT SIT AS APPELLATE BOARD OF REVIEW.

I read now from the case of the San Diego Land Company *v.* Jasper (189 U. S.), the opinion being delivered by Mr. Justice Holmes:

> The main object of attack is the valuation of the plant. It no longer is open to dispute that under the Constitution "what the company is entitled to demand, in order that it may have just compensation, is a fair return upon the reasonable value of the property at the time it is being used for the public.

Again:

> We will say a word about the opposite contention of the appellant, that there should have been allowance for depreciation over and above the allowance for repairs. From a constitutional point of view we see no sufficient evidence that the allowance for 6 per cent on the value set by the supervisors, in addition to what was allowed for repairs, is confiscatory. On the other hand, if the claim is made under the statute, although that would be no ground for bringing the case to this court, it has been decided by the supreme court of California that the statute warrants no such claim. (Redlands, Lugonia and Crafton Domestic Water Co. *v.* Redlands, 121, California, 312, 313.) We go no further into detail. *We do not sit as a general appellate board of revision for all rates and taxes in the United States. We stop with considering whether it clearly appears that the Constitution of the United States has been infringed, together with such collateral questions as may be incidental to our jurisdiction over that* ONE.

The court will look into it with a view of determining whether or not a constitutional right has been invaded. The Constitution is above the statute. The obligation to bring about conformity between laws and alleged laws, striking down those that are invalid and maintaining those that are valid, is the supreme function of the court. It is the only question connected with the legislative function of prescribing rates that has ever been brought before the court and decided.

In Minneapolis and St. Louis Railroad Company *v.* Minnesota (186 U. S.), the court, in the course of its opinion, says:

> While we never have decided that the Commission may compel such reductions, we do not think it beyond the power of the State commission to reduce the freight upon a particular article, provided the companies are able to earn a fair profit upon their entire business, and that the burden is upon them to impeach the action of the Commission in this particular.

In that case the carrier was compelled to haul coal from Duluth to St. Paul and places south of there for a less rate than it thought it ought to have. It made a difference of about $1,500 in the income of a railroad whose gross income was $700,000. The court said the matter was too trifling to affect the general question of just compensation. It could not determine the matter on the basis of that single rate. What it looked at was the entire body of rates; and if those rates, looked at as an entirety, produce a sufficient income to satisfy the constitutional guaranty of just compensation, they would allow the other matter to be disposed of in some administrative way.

Summing up in the case of the Interstate Commerce Commission *v.* Railway Company (167 U. S., p. 469), Judge Brewer, in his opinion, said:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely

different thing to prescribe rates which shall be charged in the future—that is a legislative act.

We have therefore these considerations presented:

First. The power to prescribe a tariff of rates for carriage by a common carrier is a legislative and not an administrative or judicial function, and having respect to the large amount of property invested in railroads, the various companies engaged therein, the thousands of miles of road, and the millions of tons of freight carried, the varying and diverse conditions attaching to such carriage, is a power of supreme delicacy and importance.

And again, on page 511, as follows:

Our conclusion, then, is that Congress has not conferred upon the Commission the legislative power of prescribing rates, either maximum or minimum or absolute.

In the case of the Chicago Railroad *v.* Wellman (143 U. S.) the judge who wrote the opinion said:

The legislature has the power to fix rates, and the extent of judicial interference is protection against unreasonable rates.

Judge Brewer, in the case of Reagan *v.* Farmers' Loan & Trust Company (154 U. S.), said:

It is doubtless true as a general proposition that the formation of a tariff of charges for the transportation by a common carrier of persons or property is a legislative or administrative rather than a judicial function. * * * The courts are not authorized to revise or change a body of rates imposed by the legislature or a commission; they do not determine whether one rate is preferable to another, or what under all the circumstances would be fair and reasonable as between the carriers and the shippers; they do not engage in any mere administrative work; but still there can be no doubt of their power and duty to inquire whether a body of rates prescribed by a legislature or a commission is unjust or unreasonable, and such as to work a practical destruction to rights of property, and, if found so to be, to restrain its operation. * * *

The challenge in this case is of the tariff as a whole, and not of any particular rate upon any single class of goods. As we have seen, it is not the function of the courts to establish a schedule of rates. It is not, therefore, within our power to prepare a new schedule or rearrange this. Our inquiry is limited to the effect of the tariff as a whole, including therein the rates prescribed for all the several classes of goods, and the decree must either condemn or sustain this act of quasi legislation.

If a law be adjudged invalid, the court may not, in the decree, attempt to enact a law upon the same subject which shall be obnoxious to no legal objections. It stops with simply passing its judgment on the validity of the act before it. The same rule obtains in a case like this.

If that is the only judicial feature in the business of making rates; if that is the only judicial aspect in which it can be considered; it is perfectly obvious that the court can not undertake to substitute its judgment as to a matter of policy or discretion for that of the Commission. They can review the entire action of the Commission with one object in view, and that is, to determine whether or not the carrier has been protected in his constitutional right to just compensation. That being the case, it is unnecessary in a body composed so largely as this is of lawyers to cite authorities in support of the proposition that courts will refuse, if called upon, to exercise a revisory power over legislation with a view of correction if they should differ in opinion as to a matter of policy with the legislature.

In Gordon *v.* The United States (117 U. S.), the opinion having been prepared by Chief Justice Taney, and which has been referred to with strong approval by the Senator from Wisconsin [Mr. SPOONER], the court sustains the proposition. I am content that the court will decline, when called on by Congress, to pass on any question not of a strictly judicial character. I will read just enough of the opinion to show what that court thought of the principle at that time:

This power over legislative acts is not possessed by the English courts. They can not declare an act of Parliament void, because, in the opinion of the court, it is inconsistent with the principles of Magna Charta or the Petition of Rights. They are bound to obey it and carry it into execution. Yet, in that country, the independence of the judiciary is invariably respected and upheld by the King and the Parliament, as well as by the courts; and the courts are never required to pass judgment in a suit where they can not carry it into execution, and where it is inoperative and of no value, unless sanctioned by a future act of Parliament. The judicial power is carefully and effectually separated from the executive and legislative departments. The language of Blackstone upon this subject is plain and unequivocal.

Quoting Blackstone, who says:

In this distinct and separate existence of the judicial power in a peculiar body of men, nominated indeed but not removable at pleasure by the Crown, consists one main preservative of public liberty, which can not subsist long in any state unless the administration of common justice be in some degree separated from the legislative and executive power. Were it joined with the legislative, the life, liberty, and property of the subject would be in the hands of arbitrary judges, whose decisions would be then regulated only by their own opinions, and not by any fundamental principles of law, which, though legislators may depart from, yet judges are bound to observe. Were it joined with the executive, the union might soon be an overbalance for the legislative. For which reason, by statute (Car. I, chap. 10), which abolished the court of star chamber, effectual care is taken to remove all judicial power out of the hands of the King's privy council, which it was then evident, from recent instances, might soon be inclined to pronounce that for a law which was most agreeable to the Prince or his officers.

Judge Taney proceeds:

These cardinal principles of free government have not only been long established in England, but also in the United States from the time of their earliest colonization, and guided the American people in framing and adopting the present Constitution. And it is the duty of this court to maintain it unimpaired as far as it may have the power. And while it executes firmly all the judicial powers intrusted to it, the court will carefully abstain from exercising any power that is not strictly judicial in its character and which is not clearly confided to it by the Constitution. (117 U. S., 707.)

Mr. FULTON. I understand the Senator's position to be that the only question that can become judicial in this matter of rate making is whether or not a prescribed rate amounts to confiscation or is an invasion of the constitutional rights of the carrier to have a just compensation. Now, I ask the Senator if the courts have not, when the question was whether a rate prescribed by the carrier is or is not a reasonable rate, taken jurisdiction of such cases, and whether they have not enjoined the carrier from charging a rate which they held to be unreasonably high; and if they have done that, does not that amount to prescribing a maximum rate for the future?

Mr. CLARKE of Arkansas. In the first place, I am not familiar with any case where the courts have enjoined a railroad from charging too much. I am familiar with a line of cases where carriers have been sued to recover back after payment of the excess beyond what is reasonable.

Mr. FULTON. I call the Senator's attention to a case where the Commission has condemned a rate established by the railroad as being unreasonably high. Under the law as it stands at the present time the Commission is authorized to institute a suit against the railroad company to enjoin the exaction of such rates in the future. Now, such cases have been twice, if I remember correctly, before to the Supreme Court, and have gone off on another question. But the circuit courts have enjoined such rates as being unreasonably high—extortionate. I ask the Senator——

Mr. CLARKE of Arkansas. Enjoined the Commission's rates?

Mr. FULTON. No; enjoined the rates of the railroad at the suit of the Commission—enjoined them as extortionate.

Mr. CLARKE of Arkansas. That is in line with my argument.

Mr. FULTON. It is not in line with the Senator's contention that the only time that the question as to a rate becomes judicial is when it is confiscatory. It is just exactly the opposite.

Mr. CLARKE of Arkansas. It is a question in the instance named by the Senator of complying with the order of the Commission. It is a question of complying with the legislation and not antagonizing it.

Mr. FULTON. The court goes into the inquiry whether the rate is unreasonably high.

Mr. CLARKE of Arkansas. It goes into the inquiry for the purpose of determining whether, as the Commission has said, it is unreasonably high, and if found to be so, for the purpose of enforcing the order of the Commission.

Mr. FULTON. I ask the Senator this: Whenever it is taken before a court to determine whether a rate is reasonable or not, does it not then become a judicial question which the court must determine? When issue is joined on that, whether it be between the Commission and a railroad company or a private shipper and a railroad company—when issue is joined, whether a charge made by the railroad is reasonable, is not the question a judicial one?

Mr. CLARKE of Arkansas. No; it is a legislative one in many of its aspects. Judge Brewer, in opinions, says whether a completed rate that has been charged is reasonable or not for the services rendered is a judicial question. The question as to what will be reasonable rates for the future is a legislative question. As the Commission makes its rates entirely for the future, its action is not judicial. Then, of course, the circumstance as to whether the challenged rate was one made by the railroad company, as in the absence of action by the sovereignty it may do, or was one that was prescribed by the legislature, either directly or through the agency of a commission, would determine its character as being of judicial or legislative cognizance. A railroad-made rate may be challenged for excessiveness in court, and the court may determine that it is excessive and give judgment for the recovery of the excess wrongfully demanded. But it is quite another thing for a carrier to go into court asking for a review of rates fixed by legislative authority. This character of rates are subject to assault in their entirety only on the ground that the body of rates will not yield revenue sufficient to afford the carrier just compensation for the use of its property. This is the only inquiry subject to court review, and even in this connection the court, although it may decide that the rate is too low, will not modify the legislative rate to the extent only that it finds it to be less

than the carrier is entitled to, but will nullify the entire rate fixed, leaving an excessive railroad-made rate in force.

Mr. FULTON. If that be true, and if it is always a legislative question unless there is an invasion of the constitutional rights of the carrier, how can the Commission under the present law condemn a rate charged by the railroads and recommend a lower rate, and the railroad company refusing to obey the recommendation of the Commission, maintain a suit to have the rate charged by the company enjoined as being too high if it is always a legislative question?

Mr. CLARKE of Arkansas. The present law says that a suit of that character may be brought, but in the event it is, the finding of the Commission is only prima facie unreasonable.

Mr. FULTON. Who determines whether or not the rate is unreasonably high?

Mr. CLARKE of Arkansas. The Commission has only indicated an opinion. They have no power to fix a rate. They do not make a decisive order. They do not assume to fix the rate. We are now attempting to give power to fix the rate.

Mr. FULTON. Before the court, finally, who determines whether or not the rate is unreasonably high?

Mr. CLARKE of Arkansas. The Commission sends it to the court with the simple statement that that is, in its opinion, prima facie excessive. The nature of the reference shows that the Commission has not fixed a rate, and has no power to do so.

Mr. FULTON. Suppose the court finally determines that the Commission was wrong; that the rate was not unreasonably high?

Mr. CLARKE of Arkansas. It is sent there for that specific purpose——

Mr. FULTON. Does not the court exercise——

Mr. CLARKE of Arkansas. With the statement that it is prima facie excessive, and then the court determines whether or not there has been a showing made which overcomes the prima facie showing.

Mr. FULTON. Does not the court exercise judicial power in determining that question——

Mr. CLARKE of Arkansas. In the first place, the Supreme Court——

Mr. FULTON. Or does it exercise legislative power?

Mr. CLARKE of Arkansas. It is exercising judicial power alone in whatever it does in that connection. The rate under investigation is one made by the railroad company, and such rates are subject to judicial action. In a Commission-made rate the immunity from judicial revision arises from the fact that the Commission's action is in effect that of the legislature. Judicial supervision of legislative action goes no further than to determine its conformity to the Constitution.

Mr. FULTON. It is a judicial question.

Mr. CLARKE of Arkansas. It is a judicial question in so far as it assails a rate made by the railroad company. The matter comes to the court for the purpose of showing the unreasonableness of the railroad-made rate. The Commission indicated an opinion which is to be deemed evidence and not a finding, and this is to receive a presumption of prima facie verity. The Supreme Court in 167 United States decided that the Commission did not have power to fix a rate. The cases mentioned by the Senator from Oregon do not appear to me as overruling all of these other cases, wherein it is said so specifically and emphatically that the only question that is judicial in dealing with a legislatively fixed rate is to determine whether or not the carrier was getting enough out of the rate allowed to satisfy the constitutional guaranty of just compensation.

Mr. FULTON. I would not contend that the cases I suggest overrule the case the Senator has read or that they are even inconsistent. But in the *Reagan* case, and the other case read by the Senator, the court was speaking simply of the case that was before it. It was not speaking of a case where issue might be joined as to whether the rate was too high, because manifestly issue may be joined in a case as to whether a rate is too high. Otherwise at common law a shipper could not go in and enjoin a rate if it was too high nor could the Commission go in and enjoin a rate if it was too high. If it was not a legislative question and not a constitutional question, manifestly it must be a judicial question when issue is joined whether it be contended that the rate is unreasonably high or unreasonably low.

Mr. CLARKE of Arkansas. I can not conceive of a case where the Commission will fix a rate and go into court and ask to have it enjoined on the ground that it is too high.

Mr. FULTON. The Senator misunderstands me. The Commission under the law as at present does not fix the rate, but it inquires on complaint whether or not a rate established by the railroad is unreasonably high. It condemns a rate, we will say, but nevertheless the railroad continues to charge the rate. The Commission then brings suit to enjoin that rate, and the court must determine whether or not the rate is unreasonably high in order to sustain the order of the Commission and grant the relief prayed for, and in determining that question I submit it determines a judicial question. The question does become judicial when issue is joined on that proposition.

COMMISSION HAS NOW NO POWER TO FIX RATES.

Mr. CLARKE of Arkansas. The defect in the position assumed by the Senator's question is that the Commission has fixed no rate. They have simply made a finding that in their opinion a given rate made by the railroad is too high, and that the proper rate ought to be so and so, provided no evidence is offered to the court in the controversy which shall overcome the prima facie force and effect of this finding. They do not fix any rate; they have no authority to do it; they are expressly forbidden by not having the power to do so conferred in express terms. In the absence of legislative action the rate fixed by the carrier is always subject to investigation from a judicial standpoint by those who have to pay it. But that is a different question from attacking a rate fixed by legislation.

To make more clear my answer to the inquiry of the Senator from Oregon [Mr. FULTON], as I understand him, I will emphasize by stating this: The action of the Interstate Commerce Commission in condemning the railroad-made rate is efficient to the extent only of precipitating or creating an inquiry which involves that rate. The Commission does not assume to make a rate, and therefore no part of the legislative power of the Government inheres in its action. It simply challenges a rate, and when the court comes to pass upon the reasonableness of it it is not called upon to exercise its judgment as to whether or not a legislative body has erred, but it deals with a rate made by the corporation itself. Railroad-made rates have always been subject to judicial investigation with reference to their reasonableness in all proper cases. To assume that simply because the Interstate Commerce Commission challenges a rate it thereby prescribes the rate it suggests would be, in effect, to give by indirection to the Commission the rate-making power. This has never been done, but we trust that it will not be long before this statement can not be made. The force of my answer to the Senator from Oregon may be made plainer by calling his attention to what the Supreme Court has said on the subject. The court, in Interstate Commerce Commission *v.* Railway Company (167 U. S., 511), said:

> Our conclusion, then, is that Congress has not conferred upon the Commission the legislative power of prescribing rates, either maximum or minimum or absolute. As it did not give the express power to the Commission, it did not intend to secure the same result indirectly by empowering that tribunal to determine what in reference to the past was reasonable and just, whether as maximum, minimum, or absolute, and then enable it to obtain from the courts a peremptory order that in the future the railroad companies should follow the rates thus determined to have been in the past reasonable and just.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Oregon?

Mr. CLARKE of Arkansas. Certainly.

Mr. FULTON. I wish to say, before asking the question, that I realize the Senator has been on the floor a good while and he may be tired. So I will not annoy him.

Mr. CLARKE of Arkansas. I am not in the least fatigued. I will hear the Senator.

Mr. FULTON. I do not wish to detain him.

Mr. CLARKE of Arkansas. I will not be disturbed by the interruption of the Senator.

Mr. FULTON. The Senator was saying a while ago that the only question which could be determined on review would be the question as to whether or not the constitutional right of the carrier had been invaded—the question as to whether or not the rate prescribed by the Commission afforded just compensation—and hence I understood the Senator to say it made no difference in what language the review should be framed, whether a broad or a narrow review, that but one review could be had.

Mr. CLARKE of Arkansas. That is true as to revision of rates fixed by the Commission.

Mr. FULTON. I ask the Senator if that is not rather a mistaken conception of the situation, in view of the fact that there are many orders and regulations which the Commission would be authorized to prescribe which do not involve the question of just compensation at all. For instance, requiring a carrier to furnish cars to a shipper, there being no question as to what the charge should be, but simply that they should be required to furnish the cars. The question of just compensation would not come in there. It would be a mere matter of regulation or practice. Under a broad review might not such an order as that be taken up before the court? What I mean by broad review is unlimited review.

Mr. CLARKE of Arkansas. I intended to answer both the Senator from Georgia and the Senator from Rhode Island by saying that I was, at the time when I was interrupted, addressing myself particularly to the business of making rates. I had not at that time reached the stage of my argument where I had occasion to refer to the other matter. But I will say now, if one of these orders now mentioned by the Senator from Oregon presents a judicial aspect or presents an issue that is judicial in character in the sense that the court can deal with it to vindicate a right growing out of it or to redress a wrong imposed by it, it will do so. But if it is called upon to substitute its notions of policy and expediency for that of the Commission it will not do so. But if it is one of these matters, the manner of doing which lies in the wisdom and discretion of the Commission, the courts will not review or supervise the manner of its being done. My answer, generally, is, if it is a matter that does not involve the rate-making business, it may be of such a character that it will become a subject of judicial investigation.

I can not get any nearer to a definite answer than to say that each one of these orders would have to be determined on its own facts. But as to a rate-making provision, expressing the opinion derived from the uniform decisions of the Supreme Court of the United States, repeated so often, until now when it is necessary to refer to the doctrine, it is disposed of in a single sentence by the court, as it did in San Diego *v.* Jasper (189 U. S., 446), by saying:

> We do not sit as a general appellate board of revision for all rates and taxes in the United States.

The rate-making power, I think, is the principal feature of the pending bill. There are other abuses that ought to be corrected here. It may be some of these are of a judicial nature, but I do not pretend to go into that now. If I could, I would give to the court a right to dispose of such things as naturally and properly belong to it; but I do maintain, as earnestly as I can, that in the matter of rate making there is no room now for assuming that any feature of that duty can be referred to the courts to be passed upon in the nature of a review of the action of the Commission. In the first place, it would be folly to do it. The whole agitation connected with this question for a broad court review implies that the Commission is to be a mere figurehead; that its orders are never to amount to anything until permission to enforce the same is given by the courts. There is a popular belief, widespread in the community, that no legislative action ought to take effect on large interests until it has been subjected to the scrutiny and approval of the Supreme Court. The impression is general that Congress can not enact laws that large interests are compelled to obey in advance of judicial approval. Judge Brewer himself seems to have made a concession to that heresy in the opinion delivered by him in 183 United States, in the Kansas City Stockyards case, in which he intimated that because penalties would attach while litigation concerning the validity was pending there was reason for assuming that that feature of the act was unconstitutional.

IF COURTS CAN REVIEW EVERYTHING, NO PLACE FOR A COMMISSION.

Now, if it were competent for Congress to send the whole rate-making business to the court, there would be no sense in having a Commission to make the rates in the first instance, and we are guilty of the folly that it is said was once practiced by a King of England. He had two cats, a large one and a small one, and desiring to permit them to pass from one room to another, he had two holes cut through the wall, one large one for the large cat and one small one for the small cat. It is not necessary at all to have a Commission if the ultimate rate is to be made by the court, as it will be if the whole matter is to be remitted for revision to the judgment of the court. Then the proposition of the Senator from Ohio [Mr. FORAKER] would be the only logical and sensible one to adopt, and he would let the court take it up to start with. Proceeding with the citations from the decisions of the Supreme Court of the United States showing that the courts will not entertain jurisdiction to review any matter or question not of a strictly judicial character, I call attention to what is said in the case of the United States Commerce Commission *v.* Brinson (154 U. S., 482). It is there said:

> It is too evident for argument—

This is on the question whether or not the court will exercise anything but judicial duty—

> It is too evident for argument on the subject that such a tribunal is not a judicial one and that the act of Congress did not intend to make it one.
>
> The authority conferred on the respective judges was nothing more than that of a commissioner—

The quotation proceeds—

> The authority conferred on the respective judges was nothing more than that which constituted each then commissioner to adjust certain claims against the United States; and the office of judges and their respective jurisdictions are referred to in the law merely as a designation of the persons to whom the authority is confided and the territorial limits to which it extends. The decision is not the judgment of a court of justice. It is the award of a commission.

The court refused to entertain the appeal.

Mr. BACON. What is that case?

Mr. CLARKE of Arkansas. It is from Interstate Commerce Commission against Brimson, in 154 United States, page 482, the opinion being delivered by Mr. Justice Harlan, who quoted from the Ferreira case in 13 Howard, which I have just read.

The court also reviews three or four more cases on the subject where pension claims were referred to the court, but it decided that the questions involved were not judicial and declined to hear them. There is a very elaborate and learned opinion of Judge Gray on the same subject in the Supreme Court Reports of the State of Massachusetts. The legislature of Massachusetts imposed upon the supreme court the duty of appointing election commissioners. The court held that this was not a judicial duty, and declined to perform it. The case is reported as Supervisors of Elections, 114 Mass., 247.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Ohio?

Mr. CLARKE of Arkansas. Certainly.

Mr. FORAKER. I have been extremely unfortunate with respect to the Senator's speech, having been compelled to be out of the Chamber a good part of the time, to my misfortune, very greatly, I know. But I have come in at a very interesting time to me. I hope the Senator will allow me to interrupt him until I see whether I understand the point of the argument he is now making.

We are all agreed, of course, that a court will not undertake to discharge any but judicial duties, but do I understand the Senator to say that a court will not entertain a bill complaining of a rate that it is in excess of what may be a lawful rate, and grant relief, if it finds that the grounds of the bill are supported by evidence, in the way of enjoining all in excess of what is lawful?

Mr. CLARKE of Arkansas. The Senator understands me to say that when a commission, in the exercise of legislative power, fixes a rate, that the court can not do anything but strike the commission rate down entirely or let it all stand.

Mr. FORAKER. There was a time when I had that impression myself, but when I investigated this subject further I changed my mind about it.

Mr. CLARKE of Arkansas. I would be glad if the Senator would give me the benefit of his conclusion and the reason for it, and the legal authorities that produced the change.

Mr. FORAKER. It is all very clear in my mind that I was originally mistaken. If the Senator will allow me to put an illustration: I heard him a moment ago, when I was in the Chamber, before I was again called out of it, talk about making rates upon a mileage basis. Let us suppose that the commission be created, and that it be authorized to fix rates according to a mileage basis, and that according to the mileage basis prescribed by Congress a rate from one city to another on first-class goods should be a dollar. That would be mathematically calculated. The rate prescribed by Congress, therefore, by the commission, prescribed, I mean, by making the standard, would be a dollar. Now, suppose instead of that the railroads fix a rate at a dollar and a half, would not the shipper have a right, or would not the commission, if we authorized such a procedure, have a right on behalf of all the shippers thus interested to go into a court of equity and complain that the lawful rate fixed by Congress through the commission was a dollar, but that they were charging, notwithstanding that fact, in violation of law, a dollar and a half, and ask the court to enjoin all in excess of the lawful rate of $1. Would not the court have jurisdiction to grant that relief—not to make a rate, the Senator will observe, but to prohibit the road from collecting any but the lawful rate, to give effect by its order to the will of Congress?

Mr. CLARKE of Arkansas. I do not see that there is any question of making the rate involved in it. It is simply compelling, by mandatory proceedings, the carrier to comply with the law already made by the law-making power.

Mr. FORAKER. Would it not be competent, if we provided that relief might be by injunction, for the court to enjoin all in excess of the lawful rate? That is precisely what I am proposing to do in the amendment I have offered.

I am glad the Senator has taken up this subject, as I have a great number of authorities that I want to read to the Senate when I have an opportunity to do so, sustaining that proposition.

Now, if it would be clear, as it seems to me every Senator must concede it would be, that a court would have jurisdiction in the kind of a case I put, to enjoin all in excess of the lawful rate, surely it would have like power, if we conferred that kind of jurisdiction upon the court, to enjoin all in excess of what would be a just and reasonable rate, as to which the court would hear the testimony and determine, for that is but a judicial function as old as the administration of justice, what is just and reasonable whenever in the administration of the law a question of that kind arises, as it most frequently does in connection with the exercise of the police power.

Mr. CLARKE of Arkansas. The case instanced by the Senator from Ohio does not present the question of fixing the rate at all. It is simply a question of complying with the order made by the legislative commission. The court would not undertake to say whether it was reasonable or unreasonable, being a single rate, but would simply determine whether or not the Commission had prescribed that rate. That would be the judicial question.

Mr. FORAKER. I suppose the Senator would agree with me about that in the case put, the rate having been made by the Commission and the road not conforming to what the Commission required, or the Commission in the one case not having conformed to what Congress required, and I just wanted to ask him what difference there is in principle between resorting to the court for relief against a rate made by the railroad, having no commission whatever to make rates, and thus getting relief against unreasonable rates?

Mr. CLARKE of Arkansas. Nobody pretends that the railroad rates are legislatively fixed. Railroad-made rates are always open to attack in the courts by the shipper for unreasonableness. Nobody pretends that the railroads are in fact legislative bodies, although it is said they too frequently exert considerable influence on legislation.

Mr. FORAKER. They are not; but Congress passes a law saying that all rates shall be reasonable and just, and that anything in excess of what is reasonable and just shall be unreasonable and unjust——

Mr. CLARKE of Arkansas. That is the law.

Mr. FORAKER. And therefore illegal and unlawful.

Mr. CLARKE of Arkansas. That much would be the law without Congress reenacting it.

Mr. FORAKER. So it would. It is only declaratory of the common law. As a matter of policy we had already adopted that rule as applicable to the making of rates. But if Congress says that there shall be only reasonable and just rates made and enforced, any shipper has a right to complain that the rate he is required to pay is in excess of what the law authorized the railroads to collect. Therefore, the shipper under the law as it now is, can, in his own name, apply to any court of equity that has jurisdiction for relief against an extortionate rate. Certainly under the Elkins law either the shipper or a community will have a right, applying to the Commission, to have the Commission, if the Commission thinks there is reasonable ground for the complaint, to bring such a suit as that and seek that relief and secure it. That has been held repeatedly.

In the seventh Federal Reporter, and again in the eighth Federal Reporter, there are decisions to that effect, and in a number of other volumes there are cases to be found which sustain that proposition. I will not take the Senator's time now to cite those authorities, because it would be like making a speech in his time, but I want to call his attention to the proposition with the statement that I do desire to present that very point.

RAILROAD TOO POWERFUL FOR RESISTANCE BY INDIVIDUAL SHIPPER.

Mr. CLARKE of Arkansas. The courts have invariably taken the very widest liberty with the rates fixed by railroads in order to determine whether or not they are reasonable, but they have only occasionally done so, because the average shipper who complains finds that he loses if he wins; that the contest is an unequal one. He soon finds that he is engaged in a mighty poor business when involved in a controversy of that kind with a railroad, which has very largely the power of commercial life or death over him. So it is, in fact, an abstract right, and one that is very rarely ever resorted to.

Mr. FORAKER. On that I agree with the Senator precisely, and I think we should provide in this legislation for such an amendment of the Elkins law as will authorize all suits of that kind to be tried without expense to the shipper or without expense to the complainant, whether the complainant be a shipper or a community, broadening and strengthening that law in the way proposed, to reach every kind of rebate and every kind of discrimination, no matter whether between individuals or between localities.

Mr. CLARKE of Arkansas. The difficulty is that you thereby correct each rate, one at a time, whereas in the proposed legislation, if it should be perfected, we correct them in a body and to start with, and we fix a place by consulting which every shipper can know his own rate. We do not undertake to say that each rate shall be attacked by a shipper to-day or to-morrow or any other day. We provide for a legislative fixing of rates which is in effect a tax imposed on the business of transportation. A standard being fixed, the carrier knows to what it must conform. The individual rate payer and shipper is not compelled to antagonize the railroad by suing for the recovery of the few dollars they take from him wrongfully on each separate occasion. He is protected by public authority when he comes to deal with an institution that exists by public authority. There is no room for saying that because a shipper, without any legislatively established rates, can go into court and get relief against an excessive rate made by the carrier, that the remedy is adequate. We propose introducing an entirely new system. The courts have held that the carrier can be sued to recover excessive charges paid by a shipper, and in that controversy the question of the reasonableness of rates comes in. It is a judicial question.

Now we introduce a different policy. We propose by public authority to say in advance what the rate shall be. If its reasonableness is questioned, it can be attacked by the shipper before the Commission before it takes effect. It can be attacked by the carrier afterwards by showing that it is confiscatory. The pending legislation contemplates the introduction of a system of rate making by public authority. We have tried the other one long enough. At the present time the railroads understand the game better than the shipper. They are organized into five or six great systems in the United States. They have more power than any one shipper ought to be required to antagonize.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Ohio?

Mr. CLARKE of Arkansas. Certainly.

Mr. FORAKER. The Senator, I imagine, thinks a valuation of the property is necessary in order that there may be a standard according to which rates may be intelligently made?

Mr. CLARKE of Arkansas. Yes, sir.

Mr. FORAKER. Then, would not the Senator go one step further and have Congress prescribe what would be a just return on that property?

Mr. CLARKE of Arkansas. Yes, sir; I would.

Mr. FORAKER. I think that would necessarily follow.

Mr. CLARKE of Arkansas. I think that ought to be done, and it is a very serious objection to the pending bill that it does not provide that this shall be done. The distinguished Senator from Ohio has come very near to convincing many Senators that we will not have made a lawful delegation of power to the Interstate Railroad Commission by simply directing that Commission to prescribe rates that shall be just and reasonable. The command of the Supreme Court in such matters is that a delegation of legislative power to an administrative board will be sustained where it appears that Congress has legislated on every aspect of the matter so far as it is reasonably practicable to go, and that the thing or service delegated is the mere application to details of the rules and directions contained in the act. It is contended, and I think with much plausibility and force, that the delegation proposed in this instance is so broad as to amount to turning over to the Commission all the power and discretion that Congress itself has. That Congress has not only not legislated on the subject so far as it is reasonably practicable to do so, but has created no standard nor declared the policy, which as between several might be chosen, by which and upon which the so-called "just and reasonable rates" were to be ascertained by the Commission. The argument along this line of reasoning made by the distinguished Senator from Ohio commends itself very forcibly to me. But as the bill is full of defects, the forecast that its real meaning will be finally fixed by the slow procedure of the courts, is a matter that goes without saying. While settling other disputed questions, this will doubtless not escape attention. But I think Congress should now deal with the matter courageously and comprehensively, settling the basis of valuation and fixing itself the percentage of income which will satisfy the demands of just compensation.

Mr. FORAKER. I think the Senator is exactly right about it, if that is the kind of standard that he proposes to establish; but I call his attention to the fact that in determining that he will have to go still a step further and determine what shall be allowed for earnings and the betterments of the property, for replacements, for expenses, and for the salaries or wages of employees. It seems to me that is inevitable.

Mr. CLARKE of Arkansas. Would not the Commission have to do that anyway without any law directing them to do so?

Mr. FORAKER. I presume they would. I am not suggesting this in any controversial sense. I am only glad to see the Senator has such a broad and intelligent—for it is a broad and intelligent—view of the difficulties of this situation. It seems to me when we once embark upon it there is no end to it, as I have already had occasion to say heretofore.

Mr. CLARKE of Arkansas. The Supreme Court of the United States has fully determined that and decided that all of these things must be taken into consideration. The Commission can not fix rates until they find out how much the property is worth and what would be a fair return upon its value at the time the same is devoted to the service of the public, and there ought to be a fair return upon it.

Mr. FORAKER. The Senator, I trust, will allow me to ask him one other question. I hope he will not think I am doing it except only to get information. What return does the Senator think the railroad ought to be allowed to have?

Mr. CLARKE of Arkansas. I have said that in Arkansas I would make it 6 per cent, or something like that.

Mr. FORAKER. I remember that Governor Cummins, when he was before our committee, testified that he thought, in view of the fact that as the business in some years was bettetr than in others, the railroads might be allowed to earn as much as 7 per cent.

Mr. CLARKE of Arkansas. I should not object seriously to that. In a State like Arkansas, where we do not have all the railroads we want, I should like to have the returns sufficiently large to encourage the building of new lines. But I should want that 6 per cent calculated on the actual value of the property employed, and not on watered stock or fictitious bonds which the companies may issue from time to time. I should demand that this valuation be honestly and intelligently ascertained, after full opportunity to both sides to be heard in the inquiry. On the value of the property thus made I should fix the percentage of income deemed reasonable. I do not think we can expect investors to engage in a business unless there is definite prospect of getting a fair profit out of it. But even on this basis of 6 per cent, which is nominally more than the railroads claim to be now making, as it is said that 4 per cent is the measure of profits derived from the business of transportation, the public would be taxed less than two-thirds the sum paid under existing railroad-made rates. It must not be overlooked that the apparently moderate income of 4 per cent is computed on a valuation of $65,000 per mile, whereas the average actual value of the railways, the entire country considered, does not greatly exceed $25,000 per mile.

Mr. FORAKER. Mr. President, I call the attention of the Senator to what is the popular belief, at least, as I understand it, that there are some railroads that are worth a great deal more than the aggregate of their stocks and bonds. That, I believe, is true of the Pennsylvania Railroad. It is also true of the Illinois Central Railroad, of the New York and New Haven Railroad, and possibly of some other railroads. Has the Senator thought of what he would allow them? They are now paying 6 per cent to their stockholders, and after paying whatever operating expenses and fixed charges they may have they are devoting the balance to the improvement and extension of their property. What would the Senator do in a case like that? I do not ask this to perplex the Senator, but it perplexes me, and I ask the question in good faith.

WHAT TO DO WHERE RAILROAD VALUE GREATER THAN AMOUNT OF STOCKS AND BONDS.

Mr. CLARKE of Arkansas. It does not perplex me for one moment. I would give them that return upon the real value of the property employed in the public service. The amount of bonds and stock certificates outstanding is a circumstance of secondary importance and not at all of controlling influence in fixing the value of the property. The carrier is entitled to just compensation for the use of its property at the time the same is employed in the service of the public. This compensation is to be computed on the basis of the value of the property and at the time employed. The carriers have a right to demand this, and the public must submit to a tax on transportation adequate to this purpose. This return can not be made less to a given carrier because its bond and stock issues are less in nominal amount than the sum of the value of its property employed in the business of public transportation. Nor can the public be taxed in a sum in excess of what is adequate to satisfy the demand for just compensation for the service rendered, computed on the basis of the value of the property of the carriers, and at the time employed in such business, by reason of the fact that a given carrier has outstanding a bond and stock issue for a nominal sum in excess of the value of its property so employed on behalf of the public.

The right and duty to regulate the extent of the tax to be imposed on the business of transportation by the carriers engaged therein is a governmental function, to be exercised with due regard to the interests of both the carrier and the public. The right to regulate the amount of stock and bonds to be issued is, almost necessarily, merely a matter of private contract and arrangement between the railroad corporations and those who invest in the stocks and bonds so issued. The public as a whole have nothing to do with the matter. The carrier corporation has a right to demand just compensation for the use of its property employed in the business of public transportation, computed on the valuation of its property so employed, and at the time so employed, regardless of the amount of its debts, bonded or otherwise, or the number of its shareholders. On the other hand, the business of transportation can not be taxed beyond the limit of what is just compensation, computed in the same way, to supply deficiencies in the income of a carrier whose stock and bond issues exceed in nominal amount the value of the carrier's property so employed in the service of the public. This is the doctrine of the Supreme Court of the United States.

Mr. FORAKER. It is fortunate for the stockholder who may get 10 per cent on his stock.

Mr. CLARKE of Arkansas. That is all right, provided the public is not taxed any more than it ought to be taxed for the use of the property of such companies.

Mr. FORAKER. Mr. President, If the Senator will not think I am imposing on his good nature, I wish to ask him what he would do with the railroads that are worth more than their stock and earn more than, say, 6 per cent, and what we would do in the case of railroads that do not earn 6 per cent, or 5 per cent, or perhaps do not earn anything?

Mr. CLARKE of Arkansas. The latter class should be turned over to somebody who can operate them and make something out of them. That is my answer to that.

Mr. FORAKER. That is not an idle question at all. There are railroads in the country that are not making anything beyond their operating expenses, and yet they are railroads that cost a great deal, but built in the hope that business will develop some time in the future, and that they will ultimately have a profitable return. What would the Senator do in the meanwhile if they raised the rate and drove people off to another line to get them back again?

Mr. CLARKE of Arkansas. Of course there are some phases of every question which can not be forecasted definitely, and as to which we can not upon the instant suggest a complete scheme of adjustment, and the case mentioned by the Senator may be one of these. If a railroad was built where one was not needed, where there was no business, and nobody to employ it, I do not know how it would ever get a profit. You will have to settle that to your own satisfaction. Everybody may have a different opinion as to how that might be remedied. Congress can not devise any; and for that reason it does not now present a very serious practical difficulty. If a railroad company intends to occupy a particular field and keep competitors out, and for that reason builds a railroad for such tactical purposes, and from which it does not expect to get any profits except in an indirect way in protecting its system zone assigned to it in a general division of the territory, it might be that it would be able to arrange some scheme by which the stockholders could be taken care of.

Mr. FORAKER. There are a great many railroads, as the Senator is aware, that are built through a country which is not thickly settled, where there is but little business, where there is but small population, which are not, when first opened for business, profitable roads, but losing roads, and as it has been in the past it will doubtless be, though perhaps to a less extent, in the future. A railroad is sometimes improvidently laid out. If it is driven out of business by some other road, it does not need any sympathy; but where people have undertaken to develop a country and reach points that ought to have the benefit of railroads, it seems to me it is one of the troublesome questions that we are now confronted with. The Senator will pardon me, but his frank talk upon the subject and his frank admissions started all these suggestions in my mind. I do not mention them in order to in any way annoy the Senator——

Mr. CLARKE of Arkansas. I am not annoyed in the slightest.

Mr. FORAKER. Though I have thought of them. I know I could not have annoyed the Senator even if I had wished to. I do it because they are legitimate, and in order that I may in that practical way call the attention of the Senate to the fact that we are embarking in a business that will give us a good many anxious hours if we once get started in it.

Mr. CLARKE of Arkansas. In nearly every question calling for legislative action situations can be imagined which, should they ever actually arise, would make the law inequitable.

Those exceptional imaginary cases are to be expected to appear in any argument, and the ingenuity of those who antagonize proposed legislation in presenting them is proverbial and is complimented; but they generally do not control. They are very exceptional and enter so slightly into the general affairs of life that they can not deprive others of what is obviously their due simply because they may in an isolated and rare instance fall a victim to an otherwise wholesome law. The Commission has a discretion to take into consideration all of the circumstances that fairly enter into the solution of the problem submitted to its jurisdiction, and I take it for granted that in each one of these cases it will design some feasible remedy having reference to the rights of the carrier and the rights of the public. There may be a situation imagined, or it may be that a railroad may be found, as to which no rate that the traffic could afford to pay would be compensatory. In that event that enterprise would be declared a pecuniary failure and the ordinary laws of trade would govern in its liquidation. The case is exceptional; the remedy must likewise be.

THE DUTY OF CONGRESS NOW.

But I have abused the forbearance of the Senate long enough. I have attempted to show that the evil with which we are dealing is a large one; in fact, constitutes the fundamental perversion of economic laws, dominated by skilled operators and inspired by the avarice-mad spirit of the times, and out of which grows nearly all of the other parasites which so sorely afflict the commercial and industrial interests of the land. A sovereignty must so frame its laws as to attain its ultimate purpose to preserve and perfect itself. The law's aid is the due of the weak and disorganized when their interests are being invaded and their rights are being destroyed by the multiplied power of the few and mighty, bound together by the cohesive incentive of power and profit, and rendered submissive and loyal to a common direction under the conviction that disturbance of their plans is a radical and dishonest assault upon their vested rights. The very magnitude of the evil, and the almost universal extent to which the commercial fabric of this country is now interblended with its ramifications renders legislators conservative, and even restrains them unduly with a sense of hesitation when they stand in the presence of the true proportions of the situation and are confronted with a realization of the consequences which are to follow the application of any real and effective remedy.

Notwithstanding they are advised that the present organized and determined voice of public opinion is addressed to them as a command to put a stop to existing abuses, they stand dismayed, and, yielding to a spirit of indecision, manifest a want of courage in adopting a policy that will effectuate the end desired. The value of caution and conservatism in matters of legislation is never to be underestimated, nor yet must it be overlooked that the beneficiaries of abuse have no more effective weapon in their entire armament when engaged in diverting and defeating efforts to formulate and apply remedies for wrong widely practiced and strongly intrenched. The general prevalence of this spirit must account for the scant and imperfect response that is to be made to the present demand for effective regulation of the transportation business of the country. Nominally the public demand for action has been complied with, but I believe time will show this has been done in a way that will perpetuate the evils complained of, and go no further than to make necessary slight changes in the methods by which these things are done.

I am among those who believe that the better course is to deal comprehensively and courageously with the whole subject. That Congress should take upon itself the responsibility of providing a Commission made up of men possessed of sufficient character and intelligence to invest their official action with the verity and respect due to a tribunal of the highest order; that it should be equipped with all the accessories necessary to enable it to investigate thoroughly and to judge intelligently and impartially; that the law should be so framed as to assume that the Commission would understand that it had no power to invade the constitutional right of the carrier by depriving it of the right to just compensation for the use of its property, to be based and estimated upon the value of that property at the time it is employed on behalf of the public and would act within the limits of its powers; that no presumption should be indulged that the Commission, through ignorance or evil design, would invade this right of the carrier, and that therefore its judgment ought to be permitted to stand until it has been made affirmatively to appear in a judicial tribunal of original jurisdiction that such has been the case. I believe that the right to issue a preliminary injunction has been greatly abused in this country, even when employed as a remedy to restrain the alleged wrongdoing of individuals in their dealings with one another, and I believe that the right to issue such an injunction has no rightful place in any scheme having for its purpose the accomplishment of the thing we have in hand at this time. It is utterly out of place, and an enlightened and comprehensive understanding of the things that it should be our purpose to accomplish will convince anyone that its suspension here will inflict no injustice upon the interest involved.

Mr. TILLMAN. Mr. President, I have notice of one more prepared speech on the pending bill. The Senator from Virginia [Mr. DANIEL] wishes to take the floor to-morrow. The Senator from Minnesota [Mr. NELSON] has indicated to me that he wants to make a short speech; but I presume after to-morrow we will not be likely to have any more long speeches. I therefore think that it is now time for us to get an agreement about a vote. So I wish to propose that on the 9th of May—a week from Wednesday—we make final disposition of the bill and all amendments then pending. In order that the Senate may understand the line of disposition of the amendments, I send to the desk a tentative proposal for unanimous consent.

The VICE-PRESIDENT. The Secretary will read the proposed agreement.

The Secretary read the proposed agreement, as follows:

It is agreed, by unanimous consent, that on Tuesday, May 1, 1906, general debate shall be concluded upon the bill H. R. 12987, "An act to amend," etc.; that on May 2, and upon the next succeeding legislative days until Wednesday, May 9, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed, under the ten-minute rule, to consider and vote upon amendments that may be offered to the bill; that on Wednesday, May 9, 1906, upon the conclusion of the routine morning business, the Senate will proceed, without further debate, to vote upon such amendments as may then be pending or as may be offered, and will vote upon the bill itself before adjournment on the said last-named day—May 9, 1906.

Mr. ALDRICH. I see no occasion for agreeing that what is called "general debate" shall cease to-morrow or at any time in the near future. In the first place, we have never in the Senate recognized "general debate." That is a House term. I would suggest that there will probably be no disagreement as to fixing a time for a final vote on the bill for Wednesday, May 9; but I see no reason for making the disposition of time proposed by the Senator from South Carolina, commencing to-morrow or the next day. I imagine that what is called the "general discussion" on this bill is practically closed, and that we may find ourselves in a position where no one will be ready to speak. Certainly the business of the Senate ought not to be delayed by reason of the fact that we have fixed a time for a vote. There is one important appropriation bill now before the Senate, or it will be within a day or two, and I think that we ought simply at this time to fix a time for a final vote, leaving the disposition of matters between now and then to whatever shall be the pleasure of the Senate or whatever is necessary to be done in connection with this bill.

Mr. TILLMAN. That is entirely agreeable to me, Mr. President. My only solicitude has been that if we are going to discuss the amendments, as we doubtless will, and there are some sixty or seventy of them—I have not been able to keep tab on them, they have been coming in so rapidly—I was going to say, unless we can understand that as soon as we have discussed them and any amendment any Senator desires to present and wants to speak on under the ten-minute rule, unless we can kill that amendment then and there or put it in the bill, we will lose time. That is the reason I want three or four or five days for that kind of procedure, because there are some very important amendments pending, and they will take a considerable amount of discussion, and probably will consume all that length of time.

I would say to the Senator from Rhode Island that if there shall appear to be a lapse or a lack of discussion the appropriation bills can always be brought forward. I would have no objection to that. If the Senate will agree to the 9th of May, the intervening time can be disposed of by the Senate to suit itself. I suggest the 9th of May, at 2 o'clock.

Mr. ALDRICH. Any time that——

Mr. TILLMAN. The voting to begin at 2 o'clock.

Mr. ALDRICH. That is right. I think it ought to be understood, however, that in the time between now and then, whenever there is anyone who wants to speak or there is any disposition to discuss the bill, it should have the right of way.

Mr. TELLER. And all amendments.

Mr. ALDRICH. The bill and all amendments should have the right of way. I would be perfectly willing to have an understanding that on three days of next week—that is, Monday, Tuesday, and Wednesday—up to the time of voting, the discussion should proceed under the ten-minute rule.

Mr. FORAKER. I suggest that it be under the fifteen-minute rule.

Mr. ALDRICH. Very well; under the fifteen-minute rule.

Mr. FORAKER. Some of the amendments are very important, and it would be very difficult to present them in fifteen minutes. It may be that during this week all the important amendments can be presented. I want to speak longer than ten minutes on some amendments.

Mr. TILLMAN. Does the Senator from Rhode Island consider that Saturday, Monday, Tuesday, and Wednesday would be too much time to devote exclusively to amendments?

Mr. ALDRICH. I think that three days of next week will be sufficient under a limited rule. They can also be discussed this week.

Mr. TILLMAN. We might meet earlier. We could come here at 10 o'clock, if need be, or at 11 o'clock.

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Iowa?

Mr. TILLMAN. Certainly.

Mr. ALLISON. It seems to me that the suggestion made by the Senator from South Carolina, that after to-morrow unlimited debate shall cease, and between that time and the day of voting there shall be an understanding that ten or fifteen minute debates may be indulged in by Senators on amendments, is a good one. I think very likely there will be some amendments that ought to be debated.

Mr. ALDRICH. I am afraid that we will cut off some Senators who desire to speak, like the Senator from Virginia [Mr. DANIEL].

Mr. ALLISON. Very well, then, Mr. President——

Mr. ALDRICH. I think we should keep the debate open this week as it is.

Mr. TILLMAN. The Senator from Virginia has already given notice of a desire to speak to-morrow, and there is no intention or desire to cut him off or to limit him.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. TILLMAN. Certainly.

Mr. CULBERSON. I understand the Senator from Iowa [Mr. ALLISON] has the floor.

The VICE-PRESIDENT. The Senator from Iowa has the floor by courtesy of the Senator from South Carolina [Mr. TILLMAN].

Mr. CULBERSON. I simply desire to say, for the information of Senators, that I am advised that probably there will yet be several general speeches delivered on this bill, and I think it would be inadvisable to press the request for unanimous consent that the general debate should close on to-morrow. For one, I will speak plainly that I can not consent.

Mr. TILLMAN. I am perfectly willing to have a vote on Wednesday, the 9th, and let the Senate take care of the intervening time.

Mr. GALLINGER (to Mr. TILLMAN). That is what you ought to do.

Mr. TILLMAN. All I am after is to get the thing wound up and finished.

Mr. ALLISON. If that is the general sentiment of Senators, I shall not object to it; but I do think there should be a limited time for brief debate upon the amendments. It has been our experience in the past that we have been compelled to vote upon important amendments without an opportunity of having them explained. But I am content with whatever Senators think is the wise thing to do. I want, Mr. President, to have an end to this bill at the earliest possible time.

Mr. ALDRICH. Will the Senator from Iowa consent to fifteen-minute debate for all of next week?

Mr. ALLISON. Certainly; I will consent to almost anything. I would be willing to close up this matter without further debate. However, if we do not make some arrangement respecting it, we shall occupy the whole of this week in general debate, which I am perfectly willing to consent to; but I think that this bill should be out of the way before we engage in any other extended business.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Massachusetts?

Mr. TILLMAN. With pleasure.

Mr. LODGE. It seems to me that it is very important in making this arrangement that we should avoid banking all these amendments to be voted on at the last moment. Then a great many amendments will be brought forward and presented to the Senate when not a word can be said either in opposition to or in favor of them. I think there ought to be a certain number of days allotted to the consideration of and voting on amendments. To bank them all up on the last day, as is now the practice whenever we make a general agreement, I think would be very unfortunate. I like the form of the request of the Senator from South Carolina as he sent it to the desk, though I think if he fixes the date on Thursday and we devote every day of next week to the consideration of amendments it would be better.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Indiana?

Mr. TILLMAN. Yes.

Mr. BEVERIDGE. I think it is perfectly apparent that the remainder of this week under general debate will take care of itself in the good discretion of Senators; but in view of the large number of amendments, the very great importance of a large number of those amendments, the desire of Senators to discuss them and of other Senators to hear them discussed, and in view of the fact that we have all spent so much time upon this bill, I suggest that the remainder of this week be devoted, as it is, to general debate on the unfinished business, and that all of next week, beginning with Monday and ending with Saturday, at which time we take the vote——

Mr. GALLINGER and others. Oh, no.

Mr. KEAN. Make it the 9th. Do not put it off another day.

Mr. BEVERIDGE. So far as I am concerned, I am making the suggestion, and the Senator can object; but it seems to me when we are coming to a final discussion of the amendments themselves, it is more important to add one day or two days than it is to subtract one day or two days.

I think further, Mr. President, that debate under the ten-minute rule upon amendments such as are offered to this bill, is a far too limited debate. There is hardly a Senator here who can discuss one of the amendments as he wishes to discuss it, or as the Senate wishes to hear it discussed, under the ten-minute rule. It ought to be not less than twenty-five minutes. So I suggest, as a basis of modifying what has already been suggested, that the remainder of this week be devoted to general debate and that all of next week be devoted to amendments, to be taken up and discussed under the thirty-minute rule or the fifteen or twenty minute rule, but certainly not under the ten-minute rule, and that they be voted upon as soon as the discussion upon each of them is completed. What does the Senator say to that?

Mr. TILLMAN. I still stick to my original proposition, if I can get the Senate to agree to it, but I am unwilling to go beyond the 9th of May for the final vote. In the meantime the Senate can control everything in its own way. We start in the morning. If there are any set speeches on hand let them be delivered, and if there are no such speeches, some Senator can call up an amendment, and when we get through the discussion of that amendment we can vote on it then and there.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. TILLMAN. With pleasure.

Mr. BAILEY. I was about to suggest that we first agree to vote on the 9th of May. Let that question be settled, and then it will be an easy matter, as soon as the general debate has been exhausted, to take up the amendments and discuss and dispose of them as they always are discussed and disposed of here.

Mr. BEVERIDGE. Will the Senator consent to vote on the 10th and devote three days next week to the amendments?

Mr. BAILEY. The Senator from South Carolina has that matter in charge. If that is not agreeable, then I suggest that, beginning on Saturday, we take up the amendments, discussing them and disposing of them as we proceed with them, under the fifteen-minute rule. Ten minutes is the usual limit; but, acceding to the suggestion of the Senator from Ohio [Mr. FORAKER], I make the suggestion that the vote be taken on Wednesday, May 9, beginning at 2 o'clock in the afternoon; that beginning on next Saturday morning the amendments be taken up, considered under the fifteen-minute rule, and disposed of as they are considered.

Mr. ALLISON. Does that mean that during all of next week the amendments shall be disposed of as they are reached?

Mr. BAILEY. As they are reached.

Mr. ALLISON. Under the fifteen-minute rule?

Mr. BAILEY. Yes.

Mr. ALLISON. Now, if the Senator will allow me to make one other suggestion, there should be, it seems to me, some rule as respects amendments. There are forty or fifty amendments pending to the bill.

Mr. GALLINGER. Sixty-odd.

Mr. ALLISON. Sixty-odd——

Mr. TELLER. Seventy.

Mr. ALLISON. Seventy, we will say, and I do not know

how many more that are to be projected later. I think the wisest way to dispose of these amendments will be to take up the bill by sections in their order, and dispose of the amendments to each particular section. Otherwise we shall have a scramble here about amendments and confusion that will occupy time that ought to be occupied in intelligent debate.

Mr. BAILEY. I think that is an excellent suggestion; but we, of course, must have it understood that if we reach 2 o'clock without having disposed of the amendments, they will then be still subject to a vote. That will give every Senator a vote upon his amendment.

Mr. MORGAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Alabama?

Mr. TILLMAN. Certainly.

Mr. MORGAN. Mr. President, the suggestion made by the Senator from Iowa [Mr. ALLISON] a moment ago is, I understand, exactly in conformity with the parliamentary law that controls bills before this body. The pending bill was reported here without any amendments having been suggested to it by the committee. Therefore there is no preference to be given to one amendment over another in respect to the time of its consideration.

The parliamentary law, as I understand it, Mr. President, the universal usage in the parliamentary bodies of England and the United States, is that a bill, after it has been read, shall be taken up by sections for amendment, and each section passed upon, and the amendments thereto discussed, considered, and voted upon. I am perfectly willing that that rule shall be observed so far as I am concerned. That, of course, terminates general debate, as we call it, whenever we agree to take up the bill for amendment, read the sections from first to last consecutively, and call for amendments to each section as it is reached. That will terminate the general debate. Then, if Senators want a limitation upon the time for the discussion of the amendments, respectively, as they are presented, the Senate can agree upon that, of course.

But I venture to suggest that when we have a motion to lay on the table, which cuts off debate, that it is quite easy to dispose of all amendments by that motion. If they are laid on the table, they are ended, and if they are kept up for consideration by refusal to lay on the table then we understand that that is an important matter upon which a vote by yeas and nays is going to be taken. I think there is ample power in the Senate in the use of that motion to control the time upon the discussion of amendments, and it ought to be freely resorted to. No Senator ought to feel at all discommoded or sensitive because another Senator chooses to try to bring debate to a close by a motion to lay on the table. If we go at it in that way, the only thing, it seems to me, that is necessary to be done is to recognize that rule and to agree on a day when we will take up the bill to be considered, section by section, with the amendments thereto.

Mr. BACON. We are unable to hear the Senator from Alabama, and we would like to very much, because he is proposing what we will have to agree to or disagree to.

Mr. MORGAN. I was merely suggesting, I will say to the Senator from Georgia, that I am perfectly willing to fix a day—I do not care when it is; to-morrow, so far as I am personally concerned—when the bill shall be taken up and be read by sections for amendment; each section read and disposed of, with all the amendments pending or that may be offered to it; get through with that, and go on to the next. That will bring the conclusion of this debate very much sooner than we can reach it by any agreement we may make here, because I would not consent to naming to-day a day when the final vote on this bill shall be taken.

I believe a final vote will be reached earlier if we pursue the course suggested by the Senator from Iowa than in any other way we may possibly deal with this matter. Therefore I may be considered to be here as objecting to fixing a day for a final vote on this bill. The final vote will come when the amendments are disposed of.

Mr. ALDRICH. This discussion has shown the wisdom of the suggestion made by the Senator from Texas [Mr. BAILEY], that we first agree upon a time for taking the final vote, and then let us see if we can agree upon the details as to what shall be done between now and then.

Mr. MORGAN. I shall object.

Mr. ALDRICH. I hope the Senator from South Carolina will confine his present request to asking that a day be fixed for a final vote.

Mr. TILLMAN. Very well. I ask unanimous consent that Thursday, the 10th, be fixed as the day when we shall take a final vote on it.

Mr. MORGAN. I object, Mr. President.

The VICE-PRESIDENT. Objection is made to the request of the Senator from South Carolina.

Mr. LODGE. Mr. President, I think it is perfectly obvious that the agreement on the amendments must go with the agreement on the final vote. Can we not agree that on Monday next we will take up the bill, to be read section by section for amendment, the debate to proceed under the fifteen-minute rule, and that on Thursday, at 2 o'clock, the final vote be taken on the bill and all amendments still remaining or to be offered?

Mr. BACON. Mr. President, I am quite agreeable to the fixing of any date Senators may desire. I am willing that it shall be either the 9th or the 10th. I think, however, from what we have seen heretofore when a definite hour has been fixed for voting on an important measure, that it is better simply to fix the day instead of fixing the hour. I do not say this because of any disposition to delay the vote. I am willing to agree to that day or an earlier day. I think it would be better to fix simply the day, and say we will vote on that day. Senators will all recollect the fact that when we have had important legislation here, as suggested by the Senator from Iowa, in the last moment amendments are crowded in, and even after the voting has begun amendments are offered, and Senators are required to vote yea or nay without being able to state the reasons which actuate them in the giving of that vote. I do not know what amendments are going to be offered. There are some as to which, if they are offered, I desire to be able to state the reason why I shall vote one way or the other.

Mr. LODGE. Under my proposition and under the proposition of the Senator from South Carolina there would be three days for that purpose. The Senator from South Carolina proposed a week.

Mr. TILLMAN. This week and all of next week, up to the day of voting.

Mr. LODGE. I propose three entire days to take up and dispose of amendments, and we ought to reach 2 o'clock on Thursday with the amendments pretty thoroughly disposed of.

Mr. BACON. The Senator also proposed, if I understood him correctly, that at 2 o'clock we proceed to vote upon the amendments offered and to be offered.

Mr. TILLMAN. That has to be there.

Mr. LODGE. That has to be in, of course.

Mr. BACON. That is the reason why we should have a day rather than an hour fixed.

Mr. LODGE. We are to have three days not only to discuss, but to dispose of amendments, and by that time we shall have disposed of most of them. And, moreover, I think it would be very unfortunate not to fix an hour, because that may drag it out a day or two with recesses.

Mr. BACON. Not at all. The Senator says we will have three days in which to dispose of amendments. Those three days will certainly not be devoted to the consideration and discussion of amendments offered after 2 o'clock on Thursday, if 2 o'clock is the hour fixed for a vote. And for that reason I think it would be better not to fix an hour. I think by having several days devoted to the consideration of amendments, most of the subjects upon which amendments will be offered will have been very fully discussed, and possibly there may not be many amendments thereafter offered.

Mr. LODGE. But we are to vote all through those three days.

Mr. BACON. That is true; and for that reason there will be very little left to offer amendments upon or to discuss after 2 o'clock on Thursday, but it may be very important that it should be done.

Mr. TILLMAN obtained the floor.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Maine?

Mr. TILLMAN. With pleasure.

Mr. HALE. May I ask the Senator how he proposes to take up the time, on the last suggested proposition, for the rest of the week, between now and Saturday? How many reluctant Senators has he on his list who desire to be heard?

Mr. TILLMAN. I have heard of only two. It seems it is almost impossible to get a unanimous-consent agreement, though I am going to try once more, and then I will notify the Senate as to what my plan will be.

I again ask unanimous consent that we take the final vote on this bill and all amendments pending thereto or to be offered on Thursday, the 10th of May, beginning at 2 o'clock.

Mr. MORGAN. I am willing to fix any day anybody may name for taking up this bill and considering it by sections for

amendment, but I will not consent to fixing a day for a final vote on the bill.

The VICE-PRESIDENT. The Senator from Alabama objects.

Mr. TILLMAN. The Senator has a right to object, and therefore I recognize my duty, and that is to notify the Senate that every hour, after the morning business is over, I am going to keep this bill before the Senate, if the Senate will back me in that, and I will keep it there until we get a vote on it.

Mr. MORGAN. That is all right.

Mr. HALE. The Senator can do that; and the only way is to ask that the Senate proceed to vote on whatever amendment is pending, if no Senator is ready to go on and speak. The Senator has found a solution of this whole business.

Mr. TILLMAN. I will try to get unanimous consent.

Mr. HALE. Will the Senator wait a moment?

Mr. TILLMAN. Certainly.

Mr. HALE. If the Senator, when this bill comes up, will see whether any Senator desires to go on and debate it in his own way, which we can not restrain—we never have—and if nobody is ready, the Senator will then invoke the assistance of the presiding officer and ask what amendment is pending, and push the matter to a vote, he will soon be out of the woods.

Mr. TILLMAN. I was going to ask now for unanimous consent that whenever this bill is before the Senate and any amendment is offered we shall vote on that amendment as soon as we have discussed it.

Mr. HALE. The Senator does not need to ask that.

Mr. TILLMAN. No; but I want to get an agreement on that, because some man may turn in and go to speaking by the hour in order to kill time.

Mr. HALE. That you can never hinder. But if the Senator will insist, when the time comes and the bill is before the Senate, that either some Senator shall go on and debate it in his own way or that the Senate shall vote upon the pending amendment, I say he will soon be out of the woods.

Mr. TILLMAN. I have already given notice that that is my purpose after to-morrow.

Mr. NELSON. I want to suggest to the Senator from South Carolina that the next parliamentary stage of this bill is to read it for amendment. It has not been read for amendment, and the next step is to call it up and have it read for the purpose of amending it in Committee of the Whole. If the Senator follows that step, we can take up these amendments one by one and dispose of them.

Mr. TILLMAN. As they are offered.

Mr. NELSON. As they are offered.

Mr. FRYE. Why can it not be agreed that whenever the amendments are reached for consideration the debate on the amendments shall be under the ten or the fifteen minute rule?

Mr. TILLMAN. I would be glad to get an agreement to that effect.

Mr. FRYE. Can you not get that?

Mr. TILLMAN. I will try.

Mr. BACON. I suggest to the Senator that possibly it might be well to modify the request so as to give the proponent of an amendment a little more time than other Senators who may wish to discuss the amendment.

Mr. TILLMAN. I have never found that any man who had anything to say here could not get all the time he wanted. It is only when he is long-winded and is full of words without ideas that people do not want to hear him.

Mr. BACON. I presume the Senator is correct, but his suggestion can not be applicable to me.

Mr. TILLMAN. I am not applying it to anyone. The Senator is too thin skinned if he applies that to himself, because he gives us a great deal of pleasure when he speaks.

Mr. BACON. The Senator from South Carolina is indulging in euphemisms, as he usually does. Nevertheless, I want to say what I was about to say when the Senator interrupted me, that whatever may be the disposition of the Senate to give to an interesting speaker all the time he desires, if there is a unanimous-consent agreement that debate shall be limited to fifteen minutes that desire on the part of the Senate could not be gratified.

Mr. TILLMAN. Except by unanimous consent.

Mr. BACON. We do not ingraft one unanimous-consent agreement upon another unanimous-consent agreement. When we make a unanimous-consent agreement, it is considered in the Senate as the most binding of all proceedings and is most scrupulously regarded by all Senators as something the binding force of which may not thereafter be called in question by any subsequent occurrence or occasion. While, of course, I will not press the suggestion at all, and I do not know that I should avail myself of it, even if the proposed unanimous-consent agreement should be modified, it does look as if possibly there might be some propriety in the suggestion that the proponent of an amendment might require a little more time to properly present it to the Senate than those of us who might desire to follow him in the discussion.

Mr. TILLMAN. If it is the desire of the Senate to give the mover of an amendment longer time than anyone else, I am perfectly willing.

Mr. BACON. Only for the original presentation of it. I do not mean in the subsequent discussion.

Mr. TILLMAN. I do not believe the Senate will agree to it.

Mr. FRYE. Have we not had amendments pretty thoroughly discussed already during this debate, and if we are ever going to be familiar with the rate bill is it not possible that we may be reasonably familiar with it by this time? I hope the Senator will ask unanimous consent that a day be fixed on which to start with the amendments, because every Senator desires to be here when the amendments are under consideration. Suppose the Senator asks that next Friday or next Saturday or next Monday——

Mr. TILLMAN. I will make another effort to get unanimous consent. I ask unanimous consent that on Wednesday——

Mr. FRYE. What?

Mr. TILLMAN. That on Wednesday, the coming Wednesday, day after to-morrow——

Mr. FRYE. That is first rate.

Mr. TILLMAN. The Senate proceed to the consideration of amendments to this bill.

Mr. FRYE. Under the ten-minute rule.

Mr. TILLMAN. Under the fifteen-minute rule.

Mr. CULBERSON. Mr. President, I stated a while ago to the Senator from South Carolina that I was advised that some Senators desire to speak longer on the general bill than fifteen or twenty minutes.

Mr. TILLMAN. I will say Friday.

Mr. CULBERSON. Wednesday is too early.

Mr. FRYE. Make it Monday.

Mr. LODGE. Make it Monday.

Mr. FRYE. Make it next Monday.

Mr. TILLMAN. I will try Friday. I ask unanimous consent that on Friday next the Senate will proceed to the consideration of this bill, taking up the amendments as they are offered and disposing of them after discussion under the fifteen-minute rule.

Mr. BACON. I suggest to the Senator that the suggestion of the Senator from Minnesota [Mr. NELSON] is the proper one, that the bill be taken up in its regular parliamentary stage.

Mr. ALLISON. By sections.

Mr. BACON. By sections rather than that amendments should be disposed of as offered.

Mr. TILLMAN. There are so many cooks that I can not keep up with the suggestions as to where to put the pepper and the salt, but I will agree to anything the Senate will agree to.

Mr. ALDRICH. Two or three suggestions have been made, one by the Senator from Georgia and another by the Senator from Iowa, that we take up the bill in proper order. The custom of the Senate is that when a bill is reported it is read for amendments. The committee amendments are acted upon first. If there are no committee amendments, as there are none in this case, amendments are offered to the bill generally. Of course you can not preclude a Senator from offering an amendment to the first section after all the sections have been read. Amendments are not only in order after that time, but they are in order in the Senate. That has been the parliamentary rule.

So I see no particular value in the suggestion that we agree to follow that course—that is, that after the bill has been read through, section by section, any amendment shall be in order to any section of the bill, and that when one is offered to the first section and is disposed of, we will, in like manner, go through the whole twenty sections, or whatever number of sections there are, and after the twentieth section has been disposed of any Senator may offer an amendment to the first section. I can see no particular good in getting an agreement of that kind because that is the course which we would necessarily follow.

Mr. ALLISON. The Senator will see that there being sixty or seventy amendments unless we proceed reasonably in order it will take a long time. Of course a Senator can withhold his amendment until we get through with the reading of the bill for amendment, and amendments can be offered to the bill in the Senate. But my suggestion was for an orderly proceeding, not that I sought in any way to cut off anyone. That I know could not be done, and there is no disposition to do it.

Mr. ALDRICH. I have no objection to taking up the bill by sections, and disposing of as many amendments as possible from time to time, understanding all the time that any amend-

ment is in order to the bill, as it always has been under the practice of the Senate and as it is under the rule of the Senate, until the bill is finally passed to a third reading.

Mr. FRYE. An amendment is in order now. An amendment is in order any day and at any hour.

Mr. ALDRICH. I understand that. So when we talk about parliamentary practice and the rules of the Senate, they are not very orderly and never have been in the consideration of amendments.

Mr. TELLER. If the Senator who has this bill in charge will call it up after to-morrow and pursue the very course he suggested, we will, in my judgment, get through with it within the time which he has endeavored to have fixed for voting. Of course, there are unlimited opportunities here to offer amendments. After we get through all these amendments, somebody may offer another one, if he wants to. I have noticed in the Senate, however, that whenever that is done in a spirit of delay the amendment is pretty apt to go to the table without any further discussion or interference with the business. The Senate has it in its power all the time to hasten this matter, if it desires to do so. Nobody wants to cut off debate. Those who want to debate will have to-morrow and the next day. It seems to me that is time enough. I understand there are only two set speeches to be made. One can be made to-morrow and the other the next day. Then we can take up the bill under the ten or fifteen minute rule.

Mr. TILLMAN. We have not any agreement to any rule yet.

Mr. LODGE. It seems to me it is important that all Senators should have due notice of two things—when the final vote is to be taken and when the voting on amendments is to begin. I think there ought to be notice of those two facts.

Mr. TILLMAN. I have tried to get an opportunity to do that.

Mr. LODGE. I know the Senator has. I am entirely agreed with his original proposition.

Mr. TELLER. So am I.

Mr. TILLMAN. But the Senator from Alabama [Mr. MORGAN] has said that he will object to any request that a day be fixed for a final vote. Therefore that is settled. All I can do is to call on the Senate to take this matter under consideration and have it considered, and if Senators are not ready to talk, we have got to vote.

Mr. LODGE. I misunderstood the Senator from Alabama. I understood him only to object to fixing a time for a final vote without fixing a time for voting on the amendments.

Mr. TELLER and others. No.

Mr. LODGE. If he objects to a final vote, that ends it.

Mr. MORGAN. I am willing to name a day for taking up the amendments to this bill in the order of the sections, section by section. I am willing to go further and limit the time for debate upon amendments, if you please, to fifteen minutes, but I am not willing to fix a day for a final vote on this bill.

Mr. FRYE. Then why can not the Senator from South Carolina get an agreement that on Monday next the Senate will proceed to consider amendments to this bill in parliamentary order?

Mr. TILLMAN. It is too far off. I want a time sooner than that.

Mr. HALE. Why wait so long?

Mr. FRYE. Try Friday; under the fifteen-minute rule. Those two things can be settled, and we can leave the final vote to further determination.

Mr. HALE. Let me make a suggestion to my colleague. Why wait until Monday?

Mr. FRYE. I have no disposition to wait until Monday. If there is any way to get through with this rate bill, I want to get through with it.

Mr. HALE. Why not to-morrow or the next day?

Mr. TILLMAN. I have tried for unanimous consent and have not been able to obtain it. I now renew my notice that I shall try to get this bill up after the routine morning business and hold it before the Senate, and Senators will have to speak or vote.

Mr. HALE. That is right.

Mr. BAILEY. I believe the Senator from South Carolina can get an agreement that next Friday morning we shall take up this bill, to be read by sections; that as each section is read amendments to that section shall be in order, and that each amendment shall be subject to consideration under the fifteen-minute rule, and when considered shall be disposed of. I believe the Senator can get that.

Mr. FRYE. So do I.

Mr. TILLMAN. I will ask unanimous consent for that.

The VICE-PRESIDENT. The Secretary will report the request of the Senator from South Carolina for unanimous consent.

The Secretary read as follows:

It is agreed, by unanimous consent, that on Friday, May 4, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill H. R. 12987, the bill to be read by sections for the purpose of amendment, the discussion upon amendments to proceed under the fifteen-minute rule——

Mr. TILLMAN. And amendments to be disposed of when the discussion closes.

The Secretary read as follows:

The amendments to be disposed of when the discussion thereon is concluded.

The VICE-PRESIDENT. Is there objection?

Mr. ALLISON. I do not object, but I want to understand the import of this proposition. I understand it to be that beginning Friday morning the debate upon this bill shall be limited to fifteen minutes.

Mr. TELLER. That is it.

The VICE-PRESIDENT. That is it.

Mr. ALLISON. That general debate shall close on Friday morning.

Mr. MORGAN. That is the effect of it.

Mr. TILLMAN. Thursday night.

The VICE-PRESIDENT. Is there objection to the request of the Senator from South Carolina? The Chair hears none.

Mr. MALLORY. There seems to be some difference of opinion as to when this shall begin. I should like to be advised on that point.

Mr. TILLMAN. It starts Friday morning immediately after the routine morning business.

The VICE-PRESIDENT. Friday morning at the conclusion of the routine morning business. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION.

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and twenty-three minutes spent in executive session the doors were reopened, and (at 6 o'clock p. m.) the Senate adjourned until to-morrow, Tuesday, May 1, 1906, at 12 o'clock meridian.

CONFIRMATION.

Executive nomination confirmed by the Senate April 30, 1906.

MARSHAL.

Milo D. Campbell, of Michigan, to be United States marshal for the eastern district of Michigan.

HOUSE OF REPRESENTATIVES.

MONDAY, *April 30, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. MOORE, by unanimous consent, was granted leave of absence for ten days, on account of important business.

Mr. MILLER, by unanimous consent, was granted leave of absence for ten days, on account of important business.

APPOINTMENT OF MANAGERS FOR SOLDIERS' HOME.

Mr. HULL. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 145, for the appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers.

The Clerk read the joint resolution, as follows:

Resolved, etc., That Charles M. Anderson, of Ohio; WILLIAM WARNER, of Missouri; Franklin Murphy, of New Jersey, and JAMES W. WADSWORTH, of New York, be, and the same hereby are, appointed as members of the Board of Managers of the National Home for Disabled Volunteer Soldiers of the United States; Charles M. Anderson, WILLIAM WARNER, and Franklin Murphy to succeed themselves, their terms of service expiring April 21, 1906; JAMES W. WADSWORTH to succeed Gen. Martin T. McMahon, deceased, whose term of office expires April 21, 1910.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The resolution was ordered to be engrossed and read a third time; and it was read the third time, and passed.

On motion of Mr. HULL, a motion to reconsider the last vote was laid on the table.

GEN. HORACE PORTER.

Mr. OLMSTED. Mr. Speaker, I ask unanimous consent for the present consideration of the joint resolution which I send to the Clerk's desk, extending the thanks of Congress to Gen. Horace Porter.

The Clerk read the joint resolution, as follows:

Be it resolved, etc., That the thanks of the people of the United States are justly due and are hereby tendered to Gen. Horace Porter, late ambassador to France, for the disinterested and patriotic services in conducting upon his own initiative and at his own expense a series of researches and excavations extending over a period of six years, and resulting in the recovery of the body of Admiral John Paul Jones from a forgotten grave in a foreign land and its return to the country which he had loved so well and so heroically served.

Mr. OLMSTED. Mr. Speaker, I desire to amend that by adding a further resolution.

The Clerk read as follows:

Resolved, That Gen. Horace Porter be requested to furnish Congress a copy of his remarks at the exercises at Annapolis, April 24, 1906, and that, when received, said remarks be printed in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. Mr. Speaker, I do not intend to object to this. I think it is most appropriate. I had the honor and pleasure of listening to that most chaste and eloquent address of that distinguished gentleman who rendered such service to the country in restoring to the United States the remains of this distinguished naval officer, the founder of the American Navy.

I rise to give my approval to the resolution, to indorse it, and hope that this most chaste and eloquent address may be, when a copy of it is furnished to the House, printed in the CONGRESSIONAL RECORD, and that the gentleman from Pennsylvania, or some one, will see to it that it is printed in such a form that it can be distributed to the country, so that every American can have an opportunity to read it.

Mr. BENNET of New York. Will the gentleman from Pennsylvania yield to me?

Mr. OLMSTED. For a question.

Mr. BENNET of New York. Would it not be wise to provide that it be printed as a document?

Mr. OLMSTED. That can be attended to later.

Mr. BARTLETT. I would suggest to the gentleman from New York that if that matter be left to the Committee on Printing, probably they would provide for it being printed in a more useful and ornamental way than it would be if it were printed as a document.

Mr. OLMSTED. I understand that will be attended to by that committee later.

Mr. Speaker, General Porter is the son of a former governor of Pennsylvania. He spent his boyhood days and acquired his early education in Harrisburg and commenced his brilliant career by appointment to the United States Military Academy, at West Point, by one of my predecessors in Congress from that district. Owing to that fact and to my long personal acquaintance with and friendship for him, it affords me unusual pleasure to offer this resolution, and I desire to express my appreciation of the courtesy of the gentleman from Illinois [Mr. RAINEY], who, having prepared a similar resolution, kindly gave way in my favor.

Mr. Speaker, it is not my purpose to take up needlessly the time of the House in the discussion of a resolution for which I am sure every Member intends to vote. But I do desire to add a few words.

Mr. Speaker, whether in the field of arms or in the field of diplomacy General Porter has always deserved well of the American people. It is not too much to say that since the days of Benjamin Franklin we have not been more successfully, effectively, or brilliantly represented at Paris than by him. This resolution, however, deals with a patriotic, unselfish, and an unique service outside the line of official obligation or duty, the history of which is too fresh in our minds to require elaboration.

When on the 14th of June, 1777, Congress unanimously resolved "that the flag of the thirteen United States be thirteen stripes alternate white and red; that the Union be thirteen stars, white in a blue field, representing a new constellation," it declared in the same resolution that Capt. John Paul Jones be appointed to command the ship *Ranger*, whose guns were shortly to awaken those echoes of glory which shall continue to reverberate around the globe while deeds of valor find commendation in the hearts of men. He was the first to unfurl that flag over an American man-of-war. The first salute of honor ever paid to it by a foreign nation was received by him and the first hostile colors struck to it at sea were surrendered into his hands. The white stars in that field of blue have now increased to forty-five, but never have they shone upon a defender more gallant than John Paul Jones. In the war for American independence he engaged in no less than twenty-three naval battles and never once permitted that flag to be lowered. He would not surrender and he would not be conquered. He made the first successful invasion of the British coast that had been accomplished in five hundred years. His services in behalf of American independence were so distinguished and so successful that he received signal honors from three governments. He died in Paris in 1792. His body was preserved in alcohol in a leaden coffin, hermetically sealed, with the thought that it would be reclaimed by the land he had so wonderfully served and honored. Buried in a little cemetery, owned by the Government as the resting place of foreign Protestants, at a time when the violence of the French Revolution was at its height, his grave was either not permanently marked or the marking was effaced in the disorders of that turbulent time. Eventually the little cemetery itself was filled in with earth and covered with buildings and even its exact location difficult to find. Some of the burial records of the day were destroyed by the Commune, and in one important instance several important leaves were missing which it took years to trace.

Arriving in Paris as our ambassador, General Porter found everywhere marks of the esteem in which Paul Jones was held by the French nation, and was mortified to find that we were looked upon as ungrateful in that his remains had received no attention at our hands. For a period of six years, commencing in 1899, he devoted his time, energy, and money to a search, the story of which reads almost like a romance, resulting in the location of the cemetery, and, after extensive and costly excavations, the discovery of the body itself, whose identification was so absolute and complete as to receive the official indorsement of two nations. An American squadron, under Admiral Sigsbee, was sent to bring it home, and only last week it was laid away at Annapolis with all the honors which a great and grateful nation could bestow.

General Porter's services in this direction have involved a personal outlay of not less than $35,000, for which he has generously and patriotically declined to be reimbursed, and asked that the amount may be added to the proposed cost of the crypt in the chapel at Annapolis in which the remains of John Paul Jones will finally rest. He has measurably relieved this nation from the charge of ingratitude toward one of its earliest and greatest naval defenders.

This resolution involves no expenditure of money; it confers neither rank nor title; it is the simplest possible method of saying to General Porter, on behalf of the American people: "For enabling us to reclaim and do honor to the remains of one whose name and fame are so gracefully and enduringly enwreathed in the folds of our flag, we thank you."

The amendment was considered, and agreed to.

The joint resolution was agreed to.

On motion of Mr. OLMSTED, a motion to reconsider the last vote was laid on the table.

DAMS ACROSS COOSA RIVER, ALABAMA.

Mr. BOWIE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 15334) to authorize the construction of dams and power stations on the Coosa River, at Lock 2, Alabama, which I send to the desk and ask to have read.

The SPEAKER. The gentleman from Alabama asks unanimous consent for the present consideration of the bill of which the Clerk will report the title.

The Clerk reported the title of the bill.

The SPEAKER. Is there objection?

Mr. BURTON of Ohio. Mr. Speaker, reserving the right to object, I would like to ask a few questions. As I understand it, navigation in this portion of the river has been entirely abandoned.

Mr. BOWIE. That is my information; yes; and the War Department recommends the passage of the bill.

Mr. BURTON of Ohio. Is it in the gentleman's district?

Mr. BOWIE. Yes; it is in my district. It is a local bill.

Mr. BURTON of Ohio. The gentleman from Alabama [Mr. BOWIE] does not intend to advocate any improvement to navigation in that locality?

Mr. BOWIE. Any improvement to navigation?

Mr. BURTON of Ohio. Yes.

Mr. BOWIE. At this locality? At Lock 2? I do not intend to advocate anything more at Lock 2 than is there already. I simply want this dam across the abandoned portion of the river for the purpose of creating a power.

Mr. BURTON of Ohio. There is no navigation there at this time and none is expected.

Mr. BOWIE. There is navigation between Locks 2 and 3.

Mr. BURTON of Ohio. Yes.

Mr. BOWIE. Navigation, as the gentleman will remember, extends down to Lock 3.

Mr. BURTON of Ohio. But this is below Lock 3.

Mr. BOWIE. No; it is below Lock 2. It is between Locks 2 and 3, and navigation extends to Lock 3, but this dam will be erected in the abandoned portion of the river.

Mr. BURTON of Ohio. The gentleman does not intend to ask, nor his constituents, as far as he knows, for any improvement at that point?

Mr. BOWIE. That is right.

Mr. BURNETT. Mr. Speaker, the original bill, as I recollect it, said something about constructing a dam across the river. Is it intended by that to construct it clear across the river or just the abandoned portion?

Mr. BOWIE. In the abandoned portion. That is what the bill says.

Mr. BURNETT. Very well. As I understand it, there is an island in the river, I will say to the gentleman from Ohio [Mr. BURTON].

Mr. BOWIE. It is in the abandoned portion of the river.

Mr. BURTON of Ohio. I would like to understand that more fully. This does not reach across the river?

Mr. BOWIE. No.

Mr. BURTON of Ohio. But only to an island.

Mr. BOWIE. It reaches only, according to the bill, across the abandoned portion of the river.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That any riparian owner, whether person, company, or corporation, having authority therefor under the laws of the State of Alabama may hereafter erect, maintain, and use a dam or dams in or across the Coosa River, in the State of Alabama, at such points at or near Lock 2 as they may elect and the Secretary of War may approve, between a point on the eastern side of the river in the abandoned portion thereof at a point below the United States Government dam at Lock 2 and above the navigable portion of the river between Locks 2 and 3, for the purpose of erecting, operating, and maintaining power stations and to maintain inlet and outlet races or canals and to make such other improvements on the eastern bank of the Coosa River between the two points above mentioned as may be necessary for the development of water power and the transmission of the same, subject always to the provisions and requirements of this act and to such conditions and stipulations as may be imposed by the Chief of Engineers and the Secretary of War for the protection of navigation and the property and other interests of the United States.

SEC. 2. That detailed plans for the construction and operation of a dam or dams and other appurtenant and necessary works shall be submitted by the person, company, or corporation desiring to construct the same to the Chief of Engineers and the Secretary of War, with a map showing the location of such dam or other structures, with such topographical and hydrographic data as may be necessary for a satisfactory understanding of the same, which must be approved by the Chief of Engineers and the Secretary of War before work can be commenced on said dam or dams or other structures; and after such approval of said plans no deviation whatsoever therefrom shall be made without first obtaining the approval of the Chief of Engineers and the Secretary of War: *Provided*, That the constructions hereby authorized do not interfere with the navigation of the Coosa River: *And provided further*, That said dam or dams and works shall be limited only to the use of the surplus water of the river, not required for the navigation of the Coosa River, and that no structures shall be built and no operations conducted by those availing themselves of the provisions of this act which shall injure or interfere with the navigation of said river or impair the usefulness of any improvement made by the Government in the interest of navigation.

SEC. 3. That the Government of the United States reserves the right, at any time that the improvement of the navigation of the Coosa River demands it, to construct, maintain, and operate, in connection with any dam or other works built under the provisions of this act, suitable lock or locks or any other structures for navigation purposes, and at all times to control such dam or dams or other structures, and the level of the pool caused by such dam or dams, to such an extent as may be necessary to provide facilities for navigation; and whenever Congress shall authorize the construction of such lock or other structures, the person, company, or corporation owning and controlling such dam or dams or other structures shall convey to the United States, under such terms as Congress shall prescribe, titles to such land as may be required for the use of such lock and approaches, and in addition thereto shall grant to the United States, free of cost, the free use of water power for building and operating such constructions: *Provided also*, That the person, company, or corporation building, maintaining, or operating any dam or dams or other structures under the provisions of this act shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise, in a court of competent jurisdiction. The person, company, or corporation owning or operating any such dam shall maintain, at their own expense, such lights and other signals thereon and such fishways as the Secretary of Commerce and Labor shall prescribe.

SEC. 4. That all the rights acquired under this act shall cease and be determined if the person, company, or corporation acquiring such rights shall at any time fail to comply with any of the provisions or requirements of this act, or with any of the stipulations that may be prescribed by the Chief of Engineers and the Secretary of War, or in case a person, company, or corporation authorized by the laws of the State of Alabama to erect and maintain a dam and improvements as contemplated by this act shall fail to begin the erection of said dam and improvements within two years after being so authorized and shall fail to complete the same within five years after obtaining such authority.

SEC. 5. That the provisions of this act shall in no manner interfere with or impair the rights of any person, company, or corporation heretofore authorized by Congress to erect a dam or other structures for the development of water power on the Coosa River.

SEC. 6. That the right to alter, amend, or repeal this act is expressly reserved.

With the following amendment:

On page 4, in line 5, after the word "jurisdiction," add the following:

"*Provided further*, That any injury or damage to the navigable capacity of the Coosa River or to the works of improvement of the United States in the said river which may result from the construction of the dam and other works herein authorized, or any alteration, enlargement, or change in said works of improvement which may, in the judgment of the Secretary of War, be made necessary by the construction of said dam and other works, shall be made good and completed at once by those availing themselves of the provisions of this act, their executors, successors, and assigns, and failing this, such injury or damage may be remedied, and such alteration, enlargement, or change may be completed by the United States, and the cost of the work so required shall be paid by the grantees, their heirs or assigns, and to secure the payment for any work thus done by the United States a bond, with good and sufficient security, in a sum judged adequate by the Secretary of War for the payment of the cost of said work shall be executed and filed with the Secretary of War before any advantage shall be taken of the provisions of this act."

The SPEAKER. The question is on the amendments.

The question was taken; and the amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. BOWIE, a motion to reconsider the last vote was laid on the table.

ORDER OF BUSINESS.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent——

Mr. GARNER. Mr. Speaker, I demand the regular order.

The SPEAKER. The gentleman from Texas demands the regular order.

AGRICULTURAL APPROPRIATION BILL.

Mr. WADSWORTH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill, with Mr. FOSTER of Vermont in the chair.

Mr. RIXEY. Mr. Chairman, I move to strike out the last word of the paragraph last read. I am informed that the distinguished chairman of the Committee on Agriculture is a very extensive and successful farmer of the great State of New York, which he represents with so much distinction upon this floor. He is also, I am glad to state, devoting his energies and his ability and financial resources to some extent in developing the great dairying interests in the district which I have the honor to represent, and I not only welcome him, but I would welcome all others who have energy and ability and financial resources to take advantage of the opportunities which the whole State of Virginia offers for investors. But, Mr. Chairman, it seems to me that the gentleman from New York [Mr. WADSWORTH] and the gentleman from Connecticut [Mr. HENRY] have formed their opinions in regard to the free-seed distribution from interested sources, taking their opinions, if we are to judge from the RECORD, from the public statements of seed men and the city newspapers. In the RECORD of April 26 I find that the distinguished gentleman from Connecticut [Mr. HENRY] inserted twenty-one extracts from newspapers, most of them city dailies, and many of them decrying the public free-seed distribution, and in the same RECORD there are six pages of small printed matter inserted at the instance of the chairman of the Committee on Agriculture, the gentleman from New York [Mr. WADSWORTH], giving the views of seed men and city newspapers against the seed provision. In the six pages inserted by the chairman of the Committee on Agriculture there are three communications from Peter Henderson & Co., the great seed men of the country, and as many as six extracts from one city newspaper, the Washington Post.

It seems therefore reasonable to assume that the opinions of the gentleman from New York and the gentleman from Connecticut are formed from what they have heard from the seed men and from the city newspapers, all, I hold, interested sources. We can not presume that the metropolitan papers have any personal objection to the free-seed distribution, but the fact is that the seed men advertise with them and they are only too glad to do their advertisers a favor in this respect. It comes with poor grace from the metropolitan papers to protest against the expenditure of $200,000 for seed. These papers state that this distribution of seed accounts in part for the deficit in the postal service. Why, sir, it comes with poor grace, I repeat, from those papers to make that statement. When the post-office bill was under consideration it was stated over and over again that the great city papers were responsible in a large measure for this deficit, and that if we could keep the Sunday papers within reasonable limits it would to some extent decrease the postal deficit. Now, Mr. Chairman, I differ with the chairman of the Committee on Agriculture in regard to these free seeds. I do not claim that they are essential to the farmer. I

do not claim that they are necessary to anybody; but I do say that they are useful to the farming communities in three ways. First, it enables the Department of Agriculture to know what garden seed, flower seed, and other seed furnished should cost. The Department buys the seed in large quantities, and is in communication with the seed men throughout the country, and it has enabled the farmer to ascertain what is a fair price for the seed. In the second place, it enables the Department to do, as is done in some cases, put its finger upon the fraudulent seed dealer and advertise him as such. It enables the Department to say to the country who are the honest dealers and who are the fraudulent dealers. In the third place, it enables the man who does not often go to the city or to the wholesaler—the small farmer, the laboring man who has to depend for his supply of seeds upon what he purchases from the local merchant—to compare the seed he thus buys from the local merchant with the seed that is sent him from the Congressional distribution. The latter is only a sample, but it enables him to make a comparison and see whether a fraud has been perpetrated upon him by the local seed dealer. For these three reasons I think the expenditure is well worth what it costs.

Mr. Chairman, instead of restricting this little concession to the farmer I would enlarge it.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. RIXEY. Mr. Chairman, I would like to have five minutes more.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to continue his remarks for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. HENRY of Connecticut. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Virginia yield?

Mr. RIXEY. Yes.

Mr. HENRY of Connecticut. I did not catch exactly what the gentleman said, but I understood him to say that certain Members were influenced by clippings from city papers, and I would like in the gentleman's time to insert a letter I have received this morning from the director of our State experimental station——

Mr. RIXEY. You can insert that later on, can you not?

Mr. HENRY of Connecticut. I would like to put it in at this time.

Mr. RIXEY. I would prefer you would do that later, because I have only five minutes. Mr. Chairman, instead of cutting off this small appropriation I would extend the powers of the Department along this line. I can readily see that this little concession in regard to garden seed is of no use to the gentleman from New York, and I will concede it is of no use to me; it is a burden upon us both, and I believe we get no special thanks from any of our constituents for it; but, sir, I would like to see the principle extended to field seed for experimental purposes. There is great opportunity for imposition in the purchase of grass and field seeds of all kinds. I doubt not that the clover seed purchased by the gentleman from New York costs him annually more than $500. What I buy, and I am to some extent a small farmer, costs me from two hundred to three hundred dollars a year, and I state here that in my opinion in two years out of three it is practically wasted, of no account, and brings no result. And the reason is that, being no judge of the quality of the seed, having no way of telling how old the seed is, whether it will germinate or not, I am frequently deceived, and the expenditure is worse than useless, as the land has to remain idle for another year.

Now, if this principle were extended, if the Department could furnish small samples of clover seed and other field seed, the farmer could make his comparison and he would be enabled to know whether the local seedsmen have sold him worthless seed or not. When we buy seed now that do not come up, we are told that it is due to the season, that it has been too dry, never too wet, perhaps, and other reasons against it. Let us enable the farmer to make these tests and decide whether he had been imposed upon or not.

Mr. SHEPPARD. May I ask the gentleman a question?

Mr. RIXEY. Yes, sir.

Mr. SHEPPARD. Why do you not send suits of clothes in order that they may compare the price of clothing that they get from the Government and the price of clothes they get elsewhere?

Mr. RIXEY. I have never yet known anyone to desire an opinion as to whether a suit of clothes would cover his nakedness or not, but I have known people who have bought clover seed and did not know whether it would come up until after it was sowed. There is a vast difference between the cases cited.

Now, Mr. Chairman, there is a good deal of talk as to what this seed costs. It costs a mere bagatelle compared with some wasteful extravagances of the Government. I have here on my desk publications which are sent out on various subjects practically every week. There is one called "Results of Primary Triangulations and Primary Traverse;" another "The Drumlins of Southeastern Wisconsin," and another "Weir Experiments, Coefficients, and Formulas." Are such publications of use, and if so, to whom? If anybody wants these documents which are allotted to me he can have them, but I have no seed to give away. If they will curtail the printing of such pamphlets, they will save much more than they will in the seed item. Why, we all know that within the past few years we have been deluged by publications on irrigation subjects. I have not known to whom to send them. I have tried to get rid of them, but they come faster and faster every month, it seems to me. I would say cut down the expenses in the printing line and let this little concession to the farmer remain. [Applause.]

Mr. Chairman, we are told that the expenses for agriculture are mounting up. Why, sir, when we compare it with the other appropriation bills it seems almost nothing. Seven million dollars are appropriated for agriculture and industry——

The CHAIRMAN. The time of the gentleman has expired.

Mr. RIXEY. Mr. Chairman, I desire three minutes more.

The CHAIRMAN. The gentleman from Virginia [Mr. RIXEY] asks unanimous consent to continue his remarks for three minutes. Is there objection?

There was no objection.

Mr. RIXEY. While this bill is under consideration, carrying only seven millions for the great agricultural interests, there is reported to this House the naval bill, carrying one hundred millions. The Army bill has been passed, carrying seventy-five millions; the pension bill carried one hundred and forty millions, and the post-office bill carried one hundred and eighty millions. Why should we object to $7,000,000 for agriculture, the foundation and the very support of this Government, that industry which furnishes more of our exports than any other, that industry which pays more taxes than any other, and the industry which gets less benefit from the Government? This bill carries an appropriation for the dairying interest, and some comment had been made upon it because the chairman of the committee, forsooth, is engaged in dairying. I say here that if the bill carried no appropriation it ought to be amended and that great industry ought to be fostered and encouraged. The bill also carried an appropriation of $60,000 for road purposes—for building experimental roads. I would that that amount were larger. I know of no subject in which the people of this country take a deeper interest than in the subject of the improvement of the roads. I would that the Committee on Agriculture, not content with this appropriation of $60,000, had provided an appropriation whereby national aid could be given to the States whenever they wanted to upbuild and improve their public highways. [Applause.]

Mr. Chairman, instead of cutting out this little appropriation, admit it is of doubtful value, which I do not believe; but admit that to be true, why is this House called upon to cut off this appropriation and not to cut down expenses in many other points where they are useless and extravagant? [Applause.] It is, sir, because there are interested people who are fighting this appropriation, and their influence has been brought to bear upon the Members of this House to strike it out and keep it out. [Loud applause.]

Mr. HENRY of Connecticut. Mr. Chairman, in view of the statement which the gentleman from Virginia has just made—that the press of the country have been influenced by improper motives in opposing the free-seed distribution, and so attempting to influence the House, and that farmers and the general public are not unfavorable to such a distribution—I send to the Clerk's desk and ask to have read a letter received from the director of one of our State experiment stations, expressing his views on free-seed distribution. This gentleman is in close touch with the farmers of Connecticut.

The Clerk read as follows:

STORRS AGRICULTURAL EXPERIMENT STATION,
Storrs, Conn., April 27, 1906.

Hon. E. STEVENS HENRY,
Washington, D. C.

MY DEAR SIR: Permit me to congratulate you upon the stand you have taken with reference to free-seed distribution. Your views are entirely right on the matter. The farmers of the country do not wish these free seeds sent to them. The whole business is a laughingstock and the quicker Congress does away with this free distribution of common seeds the better it will be. In my opinion the money could be far better spent in carrying on cooperative experiments with the various experiment stations, rather than in purchasing seeds which can be purchased at every seed store and every grocery store in the country. I congratulate you most heartily.

Yours, very truly, L. A. CLINTON, *Director.*

Mr. GAINES of Tennessee. I move to strike out the last word. I would like to ask the gentleman from Connecticut who the gentleman is whose letter he has just had read?

Mr. HENRY of Connecticut. He has been a director of one of our State agricultural experiment stations for many years, and is in close touch with the farmers of Connecticut.

Mr. GAINES of Tennessee. Another inquiry, Mr. Chairman. I should like to ask the gentleman if he has received any such letters from the farmers of his country.

Mr. HENRY of Connecticut. Yes, sir.

Mr. GAINES of Tennessee. Where are they? What do they say about this question?

Mr. HENRY of Connecticut. Very many of them include resolutions from the local State Grange organization.

Mr. GAINES of Tennessee. I mean the man who toils. The man that drives the horse and works the soil. Have you a letter from him?

Mr. Chairman, I ask the indulgence of the House and committee just a moment, for fear that I may do a possible injustice not only to myself but to Peter Henderson & Co. I have not read very carefully my speech of a day or two ago on this seed question, but in it I said I had not received any communication from my own people protesting against this appropriation. I have not received a single protest from that magnificent agricultural country, one of the finest in the world; and as soon as I learned that this Appropriation Committee had left out this appropriation, in a private conversation, or rather a somewhat private conversation, I said in the presence of one of my home-paper correspondents, that I intended to fight for this free-seed distribution to keep down a seed trust, which I thought would form if we stopped this free-seed distribution. That interview was in part published under a large-lettered head in my home paper—the Nashville Banner, and possibly the Nashville American—yet I have not received a single protest from any man in my district on account of the position I took in the matter. I know that I am right, from my standpoint at least, to thus fight off a seed trust.

I state again that I have made a most careful examination through the books on trusts, and particularly Moody on Truth About Trusts, and found there was no reported seed trust in this valuable work nor in any others I examined, and I then proceeded to get, and did get, a most intelligent and faithful official engaged in investigating trusts, to ascertain if there was in fact an existing seed trust, as I found none reported in these books. After a number of days he said to me that there was no existing seed trust of which he could get any tangible proof. I then asked him if he thought a seed trust would form if we stopped this free distribution of seed. He replied that he thought a seed trust would be formed. He agreed with me that the free distribution of seed has deterred the formation of this trust. He stated also that there was a strong and influential eastern and western association engaged in raising and selling seed.

I repeat, I shall vote to continue this seed distribution to deter the formation of this seed trust, which would put up the price, if it chooses, of both good and bad seed, and thus start again the distribution of bad seed, that the Department, by its operations, has very largely overcome.

I shall continue to vote for this free seed until each and every State shall do what they are not now doing, vigorously enforce their antitrust laws, and until the several States and the Federal Government shall arrest the ravages and lawless actions of the trusts that are now pillaging the rights of the people. So much for this.

I have not read over the speech I delivered here a few days ago on this subject, but for fear that I may have stated that I had received no protest from any person against this free distribution of seed, and desiring to do no one, including myself, any injustice, I wish to state that after I delivered my speech and my day's work was done I returned to my office and asked my very faithful and most intelligent secretary if I had received any protest against this free seed distribution, and I was informed that I had not. To make sure about it we went through from eight to ten boxes of letters which I have received since the beginning of this Congress, and I found only one, and that was a letter, a copy of which you all received, I presume, from Peter Henderson & Co., dated March 22 last, and which I answered on March 23, and I briefly replied thereto:

I shall give this whole matter careful consideration before and on the hearing of the subject before the House.

I shall insert this letter in the RECORD, by permission of the House. It reads as follows:

NEW YORK, *March 22, 1906.*

Hon. JOHN WESLEY GAINES, M. C.,
Washington, D. C.

DEAR SIR: We understand from a reliable source that the impression is sought to be created in Congress that the seeds distributed by the Department of Agriculture are better than those sent out by seed houses, and thus a reason is given for the continuance of the practice.

We wish to say that the seed houses were in the business of growing and distributing seeds before the Department, that the Department obtains its supply from the seed houses, and it is therefore difficult to understand how the output can be better. Briefly stated, the method of the seed houses is as follows: They control their own stocks, they keep trial grounds for testing them, they have a clientage that pays for the seed, and if it is not good they hear from it, so that, of necessity, they must see to it that only the best is sent to their customers. In the growing season they send representatives to examine crops and see that they are true to type; in fact, every care that long experience and invested capital can suggest is adopted to safeguard their interests and the interests of their customers.

The Department of Agriculture sends out a circular letter to the seed houses asking for an offer of surplus stock, and if it can not obtain in this way what is wanted we believe a contract is made with a grower for the item or items. We ask, then, in what way can the seeds be better? We submit as a reasonable proposition that the chances are infinitely greater that the stock sent out by seedsmen is the better of the two.

We take the liberty of sending this statement to you because of the underhand, vicious attack which is made upon what is the cornerstone of our business, i. e., our reputation, and it shows to what ends some one is willing to go in an effort to continue the free distribution of seeds by the Government.

Yours, very truly, PETER HENDERSON & Co.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. I ask the indulgence of the committee a little further, because I do not want to do anybody possibly an injustice, particularly a stranger.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that his time may be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GAINES of Tennessee. The first paragraph of this letter states that there "is an impression sought to be created in Congress that the seeds distributed by the Department of Agriculture are better than those sent out by seed houses." Hence, Mr. Chairman, Mr. Henderson argues, free-seed distribution should not continue.

On page 233 of these hearings, in speaking of adulterated seed, Mr. Galloway repudiates the idea that these seed men sell fresh seed, and contends that "it is the general practice to blend the seed." He says:

It is not only the general practice to blend seed, but there are all sorts of apparatus and devices that have for their object the rejuvenation of seed—that is, polishing devices that make the old seed look bright. There are certain devices that will rub the dust off, etc.

On pages 196 to 200 is a list of seed men who were caught by the Department selling, contrary to the Trimble law prohibiting the adulteration of seed, and I shall insert what Doctor Galloway and the Department say on that subject, so that we can see how these seed men, who are now fighting—at least a part of them—the free-seed distribution, are not only defying the Department and the law, but are imposing upon the farmers of this country.

The CHAIRMAN (Mr. WADSWORTH). I will now, with the permission of the committee, direct that those lists go into the record. I hear no objection, and you will hand it to the stenographer and let it be put in the record.

The papers referred to are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., January 23, 1906.

In carrying out the clause in the bill making appropriations for the Department of Agriculture directing the Secretary of Agriculture to obtain samples of seed in the open market and to publish the results of the tests of samples found to be adulterated, about 1,250 samples were obtained from seedsmen in the open market by agents of this Department. These have been examined for adulterants, with the result that the following number of samples were found to be adulterated:

	Samples.
Red clover	3
Alfalfa	42
Orchard grass	133
Kentucky blue grass	43
Total	221

[United States Department of Agriculture, office of the Secretary.—Circular No. 12.]

ADULTERATION OF ALFALFA SEED.

The act of Congress making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1905, contains the following item:

"The Secretary of Agriculture is hereby directed to obtain in the open market samples of seeds of grass, clover, or alfalfa, test the same, and if any such seeds are found to be adulterated or misbranded, or any seeds of Canada blue grass (*Poa compressa*) are obtained under any other name than Canada blue grass or *Poa compressa*, to publish the results of the tests, together with the names of the persons by whom the seeds were offered for sale."

Under date of May 25, 1904, a circular letter announcing that the collection and testing of seeds, as directed by this act, would begin July 1, 1904, was sent to the seedsmen of the United States whose names appear in the 1904 edition of "The American Florist Company's Directory of Florists, Nurserymen, and Seedsmen of the United States and Canada," and to wholesale seedsmen whose names are not included in that directory. A copy of the circular sent to the Florists' Exchange was published by that journal in its issue of June 18, 1904.

In carrying out the provisions of the act quoted above, in so far as it relates to alfalfa, offerings for sale were solicited through agents of this Department from 742 seedsmen. Upon examination of the samples of alfalfa seed obtained in the open market as a result of these nego-

tiations 23 lots were found to be adulterated, as shown in the following table:

Results of tests of samples obtained in the open market as alfalfa seed and found to be adulterated.

Seed offered for sale as alfalfa by—		Seeds used as adulterants.		
Name.	Address.	Bur clover.	Yellow trefoil.	Total adulterants.
		Per ct.	*Per ct.*	*Per ct.*
Darrison, John T.	13-17 Buffalo street, Lockport, N. Y.	.....	43.8	43.8
Do	do	.....	41.64	41.64
Ebeling, F. H.	217 Warren street, Syracuse, N. Y.	4.06	30.22	34.28
Do	do	.....	10.4	10.4
Harvey Seed Co.	65-69 Ellicott street, Buffalo, N. Y.	3.98	40.46	44.44
Do	do	3.6	38.86	42.46
Do	do	.....	36.86	36.86
Jacot & Mullen	1 Water street, New York, N. Y.	.....	34.34	34.34
Do	do	.....	10.7	10.7
Moody, J. A	13 South Phelps street, Youngstown, Ohio.	.....	35.62	35.62
Do	do	.....	39.78	39.78
Small & Co., W. H.	7 and 9 Upper First street, Evansville, Ind.	3.82	39.82	43.64
Do	do	3.44	32.42	35.86
Do	do	4.38	41.74	46.12
Do	do	2.92	36.3	39.22
Do	do	2.88	24.44	27.32
Do	do	5.5	32.62	38.12
Do	do	3.86	30.74	34.6
Teweles & Co., L.	113-119 Clybourn street, Milwaukee, Wis.	11.34	.....	11.34
Young & Halstead	Foot of Grand street, Troy, N. Y.	5.06	17.02	22.08
Do	do	5.66	17.44	23.1
Do	do	6.74	15.22	21.96
Do	do	5.85	16.625	22.475

The Department takes this occasion to call attention again to its offer, repeatedly made in official publications, in circulars sent to seedsmen, and in announcements through the agricultural press, to test and report upon samples of seeds sent for that purpose by any farmer or seedsman.

JAMES WILSON, *Secretary.*

WASHINGTON, D. C., *December 29, 1904.*

[United States Department of Agriculture, office of the Secretary.—Circular No. 14.]

ADULTERATION OF ALFALFA AND RED CLOVER SEED.

Seeds of alfalfa and red clover have been obtained and tested in accordance with the following paragraph contained in the act of Congress making appropriations for the Department of Agriculture:

"The Secretary of Agriculture is hereby directed to obtain in the open market samples of seeds of grass, clover, or alfalfa, test the same, and if any such seeds are found to be adulterated or misbranded, or any seeds of Canada blue grass (*Poa compressa*) are obtained under any other name than Canada blue grass or *Poa compressa*, to publish the results of the test, together with the names of the persons by whom the seeds were offered for sale."

In carrying out the provisions of this act 1,272 seedsmen were asked by special agents of this Department for samples of red clover and alfalfa seed, as offered for sale by them. From these seedsmen 658 samples were obtained and examined. As a result the following lots were purchased in the open market and found to be adulterated. In accordance with the mandatory nature of the act quoted above, publication is here made of the names and addresses of the seedsmen who sold the lots found to be adulterated, together with the percentages of adulteration in each lot.

Results of tests of samples bought in the open market as red clover seed and found to be adulterated.

Seed sold as red clover by—		Seeds used as adulterants.	
Name.	Address.	Yellow trefoil.	Total adulterants.
		Per ct.	*Per ct.*
Rawson & Co., W. W.	12 and 13 Faneuil Hall square, Boston, Mass.	10.55	10.55
Ross Bros	90 and 92 Front street, Worcester, Mass.	26.85	26.85
Small & Co., W. H.	7 and 9 upper First street, Evansville, Ind.	14.08	14.08

Results of tests of samples bought in the open market as alfalfa seed and found to be adulterated.

Seeds sold as alfalfa by—		Seeds used as adulterants.			
Name.	Address.	Sweet clover.	Bur clover.	Yellow trefoil.	Total adulterants.
		Per ct.	*Per ct.*	*Per ct.*	*Per ct.*
Barrett Co., The W. E.	65-87 Canal street, Providence, R. I.	.....	3.47	32.86	36.33
Barteldes & Co.	1521 Fifteenth street, Denver, Colo.	.....	16.86	.....	16.86
Crossman Bros.	503 Monroe avenue, Rochester, N. Y.	.....	5.02	39.48	44.50

Results of tests of samples bought in the open market as alfalfa seed and found to be adulterated—Continued.

Seeds sold as alfalfa by—		Seeds used as adulterants.			
Name.	Address.	Sweet clover.	Bur clover.	Yellow trefoil.	Total adulterants.
		Per ct.	*Per ct.*	*Per ct.*	*Per ct.*
Dallwig, W. E	34 Juneau avenue, Milwaukee, Wis.	.....	5.74	.....	5.74
Everitt, J. A	227 W. Washington street, Indianapolis, Ind.	.....	4.27	38.43	42.70
Do	do	.....	3.90	39.53	43.43
Gregory & Son, James J. H.	Marblehead, Mass	.....	3.00	.....	3.00
Grossman, W	15 Bollingbrook street, Petersburg, Va.	.....	.....	1.25	1.25
Hamilton Bros	Cedar Rapids, Iowa	.....	5.49	.....	5.41
Huntington & Page	130 E. Market street, Indianapolis, Ind.	.....	3.37	38.54	41.99
Kirchner, Jacob F.	156 North street, Pittsfield, Mass.	9.52	.....	.....	9.52
McMillan Seed Co., L. D.	23 S. Broad street, Atlanta, Ga.	.....	10.04	.....	10.04
Martin, B. E	Main and Walnut streets, Salem, Ill.	.....	.....	6.98	6.98
May & Co., L. L	381 and 383 Minnesota street, St. Paul, Minn.	.....	.....	31.77	31.77
National Seed Co.	101 W. Main street, Louisville, Ky.	.....	16.53	.....	16.53
Platt Co., The Frank S.	374 and 376 State street, New Haven, Conn.	.....	5.88	39.85	45.73
Rush Park Seed Co.	Independence, Iowa	.....	12.69	.....	12.69
Steckler Seed Co. (Ltd.), J.	518-526 Gravier street. New Orleans, La.	.....	2.57	.63	3.20
Young & Halstead	Foot of Grand street, Troy, N. Y.	.....	6.23	31.26	37.49

In order to aid seedsmen in avoiding the purchase of adulterated seeds, this Department will examine and report promptly as to the presence of adulterants in any samples of seed submitted for that purpose.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *October 23, 1905.*

Kentucky blue grass—Analyses of adulterated seed.

Test No.	Size of sample.	Offered by—	Address.	Adulterated with—		
				Canada blue grass.	Red top.	Timothy.
				Per ct.	*Per ct.*	*P. ct.*
33118	Mail sample	Leonard Seed Co.	79-81 East Kinzie street, Chicago, Ill.	89.91	.....	.....
33118A	Bulk purchased	do	do	83.23	.....	.....
33125	Mail sample	A. C. Brown	217 South Fifth street, Springfield, Ill.	28.35	.....	.....
33137	do	Schisler-Corneli Seed Co.	St. Louis, Mo.	84	.....	.....
33137A	Bulk purchased	Schisler-Corneli Seed Co.	St. Louis, Mo	8.67	.....	.....
33166	Mail sample	Brewster, Crittenden & Co.	44 North St. Paul street, Rochester, N. Y.	23.77	.....	.....
33166A	Bulk purchased	do	do	24.08	.....	.....
33169	Mail sample	E. E. Wheeler	1131 Main street, Bridgeport, Conn.	36.91	.....	.....
33169A	Bulk purchased	do	do	30.89	.....	.....
33281	Mail sample	Ross Bros	90 Front street, Worcester, Mass.	2.7	45.4	.....
33281A	Bulk purchased	do	do	19.32	.....	.....
33282	Mail sample	Joseph Harris Co.	Coldwater, N. Y.	18.55	.....	.....
33282A	Bulk purchased	do	do	25.11	.....	.....
33287	Mail sample	Harmon & Harris Co.	Exchange and Federal streets, Portland, Me.	46.19	.....	.....
33287A	Bulk purchased	do	do	46.19	.....	.....
33298	Mail sample	Young & Halstead.	Grand street, Troy, N. Y.	59.9	2.9	4.1
33304	do	Martin C. Ribsam.	Broad and Front streets, Trenton, N. J.	78.92	.....	4.2
33338	do	Zack Davis Co.	Delaware, Ohio	23.23	.....	.....
33367	do	M. F. Crissman	Manchester, Ohio.	30.65	.....	.....
33367A	Bulk purchased	do	do	21.49	.....	.....
33387	Mail sample	Denver Seed and Floral Co.	Denver, Colo.	29.3	17.56	.....
33387A	Bulk purchased	do	do	25.1	.....	.....
33396	Mail sample	Arthur G. Lee & Bro.	Fort Smith, Ark	72.55	.....	8.17
33396A	Bulk purchased	do	do	76.85	.....	.....
33424	Mail sample	Plant Seed Co.	814 North Fourth street, St. Louis, Mo.	55.13	.....	.....
33424A	Bulk purchased	do	do	25.98	.....	.....
33436	Mail sample	M. G. Madson Seed Co.	Manitowoc, Wis.	41.56	.....	.....

Kentucky blue grass—Analyses of adulterated seed—Continued.

Test No.	Size of sample.	Ordered by—	Address.	Adulterated with—		
				Canada blue grass.	Red-top.	Timothy.
				Per ct.	*Per ct.*	*P. ct.*
33441	Mail sample	John A. Salzer Seed Co.	La Crosse, Wis.	16.16	------	------
33441A	Bulk purchased	do	do	22.74	------	------
33454	Mail sample	J. A. Everitt	Indianapolis, Ind.	50.3	------	------
33454A	Bulk purchased	do	do	35.99	------	------
33467	Mail sample	Frank H. Battles.	Rochester, N.Y.	19.32	------	------
33492	do	Amzi-Godden Co.	Birmingham, Ala.	32.5	------	------
33497	do	Zack Davis Co.	Delaware, Ohio	25.48	------	------
33497A	Bulk purchased	do	do	21.02	------	------
33499	Mail sample	A. Tilton & Sons.	83 Woodland avenue, Cleveland, Ohio.	23.8	------	------
33499A	Bulk purchased	do	do	25.3	------	------
33557	Mail sample	Curry-Arrington Co.	Rome, Ga	21.54	------	------
33557A	Bulk purchased	do	do	27.74	------	------
33565	Mail sample	Griswold Seed Co.	Lincoln, Nebr.	47.55	------	------
33565A	Bulk purchased	do	do	42	------	------

Mr. FIELD. Doctor, in what variety of seed do you find the highest percentage of adulteration?

Mr. GALLOWAY. Alfalfa seed, usually; and also in the Kentucky blue-grass seed. About 700,000 pounds of Canadian blue-grass seed was brought in this last year——

The CHAIRMAN. Who is the guiltiest party in selling that blue-grass seed? Have you a record there?

Mr. GALLOWAY. The circular on the blue-grass seed is just being prepared now. The two I have here pertain to clovers and alfalfas only.

Mr. SCOTT. The Kentucky blue-grass seed is usually adulterated with an inferior blue-grass seed, is it?

Mr. GALLOWAY. With the Canadian blue-grass seed, which is worthless for planting in this country.

Mr. SCOTT. How about alfalfa?

Mr. GALLOWAY. Alfalfa is adulterated with yellow-trefoil seed, which is also a worthless plant in this country. It is a little, yellow thing that grows on the ground.

Mr. Chairman, it is perfectly plain that the Secretary of Agriculture is not only finding out those who are mixing and selling adulterated seed, but he actually causes to be raised, under his supervision, and tested some of the seed we send out that are the very best that he can have raised, but he also states, through Doctor Galloway, that the seeds which he purchases are "tested" by his Department before they are purchased and sent out, and in this way the farmers are procuring the very best seed possible. You will find all this, gentlemen, referred to in the hearings. At pages 232 to 235 this appears:

Mr. GALLOWAY. I can make a statement now; yes.

I want to say that of the 477 members—and I come in contact with nearly all of them in one way or another at some time—this is the first statement of that kind that has been made—that is, that there are more complaints about the worthlessness of the seed than there are about the goodness of it; because I do not see how anyone who took the ordinary precautions with the seed we send out could help from getting results. We send out seed that must necessarily be better than the ordinary seed that the seedsmen can secure.

Mr. SCOTT. Why?

Mr. GALLOWAY. For the reason that we buy our seed in this way: In the first place, a considerable portion of the seed is grown for us out of what we call our own stock. We know the full history of the stock. We get, for example, a pound of lettuce seed of a high quality, and it is true to name. We can take that pound of lettuce seed and turn it over to a reliable man in California and get 100 pounds that is absolutely true to stock, and in order to make it true we send a man into the field where that lettuce seed is grown and have him rove the field—that is, we eliminate all of the lettuce before the seed have gotten away from the desirable characters. We have for that work a man who has had more experience than any other man in the United States—Mr. W. W. Tracy, sr. His special business is to keep track of our stock. That is the stock we start with. That is done for the greater portion of our seed, and the other we buy out of stock or in the open market under these conditions: We buy to-day, for example, a lot of onion seed. That onion seed, we provide in the contract, must not only be true to name, but must have a certain standard of vitality. It is sent here, and more or less of it is tested in our laboratory, and if it does not come up to our standard it is rejected.

If it is found it is not true to name—and we can only determine that after our field tests are made the following summer—we always withhold a certain amount of pay to cover that; but then during the following summer we make field tests at the Arlington farm and six or seven other places, in cooperation with the experiment stations, of all the seed that enters into the Congressional distribution. We test it for vitality in the laboratory, and we test it for trueness to name in the field.

Mr. SCOTT. Where is your seed grown?

Mr. GALLOWAY. The seed is grown all over the United States.

Mr. SCOTT. Do you make contracts in advance—that is, a year in advance?

Mr. GALLOWAY. We must do that. We are now making provision for the seed for next year. We have to do that in order to be perfectly safe; otherwise we could not secure the seed. We buy all the seed we can in the open market—that is, seed that is now available. We secure it now and have it delivered next August or September; but when it is delivered it must come up to these standards.

Mr. CANDLER. All of them are tested?

Mr. GALLOWAY. All of them are tested.

Mr. CANDLER. Every one when they come in?

Mr. GALLOWAY. When they come in.

Mr. SCOTT. Is it possible to require bids or in any way introduce the element of competition?

Mr. GALLOWAY. Yes; we do that as far as we possibly can. For instance, we want 40,000 pounds of lettuce seed of a certain variety, and we know pretty well the men who can furnish that seed at different places in the Pacific coast region. We send each of those men a blank form and ask him to submit a proposal for that seed. They come in at a certain time, and unless there is some special reason we will give it to the man whose figures are the lowest, considering freight rates. Very frequently a bid on lettuce seed from, say, Chicago, although it might be a lower bid, would cost us more than if the bid came from some other section on account of freight rates. We have to consider those things.

Mr. FIELD. Doctor, the common impression is that dealers, such as Landreth and others, destroy all the old stock, so that each year they offer to the public fresh seed. Is that true?

Mr. GALLOWAY. That is one of the fairy stories that go out.

Mr. CANDLER. Landreth does claim he destroys all the seed left over.

Mr. GALLOWAY. I can not speak for any particular firm, but it is the general practice to blend seed. It is not only the general practice to blend seed, but there are all sorts of apparatus and devices that have for their object the rejuvenation of seed—that is, polishing devices that make the old seed look bright. There are certain devices that will rub the dust off. There are certain cases where, if they do not want seed to grow very well (where we get imported seed), they run them over hot plates to destroy some of the vitality. It is an object sometimes to have the seed, especially high-grade seed, low in vitality, the main object being to keep up the price.

The CHAIRMAN. That is why I asked the question about corn. I suppose if you kiln-dried it the heat would destroy some of its vitality.

Mr. FIELD. Are the seed that are not distributed one year by the Government used the next year for distribution?

Mr. GALLOWAY. No, sir.

The CHAIRMAN. How about that, Doctor? How is it about kiln-dried corn? You say in regard to other seed it does destroy vitality.

Mr. GALLOWAY. It is the pushing of the drying up beyond a certain point. If you dry out corn beyond a certain moisture—beyond a certain percentage—you will destroy the vitality; but if you take out some of the excessive moisture you really improve the corn. It will germinate quicker.

The CHAIRMAN. This corn you have here has not been subjected to kiln drying?

Mr. GALLOWAY. No. The only drying this corn has had is what it has received in my office, where it has been for some time.

The CHAIRMAN. Do you think it is a good corn to plant?

Mr. GALLOWAY. Yes, sir.

Mr. HENRY. Is this a hybrid corn?

Mr. GALLOWAY. No; that is the Boone County white.

Mr. HENRY. Do you know how long that takes to mature?

Mr. GALLOWAY. This corn was grown in Ohio. It is not a quick-maturing corn.

Mr. HENRY. One hundred and twenty days?

Mr. GALLOWAY. Something like that. We have quicker maturing corn. I think this corn would mature up in New York.

Mr. CANDLER. You said, a few minutes ago, that the seed left over, if there was any left over, were not sent out the following year.

Mr. GALLOWAY. There has never been any such miraculous happening as any seed being left over.

Mr. CANDLER. Then there is nothing sent out but fresh seed, and those have been thoroughly tested and found to be true to their type?

Mr. GALLOWAY. Yes; and good in vitality.

Mr. CANDLER. So that they ought to be the very best seed that are sent out.

Mr. GALLOWAY. Under the old practices, before the Department got its own seed, it was the custom to run in poor seed. We could not avoid it. For instance, we made a contract with one man to furnish the seed and do all the work connected with the package, and we specified in the contract that he should furnish certain varieties. When he got along in the busy season, such as it is now—putting up three or four hundred thousand packages a day—he would come in with the statement: "We can't furnish the red Valentine bean. We haven't been able to secure it anywhere. Would not some other variety do just as well?" He would say, "I can't get anything but this other variety," and we would have to take it or let the bean drop out.

Mr. CANDLER. What course do you pursue in order to prevent that?

Mr. GALLOWAY. By taking things forehanded we can make provision all along the line. We have right now enough seed for next year's distribution.

Mr. CANDLER. When the seed come in and you test them and find they do not come up to the standard and are not true to type, what course do you pursue in reference to those seed?

Mr. GALLOWAY. The man who agreed to furnish that seed must take them away. That is, we test in part on the sample and then we test when they come in.

Mr. CANDLER. You do not use them at all?

Mr. GALLOWAY. No.

Mr. CANDLER. Is there any penalty in the contract so that you can require him to come up to it?

Mr. GALLOWAY. The only penalty is we do not take the seed. Under the old practices, when the contractor furnished everything, there was a sliding scale of so many dollars for so many points off. If corn only germinated at 90 per cent instead of 98, we dropped off so many cents for each bushel of corn furnished; but we found that impracticable.

Mr. CANDLER. So that now you just absolutely reject the seed?

Mr. GALLOWAY. We are our own masters now.

The CHAIRMAN. The pro forma amendment being considered as withdrawn, the Clerk will read.

The Clerk read as follows:

Office of the Secretary: Secretary of Agriculture, $8,000; Assistant Secretary of Agriculture, $4,500; and the Assistant Secretary is hereby authorized to perform such duties in the conduct of the business of the Department of Agriculture as may be assigned by the Secretary of Agriculture; chief clerk, $2,500; one solicitor, $2,500; private secretary to the Secretary of Agriculture, $2,500; stenographer and execu-

tive clerk to the Secretary of Agriculture, $2,000; stenographer to the Assistant Secretary of Agriculture, $1,400; private secretary to the Assistant Secretary of Agriculture, $1,600; one appointment clerk, $2,000; one chief of supply division, $2,000; one telegraph and telephone operator, $1,400; one telegraph and telephone operator, $1,200; one clerk class 4, $1,800; three clerks class 3, $4,800; two clerks class 2, $2,800; six clerks class 1, $7,200; two clerks, at $1,000 each, $2,000; one clerk, $900; one clerk, $840; six clerks, at $720 each, $4,320; one chief engineer, who shall be captain of the watch, $1,600; one fireman, who shall be a steam fitter, $900; three assistant firemen, at $720 each, $2,160; one assistant fireman, $600; one carpenter, $1,000; one electrician, $1,000; one painter, $900; one plumber, $900; one blacksmith, $840; thirteen night watchmen, at $720 each, $9,360; two day watchmen, at $720 each, $1,440; one mechanic, $1,100; seven messengers, at $840 each, $5,880; one assistant messenger, $720; in all, $84,660.

Mr. HENRY of Connecticut. Mr. Chairman, I move to strike out the last word.

In view of the doubt that the gentleman from Tennessee [Mr. GAINES] expressed of my ability to furnish letters from farmers or granges, I wish to send to the Clerk's desk and have read very brief resolutions showing the action taken by a local grange in my district on this subject. These are typical of numerous letters and resolutions recently received.

The Clerk read as follows:

ELLINGTON GRANGE,
Ellington, Conn., April 24, 1906.

Hon. E. S. HENRY,
Washington, D. C.:

At a meeting of Ellington Grange, No. 46, held March 28, your position on the free-seed question was heartily indorsed by all present.

Very truly, yours,

J. M. MARKS, *Secretary.*

Mr. BURNETT. Mr. Chairman, I desire to say a few words in reference to this question of free seeds, and I do not wish to say them merely for home consumption or for buncombe, but because I believe the policy of sending out free seeds is a just and a wise one.

Mr. WADSWORTH. May I suggest to the gentleman that he withhold his remarks until we reach the paragraph of plant industry, under which the free seeds will be considered?

Mr. BURNETT. I should be very glad to accommodate the gentleman, but I fear I shall never be seen or recognized by the Chair when that paragraph is reached and prefer to go on now. [Laughter and applause.]

Mr. Chairman, as I have just stated, the remarks which I wish to make are not for home consumption only, or for buncombe. Gentlemen are mistaken when they state that no good results come from the distribution of these seed. The seed men are trying to impose upon us in every way they can, and they have evidently imposed upon the chairman of the Committee on Agriculture. In the RECORD of last Thursday the chairman of that committee obtained unanimous consent to insert in the RECORD as a part of his remarks a list of the newspapers and national granges protesting against the free distribution of seeds. The matter asked to be inserted the Chairman no doubt in good faith thought to be of the character indicated by him, and yet we find among the very first articles inserted three letters from one seed house, and quite a number from other seed houses.

The gentleman possibly thought he was inserting extracts from newspapers and resolutions of granges only, but he has been imposed upon by the very people who are now seeking to impose upon this House, and he has inserted a lot of advertisements of seed men. One of them I call attention to is a letter from Peter Henderson & Co., of March 31, 1906, in which they make an attack upon the Secretary of Agriculture. They quote the following from a letter of a Congressman: "So soon as the Agricultural Department has driven seed men to furnishing good seeds—that is to say, seeds that will grow—there will be no further occasion for a continuance of this gratuity." "These," Henderson's letter says, "are the sentiments of the honorable Secretary of Agriculture repeatedly expressed recently; they are couched in almost the same language that he has used. Privately, to one seedsman, he took the opposite side."

Further on in this letter Henderson & Co. say: "The vegetables on sale in every market in the country, the flowers grown by florists which are raised from seeds, the crops grown by the seed growers, the gardens of the critical amateurs, all refute in the strongest way possible the insinuations of the Secretary of Agriculture relative to the quality of the seeds sent out by the seedsmen."

So the gentleman has inserted here an attack upon the Secretary of Agriculture made by the seed men and given a quasi indorsement to it by inserting it in the RECORD.

Mr. Chairman, there is more in this statement of the Congressman and the Secretary of Agriculture, perhaps, than appears on the outside. It shows that it is one of the purposes and objects and effects of this free-seed distribution to force the seed men to furnish good seed. That has been adverted to by the distinguished gentleman from Tennessee, and I desire to call further attention to it. There are only about $200,000 expended in this appropriation, and there are only a few million packages of free seed sent out. Now, with these great seed men expending their millions, can it be possible that this small number of free seed really comes in competition with the seed men? Is that the real reason of their opposition to this proposition? Is it that the Government comes in competition with them? Is not there behind it a sinister reason—that is, the fear that the Government, by the very seed that they examine and purchase from the seed men, will detect the wrongs that they are perpetrating on the people, and isn't that the real reason that they are making this strenuous opposition? As has been stated by the gentleman who preceded me, let them show letters from the men who till the soil, the small farmers and the small gardeners of this country, objecting to it. A chairman of the National Grange, who, perhaps, works a hundred men and knows nothing about the practical operation of it, may not want them, and a professor in some agricultural college, who sits in an easy chair and talks about the theory of farming, perhaps will not want them, but you go with me to the rural districts, to the one-horse farmer, a man who has 40 acres and a mule, and see if you find any opposition there to this appropriation. Not only that, but it is an encouragement to these farmers to improve their own crops. As to the quality of the seeds, I have no doubt but that if the free seeds are continued the seed men themselves will furnish better seed than they have been in the habit of doing.

Besides this, the little farmer in the rural district who receives from the Government a package of seeds feels that he has some interest in the Government and that the Government has some interest in him. If you take this from them, and the Post-Office Department, as it is threatening to do, curtails their little rural free delivery—cuts them off from that and refuses them the benefits of the second-class rates on papers that are issued in the interest of the farmer—then, indeed, may they feel that this Government has no interest in them. The Post-Office Department has lately refused this privilege to a paper published in Oklahoma in the interest of the farmer and which I hold in my hand. It is called "The Indiahoma Union Signal." Its motto is, "Unity of purpose, and that purpose to be education, industry, reason, justice, kindness, love, and universal happiness." Its subject-matter shows that it is trying to impress these eternal principles on the minds and hearts of its readers and to elevate and enlighten those who till the soil.

This is not the only publication of the kind which the Post-Office Department is trying in this way to suppress, but all over the South and West, where the farmers' unions are trying to build up their little publications, this same thing has occurred.

Mr. Chairman, when such papers as these are thus oppressed, when a paper of that character, literature of that kind, is thus discriminated against by the Post-Office Department, when it can not have the same facilities for circulation as the great metropolitan paper, then the people may well feel that they are not being treated right, but are being oppressed by the Government, which ought to be their protector. When a little $200,000 appropriation is being cut off because part of it goes to aid some poor farmers on the mountain side actually engaged in the cultivation of the soil, while millions are being spent for battle ships, these people feel that they are not being treated right by the Government.

[Here the hammer fell.]

Mr. BURNETT. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that he may have five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. BURNETT. Take the extracts read by the chairman of the committee, and what are they from? They are from the city newspapers—papers whose columns are subsidized by the rich seedsmen. I would like to have some one show me such an extract from the country papers and the papers published in the rural districts that really express the sentiments of the people, because they know and they are in touch with these men who are working and earning their bread by the sweat of their brow. I have in my hand an extract from one of those papers published in my district, the Fort Payne Journal, which says that the Government, if it cuts off the little seed item, is proposing to treat the farmer unjustly in the interest of the great big appropriations for the Navy and other such extravagances. Gentlemen talk about its being paternalism, yet the same gentlemen will speak on this floor for hours asking for a more infamous and vicious paternalism to aid in building up some ship company that can not run with its own means. A few days ago we gave two millions and a half to aid the distressed people

upon the Pacific coast. No man in this House supported that more cheerfully than I did, because it was an urgent demand of humanity; yet, when it comes down to the bare question of paternalism, I submit that that is much more paternalism than it is to aid the man in building up his little farm, knowing that the Government and the Secretary of Agriculture and the Chief of the Bureau of Plant Industry are behind him and encouraging him in his efforts.

Mr. Chairman, I had rather take the statements of one country paper like the one referred to than every paid editorial the chairman of the committee has inserted in the RECORD. They know their people. They hear every heart throb and feel every pulse beat of their country neighbors. Many of the poor farmers of their counties pay the very subscription for their papers with the beans and tomatoes grown from the little package of Government seeds. Now, show me the editorials from the papers which reach the homes and the hearts of the poorer farmers denouncing this "graft," as you term it, and I will believe your witness. But so long as you flaunt in our faces the editorials of the large city dailies I shall dispute their right to speak for the bread makers of my country. I know how my people feel about this matter.

There is no greater pleasure that I enjoy in my official life than to meet these people and their families in their little homes in the valleys and upon the mountain tops, where the latchstring always hangs on the outside and the front door is always wide open, and share with them that hospitality which they are ever glad to dispense. It is these people, Mr. Chairman, to whom the nation goes whenever it is in peril. You will go to the kid-glove farmer perhaps when you want the high officers of your Army, but when you want to find the real fighting man, the private, the man behind the guns, the man on whom the nation may rely, you call for the man behind the plow. Gentlemen told about this being graft. This is a slander upon the Member of Congress who sends out the seed, and not only so, but the man who utters it slanders the good name of the farmers of our land. Stand up, you man who says this is graft, let your slander go into the records of this body, and then go home to meet the righteous condemnation of the men whom you have thus traduced. I challenge one of you to state in this presence that there is a single farmer in your district that can be bought with a package of garden seeds, or that there is a single Member of Congress who believes he can so buy them. But you tell us the seeds are no better than those sold by the regular seedsmen. I deny it. Doctor Galloway, the Chief of the Bureau of Plant Industry, says it is not true.

In his hearing before the committee he said:

Mr. GALLOWAY. I can make a statement now. I do not see how anyone who took the ordinary precautions with the seed we send out could help from getting results. We send out seed that must necessarily be better than the ordinary seed that the seedsmen can secure.

Mr. SCOTT. Why?

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Mr. CANDLER. All of them are tested?

Mr. GALLOWAY. All of them are tested.

Mr. CANDLER. Every one when they come in?

Mr. GALLOWAY. When they come in.

Mr. FIELD. Doctor, the common impression is that dealers, such as Landreth and others, destroy all the old stock, so that each year they offer to the public fresh seed. Is that true?

Mr. GALLOWAY. That is one of the fairy stories that go out.

Mr. CANDLER. Landreth does claim he destroys all the seed left over.

Mr. GALLOWAY. I can not speak for any particular firm, but it is the general practice to blend seed. It is not only the general practice to blend seed, but there are all sorts of apparatus and devices that have for their object the rejuvenation of seed—that is, polishing devices that make the old seed look bright. There are certain devices that will rub the dust off. There are certain cases where, if they do not want seed to grow very well (where we get imported seed), they run them over hot plates to destroy some of the vitality. It is an object sometimes to have the seed, especially high-grade seed, low in vitality, the main object being to keep up the price.

Mr. FIELD. Are the seed that are not distributed one year by the Government used the next year for distribution?

Mr. GALLOWAY. No, sir.

The CHAIRMAN. How about that, Doctor? How is it about kiln-dried corn? You say in regard to other seed it does destroy vitality.

Mr. GALLOWAY. It is the pushing of the drying up beyond a certain point. If you dry out corn beyond a certain moisture—beyond a certain percentage—you will destroy the vitality; but if you take out some of the excessive moisture you really improve the corn. It will germinate quicker.

Mr. CANDLER. You said, a few minutes ago, that the seed left over, if there was any left over, were not sent out the following year.

Mr. GALLOWAY. There has never been any such miraculous happening as any seed being left over.

Mr. CANDLER. Then there is nothing sent out but fresh seed, and those have been thoroughly tested and found to be true to their type?

Mr. GALLOWAY. Yes; and good in vitality.

Mr. CANDLER. So that they ought to be the very best seed that are sent out.

Mr. GALLOWAY. Under the old practices, before the Department got its own seed, it was the custom to run in poor seed. We could not avoid it. For instance, we made a contract with one man to furnish the seed and do all the work connected with the package, and we specified in the contract that he should furnish certain varieties. When he got along in the busy season, such as it is now—putting up three or four hundred thousand packages a day—he would come in with the statement: "We can't furnish the red Valentine bean. We haven't been able to secure it anywhere. Would not some other variety do just as well?" He would say, "I can't get anything but this other variety," and we would have to take it or let the bean drop out.

Mr. CANDLER. What course do you pursue in order to prevent that?

Mr. GALLOWAY. By taking things forehanded we can make provision all along the line. We have right now enough seed for next year's distribution.

Mr. CANDLER. When the seed come in and you test them and find they do not come up to the standard and are not true to type, what course do you pursue in reference to those seed?

Mr. GALLOWAY. The man who agreed to furnish that seed must take them away. That is, we test in part on the sample and then we test when they come in.

Mr. CANDLER. You do not use them at all?

Mr. GALLOWAY. No.

Doctor Galloway is a man of such high integrity that no one would have the temerity to question his statement, and by reason of his intelligence and experience his statements are worthy of absolute credence. He is a disinterested witness, looking alone to the discharge of his duty and the good of the farmer. It would lighten his labors, and at the same time not reduce his salary, to rid him of the seed distribution. This being true, I would take his statement rather than that of a hundred seedsmen. Besides, from the reports that I have myself had from the farmers of my district, I know that what he says is true. I remember one particular instance where a Populist friend of mine told me his experience with some seed which I sent him. It was Rev. Mr. Blair, of near Center, Ala. He told me that when he got the seed he said to his wife that he guessed these were some old Democratic seed that BURNETT had sent him, and were no good, but that he would give them a trial anyhow.

So he planted them right by the side of a lot of bought seed, and bestowed the same care on both, and when the drought struck them he said the bought seed withered and died, but his BURNETT seed went right on growing and bearing beautifully.

A friend of mine on Sand Mountain told me last year that he made about 400 pounds of seed cotton of the finest staple from the package of seed I sent him.

I might add many other letters and statements of the same kind had I time. But, Mr. Chairman, my time is out, and if you will indulge me a few minutes longer I will say a word or two in a general way about this agricultural bill.

It only carries about seven and a half millions of dollars for all the purposes of the Agricultural Department, and yet a bill has just been reported by the Committee on Naval Affairs which proposes to spend $10,000,000 on one battle ship and $90,000,000 for other matters connected with the Navy.

Think of it, gentlemen! More money spent on one battle ship than is spent in looking after the agricultural interests of the entire Government. What are we coming to? A government which grudges to the man who feeds the nation a measly pittance for improved seed, and yet will spend one hundred millions wrung from the toiling masses simply to make the world afraid of us. Gentlemen, such things can not last. Already you hear the mutterings of discontent throughout the land, and unless present methods are changed these mutterings will culminate in the thunders of revolution.

Mr. Chairman, I am not radical in my views. I am not one of those who rejoice in the charge of being "agin the Government." There is no element of the socialist in my makeup. And

yet when the disposition which has cropped out in the consideration of this bill, and which is apparent from the action of the Post-Office Department in its effort to cut off rural free delivery from the farmers of the country, to keep his literature out of the mails, and many other such covert attacks upon him, become so apparent, it is time for every man in public life to rise up in their defense.

But you say the farmers are prospering as never before. In the South this is true. But, Mr. Chairman, it is because they have asserted themselves, and in their cotton association and their unions have banded together in a financial policy that is bringing prosperity. I might elaborate on this phase of the question to great length, but must desist with the exclamation, Shame on the men who have here attempted, not corruptly, I think, but who nevertheless have attempted to strike at the poorer classes of the farmers in the interest of millionaire seedsmen! [Great applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. OLMSTED having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills of the following titles:

H. R. 18709. An act making additional appropriations for the public service on account of earthquake and attending conflagration on the Pacific coast; and

H. R. 15331. An act making appropriation for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5796. An act to authorize the construction of a bridge across the Missouri River and to establish it as a post-road;

S. 5773. An act to provide a site and buildings for the Departments of State, Justice, and Commerce and Labor; and

S. 5530. An act authorizing the procuring of additional land for the enlargement of the site for the public building at Kalamazoo, Mich.

The message also announced that the Senate had passed with amendments the following bill; in which the concurrence of the House of Representatives was requested:

H. R. 395. An act concerning foreign-built dredges.

AGRICULTURAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Salaries, Weather Bureau: Professors of meteorology, inspectors, district forecasters, local forecasters, section directors, research observers, observers, assistant observers, operators, repair men, station agents, messengers, messenger boys, laborers, and other necessary employees, for duty in the United States, in the West Indies or on adjacent coasts, in the Hawaiian Islands, and in Bermuda, who, without additional expense to the Government, may hereafter, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leave of absence not to exceed fifteen days in any one year, which leave may, in exceptional and meritorious cases where such an employee is ill, be extended in the discretion of the Secretary of Agriculture not to exceed fifteen days additional in any one year, $541,550.

Mr. WADSWORTH. Mr. Chairman, I wish to correct a typographical error in lines 11 and 12, on page 7. There is a repetition in those lines of the words already appearing in lines 9 and 10, "without additional expense to the Government," and I move to strike out those words in lines 11 and 12.

The CHAIRMAN. Without objection, the Clerk will make the correction.

There was no objection.

The Clerk read as follows:

Buildings, Weather Bureau: For the purchase of sites and the erection of not more than five buildings for use as Weather Bureau observatories, and for all necessary labor, materials, and expenses, plans and specifications to be prepared and approved by the Secretary of Agriculture, and work done under the supervision of the Chief of the Weather Bureau, including the purchase of instruments, furniture, supplies, flagstaffs, and storm-warning towers to properly equip these stations: *Provided*, That if any of the money for these several buildings remains unexpended for the special purposes for which it is appropriated, so much of it as is necessary may be expended for the repair, improvement, and equipment of any other buildings or grounds owned by the Government and occupied by the Weather Bureau outside of the District of Columbia, $53,000.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word. Is it the intention to have these Weather Bureau buildings at all of the 200 stations in the United States evenually?

Mr. WADSWORTH. Mr. Chairman, I can not say as to that. The intention is to gradually improve and better what you might call the "plant." Where we are paying high rent and there is an opportunity to acquire a piece of ground at a fair price, or if there is some Government land available, the policy will be to erect thereon a building and save rent.

Mr. MURDOCK. What is the average cost of one of these buildings?

Mr. WADSWORTH. About $12,000.

Mr. MURDOCK. And who determines where these buildings shall go?

Mr. WADSWORTH. The Secretary of Agriculture, I suppose, with the advice of the Chief of the Weather Bureau.

Mr. MURDOCK. I want to ask one other question on this paragraph. Professor Moore makes a remarkable statement in the hearings, to wit, that employment in the Weather Bureau superinduces insanity. Did the committee take that seriously?

Mr. WADSWORTH. I am frank to say that I do not recall that remark. If he did make such a statement, I do not remember it.

Mr. MANN. Mr. Chairman, I would ask the chairman of the committee if that is not necessary as a preliminary in many cases? [Laughter.]

Mr. SCOTT. Mr. Chairman, if the chairman will permit, I would like to reply in addition to what he has already said to my colleague as to the intention of the Bureau in the matter of building additional Weather Bureau buildings. The reply is this: That in the large cities it is impracticable for the Government to erect a building because it can not secure sufficient free space about it. In a great many of the cities the Government, of course, has buildings already, and wherever possible the Weather Bureau station is in connection with those buildings. In other cities it is located on other high buildings where the surroundings are favorable for taking the observations, but as a general proposition it is true that it is the policy of the Bureau to build and own its own stations wherever that is practical.

Mr. MURDOCK. Now, just one more question. Has the committee any information as to where these five additional stations are to go this year?

Mr. WADSWORTH. These are not five additional stations; these are five new buildings. In the previous paragraph we provide for four new stations. These are five new buildings at established stations.

Mr. MURDOCK. The committee has no such information.

Mr. WADSWORTH. No; we allow the Chief of the Bureau to decide that from a scientific view, where needed.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

The Clerk read as follows:

PENALTY FOR COUNTERFEITING FORECASTS.

Any person who shall knowingly issue or publish any counterfeit weather forecasts or warnings of weather conditions, falsely representing such forecasts or warnings to have been issued by the Weather Bureau or other branch of the Government service, or shall molest or interfere with any weather or storm flag or weather map or bulletin displayed or issued by the United States Weather Bureau, shall be deemed guilty of a misdemeanor, and on conviction thereof, for each offense, be fined in a sum not exceeding $500 or be imprisoned not to exceed ninety days, or be both fined and imprisoned, in the discretion of the court.

Mr. CRUMPACKER. Mr. Chairman, I move to strike out the paragraph just read. I see no objection to the paragraph except that it is already permanent law. It was enacted into law, I think, on an agricultural appropriation bill several years ago, and it has been continued and carried in the annual appropriation bill from time to time, and it does not add anything to the force or the efficiency of the penal provision to keep repeating it in every agricultural appropriation bill.

Mr. SCOTT. Mr. Chairman, may I ask the gentleman a question?

Mr. CRUMPACKER. Yes.

Mr. SCOTT. Is this provision carried in any statute outside of an appropriation bill?

Mr. CRUMPACKER. It was not made by any statute outside of an appropriation bill, but the rule is that appropriation bills may contain permanent laws, continuing laws, the same as any other bills or acts. They may be subject to a point of order when first proposed, but now if a point of order were made against this paragraph it would be overruled doubtless by the Chair because it is already legislation, notwithstanding it may have been originally enacted in a general appropriation bill.

Mr. SCOTT. Would it be legislation next year if it was omitted from the appropriation bill this year?

Mr. CRUMPACKER. Oh, most certainly, because it is general in its character. There is nothing better settled under the rules of the House and the decisions of the Chair than that a provision in a general appropriation bill that is general in its character and continuing or permanent in its nature is as much law

and as much permanent law as if enacted independently. I made the motion not that I am especially interested in the matter, but to call the attention of the gentlemen who are on this important committee to the fact that it does not add anything to the law and requires the Government to pay a few dollars every year for the printing of this unnecessary and superfluous paragraph. We had about as well include all the penal statutes in a general appropriation bill, so as to remind Congress and the country once a year at least that there are penalties for violating the law. That is the only good I can see it can possibly serve.

Mr. MANN. I would like to ask the gentleman if this is identically the same language?

Mr. CRUMPACKER. Identically the same. I have before me the agricultural appropriation bill of last year, and it has been carried in this identical language in the appropriation bill for five or six years.

Mr. MANN. And it ought to be stricken out?

Mr. CRUMPACKER. It ought to be stricken out of this bill, because it is already the law.

Mr. MANN. It is the law?

Mr. CRUMPACKER. Yes.

Mr. WADSWORTH. Let me ask the gentleman from Indiana, suppose you apply that rule to page 6, for instance, fuel, lights, and repairs, Weather Bureau——

Mr. CRUMPACKER. It would not, because——

Mr. WADSWORTH. Then all you would have to say would be, fuel, lights, and repairs, Weather Bureau, $6,000, without going into details?

Mr. CRUMPACKER. That is an appropriation for the next fiscal year, and in its very nature it is temporary.

Mr. WADSWORTH. The items have been named in past years.

Mr. CRUMPACKER. That is all true.

Mr. WADSWORTH. Why repeat them?

Mr. CRUMPACKER. They are provisions for a year at a time, but in relation to this provision there is nothing in its nature or in its terms to show that it is to be simply for the fiscal year. It is permanent in its character. If the gentleman insists that it be in and will subserve any useful purpose, I have no objection, but I regard it as superfluous.

Mr. WADSWORTH. I do not see any harm it can do.

Mr. MANN. There is harm; decided harm.

Mr. WADSWORTH. What is it?

Mr. MANN. If you attempt to prosecute under this act and it should be in fact only a year, the law will expire before the prosecution could be had, and you would be without any law, and when you put it in year after year it is an assumption on your part that it is only good for one year. You can not effect and carry through a prosecution under this provision within a year, if the defendant has a good attorney, for before you get him convicted the law would expire, if your contention is correct. If our contention is correct, it is a general statute; it is part of the permanent law of the land, and there is no sense in repeating the permanent law every year in an appropriation bill. Your putting it in only gives the construction to it on our part that it is not the permanent law. I dare say you could not effect a prosecution and obtain a conviction unless the court should decide it is the permanent law.

Mr. WADSWORTH. I can only say in answer to the gentleman that a great deal of this bill could go out under that theory.

Mr. MANN. Well, that is true.

Mr. WADSWORTH. But the committee does not agree with the gentleman.

Mr. MANN. I grant to the gentleman the bill might in many respects be well considered and perfected in that regard, but this is the more glaring provision of the bill, because there is not one cent of appropriation in connection with it. Now, in most cases you carry an appropriation——

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. MANN. Mr. Chairman, I move to strike out the last two words. There are a good many provisions in this bill that might well be put in permanent statute and left out of the bill, but usually they are carried with an appropriation; but I think the gentleman ought to consider the fact that keeping this in the bill only weakens the law and does not strengthen it.

Mr. WADSWORTH. The committee is not strenuous on the point whether it remains or not.

Mr. BOWIE. I want to ask the gentleman from Illinois [Mr. MANN] a question, Mr. Chairman. I want to ask him now, if this is a permanent law, and would be the law if it were stricken out, how it could possibly be weakened? How could you weaken a law?

Mr. MANN. By putting it in we give the construction to it that it is not a permanent law.

Mr. BOWIE. I understand. You can not construe it. It must be construed by the court. If we assume that the courts will construe that it is a permanent law, how can it be weakened by being repeated?

Mr. MANN. If the courts shall construe it to be a permanent law, then it can not be weakened by being continued.

Mr. BOWIE. That is my point.

Mr. MANN. That is true. What is the object of our making a construction of the law which does weaken it? That is my point. It amounts to nothing unless it is a permanent law, and there is no way to obtain a conviction under it unless it is a permanent law. There is no such thing as a temporary law of this kind.

Mr. BOWIE. The gentleman will recognize this proposition, that Congress can not construe its own law; it must be construed by the court, and that is a judicial point.

Mr. MANN. While that construction is not binding upon the court, the immediate construction of a law often does guide the court in its construction.

Mr. BOWIE. It has been in this bill several times. According to the gentleman's contention, it has been in here five or six times, and, if there is any danger about it, the harm has already been done.

Mr. MANN. I called the attention of the committee to this subject before, with the understanding that the provision would be left out of future bills.

Mr. NORRIS. Does the gentleman understand that this is permanent law?

Mr. BOWIE. I am inclined to think that that is correct.

Mr. NORRIS. That it is a permanent law?

Mr. BOWIE. But I can not see that you could better the thing by omitting it. We have already printed it.

Mr. NORRIS. I will admit that, for argument's sake; but if you concede it is a permanent law, which I think you must, then what is the use of reenacting it in an appropriation bill? What good does it do?

Mr. BOWIE. None whatever, unless upon this theory: If I am mistaken and you are mistaken, and if it is not permanent law, then you save it by reenacting it. On the other hand, if you and I are correct, and it is a permanent law, we do not do any harm by leaving it in.

Mr. NORRIS. As it stands there it would be a permanent law. It shows on its face to be one. There does not seem to be any more reason for reenacting this criminal statute here every year than there would be any other criminal statute.

Mr. BOWIE. I can not see any possible good in striking it out, and it would be a proper thing to have it in in the event we are mistaken.

Mr. NORRIS. I would strike it out on the theory that all other criminal statutes ought to be left out where they are already law. It does not help them any to reenact the entire criminal——

Mr. WADSWORTH. Mr. Chairman, I ask for a vote on the amendment of the gentleman from Indiana [Mr. CRUMPACKER]. The committee is not particular as to whether this goes out or not.

The question was taken; and the motion was agreed to.

The Clerk read as follows:

Salaries, Bureau of Animal Industry: One Chief of Bureau, $4,500; one chief clerk, $2,000; two clerks of class 4, $3,600; one editor, $2,000; five clerks of class 3, $8,000; thirteen clerks of class 2, $18,200; thirteen clerks of class 1, $15,600; eight clerks, at $1,000 each, $8,000; two clerks, at $900 each, $1,800; two clerks, at $840 each, $1,680; three clerks, at $720 each, $2,160; two clerks, at $600 each, $1,200; one mechanic, $1,200; one messenger and custodian, $1,000; one carpenter, $1,100; one messenger, $840; four messengers, at $720 each, $2,880; one skilled laborer, $840; two skilled laborers, at $720 each, $1,440; two skilled laborers, at $600 each, $1,200; one skilled laborer, $660; two skilled laborers, at $480 each, $960; one fireman, $720; one illustrator, $1,400; in all, $82,980.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word, and I desire to ask unanimous consent that I may proceed for ten minutes. It may not take me over seven or eight.

The CHAIRMAN. The gentleman from Wyoming asks that he may proceed for ten minutes. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, I desire to make a few remarks at this particular point, although, as a matter of fact, what I shall have to say refers somewhat to an appropriation which we will reach later in the bill. But as they refer also to the question of animal industry, I desire to present them at this point.

The question is, Shall we continue to endear ourselves to the hearts of our constituents by distributing among them a few

thousand packages annually of seeds of unknown vintage and uncertain heredity, of the fragrant onion, the luscious rutabaga, and the humble but glorious "the kind that mother used to make" pie-promoting pumpkin; or shall we, with Spartan self-denial, forego this ancient and potent promoter of our claims to statesmanship?

For me, I confess to conflicting emotions in this matter, although, as the Representative of a pastoral and agricultural people, I suffer none of the qualms of conscience relative to the cost of this garden-seed statesmanship that seems to have touched the tender consciences of gentlemen from the city districts whose constituents do not hanker for garden seeds.

No; I am not troubled in the matter on the ground of economy. I would rather prefer to save a few dollars to the National Treasury, if need be, by reducing by a pound or two the proposed tonnage of that $10,000,000 battle ship that the Committee on Naval Affairs would have us build. It is, at any rate, altogether too big a boat to float in any creek up our way.

No, Mr. Chairman, I am not in favor of economizing in the few crumbs of recognition accorded to the real bone and sinew of the country, the farmer and the ranchman; but having been rudely jarred in my complacency over my flower-seed distribution by having had a lady constituent of mine, to whom I had sent several packages of seed bearing their botanical names, which were Greek to me, and labeled "rare and valuable" by the Agricultural Department, point out to me a glorious and vigorous array of seven kinds of sunflowers as the result of my seed distribution, and having had some little difficulty in selecting a proper location in the bracing and glorious but by no means tropical climate of my State for the date palm and cotton seed which are furnished for distribution by a munificent Government, it has occurred to me that possibly the present expenditure for the seed of assorted "garden sass" might be more advantageously utilized if used for the purchase and dissemination of things that the enterprising agriculturist really desired, and which would diversify and improve his products, rather than for the tame and altogether commonplace assortment of squash, turnips, and mignonette with which we have been regaling them out of this appropriation.

My views in this matter have been much strengthened in the past few days by the receipt of a unique and altogether meritorious request from one of my constituents for a contribution from the Agricultural Department, which it would afford me great pleasure to furnish could I do so, and the distribution of which I feel confident would contribute even more to the present nation-wide popularity of the Agricultural Department than did the introduction of the "critter" that stores nitrogen in the roots of alfalfa, or the "varmint" that is said to play Jack the Giant Killer to the cotton boll weevil.

This request, which I have the honor to present to the House in the hope that its presentation may lead to the widening of the scope of this appropriation, so that such meritorious requests may hereafter be granted, possesses the added virtue of being couched in verse. It is sent to me by one Joe Magill, poet lariat of the far-famed hot springs town of Thermopolis in my State, who, with the modesty characteristic of genius, subscribes himself "A reformed Irish-American cow puncher and a mighty poor poet."

I present this petition with some reluctance to the House by reason of the fact that it contains a somewhat flattering allusion to myself, but far be it from me to deny my people the sacred constitutional right of petition, even though my humble self be involved therein.

The petition is as follows:

A POETIC PETITION FOR TWO GOATS.

Frank W., my boy, you're our pride and our joy;
May they send you to Congress again.
If you'll do me a favor, by my soul I'll endeavor
To aid you with voice and with pen.

I haven't a cow and I'm sure you'll allow
That coffee's poor stuff without cream;
But what can you do when you haven't a sou
And riches are merely a dream?

The goat, 'spite its capers, I learn from the papers,
Of milk is an elegant source;
The fluid is good, 'tis drink, aye, and food,
And more healthful than Grape Nuts or Force.

The Billy's a butter, but the Nanny gives butter
That will make the bacteria sick;
Micrococci, bacilli, are knocked dead or silly
As if hit with an ax or a stick.

There are two breeds, I hear, faith I hope they're not dear,
The Department of Ag. has imported.
I like the Swiss goat, but just think of a coat
From the wool of the Persian assorted.

But Persian or Swiss—sure none comes amiss
When the dairy's as dry as a crater.
As the old Latins say, so in this case I may,
"Discrimine nullo agetur." [a]

Now, please get me two; a Nanny will do
To give milk for a short season only;
As a milker she's fine, but I fear she'd decline
To carry on business when lonely.

Just further my plan, and I know, Frank, you can;
So get me a Billy and Nanny,
And I'll chant forth your praise to the end of my days
From Thermopolis clear up to Frannie.

If you'll aid this my scheme—and I know 'tis no dream—
You can make it a brilliant success.
I swear, if you do, I'll pray daily that you
May be President, devil a less.

POSTSCRIPT.

Should you fear for a slip, or red tape need to rip—
For red tape, sad to say's not a myth—
I'll name an old friend who his aid sure will lend:
The Honorable WALTER I. SMITH.

JOE MAGILL, *Thermopolis, Wyo.*

I notice, Mr. Chairman, that this is the first petition from the real people, the agriculturists, so far received, and I hope that we may be able to so widen the scope of this appropriation some time in the future that such reasonable requests may be granted. [Applause.]

The CHAIRMAN. If there be no objection, the formal amendment will be considered as withdrawn, and the Clerk will read.

The Clerk read as follows:

General expenses, Bureau of Animal Industry: For carrying out the provisions of the act approved May 29, 1884, establishing the Bureau of Animal Industry, and the act approved August 30, 1890, providing for an inspection of meats and animals, and the provisions of the act approved March 3, 1891, providing for the inspection of live cattle, hogs, and the carcasses and products thereof which are the subjects of interstate and foreign commerce, and for other purposes, and to prescribe rules and regulations for the safe transport and humane treatment of export cattle from the United States to foreign countries, and the amendatory act approved March 2, 1895, providing for the inspection of live cattle, hogs, and the carcasses and products thereof which are the subjects of interstate and foreign commerce, and for other purposes, and also the provisions of the act approved February 2, 1903, to enable the Secretary of Agriculture to more effectually suppress and prevent the spread of contagious and infectious diseases of live stock, and for other purposes; and also the provisions of the act approved March 3, 1905, to enable the Secretary of Agriculture to establish and maintain quarantine districts, to permit and regulate the movement of cattle and other live stock therefrom, and for other purposes: *Provided*, That live horses be entitled to the same inspection as other animals herein named: *Provided further*, That the Secretary of Agriculture may, in his discretion, waive the requirement of a certificate with beef and other products which are exported to countries that do not require such inspection, $1,575,000; and the Secretary of Agriculture is hereby authorized to use any part of this sum he may deem necessary or expedient, in such manner as he may think best, in the collection of information and dissemination of knowledge concerning live stock, dairy, and other animal products, and to prevent the spread of pleuro-pneumonia, blackleg, tuberculosis, sheep scab, glanders or farcy, hog cholera, and other diseases of animals, and for this purpose to employ as many persons in the city of Washington or elsewhere as he may deem necessary, and to expend any part of this sum in the purchase and destruction of diseased or exposed animals and the quarantine of the same whenever in his judgment it is essential to prevent the spread of pleuro-pneumonia, tuberculosis, or other diseases of animals from one State to another; for improving and maintaining the Bureau Experiment Station, at Bethesda, Md.; to establish, improve, and maintain quarantine stations, and to provide proper shelter and equipment for the care of neat cattle, domestic and other animals imported at such ports as may be deemed necessary; for printing and publishing such reports relating to animal industry as he may direct; and the Secretary of Agriculture may use so much of this sum as he deems necessary for promoting the extension and development of foreign markets for dairy and other farm products of the United States, and for suitable transportation of the same; and such products may be bought in open market and disposed of at the discretion of the Secretary of Agriculture, and he is authorized to apply the moneys received from the sales of such products toward the continuation and repetition of such experimental exports; and the Secretary is hereby authorized to rent suitable buildings in the District of Columbia, at an annual rental of not exceeding $2,500, to be used for office, laboratory, and storage purposes for said Bureau of Animal Industry; and the employees of the Bureau of Animal Industry outside of the city of Washington may hereafter, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leaves of absence not to exceed fifteen days in any one year, which leave may, in exceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agriculture, not to exceed fifteen days additional in any one year: *Provided*, That the Secretary of Agriculture may construe the provisions of the act of March 3, 1891, as amended March 2, 1895, for the inspection of live cattle and products thereof, to include dairy products intended for exportation to any foreign country, and may apply, under rules and regulations to be prescribed by him, the provisions of said act for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause the same to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade; and all the provisions of said act relating to live cattle and

[a] "Tros Tyrius ve mihi nullo discrimine agetur" is an old Latin saying corresponding with our modern slang phrase, "All coons look alike to me."

products thereof for export shall apply to dairy products so inspected and certified: *Provided*, That not more than $100,000 of the sum herein appropriated shall be used for the microscopic inspection and certification of pork for export: *Provided further*, That the Secretary of Agriculture be authorized to expend of the amount hereby appropriated, through the dairy division of the Bureau of Animal Industry of the Department of Agriculture, a sum not to exceed $20,000 in further developing the dairy industry of the Southern States by conducting experiments, holding institutes, and giving object lessons in cooperation with individual dairymen and State experiment stations: *Provided, also*, That the Secretary of Agriculture is authorized to expend $5,000 of the amount hereby appropriated, to especially investigate hemorrhagic septicemia, infectious cerebro-spinal meningitis, and malignant catarrh, prevalent in the State of Minnesota and adjoining States, to work out, if possible, in cooperation with the Minnesota Experiment Station, the problem of prevention by developing antitoxin or preventive vaccines and to secure and diffuse information along these lines.

Mr. CRUMPACKER. Mr. Chairman, I desire to make a point of order against the part of the paragraph beginning with and including the word "and," in line 7, page 13, and down to and including the word "exports," in line 16, page 13.

The point of order is based upon the idea that the provision changes existing law. This paragraph has been carried in a number of agricultural appropriation bills, but from its nature it is temporary—not permanent, not continuing. It applies to the immediate appropriation. The paragraph appropriates upward of a million and a half dollars to be used during the next fiscal year for the purposes enumerated, so that it is necessarily and essentially a provision limiting and confining the appropriation, or authorizing the appropriation for this specific purpose. It applies of necessity to the appropriation contained in the paragraph.

Now, I concede that where there is legislation of a permanent and continuing character contained in an appropriation bill it is just as much law, when enacted and approved, as if it were contained in an independent bill, and subsequently it may become the basis for appropriations in general appropriation bills under the rules of the House. On the other hand, it is settled by a large number of precedents in this House that a provision of this kind, carried from year to year in an appropriation bill, is only for the fiscal year. It only makes law for that one year, and does not furnish the basis, under the rules of the House, to authorize an appropriation on the same subject for the next year.

Now, this provision does not relate to agriculture within the sense of the law. There is no statute anywhere authorizing the Secretary of Agriculture to take the public funds and go into the open market and buy farm products, dairy products, and fruit products to ship abroad, and to use the receipts of those sales abroad to repeat the purchase. This paragraph carries about $1,500,000, and an absolute discretion is vested in the Secretary of Agriculture to use this entire sum if he sees fit, to go into the markets and buy oats, wheat, corn, hay, butter, cheese, or anything of that kind that he sees fit to buy, for the purpose of export and sale in foreign markets, and it authorizes him to repeat that operation without limit. I repeat that there is no legislation authorizing any such power. I have before me the original statute creating——

The CHAIRMAN. The Chair would like to ask the gentleman from New York [Mr. WADSWORTH] whether he knows of any law aside from that contained in previous appropriation bills authorizing this expenditure?

Mr. WADSWORTH. No; I do not. I am inclined to think the provision is subject to a point of order. It has been carried in the bill one or two years.

The CHAIRMAN. The Chair is prepared to rule.

Mr. WADSWORTH. I am inclined to think it is subject to a point of order.

Mr. MANN. This is a matter of considerable importance, and it does not seem to me that the point of order is well taken, although the gentleman from Indiana has invoked it and the Chair seems ready to rule. The provision of law itself in the appropriation bill, so far as the object is concerned, does not relate simply to the current appropriation. The Secretary of Agriculture may use so much of this sum—that is, the current appropriation—as he deems necessary, "and such products may be bought in open market and disposed of at the discretion of the Secretary of Agriculture, and he is authorized to apply the moneys received from the sales of such products toward the continuation and repetition of such experimental reports." That is not something confined to the appropriation act. That is general legislation, giving to the Secretary of Agriculture authority to buy in the open market this class of products and sell them and to reimburse him out of the proceeds of the sale. Now, if that be the policy of the Government, as defined in this law and in permanent form, then it is perfectly proper to make appropriation for it. It is not limited.

Here is a permanent policy provided in this act authorizing the Secretary of Agriculture to purchase in the open market and to sell. Now, to say that only applies for the year would prevent him from carrying out a transaction expressly authorized by the statute as a matter of permanent policy. As to whether he is able to do this without the appropriation of money is another question. The appropriation is confined to the current year. The appropriation of a part of this sum is confined to the current year, and it authorizes the purchase in the open market, but to make the sale it is not confined to the current year. It is a part of the law and need not be repeated in this appropriation act and properly ought not to be repeated in it.

Mr. CRUMPACKER. Will the gentleman allow a question?

Mr. MANN. Certainly.

Mr. CRUMPACKER. If the gentleman is correct, if this paragraph goes out on a point of order the Secretary would have the power to use the money for the purpose specified.

Mr. MANN. Why, certainly he would not. Giving the Secretary of Agriculture authority to do a certain thing and providing the sum of money with which he may do it are two essentially different propositions. The Secretary of Agriculture can only expend money in accordance with the appropriation made, and when we make an appropriation and define the purpose for which the appropriation is made the Secretary can not expend the money for something else, although the law authorizes him to do something else.

Mr. CRUMPACKER. If the gentleman will permit me, these provisions are only permissive; but that does not preclude the expenditure of this money for any other legal purpose.

Mr. MANN. I beg the gentleman's pardon. We may authorize the Secretary of Agriculture to do something to-day, and, if we make the appropriation, give him the authority to do something else to-morrow. He can not divert the fund for which we make the appropriation and spend it for something else that he may be authorized to do.

Mr. OLMSTED. Will the gentleman from Illinois permit me to ask him a question?

Mr. MANN. Certainly.

Mr. OLMSTED. I understand the gentleman's argument to be that assuming this same provision to be in the appropriation bill passed for the previous year, it authorizes this appropriation. Am I correct?

Mr. MANN. The gentleman reaches that conclusion; I reached that conclusion.

Mr. OLMSTED. The difficulty with me is that this act says that the Secretary may use so much of this money as he deems necessary. If that was the provision in the former bill, was not the operation of the former bill limited to the expenditure of the sum provided in that bill and would that serve as a basis of authority for further appropriations for the same purpose?

Mr. MANN. It clearly would not. There is no possible question about that. So far as the appropriation was concerned, it would not be an object in process, but entirely separate from the appropriation. This current law authorizes the Secretary of Agriculture to do certain things. That is not limiting the appropriation at all; that is the current law.

Mr. OLMSTED. It seems to me that that is to be construed in connection with the preceding clause. He may use so much of this sum as he deems necessary for promoting the development of foreign markets, and in so developing them he may purchase products out of this sum.

Mr. MANN. That is the question involved, it seems to me. I say to the gentleman from Pennsylvania that I appreciate the point, but it seems to me that this is authority to the Secretary of Agriculture to buy in the market and sell if he chooses to. If we make no appropriation for it, then he can not expend any more money than he receives from the sale, but the authority is given there, as I take it, by the law to do that. The question of making the appropriation is another proposition entirely.

Mr. POLLARD. Mr. Chairman, I would like to call the Chair's attention to section 526 of the act where the Agricultural Department was created. It is section 526 of the Revised Statutes, and reads as follows:

SEC. 526. The Commissioner of Agriculture shall procure and preserve all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics and by any other appropriate means within his power.

Now, Mr. Chairman, it seems to me the last clause I read covers the point at issue. As I understand this clause in the bill it authorizes the Secretary of Agriculture, for instance, in the line of our corn exports to go into the market and purchase corn, if he so desires, or oats or fruit or any other product of the farm and export that and take the revenues derived therefrom and keep repeating that experiment. It is for the purpose of gathering information relating to the Agricultural Department and the agriculture in this country, and it seems to me that this

clause of the statute covers that ground and gives him the warrant of law for making this experiment.

The CHAIRMAN. The Chair is ready to rule.

Mr. GAINES of Tennessee. Mr. Chairman, referring to the remarks of the gentleman from Nebraska [Mr. POLLARD] it seems to me the portion of the statute which he read does not show the law which applies to the language in question, as I understand it. This is for the purpose, the promotion, extension, and development of foreign markets for dairy and farm products. It is not for the purpose of developing the farm, not for the purpose of taking care of our own farming institutions, but for the purpose of developing foreign markets for the products of farms.

The CHAIRMAN. In the judgment of the Chair the proposition contained in this paragraph is not a continuation of a public work within the language and intent of the rule of the House, and there being no law authorizing the provision, that contained in previous annual appropriation bills being merely temporary, the Chair holds that this paragraph does involve a change in existing law, and is therefore subject to the point of order, and the Chair sustains the point of order.

Mr. HAUGEN. Mr. Chairman, I wish to reserve the point of order to the provision on pages 14 and 15, beginning with line 22 on page 14 and ending with line 13 on page 15, and pending the consideration of that point of order, I ask unanimous consent to offer an amendment which I think will remedy the whole matter, and then I shall not insist on the point of order if the amendment be agreed to. I offer the following amendment.

The CHAIRMAN. The gentleman from Iowa presents an amendment and asks unanimous consent that it may be considered before he raises his point of order. Is there objection?

Mr. MANN. Well, Mr. Chairman, I would like to know what the amendment is before we give consent.

Mr. WADSWORTH. Mr. Chairman, let us have the amendment read.

Mr. MANN. I think we ought to have the point of order stated.

Mr. HAUGEN. Mr. Chairman, I will state that the provision just referred to is new legislation, and is clearly subject to a point of order, and in this appropriation for meat inspection two items—one $20,000 and one $5,000—have been deducted from the amount appropriated for the inspection of meat. The amount is already cut down $104,000. I can not believe that it was intended that the $25,000 should be also included, reducing the amount $129,000. I am now offering an amendment to increase the amount $129,000, which will give the amount estimated for and asked by the Secretary of Agriculture. All the interest I have in the matter is that I think we should have adequate funds to provide for this inspection.

Mr. MANN. Mr. Chairman, it seems impossible for me to ascertain what the point of order covers.

Mr. HAUGEN. The proviso on pages 14 and 15 is new legislation, and clearly subject to the point of order.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In lines 11 and 12, on page 12, strike out the words "one million five hundred and seventy-five thousand dollars," and insert in lieu thereof the words "one million seven hundred and four thousand dollars."

Mr. HAUGEN. Mr. Chairman, it does not seem necessary to discuss this amendment at any length.

Mr. MANN. Mr. Chairman, do I understand that this amendment is pending? I think if the gentleman wishes to make a point of order he should make it and we should dispose of that now.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that this amendment may be considered as pending before he raises his point of order. Is there objection?

Mr. MANN. Mr. Chairman, I am not willing to reverse the rules of the House in that respect, and I object.

Mr. HAUGEN. Mr. Chairman, I am perfectly willing that this appropriation should be made for this experiment, but I am not willing that it should be taken out of the money intended for the inspection of meat.

Mr. MANN. I will say to the gentleman from Iowa that I may be perfectly willing to agree with him, but I am not willing to have the committee put in the position where it is being held up on the threat of a point of order in reference to an amendment. Let us consider it on its merits.

Mr. HAUGEN. Does the gentleman wish me to speak to the amendment?

Mr. MANN. Yes; but in doing so the gentleman will waive his point of order. Of course, Mr. Chairman, I do not wish to shove the gentleman off entirely.

Mr. HAUGEN. I do not wish to take advantage of these gentlemen who are interested in this amendment, but I object to its being taken from the amount appropriated for the inspection of meat. All I ask is that the House consider this amendment.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. HAUGEN. I will have to insist upon it.

Mr. MANN. What became of the item, Mr. Chairman?

The CHAIRMAN. Objection being made——

Mr. HAUGEN. Mr. Chairman, I will withdraw the point of order and offer the amendment. Mr. Chairman, I do not believe it is necessary to discuss the amendment at length. I believe that every Member of this House appreciates the importance of the amendment. If we fail to appropriate this money, we will deprive the cattle growers of our country of their market, as they will be unable to dispose of their stock.

It not only concerns the cattle growers of this country, but every packing industry of this country as well; and if you fail to appropriate the amount you discriminate in favor of the large packing concerns against the smaller. It concerns the good health of every meat consumer in the United States and subserves the health of every American citizen. The amount asked for is $1,679,000; the amount appropriated is $1,575,000, or a difference of $104,000, but to this amount $20,000 for the extension of the dairy interests and $5,000 for some experiments in connection with the experimental station of Minnesota should be added, making a total of $129,000. I will now ask that the Clerk read a communication from Doctor Salmon, which explains the situation.

The Clerk read as follows:

APRIL 24, 1905.

The SECRETARY OF AGRICULTURE.

SIR: Referring to H. R. 18536, making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907, the total appropriation for the Bureau of Animal Industry, as it appears in the bill, is $1,682,980. The total amount requested in the estimates, including statutory salaries, general expenses, tick eradication, and animal feeding and breeding, amounted to $1,811,980, subdivided as follows:

Meat inspection	$840,000
Microscopic pork inspection	100,000
Export cattle and vessel inspection	60,000
Southern cattle quarantine inspection	54,000
Sheep and cattle scab eradication	398,000
Maladie du coit eradication	4,000
Inspection and quarantine of imported animals	32,000
Hog-cholera experiments	6,000
Laboratories and experiment station and scientific investigations	75,000
Animal husbandry	10,000
Dairying	70,000
Administrative and miscellaneous expenditures	30,000
Tick eradication	25,000
Animal feeding and breeding	25,000
Statutory salaries	82,980
Total	1,811,980

The amount requested for tick eradication has been provided for in another section of the bill and increased to $65,000. The difference, therefore, between the amount requested and the amount recommended by the bill is in the amount for general expenses. This amount, as requested, is $1,679,000, and the amount recommended is $1,575,000, or a difference of $104,000. The estimates were very conservative, and the increases were based upon the numerous urgent requests for meat inspection at establishments that are engaged in the shipment of interstate and export meat products, which products should be inspected, as indicated by the acts of 1891 and 1895. From time to time the necessity of increasing the efficiency of the meat-inspection service has become apparent, and, so far as possible, this has been done. It is still necessary to exercise greater supervision over the inspection of animals at the time of slaughter, and it is also necessary to extend this supervision to all meat products until they leave the abattoir where prepared. This additional supervision will require additional assistants, and I consider it very necessary that this precaution be taken.

Several slaughtering establishments engaged quite extensively in interstate trade are without inspection and have not requested that the Department inaugurate inspection at their plants. The failure on the part of some of these establishments to ask for inspection is evidently due to their ability, under present conditions, to slaughter and ship diseased animals which should be condemned and destroyed. These establishments should all be compelled to have inspection or be prevented from entering into interstate traffic.

For several years the Department has been endeavoring through quarantine measures to prevent the spread of scabies among cattle and sheep in certain Western States. As all of the sheep and cattle in these States are not affected with the disease, it is necessary that inspectors be provided in order that healthy animals may be shipped out of the States to markets. On account of the limited appropriation it has not been possible to provide a sufficient number of inspectors for the inspection of cattle, and it has been necessary to permit the shipment of apparently healthy animals to market centers without inspection, the cars containing them being placarded "Uninspected cattle." This measure has not brought the relief that was anticipated, as shippers desire to know before shipment whether their animals, after being inspected at destination, will be permitted further shipment in case it is necessary, or whether they will be quarantined. Frequently animals have been shipped under this provision which were diseased, not only causing great losses to the shippers, but making it necessary for the railroad companies to disinfect their cars, as well as the chutes and stock yards at the shipping point, and the stock-yard companies to disinfect the pens at destination. This has caused these concerns much additional expense and has had the effect of removing from use for a

time quite a large number of cars which were badly needed during the busy shipping season. It is of the utmost importance that sufficient inspectors be provided to facilitate these shipments.

It has also been necessary to curtail very greatly the field inspection force that has been engaged, in cooperation with State officials, in the eradication of scab among sheep and cattle. It is most important that this work be continued in order that the States affected can be released from quarantine and the inspectors stationed there removed to other sections where their services are needed in similar work. Unless a sufficient force is provided so that the work of eradication can be completely performed, it is obvious that the disease will continue for many years. This cooperation has been commenced at the urgent request of the officials of the States and is in exact harmony with the law of 1884 establishing the Bureau.

I would respectfully suggest that Congress be again requested to provide the amount originally recommended.

Very respectfully,

A. D. MELVIN,
Chief of Bureau.

Mr. WADSWORTH rose.

Mr. HEPBURN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. If the gentleman from New York rises to oppose the motion of the gentleman from Iowa he is entitled to the floor.

Mr. HEPBURN. I rose for the purpose of making a request.

Mr. WADSWORTH. All right.

Mr. HEPBURN. Mr. Chairman, I make that motion simply for the purpose of making a request. I made some observations the other day before the committee, and I now ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. WADSWORTH. Mr. Chairman, the committee has allowed an increase to the Bureau of Animal Industry over the appropriation of 1905–6 of $142,980. In the opinion of the committee, with one exception, that was an ample increase to meet all needs.

Mr. MANN. Will the gentleman yield for a question on that point?

Mr. WADSWORTH. The committee will remember when we had the emergency deficiency bill under consideration this question of additional aid to the Bureau of Animal Industry came up, and the Secretary then asked for $130,000 or $134,000 additional money to carry on the work of eradicating scab in cattle and sheep. After investigation the committee finally, with the concurrence of the Senate, allowed him $65,000. Now we have increased the appropriation over last year $142,000, which is, in round numbers, $12,000 more than he asked in his deficiency bill. There is no doubt, in my opinion, if I may continue, and then I will answer any questions——

Mr. MANN. Will the gentleman state what the increase is? Is the increase you speak of over the agricultural bill?

Mr. WADSWORTH. No; over the annual appropriation for the Bureau of Animal Industry for 1905–6, and the increase is $142,980.

Mr. MANN. You include the amount in the deficiency bill?

Mr. WADSWORTH. No; we arrived at that increase somewhat by judging how much deficiency there was in 1905–6, and we gave what he claimed the deficiency was. Now, Mr. Chairman, I want to say one word on this question. I think the Department of Agriculture—and I have some personal knowledge—is unduly alarmed over scabies in cattle, and I see by the allotment of money they have allowed $398,000 for scabies in cattle and scab in sheep. Now, I know something about the cattle business. I have large interests in Texas and small interests in Colorado. I have handled cattle for forty years. I have bought them in every State almost where cattle are raised, including Canada. I have bought them in Buffalo, Chicago, St. Louis, Kansas City, and I have never seen a case of scabies.

Now, that statement may seem extraordinary, but it is absolutely true. I have never seen a case of it. I think the Department has listened to employees out there who have been panic-stricken and exaggerate the danger. That is the information I get from the cattlemen of the West.

Mr. MANN. Is the gentleman's opinion formed from the fact that he never happened to see a case of scabies?

Mr. WADSWORTH. Somewhat, and from men interested in Texas and Colorado, where I am part owner of lands and cattle. I have never seen a case of it.

Mr. MANN. If the gentleman had been around stock yards, he could have seen thousands of cases.

Mr. WADSWORTH. No man living has ever seen thousands of cases around stock yards; neither the gentleman from Illinois nor anybody else has seen them. It does not exist, and Doctor Melvin himself, in the hearings before the committee, as you will see, admitted the disease was not very contagious. It generally attacks animals that are in low condition in the fall of the year or winter, and nine-tenths of them get well in the spring of their own accord, when the grass is growing, and they regain their flesh and strength.

Mr. MANN. I will say to the gentleman that in past years, before we commenced the investigation of the subject, it was a very common thing to see cattle with scabies at stock yards.

Mr. WADSWORTH. The Department of Agriculture has never taken any notice of it until a year or two past. It is a new thing with the Department of Agriculture. The gentleman has got it mixed with some other disease.

Mr. BURLESON. Mr. Chairman, I desire to remind the gentleman from New York [Mr. WADSWORTH] of the fact that in the hearings on the agricultural appropriation bill two years ago the attention of the Chief of the Bureau of Animal Industry was directed to this particular disease of cattle—the scabies—and the request was then made of him that he submit a statement showing where this disease was to be found in the western section of our country and the extent and degree of its prevalence. He spoke of its presence in Texas, and I will state that I have been interested in the cattle business to a limited degree for some time myself and, like the gentleman from New York [Mr. WADSWORTH], I have never seen a case of scabies in all my life. And last year, on the occasion mentioned by me, when the Chief of the Bureau of Animal Industry made his showing to the committee, we were all astonished at the very small number of cattle that he could find affected with scabies, and he collected data from all of the reports that had come into his Bureau from its employees who are looking after this disease and there were comparatively few cases. Absolutely the whole situation has been exaggerated, in my opinion, and I do not hesitate to state it that, in my deliberate judgment, a large part of this fund is used to give a lot of peripatetic gentlemen standing jobs in the western section of our country and that they serve no substantial or good purpose.

Mr. HAUGEN. Mr. Chairman, I do not question the judgment or the knowledge or the integrity of the distinguished chairman of the committee. But I do hold that the Secretary of Agriculture and Doctor Melvin have some knowledge also of what money is necessary for inspection. I do know that in some of these States where a quarantine has been established it is impossible to pass a critter across the State line, and the people that have the cattle are absolutely unable to dispose of them. I know that cholera hogs are being sold, and I know that the meat consumers are complaining. And to deny this appropriation is simply to say to the meat consumers of this country that "You are now to continue to eat the cholera punk and the diseased meat." It is for Congress now to decide.

Are you going to say to the people of the various States that "You are not going to be permitted to sell the stock?" Are you going to say to the packers that are in business in competition with the trusts that are supplied with these inspectors, "We will see that you are not given a market for your products?" Packing concerns have these inspectors. They are able to sell the meat. The smaller concerns that have no inspectors are unable to sell it, inasmuch as the retailer prefers to buy the meat that has been inspected. And it is not only an injustice to the cattle growers of this country, but it is a discrimination against the smaller packers, and it is an imposition on the meat consumers. That is all I care to say about it.

Mr. WADSWORTH. Let me emphasize one fact which the gentleman overlooked. In the allotment of the Committee on Appropriations for the Bureau of Animal Industry, they allotted $398,000 for scabies in cattle and in sheep. I claim that that is an excess allotment, and that you can use the money for ante-mortem and post-mortem examinations of the meats.

Mr. HAUGEN. The gentleman knows that these are estimates, and if that money is not needed for this purpose it can be used for other purposes. I challenge the statement made by the distinguished chairman, that this appropriation has been increased $142,000 over last year. In all fairness, I think he should have stated that we appropriated $63,000 only a few days ago, which should be deducted from the $142,000, and that the Secretary's statement is that the Department is in need of money at the present time to carry on this inspection.

Mr. WADSWORTH. Why?

Mr. HAUGEN. And this must be made immediately available.

Mr. WADSWORTH. Why has he not got money enough? If you will not state, I will.

Mr. HAUGEN. I take the statement of the Secretary.

Mr. WADSWORTH. He was directed by law to allot that appropriation by quarters. He allotted $400,000 to the first quarter—I am speaking in round numbers—$400,000 for the second quarter, $400,000 for the third quarter, and that left him

$200,600 for the fourth quarter. Now, he did not allot it share and share alike for each quarter. If it was absolutely needed, it is here for Congress to determine whether it was or not, but we appropriated $63,000 more.

Mr. HAUGEN. And he asked for $134,000, and he ought to have had exactly what he asked for. Now, the fact that we appropriated $134,000 less than was needed last year is no reason why we should repeat the error.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

Mr. MANN. I move to strike out the last word. This amendment is an increase of the total appropriation. Now, I notice a provision in the bill that not more than $100,000 of the sum hereby appropriated shall be used for the microscopic inspection and certification of pork for export.

Mr. WADSWORTH. That is the Secretary's own amendment, I would say to the gentleman from Illinois. He proposed that amendment. That comes from the Department.

Mr. MANN. The gentleman is satisfied that that will be sufficient?

Mr. WADSWORTH. I take it that the Department knows what it needed or it would not have written the amendment in that way.

Mr. MANN. The gentleman himself has some opinion?

Mr. WADSWORTH. I think it is.

Mr. MANN. That is satisfactory to me. I notice a further provision on page 15—a proviso limiting the investigation. Is that intended to investigate human beings also?

Mr. WADSWORTH. That is a typographical error, which the gentleman from Minnesota [Mr. DAVIS] will correct. We were going to correct it at the proper time.

Mr. MANN. I simply asked for information.

Mr. DAVIS of Minnesota. I desire to make a correction on page 15.

Mr. WADSWORTH. Well, Mr. Chairman, that is not in order now until we dispose of the amendment offered by the gentleman from Iowa.

Mr. HAUGEN. I ask that the amendment may be again read, so that the committee may understand what it is.

The amendment was again read.

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken, and the amendment was rejected.

Mr. DAVIS of Minnesota. Mr. Chairman, I desire to amend, on page 15, line 8, after the word "prevalent," by inserting the following words "among domestic animals," in order to make the paragraph read as it was intended to read originally.

The Clerk read as follows.

Page 15, line 8, after the word "prevalent," insert the words "among domestic animals."

Mr. DAVIS of Minnesota. Mr. Chairman, it will be apparent that the words are necessary in order to make the paragraph at all sensible. Of course it is known the Bureau of Animal Industry only deals with domestic animals, or animals, but by an omission there, or by a misprint or otherwise, the words "among domestic animals" were left out. I think the House can readily see the importance of the amendment, if they feel like adopting the paragraph at all.

The question was taken, and the amendment was agreed to.

Mr. LEVER. Mr. Chairman, I shall not take the time of the committee to discuss a provision beginning on line 22:

That the Secretary of Agriculture be authorized to expend of the amount hereby appropriated, through the dairy division of the Bureau of Animal Industry of the Department of Agriculture, a sum not to exceed $20,000 in further developing the dairy industry of the Southern States by conducting experiments, holding institutes, and giving object lessons in cooperation with individual dairymen and State experiment stations."

I only wish to say, Mr. Chairman, that that provision of the bill carries the gist and meaning of a bill which I introduced on the 20th of January, which was referred to the Agricultural Committee, and I shall to-day only ask the indulgence of the House to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina to extend his remarks in the RECORD. [After a pause.] The Chair hears none.

Mr. MUDD. Mr. Chairman, I wish to submit a few observations upon the very familiar and much mooted subject of free seeds, and make the formal amendment to strike out the last word for that purpose.

As I understand, the amendment that is proposed to be offered providing for free seeds for Congressional distribution will have to run the gantlet of a point of order. Therefore I desire to say what little I propose to say upon this proposition at this time.

We find a very large and very varied assortment of communications in the line of antiseed propaganda collected by the chairman of the Committee on Agriculture and inserted in the RECORD of April 26.

It will be found, upon an inspection of this collection, that nearly everything, aside from an occasional editorial in the Washington Post, comes from people who are interested in the sale of seeds.

There is just one little specimen which forms an apt illustration of this general class of communications, to which I want briefly to call the attention of the committee. It comes from a gentleman by the name of Ribsam—one Martin C. Ribsam—and is addressed to the Hon. IRA WOOD, M. C., one of the Members of this House. It is printed on page 5956 of the CONGRESSIONAL RECORD, and reads as follows:

Hon. IRA WOOD, M. C.,
Washington, D. C.

MY DEAR SIR: I understand the bill to abolish the free distribution of seeds and plants is about to be presented before your honorable body.

If you can see your way clear by casting your vote to abolish the same, I will appreciate it very much.

First. Free seeds are injurious to my business, by the Government giving seeds to consumers.

I do not think it is necessary to read any of the other reasons assigned in this production, Mr. Chairman. In my judgment, the one reason which I have just read is just about the milk in the cocoanut of this antiseed crusade. Every communication in that list, with the exception, I repeat, of an occasional editorial in the Washington Post, is from some seed salesman, or some one directly or indirectly interested in the business.

Now, we all recognize the Washington Post as a great paper. The Post itself will make no denial of this. It has been of great service to me. I should call it my friend. It has exercised a chastening influence, a refining and uplifting influence I know, over my not very lengthy and largely varied political life, by what I must assume to be an inwardly kind, but outwardly caustic, criticism, and gentle excoriation of all my errors and shortcomings—all that I have, and some, I think, that I do not have, every year or so. [Laughter.] I take it for granted its biennial prediction of my defeat for Congress will be due and come along in about sixty or ninety days from this date. [Laughter.]

That also has been to me a source of considerable good and helpfulness in the past when I have been a candidate before. It aroused my people to action when there was an apathetic sort of feeling among the voters which otherwise might have lost me to Congress.

But with all this I have never yet been able to concede, and can not bring myself to the point of conceding now, that the Washington Post—great organ and leader of thought as it is—would be considered an expert authority on soils and seeds and kindred subject-matters along the agricultural line; and I think I may pass by, without any serious consideration, the opinions of that and other great metropolitan journals upon this matter of soils and seeds and similar subjects which enter into the life and the occupation of the farmer, about which I think they know little or nothing of practical advantage.

Mr. LAMB. Did you read that little communication in the Washington Post this morning?

Mr. MUDD. No; I stand here in my place and plead guilty to the charge of not having yet read the Washington Post of this morning. I shall do so, however, just as soon as this little deliverance of mine shall have been finished.

Mr. MURDOCK. My experience has been that the garden seeds furnished by the Government create a demand for other seeds which are purchased from seed dealers. Probably of the two or three thousand people to whom I furnish seeds, many of whom would not otherwise buy seeds, a considerable number, after they get a little start on a garden, go and buy more seed. Does the gentleman think that the letter which he has quoted makes out a good case on that point?

Mr. MUDD. I do not think that any man makes out a good case who asks a Member of Congress to vote against a general distribution of seeds by the Government on the ground that it hurts his particular private business. I consider a request of that character an impudent and arrogant assumption as to the conception of public duty by a Congressman, which ought to be rebuked by adverse action upon the request. When it is understood that such a feeling of private interest as that is about the underlying principle of almost all these prayerful appeals for opposition to free seed that we get here, it ought to impress people from the rural districts, if they had any doubt before, that they ought to sustain the proposition looking to the continuance of the Congressional distribution of seeds.

Mr. Chairman, the opposition to this provision, which contemplates an appropriation of $200,000, comes in this House, so far as I have been able to observe it, in the main, from Members

who represent city constituencies. Of course I have great respect for the opinions of these gentlemen. It comes, from time to time, too, from Members who represent rich constituencies in the country, who do not need and do not want these seeds, who do not write for them, but frequently write to their Congressmen to send them something else of rarer and greater value. It is the wealth of these people, which my constituents and the constituents of most country Members here do not possess, that makes the cost of seeds no serious object of consideration to them.

If the ground of the opposition to this contemplated provision is that the constituencies of the various Members do not want these seeds—and that has, in almost every case, been stated or been known to be the reason—then, *per contra*, a Member in my position ought to vote, and should feel in duty bound to vote, for the incorporation of such a provision in the bill.

My constituents do want the seeds. I stand with my constituents. I propose to get for them, as far as I can, just what they want, and just what they feel that they need. The people of my district—the rural sections of it, I mean—I am sorry to say, are, in very large measure, farmers of moderate means, truck gardeners, and laborers, whose only worldly possessions consist of a little house and an acre or two of ground. It is for these people, particularly the last-named class of them, that, with consistency and earnestness of conviction, I shall vote to continue this distribution, which it has been the policy of the Government to provide for for several decades, at least, in the past.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. MUDD. I ask unanimous consent that my time be extended for five minutes.

There being no objection, it was so ordered.

Mr. MUDD. Mr. Chairman, we vote millions of dollars at the request of our city friends upon this floor—and I always expect to vote in favor of these appropriations—for magnificent public buildings that are erected in the great cities, and only in the cities. If we were to vote only for such buildings, for buildings requiring only such expenditures, as were absolutely and urgently necessary, I apprehend the structures that now cost a million dollars might be erected for less than a hundred thousand dollars.

Some one has made reference to the appropriation for battle ships. We do appropriate munificent sums for battle ships. I take it for granted we will continue to make such appropriations. We spend more than the amount which we would appropriate to supply this item, more than the sum of $200,000, for decorations of the interior of battle ships. I have voted for these items before and I expect to vote for them again, because I believe in a broad and liberal policy on the part of the Government, to typify the greatness of the United States in such concrete forms as are illustrated by magnificent public buildings on land and by magnificent battle ships to ride the seas.

Now, then, Mr. Chairman, when we come to this little pittance of $200,000 these gentlemen grow indignant and arouse themselves to a highly ecstatic state of public virtue in their attempt to save the public money. They want to protect the Government from an expenditure of $200,000 for the people of the country who feel the least, and who are the last to feel, the helping hand of Government expenditures, and then ask for these appropriations of one million or two million of dollars for splendid structures in their city homes.

It has been said in the newspapers and said in this debate that there is a species of "graft" involved in this little expenditure.

Mr. Chairman, if the $200,000 which we propose to expend here in distributing free agricultural seeds to the small farmers and laborers and gardeners of this country shall be found to be the only evidence and extent of "graft" in and around this Capitol, I opine that the people of the United States will not feel seriously called upon with grave concern to fear the loss of the integrity of their Representatives here in the Congress of the United States. I do not think it is in this quarter of expenditure that we will make successful finds in our graft-hunting investigations.

It is said that the Department of Agriculture has at last come to the conclusion that these seeds are worthless. Many Members on the floor are opposed to the distribution of seeds because, as they say, they are worthless.

Mr. Chairman, if it has come to this, that the great Department of Agriculture, with the Treasury of the United States behind it, can not provide improved seeds, can not provide useful and valuable seeds, as improved and as useful and as valuable as are the seeds that are found in the ordinary crossroads stores throughout the country, then the wrong must be laid at the door of the Agricultural Department, and we shall want to look into and bolster up the work of that Department until it can provide and distribute valuable seeds to the farmers—better seeds than they can purchase in the ordinary channels of commerce.

I find another little instance of opposition to these seeds, which further illustrates the trifling character of the opposition.

I notice a statement here in this rich collection of antiseed literature from a postmaster of a little town called Duane, in the State of Virginia. He signs himself R. G. Tyler. I do not know whether a Member of Congress or some one else suggested the propriety of his writing such a letter and uttering such a wail of lamentation over the burdens of the free-seed distribution. I take it for granted that to some extent the arduous labors of that distinguished official were increased just a little bit without a corresponding augmentation of his salary, because of the work of distribution of these seeds, which it is his duty, under the law, to distribute, and distribute faithfully and promptly, to those to whom they are sent.

Mr. LAMB. He is the only postmaster in Virginia that thinks as he does.

Mr. MUDD. Then perhaps he is the only one that ought to be removed from office for writing a communication of this kind. [Laughter.]

Furthermore, Mr. Chairman, we have been told that the Post-Office Department is against this seed distribution.

This is not the only way in which many of us have observed a tendency upon the part of certain officials to minimize and to disparage what they seem to consider as an offensive sort of prestige attaching to the position of a Congressman. Mr. Chairman, I know that there has been a growing feeling in some quarters in the last year or two that Congressmen are, in fact, a very inferior class of beings, the evil of whose existence, because it can not be cured, must, forsooth, be endured, but curtailed as far as practicable. For one I want the Departments and bureaus of the Government to know—and if I had no other reason for voting for this appropriation, I would vote for it to serve notice upon them that the legislative branch of this Government is not made for and is not subject to the Executive Departments, but that the Departments are created to carry out the mandates of the legislative branch of the Government.

For myself I want to say that I shall vote for this appropriation, even if you call it a bounty. There is no bounty that could be voted that would give greater encouragement to the ordinary objects of that form of Government donation. I would vote for it if you call it a subsidy. There could be no subsidy that we could vote that would be productive of greater good to to a greater number. I would vote for it—yes, I would vote for it even if you put it upon the plain, bald ground of an expenditure of $200,000 as a contribution to the contentment of the poor man of this land who receives the seeds, who wants them, who needs them, and who receives substantial benefit from them, and who gives in return an added feeling of interest in his Government, an added feeling of affection for his Government, in that, from his point of view, the Government has seen fit, in even so slight a way, to remember him and to contribute, in even so slight a way, to lighten the burdens of his life's labors and expenditures. [Applause.]

Mr. COCKS. Mr. Chairman, I move to strike out the last two words. The object I have in endeavoring to keep out of this appropriation bill the item for the free distribution of seeds is one that none of the gentlemen seem to have touched upon here. These items in this bill are in the interest of the agricultural people of this country. Now, gentlemen are always calling for proof, and I would like to have them present a resolution of any grange or organization of farmers that are in favor of this proposition. There may be some, but I want to hear from them.

Mr. CURRIER. If the gentleman will allow me, I want to say that I have received sixty-six letters from granges. One grange opposes the distribution; sixty granges returned thanks for the seeds, and in many cases they adopted formal resolutions of thanks. [Applause.] I have received more than 500 letters from farmers, and 99 out of 100 say that these seeds are valuable to them, and that they get good results and new varieties.

Mr. COCKS. Mr. Chairman, I am glad to hear that the farmers in some States appreciate that, but in my own State——

Mr. CURRIER. Mr. Chairman, the gentleman challenged proof.

Mr. COCKS. Certainly. I would like to have the resolution presented, but not a speech. I am perfectly willing to hear it if my time is not curtailed.

Mr. CURRIER. Oh, the gentleman can get what time he needs.

Mr. COCKS. Very well; if the gentleman wants to read it, I have no objection.

Mr. CURRIER. I want to read a very short letter—only a few lines. It is as follows:

Thank you, ever so much, for the seeds. I will put them where they will be most appreciated. I think the girls will most appreciate the flower seeds. We often wondered why the flower seeds were never sent out. There are many wives who would be so pleased with some, and too often the farmers think it too much to get any for them.

Sincerely,

MRS. KEEZER.

Mr. COCKS. Well, that is not an official communication from any organization of farmers.

Mr. CURRIER. I have sixty-five of those that I have just spoken of.

Mr. COCKS. I did not know there were so many granges in the gentleman's State. That is all right. I know that the State Grange of the great State of New York is opposed to it, and I have here the letter of the master of the grange, and I for myself, speaking as a farmer, am and have been always opposed to this free distribution of seeds. Now, so far as the attitude of the farmers of this country is concerned, I am satisfied that the intelligent farmers of the country, the men who really go to make up the great mass of the farming community, are entirely opposed to the free distribution of these common garden seeds.

Mr. LIVINGSTON. Well, that is where the gentleman is badly mistaken; just as badly as he ever was in anything in his life.

Mr. COCKS. Oh, I decline to yield any further. I have a limited time. The gentleman may make a speech in his own time.

Mr. SULLOWAY rose.

Mr. COCKS. Is it a question or a speech? I would be very glad to answer any question that I could.

Mr. SULLOWAY. I would ask why the farmers of this country are opposed to the distribution of seeds.

Mr. COCKS. Because they do not think it necessary or proper business for the Government to distribute these free seeds. That is why.

Mr. LAMB. Mr. Chairman, I am satisfied my colleague will yield to one question.

Mr. COCKS. Yes.

Mr. LAMB. Of the 7,000,000 farmers in this country what proportion belong to the granges?

Mr. COCKS. I could not tell you that.

Mr. LAMB. Well, that is the question.

Mr. COCKS. I am only speaking for those I am acquainted with in a good many States, and I am speaking for my part of the country particularly, and I hope that the other gentlemen will speak, and some of them have, for their parts of the country. And I want to say I am very sorry the farmers have not been here to see the solicitude of their friends for them. It might be that they could gather from the RECORD some of the "mystery of their meaning," but not the "awfulness of their mien" in discussing this subject.

Mr. MANN. Does the gentleman think there will be any failure on the part of the farmers to learn about the solicitude of the Members for them here? [Laughter.]

Mr. COCKS. I think not. I think every man will have his speech duly sent out.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COCKS. Mr. Chairman, I ask unanimous consent to extend my remarks for five minutes more.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for ten minutes.

Mr. POWERS. Oh, no, no. The gentleman only wants five.

Mr. COCKS. Yes; I want ten.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the time of the gentleman from New York may be extended for ten minutes. Is there objection?

Mr. JAMES. I object.

The CHAIRMAN. The gentleman from Kentucky objects.

Mr. JAMES. Mr. Chairman, I will withdraw the objection. I desire to have the time extended to fifteen minutes.

The CHAIRMAN. The gentleman withdraws his objection. Is there further objection? [After a pause.] The Chair hears none.

Mr. COCKS. Mr. Chairman, in the first place those people here who are advocating the various propositions are always quoting the Secretary of Agriculture upon this question. I have here a letter from the Secretary which I desire to read. His letter is as follows:

I have your letter of the 6th, asking my views on the free distribution of seeds. I had something on this subject in my last annual report to the Congress for 1903, and as I do not think I can state it any better than I did then I send you a copy of the paragraph herein. I am of the same opinion still.

JAMES WILSON, *Secretary.*

I will not read that particular paragraph from the report, because gentlemen are familiar with it. In any event he is opposed to the free distribution of common garden seeds. I have here also a letter from the Bureau of Farmers' Institutes in my State, from the director, and he says that he does not know of any farmers' organization in my State that is in favor of this free disposition of seeds. I have here a letter from the master of the State grange, which I will read:

I take this opportunity of addressing you in regard to the free-seed distribution. It seems to me that this is the proper time to cut off this needless and wasteful use of public money. For myself, and for the Order of Patrons of Husbandry, numbering 70,000 members in the State of New York, I wish to enter a protest against any further distribution of common seeds by the Federal Government. So far as the distribution of new and rare varieties of seeds is concerned, I think there is no objection to that, but the practice of sending common seeds should be stopped.

GEORGE A. FULLER, *Master.*

I have several other communications here from various associations.

Mr. WILSON. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. COCKS. No; I do not like to yield now, because I would like to yield all at once. These communications are from the Horticultural Society of New York, from the Sheep Breeders' Association, from the Poultry Breeders' Association, and others.

Now, then, I have here in my hand a letter from almost every agricultural paper of any prominence in the United States. Now, the other side seeks to detract from the value of this source of evidence, because there are seed advertisements in them. Certainly there are seed advertisements in them, but do you not think they have as much consideration for their subscribers as for their advertisers? Their advertisers would not stay with them if their subscribers did not. You know that perfectly well. I have one from the Southern Cultivator, of Atlanta, Ga. I do not think it is necessary to read them, but I will read this as a sample, as it is short:

THE SOUTHERN CULTIVATOR AND DIXIE FARMER,
Atlanta, Ga., March 27, 1906.

Mr. WILLIAM W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: Your inquiry received in regard to the distribution of seed. We beg to say that the Southern Cultivator has very few views on the subject. We all know that seeds distributed are worthless and only given as soft soap by Members of the House who desire to be reelected.

Yours, very truly,

THE CULTIVATOR PUBLISHING CO.,
T. P. HUNNICUTT, *Manager.*

The CHAIRMAN. Will the gentleman from New York yield to the gentleman——

Mr. COCKS. No; I do not yield. I will in a minute, to answer all kinds of questions. I also have one from the Farm and Ranch, of Dallas, Tex., also in the same line.

FARM AND RANCH,
Dallas, Tex., March 19, 1906.

Hon. WILLIAM W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: Will say in reply to your letter of the 13th instant that for many years we have fought the policy of the Agricultural Department in the free distribution of common garden seeds, believing that it was never the intention of the Government to send out seeds in this way. It is right and eminently proper that the Department should experiment with new and valuable seeds and plants, but it seems to us that there would be just as much sense in giving a man an overcoat as there is in giving him common garden seed. However, if the Government should ever undertake to supply the people with overcoats, we trust that the quality will be much better than the quality of the seed they have been distributing.

Yours, very truly,

FARM AND RANCH,
F. P. HOLLAND, *General Manager.*

I have one from the Southern Ruralist, of Atlanta, Ga., which is of the same tenor, signed by the editor.

SOUTHERN RURALIST,
Atlanta, Ga., March 15, 1906.

Mr. WILLIAM COCKS,
Committee on Agriculture,
House of Representatives, Washington, D. C.

DEAR SIR: I have your favor of recent date referring to the free distribution of garden seeds by the Department. In reply would say that I am not only the editor of an agricultural paper, but a farmer and gardener as well. I have been the recipient of these free seeds for years, and they have never been of any benefit to me. In fact, they are usually given to the kids on the place to experiment on. I do not know of a single instance where any farmer has received any practical good from this free-seed distribution, and it involves an enormous expense by the Government and a great burden on the post-office, which is certainly not warranted.

If the original intention of the law governing this free-seed distribution was carried out and the Department confined themselves to

sending out new and rare varieties in sufficient quantities to be of some really practical benefit to the farmers, we would be heartily in favor of it; but the sending out of old varieties of seeds in little dabs is of no benefit to the recipient, and does, in some instances, work a hardship on the seed merchants in the different parts of the country. I certainly trust that Congress at the present session will abolish this free distribution. There are thousands of people opposed to it throughout the country, and we know of no single instance where anyone has said a word in favor of it.

Very truly, yours,

SOUTHERN RURALIST COMPANY.
F. J. MERRIAM, *Editor.*

I have one from the Breeder's Gazette, of Chicago, also along the same line, signed by the vice-president of the association.

THE BREEDER'S GAZETTE,
Chicago, March 16, 1906.

Hon. WILLIAM W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: Answering yours of the 13th, I inclose my editorial paragraph in our issue of March 7 on the free-seed proposition. We have argued for years over columns of space in favor of the abolition of the free-seed distribution, and I did not think it necessary to go into the subject at length. I will say another word on the subject next week.

Yours,

W. R. GOODMAN, Jr., *Vice-President.*

I also have a letter from the manager of immigration of Virginia, who is opposed to that proposition.

Mr. LAMB. What is his name?

Mr. COCKS. His name is Weiss.

Mr. LAMB. You sent him down there.

Mr. COCKS. All right; I did not know where he came from, but I would like to say to the gentleman you are asking us to send other people, too.

Mr. LAMB. But we want those people to work.

Mr. COCKS. I hope he is working. Now, if the gentleman desires, we will be pleased to recall him and send one who will work. I have no sympathy for loafers.

Mr. LAMB. He is a first-rate fellow, but, like you, he is misguided.

Mr. COCKS. Well, I have a whole lot of company right in this House. [Laughter and applause.]

EMPORIA, VA., *March 15, 1906.*

Hon. WILLIAM W. COCKS,
Committee on Agriculture, House of Representatives, Washington, D. C.

DEAR SIR: In reply to yours of the 13th, will say that I go in with you in trying to abolish the free distribution of common garden seeds. I hope that the committee of Representatives will command such action.

Respectfully, yours,

H. W. WEISS,
Manager of Immigration.

I have a letter here from the Kansas Farmer, to show you these come from all over the country.

KANSAS FARMER,
Topeka, Kans., March 9, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: I have your letter of March 7, referring to the matter of the proposed abolishment of the free-seed distribution as relating to garden seeds. The Kansas Farmer is heartily in favor of such abolishment. This distribution is a graft on the Government, an imposition on seed dealers, and a fraud on the recipient of such seed in a great many cases. It is greatly to be hoped that Congress will revise the above, and abolish the distribution of such seed as can be obtained through the regular channels.

Yours, very truly, E. B. COWGILL, *Editor.*

I have a letter here from the Ranch and Range, of Denver, which is also along the same line.

DENVER, COLO., *March 16, 1906.*

Hon. WILLIAM W. COCKS,
Committee on Agriculture,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to your esteemed favor of the 13th instant, wherein you solicit our views on the question of free distribution of common garden seeds, permit us to say that we are just on the point of writing an editorial on this question, a synopsis of which is, that it is a needless expenditure of $100,000 of the people's money, much of the seed being sent to town and city people, who consign them to the waste basket, while that sent direct to the farmers is often illy adapted to his needs, climatic conditions, etc., not being taken into consideration, and on the whole it is regarded by the people in general as a kind of perquisite or, as our western people would term it, graft, by which the legislators scheme to make themselves solid with their constituents. We assure you that if this needless expenditure of the people's money were discontinued and the money so wasted devoted to some phase of the development of our agricultural and live-stock resources, it would meet with the general approval of the people throughout the country.

Thanking you for the courtesy of asking our views on this subject and hoping that such laws may be enacted that much of the needless expenditure may be discontinued and the Government placed on a practical business basis, we are,

Yours, very truly,

RANCH AND RANGE,
By H. S. GROVES,
Editor and Manager.

Also from the Southern Farm Gazette, of Starkville, Miss., signed by the editor:

THE SOUTHERN FARM GAZETTE,
Starkville, Miss., March 16, 1906.

Hon. WILLIAM W. COCKS, *Washington, D. C.*

DEAR SIR: This replies to your favor of March 13. I am certainly glad the Committee on Agriculture favors the abolition of the free distribution of the common garden seeds. The Southern Farm Gazette would have before this given the matter more attention if an unusual demand from our subscribers for information about crops, fertilizers, and improved methods of cultivation had not prevented it.

I am firmly convinced that the abolition of this free distribution of seeds will make for better and more profitable gardening throughout the whole country. Besides reducing the yield of really desirable crops of what ought to be produced, this distribution of seed causes an unwarranted expense. The loss that the postal department suffers from this cause should be avoided and the saving used to extend rural free delivery if there is no other use for it.

Our next issue will not appear before April 1, and I fear that will be too late to aid the cause. If not, I should be glad to be so informed as soon as possible, so that our 12,500 of real farmers can profitably have some facts placed before them.

Very truly, yours, CHAS. M. SCHERER,
Editor Southern Farm Gazette.

I have one from the Twentieth Century Farmer, of Omaha:

THE TWENTIETH CENTURY FARMER,
Omaha, Nebr., March 29, 1906.

Hon. WILLIAM W. COCKS, *Washington, D. C.*

MY DEAR SIR: Several days ago we received a letter from you asking our views on the subject of the abolishment of the distribution of common garden seeds by the Department of Agriculture. I inclose herewith the editorial page of the Twentieth Century Farmer, with a marked editorial on free-seed distribution, which expresses our views on this subject.

In former issues of the Twentieth Century Farmer we have gone into this matter more in detail, but this editorial expresses in a few words what we think of the present method of Government free-seed distribution.

Very sincerely, yours, T. F. STURGESS, *Editor.*

Also one from Farm Life, of Chicago:

FARM LIFE,
Chicago, Ill., March 20, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: Replying to your letter of recent date in regard to our position on the free distribution of common garden seeds, we will say that we do not favor the proposition. It seems to us like an unwarranted subsidy, which can not fail to injure the seedsmen of the United States, and in too many cases we are inclined to believe that the farmers do not consider the seeds valuable.

Trusting that this will make our position clear to you and your committee, we are,

Very truly, yours,

FARM LIFE,
By C. HAM, *Editor.*

Also one from The Farmers' Voice, of Chicago:

THE FARMERS' VOICE,
Chicago, Ill., March 24, 1906.

Hon. WILLIAM W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to yours of the 13th, I beg to say that I shall have something to say on the subject of the free distribution of garden seeds in the April issue of The Farmers' Voice and will send you a marked copy for your criticism. Without going into the matter herein, I will add that we are in favor of the abolishment of this practice and any movement to this end will have our support.

Very truly, yours,

H. A. BEREMAN, *Agricultural Editor.*

One from the Wisconsin Agriculturist:

THE WISCONSIN AGRICULTURIST,
Racine, Wis., March 24, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: Replying to your favor of the 13th instant, beg to say that I am entirely in sympathy with the action of the Committee on Agriculture in regard to the free-seed distribution, and have just written an editorial on the subject, and will send copies to the Members of the House from this State. If the farmers of this country would get after their Members at this time, I believe that it would have a splendid effect. It is a waste of public money and has been for years. No one wants these free seeds, as they are usually worthless, and the Government has no more right to give them away than barb wire or horse blankets. More than this, it has a tendency to educate the people toward graft.

With best wishes for the success of the measure, I am,

Very truly, yours,

THE WISCONSIN AGRICULTURIST,
C. H. EVERETT, *Editor.*

One from the Rural Californian, Los Angeles, Cal.:

RURAL CALIFORNIAN,
Los Angeles, Cal., March 19, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: We thank you for your kind letter of March 13, and wish to say that we have expressed ourselves editorially regarding the abolishment of free distribution of the common garden seeds. It is getting to be a chestnut, as we have published articles regarding it for several years almost monthly. We are with you in this matter; go ahead and do something.

Most truly, yours, THE RURAL CALIFORNIAN.
C. M. HEINTZ.

One from the Ohio Farmer, Cleveland, Ohio:

THE OHIO FARMER,
Cleveland, Ohio, March 15, 1906.

Hon. WILLIAM W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: We heartily indorse the action of the Committee on Agriculture of the House in regard to abolishing the free-seed distribution, and we have strenuously advocated it for years past in the Ohio Farmer. We regard it as an unnecessary waste of public money and a great injury to seedsmen. When first adopted it was justified by existing conditions; now there is no excuse for it. Congress has the same right to distribute farm implements and machinery and live stock as it has to distribute seeds. It is an unjust discrimination against an important

industry. All the common seeds, such as are distributed through Congress, can be obtained at every store or grocery and are cheap. Let the Department of Agriculture introduce, test, and distribute new and useful varieties from abroad. This is all that is needed.

Yours, respectfully,

THE EDITORS.

One from the Gleaner, Detroit, Mich.:

THE GLEANER,
Detroit, Mich., March 15, 1906.

Mr. WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: We have before us your valued favor of March 13 and have carefuly noted contents.

We are very much opposed to the giving away of seeds, as has been the custom in the past. We believe it is wrong and an imposition and that the practice should be stopped.

Yours, sincerely,

JAMES SLOCUM.

Mr. GAINES of Tennessee. Did you write to these men?

Mr. COCKS. I wrote and asked their position.

Mr. LAMB. That explains it.

Mr. COCKS. Is not that a pretty good way of getting information?

Mr. GAINES of Tennessee. Have you any letters from the laboring man who goes out with a grubbing hoe and works in the soil instead of working the air?

Mr. COCKS. Now, Mr. Chairman——

Mr. LILLEY of Connecticut. I have fifty here right from the soil.

Mr. GAINES of Tennessee. Give me some from a fellow who has cockleburs in his hair and knows what it is to till the soil himself.

Mr. COCKS. I could not satisfy you on this question if I gave you everything, anyhow. I also have a letter here from the editor of the Topeka Mail and Breeze, a well-known paper in the State of Kansas:

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., March 13, 1906.

Editor of Mail and Breeze, Topeka, Kans.

ESTEEMED FRIEND: You have perhaps noticed by the papers that an effort is being made to abolish the free distribution of the common garden seeds. The Committee on Agriculture of the House of Representatives will recommend such action. Would be glad to have your views on the subject, and, if you are in favor of the proposition, to have you do what you can toward helping it along.

Yours, truly,

WILLIAM W. COCKS.

I am decidedly opposed to the free-seed graft. It is wrong in principle. It costs the Government lots of money, and there is no benefit to anyone.

ARTHUR CAPPER.

I have also one from the secretary of the New York State Grange confirming the statement from the master:

NEW YORK STATE GRANGE, P. OF H.,
Skaneateles, N. Y., February 15, 1906.

Hon. WILLIAM W. COCKS, M. C., *Washington, D. C.*

DEAR SIR: Your esteemed favor of the 13th received and noted. The State Grange did take action relative to the free-seed distribution. They are unanimously opposed to it and have been for a long time. They look upon it as a very useless and extravagant thing to do. Our legislative committee would be pleased to call on any committee at Washington and express these views at any time.

Yours, respectfully,

W. N. GILES.

I also have one here from the Fruit Growers' Association; then one from the Farm and Fireside, of Springfield, Ohio; one from Minneapolis; one from the Michigan Farmer; one from Detroit; one from the Farmer, of St. Paul, Minn.; one from the Tribune, Sioux City, Iowa; and one from the New Haven Farmer, New Haven, Conn.; also a communication from Mr. Jordan, of the Agricultural Experiment Station, Geneva, N. Y.; also one from the editor of the Rural New Yorker, of New York; the Rural Home, of New York; also one from the editor of the Farm Journal, of Philadelphia; also one from the Orange Judd Company. I also have a letter from one of the most successful florists in my country, a man who is an authority on carnations and peonies, who is a member of the board of control at Geneva Experiment Station, New York, which is along the same line. I also have one letter from a constituent of mine, and I can say that I have one consistent man in my district, at least. He says:

I am strictly opposed to the free distribution of seed by the United States Government, and have returned to the Department of Agriculture the package received through your courtesy.

CHARLES H. ALLEN.

Mr. MANN. Is he a publisher, too?

Mr. COCKS. He is a florist. He is not a seedman. He is a "farmer under glass," as we call him.

Mr. MANN. He is not an editor of any paper which is enjoying the second-class mail graft? He has not returned any of that, I suppose?

Mr. COCKS. If the gentleman will only not consume my time——

Mr. MANN. The gentleman consumed some of mine.

Mr. COCKS. I had forgotten that courtesy.

I also have a letter from a farmer in my district by the name of S. F. McDonald, along this same line. I also have here clippings from various other agricultural papers, where I did not receive communications directly from the editor. I will ask unanimous consent to extend my remarks in the RECORD and include those.

Mr. BARTLETT. Will the gentleman yield for a question?

Mr. COCKS. In one minute, and I will answer all kinds of questions.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I move that the gentleman's time be extended. I ask unanimous consent that the gentleman may have as much time as he desires.

Mr. COCKS. I do not want but little more.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] asks unanimous consent that the gentleman may continue his remarks for five minutes longer. Is there objection?

There was no objection.

Mr. BARTLETT. May I ask a question?

Mr. COCKS. Yes, sir; certainly.

Mr. BARTLETT. Those letters and matters you have read were sent to you by these gentlemen because they recognized you as the chief advocate of the abolishment of the seed distribution in this bill?

Mr. COCKS. I do not know. They were in response to inquiries as to their views. I can show the gentleman a copy of my letter.

Mr. BARTLETT. Did you not make a motion in the committee room by which the seed business was ruled out?

Mr. COCKS. I simply wrote them a courteous letter, asking for their views. I have a copy of the letter somewhere which I will show the gentleman if I can find it.

Mr. BARTLETT. Doubtless the gentleman is the champion of the proposition to prevent any further distribution of seed?

Mr. COCKS. Common garden seed? Oh, certainly; yes.

Mr. BARTLETT. It is for that reason, I apprehend, that these letters and articles were sent to you?

Mr. COCKS. They were sent to me. I asked their views, and they were sent to me on that account.

Mr. RUCKER. I understood the gentleman to read a letter a few moments ago from one of his constituents advising him that the package of seed received had been returned to the Department of Agriculture?

Mr. COCKS. Yes.

Mr. RUCKER. Then I infer the gentleman used his quota of vegetable seed?

Mr. COCKS. I did.

Mr. RUCKER. And only one package was regretted and returned?

Mr. COCKS. That is the only one, I think. A good many of my constituents would a great deal rather have jackknives, a set of colors, or a compass, or an anchor, or something of that kind.

Mr. RUCKER. Does the gentleman try to get those things on?

Mr. COCKS. No; but that is an attitude of human nature.

Mr. WILSON. Mr. Chairman——

Mr. RUCKER. Let me ask the gentleman another question. Will the gentleman yield?

Mr. COCKS. I will yield to the gentleman from Illinois [Mr. WILSON].

Mr. WILSON. How many letters had you?

Mr. COCKS. I think about thirty or forty; I had answers from nearly every one of them.

Mr. WILSON. Were they all opposed?

Mr. COCKS. All that answered were opposed, and all the editorials in the papers were opposed.

Mr. WILSON. Did you get any letters that were not opposed?

Mr. COCKS. No; I have not got one. Every answer that I received was opposed to the free distribution. Now, I will answer the gentleman from Georgia.

Mr. BARTLETT. Has the gentleman examined publications of the editors whose letters here were read to see whether or not they are filled up with advertisements of seed men?

Mr. COCKS. I assume that they all have seed advertisements. I assume that the seed business is a legitimate business, and I assume that the editors of those papers are as careful of their subscribers as they are of their advertisers. That is the position I take in the matter.

Mr. FORDNEY. Will the gentleman allow me to ask him a question?

Mr. COCKS. Certainly.

Mr. FORDNEY. Is it not true that all the letters you have are replies to a letter that you have written to the parties?

Mr. COCKS. Most of them are.

Mr. FORDNEY. Did you get any letters that you did not write for?

Mr. COCKS. Yes; I got six or seven or eight. I think I had six, seven, or eight private letters sent me from parties who did not know I was interested in the matter, calling my attention to the fact that the proposition was to be made and asking my support.

Mr. FORDNEY. Were you not aware that in writing to those parties you were sure what their replies would be?

Mr. COCKS. I had not; I had only taken the proposition up in this way, and I have no personal interest in the matter.

Mr. ADAMS of Wisconsin. Will the gentleman yield to me to ask a question of the gentleman from Michigan?

Mr. COCKS. Certainly.

Mr. ADAMS of Wisconsin. I would like to inquire of the gentleman from Michigan if he regards it as pertinent in the consideration of a question, if a man reads a letter, that the party has responded simply because another party has asked him to reply?

Mr. FORDNEY. Any man can find trouble by looking for it.

Mr. ADAMS of Wisconsin. Let me ask the gentleman another question. Does he not know that nearly every great agricultural journal in the United States is opposed to the Congressional distribution of seeds?

Mr. FORDNEY. I do not.

Mr. ADAMS of Wisconsin. And opposed to it largely because the sentiment of their subscribers is in accordance with that of the Department? [Cries of "No."]

Mr. FORDNEY. I know of no opposition to the proposition at all except that which comes from the seed dealers. [Loud applause.]

Mr. COCKS. Mr. Chairman, so far as that is concerned——

Mr. ADAMS of Wisconsin. Will the gentleman yield just for one moment?

Mr. COCKS. Certainly.

Mr. ADAMS of Wisconsin. For the information of the gentleman from Michigan, which I have no doubt he will accept with the grace that he always accepts information, I want to say to him that the Roundtop Farmers' Institute organization, at its last meeting, in March, composed of 700 to 1,000 farmers, representing the best farming sentiment of the State of Wisconsin, the men who toil in the soil and work with their hands, who believe in farming, and respect the dignity of the farmers' profession, unanimously voted against this Congressional seed distribution. [Applause.]

Mr. MANN. And yet they are in favor of the oleomargarine graft. [Laughter.]

Mr. COCKS. I want to say to you, and to the House, that I believe that that is true of the farmers' organizations anywhere, and I am surprised at what gentlemen said——

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. DRISCOLL. I ask unanimous consent that my colleague may be allowed to proceed for five minutes more.

Mr. GAINES of Tennessee. Mr. Chairman——

Mr. COCKS. I will never finish my remarks if I yield any more.

Mr. GAINES of Tennessee. I want to ask the gentleman this——

The CHAIRMAN. Does the gentleman from New York yield?

Mr. COCKS. No; I can not yield now. When I finish my remarks the gentleman can ask me any question he desires in his own time. I have already imposed upon the good nature of the House. I have had too many favors granted me already to ask for any more. I just want to say that when gentlemen speak of the agricultural papers of the country, those letters I have read are from agricultural papers. Now, the question is about the things that the farmer wants to have done instead of distributing free garden seed. That which is of more interest to him, and which is the real question, is what they are doing in regard to new and rare seeds; what they are doing in searching along these lines in different countries for valuable new varieties. Now, that is the kind of work that the farmers of the United States are anxious that the Department of Agriculture shall do, and not peddle out common garden seed.

Now, so far as the seedmen's proposition is concerned, the principal seedman in my district has many times been very glad to sell to the Government large quantities of seed. He is not opposed to this proposition on that ground, for he has sold very large amounts of seed to the Government at different times.

Mr. GAINES of Tennessee. What is his name?

Mr. COCKS. So that that proposition is not necessarily all one way. These seeds nearly all come from the seed growers. Not half the seed dealers grow all the seeds that they send out.

Mr. SIMS. I should like to ask the gentleman whether the Government tests the seeds that it buys?

Mr. COCKS. I decline to yield any further.

The CHAIRMAN. The gentleman from New York declines to yield.

Mr. COCKS. I propose to call the attention of the House to some of the things that have been done by the Agricultural Department, and to call attention to the fact that a great many valuable plants are now awaiting discovery by the Agricultural Department, especially in eastern Asia, whose climate is more nearly like ours than any other part of the world.

I ask leave to insert this as a part of my remarks. Now, I will yield to the question of the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. I understood the gentleman to read a letter.

Mr. COCKS. Yes.

Mr. SIMS. Which said that these seeds were worthless.

Mr. COCKS. Some of them are worthless, I believe.

Mr. SIMS. Did you say it?

Mr. COCKS. I can not quote from memory just exactly what every man said who wrote a letter.

Mr. SIMS. Don't you know that that statement is not true?

Mr. COCKS. I know that some of them are worthless.

Mr. SIMS. That letter said these seeds are worthless, did it not?

Mr. COCKS. Some of them are.

Mr. SIMS. And you have just admitted that these seed men sell a great many seeds to the Government.

Mr. COCKS. Of course they do. Anybody who has ever had any experience knows that there are a great many poor seeds in the very best that you can raise. Every time you try to raise a lot of seeds you get a lot of poor stuff. You know that just as well as I do.

Mr. SIMS. Does the Government test the seeds it buys?

Mr. COCKS. The Government tests for germination and sometimes for type, but not always. It can not test for type every year—as to whether the seeds are true to type or not. There is not time in a single year to test for the purpose of determining whether a radish seed is going to turn out a radish or a beet.

Mr. SIMS. Are not the seeds improved by the Government experts?

Mr. COCKS. Under this bill, the Government will continue to improve seeds as fast as it can, so far as concerns new and useful varieties. We want to increase that part of the Government work. That is what we want to do.

Mr. CANDLER. Will the gentleman yield to me?

Mr. COCKS. Yes.

Mr. CANDLER. Did not Mr. Galloway say in the hearing before the committee that all the seeds were tested not only to determine germination, but also to determine trueness to type?

Mr. COCKS. If they do, then they are old seeds; that is all.

Mr. CANDLER. He testified to that.

Mr. COCKS. I don't remember that, but if he did they are old seeds; that is all.

Mr. MANN. I understood the gentleman to say that he was strongly in favor of that part of the appropriation for obtaining and testing new and rare seeds.

Mr. COCKS. Yes.

Mr. MANN. Why, then, did the gentleman's committee strike out most of the appropriation which has been used for that purpose?

Mr. COCKS. We do not strike it out. It is our proposition to insert an addition if this garden-seed proposition is stricken out.

Mr. MANN. Do I understand that the committee now propose to change their report and to offer an amendment?

Mr. COCKS. The committee has always been in favor of the new and rare varieties.

Mr. MANN. Is it the proposition now to offer an amendment to the bill, admitting that the committee was wrong?

Mr. COCKS. No; not admitting that the committee was wrong, but substituting rare seeds for the common garden seeds.

Mr. MANN. I will repeat. I say the gentleman's committee, in the appropriation that is reported to the House, struck out a large sum of money which has heretofore been used for the very purpose which the gentleman now says is proper.

Mr. COCKS. If the gentleman will have patience I think the bill will be perfected.

Mr. MANN. I think the committee will perfect the bill. [Laughter.]

Mr. COCKS. I hope they will.

Following are some of the letters and statements to which I have referred:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., March 7, 1906.

Hon. WILLIAM W. COCKS,
House of Representatives.

MY DEAR SIR: I have your letter of the 6th, asking my views on the free distribution of seeds. I had something on this subject in my annual report to Congress for 1903, and as I do not think I can state it any better than I did then, I send you a copy of the paragraph herein. I am of the same opinion still.

Very truly, yours, JAMES WILSON, *Secretary.*

THE DISTRIBUTION OF SEEDS AND PLANTS.

With regard to the securing and distributing of miscellaneous garden and flower seed, the fact remains that this work does not accomplish the ends for which the law was originally framed. There are collected, put up, and distributed now, on Congressional orders, nearly 40,000,000 packets of miscellaneous vegetable and flower seeds each year. These seeds are the best that can be obtained in the market, but from the fact that large numbers of packets are wanted the seed obtained can be of standard sorts only, such as are to be found everywhere for sale in the open market. As there is no practical object to be gained in distributing this kind of seed, it seems very desirable that some change be made. To this end it would seem wise to limit our work entirely to the securing and distributing of seeds, plants, etc., of new and rare sorts. There is still much to be done in the way of securing seeds, plants, etc., of this kind from abroad, but still more to be accomplished in careful investigations of our own possibilities in this direction. There are many valuable plants scattered all over this country which are still little known outside of their respective localities. These should be collected, tested, and distributed. There are also great possibilities of improving agricultural industries by distributing specially bred seeds and plants.

As the plant-breeding work of the Department increases opportunities for securing seed of this nature will accumulate. To do this work in the most effective manner, arrangements could be made in all cases to secure the advice and assistance of Senators and Representatives who have agricultural constituents. The Department has a well-organized force of scientists who are thoroughly familiar with the general conditions of soil and climate in nearly all parts of the country. Special crops could be selected for special purposes, and with the advice and cooperation of Members of Congress such crops could be placed where they would do the most good. This is a line of work that would result in very much more value to individual districts throughout the country than the distribution of a large quantity of common varieties of garden seed which have no particular merits so far as newness or promise are concerned. I shall inaugurate the coming year work along the lines here mentioned, and hope to receive the cooperation and aid of Congress in this matter. (Extract from Report of Secretary of Agriculture for 1903, issued December 1, 1903.)

[Progressive Farmer and Cotton Planter, Raleigh, N. C., March 15, 1906.]

THE FREE-SEED HUMBUG.

By a vote of 8 to 7, the Committee on Agriculture has cut out the appropriation of $240,000 for seed for free distribution. Now is time for Congress to stop the free-seed graft that has been going on for lo, these many years. How many people have been benefited by this free distribution of seed? The intention of the Government sending seed to the farmers over the country was good, but the plan has been so abused that next to nothing of benefit has been derived from it. The cost has been not only $240,000 per year for seed alone, but look at the extra expense incurred in handling them. The beneficiaries so far have been the seed houses, the extra number of clerks and officials necessary to carry on the work, and the railroads for hauling them.—Smithfield Herald.

[The Farmers' Voice and Rural Outlook, Evanston–Chicago, April, 1906.]

The time seems close at hand when the ancient and honorable custom of sending a constituent a package of garden seeds, to put him in proper voting frame of mind, will be put aside and filed in the archives of unwritten history as an experiment which was well meant in its origin, but pestiferous and obnoxious in its ending. It is no sacrifice in principle of the contention that a beneficent government should act in loco parentis to all its citizens. There are some things which can be done better by the people through Government channels than can be done for them by private control of corporations. All insurance should be furnished by the Government. The cost to policy holders would be reduced to the mere clerical expenses of the bureau and the credit would be A 1. The distribution of garden seeds as it has been followed is not a success, and the appropriation will very likely be omitted at this session of Congress.

[Washington Post, April 10, 1906.]

OPPOSED TO FREE SEEDS—SECRETARY WILSON SAYS NO GOOD RESULTS FROM DISTRIBUTION—NATIONAL GRANGE CONDEMNS PRACTICE, AS DO BRANCHES IN THE SEVERAL STATES.

As the impression prevails in some quarters that Secretary Wilson and the officials of the Agricultural Department favor a continuance of the free distribution of seeds, an inquiry was addressed to Dr. B. T. Galloway, chief of the Bureau of Plant Industry, to which Doctor Galloway replied:

"The views of this Department, with reference to the distribution of miscellaneous vegetable and flower seeds, have been clearly set forth in our various reports. The attitude of the Department was stated by the Secretary in his report for 1903, extract from which I send inclosed."

The extract says: "With regard to securing and distributing miscellaneous garden and flower seeds, the fact remains that this work does not accomplish the ends for which the law was originally framed. There are collected, put up, and distributed now, on Congressional orders, nearly 40,000,000 packets of such seeds each year. These seeds are the best that can be obtained in the market, but from the fact that large numbers of packets are wanted, the seed obtained can be of standard sorts only, such as are to be found everywhere for sale in the open market. As there is no practical object to be gained in distributing this kind of seed, it seems desirable that some change be made. To this end, it would seem wise to limit our work entirely to securing and distributing seeds, plants, etc., of new and rare sorts. * * * This is a line of work that would result in much more value to individual districts throughout the country than the distribution of a large quantity of common varieties of garden seed, which have no particular merits, so far as newness or promise are concerned."

Those Members of Congress who still hang on to "free seeds" are defending their position by asserting that "the farmers want them." This position appears untenable, from the fact that the National Grange, at its last annual convention, at Portland, Oreg., vigorously condemned the free-seed appropriation, as have the State granges of Illinois, New York, and other States.

[The Breeder's Gazette, Chicago, March 21, 1906.]

HELP KILL FREE SEEDS.

It is intimated that a fight will be made in the House to reincorporate the appropriation for free seed distribution, which was eliminated by the committee in preparing its budget for the Department of Agriculture. It is not to be supposed that this hoary-headed petty graft would die easy, but it should die hard—good and hard and dead. Farmers can kill it. If only half of this journal's readers would write letters to their representatives requesting that they vote against an attempt to appropriate the people's money for such private ends, any amendment that shows itself in the House would be quickly killed. What kind of a letter should be sent? Here is one which the writer of this editorial has forwarded to his Congressman:

"I acknowledge receipt of several packets of garden seeds, sent me with your compliments under your frank.

"If the Department of Agriculture would like me to devote any part of my farm or garden to testing any new variety of plants I would be pleased to comply, but there is no more reason why the Government should supply me with common garden seeds than with bread and meat.

"Kindly accept this as a request that you do all in your power to secure the abolition of the free distribution of common seeds. I am sure that such an act would meet with the approval of the farmers of your district, who do not desire to be considered pensioners on the Government, even to so slight an extent."

Try a letter something like that. Let your Congressman know that he can not get your vote or hold it by sending you a dime's worth of garden seeds. Help Congress to lop off this scandalous misappropriation of money. Let the distribution of seeds be confined to rare varieties which the Secretary of Agriculture desires tested under different conditions in this country. That was the object of the original appropriation for this purpose, but it has been sadly perverted into a perquisite by the use of which a Member is supposed to curry favor with his constituents. Let us have an end to it. Members of the House Committee on Agriculture who have recommended the abolition of this appropriation would be pleased to have the farmers of the country support them in the move.

[The Breeder's Gazette, Chicago, March 7, 1906.]

The free-seed joke got a jolt in the House Committee on Agriculture the other day. Several Secretaries of Agriculture have recommended the abolition of the free-seed distribution by Congressmen, but in spite of this it has long been maintained as one of the most precious perquisites of the national legislators. The privilege of sending a half dozen packets of flower or garden seeds, worth about 25 cents at the store, to a number of their leading constituents has been thought of such inestimable value to the political "fences" of Congressmen that they declined to give it up, even though it cost the Government about $250,000 a year to carry on this petty free-gift affair. How precious this privilege seems in the sight of legislators is revealed in the fact that the abolition of this appropriation for free seeds was carried in the committee by the close vote of 8 to 7. No more singular phase of public life has been forced on the view of the public than this long-retained grasp on public money for the attempted furtherance of personal ends. The distribution of seeds by Congressmen has long since become one of the jokes of political life, and is now as stale as a jest of the Adamic age. Conceived in a spirit of utility, designed to introduce rare seeds that might be profitably included in the economy of our field and garden production, this free-seed distribution long ago degenerated into one of the most petty of all known devices to curry political favor. It is greatly to be hoped that the Senate committee will concur with the House committee in eliminating this worse than waste of public money, and it is further hoped that no member of either House will have the hardihood to endeavor to reincorporate the appropriation by an amendment when the bill is up for action. Under the bill as drafted the only seeds which the Department can purchase are rare seeds for experimentation at the different State stations.

[Evening Wisconsin, Milwaukee, Wis., March 23, 1906.]

CUT OFF THE FREE-SEED WASTE.

The House of Representatives should not reverse the action of its Committee on Agriculture, which struck from the appropriation bill the traditional provision for the free distribution of seeds. The last appropriation bill carried an allowance of $290,000 for that purpose, an amount of money that is enormous in comparison with any benefits that can possibly be conferred upon the people by the distribution of seeds of the character of those which constitute the free output through the mails.

If the flower and vegetable seeds received by the nonagricultural taxpayer are a fair sample of the seeds which are sent to agriculturists, it is difficult to find any value whatever in the distribution, as they are all flowers of the commonest varieties, and vegetables and grains which are generally grown. There is excuse for a distribution of something absolutely new, as macaroni wheat, for instance, was several years ago; but there is absolutely no reason why the Government should annually provide free seeds for farmers and gardeners, who can with a little care gather their supplies from their own premises or purchase new varieties in the village stores.

The free distribution of seeds imposes a burden upon the United States mails, as the packages are all franked by the Congressmen who send them out, and consequently carried without postage. It is estimated that if the Department of Agriculture were required to pay postage at the usual rate on the seeds which are now sent free, the revenues of the Post-Office Department would be increased over $500,000. This would be a considerable item of income for a Department that calls for a large deficiency appropriation from every Congress.

If penny letter postage is desired, it can be achieved only by the establishment of economies through a reduction of the cost of carrying the mails. All illegal mail matter must be weeded out, and all burdens, such as that imposed by the free distribution of seeds, must be removed. There should be a strong popular protest against any attempt on the floor of the House to replace in the appropriation bill the provisions for the free distribution of seeds which has been wisely stricken out by the Committee on Agriculture. Dwellers in the city do not expect seeds from the Government, and the farmers are not asking for them. On the contrary, the National Grange, representing 800,000 farmers, adopted resolutions at its convention in Portland, Oreg., last year, strongly denouncing the appropriation for free seeds as a reckless waste of money, as the policy of free distribution is of no practical value.

On the 1st of April the Postmaster-General proposes to refuse to admit a large amount of matter that is now received as second-class and carried at 1 cent a pound, which costs the Government 5 cents a pound to carry. With this economic course as to all matter now practically deadheaded the business and industrial interests may look for penny postage in the near future.

[The Post Express, Rochester, N. Y., April 9, 1906.]

FREE SEEDS.

The free distribution of seeds by the Government of the United States ought to be abandoned. It is not only a nuisance to the Senators and Representatives, unsatisfactory to the farmers, and expensive to the people, but it is an unjust competition on the part of the Government against the seedsmen and nurserymen of the country.

The total distribution during the year ending June 30, 1905, was as follows:

Miscellaneous vegetable, packets	32,067,335
Miscellaneous flower, packets	3,706,065
Tobacco, packets	114,190
Cotton, 1-peck packages	8,665
Cotton, ½-peck packages	2,880
Lawn grass, packages	18,000
Miscellaneous, packages	60,000
Total packets and packages	35,977,135

The numbers of vines, plants, and bulbs distributed were:

Grapevines	24,675
Strawberry plants	97,000
Bulbs, gladiolus	134,000
Bulbs, tuberose	98,400

These figures will indicate the extent of the Government competition with the regular dealers in seeds. The total appropriation for this work was $290,000, and the expensive character of the work appears from the fact that no less than $71,000 of the whole appropriation was expended on salaries, nearly $42,000 in assembling and mailing the seeds, and less than $91,000 in the purchase of seeds themselves. This looks like a waste of public funds, especially as the bulk of the seeds distributed are old varieties of little value to the recipients. Congressman Cocks, of New York, is to offer an amendment to the agricultural appropriation bill eliminating the appropriation for free seeds, and says not only that many Congressmen have assured him of their support, but that he has received many letters from farmers advocating the reform.

[Farm and Fireside, Springfield, Ohio, April 1, 1906.]

CONGRESSIONAL SEED DISTRIBUTION.

The world truly moves. Progress may be slow, but it is also sure. The recent action of the Committee on Agriculture of the House of Representatives, when it decided by a close vote to strike out the $250,000 appropriation for seeds, came to some of us as a most agreeable surprise. It is, however, only the first step toward the eradication of the arrant old humbug, and the real fight about it in the two Houses is yet to come. In these days of immense graft and waste, the question, financially, is of comparatively little importance. But it has always galled me to see this petty and absurd distribution of Government pap be made in the name of agriculture, and for the alleged benefit of the American farmer. The end of it is bound to come.

[Twentieth Century Farmer, Omaha, Nebr., March 28, 1906.]

THE FREE-SEED DISTRIBUTION.

The annual farce of Government seed distribution is now due. This old Congressional custom, which has long since outlived its usefulness as an agricultural adjunct, should be discontinued as a useless expense of public funds, a silly recognition of political friendships, an abuse of confidence with the people in encouraging them to plant seeds that have no guarantee of quality or trueness to name, a system of distribution which recognizes no fixed conditions in soil or climatic adaptation for successful plant growth. A system which at the present time has no redeeming quality or excuse for its existence, except as a graft to squander about $300,000 annually of the funds of the United States Treasury, encourage a seed graft in the supply of this stock, and work an imposition upon the legitimate seed industry of the country.

There is a large field open for Congressional experimental aids to agriculture in the introduction and tests of grains, grasses, and plants of other countries that would meet the indorsement of our progressive people and be of ultimate advantage to our country. Why not discontinue the useless expense of Government seed distribution and aid in a worthy cause that all our people can indorse and appreciate as commendable and profitable?

[The Michigan Farmer, Detroit, Mich., March 17, 1906.]

THE QUESTION OF FREE-SEED DISTRIBUTION.

The committee having under consideration the appropriation bill for the National Department of Agriculture have stricken from it the free-seed distribution clause. This does not necessarily mean that there will be no appropriation made for the purpose of free-seed distribution, as the clause may be reinstated on the floor of the House when the bill comes up for passage, as was the case last year, after having been eliminated by the committee. It is said that prominent seed dealers of the country have been in conference in Washington for the purpose of using their influence to prevent a similar action this year. While the final outcome of the matter is pending, let us analyze the situation carefully from the standpoint of the farmer who would get the seeds in case the distribution is continued. First let us look into the matter of the cost to the Government. Figures in the report of Prof. B. T. Galloway, Chief of the Bureau of Plant Industry, for 1905 show that the Government paid $245,000 for the handling of $90,000 worth of seeds. The items of salaries, traveling expenses, assembling and mailing, and miscellaneous amount to $2.70 for every $1 in actual value of seeds distributed. Thus it will be seen that the expense incurred by the Government in collecting a few cents' worth of seeds to each person receiving them is nearly three times the first cost of the seeds. What recipient of the bounty (?) of the Government will desire a continuation of seed distribution as at present conducted in the light of this fact?

Any fair-minded man should concur in the opinion that this is not good business. It is not what was intended when the foundation of the present system of free-seed distribution was laid, for this is not a new question. It is older than the Department of Agriculture. Free-seed distribution by the Government had its origin as far back as when the agricultural interests of the country were looked after by a bureau of the Patent Office instead of by a great Department of the Government as at present. At that time a small appropriation was made to enable the Commissioner of Patents to buy and distribute to the farmers of the country "rare and valuable foreign seeds." There can be no doubt about the wisdom of this move or of the benefits which have accrued to the country along this line. It was under the provisions of this law that tea culture was first introduced into this country as a beginning, and it is to just this line of work that many of our most valuable seeds and plants have been introduced and acclimated, thus not only broadening the field of American agriculture, but fostering and building up many dependent industries as well. Nor is there any question but that this kind of work should be continued indefinitely. The money appropriated for research along this line is well expended, as past results plainly indicate, but can the same be said of that appropriated for the distribution of garden seeds? We think not. We believe with the chairman of the committee that cut the appropriation that "when it comes to peas and beans and corn and turnips the country is sufficiently well informed to go it alone without expending a quarter of a million dollars for this purpose." Not but that there is legitimate field of work for the Department along this line in experimenting with new and improved varieties of all farm staples and in distributing a reasonable amount of seeds which experiments shall determine to be of exceptional value. Indeed too much money, if wisely expended, could hardly be appropriated for this purpose, since there can be no proper comparison between the good which would result from work of this kind and the wholesale distribution of common seeds of indifferent quality as conducted at present. Nor do we believe that the Department or the Congressmen would care to perpetuate the present system if they were only assured that their constituents would approve if it were abolished. Why not give them that assurance while the matter is under consideration?

[Cincinnati Packer, April 21, 1906.]

THE FREE-SEED FRAUD—CONGRESS ANNUALLY WASTES $250,000 IN THIS MANNER—SEEDS ARE OF NO VALUE TO FARMERS, BUT CONGRESSMEN UTILIZE THEM AS A REMEMBRANCE—STARTED HARMLESSLY.

CINCINNATI, *April 21, 1906.*

The American Grange Bulletin recently published the following regarding the free-seed distribution agitation which is now attracting attention all over the country:

"The annual distribution of seeds through the Department of Agriculture is graft, pure and simple—not less such because it is for a political object than if it were prosecuted for private and direct money gain. Last year Congress appropriated $290,000 for this purpose, the number of packages scattered broadcast among the people being 36,293,820. It is not imagined or pretended that the seeds are of any real use or value to anybody except the Congressmen themselves, who are enabled in this way to advantage themselves by 'remembering' their favorite constituents.

"ORIGIN OF THE GRAFT.

"In the year 1869 Congress gave $1,000 to the Patent Office for the purpose of collecting and giving away 'rare and improved varieties of seeds.' This was the germ out of which the monster graft in question has grown. Year after year the appropriation for the purchase and distribution of seeds has been increased, and beyond question it will reach $400,000 per annum within half a dozen years from now. This nonsense has already cost the people not far from $5,000,000. Nine years ago the then Secretary of Agriculture, Mr. Morton, declared that it was contrary to law, inasmuch as the seeds sent out were neither rare nor improved, but of the commonest kinds, such as corn, beans, nasturtium, and pansies—Congressmen having refused to receive anything but ordinary field and garden seeds.

"A RIDICULOUS COLLECTION.

"Attention was called to the fact that the average parcel of seeds consisted of five little papers, amounting in all to about two-thirds of an ounce, and consisting of two-tenths of an ounce of cabbage seed, two-tenths of an ounce of cucumber seed, three-tenths of an ounce of squash seed, three-tenths of an ounce of turnip seed, and less than one-tenth of an ounce of tomato seed. It is easy to imagine how utterly useless such a consignment would be to the average farmer. But when it was suggested that the seeds should be put up in larger packages Congressmen declined to consider the proposition, inasmuch as to do this would diminish the number of constituents 'remembered.'

"PROTESTED AGAINST SWINDLE.

"Congress was so angry at Secretary Morton on account of his protest against the swindle that he was threatened with impeachment. His objection to the violation of law, which could not be denied, was overcome by amending the act in such a way as to include seeds of all kinds. How little good was accomplished by the rebellion of the Department is shown by the fact that the appropriation was $80,000 for that year, 1896, and since has been increased to $290,000 per annum, and that the number of packages distributed has grown during the same period from 10,125,000 to 36,293,820. Verily, we are a long-suffering people.

"OF REAL VALUE.

"By a great effort the present Secretary of Agriculture, Mr. Wilson, has succeeded in having about $50,000 out of the huge annual appropriation set aside for the procurement of seeds and plants that are really valuable, and to this extent the original intention of the law is carried out. Also, he has in many instances persuaded Representatives from urban districts to accept flower seeds instead of garden and field seeds, in order that their constituents may utilize them in window boxes and yards.

"OTHER PEOPLE'S MONEY.

"Hitherto such urban Members, having no use for field and garden seeds, have felt compelled to exchange them with rural Congressmen for documents that they wanted, or else, as often happened, to resort to the illegal expedient of selling their quotas in bulk to agricultural Members. Brokers, by the way, have made quite a profitable business of buying up quotas of seeds for a fraction of their original cost to the Government, and not very long ago one of these dealers, who had a cellar stored full of them, offered for sale 30,000 packages of the previous year's output which had been somewhat damaged by mice.

"It is a case of other people's money. The Government is rich, so what is the use of economizing?

"FARMERS AWAKENING TO FRAUD.

"The farmers of the country seem to be awakening at last to the fact that the Government seed distribution is a delusion and a snare. Year after year Congress appropriates about a quarter of a million dollars for the 'purchase and distribution of valuable seeds,' and each Senator and Member has assigned to him 12,500 packages, each containing five packets of seeds of the commonest possible varieties. There are usually packets of radishes, lettuce, cucumber, watermelons, and carrots, or some similar vegetable. The intrinsic value of the collection is from 2 to 3 cents in each case, and no possible good is served.

"LACK MORAL COURAGE.

"Yet every attempt to cut off the distribution is fought vigorously on the floor of the House. Not one Member in ten really believes that the distribution should continue, but not one in twenty seems to have the courage to vote against the item.

"STATE GRANGE OPPOSED.

"Now, however, the State granges are beginning to take part in the fight, and already New York and Illinois have declared against the continuance of the practice.

"The Illinois State Grange, at its annual session in December, adopted the following resolution:

"'*Resolved*, As practical and independent farmers, that we call upon Congress to abolish its petty, annoying, and needless practice of broadcasting free and common garden seeds all over the rural districts, and we ask that the control of seed distribution be placed under the Department of Agriculture and limited to experimental work.'

"TWO AGAINST FRAUD.

"Thus far two members of the House Committee on Agriculture, Messrs. WADSWORTH and COCKS, of New York, are the only ones who have declared against the continuance of the annual squandering of money for seeds which do no good. As a rule, Members use their packages for electioneering purposes, and of course a majority will vote against the proposition to cut off the supply. If, however, the State granges generally follow the lead of Illinois and New York, it will not be many years before the seed division of the Department of Agriculture is restored to its original purpose—the discovery and distribution of new and valuable seeds—instead of continuing the purchase of the cheapest varieties in order to secure for Members of Congress as many packets as possible, without reference to utility or value."

J. M. LUPTON, WHOLESALE SEED GROWER,
Mattituck, Long Island, N. Y., March 16, 1906.

Hon. W. W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: I have at hand your favor of the 7th. The Committee on Agriculture in your House in reporting against any appropriation for the free distribution of garden seeds has acted most wisely and sensibly upon a proposition which is wrong both in theory and practice. It has done an immense amount of harm to one of the most scientific branches of agriculture, that of seed growing. But very little benefit has ever been accomplished by the free distribution of ordinary seeds on the part of the Government among farmers. It is more than probable that but a very small part of the seeds so distributed has ever been planted, because of the feeling which I know prevails almost universally among farmers and growers that the character of the seed sent out by the Government has not been up to the standard of those which they could buy of the seed trade, and in very many instances the varieties were not what they wanted, so that they have generally preferred to purchase what they did want in place of planting that the Government sent them free. In some instances, perhaps, farmers have felt a little complimented that their Member should think enough of them to send them a little package of seeds, but more times I have heard the receipt of one of these packages sneeringly alluded to as a scandalous misappropriation of the Government's money. To me it seems that there was no particular reason why you should send free a lot of seeds to farmers any more than any other kind of merchandise, and certainly the distribution carried out in such great proportions as it has now assumed has had a depressing effect upon the seed trade, which has been felt throughout the country. The production of seeds is perhaps the most scientific part or branch of agriculture, and can only be successfully carried on where managed with a great deal of intelligence and a thorough understanding of the condition governing their successful production. It is scientific because it must be a successful attempt in all cases to improve varieties in order to keep up to the times, and to whatever extent it exceeds in improving varieties it is in a great degree beneficial to the farmer and agriculturists. The Department of Agriculture, which obtains its supplies and turns over the order to those who bid lowest upon it, can not assume to secure in this way the best effort of the seed grower. For your seed distribution you have secured that which the seed grower has as surplus stock and is willing to dispose of at the lowest prices. It does not represent his best effort in the way of seed improvement, but merely what he most desires to get rid of. Therefore what you distributed can not be regarded as the best in the market. The product upon which he has given the most effort is reserved for what he considers his best class of customers, those who are willing to pay for the extra effort made to improve the variety. For my part I believe it far better for a cultivator to pay double price for that article upon which the grower has expended his best thought and labor than to plant the poorer article given him when we consider the small cost of the seed compared to the real value of the product. And I think that the Government of the country has been decidedly wrong in doing that which has had a depressing effect upon an industry which, if allowed to grow and flourish, will do much toward the improvement of every cultivated variety of seeds.

Yours, truly, J. M. LUPTON.

SOUTHAMPTON, LONG ISLAND, N. Y., *March 27, 1906.*

WILLIAM W. COCKS, *Westbury.*

DEAR SIR: Might I ask you to use your influence against the free distribution of common garden seeds? Last year I believe there was appropriated $290,000. I fully concur in the appropriation of the $40,000 for the purchase and distribution of new or rare seeds and plants, but the common seeds which I have had nearly every year sent to me, in my opinion, is just a farce. At first I planted the seeds very carefully, to find that they rarely came up. Corn and beans are the only seeds that gave satisfaction, and there was not enough of them to do any good. It seems to me a waste of the public money, as more than one-half of the seeds distributed are never sown.

Then, again, the mail service is overburdened with these free seeds. Instead of deriving a revenue from them they cost the Government $300,000 per annum for franking. I have yet to hear a farmer or gardener express themselves in favor of the free seeds. All think it is a fearful waste of money.

Yours, truly, S. F. MACDONALD.

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107 WALL STREET, NEW YORK, *March 26, 1906.*

Hon. W. W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: I am in favor of the legislation which is coming before you tending to restrict the distribution of seeds by the United States Department of Agriculture, limiting the same to new or rare seeds or plants not on sale generally in the United States. It seems to me that the present system is wasteful and produces only a small percentage of good, besides being a considerable burden upon the Post-Office Department.

Hoping that your views will accord with mine, and that you will support the reform,

Yours, very truly, GEO. C. RAND.

CHARLES H. ALLEN, CARNATIONS AND MIGNONETTE,
Floral Park, N. Y., March 20, 1906.

Hon. WILLIAM W. COCKS, *M. C.*,
Washington, D. C.

DEAR SIR: I am strictly opposed to the free distribution of seeds by the United States Government, and have returned to the Department of Agriculture the package received through your courtesy.

Yours, truly,

CHARLES H. ALLEN.

COTTAGE GARDENS COMPANY,
Queens, N. Y., March 28, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

MY DEAR SENATOR COCKS: Upon my return home from a trip into Mexico I found your esteemed favor of the 7th of March awaiting my attention. I am very glad that you called my attention to the effort that is being made to abolish the free distribution of common garden seeds. While I am not a seedsman and have no interest whatever in the sale of seeds, I have decided views upon that perversion of the original scheme of distributing rare plants and seeds throughout the United States for the purpose of testing new material that might prove of economic value to our country. In years past I have been at various times the recipient of Congressional liberality in the way of various packages of free seeds, and being in the horticultural business and being thoroughly versed with the best material that was offered in the way of seeds and plants by our leading nurserymen and seedsmen, I have considered myself to some extent competent to judge of the value of the material sent out. In no instance have I ever received through Congressional liberality a single variety of seed or plants that was in any way an improvement or even as good as 90 per cent of the ordinary material offered for sale through the regular channels. In fact, in almost every instance the varieties sent were of the most common, ordinary kinds, and generally the material received was some seedsmen's stock left over from years past, and so lacking in vitality that the largest percentage of it failed to grow, and had I purchased seeds at the highest market price of the better varieties and planted them upon the same space occupied by the free seeds I would have gained largely in a financial way had I been compelled to sell the crop and pay the expense of cultivation.

Now, I understand that the object sought in distributing free seeds and plants is to place in the hands of the general horticulturalist and farmer in various parts of the country new and improved varieties for trial, and from my knowledge of what has been sent out in this way I am satisfied that the above object has been very seldom attained. As I view the distribution of free seeds at the present time, it is simply a form of Congressional graft and has absolutely no merit whatever to commend it, nor, in fact, any excuse whatever except that it enables rural Congressmen to curry the good favor of certain of their constituents by sending them a little present paid for by Uncle Sam. Just a little bid for a vote, you might call it, and a mighty cheap one at that. As I view it, the money invested in this free-seed distribution is largely thrown away, and very little intrinsic benefit accrues to the recipients of this species of Congressional alms. At the present time, when there is being unearthed so much connected with the conduct of business in this country that is shady, questionable, unlawful, and in many instances criminal, it seems to me as if Congress ought to set the example and cut out this form of extravagance, and that the money spent in this free distribution should be put to some more profitable as well as more worthy purpose. I do not know of any reason why Congress should not make an appropriation and distribute free cheeses to the poor of our large cities. It seems to me as if there is just as much excuse for distributing any commodity free as there is for distributing the free seeds that have been sent out under this act for the past ten to fifteen or twenty years.

I am glad to know that the Committee on Agriculture has reported in favor of abolishing the free distribution of common garden seeds. I believe that it is a step in the right direction, and I sincerely hope that Senatorial courtesy will be suspended when this matter comes before Congress, to the end that the subject may be thoroughly thrashed out and end up in abolishing the practice.

Hoping that my views will meet with your approbation, and assuring you that you are at liberty to use them, provided you consider them of value, I remain,

Very truly, yours, CHAS. W. WARD.

ORANGE JUDD COMPANY,
PUBLISHERS OF AGRICULTURAL WEEKLIES,
New York City, March 10, 1906.

Mr. WILLIAM W. COCKS,
Committee on Agriculture,
House of Representatives, Washington, D. C.

DEAR SIR: Allow me to congratulate your committee on its effort to abolish the free distribution of common garden seeds. That has long been the worst old fake perpetrated upon the American farmer. Individual and organized farmers have for years been a unit against it. The agricultural press unanimously supports your committee in its recommendations to put a stop to this hoary fraud.

I am writing this letter to each member of your committee, and trust it will be brought to the personal attention of each Member of the House. I believe it safe to say that if this question were submitted to a vote by mail of every American farmer the result would be ten to one in favor of abolishing the free distribution of common garden seeds. And this judgment is based on a most intimate knowledge of the farmers' views and needs in every nook and corner of the United States. Congress can not do a more popular act, so far as agriculture is concerned, than to abolish this scandal of "free seeds."

Yours, very truly,
HERBERT MYRICK,
President and Manager.

(Mr. Myrick was called away and was unable to sign this letter personally, but his signature is guaranteed.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., March 13, 1906.

EDITOR OF FARM JOURNAL,
Philadelphia, Pa.

ESTEEMED FRIEND: You have perhaps noticed by the papers that an effort is being made to abolish the free distribution of the common garden seeds. The Committee on Agriculture of the House of Representatives will recommend such action. Would be glad to have your views on the subject, and, if you are in favor of the proposition, to have you do what you can toward helping it along.

Yours, truly,
WILLIAM W. COCKS.

By all means pass the bill.

WILMER ATKINSON,
Editor Farm Journal, Philadelphia.

OFFICE OF THE METROPOLITAN AND RURAL HOME,
New York, N. Y., March 15, 1906.

WILLIAM W. COCKS, Esq.,
Washington, D. C.

DEAR SIR: I am in receipt of your kind favor of the 13th instant, and in reply I beg to state that I am most positively in favor of the abolishment of the free distribution of common garden seeds by the Department of Agriculture.

From every investigation I have made the consensus of opinion is that the distribution of these free seeds is of no practical value whatever.

We have never as yet in our columns taken a stand on either side of the fence, but since receiving your letter asking for our cooperation, I will publish something on this subject in our April issue.

Assuring you of our cooperation, I beg to remain,

Yours, very truly,
THE METROPOLITAN AND RURAL HOME,
B. B. HOPKINS, *Editor.*

THE RURAL NEW-YORKER,
New York, March 8, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: I am glad to have an opportunity to reply to your letter of March 7. We have for a long time regarded the distribution of Government seeds as one of the greatest humbugs of the age. Positively no sound argument can be advanced why this distribution should not be abolished, while on the other hand an excellent reason can be given for killing off the humbug. In the first place it interferes with an honest and legitimate trade. The seedsmen of the country have thousands if not millions of dollars invested in their business. These free seeds sent out by Congressmen as they are, directly interfere with this business of the seedsmen, because naturally the man who gets these seeds as a gift from his Congressman can see no reason why he should buy legitimate products. There is no reason on earth why this industry should be singled out by the Government for direct and injurious competition, nor is there any reason why the Government should not send a man a harrow, a plow, or send his wife an organ or a sewing machine if it is to send these garden seeds to farmers. As to the quality of the seeds, it is notorious that ridiculous mistakes have been made. For example, I send you herewith a letter from one of our readers in Texas, showing what absurd mistakes are made. I have been told that samples of new cotton have been sent to people in New England, while seeds thoroughly adapted to the northern latitude have been sent to farmers in the Gulf States.

I have received numberless letters from our readers who say the only use they have for these seeds is to feed them to their chickens, and I see no reason why Uncle Sam should furnish, at a great expense, this stuff to be used as chicken feed. The greatest fraud and humbug of all, however, is the way in which the average Congressman approaches people with this petty form of graft. I once lived in the house with another man and we had a back yard garden between us. He approached me one spring and proposed a form of cooperation. His proposition was that I should spade the garden, do all the raking, plant the seed, and do all the hoeing, while he, in his turn, was to furnish the seed at Government cost. He said he had a "pull" with our Congressman which few other people had and that the Congressman would let him have these wonderful seeds guaranteed by the Government to be better than anything else. I merely mention this to show you how ridiculous, how positively absurd, this little graft or pull becomes in the hands of a Congressman. There is, as I have stated, positively no good argument to be given in favor of a continuance of this practice. It is a wise and desirable thing from time to time to distribute new seeds or rare cuttings or plants for experiment purposes, but this petty graft should be stopped off at once and I sincerely hope that you will do all in your power to have this nuisance abolished.

Yours, very truly,
H. W. COLLINGWOOD, *Editor.*

[From the Rural New-Yorker.]

PARCELS POST *v.* FREE SEEDS.

In talking with different people on this topic, market gardeners in particular, I have yet to hear the first sensible man indorse the free seeds and plants as generally sent out from the Agricultural Department. In conversation with two of the ablest men of the Department some time back, they both admitted the free-seed shop as a discredit to the Government, it being both a big expense to the Agricultural as well as the Post-Office Department for what little good is ever derived from it. But both these men stated that Congress would never do away with the free seeds as long as many of the Members counted largely on having these very seeds, worthless as many of them might be, assist them in their elections. If only new and rare seeds and varieties were distributed for the trial (the original purpose of the business) all would be well and good. But for stuff to be sent out still that was discarded as worthless by practical men years ago is just simply a serious reflection on the wisdom of the officials of the Agricultural Department. I frequently receive seeds, not that I request them, but they come anyway. If they are of a nature to make good chicken feed, it's not so very bad, but if otherwise, they are just thrown or given away. A few days ago, in a veritable snowstorm, with a cold north wind, our rural carrier seemed to be extra heavily loaded. Asking the cause, was told, "An overdose of free seeds and plants." When opening a parcel that was directed to myself, behold what I found: Two Lenoir and two Herbemont grapevines all the way from Washington by mail, delivered in a regular snowstorm, worth, at the most, if they were needed, 10 cents. Jerusalem, what a gracious Government! No wonder we farmers are prospering when we get such gifts. Now, the Herbemont grape is one of the oldest we have. Nurseries sell them at 5 cents apiece by the 100. The Lenoir is not worth standing room in our section of the country. I have discarded them as worthless twenty years or more ago. Now, if the Post-Office Department could carry parcels of, say, up to 10 pounds weight of such goods as the people generally require at a fair rate of postage, there would be revenue for the services, and the people would be benefited. There would be an advantage all around. And would it not be best for the country's good to have the Congressmen who have not ability or brains enough to reelect them to their positions to stay at home next time and let some abler man take the place, than to have them get themselves reelected by the means of free seeds, etc.? Now, Mr. Congressman, act sensible and do away with the free-seed humbug and give the country in place a parcels post. You will stand much better chances of reelection.

J. W. STUBENRAUCH.

NEW YORK AGRICULTURAL EXPERIMENT STATION,
Geneva, N. Y., March 7, 1906.

Hon. W. W. COCKS,
House of Representatives, Washington, D. C.

DEAR MR. COCKS: I want to congratulate you on the position you have taken in regard to Congressional appropriations for seed distribution. Money so spent is mostly a waste of funds. Money spent to prevent the serious adulterations which are now occurring with many of our seeds would be wisely applied. The adulteration of alfalfa seed with trefoil has been a serious matter to the farmers of New York during the past two years.

I trust you are prospering and enjoying your work.

Yours, truly,
W. H. JORDAN, *Director.*

THE CONNECTICUT FARMER,
New Haven, Conn., March 22, 1906.

Hon. WM. W. COCKS,
Washington, D. C.

DEAR SIR: In reply to your letter of the 13th, we are glad our views coincide with yours, and we believe we fully expressed the views of our patrons in the matter of free distribution of seeds by the Government. It has always seemed to us to be an uncalled-for waste of money, as the seeds in most cases were of very common varieties that were obsolete or inferior. We are glad your committee is going to take the stand it is, and in our issue of March 24 we have devoted considerable space recommending that the usual appropriation for this purpose be cut out.

Very truly, yours,
THE FARMER PUBLISHING AND PRINTING COMPANY.

FARMERS' TRIBUNE PUBLISHING COMPANY,
Sioux City, Iowa, March 17, 1906.

Hon. WM. W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: We appreciate very much the work of the House Committee on Agriculture in striking out the provision for appropriating money for the free distribution of seeds, and we sincerely trust that your efforts may bear fruit.

Speaking for 50,000 farmers in the corn belt who represent a population of one-fourth of a million, I beg to state that we are strongly opposed to the Government distribution of free seed as it has been carried on in recent years. Instead of the farmer being helped by this promiscuous distribution, we believe that he is acutally being harmed. The seeds sent out are often of poor quality; they are not up to the standard of the seed sent out by our best seed houses. Furthermore, whenever a man gets something for nothing he does not value it.

So far as free-seed distribution is concerned, Congress should have nothing to do with it. Should the Department of Agriculture, in its investigations, both home and abroad, find varieties that in its opinion should receive general introduction in this country, it might for a time distribute a certain amount of such seed until their value has been demonstrated, but Congress should have nothing to do with such distribution. The free-seed distribution as practiced now is nothing but a graft and every one regards it as such.

Wishing your committee success, I remain,

Yours, very truly,
JNO THOMPSON, *Editor.*

THE FARMER,
St. Paul, Minn., March 17, 1906.

Hon. WILLIAM W. COCKS,
House of Representatives, Washington, D. C.

ESTEEMED FRIEND: Your letter concerning the effort that is being made to abolish free distribution of seeds at hand. In reply we wish to say that we are in hearty accord with such a movement, for we consider it a waste of funds, as it seems impossible for the Government to distribute seeds suitable to all localities. In fact, I find in my ex-

tensive acquaintance over the Northwest that the farmers consider the Government distribution of seeds no more than a farce. It is seldom that these seeds are planted, and a large per cent of them go into the farmer's swill barrel.

Thanking you for the interest you are taking in eliminating this Government graft, we are,

Very truly, yours,

THE FARMER,
Per A. W. TROW.

THE LAWRENCE PUBLISHING COMPANY,
Detroit, Mich., March 16, 1906.

WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: In reply to yours of the 13th instant, we mail you, under separate wrapper, marked copy of Michigan Farmer, last issue.

You will notice from same the position we have taken regarding free distribution of seeds.

Trusting you will find this along the lines desired, and assuring you that we will be glad to cooperate in any way possible to secure the desired results, we remain,

Yours, respectfully,

THE LAWRENCE PUBLISHING CO.,
G. J. MUNSELL,
Advertising Department.

FARM, STOCK, AND HOME COMPANY,
Minneapolis, Minn., March 16, 1906.

Hon. WILLIAM W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to yours of the 13th, would say that Farm, Stock, and Home has always been opposed to the distribution of the garden seeds by the Government, and we are glad to know there is a good prospect of the practice being discontinued. There is an absolute waste of people's money without giving them any benefit whatever.

Very truly, yours,

FARM, STOCK, AND HOME COMPANY,
H. N. OWEN, *Secretary.*

EDITORIAL ROOMS FARM AND FIRESIDE,
Springfield, Ohio, March 16, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

DEAR SIR: Answering your favor of the 13th instant, I take pleasure in saying that Farm and Fireside for many years past has steadfastly opposed the free distribution of common garden and flower seeds. During all that time the contributors and readers, as far as known, have approved of the stand taken by the paper. Expressions of their opinion have been in favor of it; in fact, not one expressed a desire to have free-seed distribution continued.

Farm and Fireside now heartily indorses the action of the Committee on Agriculture in recommending its abolition, and respectfully urges the Members to "stand pat" on the proposition when it comes up in the House.

Very truly, yours,

JOHN C. BARNETT.

NEW YORK STATE FRUIT GROWERS' ASSOCIATION,
Penn Yan, N. Y., March 31, 1906.

Hon. W. W. COCKS,
Washington, D. C.

DEAR SIR: I learn that you are interested in a plan to abolish the present seed distribution, so far as it applies to common garden seeds. I wish to say that my acquaintance with the farmers of this section of the State, and with the fruit growers of the whole State, leads me to the belief that the sentiment is strongly in favor of the movement for which you stand.

Personally, for many years I have been opposed to Government seed distribution. It might be desirable to send the seeds of certain new plants into localities where the probable conditions would be favorable for them, but for the present I believe that the whole plan had best be discontinued.

Anything you do along this line, I believe, will be appreciated by the farmers and fruit growers of New York State.

Very truly, yours,

E. C. GILLETT, *Secretary.*

THE NEW YORK STATE POULTRY SOCIETY,
Watervliet, N. Y., April 9, 1906.

Hon. W. W. COCKS,
House of Representatives, Washington, D. C.

HONORABLE SIR: Myself, as well as the majority of the members of the above association, which I represent, are opposed to the distribution of common garden seeds, but do favor the distribution of seeds of new plants for trial. Trusting this will meet with your approval.

Very truly, yours,

JOHN D. JAQUINS, *President.*

THE NEW YORK STATE SHEEP BREEDERS' ASSOCIATION,
Batavia, N. Y., April 2, 1906.

Hon. W. W. COCKS,
Washington, D. C.

DEAR SIR: I want to express my approval of the determined stand you are taking in opposition to any further distribution of ordinary garden seeds which are sent out from Washington. I have never been able to see one good reason for such distribution as it has been carried on in past years. The seeds which I have received in quite large quantities are as a rule not as desirable varieties, neither are they as fresh as can ordinarily be purchased from reliable seed houses, and whatever seeds have been sent have been used only as food for poultry. I trust you will keep up this fight until the distribution is discontinued, and I am confident that such course on your behalf will merit the approval of the best farmers of the country. At the same time I am of course in favor of a reasonable distribution and experimenting with strictly new varieties of seeds, and in this way increase the number of valuable plants that may be adapted to various localities.

With congratulations for your good work in this direction, I remain,

Very truly, yours,

FRANK D. WARD, *President.*

NEW YORK STATE ASSOCIATION OF BEE KEEPERS' SOCIETIES,
Clifton Springs, N. Y., April 3, 1906.

Hon. W. W. COCKS,
House of Representatives, Washington, D. C.

DEAR SIR: I am not interested in the sale of seeds; but as an American citizen I wish to protest against a continuance of the Congressional distribution of common and abundant varieties of garden seeds and to urge a discontinuance of the practice, believing as I do that said seeds are of doubtful utility, to say the least.

I am, however, in favor of the Government distribution of seeds of new varieties of plants, and believe that more attention should be given to the testing and distribution of such seeds.

Believing that I voice the sentiment of a large majority of those whom it is my privilege to represent, I would urge you to use your best efforts toward bringing about the desired change in this matter.

Yours, truly,

W. F. MARKS.

HORTICULTURAL SOCIETY OF NEW YORK,
New York City, March 26, 1906.

Hon. WILLIAM W. COCKS,
Washington, D. C.

MY DEAR SIR: At the regular meeting of the Horticultural Society of New York, held on March 14, the subjoined resolution was presented in council and unanimously adopted. Acting under instructions from the council, I beg leave to transmit copy of said resolution to you:

"*Resolved*, That we view with satisfaction the probable discontinuance of the free distribution of garden seeds by the United States Government. We respectfully urge upon our Representatives in Congress, and the United States Senators from New York, that they use their best efforts to have this practice stopped. We denounce it as a useless waste of public money and a flagrant perversion of the aims and intent of the law creating the Department of Agriculture."

Yours, faithfully,

LEONARD BARRON, *Secretary.*

NEW YORK STATE FRUIT GROWERS' ASSOCIATION,
Halls Corners, N. Y., March 31, 1906.

Hon. W. W. COCKS,
Washington, D. C.

DEAR SIR: I notice by the papers that you are the originator of a bill before Congress to abolish the free distribution of common garden seeds. Personally I believe you are right. And from what I can learn in meeting the members of the State Fruit Growers' Association I believe it meets with the hearty approval of a large majority of our members. Still I think the careful distribution of the seeds of new varieties of plants and vegetables will continue to be of benefit to agriculture.

Trusting you may succeed in the passage of your bill, I am,

Truly, yours,

T. B. WILSON.

NEW YORK STATE FRUIT GROWERS' ASSOCIATION,
Penn Yan, N. Y., March 31, 1906.

Hon. W. W. COCKS,
Washington, D. C.

DEAR SIR: I learn that you are interested in a plan to abolish the present seed distribution, so far as it applies to common garden seeds. I wish to say that my acquaintance with the farmers of this section of the State, and with the fruit growers of the whole State, leads to the belief that the sentiment is strongly in favor of the movement for which you stand. Personally, for many years, I have been opposed to Government seed distribution. It might be desirable to send the seeds of certain new plants into localities where the probable conditions would be favorable for them, but for the present I believe that the whole plan had best be discontinued. Anything you do along this line I believe will be appreciated by the farmers and fruit growers of New York State.

Very truly, yours, ——— ———, *Secretary.*

STATE OF NEW YORK DEPARTMENT OF AGRICULTURE,
BUREAU OF FARMERS' INSTITUTES,
Fayetteville, N. Y., March 22, 1906.

Hon. GEORGE L. FLANDERS,
Assistant Commissioner of Agriculture, Albany, N. Y.

DEAR SIR: Your favor of March 19 asking about the matter of free-seed distribution by the National Government is received. I have attended practically all of the annual meetings of the various State agricultural organizations during the winter and have conversed with a great many of our leading farmers in relation to seed distribution. I believe I can say that, without exception, the leading members of these organizations are opposed to the distribution of the sort of seed that is being sent out—that is, common, ordinary seeds that could be procured of any seedsman. Quite a number of them, however, express themselves as being in favor of having samples of new and valuable seed for testing sent into the different sections in order that we may find out whether or not any new crops are suitable for growing in our State.

Trusting that this gives you the information you are seeking, I am,

Yours, very truly,

F. E. DAWLEY.

STATE OF NEW YORK, DEPARTMENT OF AGRICULTURE,
BUREAU OF FARMERS' INSTITUTES,
Fayetteville, N. Y., March 22, 1906.

Hon. W. W. COCKS,
Member of Congress, Washington, D. C.

DEAR MR. COCKS: I have just received a letter from Mr. George L. Flanders at Albany in relation to Government seed distribution and inclose herewith copy of my reply.

I believe, if you wish it, I could get you a letter from the president of each of the various agricultural and horticultural organizations in New York State supporting your position in this matter. I have been in more than fifty of the counties of the State during the past winter, and from the fact that as statistical agent for the United States Government I have sent out some seed I believe I know very well the attitude of the people.

Yours, very truly, F. E. DAWLEY.

NEW YORK STATE GRANGE,
OFFICE OF THE MASTER,
Philadelphia, N. Y., April 3, 1906.

Hon. W. W. COCKS,
Washington, D. C.

DEAR SIR: I take this opportunity of addressing you in regard to the free-seed distribution. It seems to me that this is the proper time to cut off this needless and wasteful use of the public money. For myself, personally, and for the order of Patrons of Husbandry, numbering 70,000 members in the State of New York, I wish to enter a protest against any further distribution of common seeds by the Federal Government. So far as the distribution of new or rare varieties of seeds is concerned, I think that there is no objection to that, but the practice of sending common seed should be stopped at once.

Yours, very truly,

GEO. A. FULLER.

The increase in the country's wealth as a direct result of the plant introduction work of the Department of Agriculture.

COST TO THE GOVERNMENT.

Total cost of nine years' work of the Office of Plant Introduction	$210,000
(Which is considerably less than the appropriation of a single year for Congressional seed distribution.)	
Paid for salaries, not over (No salary being over $2,500.)	50,000
Remainder expended for the purchase of new plants, for exploration expenses in foreign countries in search of new plant industries and for the propagation, dissemination, and recording of newly introduced plants	160,000
	210,000

PROFIT TO THE COUNTRY.

On durum wheat.—A new wheat from Russia has been introduced into the semiarid region of the Northwest which yields over 4 bushels more per acre than the wheat formerly grown there, is a surer crop, less subject to disease, better for macaroni making, brings practically the same price as other kinds, and which will produce a crop on land too dry to grow the ordinary American wheats. Approximately 1,330,000 acres of this wheat was grown last year, yielding 20,000,000 bushels. This represents over 5,000,000 bushels more than the ordinary wheat would have yielded.

5,000,000 bushels, at 60 cents	$3,000,000
Less difference in price of new wheat, 10 cents a bushel on 15,000,000 bushels	1,500,000
	1,500,000
Investment represented by total cost to the Government of the introduction of the wheat	30,000
Earnings for the single year 1905 (Earnings for previous years when 10,000,000 and 15,000,000 bushels were produced left out of account.)	1,500,000

On Finnish black oat.—A quick-maturing oat from Arctic Finland has been introduced into Alaska and has become the most profitable oat now grown there. The figures of actual earnings are not obtainable.

On Swedish select oat.—A Swedish oat found in Russia has been introduced into the Northwest, and in Wisconsin alone it has raised the average yield of oats per acre in that State by 6 bushels. The total area planted to this oat in Wisconsin alone in 1905 was about 200,000 acres, and the net gain, at 6 bushels per acre, from the cultivation of this imported variety yielded the farmers of that State, in the single season of 1905, $360,000; investment represented by estimated cost to the Government of the introduction, $5,000; earnings for the single year 1905, estimated at 6 bushels per acre increase on $200,000 acres, amounts to $1,200,000 bushels, at 30 cents a bushel, $360,000. (Earnings for previous years left out of account and extra price secured for seed oats not considered.)

On Japanese rice.—The Kiushu rice from Japan has been introduced into the Louisiana and Texas rice plantations, and it is now grown on half the rice-growing areas of these States. It is a more vigorous variety, yields 2 to 3 barrels more of rice to the acre, has a straw that is better for fodder, and, being short kerneled, it is not so much broken in the milling as the ordinary rice previously grown there. Its introduction has been an important factor in the phenomenal growth of the rice industry in Texas and Louisiana, the acreage devoted to this crop having increased from 210,396 acres in 1898 to 610,700 acres in 1904, and the output from 115,000,000 pounds to 650,000,000. If, as has been estimated, one-half of this increase is due to the introduction of the Kiushu rice, the annual value of the earnings from this introduction equals $3,000,000.

The loss to the planters through the breakage of the ordinary variety in the milling process was estimated as $3,000,000 a year before the introduction of this new variety, and it is fair to estimate the saving brought about by the introduction of the Kiushu rice, now grown over one-half the rice area at one-half this sum.

Investment represented by the cost of sending an explorer twice to Japan and China to select and purchase the seed	$18,000
Earnings for the single year 1905, estimated as above as savings	1,500,000
Increased crop production	3,000,000

On Turkestan alfalfa.—A more drought and alkali resistant alfalfa from Turkestan of distinctly superior quality for stock feeding has been introduced which produces in the trials that have been made in the arid West, where the yield of the ordinary alfalfa is reduced by drought to less than 2 tons per acre, from 50 to 100 per cent larger yields than the ordinary alfalfa heretofore grown there.

Although it has just been introduced, there are thousands of acres of this variety already established in the arid West and there are 60,000,000 acres of the Great Plains region on which its use will be an advantage, and several seed firms are importing this year carload lots of seed from Turkestan. Investment represented by the cost of two expeditions to Russia and Siberia and the seed secured, $6,000.

The new Bohemian horse-radish.—A variety of horse-radish has been brought in from Austria, which is fine flavored, yields a ton more to the acre, and is better appearing than the ordinary American horse-radish. It is now growing on at least 20 acres of land in New Jersey, Wisconsin, and Missouri.

Investment represented by part of the expenses of an explorer in the field while getting other plants, and the cost of the plants, their propagation and distribution	$500
Earnings for the single year 1905, 20 acres at 1 ton extra per acre, at $100 a ton, the market price	2,000

Kaffir corn introductions.—Kaffir corn was an early introduction by the Department from Africa, at a cost of not more than $5,000, and produces over $15,000,000 worth of grain and forage each year on the dry lands of the West, where corn is a very uncertain crop. All the best varieties have recently been gotten from all parts of the Old World, and comparative tests to find which are most profitable are in progress.

SUMMARY OF EARNINGS FOR THE YEAR 1905 ON WHICH FIGURES ARE OBTAINABLE.

On these few grain and forage plant introductions alone, which are quick yielders and where the profits can be estimated, the earnings to the country for 1905 have been (not counting rice increased production nor Kaffir corn) $3,362,600.

But these are only a few of the 18,000 new introductions which have been made since 1897, many of which are as promising wealth producers as those cited.

The condition of some of these other Government investments which are not yet yielding dividends to the country of such a nature as to admit of being represented in figures is as follows:

Date introductions.—The fact has been proved that America can grow her own dates. She now imports $600,000 worth every year. Over 3,000 date palms of 170 varieties have been introduced and are now growing in gardens in Arizona and California. These have been secured in Arabia, Algeria, Egypt, and Beluchistan, and a number have produced excellent fruit.

There are at least 500,000 acres where the date palm will probably be commercially grown in America, and fresh, clean dates produced. It is a plant which will grow on alkaline soils where most plants do not succeed, and will make farms and homes possible in regions which to-day are largely uninhabited. Investment represented by cost of expedition to the Sahara, Egypt, Arabia, and Tunis, and the cost of the high-priced young palms, and freight, $30,000.

New vegetable introduction.—The favorite vegetable of the Japanese (the Udo) has been introduced, and hundreds of patches of it are growing all over the country.

It has proven easier of cultivation and a heavier yielder than celery or asparagus, and its characteristic flavor has won enthusiastic admirers wherever it has been tasted. It is a distinct and valuable addition to the food plants of the country, and is a gift from Mr. Barbour Lathrop, of Chicago, that the Government has spent not over $3,000 to disseminate.

Japanese matting-rush introduction.—The rush of which the Japanese make their matting, which we pay $5,000,000 a year for, has been introduced and is growing in the abandoned rice plantations of the Carolinas. There are thousands of unused acres in the South where it will grow, and there is a market for the raw rushes of $2,000,000 in New England, where machines have been invented for weaving the matting.

These investigations have been two years in progress, at a cost of not over $2,000, and promise to be successful.

Developing sugar-beet seed growing.—The sugar-beet seed industry is an important one and one which is bound to increase as time goes on. At present this country is dependent almost wholly upon foreign-grown seed, and this Department has been working with considerable success to develop a home-grown supply. We are importing a half million dollars' worth of seed annually, and, besides this, a very conservative estimate shows that by proper seed growing, if we can increase the yield of beets and the percentage of sugar to even a very small degree, it will mean an increase of a million dollars annually in the value of the sugar production in this country. Our experimenters have already demonstrated that American seed properly grown will give an increase of at least 1 ton per acre in the yield, which will be equal to something like 300 pounds of sugar per acre.

Wilt-resistant cottons.—The annual loss in the southeastern cotton-growing section alone from wilt disease is upward of half a million dollars. The Department experts who have been studying this disease for years have developed several strains of wilt-resistant cotton. These are just ready for wide distribution. The same is true of cowpeas and watermelons in the South. Both of these crops suffer more or less from disease, against which the Department experts have developed immune strains. In the case of watermelons we are now growing stock of the first immune variety ever produced.

Cover crops.—The tobacco growers of Connecticut alone would realize a saving of $300,000 annually if a proper leguminous cover crop could be found. Our experimenters in the last two years have shown that this can be done, but much more work needs to be done before the proper varieties can be thoroughly made available for the purpose. The matter of cover crops for orchards in the great fruit-growing sections of Michigan, Florida, and California is in the same condition.

Tobacco seed of selected types.—The growers of high-priced tobacco in both Connecticut and Florida have suffered much in the past from the lack of uniformity in type. At times not more than a very small percentage of the crop could be sold on account of this lack of uniformity. During the current fiscal year we have made our first distribution of selected tobacco seed, and this important branch of the work has only just commenced.

Oats.—In the South a rust-resistant oat is very desirable. An oat of this type was introduced by the Department a great many years ago, but the variety has greatly deteriorated, and we have just taken up again the problem of pushing a thoroughly good rust-resistant oat. Some money has already been expended on this, and when it is borne in mind that the introduction of the Swedish Select oats has increased the oat crop in Wisconsin alone by $1,000,000 annually the importance of the introduction of some of the new varieties which the Department now has under way can readily be appreciated. One of our experimenters has been working for a number of years on the problem of developing a better quality of oat and one of heavier yield for the Middle States. We have small stocks of these varieties on hand now, and should by all means have an opportunity to increase the stocks and distribute the desirable sorts.

Hardy oranges.—During the past few years the Department has expended several thousand dollars in breeding and distributing selected oranges that can be grown farther north and be relatively free from danger during the disastrous freezes which visit Florida. Some of these varieties have been distributed during the past three years, but varieties of still greater promise are now on hand in small quantities.

Flaxseed and flax fiber.—The flaxseed crop of North Dakota is worth nearly twenty millions of dollars annually, and as good flax can be produced in this country as anywhere. Two years ago the Depart-

ment sent an expert to Europe to secure the best varieties of flaxseed, and these, together with some disease-resistant varieties developed in this country, should by all means be distributed throughout the West. It is difficult to calculate the amount of money represented by such sorts, but there is no reason why the crop of flaxseed in this country should not be doubled by such an introduction.

Timothy.—For several years past we have been breeding new varieties of timothy, which, as you know, is a standard grass over the larger part of the United States. Some of these new varieties gave a yield of from 15 to 25 per cent higher than the ordinary crop. An increase of 20 per cent in this crop, even without an increase in acreage, will amount to an annual increase of $10,000,000 in the value of this crop alone.

Soy beans.—Soy beans have become an important crop in some sections of the country, especially Kansas, and we have a new variety which is about ready for distribution, and gives a larger yield, while it is eaten much more freely and is easier to harvest. The introduction of this variety would also be rendered impossible if the funds were lacking.

Alfalfa.—There are approximately 60,000,000 acres of the Great Plains region alone where our new Turkestan alfalfa has proven decidedly superior to the ordinary kind, and its extension into this region will make farming there much more profitable. In that region the Turkestan alfalfa will produce from 50 to 100 per cent greater yield than the ordinary kind, often succeeding moderately where the ordinary kind fails entirely. While this variety may be considered as already introduced, there is still much work to be done in extending it throughout the region to which it is adapted. These semiarid sections are at present enjoying a series of rather wet years, and it is highly important that this seed be pushed into these regions rapidly during the next few years so that the alfalfa may get a good start before another season of dry years occurs. Besides the Turkestan alfalfa we have under way a new variety from Arabia, which is adapted to something like 500,000 or 1,000,000 acres in the irrigated regions of the South. In these sections it produces a ton of hay per acre more than the ordinary kind. The value of this hay, uncut, is at least $2 per ton, making an annual increase in value of from one to two million dollars if we can get this variety thoroughly introduced.

Grapevines.—The grape industry in California for some time has been suffering severely and has been threatened with almost total extinction on account of disease. We have now established nine experimental gardens, where we are trying to introduce disease-resistant varieties which are at the same time adapted as stocks for the fine table and wine crops. The successful completion of this work will be worth millions of dollars to California.

Brewing barleys.—The brewers of the country are awakening to the fact that a more satisfactory brew can be made from a pure barley than from a mixed lot. The introduction of these pure races has been put under way by the Department, and the time is ripe just now for their rapid extension. The crop will bring a higher price to the farmers and means a saving also to the brewers.

Mango introductions.—One of the best fruits of the Tropics is the mango, and the largest collection of varieties in the world has been assembled from India, Ceylon, East Africa, and the South Sea Islands, for the purpose of establishing the mango industry in Florida, Hawaii, Porto Rico, and the Panama Canal Zone.

Some of these varieties will fruit next season, and they will prove a new paying fruit crop for these regions and add a new fruit to the American menu.

The cost of these introductions will not exceed $10,000.

The pistache introduction.—The pistache is a tree that withstands drought in a remarkable degree and produces one of the most delicious table nuts known, as well as a flavoring extract which is now imported. Plants of this most promising new crop for the arid regions have been placed in the hands of experimenters. Hardy and cold-resistant stocks have been imported from the desert regions of Asia and China upon which to graft it, and in a few years the nuts will be as common with us as they are in Greece and Sicily to-day. There are thousands of acres of almond orchards in California and Arizona which have not been profitable because they were planted on too dry land, but this pistache will, it is believed, grow and produce good crops in these soils.

Explorations in China.—Minister Rockhill, Dr. Augustine Henry, and Professor Sargent, of Harvard, all authorities on China, agree that it has more plants likely to be valuable for American farmers and fruit growers than any other region in the world.

A trained explorer has been since July exploring the plant possibilities of this vast country, and has already sent in over a hundred more or less promising things which will be adapted to the conditions of the Middle States.

Seedless persimmons, hardy peaches and pears, remarkable new grapes, a new drought-resistant lawn plant, plums and apricots, hardy bamboos, and many important grains and vegetables are among the plants above mentioned.

When it is realized that the introduction of a Chinese peach variety revolutionized peach growing in the Atlantic States, and the Chinese pear hybrids have driven out most other sorts over wide areas of this country, the greatness of the possibilities of these new Chinese plant immigrants is evident.

Investment in this one-man expedition to China ($1,000 for his salary), $6,000.

Without going further into the same detail, as was done in describing the foregoing few selected problems, the following may be mentioned as partial investments made already, which must be followed up to produce returns, but which will have to be dropped if an appropriation of less than $110,000 is made:

The introduction of the sisal industry into Porto Rico, an industry out of which Mexico gets $16,000,000 a year from America; the introduction from North Russia and Finland of hardy fruits for the Dakotas; the establishment of clumps of the hardy timber bamboo throughout the South; the trial of the Japanese plant, from which the superlative papers of Japan are made; the introduction into the American tropics of such delicious East Indian fruits as the mangosteen, the doekos, and the leitchee, and the growing of a hop in America which shall be as good as the best European, which now brings double the price.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. WADSWORTH. Mr. Chairman, I think that the amendment offered by the gentleman was to strike out the last word, and I move that all debate on that amendment be now closed.

Mr. CANDLER. I hope the gentleman from New York will not do that.

Mr. POWERS. Mr. Chairman, I move to strike out the last two words.

Mr. WADSWORTH. After we have read two or three lines more we shall come to the paragraph relating to bureau and plant industry. Then all this free-seed discussion will be in order. I ask the committee to wait until we get to that point.

Mr. GAINES of Tennessee. I want to ask the gentleman a question about this appropriation at this particular time.

Mr. WADSWORTH. There will be no attempt to curtail debate except by unanimous consent. I ask that the reading of the bill be proceeded with until we reach the proper point.

Mr. GAINES of Tennessee. I want to ask the gentleman a question before we arrive at that paragraph.

The CHAIRMAN. The gentleman from Tennessee is out of order.

Mr. GAINES of Tennessee. I want to ask the gentleman from New York why he declines to put in any money to give unadulterated seed to the farmer when he puts in money here to give them unadulterated articles of other kinds?

Mr. POWERS. Mr. Chairman, what is the question before the committee?

The CHAIRMAN. Nothing; and the Clerk will read.

The Clerk read as follows:

For experiments in animal breeding and feeding in cooperation with State agricultural stations, $25,000.

Total, Bureau of Animal Industry, $1,682,980.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the committee why he has put money in this bill to inspect butter and does not put money in to inspect the seed which the farmers get? That is an honest inquiry and a fair question. The Secretary of Agriculture examines the seed he raises and those he buys and distributes. That is shown by the hearings, and I challenge the gentleman from New York to read it or deny my contention. Mr. CANDLER asked this question of Doctor Galloway: "All of them (the seed) are tested?" And the answer of Doctor Galloway was, "All of them are tested." Now, the gentleman leaves out the money appropriated for that purpose, but he puts money in this bill to test our dairy products, to test the rotten beef, to test the "foot disease" and the "mouth disease," the hollow-horn disease, and the hollow-tail troubles. [Laughter.]

Mr. POWERS. Mr. Chairman, I rise to oppose the motion of the gentleman from Tennessee to strike out the last word. [Laughter.] I do not intend to occupy but a very few moments of the time of the committee. I have not the good fortune to have had instruction either from the newspapers, from the granges, or from my constituents in relation to this subject-matter, as other gentlemen have. There seems to be a great deal of criticism, excitement, and talk about this small appropriation or proposed amendment to give some farmers a few garden seeds—a sort of a tempest in a teapot. A wondrous streak of economy and saving has taken possession of some gentlemen in reference to this matter, but I think that the gentleman from Maryland [Mr. MUDD] struck the keynote, disclosed the real power behind this spasmodic economy. I believe if you could trace this opposition to its real source, though many gentlemen may not realize it—I mean the refusal to include in the bill the small sum that should be, and heretofore has been, appropriated for the benefit of the farmer who works with his own hoe and plows with his own hands, not the kid-gloved gentlemen who farm by the honest sweat of the other fellow's brow—you would find that it originates and all springs from the persons engaged and having a large amount of money employed in raising and selling seeds for the market. I have heard it called the "seed trust"—whether a trust or not I can not say. I refer to the men who are holding or about to hold, as I am informed, a convention at the New Willard to see to it that no appropriation for seeds is made.

Mr. LILLEY of Connecticut. Will the gentleman yield?

Mr. POWERS. I can not yield now; I have only got five minutes. I will yield after that. I do not know, Mr. Chairman—and he did not inform us during the considerable time he was allowed to proceed—from what source the gentleman from New York got his list of newspapers to write to; I do not know who furnished the list to him, or what was the inducement that caused him to expend so much time and labor, nor the sort of letter that he wrote. It seems, however, that he got the answers he was hunting for. But I learned quite early in life that if you wanted to get certain information and sent persons after it they generally got what you wanted; and if you wrote for information you got what you wanted if you were careful enough in the selection of your correspondents. I believe myself, notwithstanding I have had no instruction and no correspondence with newspapers, that the majority of the small farmers throughout the country, the men who receive but

very little consideration from the Government [applause], are glad to have these seeds sent to them. I represent an agricultural district, a district that has more agriculture, as you may know, Mr. Chairman, than most of the gentlemen here in this House believe. I represent a county in which the farmers themselves this year will receive some $6,000,000 for what they spare in agriculture. We have large seed-raising establishments and none of their advertisements in our newspapers. Hence there are no replies hailing from my district to the gentleman from New York.

I have never had a letter from one man in any part of my district stating that he did not want the few packages of seeds sent, and I have at various times received letters of thanks for the seeds, and very many requests for them. I will admit that I think greater care ought to be taken by the Department in the seeds sent to the various climates. For instance, they do send to northern Maine seeds unfit for that climate, and if they send out rotten seeds, as has been stated by the gentleman from New York [Mr. COCKS], then the Department should exercise greater care in that respect, for the law and the appropriation and every consideration demand that the seeds should be of the best quality.

Now, what is this? Here is a small sum appropriated for the purpose of sending to the farmers throughout the country packages of seeds. They have been accustomed to receive them. By receiving these packages they fail to buy of the agents of these various large concerns, who, I dare say, advertise in every paper from which the gentleman has letters, and to pay them their very remunerative profits, as they get them from the Government. I believe that the farmer, and especially the small farmer, in the out-of-the-way little town and plantation is as deserving of consideration as any class of men in our country, and until I hear from this class I shall vote to continue to send him a little memento from the Government in the shape of a few packages of seed, as we have been doing in years past. Possibly these seed producers, if they sell to the Government, are compelled to sell for a lower price than they could wring from the farmer. Under these circumstances, this distribution having been a custom for years past, it seems to me that it would be poor legislation, uncalled-for retrenchment; that it would be a saving at the spigot and pouring out at the bung to attempt to take from the farmers of this country this small amount which is used for the seed distribution, and which, in my judgment, produces great good in many cases.

Mr. TRIMBLE. Mr. Chairman, I move to strike out the last two words, and I ask unanimous consent that I may be permitted to proceed for ten minutes.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to continue his remarks for ten minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. WADSWORTH. Mr. Chairman, I wish to object now, but I shall not object if the gentleman will wait until we reach the Bureau of Plant Industry.

The CHAIRMAN. The Chair put the question, and the gentleman failed to object. The Chair will hold that the gentleman's objection comes too late.

Mr. WADSWORTH. I have no objection at the proper time.

Mr. TRIMBLE. Mr. Chairman, at a certain point in this bill, which will be reached in a very few minutes, an amendment will be offered to restore the free distribution of garden seeds, a practice which has been in vogue for many years, to the great advantage and improvement of the agricultural interests of the country. That amendment was stricken out by the Agriculture Committee, composed of six Democrats and twelve Republicans. I understand the programme is that a point of order is to be made against that amendment, and if the Chair sustains the point of order then we will have an indirect vote on this proposition by the way of an appeal from the decision of the Chair, and if the Republicans are whipped into line, as they usually are on an appeal from a Republican Chairman, whether he be right or wrong, then the free-seed distribution will be wiped out; but I want the country to know, then, that the responsibility devolves upon the Agricultural Committee for striking this meritorious provision out, and I want the country to know that the six Democratic members on the Agricultural Committee, of which I have the honor to be a member, stood, as Democrats always stand, for the interest of the farmer—the free distribution of garden seeds. [Applause on the Democratic side.] If it goes out, I want the country to know that the responsibility is on the Republican party in this House. The Democratic party has been the friend of the farmer from the foundation of the Government to this good hour. It was truthfully said by the late Senator Vest, of Missouri:

> The founder of the Democratic party was the best friend the agricultural interest ever had upon this continent. It is a singular fact that Mr. Jefferson, when minister to France, and watching the great drama of the French revolution, as he looked upon the French court at Versailles feasting and dancing, as some people are doing now, while the mob surged and roared like a wild beast in the streets of Paris, and while corresponding with the savants of Europe, sent home seeds and plants of all kinds in order to improve the agriculture of this country.
>
> It is a singular fact that he traveled incognito over all the southern parts of France and across the Alps into Italy in order to find out why the planters of South Carolina did not have seed rice equal to that which was produced in Europe. In Italy he found the rice superior to any that had ever been known on this continent. He discovered that by Italian laws it could not be exported, and I am not ashamed to say that in the interests of agriculture the founder of our party turned smuggler and filled his pockets inside and out with the rice, which he brought to Paris and shipped to Charleston, S. C., in small packages. It was carefully distributed and attended, and gave us the South Carolina rice, which to-day is the finest in the world.
>
> When William C. Rives was minister to France, in 1853, he states that in the rooms of the Royal Agricultural Society of the Seine he saw the prize plow of Thomas Jefferson, which had received a medal from that society while he was minister to France. The Democratic party has always been peculiarly devoted to the farming interests of this country, and has derived its largest support from that source. It has never been the party of the capitalist and the rich man, but has always depended upon the people on whom at last the prosperity of the country must rest.

Now, Mr. Chairman, I want to take up some of the reasons why the opponents of Government distribution of seed want to strike this provision out. It is said that the seed dealers are opposed to it, and I say they are behind and instigating all these newspaper articles opposing this measure, and I am going to make the broad assertion that some of the greatest commercial thieves and scoundrels in this country are among the seed dealers, and I will prove the truth of my assertion. [Applause.]

Mr. LILLEY of Connecticut. Mr. Chairman, will the gentleman yield for a moment?

The CHAIRMAN. Does the gentleman yield?

Mr. TRIMBLE. Yes.

Mr. LILLEY of Connecticut. Will the gentleman yield long enough to allow me to disabuse his mind of the fact that the seed dealers are the only people in this country who are opposed to this?

Mr. TRIMBLE. No; I do not yield for that purpose, as it is immaterial who is opposed to it in discussing the merits of the measure.

Mr. LILLEY of Connecticut. I have got a lot of information from the farmers here.

Mr. MANN. He has got about a couple of dozen letters here.

Mr. TRIMBLE. I want to reiterate that some of the greatest thieves who are robbing the farmers in this land are among the wholesale seed dealers of this country, and I want to prove it to this House by Government reports that can not be questioned. At the last session of Congress I introduced a bill to prevent the adulteration and misbranding of blue-grass, orchard-grass, clover, and alfalfa seed, because of the fact that many wholesale dealers were engaged in this adulteration business on a colossal scale, entailing a loss of millions of dollars to the farmers and enormous profits for themselves.

The bill provided heavy penalties for the adulterating and misbranding of these important seeds—fine and imprisonment. It met the approbation of the Secretary of Agriculture and was favorably reported to the House by the Agricultural Committee, but on account of the lateness of the session it looked impossible to have it considered; therefore, at my suggestion, the Agricultural Committee very wisely incorporated in the agricultural appropriation bill the following provision:

> The Secretary of Agriculture is hereby directed to obtain in the open market samples of seeds of grass, clover, or alfalfa, test the same, and if any such seeds are found to be adulterated or misbranded, or any seeds of Canada bluegrass (Poa compressa) are obtained under any other name than Canada bluegrass or Poa compressa, to publish the results of the tests, together with the names of the persons by whom the seeds were offered for sale.

Now, under the operation of this provision, mind you, after the seed dealers of the country knew that this law was on the statute books, they were caught by the wholesale, engaged in the adulteration and misbranding of seed. For the edification of those who are strenuously quoting the petitions of the seed dealers of the country as a reason why the Government distribution of seed should be done away with, I submit the first report of the Secretary of Agriculture in carrying out the provisions of this law, that you may judge for yourselves whether or not all of them are honest and have the interest of the farmer at heart.

The report is as follows:

ADULTERATION OF KENTUCKY BLUEGRASS AND ORCHARD GRASS SEED.

Seeds of Kentucky bluegrass and of orchard grass have been obtained and tested in accordance with the following paragraph contained in the act of Congress making appropriations for the Department of Agriculture:

"The Secretary of Agriculture is hereby directed to obtain in the

open market samples of seeds of grass, clover, or alfalfa, test the same, and if any such seeds are found to be adulterated or misbranded, or any seeds of Canada bluegrass (Poa compressa) are obtained under any other name than Canada bluegrass or Poa compressa, to publish the results of the tests, together with the names of the persons by whom the seeds were offered for sale."

In carrying out the provisions of this act 251 samples of seed of Kentucky bluegrass and 265 samples of orchard grass were obtained in the open market and examined. Of these, 41 samples of seed of Kentucky bluegrass were found to be adulterated with seed of Canada bluegrass, while 133 samples of orchard grass seed were found to be adulterated, the seeds most commonly used as adulterants being English rye-grass and meadow fescue, the value of neither being more than one-third to one-half that of orchard grass seed. That the adulteration of orchard grass is very general is evidenced by the fact that samples containing adulterants were obtained from twenty-four States.

While Canada bluegrass is imported into the United States in quantities varying from 600,000 to 700,000 pounds per annum, it is used only occasionally in this country, and it is evident that the bulk of the seed imported is sold as Kentucky bluegrass.

In accordance with the provisions of the act of Congress quoted, publication is here made of the names and addresses of the seedsmen who sold the lots found to be adulterated, together with the percentages of adulteration in each lot.

Results of tests of samples of seed obtained in the open market as Kentucky blue-grass seed and found to be adulterated.

Seed sold as Kentucky blue-grass by—		Quantity examined.	Seeds used as adulterants.	
Name.	Address.		Canada blue-grass.	Total adulterants.
			Per cent.	*Per cent.*
Frank H. Battles	28 Selye Terrace, Rochester, N. Y.	Mail sample	19.32	19.32
Brewster, Crittenden & Co	44 N. St. Paul street, Rochester, N. Y.	do	23.77	23.77
Do	do	Seed bought in bulk	24.08	24.08
A. C. Brown	217 S. Fifth street, Springfied, Ill	Mail sample	28.35	28.35
M. F. Crissman	Manchester, Ohio	do	30.65	30.65
Do	do	Seed bought in bulk	21.49	21.49
Curry-Arrington Co	Rome, Ga	Mail sample	21.54	21.54
Do	do	Seed bought in bulk	27.74	27.74
Zach Davis Co	Delaware, Ohio	Mail sample	23.23	23.23
Do	do	do	25.48	25.48
Do	do	Seed bought in bulk	21.02	21.02
Denver Seed and Floral Co	Denver, Colo.	Mail sample	29.3	[a] 46.86
Do	do	Seed bought in bulk	25.1	25.1
J. A. Everitt	Indianapolis, Ind	Mail sample	50.03	50.03
Do	do	Seed bought in bulk	35.99	35.99
Godden Co., Amzi	Birmingham, Ala	Mail sample	32.5	32.5
Griswold Seed Co	Lincoln, Nebr	do	47.55	47.55
Do	do	Seed bought in bulk	42	42
Harmon & Harris Co	Exchange and Federal streets, Portland, Me	Mail sample	46.19	46.19
Do	do	Seed bought in bulk	46.19	46.19
Joseph Harris Co	Coldwater, N. Y	Mail sample	18.55	18.55
Do	do	Seed bought in bulk	25.11	25.11
Arthur G. Lee & Bro	Fort Smith, Ark.	Mail sample	72.55	[b] 30.72
Do	do	Seed bought in bulk	76.85	76.85
Leonard Seed Co	79 E. Kinzie street, Chicago, Ill	Mail sample	89.91	89.91
Do	do	Seed bought in bulk	83.23	83.23
M. G. Madson Seed Co	Manitowoc, Wis.	Mail sample	41.56	41.56
Plant Seed Co	814 North Fourth street, St. Louis, Mo	do	55.13	55.13
Do	do	Seed bought in bulk	25.98	25.98
Martin C. Ribsam	Broad and Front streets, Trenton, N. J	Mail sample	78.92	[c] 83.12
Ross Bros	90 Front street, Worcester, Mass.	do	2.7	[d] 48.1
Do	do	Seed bought in bulk	19.32	19.32
John A. Salzer Seed Co	La Crosse, Wis	Mail sample	19.45	19.45
Do	do	Seed bought in bulk	22.74	22.74
Schisler-Corneli Seed Co	813 North Fourth street, St. Louis, Mo	Mail sample	84	84
Do	do	Seed bought in bulk	8.67	8.67
A. Tilton & Son	83 Woodland avenue, Cleveland, Ohio	Mail sample	23.8	23.8
Do	do	Seed bought in bulk	25.3	25.3
E. E. Wheeler	1131 Main street, Bridgeport, Conn.	Mail sample	36.91	36.91
Do	do	Seed bought in bulk	30.89	30.89
Young & Halstead	2 Grand street, Troy, N. Y.	Mail sample	59.9	[e] 66.9

[a] 17.56 per cent redtop. [b] 8.17 per cent timothy. [c] 4.2 per cent timothy. [d] 45.4 per cent redtop. [e] 4.1 per cent timothy; 2.9 redtop.

Results of tests of samples of seed obtained in the open market as orchard-grass seed and found to be adulterated.

Seed sold as orchard grass by—		Quantity examined.	Seeds used as adulterants.	
Name.	Address.		Meadow fescue and rye grass.	Total adulterants.
			Per cent.	*Per cent.*
N. H. Adams & Son	Decorah, Iowa	Mail sample	23.93	23.93
Do	do	Seed bought in bulk	18.8	18.8
T. Lee Adams	417 Walnut street, Kansas City, Mo	Mail sample	10.78	10.78
Do	do	Seed bought in bulk	13.2	13.2
Alexander Seed Co	Augusta, Ga	Mail sample	26.7	26.7
Do	do	Seed bought in bulk	29.68	29.68
H. C. Anthony	Portsmouth, N. H.	Mail sample	22.25	[a] 38.55
Do	do	Seed bought in bulk	24.3	[b] 27.4
Batchelor's Seed Store	26 Liberty street, Utica, N. Y.	Mail sample	51.15	51.15
Do	do	Seed bought in bulk	37.4	[c] 43.50
Frank H. Battles	Rochester, N. Y	Mail sample		[d] 19.7
Do	do	Seed bought in bulk	26.58	26.58
A. A. Berry Seed Co	Clarinda, Iowa	Mail sample	9.13	[e] 33.37
Do	do	Seed bought in bulk	7.7	[f] 29.35
Binghamton Seed Co	Henry and Water streets, Binghamton, N. Y.	Mail sample	21.68	21.68
Do	do	Seed bought in bulk	19.4	19.4
F. W. Bolgiano & Co	935 B street, Washington, D. C.	Mail sample	25.4	25.4
Do	do	Seed bought in bulk	25.8	25.8
C. S. Brent	Lexington, Ky	Mail sample	26.62	26.62
Do	do	do	29.79	29.79
Do	do	Seed bought in bulk	2.45	2.45
Brewster, Crittenden & Co	44 North St. Paul street, Rochester, N. Y.	Mail sample	32.65	32.65
Do	do	Seed bought in bulk	39.71	39.71
A. C. Brown	217 South Fifth street, Springfield, Ill	Mail sample	18.4	18.4
Do	do	Seed bought in bulk	18.54	18.54
John J. Buffington & Co	104 South Charles street, Baltimore, Md.	Mail sample	9.19	9.19
Do	do	Seed bought in bulk		[g] 2.79

[a] 6.7 per cent other fescue grasses; 6.8 per cent bromus; 2.8 per cent molinia.
[b] 3.1 per cent molinia.
[c] 6.1 per cent velvet grass.
[d] 19.7 per cent other fescue grasses.
[e] 24.24 per cent other fescue grasses.
[f] 21.65 per cent other fescue grasses.
[g] 2.79 per cent timothy.

Results of tests of samples of seed obtained in the open market as orchard-grass seed and found to be adulterated—Continued.

Seed sold as orchard grass by—		Quantity examined.	Seeds used as adulterants.	
Name.	Address.		Meadow fescue and rye grass.	Total adulterants.
			Per cent.	*Per cent.*
D. V. Burrell	Rocky Ford, Colo	Mail sample	25.26	[a]34.85
Do	do	Seed bought in bulk	55.85	[b]64
Charleston Nursery and Seed Co	Charleston, W. Va	Mail sample	40.45	40.45
Do	do	Seed bought in bulk	43.75	43.75
Chesmore-Eastlake Mercantile Co	838 South Fourth street, St. Joseph, Mo	Mail sample	6.75	[c]20.09
Do	do	Seed bought in bulk	12.75	[d]22.60
O. W. Clark & Sons	59 Seneca street, Buffalo, N. Y	Mail sample	26.5	26.5
Do	do	Seed bought in bulk	26.15	26.15
E. W. Conklin & Sons	Binghamton, N. Y	Mail sample	26.4	26.4
Do	do	Seed bought in bulk	23.4	23.4
M. F. Crissman	Manchester, Ohio	Mail sample	44.5	44.5
Do	do	Seed bought in bulk	49.95	49.95
Crosman Bros	Rochester, N. Y	Mail sample	19.86	19.86
Do	do	Seed bought in bulk	16.21	16.21
Curry-Arrington Co	Rome, Ga	Mail sample	36.3	36.3
Do	do	Seed bought in bulk	37.45	37.45
Zach Davis Co	Delaware, Ohio	Mail sample	19.74	[e]21.29
Do	do	do	19.62	19.62
Do	do	Seed bought in bulk	19.55	19.55
Edward P. Dibble	Honeoye Falls, N. Y	Mail sample	15.36	15.36
Farber Seed Co	St. Joseph, Mo	do	35.8	35.8
Do	do	Seed bought in bulk	10.7	10.7
Wm. S. Gilbreath Seed Co	Indianapolis, Ind	Mail sample	11.4	11.4
Do	do	do	13.86	13.86
Do	do	Seed bought in bulk	6.25	6.25
Godden Co., Amzi	Birmingham, Ala	Mail sample	25.3	25.3
Do	do	Seed bought in bulk	24.2	24.2
James J. H. Gregory & Son	Marblehead, Mass	Mail sample	21.11	21.11
Do	do	Seed bought in bulk	20.85	20.85
Harmon & Harris Co	Exchange and Federal streets, Portland, Me	Mail sample	21.25	21.25
Do	do	Seed bought in bulk	20.25	20.25
Holmes Seed Co	Harrisburg, Pa	Mail sample	42.73	42.73
Do	do	Seed bought in bulk	46.15	46.15
Carl S. Hopkins	Brattleboro, Vt	Mail sample	21.2	21.2
Do	do	Seed bought in bulk	18.36	18.36
John Hubbard & Co	First and Vine streets, Evansville, Ind	Mail sample	24.35	24.35
Do	do	Seed bought in bulk	26.05	26.05
John D. Imlay	54 Fifth street, Zanesville, Ohio	Mail sample	20.28	[f]22.73
Do	do	Seed bought in bulk	19.65	19.65
Iowa Seed Co	613 Locust street, Des Moines, Iowa	Mail sample	18.89	18.89
S. M. Isbell & Co	Jackson, Mich	Mail sample	22.85	22.85
Do	do	Seed bought in bulk	28.94	28.94
Milton T. Jones	14 Liberty street, Utica, N. Y	Mail sample	39.55	39.55
Do	do	Seed bought in bulk	41.43	41.43
Kendall & Whitney Co	Federal and Temple streets, Portland, Me	Mail sample	26.2	26.2
Do	do	Seed bought in bulk	1.29	1.29
Lacy Seed and Fuel Co	Noblesville, Ind	Mail sample	50.6	50.6
Do	do	Seed bought in bulk	50	50
Leonard Seed Co	79 East Kinzie street, Chicago, Ill	Mail sample	27.21	27.21
Do	do	Seed bought in bulk	24.5	24.5
Livingston Seed Co	Columbus, Ohio	Mail sample	19.76	19.76
Do	do	Seed bought in bulk	25	25
J. M. McCullough's Sons	316 Walnut street, Cincinnati, Ohio	Mail sample	21.75	21.75
Do	do	Seed bought in bulk	3.1	3.1
I. S. Matthews's Sons	Binghamton, N. Y	Mail sample	44.48	44.48
Do	do	Seed bought in bulk	48.7	48.7
L. L. May & Co	381 Minnesota street, St. Paul, Minn	Mail sample	73.65	[g]89.7
Do	do	Seed bought in bulk	9.9	9.9
Thos. Meherin	552 Battery street, San Francisco, Cal	Mail sample	35.05	35.05
Do	do	Seed bought in bulk	1.1	1.1
Henry F. Michell Co	1018 Market street, Philadelphia, Pa	Mail sample	37.25	[h]55
Do	do	Seed bought in bulk	34.6	[i]50.65
P. B. Mingle & Co	103 Market street, Philadelphia, Pa	Mail sample	26	26
Do	do	Seed bought in bulk	28.45	28.45
Missouri Seed Co	1426 St. Louis avenue, Kansas City, Mo	Mail sample	13.4	13.4
Walter Mott Seed and Bulb Co	Jamestown, N. Y	do	44.4	44.4
Do	do	Seed bought in bulk	42.2	42.2
Murray's Seed Store	420 South Adams street, Peoria, Ill	Mail sample	18.25	18.25
Do	do	Seed bought in bulk	19.82	19.82
National Seed Co	101 West Main street, Louisville, Ky	Mail sample	26.68	26.68
Do	do	Seed bought in bulk	3.55	3.55
Oklahoma Seed House (Barteldes & Co.)	Oklahoma City, Okla	Mail sample	18.75	18.75
Do	do	Seed bought in bulk	13.53	13.53
L. L. Olds Seed Co	Clinton, Wis	Mail sample	98.55	98.55
Geo. H. Price	511 Broadway, Albany, N. Y	do	43.27	43.27
Do	do	Seed bought in bulk	40.45	40.45
Ratekin's Seed House	Shenandoah, Iowa	Mail sample	12.26	[j]33.70
Do	do	Seed bought in bulk	15.29	[k]32.53
Robert C. Reeves Co	187 Water street, New York, N. Y	Mail sample	7.45	[l]30.05
Do	do	Seed bought in bulk	6.6	[m]37.50
Martin C. Ribsam	Broad and Front streets, Trenton, N. J	Mail sample	23.68	23.68
Do	do	Seed bought in bulk	12.54	[n]41.41
Ross Brothers	90-92 Front street, Worcester, Mass	Mail sample	32	32
Do	do	Seed bought in bulk	31.97	31.97
Wm. G. Scarlett & Co	729 E. Pratt street, Baltimore, Md	Mail sample	9.45	9.45
Wm. E. Schaeffer	Lockport, N. Y	do	19.08	19.08
Do	do	Seed bought in bulk	22.3	22.3
Jos. A. Schindler & Co	827 Decatur street, New Orleans, La	Mail sample	10.05	[o]24.25
Schlegel & Fottler Co	26 S. Market street, Boston, Mass	do	8.2	8.2
Do	do	Seed bought in bulk	6.2	6.2

[a] 9.59 per cent bromus.
[b] 8.15 per cent bromus.
[c] 9.99 per cent other fescue grasses; 3.35 per cent bromus.
[d] 6.1 per cent bromus; 3.75 per cent other fescue grasses.
[e] 1.55 per cent other fescue grasses.
[f] 2.45 per cent Kentucky blue grass.
[g] 16.05 per cent chess.
[h] 17.65 per cent molinia.
[i] 16.05 per cent molinia.
[j] 21.44 per cent other fescue grasses.
[k] 17.24 per cent other fescue grasses.
[l] 22.6 per cent other fescue grasses.
[m] 30.9 per cent other fescue grasses.
[n] 6.7 per cent bromus; 22.17 per cent other fescue grasses.
[o] 14.2 per cent other fescue grasses.

Results of tests of samples of seed obtained in the open market as orchard-grass seed and found to be adulterated—Continued.

Seed sold as orchard grass by—		Quantity examined.	Seeds used as adulterants.	
Name.	Address.		Meadow fescue and rye grass.	Total adulterants.
			Per cent.	*Per cent.*
Geo. L. Siegel	Erie, Pa	Mail sample	9.39	9.39
Do	do	Seed bought in bulk	10.85	10.85
State Nursery Co	Helena, Mont	Mail sample	42.45	42.45
Do	do	Seed bought in bulk	40.25	40.25
Chas. H. Stone & Co	9 Chatham Row, Boston, Mass	Mail sample	32.87	a45.75
Chas. H. Stone & Co	9 Chatham Row, Boston, Mass	Seed bought in bulk	23.3	23.3
Storrs & Harrison Co	Painesville, Ohio	Mail sample	9.04	9.04
Do	do	Seed bought in bulk	12.35	12.35
Vogeler Seed and Produce Co	Salt Lake City, Utah	Mail sample	18.8	18.8
Do	do	Seed bought in bulk	51.95	51.95
Whitney-Eckstein Seed Co	Chamber of Commerce Building, Buffalo, N. Y	Mail sample	39.38	39.38
Do	do	Seed bought in bulk	37.85	37.85
Whitney-Noyes Seed Co	Church street and Terrace, Buffalo, N. Y	Mail sample	23.13	23.13
Do	do	Seed bought in bulk	24.2	24.2
N. L. Willet Drug Co	Augusta, Ga	Mail sample	29	29
Do	do	Seed bought in bulk	28.6	28.6

a 12.88 per cent timothy.

In order that seedsmen, as well as farmers, may avoid the purchase of adulterated seeds, this Department will examine and report promptly as to the presence of adulterants in any samples of seed submitted for that purpose.

JAMES WILSON, *Secretary of Agriculture.*

WASHINGTON, D. C., *February 7, 1906.*

Results of tests of samples obtained in the open market as alfalfa seed and found to be adulterated.

Seed offered for sale as alfalfa by—		Seeds used as adulterants.		
Name.	Address.	Bur clover.	Yellow trefoil.	Total adulterants.
		Per ct.	*Per ct.*	*Per ct.*
Darrison, John T	13-17 Buffalo street, Lockport, N. Y.	.....	43.8	43.8
Do	do	.....	41.64	41.64
Ebeling, F. H	217 Warren street, Syracuse, N. Y.	4.06	30.22	34.28
Do	do	.....	10.4	10.4
Harvey Seed Co	65-69 Ellicott street, Buffalo, N. Y.	3.98	40.46	44.44
Do	do	3.6	38.86	42.46
Do	do	.....	36.86	36.86
Jacot & Mullen	1 Water street, New York, N. Y.	.....	34.34	34.34
Do	do	.....	10.7	10.7
Moody, J. A	13 South Phelps street, Youngstown, Ohio.	.....	35.62	35.62
Do	do	.....	39.78	39.78
Small & Co., W. H	7 and 9 Upper First street, Evansville, Ind.	3.82	39.82	43.64
Do	do	3.44	32.42	35.86
Do	do	4.38	41.74	46.12
Do	do	2.92	36.3	39.22
Do	do	2.88	24.44	27.32
Do	do	5.5	32.62	38.12
Do	do	3.86	30.74	34.6
Teweles & Co., L	113-119 Clybourn street, Milwaukee, Wis.	11.34	.....	11.34
Young & Halstead	Foot of Grand street, Troy, N. Y.	5.06	17.02	22.08
Do	do	5.66	17.44	23.1
Do	do	6.74	15.22	21.96
Do	do	5.85	16.625	22.475

The Department takes this occasion to call attention again to its offer, repeatedly made in official publications, in circulars sent to seedsmen, and in announcements through the agricultural press, to test and report upon samples of seeds sent for that purpose by any farmer or seedsman.

JAMES WILSON, *Secretary.*

WASHINGTON, D. C., *December 29, 1904.*

[United States Department of Agriculture, office of the Secretary.—Circular No. 14.]

ADULTERATION OF ALFALFA AND RED CLOVER SEED.

Seeds of alfalfa and red clover have been obtained and tested in accordance with the following paragraph contained in the act of Congress making appropriations for the Department of Agriculture:

"The Secretary of Agriculture is hereby directed to obtain in the open market samples of seeds of grass, clover, or alfalfa, test the same, and if any such seeds are found to be adulterated or misbranded, or any seeds of Canada blue grass (*Poa compressa*) are obtained under any other name than Canada blue grass or *Poa compressa*, to publish the results of the test, together with the names of the persons by whom the seeds were offered for sale."

In carrying out the provisions of this act 1,272 seedsmen were asked by special agents of this Department for samples of red clover and alfalfa seed, as offered for sale by them. From these seedsmen 658 samples were obtained and examined. As a result the following lots were purchased in the open market and found to be adulterated. In accordance with the mandatory nature of the act quoted above, publication is here made of the names and addresses of the seedsmen who sold the lots found to be adulterated, together with the percentages of adulteration in each lot.

Results of tests of samples bought in the open market as red clover seed and found to be adulterated.

Seed sold as red clover by—		Seeds used as adulterants.	
Name.	Address.	Yellow trefoil.	Total adulterants.
		Per ct.	*Per ct.*
Rawson & Co., W. W.	12 and 13 Faneuil Hall square, Boston, Mass.	10.55	10.55
Ross Bros	90 and 92 Front street, Worcester, Mass.	26.85	26.85
Small & Co., W. H.	7 and 9 upper First street, Evansville, Ind.	14.08	14.08

Results of tests of samples bought in the open market as alfalfa seed and found to be adulterated.

Seeds sold as alfalfa by—		Seeds used as adulterants.			
Name.	Address.	Sweet clover.	Bur clover.	Yellow trefoil.	Total adulterants.
		Per ct.	*Per ct.*	*Per ct.*	*Per ct.*
Barrett Co., The W. E.	65-87 Canal street, Providence, R. I.	.....	3.47	32.86	36.33
Barteldes & Co	1521 Fifteenth street, Denver, Colo.	.....	16.86	.....	16.86
Crossman Bros	503 Monroe avenue, Rochester, N. Y.	.....	5.02	39.48	44.50
Dallwig, W. E	34 Juneau avenue, Milwaukee, Wis.	.....	5.74	.....	5.74
Everitt, J. A	227 W. Washington street, Indianapolis, Ind.	.....	4.27	38.43	42.70
Do	do	.....	3.90	39.53	43.43
Gregory & Son, James J. H.	Marblehead, Mass	.....	3.00	.....	3.00
Grossman, W	15 Bollingbrook street, Petersburg, Va.	.....	.....	1.25	1.25
Hamilton Bros	Cedar Rapids, Iowa	.....	5.49	.....	5.41
Huntington & Page	130 E. Market street, Indianapolis, Ind.	.....	3.37	38.54	41.99
Kirchner, Jacob F	156 North street, Pittsfield, Mass.	9.52	.....	.....	9.52
McMillan Seed Co., L. D.	23 S. Broad street, Atlanta, Ga.	.....	10.04	.....	10.04
Martin, B. E	Main and Walnut streets, Salem, Ill.	.....	.....	6.98	6.98
May & Co., L. L	381 and 383 Minnesota street, St. Paul, Minn.	.....	.....	31.77	31.77
National Seed Co	101 W. Main street, Louisville, Ky.	.....	16.53	.....	16.53
Platt Co., The Frank S.	374 and 376 State street, New Haven, Conn.	.....	5.88	39.85	45.73
Rush Park Seed Co.	Independence, Iowa	.....	12.69	.....	12.69
Steckler Seed Co. (Ltd.), J.	518-526 Gravier street. New Orleans, La.	.....	2.57	.63	3.20
Young & Halstead	Foot of Grand street, Troy, N. Y.	.....	6.23	31.26	37.49

In order to aid seedsmen in avoiding the purchase of adulterated seeds, this Department will examine and report promptly as to the presence of adulterants in any samples of seed submitted for that purpose.

JAMES WILSON, *Secretary of Agriculture.*

WASHINGTON, D. C., *October 23, 1905.*

Mr. TRIMBLE. I want to call to the attention of my friend from New York [Mr. COCKS] that there were more than twenty of these seed thieves "caught in the act" in his own State. [Applause and laughter.] The Government found these honest seed dealers selling the farmers pure orchard grass, blue grass, and clover seed adulterated all the way from 10 to 90 per cent. Do you think they are honest?

Mr. COCKS. Mr. Chairman, will the gentleman permit a question?

Mr. TRIMBLE. Yes.

Mr. COCKS. I would like to know what that has to do with free distribution of garden seed?

Mr. TRIMBLE. Oh, I am only showing the gentleman the general character of some of the seed dealers, and that because a man is a dealer in seeds it does not necessarily follow that he is an honest man, and "loses sleep" looking after the interest of the farmer.

Mr. COCKS. I am just as much in favor of the purity of seeds as the gentleman is.

Mr. TRIMBLE. Now, a word in regard to the newspapers fighting this measure. There is a newspaper published in my district that had one of those stereotyped editorials against Government distribution. I had sent the editor a bag of garden seeds, three to four hundred packages. He requested me to send him "more seed." When I saw this article I wrote to him and asked him why he wanted the Government seeds when his paper declared them to be inferior and unfit to plant. His reply was "You go on and send your garden seed; my advertising columns are open to the public, who pay for space." [Applause and laughter.] Now, as to the granges of the country being opposed to the Government distribution. Why, of course many of them do not appreciate a little thing like that. Among them are the kid-glove farmers, who can afford a cocktail before breakfast, a clean shirt and a shave every day, a plunge bath, and bed springs at night. [Applause and laughter.] The man who wants these garden seed, and who appreciates them, is the fellow who follows the plow for fourteen hours a day, for 75 cents, while these kid-glove farmers are debating ways and means to skin him out of his crops. [Applause and laughter.]

Why, talk about graft; suppose it is graft? It is the only graft in the Government in which each of our 80,000,000 people have a chance to get a piece of the "rake-off," and that is the reason some of you are kicking. [Prolonged laughter and applause.] If a few fellows got it all, some of you distinguished gentlemen who are fighting this proposition would be on the other side of the question. [Applause.] Mr. Chairman, I would rather vote a hundred times the amount of this appropriation to give something to the struggling farmer who is fighting life's rugged battle unaided by the Government, something to make his home comfortable and happy; I would rather put one flower in the sick room of his wife and children, than to vote a single dollar to build life-destroying guns and battle ships. [Applause.] Some of the gentlemen on the other side of the House who are strenuously opposing this appropriation from a standpoint of economy will in a few days fall over one another to vote for the $100,000,000 naval appropriation. They say that the money could be spent to a better advantage for the farmer in some other way. I deny the assertion. I believe the money spent for the distribution of seed reaches directly more people and brings greater returns than any money appropriated by Congress. If you want to economize, begin in the right place, where there is an abundance of room for economy. "Take not from him that hath nothing, even that little which he hath." Mr. Chairman, permit me to submit for the earnest consideration of this House a feasible, plausible, and practical proposition in economy and finance that is worth the consideration of this great body and which will settle this much-mooted question for a hundred years hence, and future generations will "call us blessed." Let us eliminate from the naval appropriation bill an $8,000,000 battle ship, and instead invest the money for a hundred years in 4 per cent bonds. This will produce an income of $320,000 per year—enough money to buy double our present quota of seed—and at the end of the century we would have our original capital intact, while five battle ships would have become obsolete during the time. Besides we do not need battle ships if we stay at home and attend to our own business and let other people's possessions alone, any more than an honest, peaceable, law-abiding citizen needs a burglar's jimmy and dark lantern when he starts to church. [Laughter and applause.]

Now, let us carry this proposition to its logical conclusion. It requires $1,000,000 per year to keep one of these monster ironclads going. Invest this $1,000,000 at 4 per cent, compound the interest, and add the million each year that is required to operate the battle ship to the principal, and at each twenty-year period add eight million to the principal, the amount required to renew the old ship, and at the end of the hundred years have you any conception of what a snug little sum will have accumulated for future generations, and how proud our posterity would be of the thoughtfulness of their "wise forefathers?" I have made the calculation, and it will stagger the comprehension of the ordinary mortal. It would amount to the stupendous sum of $1,612,720,000. Transform it into silver dollars and it would load a freight train, 20,000 pounds to the car, that would reach from Washington to Baltimore; lay the coins edge to edge and they would belt the world more than one and one-half times; pile them on top of each other and you will have a silver shaft 3,181 miles high. [Applause and laughter.] If my distinguished Republican friends who are guiding the destiny of this great nation, and are having fits for fear the old "hayseed" will get a crumb as it falls from Dives's table, will sand their hands and climb this shaft, perhaps from the top, up in that rarefied atmosphere, you will see working in their fields, from the Atlantic to the Pacific, from the Lakes to the Gulf, the men who have raised this country from the poorest of nations to the wealthiest on this great round globe. And while up there among the angels, and away from the contaminating influences of this wicked world, it is to be hoped you will forget your subservience to the trusts and monopolies, so that when you descend to mother earth again you will have some thought of the farmer, "that Atlas upon whose broad shoulders this great world rests," the man who produces this country's wealth, who pays its taxes in time of peace and fights its battles in time of war. [Applause.] Mr. Chairman, I appeal to the independent Republican Members of this House to join the Democrats and deal liberally with the agriculturists of this country. Help us to promote the interest of the farmer, and when we promote his interest we promote our own interest, and every man's interest who, with pick and pen, brain and brawn, honestly earns his daily bread. [Great applause.]

Mr. BURLESON. Mr. Chairman, I have the honor to represent upon this floor an agricultural constituency. It is probable that more than 75 per cent of the voters in my district are engaged in agricultural pursuits. I have no purpose whatever, as far as I can do so within the bounds of conscience, acting within the limits of the Constitution, to do anything else than serve their best interests. I am opposed to this appropriation, and I oppose it because I believe the intelligent agriculturists of our country are opposed to it. [Applause.] As a matter of fact, the self-reliant farmer, whether he lives in Texas or whether he lives in Maine, does not expect the Government to aid him in his business.

All he asks or wants at the hands of his Government is the enactment of just and equal laws and their prompt and impartial enforcement. He is opposed to subsidies of all kinds, whether intended for the shipping trust or the railroad corporations, and, being always consistent, of course he would not ask one, in the shape of free garden seed, for himself. He is wise enough to know that it is to his interest to oppose this vicious policy, if not upon principle, then for purely selfish reasons, for well does he understand that, when favors in the form of subsidies are to be passed out, for every penny received by him pounds would be thrust into the pockets of those whose fortunes are already swollen beyond all healthful limits, a class recently described by a very distinguished official, who always indulges in a maximum of talk and a minimum of action.

The farmer of this country under any and all circumstances has been willing to support the Government, and has never at any time expected the Government to support him. Gentlemen, what is the basis for this appropriation? Is it because the farmer wants it——

Mr. PADGETT. Mr. Chairman——

Mr. BURLESON. If you will examine the agricultural papers published throughout this country——

The CHAIRMAN. Does the gentleman from Texas yield?

Mr. BURLESON. I have only a few minutes, and I regret that I can not yield. If you look at the agricultural papers of our country, and presumably these papers are conducted in the interest of the farmer, you will find every one of them, without exception, unalterably opposed to free seeds, and repeatedly denouncing them editorially as a "petty species of grafting."

But gentlemen upon this floor say, "Oh, these editors can not be trusted because they are controlled by unworthy motives." Mr. Chairman, these editors of farmers' papers have devoted years and years of their lives to furthering the interest of agriculture, yet it is now claimed that they can not be trusted, that they are controlled by the sordid motive which prompts them to betray the interests of their subscribers in return for advertisement placed in their papers by seedsmen.

I do not believe it, but for argument's sake will accept that proposition as true, if gentlemen see fit to urge it; but I stand here to assert that no one can produce——

Mr. GAINES of Tennessee rose.

The CHAIRMAN. Does the gentleman yield to the gentleman from Tennessee?

Mr. GAINES of Tennessee. Does the gentleman mean to call the members of the House here grafters?

Mr. BURLESON. Not at all. I have said nothing that can be distorted into such a charge. Neither do I think that gentlemen of this House ought to stand in the cloakrooms or elsewhere and refer to "Reuben" or the "hayseed who must have his penny package of garden seed." [Applause.] I say it is as much of a reflection upon the farmer to make that statement as it would be if I had called these gentlemen grafters, but this I have not done.

Mr. GAINES of Tennessee. Does the gentleman allude to me? [Laughter.]

Mr. BURLESON. No, I have not the gentleman from Tennessee in mind. I am glad to say my friend from Tennessee is not within that category.

Mr. Chairman, I say that if the editors of the farmers' journals can not be trusted, and all editorials written by them on this subject are to be discredited for the reasons given, then again, I say, I challenge—now, do not all speak at once; do not arise and say "I have them, but left them in my desk or at my office," and in saying this I do not mean to impugn the statement made by the gentleman from New Hampshire—but I challenge any man here to produce a resolution adopted by a grange or a farmers' institute or a farmers' union, or any association of farmers, upholding this "petty species of graft," as the grange denominated it in resolutions recently adopted by that organization. I do not so denominate it. I only state what the farmers in their institutes have denominated it and the farmers in their unions have called it.

Mr. GAINES of Tennessee. Why repeat that insulting language? I say that anybody that says I am a grafter makes a misstatement of the facts. [Great laughter.] I know my friend does not mean to be offensive, but what he says is offensive.

Mr. BURLESON. I have no quarrel with the gentleman from Tennessee. I did not have him in mind. I think I have made plain my meaning.

Mr. JAMES rose.

The CHAIRMAN. Does the gentleman from Texas [Mr. BURLESON] yield to the gentleman from Kentucky [Mr. JAMES]?

Mr. BURLESON. Certainly, I am pleased so to do, at all times.

Mr. JAMES. I understood you to say that every agriculturalist in the land was opposed to this seed distribution.

Mr. BURLESON. I conscientiously believe they do not approve it.

Mr. JAMES. Now, did you make that statement conscious of the definition that "a farmer is one who farms the land and the agriculturist is one who farms the farmer?" [Great laughter.]

Mr. BURLESON. Mr. Chairman, that statement is more witty than wise. This is a serious matter we are engaged in here. The question is, and it ought to appeal with great force to Democrats, whether we are going to take $200,000 and give it away without clear authorization, and that, too, to a class of people who do not ask it?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURLESON. Mr. Chairman, with the permission of the committee, I would like a minute or two more.

A VOICE. Make it five minutes more.

The CHAIRMAN. The gentleman asks unanimous consent to be granted five minutes more. Is there objection?

There was no objection.

Mr. BOWIE. Just one question. Is the gentleman aware of the fact that when he stated it was $200,000, that, in fact, the amount which they propose to strike out is only $90,000?

Mr. BURLESON. As I understand it, $132,000 is expended by the Agricultural Department in the purchase and preparation for their distribution of the common garden seeds, and thousands of dollars in addition are paid to the railroad companies to transport this as mail matter, as every man here knows.

Mr. GAINES of Tennessee. Will my friend tell why he voted for the irrigation bill for Texas the other day?

Mr. BURLESON. Certainly; because I thought the bill ought to be passed. I was exerting myself to have the reclamation act, already on the statute books, extended to Texas, just as it now applies to other States and Territories containing arid lands. I will further state to the gentleman that I voted for the reclamation act when it passed this body, though my mind was not free of doubt upon the question of authority to use public money for such a purpose; but my party in its platform having declared for it, I resolved all doubt in favor of the proposition, and this I always do. That was the reason I did it.

Mr. GAINES of Tennessee. What is the difference between sprinkling the farmer's lands with water and giving him seed?

Mr. BURLESON. I asked unanimous consent for this time, and the gentleman from Tennessee can have an abundance of time after I have concluded my remarks.

Mr. GAINES of Tennessee. I want the gentleman to explain his democracy and knowledge of——

A VOICE. What about your boll-weevil appropriations?

Mr. BURLESON. Mr. Chairman, I anticipated that that question would be thrust at me.

One must indeed be possessed of an illogical mind who can not differentiate between what we are asked to do here and what was sought to be accomplished by the boll-weevil appropriations.

Here we are asked to make an appropriation with a view of furnishing the farmer common garden seed, a thing he can easily secure for himself, to which I am sure he is indifferent, and which I firmly believe he does not want.

On the other hand, I did ask the Congress to make the boll weevil appropriations, the first, in 1900, for $20,000; the second, in 1901, for $30,000, and afterwards for a quarter of a million dollars. For what purpose were these appropriations requested? I challenge the record now to sustain the statement I make. Was the appropriation asked to be used in exterminating the boll weevil? Not a bit of it. It was urged by me in order that something might be done for the cotton planter which all will admit he could not do for himself. The appropriations were asked and secured with a view of enlisting the skill and knowledge of the ablest scientists, the most learned entomologists, who were, by experimentation, to discover, if possible and point a way for the destruction of this pest. Of course, the planter could not do this. He did not have the scientific knowlede to enable him to grapple with the problem.

After these scientific experts had discovered the means of destroying this insect, then the cotton planter, using his own means to accomplish that end, was to destroy it. Not one dollar was ever asked by me of this Government to be used to destroy the boll weevil. The record will bear me out in this statement. I did ask that the farmer be shown how the weevil could be destroyed, and being shown, relying only on his own exertions, he would do the rest.

I have said that a resolution adopted by a farmers' organization favoring free garden seed can not be produced.

No gentleman has arisen upon this floor to hand me one that I might send it to the Clerk's desk and have it read. It can not be produced. Furthermore, gentlemen, the Secretary of Agriculture, Mr. Wilson——

Mr. BEALL of Texas. Will my colleague yield to me?

Mr. BURLESON. With great pleasure.

Mr. BEALL of Texas. Will my colleague explain this sudden activity on the part of the grangers in opposition to this seed item?

Mr. BURLESON. It is not a sudden activity. I understand that the farmers of this country have been protesting against this unrighteous practice for years, and this is the first favorable opportunity they have had to voice their protest against it upon this floor. It seems strange to me that many here who represent agricultural constituents should now fail to give heed to their protests and earnestly insist upon the continuance of this practice.

Mr. BEALL of Texas. Will my colleague yield for another question?

Mr. BURLESON. Certainly, I will.

Mr. BEALL of Texas. Have you received from a single farmer in your district, a man who tills the soil himself, one single protest against the free distribution of seed?

Mr. BURLESON. Why, no; many of them treat the matter as of so little importance that the package of seed is thrown aside and no attention paid to it. They do not know that it has cost this Government over $5,000,000 to carry on this practice. They do not know that Secretary Wilson has——

Mr. CANDLER. Will the gentleman allow me to ask him one question?

Mr. BURLESON. Yes, with pleasure.

Mr. CANDLER. You said you had not received a single protest against this seed distribution.

Mr. BURLESON. I have answered that question.

Mr. CANDLER. Have you received numbers of requests from farmers throughout your district asking for seed?

Mr. BURLESON. Unquestionably so, but not very many. There is no denying that. And just so long as this practice is continued, I will receive these requests.

And I will add that same will always be promptly granted if the number of packages allotted me for distribution will permit. But, Mr. Chairman, the fact that these requests are made does not mean that those making them approve the practice. Knowing the system prevails; knowing that seeds have been allotted for distribution, some farmer may request a packet though he disapproves the practice and is conscious of the fact that the seed when received will be of little value. And in this connection I desire to state that if this indefensible practice is continued, and from certain signs now manifest I fear it will be, then I do say that the number should be increased so that we may send to every householder, whether he wants it or not, an assortment of seed.

Each year I have sent out the allotment I have received, and as I view it, I would be a peculator if I did not so do. I have no right to retain them or divert them for a different purpose than was intended by this Congress. Mr. Chairman, as I have tried to say several times, the present Secretary of Agriculture is a man who has devoted the best years of his life toward furthering the interests of the farmers of this country. He is a man for whom the farmers of the South have as high regard, on account of the interest he has manifested in their welfare, as any farmer found north of Mason and Dixon's line.

Secretary James Wilson—and no gentleman on this floor will question his deep interest in the welfare of the agriculturists of our country, whether of the East or West, North or South—in one of his recent reports, speaking of the distribution of these seeds, used this language:

As there is no practical object to be gained in distributing this kind of seed, it seems very desirable that some change be made. To this end it would seem wise to limit our work entirely to the securing and distributing of seeds, plants, etc., of new and rare sorts. There is still much to be done in the way of securing seeds, plants, etc., of this kind from abroad, but still more to be accomplished in careful investigations of our own possibilities in this direction. There are many valuable plants scattered all over this country which are still little known outside of their respective localities. These should be collected, tested, and distributed. There are also great possibilities of improving agricultural industries by distributing specially bred seeds and plants.

As the plant-breeding work of the Department increases opportunities for securing seed of this nature will accumulate. To do this work in the most effective manner, arrangements could be made in all cases to secure the advice and assistance of Senators and Representatives who have agricultural constituents. The Department has a well-organized force of scientists who are thoroughly familiar with the general conditions of soil and climate in nearly all parts of the country. Special crops could be selected for special purposes, and with the advice and cooperation of Members of Congress such crops could be placed where they would do the most good. This is a line of work that would result in very much more value to individual districts throughout the country than the distribution of a large quantity of common varieties of garden seed which have no particular merits so far as newness or promise are concerned.

Note his language—he speaks of "common varieties of garden seed, which have no particular merit so far as newness or promise are concerned." Thus it is this true friend of the farmer voices his protest against this useless waste, this continued useless waste, of the public money.

Mr. SIMS. You put it too strong in quoting James Wilson. He does not protest.

Mr. BURLESON. Now, Mr. Chairman, let us ask ourselves candidly the question and each make to himself a candid answer. Is this appropriation made for no other reason or purpose than the benefit supposed to accrue to the farmer? Honor bright! Is there not entering into our action in this matter a faint hope or belief that our farmer constituent will be flattered by this small attention from his Congressman (furnished at Government expense) and will in consequence be made just a little more inclined to give us a continuance of his approval?

I may be mistaken, but I fear the purpose of some of us is to use this means to advantage ourselves by annually reminding our favorite or influential farmer constituents that we are still on the earth and have not forgotten them. Some gentlemen appear to really believe that opposition to this item would jeopardize the esteem and confidence reposed in them by their agricultural constituents—permit me to say to those who thus believe, that they underestimate the farmer of this country. I have an abiding faith in the intelligence of those I represent and I feel sure they would prefer that this money, which is now wasted in the purchase of "common varieties of garden seed which have no particular merit," as was said by Mr. Secretary Wilson, should be expended for other and more beneficial purposes.

The officials of the Agricultural Department have repeatedly urged the necessity of securing and distributing the comparatively new or little-known kinds of various field and forage crop seeds—such as corn, cotton, alfalfa, etc.—and the improvement of same by breeding and selection. Most valuable work has already been done along this line. How important it would be to the cotton planter, especially in the boll weevil section, if by selection and breeding the scientist of the Department could develop a much earlier-maturing variety of cotton. What a great saving it would result in to the cotton planter if a type of cotton could be developed which would resist the wilt or root rot. How valuable it would be to the cotton planter if by careful breeding and seed selection a long, staple upland cotton could be evolved which would command 4 or 5 cents per pound in advance of the price paid for the ordinary varieties.

If the money now virtually wasted in the purchase of common garden seed could be saved, this very important work to which I have just alluded could be enlarged and extended and benefits substantial in character brought to our farmers. Mr. Chairman, a great work has been done by the scientist of the Agricultural Department, acting under the wise guidance of Dr. B. T. Galloway, in the introduction into our country of new and valuable plants and fruits from foreign countries. No small amount of the credit for the development of the great and profitable fruit industry of both California and Florida is due the bureau over which he presides.

Plant laboratories have been established in both those States by the Government, and to them, as a result of explorations made throughout the world, valuable fruits and nuts have been brought there, tested, thoroughly acclimated, and from thence distributed throughout those States. This work is still going on and is of the highest importance to the agriculturists and horticulturists of our country.

Mr. Chairman, Texas possesses a variety of soil, suitable for every cereal, fruit, nut, vegetable, or plant that can be grown either in the Tropics or in the higher altitudes of the Temperate zone. What limitless possibilities are there presented awaiting only development by those who are skilled in the science of agronomy and horticulture? If the money now wasted on worthless garden seed could be saved, I have assurances that lead me to believe that the appropriation for carrying on this most valuable foreign exploration and introduction work would be materially enlarged and increased. New plant laboratories could then be established in other sections of our country, and other new and valuable plant, fruit, and vegetable industries there built up.

Throughout the entire South we have vast stretches of land known as canebrakes, covered by impenetrable jungles of worthless cane. Who knows that it may not be possible to substitute for this worthless cane the valuable Japanese timber bamboo, which affords not only material suitable for the construction of houses, but from it thousands of other beautiful and valuable articles may be made. Under the devastating onslaught and operations of the lumber trust, building material is growing scarcer and dearer in this country, and the time may come when those who come after us would thank us for our wisdom if we could do what is here suggested.

Mr. Chairman, many great and good things could be brought about if we would only get away from this garden-seed humbug. We all know that there is not more than 10 per cent of the membership of this body that really believe this practice should continue, but from present indications the excitement occasioned by the elimination of the item from the bill by the Agricultural Committee would indicate that there will not be more than 5 per cent who will have the courage to vote against the item being restored to the bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIMS. Mr. Chairman, I talked with the Secretary of Agriculture no longer ago than Saturday about this matter. Two years ago he recommended that the same amount be spent in some other line of investigation, and that is all he did; and in his last report he has not a word to say in opposition to free seeds. The gentleman from Texas [Mr. BURLESON] is too strong in his statement when he says that the Secretary of Agriculture is protesting against appropriation. He is not misrepresenting him, but misunderstood him. Now, I do not think my friend from Texas—and I am glad to so regard him—will ask that the appropriation be taken out for the destruction of the cotton-boll weevil. He has pleaded for that, and I think it was justly given, and we have appropriated $250,000 for the purpose of exterminating the boll weevil in Texas in this bill. I believe that while Texas is more interested in the matter than other parts of the country, that all parts of the cotton belt are interested, because the weevil may spread over the country, but Texas is directly and immediately interested. And now I will ask the gentleman whether he is opposed to the Agricultural Department furnishing the farmers of Texas with

earlier-maturing varieties of cotton seed in order that they may head off the boll weevil.

Mr. BURLESON. This bill does not do it.

Mr. SIMS. If it does not, it should. [Laughter.] Now, then, if it is wrong to furnish the farmer that which he can furnish himself, strike out this provision for the boll weevil. The Secretary of Agriculture told me—and he will not deny it anywhere—that this was only an expression of his judgment as to the best use of the public money, and that he told the seed men at their convention in this city that they did not, at least all of them, furnish good seed, and the investigation of his Department proved it.

Now, these farmers that are opposed to this appropriation are that class of farmers who wear their watch chains across their bodies and part their chains in the middle, as they do their hair, and not that class of farmers who have got no watch chains or diamonds or free passes to go to so-called "agricultural meetings," but the farmers who need, want, and are grateful for this little bit of public favor. The newspapers that last year received $27,000,000 in graft by way of second-class postage rates are fine teachers of morality to be quoted here as lecturers of Congress on such a subject as this. I have as good people in my district, Republicans and Democrats, white and black, male and female, as are to be found anywhere in the South or in the North, and they all want these seeds, all are glad to get them, never return them, and all write for more. We have had meetings of agricultural associations in Tennessee, and not one has ever said a word in opposition to these seeds. The people who get the seeds are not protesting against them. It is an organized effort of private interests that expect to profit by being enabled to sell an inferior article of seed for more than they can now. Why, we farmers who do not wear our watch chains crossways, we all know that when you plant a common vegetable seed in a different section of the country from that in which it was grown you get a better result. Cabbage seed grown in Michigan gives better results for a few years in my State than home-grown seed. A farmer gets a paper of these seeds and plants them, makes seed, and next year he distributes them to his neighbors, and these covetous, greedy seed growers and dealers do not want them to grow their own seeds in this way from seed sent them by the Government—do not want them to have this little Agricultural Department nest egg—and they come here and propose to teach us what democracy is.

Why, we vote money out of the Treasury for almost every object under the heavens, Constitution or no Constitution, and whenever the constitutional lawyers of the other side get to drawing lines against the farmers as to a few mustard seed, cabbage seed, and bean seed, I think our friends over there will have a very difficult task in undertaking to defend such a course in the Congressional elections next fall, where it is so well known that the Constitution has been shot through with 13-inch shells by them until there is nothing left of it but holes. [Laughter.] Then talk about drawing the line against this little universal benefit to everybody in the country on constitutional grounds. [Applause.]

Mr. JONES of Virginia rose and was recognized.

Mr. WADSWORTH. Mr. Chairman, I appeal to gentlemen to allow the Clerk to finish this next paragraph. Then the debate can proceed. There is no disposition to curtail it.

Mr. JONES of Virginia. Mr. Chairman, I understood that I was recognized for five minutes.

The CHAIRMAN. The gentleman from Virginia was recognized for five minutes.

Mr. WADSWORTH. How much time does the gentleman want?

Mr. JONES of Virginia. Not more than five minutes.

Mr. WADSWORTH. At the expiration of that five minutes I propose to move that all debate on this paragraph be closed.

Mr. JONES of Virginia. Mr. Chairman, during the progress of this debate gentlemen who are opposed to the expenditure by the Government of the comparatively small sum of $200,000 for seed, to be distributed to the farmers of the country, have read numerous letters and editorials written by persons who are opposed to this appropriation. On the other hand, it has been stated on this floor that the principal part of the opposition to this small appropriation comes from the seedsmen of the country. I believe that statement is absolutely true, and I have in my hand a letter written by an intelligent farmer in my district, recently a resident of Detroit, Mich., which I think establishes the fact that the seedsmen of this country are doing an immensely profitable business, and that their course in opposing any and all free distribution of seed by the Government is both selfish and unjustifiable. The distribution of these seed in the past has not injured at least one great concern engaged in growing and selling seed, as the letter which I hold in my hand and shall now read, fully and completely establishes.

I commend the statements contained in this letter particularly to the gentleman from New York [Mr. COCKS], who read so many letters and editorials in an effort to show that the farmers are not favorable to any free distribution of seed. The writer is a farmer, and he knows something about the immense profits of the seedsmen.

GUINEYS, VA., *March 14, 1906.*

Hon. W. A. JONES,
Washington, D. C.

DEAR SIR: I see the question of free-seed distribution is about to come before your body, and while I do not wish to be understood as advocating the indiscriminate distribution of each and every kind of seed, yet I am under the impression that the matter is being agitated by the seedsmen, more especially by those from whom the Government has made no purchases. Such being the case, I can probably give you some light in regard to one of the pleas that seedsmen may present, which is that this free distribution interferes with their business and makes the seed business unprofitable.

I was bookkeeper for five years (from 1895 to 1900) for a brother-in-law of D. M. Ferry, president of D. M. Ferry & Co., of Detroit, Mich., and for three or four years transacted the custom-house business for their Canada branch. During this period the free-seed distribution was agitated as it is now. A reporter interviewed Mr. Bowen, the then secretary of D. M. Ferry & Co., on the subject. Mr. Bowen went on to say that he thought the Government was committing an outrage upon the seedsmen of the country, who, he claimed, were none too prosperous. Now, from this expression of Mr. Bowen's, that his house was really suffering from said practice, whereas D. M. Ferry & Co. were really declaring a dividend of 75 per cent per year on their capital stock. Mr. Sherman R. Miller, for whom I kept books, owned $35,000 worth of said stock, from which he drew annually $26,250. This house, of course, was none too prosperous.

I do not think Congress should object to appropriating $250,000 for its vast horde of toilers, while one seed house clears $750,000 on these same toilers. I don't mean for this to influence you at all; use your own judgment. It is merely information I am furnishing.

Yours, truly, G. W. MOSS.

Mr. Chairman, the writer of this letter is a gentleman of high character and unquestioned veracity. I satisfied myself as to his standing before I decided to use his letter. He declares that the firm of D. M. Ferry & Co., of Detroit, Mich., is paying a dividend of 75 per cent upon its stock, paying dividends amounting in the aggregate to $750,000 a year. These are the people who object to the farmers receiving a few free seeds, because, as they claim, their profits are none too large, and the Government should not interfere even to so limited an extent with those profits.

Mr. WADSWORTH. Now, Mr. Chairman, I move that all debate on the paragraph be closed.

Mr. CANDLER. Is that motion subject to debate?

The CHAIRMAN. It is not.

Mr. CANDLER. Then I hope it will be voted down.

Mr. RUCKER. Before that motion is put I would like to offer an amendment.

The CHAIRMAN. The amendment is not in order. The question is on agreeing to the motion of the gentleman from New York.

The question was taken; and on a division (demanded by Mr. CANDLER) there were—ayes 97, noes 63.

So the motion was agreed to.

Mr. RUCKER. Mr. Chairman, I desire to offer an amendment.

The Clerk read as follows:

That there shall be printed and bound in cloth 200,000 copies of the Special Report on Diseases of the Horse and 200,000 copies of the Special Report on the Diseases of Cattle, 128,000 copies of each for the use of the House of Representatives, 64,000 of each for the use of the Senate, and 8,000 copies of each for the use of the Department of Agriculture.

Mr. WADSWORTH. Mr. Chairman, I make a point of order that that is new legislation carrying an appropriation, and there is no law for it. That is a matter that can be attended to by the Committee on Printing. I insist on the point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

BUREAU OF PLANT INDUSTRY.

Salaries, Bureau of Plant Industry: One plant physiologist and pathologist, who shall be chief of bureau, $4,500; one chief clerk, $2,000; one editor, $2,000; one superintendent of gardens and grounds, $1,800; four clerks class 4, $7,200; seven clerks class 3, $11,200; twelve clerks class 2, $16,800; twenty-seven clerks class 1, $32,400; one seed clerk and superintendent, $1,200; one clerk or artist, $1,200; one artist, $840; fourteen clerks, at $1,000 each, $14,000; six clerks, at $900 each, $5,400; eight clerks, at $840 each, $6,720; one clerk, $800; eleven clerks, at $720 each, $7,920; three clerks, at $660 each, $1,980; two clerks, at $600 each, $1,200; one clerk, $480; one photographer or clerk, $900; one assistant photographer, $600; one illustrator and clerk, $720; one carpenter, $900; one carpenter, $840; two gardeners, at $1,000 each, $2,000; four gardeners, at $900 each, $3,600; two gardeners, at $840 each, $1,680; four gardeners, at $780 each, $3,120; one gardener, $600; one gardener, $720; two gardeners, at $660 each, $1,320; one skilled laborer, $900; one painter, $840; two plumbers, at $840 each, $1,680; three firemen, at $720 each, $2,160; two

clerks or messengers, at $840 each, $1,680; three skilled laborers, at $720 each, $2,160; three skilled laborers, at $660 each, $1,980; six skilled laborers, at $600 each, $3,600; one messenger, $660; three messengers, at $600 each, $1,800; three watchmen, at $720 each, $2,160; two watchmen, at $600 each, $1,200; two skilled laborers or messengers, at $480 each, $960; four messenger boys, at $360 each, $1,440; one messenger boy, $300; in all, $160,160.

Mr. WADSWORTH. Mr. Chairman, I would like to call the gentleman's attention to the fact that this is at the end of the statutory salaries. Why not wait until he gets through with the paragraph to the lump sum—in other words, at the end of the next paragraph?

Mr. CANDLER. I am not going to offer an amendment now; I am only going to speak.

Mr. MANN. We want to hear you.

Mr. CANDLER. Mr. Chairman, before I proceed, it seems to have been the unanimous custom to extend the remarks five minutes beyond the usual time. I am frank to say that I do not expect to get through in five minutes, and I would like unanimous consent to proceed for ten minutes.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent that he may proceed for ten minutes. Is there objection?

There was no objection.

Mr. CANDLER. Mr. Chairman, the morning after it was stated in the public press in the city of Washington that the Committee on Agriculture had stricken from the bill the provision carrying the usual appropriation for the distribution of seeds another article appeared, which stated that—

In 1839 there was no Department of Agriculture, but that year Congress appropriated $1,000 to enable the Commissioner of Patents to purchase and distribute rare and valuable seeds and to publish agricultural statistics.

In 1893 the appropriations for the Department of Agriculture had grown to about $3,000,000 and the appropriation for the purchase and distribution of seeds had reached $150,000. Secretary J. Sterling Morton looked upon this free distribution as petty graft, and he refused to "purchase and distribute." But Congress made the distribution mandatory, and each year the appropriation has been increased, until for the current twelve months it is $250,000 in round figures. This year the agricultural appropriation bill carries $7,000,000.

It concludes with this significant remark:

Last week the Committee on Agriculture struck the seed clause from the appropriation bill, and at noon to-day there will be a gathering of seedsmen from all over the country at the New Willard for the purpose of devising means to keep that seed clause out of the bill.

And immediately there gathered from all over the country the kind of farmers whose protests against seed have been read in this debate here to-day—the agriculturists, the ones that farm with their jaws and farm with their tongues, and never are found between the plow handles or with a hoe in their hands.

Mr. JOHNSON. The farmers that plow in the field and work with the hoe do not come to Washington and stop at the New Willard Hotel, do they?

Mr. CANDLER. No, sir; they do not. These men who farm with their jaws and their tongues are the ones who stop at the New Willard Hotel and oppose this free distribution of seeds. Not a letter has been received from a single farmer in the country who follows the plow——

Mr. LILLEY of Connecticut. Will the gentleman allow me to read some letters that I have here from farmers?

Mr. CANDLER. I have the highest personal regard for the gentleman from Connecticut and wish I could yield, but really have not the time and must decline to yield for the present. The gentleman from New York, my friend Mr. COCKS, read a letter which he said was from a farmer, and when he was asked what kind of a farmer he was, he said he was a florist that farmed beneath the glass. Yes; he was a farmer inside of a hothouse. "Hothouse" and "agriculturist" farmers in this country, who do no work themselves, are opposed to the distribution of seeds. [Laughter.] The real farmers, who actually work, want them. I have received almost in every mail, I believe, since I sent out my original distribution, requests for seed up to the present day, and I could bring into this House letters by the hundreds from farmers that till the soil, from farmers' wives, and from farmers' daughters asking me to send them garden seeds and flower seeds in order to plant the garden and to beautify the home. [Applause.]

I opposed strenuously in committee the motion to strike the seed appropriation from the pending bill.

I want to respond to the requests that come from the farmers themselves, and I am willing to turn a deaf ear to these silk-hat, kid-gloved, high-collared, patent-leather-shoed, spike-tailed-coat "agriculturists," that hold their conventions in the New Willard Hotel, in order to keep the farmers of the country from receiving a package of seeds to which they are entitled. [Applause and laughter.]

Mr. GAINES of Tennessee. Mr. Chairman, I want the gentleman to tell this House whether or not they cut out of this bill the appropriation that tests the seeds that the Government buys.

Mr. CANDLER. If the bill passes as reported all seed are cut out, and necessarily all tests of seed.

Mr. GAINES of Tennessee. Do they not test the seed that the Government buys?

Mr. CANDLER. They certainly do, and I will come to that directly. I do not want to discuss that right now. I am going to show from a letter that the seed are thoroughly tested. As I was saying, if you will investigate for yourselves you will find that there are no farmers who follow the plow and that actually work in the fields, and by their brawn and muscle build up the wealth of this country, who are opposed to the distribution of seed.

Mr. LILLEY of Connecticut. I have letters from some here.

Mr. CANDLER. It is very remarkable that this seed distribution has become such a species of graft all at once. If so, there has been the greatest army of grafters in the United States of America that ever appeared in the world, because this appropriation began in 1865, and there has been an appropriation every year since, down to 1906; and if it is "graft" now, the "grafters" began in 1865, and continued from then until this day. It was never thought to be graft to send to the honest farmers of the country a package of garden seeds, and to his wife a package of flower seeds, until the seed trust met at the New Willard Hotel and said it was "graft," and some "statesmen" adopted their suggestion. The total amount of appropriations for garden seed for this purpose during all these years—from 1865 to 1905—is only the comparative small sum of $4,767,526.21, and, as I showed the other day in a speech that I delivered on this floor, the total appropriations for the Agricultural Department from the time of its organization down to to-day has only been the comparatively small sum of $65,000,000 for every purpose, from beginning to end, in connection with all the Agricultural Department's work. Now, the gentleman from New York [Mr. COCKS] said that the Secretary of Agriculture was opposed to the distribution of seeds and wrote a letter in which he referred to some statement in a report that he had made. Here is a letter from Mr. Galloway, who is Chief of the Bureau of Plant Industry, and he does not say that he is opposed to the distribution of seeds, but, on the contrary, he says the following:

There is little doubt in my mind that such distribution accomplished more or less good.

In connection with that he takes up the distribution of the special seeds, which are tobacco and cotton and things of that kind, and he advocates that very strongly. In this bill there is no provision for any of that work; not a particle. It absolutely takes away from the Department of Agriculture the right to distribute seed for any purpose, and the only appropriation provided for in this bill is a provision for the propagation and the testing of seeds in connection with the experiment stations; no distribution provided for; not a particle. Nowhere in the bill does it say you can send out a single solitary seed, but it is only for the purpose of experimentation, solely for the purpose of cooperation with the experiment stations. I asked the question because there was some doubt about that, and I had gentlemen come to me and ask me whether or not it would stop the distribution of all kinds of seeds if this provision was left out of the bill. I read from a letter which I received from the Department:

In the absence of Mr. Galloway, I beg to acknowledge the receipt of your favor of the 28th instant. If the appropriation for the distribution of seeds is eliminated, the distribution of all seed would be discontinued, including vegetable, flower, lawn grass, tobacco, cotton seed, shrubbery, plants, grapevines, etc.

Mr. Galloway, the Chief of Bureau of Plant Industry, on his return wrote to me corroborating what Mr. Wood, the acting chief in his absence, said, and said in addition to that that "it would discontinue the seed, not only the miscellaneous and garden and flower seed, but everything in the way of new cottons, tobaccos, corns and cereals, and everything else.

We have been expending something between $50,000 and $60,000 a year in the general seed work, including our introduction of new things. This money was involved in the regular seed distribution and, of course, would be eliminated with the rest if the action of the committee is sustained.

Now, then, you gentlemen who represent tobacco districts, and you gentlemen who represent cotton districts, and you gentlemen who represent any district of any kind where you have been sending specific and special seed, I tell you that if this provision is left out of the bill it will take away from you all classes of

seed of every kind, and you will have not a single solitary seed to send to anybody for any purpose.

Mr. Chairman, something was said about the testing of the seeds. Here is what the Chief of the Bureau says in reference to that:

The Department has a thorough system of handling the entire work, the object being to secure the very best seed obtainable and to be certain that they are true to type. A considerable portion of the seed sent out is grown for the Department out of selected stock. In order to keep thoroughly abreast of the times in these matters a number of testing stations have been established where not only the miscellaneous varieties are thoroughly tested to determine their trueness to type, but everything promising offered by seedsmen is also tested with a view to making use of it in the future distribution. The Department has adopted the most rigid system of testing for vitality, purity, etc. The Bureau of Plant Industry devotes a considerable part of its work to this subject, so that all seeds from whatever source are thoroughly tested before they are sent out. They are tested not only to determine their trueness to name and type, but for their vitality and for their purity.

Therefore, if that be true, they must be the best seeds that can be obtained from any part of the country, and especially must it be true that a great part of them are sent out from seed grown by the Department of Agriculture itself. Now, he goes on to state under the head of "the securing and distributing of comparatively new or little known varieties of field and forest plant seeds and the improvement of the same by breeding."

Under this head I may briefly refer to a class of work which I consider of great importance in the building up of agricultural industries in this country. As you know, special attention has been given during the last four or five years to the securing and distributing throughout the South of new and promising varieties of cotton. Oftentimes these cottons are secured from individual planters who have for a number of years been carefully selecting and thus have bred a type somewhat better than is ordinarily found among growers. Our cotton experts and breeders have been on the lookout for all these new and promising improvements and every year we have sent out quantities of them for trial. In addition to this our men are, by their own work, securing desirable new types which are distributed as fast as developed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANDLER. I ask unanimous consent to continue for five minutes longer.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to continue for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. CANDLER (reading from letter from the Agricultural Department)—

This is necessarily slow and costly work, but unquestionably is having a very important effect on the agricultural conditions of the South. We have many hundreds of reports from the new and improved cotton seeds that we have sent out, all showing their increased value over the ordinary kinds.

The other day the gentleman from South Carolina [Mr. LEVER] told me that in his district he met one of his constituents with two samples of cotton, one in one hand and one in the other; that he had the cotton on the market. He said, "This cotton I raised from the ordinary seed which I had; I am offered 11½ cents for the cotton in that lot grown from ordinary seed. This sample of cotton was grown from seed that came from the Agricultural Department, and for this cotton from this sample grown from this seed I am offered 13½ cents." [Applause.] That was the statement, as I understood it. Now, that was 2 cents a pound, or $10 a bale, more for the cotton grown from seed prepared by the Agricultural Department than that grown from the ordinary seed that the farmer had saved from his crop of the preceding year.

Mr. LEVER arose and corroborated the statement.

Mr. CANDLER (reading further from the letter)—

What has been said of cotton is also true of other crops, such as improved cowpeas—varieties that will resist wilt—improved melons, and improved forage crops. A special effort is being made in this direction in the matter of improving the forage crop conditions in all parts of the country, and our records will show, I think, *that this work alone pays many times over the total amount appropriated for seeds and plants.* As a special feature of this work may be mentioned the tobacco investigations which have been carried on from year to year, and which have had for their object the development of new types which will enable the growers of different sections to place upon the market the very highest class product. Work in Connecticut, Florida, and some of the other States has demonstrated the great value of these investigations, and this year for the first time the Department is in position to send out seeds of the specially bred types, *the result of our investigations for the last three or four years.*

Now, then, refuse to reinsert the appropriation and you destroy the work of the Department, which has already been done for the last three or four years in this line and just now only reaching perfection where it can reach the people. As soon as it gets to the point where the people can have the benefit of it, then you propose to take it away from them by taking away this little, small, insignificant appropriation, which has been in the bill from time to time, and which has been stricken out by the committee this year. Now, then, it is said in this report that was made as the report of the committee that there never has been any law for this distribution. I assert there is law for it. You will find it in the organic act creating the Department of Agriculture, in which it says they shall gather and propagate and distribute seed; it says so in so many words in the act creating the Department of Agriculture, and that is the law which authorizes the distribution. You will find in another statute the law that authorizes the printing of "franks" and everything necessary to be done that the seed may be sent out, and upon these statutes stand the authority for this distribution which has been made from year to year. Possibly you would believe it was practically unanimous in the committee, according to this report, to strike out the seed appropriation, but that is not the situation. In the committee the first vote was eight to seven, the next vote was six to seven, and the final vote was a tie vote. It was badly divided in the committee so far as that is concerned. Hence I say to you that I believe, in view of the facts I have stated, that this appropriation ought to be reinserted, that the seed ought to be sent to the farmers throughout the country who desire them, and we should not act upon the statements in newspaper articles, such as the gentleman from Kentucky [Mr. TRIMBLE] referred to a few minutes ago, when he said he asked a man in his district why he printed a certain article in his newspaper, and he replied, "You send on the seed. My columns are open to advertisements."

I have read many editorials myself. Some of them have been marked and sent to me. I want to know from whence comes this newspaper uprising against seed, all of a sudden, without any seeming cause for it? It may be explained in the statement made by the "seed trust"—they would use the press to prevent this seed appropriation being made this year. [Applause.] That statement was made in some of the newspapers the next day after the "kid-glove seedsmen" held their meeting at the New Willard Hotel. Now, gentlemen, the question is whether you will vote for the seed trust or the working farmers. Line up with the seed trust if you want to and take the consequences. If we want to practice economy, it should be something larger than the one which is involved here. And if we want to practice economy, we ought to practice it on somebody besides the farmers who take care of the country and uphold its prosperity and pays its debts abroad. [Prolonged applause.]

As a part of my remarks I append hereto the letters to which I have referred and which are as follows:

U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., March 10, 1906.

Hon. E. S. CANDLER, Jr.,
House of Representatives, Washington, D. C.

DEAR MR. CANDLER: I have your letter of recent date, asking for full information relative to the purchase and distribution of seeds and plants by the Department. In order to bring the facts together in concrete form, I will take them up under certain heads, as suggested in your letter.

1. Total amounts appropriated and expended for seeds and plants since 1865, when the Department was organized.

Year.	Appropriated.	Expended.	Year.	Appropriated.	Expended.
1865	$61,000.00	$61,000.00	1886	$100,000.00	$99,980.24
1866	70,165.90	70,165.90	1887	100,000.00	99,998.37
1867	115,200.00	115,200.00	1888	103,000.00	102,587.55
1868	85,200.00	85,200.00	1889	104,200.00	104,168.73
1869	20,000.00	20,000.00	1890	104,200.00	104,174.55
1870	20,000.00	18,981.33	1891	105,400.00	105,090.94
1871	30,000.00	28,865.17	1892	150,000.00	(a)
1872	45,000.00	45,000.00	1892	105,400.00	104,920.35
1873	55,000.00	55,000.00	1893	135,400.00	134,908.27
1874	65,000.00	64,904.89	1894	135,400.00	119,719.76
1875	95,000.00	94,719.83	1895	165,400.00	120,545.15
1876	65,000.00	65,000.00	1896	135,400.00	126,476.87
1877	85,000.00	80,000.00	1897	150,000.00	142,822.52
1878	75,000.00	74,579.33	1898	130,000.00	121,870.38
1879	75,000.00	75,000.00	1899	130,000.00	127,150.52
1880	75,000.00	75,000.00	1900	130,000.00	118,561.53
1881	102,160.31	102,157.48	1901	170,000.00	149,615.49
1882	100,000.00	99,991.53	1902	270,000.00	266,614.12
1883	80,000.00	80,000.00	1903	270,000.00	253,133.70
1884	75,000.00	74,986.48	1904	290,000.00	284,254.21
1885	100,000.00	99,983.82	1905	290,000.00	280,530.30

(a) For drought sufferers. Not used.

Total appropriations, $4,767,526.21.

In the foregoing table we have set forth the total amount appropriated and spent for seeds and plants since 1865. The figures are self-explanatory, but it must be borne in mind that they cover all expenditures and are not for miscellaneous garden and flower seeds alone.

2. HOW THE WORK HAS BEEN HANDLED.

The business of securing, handling, and sending out the seeds and plants of the Department has been conducted in various ways. For a time the Department did all the work, but as it grew the labor proposition became a serious one. The plan of letting out the work by contract was then resorted to, the contractor furnishing all seeds and labor, under the supervision of Department officers. The contract system was kept up until five years ago, when the whole work was turned over to the Bureau of Plant Industry. There were serious defects in

the contract system, it being impracticable in this way to secure the very best seeds and for the Department to exercise proper supervision over it. When the work was turned over to the Bureau of Plant Industry an effort was made to thoroughly systematize it and to put it on a practical business basis. To this end arrangements were made for the Department to secure all the seed, in this way exercising absolute control over the kinds of seed secured, their vitality, trueness to name, and other essential things.

3. KINDS OF WORK CARRIED ON.

The work of seed and plant distribution as now conducted by the Bureau of Plant Industry falls under three principal heads, viz:

(*a*) The securing, handling, and distributing of miscellaneous garden and flower seeds, grapevines, strawberry plants, etc.

(*b*) The securing and distributing of comparatively new or little-known kinds of various field and forage crop seeds, such as cotton, corn, alfalfa, etc.; the improvement of the same by breeding and selection, and the general upbuilding of agricultural industries through such work.

(*c*) The introduction and dissemination of new and promising seeds and plants from foreign countries and the building up of new industries as the result of this work.

(*a*) THE SECURING, HANDLING, AND DISTRIBUTING OF MISCELLANEOUS GARDEN AND FLOWER SEEDS, ETC.

This work, as now conducted, costs about two-thirds of the total amount appropriated. The Department has a thorough system of handling the entire work, the object being to secure the very best seeds obtainable and to be certain that they are true to type. A considerable portion of the seed sent out is grown for the Department out of selected stock. In order to keep thoroughly abreast of the times in these matters a number of testing stations have been established where not only all of the miscellaneous varieties sent out are thoroughly tested to determine their trueness to type, but everything promising offered by seedsmen is also tested, with a view to making use of it in future distributions. The Department has adopted the most rigid system of testing the vitality and purity of the seeds. The seed laboratory of the Bureau of Plant Industry devotes a considerable part of its work to this subject, so that all seeds from whatever source are thoroughly tested before they are sent out. They are tested not only to determine their trueness to name and type, but their vitality and purity.

As to the value of this miscellaneous distribution of garden and flower seeds, it is very difficult to state what it may be. There is little doubt in my mind that such distribution accomplishes more or less good. Very few reports are received, however, and in the nature of the case it is impossible for us to use any but standard varieties in the distribution, because the quantities required make it impossible to use the rarer sorts. When this distribution was first undertaken a great many years ago there is no doubt that it accomplished much good, because at that time the seed industry was not as thoroughly organized as it is to-day. The practice of ordering through the mails from seed catalogues was not then in vogue, and it was extremely difficult for persons living in isolated localities to secure good garden seeds. This condition has changed, however, and to-day it is quite possible for anyone to buy garden seeds of the same varieties as we distribute.

(*b*) THE SECURING AND DISTRIBUTING OF COMPARATIVELY NEW OR LITTLE-KNOWN VARIETIES OF FIELD AND FORAGE PLANT SEEDS, AND THE IMPROVEMENT OF SAME BY BREEDING.

Under this head I may briefly refer to a class of work which I consider of great importance in the building up of agricultural industries in this country. As you know, special attention has been given during the last four or five years to the securing and distributing throughout the South of new and promising varieties of cotton. Oftentimes these cottons are secured from individual planters who have for a number of years been carefully selecting and thus have bred a type somewhat better than is ordinarily found among growers. Our cotton experts and breeders have been on the lookout for all of these new and promising improvements, and every year we have sent out quantities of them for trial. In addition to this our men are, by their own work, securing desirable new types, which are distributed as fast as developed. This is necessarily slow and costly work, but unquestionably is having a very important effect on the agricultural conditions of the South. We have many hundreds of reports from the new and improved cotton seeds that we have sent out, all showing their increased value over the ordinary kinds.

What has been said of cotton is also true of other crops, such as improved cowpeas, varieties that will resist wilt; improved melons and improved forage crops. A special effort is being made in this direction in the matter of improving the forage-crop conditions in all parts of the country, and our records will show, I think, that this work alone pays many times over the total amount appropriated for seeds and plants. As a special feature of this work may be mentioned the tobacco investigations which have been carried on from year to year and which have had for their object the development of new types which will enable the growers of different sections to place upon the market the very highest class product. Work in Connecticut, Florida, and some of the other States has demonstrated the great value of these investigations, and this year for the first time the Department is in position to send out seeds of the specially bred types, the result of our investigations for the last three or four years.

(*c*) THE INTRODUCTION AND DISSEMINATION OF NEW AND PROMISING SEEDS AND PLANTS FROM FOREIGN COUNTRIES.

This work, conducted as a part of the general seed and plant investigations, is one of the most important branches of the Department. In the last five years a number of new things have been brought in and established as distinct industries. Among them may be mentioned the macaroni wheat, which was first introduced five or six years ago. The annual yield of this crop is now from 20,000,000 to 25,000,000 bushels, valued at from ten to fifteen million dollars. Another important introduction has been the Swedish oat, which has resulted in great improvement in the grain-growing conditions in the Northwest, one State, namely, Minnesota, estimating the value of this crop at over $4,500,000. Other important crops introduced and established are new alfalfas. Japanese matting grass, date palms, etc. We import every year about $5,000,000 worth of matting for floor covering, and of this amount $2,000,000 practically represents the value of the raw material. This matting can be manufactured in the United States, and the rice lands of South Carolina, Texas, and Louisiana are well adapted to the cultivation of the grass. We have established gardens in South Carolina for the culture of this crop and confidently anticipate that in a few years we will add this as one of the new industries of the South.

The whole work of the introduction of new varieties, whether found in the United States or imported from abroad, is so nearly connected that the distinction is really an arbitrary one. For the purpose of administrative economy the two are handled together, the seeds and plants received from foreign explorations being in most cases tested and introduced together with those developed in the United States. To carry on all of this work intelligently and to the best interests of the Department, we have found it necessary to establish a number of testing gardens, through which we are trying to determine the crops best adapted to certain regions of the country. Thus we have a testing garden at Chico, Cal., where we are testing and distributing plants adapted to the temperate parts of the United States. Here are being tested and distributed new fruits for the Pacific coast, new forage crops for the dryer regions of the United States, new cereals for different sections of the country, and various new crops particularly adapted to the Northwest regions. At Amarillo, Tex., we have another station where we are testing drought-resistant crops especially. These include the newer durum wheats, sorghums, Kaffir corns, and crops of this nature. At San Antonio, Tex., we have another station where we are testing crops for the semiarid region. We have a grain-testing station at McPherson, Kans., where new wheats and other grains are being tested.

All of this work is being paid for out of the general appropriation for seeds and plants. I consider the work under the two last heads, namely, the securing and distributing of new or little-known varieties of field, forage, and other seeds, plants, etc., found in this country, and the securing and distribution of seeds and plants, etc., from foreign countries, of the utmost importance to American agriculture. I believe that the total amount now authorized for the entire work could very well be devoted to these problems.

I trust I have answered your inquiries fully, and for further and more detailed information, would respectfully refer you to my executive report made to the honorable Secretary in 1905, in which is set forth in detail the various lines of investigation and in general in what manner the work is being applied in a practical way to the agricultural development of the country.

Very respectfully,

B. T. GALLOWAY,
Chief of Bureau.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY.
Washington, D. C., March 1, 1906.

Hon. E. S. CANDLER, Jr.,
House of Representatives.

DEAR MR. CANDLER: In the absence of Mr. Galloway, who will not return to the city until Friday or Saturday, I beg to acknowledge the receipt of your favor of the 28th ultimo. If the appropriation for the distribution of seed were eliminated, the distribution of all seed would be discontinued, including vegetable, flower, lawn grass, tobacco, and cotton seed, strawberry plants, grapevines, etc.

Trusting this information will serve your purpose, I remain,

Very truly, yours,

A. F. WOODS, *Acting Chief of Bureau.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., March 3, 1906.

Hon. E. S. CANDLER, Jr.,
House of Representatives.

DEAR MR. CANDLER: As explained in the letter to you signed by the acting chief, dated March 1, I have been out of the city for a few days and have just returned. I note your inquiry as to whether the distribution of new varieties and types of cotton, tobacco, flower, and other seeds would be discontinued if the action of the committee in eliminating the appropriation for this work is sustained. In reply I beg to reiterate what Mr. Woods, the acting chief, has already stated, viz: That all of our seed work would be discontinued under this plan. This would include not only the miscellaneous garden and flower seeds, but everything in the way of new cottons, tobacco, corns, cereals, etc. We have been spending, as you know, between $50,000 and $60,000 in all for the general seed work, including our introductions of new things. This money was involved in the regular seed distribution, and of course would be eliminated with the rest if the action of the committee is sustained.

Trusting this information will answer your questions and assuring you of my desire to give any further facts on the subject, I remain,

Very truly, yours,

B. F. GALLOWAY, *Chief of Bureau.*

Mr. HENRY of Connecticut. In this appropriate connection I ask the indulgence of the House for brief remarks concerning the tobacco industry, more especially referring to the growing of wrapper tobacco in tents, or, in other words, shade-grown wrappers.

It is conceded that shade growing in Florida is a success, but assertions are repeatedly made that the efforts of the Department of Agriculture to introduce novel and improved methods of tobacco culture in the Connecticut Valley are at least partial failures.

Six years ago, in 1900, the Connecticut State agricultural station, under the able supervision of Dr. E. H. Jenkins, assisted by experts from the Department of Agriculture, raised about one-third of an acre of tobacco under thin cloth, using Florida-grown Sumatra seed. This tobacco was widely distributed among cigar manufacturers and pronounced nearly equal to wrappers imported from the island of Sumatra. The following year, in 1901, over 40 acres was grown in tents, the growers more or less strictly complying with the instructions of the Government experts. This tobacco was force cured, carefully assorted, prepared for market, and sold by auction at Hartford under the indirect supervision of the Secretary of Agriculture. The best grades sold for over $2 per pound, all grades bringing an average price of about $1.50 per pound. The estimated cost

of production was 50 cents per pound, netting a profit of $500 per acre.

When this somewhat surprising result was given publicity, a speculative boom was inaugurated. Inexperienced, and sometimes unprincipled, promoters issued alluring prospectuses after the manner of their kind, solicited capital from the unwary, bought unsuitable lands regardless of cost, and paid unearned dividends from stock subscriptions, with the inevitable sequence that much money was lost and a promising industry temporarily discredited.

Under the incentive of a misleading delusion nearly 800 acres of tobacco, mainly of the Sumatra type, was grown under cloth in 1902, and about the same acreage in 1903. Reckless and inexperienced growers were heedless of expert advice and apt to be careless in indispensible details.

The seasons of both 1902 and 1903 were wet and cold, unfavorable alike for indoor and outdoor-grown tobacco. Tent grown especially was of inferior quality and unsaleable at remunerative prices. Quite naturally the faint-hearted and inexperienced abandoned a business found unprofitable. Nevertheless a few veteran growers retained confidence in the new industry and energetically continued experimental work. The tent-covered acreage was larely reduced, and growers avoided mistakes of former years. Seed was more carefully selected, better methods of cultivation, handling, and curing were introduced.

Experts detailed by Doctor Galloway, of the Bureau of Plant Industry, and Professor Whitney, of the Bureau of Soils, have developed both native and hybrid types, which hopefully give promise not only of superior quality, but also of a larger percentage of wrappers, an important matter in the Connecticut Valley, where filler tobacco is always sold at a loss. These experiments are closely watched by intelligent and enterprising farmers, and are believed to forecast more prosperous conditions for the tobacco industry.

As an illustration of the confidence representative Connecticut tobacco growers have in new methods of culture recommended by the Department of Agriculture, I quote pertinent extracts from a letter received from Mr. Joseph C. Mitchelson, a well-known gentleman of wide experience as a practical tobacco grower, upon lands his family have owned for more than two centuries. Mr. Mitchelson was also for many years a manufacturer and dealer, exceptionally and thoroughly familiar with the tobacco industry in all its varied phases. Under date of January 15, 1906, Mr. Mitchelson writes in part as follows:

Predicting from my own experience and from what the Government has taught us, we shall see within a few years a great revolution in the methods of growing and curing wrapper tobacco. As an indication that I am right in this conclusion, I can say that we have sold our shade grown raised in 1905, about 21 acres, for over $1,100 per acre. We are so well satisfied with the price obtained that we propose next year to raise not less than 50 acres under cloth.

* * * * * * *

We picked the leaves in the field from a part of our outside tobacco and secured three times as many perfect wrappers as from plants in the same field cut and cured in the old way—on the stalk.

* * * * * * *

All perfect leaves should be picked and cured independent from the stalk. Green leaves hung in a bunch on the stalk are apt to pole-burn, bottom leaves become overripe and are lost if not picked, while top leaves are not fully ripened, center leaves become discolored and stained, the air not circulating as freely as when picked and hung separately. There is over 95 per cent of water in green leaves, and this moisture should pass away as soon as possible.

* * * * * * *

The crop of 1905 was one of the finest ever raised in New England, but it was injured in harvesting, and great loss was sustained from hanging in the old-fashioned way and curing on the stalk.

* * * * * * *

If the Government experts are permitted to continue their experiments and go among our farmers explaining improved methods of handling and curing, the crop of next year should be largely improved in quality and increased in value.

Mr. Marcus L. Floyd, formerly connected with the Department of Agriculture, but more recently engaged in growing tobacco in Connecticut, writes in a recent letter:

After a long struggle it seems we are now about to produce tobacco in the Connecticut Valley which will meet the requirements of manufacturers for wrapping high-priced cigars.

* * * * * * *

I think that the experience of the last two years in tent growing is very satisfactory. In 1904 we produced 10 acres of tobacco grown under cloth from Cuban seed, which brought us over $1,000 per acre, with a net profit of about $500 per acre. This tobacco was sold to manufacturers, and the purchasers report that the quality was satisfactory.

* * * * * * *

Our 1905 crop was even more successful. We grew 9 acres 48 rods of broad leaf in tent. This acreage produced 14,147 pounds, weighed after forced curing was completed. This tobacco was sold for 75 cents per pound, through price, bringing $10,610.25 less a 2 per cent discount for cash, and netting $10,398.05.

* * * * * * *

We have also grown 10 acres of Cuban in tent. The bottom or sand leaves, always inferior, I have sold for export to Germany, at 75 cents per pound, and the remainder is engaged for a much higher price, three customers bidding.

* * * * * * *

The scientists from the Department of Agriculture have certainly obtained some surprising results from their experimental work in the tobacco fields of Connecticut, and I believe that still other important problems remain to be worked out along the lines designated by Secretary Wilson.

* * * * * * *

The CHAIRMAN. The Chair will have to recognize the gentleman from Connecticut [Mr. LILLEY] next in opposition, unless the gentleman from South Carolina [Mr. ELLERBE] is in opposition.

Mr. LILLEY of Connecticut. I will detain this House but a very short time. Mr. Chairman, I have no desire to make a speech for home consumption and simply wish to answer the challenge of a great many gentlemen who have said there were no farmers opposed to the distribution of seed and only seed dealers were opposed to it. I have a number of letters here, and I will just read briefly from some of them. One is from the Cloverdale Farm, Litchfield, Conn.

Mr. SHACKLEFORD. Before the gentleman begins I would like to ask him one question.

Mr. LILLEY of Connecticut. All right.

Mr. SHACKLEFORD. All of those letters are on printed letter heads, are they not?

Mr. LILLEY of Connecticut. No.

Mr. SHACKLEFORD. A great majority of them, are they not?

Mr. LILLEY of Connecticut. I see a majority——

Mr. SHACKLEFORD. They are from the kind of farmers that farm the people?

Mr. LILLEY of Connecticut. I find that a majority of them are not on printed letter heads. These are not the spike-toed farmers that the gentleman from Mississippi referred to. We do not grow them in New England. The letter is as follows.

Mr. SHACKLEFORD. Are you supplying your people seed to grow wooden nutmegs?

Mr. LILLEY of Connecticut. The only market we now have for wooden nutmegs is from the gentleman's State, Missouri. [Applause.]

Seeds received. I hope Congress will find time this session to abolish free distribution.

Here is one from the Hautboy Hill farm:

As long as Congress sees fit to send out seed I shall be glad to get my share, but I believe it to be unjust. On the same principle appropriations should be made to furnish us with agricultural implements and improved live stock.

Here is another:

You are a good fellow, LILLEY, and my chickens appear to like your seed, but the whole damned business is of no benefit to agriculture.

[Applause.]

Mr. HUMPHREYS of Mississippi. Is that from a farmer?

Mr. LILLEY of Connecticut. Yes, sir.

Mr. HUMPHREYS of Mississippi. It is on a printed letter head, I believe.

Mr. LILLEY of Connecticut. No, sir.

Mr. HUMPHREYS of Mississippi. Turn it over and see if it is not.

Mr. LILLEY of Connecticut. No, sir; it is on my own letter head stating that I had sent him a package of the seed.

Here is another:

I am sure your constituents almost to a man are opposed to the garden-seed nuisance. Please send me an Ayrshire bull and $25,000 in cash.

Mr. MANN. Why should that man be opposed to 5 cents' worth of seeds?

Mr. LILLEY of Connecticut. I sent him the cash, but did not have the bull.

Here is another letter:

We received your seed all right, but do not appreciate them.

And another:

That every one of our Congressmen may do all in their power to prevent any appropriation for free-seed distribution is the earnest wish of your farmer constituents.

Here is a postscript that I will read:

All honor to Congressman HENRY for his position in this matter.

[Applause.]

Mr. JOHNSON. I would like to ask the gentleman a question.

Mr. LILLEY of Connecticut. Go ahead.

Mr. JOHNSON. Do most of the farmers up in your district use typewriters to write their letters down here?

Mr. LILLEY of Connecticut. I have not read a typewritten letter yet.

Mr. LILLEY of Connecticut (reading)—

I think that a purposeless system of gratuity that burdens our post-office ought to be discontinued—and there you have my opinion, as a farmer.

Mr. LIVINGSTON. Who signs that?

Mr. LILLEY of Connecticut (reading)—

If the Government has any more seeds to send me I should prefer their value in cash or postage-stamps, which would be cheaper for the Post-Office Department.

Mr. GAINES of Tennessee. What sort of seeds did you send him? Did you send him the right sort for your climate?

Mr. LILLEY of Connecticut. I sent his frank with 12,000 others to the Agricultural Department.

Mr. TALBOTT. How many requests did you get of that kind?

Mr. LILLEY of Connecticut. I do not know.

Mr. TALBOTT. What percentage of the 12,000 did you receive responses to like that?

Mr. LILLEY of Connecticut. I do not know.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HENRY of Connecticut. The time of my colleague has been taken from him by interruptions, and I ask unanimous consent that his time may be extended.

Mr. GAINES of Tennessee. I ask that the time of the gentleman may be extended for ten minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the time of the gentleman from Connecticut be extended ten minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. LILLEY of Connecticut. I do not think I shall use that much time.

Mr. GAINES of Tennessee. Now, will the gentleman tell the committee what kind of seed would suit that country where you raise ice?

The CHAIRMAN. Does the gentleman yield to the gentleman from Tennessee?

Mr. LILLEY of Connecticut. I do.

Mr. GAINES of Tennessee. I really would like to know what kind of vegetables you raise there?

Mr. LILLEY of Connecticut. All kinds of vegetables.

Mr. GAINES of Tennessee. Will you give me all yours next time? I will send them to Republicans in my district if you will do so.

Mr. HENRY of Connecticut. There will be no "next time."

Mr. MANN. I understood the gentleman to say that one of the replies which he read was written upon a letter which he sent to his constituent informing him that he had sent him a package of seeds.

Mr. LILLEY of Connecticut. Well, yes, sir.

Mr. MANN. I understand that he said that he wrote that to every one.

Mr. LILLEY of Connecticut. Yes; to every one.

Mr. MANN. How many letters did the gentleman receive protesting against the distribution of seeds?

Mr. LILLEY of Connecticut. Well, I can not tell you; I received a great many.

Mr. MANN. Has the gentleman produced all of them?

Mr. LILLEY of Connecticut. No, sir.

Mr. MANN. The gentleman has produced a dozen or so that have been written to him in reply to 12,000 letters.

Mr. LILLEY of Connecticut. Let me say in regard to that I have ten letters—I have twenty letters—of disapproval to one that has approved the sending out of seeds.

Mr. MANN. Well, I know, but that would not answer the question. If the gentleman would only answer how many of the 12,000 he wrote to protested or expressed disapproval that would be a matter of some information.

Mr. LILLEY of Connecticut. I should say that the ratio would be about twenty to one of those that disapproved against those who approved.

Mr. JAMES. What is the character of letter you sent?

Mr. LILLEY of Connecticut. Just a line saying that I had sent them the seed.

Mr. JAMES. I would like you to read that letter.

Mr. LILLEY of Connecticut (reading)—

It may therefore seem a little bit ungracious of me to write advocating the discontinuance in large measure of the governmental practice.

Mr. JAMES. I would like to hear the whole of it.

Mr. LILLEY of Connecticut. That will be something that is not directly pertinent.

I have been remembered by you on frequent occasions in the way of garden seeds and perhaps other things "not tied down" at Washington.

Mr. JAMES. What I ask for is the letter that you sent to your constituents with the seeds.

Mr. LILLEY of Connecticut (reading)—

That the Government seeds I am sending you under another cover may grow and flourish is the earnest wish of——

Mr. MANN. A good letter.

Mr. JAMES. You hope they will flourish?

Mr. LILLEY of Connecticut. I did not express any opinion.

Mr. JAMES. You did not insinuate that they would not?

Mr. LILLEY of Connecticut. I said just what I have read to you, sir. [Reading:]

It may therefore seem a little bit ungracious for me to write advocating the discontinuance in large measure of this governmental practice. There is, I think, a growing sentiment against the gratuitous distribution of common seeds by the Department of Agriculture. What the Department can do in the way of introducing new seeds and plants, thereby enlarging the variety of the product of the farm and the garden, is in the right direction.

I do not want to take the time of the House reading all these letters.

Will you kindly use your influence against the free distribution of common garden seeds? My reasons for opposing it are as follows: First, the law creating the Department of Agriculture does not authorize the free distribution of common garden seed. Second, it is class legislation, and therefore pernicious in itself. Third, it is a waste of public money, as more than half of the seed distributed is never sown. Fourth, it overburdens the mail service, and is one cause for the deficit in postal revenues.

Mr. GAINES of Tennessee. Will my friend yield for a moment?

Mr. LILLEY of Connecticut. Certainly.

Mr. GAINES of Tennessee. Your constituents, it seems, do not want this seed. Now, will you let me show you here, as best I can, a whole armful of letters calling for seed, letters sent to me after I had sent out mine, all the seed allotted me? These letters are from black and white, old and young, the lame, the halt, Republicans and Democrats, and not a single protest from any man, woman, or child has come to me from my district.

Mr. SIMS. How many hundreds of them are there?

Mr. GAINES of Tennessee. I do not know how many there are. These came after all my quota of seeds had been sent out. Now, will my friend let me read just one paragraph, a few lines?

Mr. LILLEY of Connecticut. Not at present.

Mr. WADSWORTH. Why, what is that printed matter which the gentleman is holding with the letters? It is a copy of the CONGRESSIONAL RECORD and a copy of the agricultural appropriation bill.

Mr. GAINES of Tennessee. Oh, no; come here, sir, and look at these letters. Here they are. [Exhibiting a large number of letters.]

Mr. LILLEY of Connecticut. I can not yield further now. If I have time I will later.

Here is a letter from the good old town of Litchfield:

I am obliged for your kindness in sending me the seeds, although I would very cheerfully go without the seeds if the law which authorizes their distribution could be abolished.

I thank you for package of seeds and accompanying letter. Of course as long as Congress sees fit to appropriate money for this purpose, it becomes your duty—disagreeable I have no doubt—to distribute them, and I am gratified, of course, that you should remember me. I can not avoid however, expressing the hope that you will do what you can to prevent any further appropriations for this purpose. There being no more reason, of course, why the Government should supply me with seeds than with coal or hen's eggs.

I dislike to seem to "look a gift horse in the mouth," but I am sure you will not accuse me of either ingratitude or impertinence.

We hope you will exert your influence to support the action of the Agricultural Committee in cutting out the free distribution of seed. We will not elaborate upon the subject, as we believe your good judgment after giving the matter slight consideration will convince you that this free seed distribution is a mighty bad piece of business, as well as bad politics, and an outrageously foolish expenditure of a vast sum of public money.

While I would not appear ungrateful and fully appreciate the courtesy on your part, allow me to say that past experience has taught me to say that "Government seeds" are so *unreliable*, both as to purity and vitality, as to be worthless. My observation leads me to believe that they are seldom trusted by any who wish a successful garden. I believe that you will best serve the country and its agricultural interests by using your influence and vote against the continuing of this custom, and I am strongly of the opinion that this is the conviction of most of your constituents.

Why don't you stop the seed-distribution nonsense, or at least enter a protest against it? It is my honest conviction that 99 per cent of the people who are the recipients of Government seeds from their Congressman smile at the simplicity of the graft, as beneficial only to those who sell the seed to the Government.

Mr. HUMPHREYS of Mississippi. Do you believe that next to the last letter is a correct statement of the quality of the seeds that are being sent out?

Mr. LILLEY of Connecticut. I certainly do. I have had that complaint from a vast number of people.

Mr. HUMPHREYS of Mississippi. It is your judgment, is it, that the seeds that the Department send out are untrustworthy and impure and inferior seeds?

Mr. LILLEY of Connecticut. I don't know that they all are, but I know that a great many are.

Mr. HUMPHREYS of Mississippi. Do you think a large per cent of them are?

Mr. LILLEY of Connecticut. I can not tell you what per cent.

Mr. HUMPHREYS of Mississippi. Do you believe it is a large per cent?

Mr. LILLEY of Connecticut. I have no idea what per cent. I believe that they are the commonest kind of common garden seed.

Mr. POWERS. Will the gentleman from Connecticut permit a question?

Mr. LILLEY of Connecticut. Yes.

Mr. POWERS. I understand the gentleman from Connecticut to believe that the Agricultural Department sends out worthless seeds.

Mr. LILLEY of Connecticut. No, sir; I believe the Agricultural Department sends out the best seeds that it can get under the circumstances. The Agricultural Department is laboring under difficulties in providing the seeds for Congressmen to send out. They must get immense quantities of seed, and they can not always get them from reliable sources. They have to do the best they can and get them where they can.

Mr. POWERS. Has the Secretary of Agriculture ever stated to any committee that he has difficulty in getting seeds to send out?

Mr. LILLEY of Connecticut. People connected with the Agricultural Department have told me that they were obliged to take seed from quarters where they had rather not take them, but they were obliged to from the fact that they couldn't get as many as they wanted to from other sources.

Mr. POWERS. Has anything of that kind been reported by the Secretary of Agriculture to the committee?

Mr. LILLEY of Connecticut. I do not know.

Mr. POWERS. I want to say to the gentleman that I have sent these seeds out for a great many years to the farmers, not to men who are not farmers. If the seeds are worthless, how does it happen that the seed trust called a meeting at the New Willard in order to protest against it? I should think that it would cure itself.

Mr. LILLEY of Connecticut. I think the gentleman from Maine is assuming a good deal in assuming that there is a seed trust. I do not know anything about that. I do know that the Government gets its seed very largely from the seed trust, if there is such a thing, the same source that retail dealers obtain them.

Mr. HUMPHREYS of Mississippi. The gentleman said that they were the commonest sort of common seeds. Is that the sort of seed that these men raise?

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. LILLEY of Connecticut. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. Mr. Chairman, the gentleman speaks about these being bad, rotten seed, so to speak. Here is what the Department says. I read from the hearing:

Mr. CANDLER. Then there is nothing sent out but fresh seed, and those have been thoroughly tested and found to be true to their type?
Mr. GALLOWAY. Yes; and good in vitality.
Mr. CANDLER. So that they ought to be the very best seed that are sent out.
Mr. GALLOWAY. Under the old practices, before the Department got its own seed, it was the custom to run in poor seed.

Mr. LILLEY of Connecticut. Is the gentleman asking me a question?

Mr. GAINES of Tennessee. Yes; I am showing you that the seeds are all fresh.

Mr. LILLEY of Connecticut. I have not said that the seeds were rotten.

Mr. GAINES of Tennessee. No; that is my own word. I wanted to emphasize the gentleman's position. Now, on page 233 of the hearings this colloquy occurred:

Mr. CANDLER. All of them are tested?
Mr. GALLOWAY. All of them are tested.
Mr. CANDLER. Every one when they come in?
Mr. GALLOWAY. When they come in.

Mr. SCOTT. Is it possible to require bids or in any way introduce the element of competition?
Mr. GALLOWAY. Yes; we do that as far as we possibly can. For instance, we want 40,000 pounds of lettuce seed of a certain variety, and we know pretty well the men who can furnish that seed at different places in the Pacific coast region. We send each of those men a blank form and ask him to submit a proposal for that seed. They come in at a certain time, and unless there is some special reason we will give it to the man whose figures are the lowest, considering freight rates. Very frequently a bid on lettuce seed from, say, Chicago, although it might be a lower bid, would cost us more than if the bid came from some other section, on account of freight rates. We have to consider those things.
Mr. FIELD. Doctor, the common impression is that dealers, such as Landreth and others, destroy all the old stock, so that each year they offer to the public fresh seed. Is that true?
Mr. GALLOWAY. That is one of the fairy stories that go out.
Mr. CANDLER. Landreth does claim he destroys all the seed left over.
Mr. GALLOWAY. I can not speak for any particular firm, but it is the general practice to blend seed. It is not only the general practice to blend seed, but there are all sorts of apparatus and devices that have for their object the rejuvenation of seed—that is, polishing devices that make old seed look bright. There are certain devices that will rub the dust off. There are certain cases where, if they do not want seed to grow very well (where we get imported seed), they run them over hot plates to destroy some of the vitality. It is an object sometimes to have the seed, especially high-grade seed, low in vitality, the main object being to keep up the price.

Now, over on another page he states that the Department has already procured the seed for the next year, and we are asked to give the money now to pay for them. So you see that when you buy seeds they are "tested" by the Department. These seeds that are grown under Farmer Wilson's Department are the very best kind. These seeds that they send out over the country are the best seeds that can be had, and Doctor Galloway so states. Of course, seed that is grown South might not grow well in Connecticut.

Mr. WADSWORTH. Mr. Chairman, a parliamentary question.

The CHAIRMAN. The gentleman will state it.

Mr. WADSWORTH. I want to know who has the floor, the gentleman from Tennessee or the gentleman from Connecticut?

Mr. GAINES of Tennessee. We are working both sides of the aisle. I am for the people, and the gentleman from Connecticut is against them. [Laughter.] I am for the farmer, and my farmer friend is not.

Mr. LILLEY of Connecticut. I am as much for the farmer as the gentleman from Tennessee.

Mr. GAINES of Tennessee. Oh, no.

Mr. LILLEY of Connecticut. It depends upon the point of view. [Laughter.]

Mr. Chairman, I am opposed to an appropriation for the free distribution of these ordinary garden seed, because I do not believe that it is any more a part of the function of this Government to distribute an article of no better quality than can be obtained at the nearest grocery than any other article that can be obtained at the same store. There is no more reason why we should distribute these common garden seeds, and no more excuse for such a distribution, than there would be in distributing postage stamps or pocketknives.

I am against graft in this form, as well as in every other form. I am against this appropriation, as I am against all such appropriations, because it is not good business, and regret that there is not more unanimity among the Members of this House to conduct the affairs of this country on thoroughly up-to-date business principles. I don't believe any Member of this House has any right to vote to spend the people's money any differently than he would spend his own money, if it were his own private enterprise that he was conducting instead of the affairs of this great nation.

Mr. ELLERBE. Mr. Chairman, I want to say that I shall not ask that my time be extended beyond five minutes. Although one of Mr. WILLIAMS's Congressional "kids," I beg pardon of the House for saying that I am greatly surprised at the amount of levity displayed in the discussion of this serious question. [Laughter.]

Now, Mr. Chairman, this question is serious to me, because I believe that wrapped up in this are principles or policies that will seriously affect the welfare of the people of this country. Let me say that I was born on a farm, and every honest dollar that I ever made in my life I made out of the ground. [Laughter.]

I want to say seriously this, that there is one thing that the farming classes of this country are beginning to realize, and that is that one of the greatest problems concerning the country today is the question of seed breeding. I have taken on the same soil on my plantation, with the same fertilizer, planted the same day, cultivated the same day, gathered the same day, and out of six varieties of cotton I have known as much as 800 pounds of seed cotton different per acre. Why? Because of the seed that is planted; and I was surprised when I heard the

gentleman from Texas oppose this bill, because the very principle embedded here is what is going to give relief to the people of the boll-weevil section of Texas. [Applause.]

What is the Department doing to-day? It went to North Carolina and took a lot of king cotton seed raised there, sent it down to Texas, and it was found that the cotton would open from ten to twenty days earlier than the ordinary cotton. Gentlemen, in my district there are three counties which are affected with what we call "wilt." You plant the cotton, it comes up, and it soon wilts. We have used all kinds of fertilizers. We can not do anything with it, but I came here and I have found that they have what they call a "wilt-resisting cotton seed." I have sent those seed into my district, and if these seed are wilt-resistant, then we have saved those people and those farmers down there.

I stand here and I tell you that I advocate this free-seed distribution not because I can send Tom Jones in my district 25 cents' worth of seed, but because I am able to send him a little strawberry plant of good shipping qualities, and he may be able to ship those berries and have them keep well, and instead of making a thousand dollars an acre, as we have done in my country, he may be able to send such a berry of such keeping qualities that he makes $2,000 an acre. [Applause.] I want to say that the same thing that is true of cotton seed and strawberry plants is also true of these garden seeds, and I favor this because it does not provide simply for testing the purity of the seed, but here are the words that strike me: "Seeds suited to the different localities." I want to live to see the day when not only $200,000, but $1,000,000 shall be given to the Secretary of Agriculture, who shall gather around him a class of experts who shall scour the world and select the finest seeds and the finest plants and send them to those localities where they will do the most good, and I tell you, my friends, you would be astonished if you knew what vast good would come from such a plan as that. [Applause.]

I desire to say, in conclusion, that thousands and thousands of farmers plant the same seed year after year. I have brought from an adjacent county in my own district cotton seed, the same seed grown on sandy soil for three or four years, and put it into a stiff clay soil, and it would show a difference of from three to six hundred pounds an acre. I want to say the time has come when we owe it to the people to do a great deal more of this kind of work. They have not the facilities, they have not the means, they have not the training to carry on this work of experimentation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JAMES. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes.

Mr. ELLERBE. No; I promised to confine myself to five minutes, and I shall do so.

Mr. SLAYDEN. Extend your remarks in the RECORD.

Mr. ELLERBE. No; I shall not extend in the RECORD. I do not want to. I am not talking for the RECORD. I believe in what I am saying. I believe this is a great work, and I believe when you knock this out, when you stop this great work, as I said, of scouring the country for plants and vegetables that are adapted to different localities, you are turning back the wheels of progress, and I believe that some day the farmers will realize your mistake and will rise up in their might and rectify the great wrong that you may do here to-day. [Applause.]

Mr. WADSWORTH. Mr. Chairman, I move that the committee do now rise.

The question was taken; and on a division (demanded by Mr. HAY and Mr. LAMB) there were—ayes 79, noes 85.

Mr. WADSWORTH. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. WADSWORTH and Mr. LAMB were appointed tellers.

The committee again divided; and the tellers reported—ayes 87, noes 78.

So the motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FOSTER of Vermont, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the agricultural appropriation bill, and had directed him to report that it had come to no resolution thereon.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5530. An act authorizing the procuring of additional land for the enlargement of the site for the public building at Kalamazoo, Mich.—to the Committee on Public Buildings and Grounds.

S. 5773. An act to provide a site and buildings for the Departments of State, Justice, and Commerce and Labor—to the Committee on Public Buildings and Grounds.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 16954. An act providing for the reappraisement of certain suburban lots in the town site of Port Angeles, Wash.; and

H. R. 14508. An act permitting the building of dams across the north and south branches of Rock River, adjacent to Vandruffs Island and Carrs Island, and across the cut-off between said islands, in Rock Island County, Ill., in aid of navigation and for the development of water power.

PERSONAL REQUESTS.

By unanimous consent, leave of absence was granted to Mr. LONGWORTH, for one week, on account of important business.

By unanimous consent, Mr. FIELD was granted leave of absence, indefinitely, on account of important business.

Mr. WADSWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 4 o'clock and 56 minutes p. m.) the House adjourned to meet to-morrow at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. ROBERTS, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 12846) to reorganize and increase the efficiency of the Hospital Corps of the Navy of the United States, and to define its duties and regulate its pay, reported the same without amendment, accompanied by a report (No. 3699); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. McCALL, from the Committee on the Library, to which was referred the bill of the Senate (S. 685) for the erection of a monument to the memory of John Paul Jones, reported the same without amendment, accompanied by a report (No. 3700); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the Senate (S. 4370) to appropriate the sum of $40,000 as a part contribution toward the erection of a monument at Provincetown, Mass., in commemoration of the landing of the Pilgrims and the signing of the Mayflower compact, reported the same with amendment, accompanied by a report (No. 3701); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11260) granting an increase of pension to James H. Van Camp, reported the same with amendment, accompanied by a report (No. 3643); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16492) granting an increase of pension to John M. Logan, reported the same with amendment, accompanied by a report (No. 3644); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14678) granting a pension to James A. Boggs, reported the same with amendment, accompanied by a report (No. 3645); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16998) granting an increase of pension to Elijah Curtis, reported the same with amendment, accompanied by a report (No. 3646); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16662) grant-

ing an increase of pension to Van Buren Beam, reported the same without amendment, accompanied by a report (No. 3647); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17170) granting an increase of pension to Jackson D. Turley, reported the same with amendment, accompanied by a report (No. 3648); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 612) granting an increase of pension to George H. Kohler, reported the same with amendment, accompanied by a report (No. 3649); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18486) granting an increase of pension to William F. Walker, reported the same with amendment, accompanied by a report (No. 3650); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1438) granting an increase of pension to Oliver T. Smith, reported the same with amendment, accompanied by a report (No. 3651); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7147) granting an increase of pension to Bronson Rothrock, reported the same with amendment, accompanied by a report (No. 3652); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3243) granting an increase of pension to John H. Anderson, reported the same with amendment, accompanied by a report (No. 3653); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2092) granting an increase of pension to Franklin M. Hill, reported the same with amendment, accompanied by a report (No. 3654); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3222) granting an increase of pension to George Merrill, reported the same with amendment, accompanied by a report (No. 3655); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6878) granting a pension to Lucy Brown, reported the same with amendment, accompanied by a report (No. 3656); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7535) grantng an increase of pension to John S. Moore, reported the same with amendment, accompanied by a report (No. 3657); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6774) granting an increase of pension to John Platt, reported the same with amendment, accompanied by a report (No. 3658); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6205) granting an increase of pension to Lucy E. Engler, reported the same with amendment, accompanied by a report (No. 3659); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6190) granting an increase of pension to John J. Schneller, reported the same with amendment, accompanied by a report (No. 3660); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4956) granting an increase of pension to James C. Bryant, reported the same with amendment, accompanied by a report (No. 3661); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3588) granting an increase of pension to William H. Riggin, reported the same with amendment, accompanied by a report (No. 3662); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9609) granting an increase of pension to Jesse M. Auchmutz, reported the same with amendment, accompanied by a report (No. 3663); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8736) granting an increase of pension to Lowell Mason Maxham, reported the same with amendment, accompanied by a report (No. 3664); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13698) granting an increase of pension to Samuel Kelly, reported the same with amendment, accompanied by a report (No. 3665); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7836) granting a pension to Alexander G. Patton, reported the same with amendment, accompanied by a report (No. 3666); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13594) granting an increase of pension to Jonathan Snook, reported the same with amendment, accompanied by a report (No. 3667); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10865) granting an increase of pension to Alexander Caldwell, reported the same with amendment, accompanied by a report (No. 3668); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13149) granting an increase of pension to Ida L. Martin, reported the same with amendment, accompanied by a report (No. 3669); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11152) granting an increase of pension to Theodore S. Currier, reported the same without amendment, accompanied by a report (No. 3670); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11161) granting an increase of pension to Michael Aaron, reported the same without amendment, accompanied by a report (No. 3671); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13824) granting an increase of pension to Noah Myers, reported the same with amendment, accompanied by a report (No. 3672); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13993) granting an increase of pension to Joseph Watson, reported the same with amendment, accompanied by a report (No. 3673); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6422) granting a pension to Anthony Van Slyke, reported the same with amendment, accompanied by a report (No. 3674); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17210) granting an increase of pension to Daniel Vertner, reported the same with amendment, accompanied by a report (No. 3675); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16918) granting a pension to Matilda J. Williams, reported the same without amendment, accompanied by a report (No. 3676); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16109) granting an increase of pension to Jacob Cline, reported the same with amendment, accompanied by a report (No. 3677); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15104) granting an increase of pension to Thoma E. Owens, reported the same with amendment, accompanied by a report (No. 3678); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to

which was referred the bill of the House (H. R. 9844) granting an increase of pension to John J. Erick, reported the same with amendment, accompanied by a report (No. 3679); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6208) granting an increase of pension to William D. Connor, reported the same with amendment, accompanied by a report (No. 3680); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15056) granting an increase of pension to James Ramsey, reported the same without amendment, accompanied by a report (No. 3681); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16915) granting an increase of pension to Orange Bugbee, reported the same with amendment, accompanied by a report (No. 3682); which said bill and report were referred to the Private Calendar.

Mr. GUDGER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18356) granting an increase of pension to W. A. Custer, reported the same with amendment, accompanied by a report (No. 3683); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18524) granting an increase of pension to Julius Rector, reported the same with amendment, accompanied by a report (No. 3684); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18560) granting an increase of pension to John Hamilton, reported the same with amendment, accompanied by a report (No. 3685); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18249) granting an increase of pension to Hiram G. Hunt, reported the same with amendment, accompanied by a report (No. 3686); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18052) granting a pension to John Lewis Bernard Breighner, reported the same with amendment, accompanied by a report (No. 3687); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17340) granting a pension to Julia Walz, reported the same with amendment, accompanied by a report (No. 3688); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17590) granting an increase of pension to Jacob Woodruff, reported the same with amendment, accompanied by a report (No. 3689); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18039) granting an increase of pension to John W. Stephens, reported the same with amendment, accompanied by a report (No. 3690); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18239) granting an increase of pension to Bryant Brown, reported the same with amendment, accompanied by a report (No. 3691); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17772) granting a pension to John W. Henry, reported the same with amendment, accompanied by a report (No. 3692); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18561) granting an increase of pension to Jonathan Skeans, reported the same with amendment, accompanied by a report (No. 3693); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17637) granting an increase of pension to Gardiner K. Haskell, reported the same with amendment, accompanied by a report (No. 3694); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18367) granting an increase of pension to John Wilkinson, reported the same with amendment, accompanied by a report (No. 3695); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17938) granting an increase of pension to Clarissa L. Downing, reported the same with amendment, accompanied by a report (No. 3696); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17872) granting an increase of pension to A. D. Metcalfe, reported the same with amendment, accompanied by a report (No. 3697); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14661) granting an increase of pension to John B. Bussell, reported the same without amendment, accompanied by a report (No. 3698); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. CAMPBELL of Kansas: A bill (H. R. 18801) to protect legitimate competition—to the Committee on Interstate and Foreign Commerce.

By Mr. SIMS: A bill (H. R. 18802) providing for the construction and erection of rural free-delivery mail boxes—to the Committee on the Post-Office and Post-Roads.

By Mr. SPARKMAN: A bill (H. R. 18803) to extend the provisions of the existing bounty land laws to the officers and enlisted men, and the officers and men of the boat companies, of the Florida Seminole Indian war—to the Committee on the Public Lands.

By Mr. AMES: A bill (H. R. 18804) to regulate the business of insurance within the District of Columbia—to the Committee on the Judiciary.

By Mr. SLEMP: A bill (H. R. 18805) providing for the use of $2,000,000 of the money that would otherwise become a part of the reclamation fund for the drainage of certain lands in Virginia, and for other purposes—to the Committee on Irrigation of Arid Lands.

By Mr. FLACK: A bill (H. R. 18806) authorizing and empowering the Secretary of War to convey to The Delaware and Hudson Company and its subsidiary companies certain lands and premises within the United States military reservations at Plattsburg and Rouses Point, in the county of Clinton and State of New York, for railroad purposes in exchange for the conveyances to the United States by The Delaware and Hudson Company and its subsidiary companies of certain lands, hereditaments, rights of way, and franchises within the said United States military reservation at Plattsburg—to the Committee on Military Affairs.

By Mr. McGUIRE: A bill (H. R. 18807) permitting citizens of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole nations to alienate their allotments—to the Committee on Indian Affairs.

By Mr. HAMILTON: A bill (H. R. 18808) permitting the construction of a ship canal between Lakes Michigan and Superior, via Whitefish River, Mud Lake, and Au Train River and Lake, in the State of Michigan—to the Committee on Rivers and Harbors.

By Mr. DIXON of Montana: A bill (H. R. 18809) to authorize the construction of a bridge across the Missouri River in Broadwater and Gallatin counties, Mont.—to the Committee on Interstate and Foreign Commerce.

By Mr. DAWSON: A joint resolution (H. J. Res. 150) granting Government employees pay for Labor Day—to the Committee on Appropriations.

By Mr. HEARST: A joint resolution (H. J. Res. 151) authorizing the Secretary of War to provide additional relief for earthquake and fire sufferers in California, and appropriating $2,500,000 in addition to sums already appropriated for the relief of the sufferers of said disaster—to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BENNETT of Kentucky: A bill (H. R. 18810) for the relief of Samuel Ritchey—to the Committee on War Claims.

Also, a bill (H. R. 18811) granting an increase of pension to Samuel Ritchey—to the Committee on Invalid Pensions.

By Mr. BOWIE: A bill (H. R. 18812) granting a pension to Julius S. Cuendet—to the Committee on Invalid Pensions.

By Mr. BRADLEY: A bill (H. R. 18813) granting an increase of pension to Sarah A. Dawson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18814) granting an increase of pension to Francis G. Knapp—to the Committee on Invalid Pensions.

By Mr. DARRAGH: A bill (H. R. 18815) granting an increase of pension to Silas W. Spencer—to the Committee on Invalid Pensions.

By Mr. DAWSON: A bill (H. R. 18816) granting an increase of pension to Harriet Wetherby—to the Committee on Pensions.

By Mr. DE ARMOND (by request): A bill (H. R. 18817) granting an increase of pension to George W. Wolfe—to the Committee on Invalid Pensions.

By Mr. DENBY: A bill (H. R. 18818) granting a pension to John Considine—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 18819) granting an increase of pension to Henry Chase—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18820) granting an honorable discharge to Trovillo May—to the Committee on Military Affairs.

By Mr. FINLEY: A bill (H. R. 18821) granting an increase of pension to Eliza Jane Witherspoon—to the Committee on Pensions.

By Mr. FRENCH: A bill (H. R. 18822) granting an increase of pension to Sophia S. Parker—to the Committee on Pensions.

By Mr. FULKERSON: A bill (H. R. 18823) granting a pension to Mary E. Mumm—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18824) granting a pension to James W. Rupe—to the Committee on Pensions.

Also, a bill (H. R. 18825) granting a pension to Benjamin F. Moler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18826) granting an increase of pension to Albert E. Ingraham—to the Committee on Invalid Pensions.

By Mr. HASKINS: A bill (H. R. 18827) granting a pension to Delia H. Honey—to the Committee on Invalid Pensions.

By Mr. HUFF: A bill (H. R. 18828) granting a pension to Sarah Hice—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18829) granting an increase of pension to William Fox—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18830) granting an increase of pension to Andrew J. Fillmore—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18831) granting an increase of pension to James R. Wilson—to the Committee on Invalid Pensions.

By Mr. LILLEY of Pennsylvania: A bill (H. R. 18832) granting a pension to Ella M. Yaw—to the Committee on Invalid Pensions.

By Mr. McCLEARY of Minnesota: A bill (H. R. 18833) granting an increase of pension to Henry Horton—to the Committee on Invalid Pensions.

By Mr. McNARY: A bill (H. R. 18834) granting an increase of pension to Edwin W. Rand—to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 18835) granting an increase of pension to William O. Harrison—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18836) granting an increase of pension to John N. Burton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18837) granting an increase of pension to John Gittons—to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 18838) granting an increase of pension to Fannie Huntt Gibson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18839) granting an increase of pension to Henry W. Alspach—to the Committee on Invalid Pensions.

By Mr. RHINOCK: A bill (H. R. 18840) for the benefit of John W. Kirby, late sheriff of Gallatin County, Ky.—to the Committee on War Claims.

By Mr. SPARKMAN: A bill (H. R. 18841) granting an increase of pension to Stephen Townsend—to the Committee on Invalid Pensions.

By Mr. TALBOTT: A bill (H. R. 18842) granting an increase of pension to William A. Baugher—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18843) granting an increase of pension to John L. James—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18844) granting an increase of pension to Henry Lafferty—to the Committee on Invalid Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 18845) granting a pension to Elza Lawrence—to the Committee on Pensions.

By Mr. WILLIAMS: A bill (H. R. 18846) granting a pension to Maggie D. Brainard—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R.. 18113) granting an increase of pension to Louisa M. Sees, and it was referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of R. T. Taylor, for forest reservations in the White Mountains and Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. ADAMS of Pennsylvania: Petition of the National Business League of Chicago, against the anti-injunction bills (S. 2829 and H. R. 9328)—to the Committee on the Judiciary.

Also, petition of the Civic Club of Philadelphia, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of the Civic Club of Philadelphia, Pa., for forest reservations in the White Mountains and in the Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. ADAMSON: Petition of the Eagle and Phenix Mills, for bill S. 4953, relative to Federal forest reservations—to the Committee on Agriculture.

Also, petition of Newman Council, No. 22, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. AIKEN: Paper to accompany bill for relief of Ella Donnald—to the Committee on Pensions.

By Mr. ALEXANDER: Petition of Council No. 50, Junior Order United American Mechanics, of Buffalo, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. ALLEN of New Jersey: Petition of the Frankfort (Ky.) Business Men's Club, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Sitka Chamber of Commerce, against removal of capital from Sitka—to the Committee on the Territories.

By Mr. BABCOCK: Petition of citizens of Richland Center, Wis., for the Hepburn-Dolliver bill (H. R. 3159)—to the Committee on the Judiciary.

By Mr. BARCHFELD: Petition of the Caddo Commercial Club, against amendments to the pure-food bill calculated to impair its efficiency—to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Business League of Chicago, against the anti-injunction bills—to the Committee on the Judiciary.

Also, petition of Mr. E. D. Graesel et al., for preservation of timber in Minnesota (the Morris law)—to the Committee on Agriculture.

Also, petition of the State Federation of Pennsylvania Women, for forest reservations in the White Mountains and the southern Appalachian Mountains—to the Committee on Agriculture.

Also, petition of Mrs. E. D. Graesel et al., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of J. M. Cooper et al., for an appropriation to purchase the right of way and build a road from Lebanon, Ky., to the national cemetery—to the Committee on Military Affairs.

Also, petition of the Sitka Chamber of Commerce, against removal of the capital of Alaska from Sitka—to the Committee on the Territories.

Also, petition of the National Business League of Chicago, against the anti-injunction bills—to the Committee on the Judiciary.

By BENNETT of Kentucky: Paper to accompany bill for relief of Samuel Ritchey—to the Committee on War Claims.

Also, paper to accompany bill for relief of William Wright and Israel T. Osborn—to the Committee on Invalid Pensions.

By Mr. BURKE of Pennsylvania: Petition of J. M. Cooper et al., for an appropriation to acquire rights of way and build a road from Lebanon, Ky., to the national cemetery—to the Committee on Military Affairs.

Also, petition of the Sitka Chamber of Commerce, against removal of the capital of Alaska from Sitka—to the Committee on the Territories.

Also, petition of the Caddo Commercial Club, for a provision in the Indian appropriation bill to benefit the Five Civilized Tribes of Indians—to the Committee on Indian Affairs.

Also, paper to accompany bill for relief of John Ewing—to the Committee on Invalid Pensions.

By Mr. BURKE of South Dakota: Petition of the Western South Dakota Stock Growers' Association, for speedy laws for the classification of public lands west of the Missouri River to meet the best interests of grazers and actual settlers thereon—to the Committee on the Public Lands.

Also, petition of the Western South Dakota Stock Growers' Association, for the bill extending the time from twenty-eight to thirty-six hours for keeping live stock in cars in transit—to the Committee on Interstate and Foreign Commerce.

By Mr. BURLEIGH: Paper to accompany bill for relief of Edward R. Cunningham—to the Committee on Invalid Pensions.

By Mr. BURTON of Ohio: Petition of 45 citizens of Cleveland, Ohio, against sale of intoxicating liquors in any Government building, etc.—to the Committee on Alcoholic Liquor Traffic.

By Mr. DAWES: Petition of citizens of Ohio, for the ship-subsidy bill (S. 529)—to the Committee on the Merchant Marine and Fisheries.

By Mr. DOVENER: Paper to accompany bill for relief of Thornton Cartwright—to the Committee on Military Affairs.

By Mr. DUNWELL: Petition of the National Business League of Chicago, Ill., against the anti-injunction bills (S. 2829 and H. R. 9328)—to the Committee on the Judiciary.

Also, petition of the Sitka Chamber of Commerce, against removal of the capital of Alaska from Sitka to Juneau—to the Committee on the Territories.

Also, petition of the Caddo Commercial Club, to attach to the Indian appropriation bill an amendment to properly correct the Five Tribe (Indian) bill—to the Committee on Indian Affairs.

Also, petition of the International Federation of Sunday Rest Association of America, for Sunday closing of the Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

Also, petition of J. M. Cooper et al., favoring an appropriation for purchase of the right of way and construction of a road from Lebanon, Ky., to the Lebanon National Cemetery—to the Committee on Military Affairs.

By Mr. ESCH: Petition of the National Business League of Chicago, against the anti-injunction bills (S. 2829 and H. R. 9328, 4445, and 329)—to the Committee on the Judiciary.

By Mr. FINLEY: Paper to accompany bill for relief of Eliza Jane Witherspoon—to the Committee on Pensions.

By Mr. FLACK: Petition of the Patrons of Industry, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. FLOYD: Paper to accompany bills for relief of Thomas B. Hall, D. Holman, Thomas J. Hamilton, Samuel Minnick, William I. Smith, Hiram N. Henry, Edward C. Lane, and Joseph M. Yarnell—to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of the Sitka Chamber of Commerce, against removal of the capital of Alaska from Sitka—to the Committee on the Territories.

Also, petition of the Frankfort (Ky.) Business Men's Club, against any amendments to the pure-food bill calculated to impair its integrity—to the Committee on Interstate and Foreign Commerce.

By Mr. GARDNER of Michigan: Petition of citizens of Michigan, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GRAHAM: Petition of the Sitka Chamber of Commerce against removal of the capital of Alaska from Sitka—to the Committee on the Territories.

Also, petition of the National Business League of Chicago, against the anti-injunction bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of C. H. Hays et al., of Allegheny, for Sunday closing of the Jamestown exposition—to the Select Committee on Industrial Arts and Expositions.

Also, petition of J. M. Cooper et al., for an appropriation to purchase the right of way and to build a road from Lebanon, Ky., to the national cemetery—to the Committee on Military Affairs.

Also, petition of the Caddo Commercial Club, against amendments to the pure-food bill calculated to impair its efficiency—to the Committee on Interstate and Foreign Commerce.

Also, petition of Western Pennsylvania Branch of the Consumers' League, for regulation of child labor in the District of Columbia, etc.—to the Committee on the District of Columbia.

Also, petition of the Hukill-Hunta Company, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

By Mr. HAYES: Paper to accompany bill for relief of Maggie D. Brainard—to the Committee on Invalid Pensions.

Also, petition of citizens of California, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the National Business League of Chicago, against the anti-injunction bills (S. 2829 and H. R. 9328, etc.)—to the Committee on the Judiciary.

By Mr. HAMILTON: Resolution of A. C. Van Raalte Post, No. 262, Department of Michigan, Grand Army of the Republic; citizens of Cedar Springs, Mich., and soldiers of Van Buren County, Mich., to accompany bill for additional relief of soldiers who were prisoners of war—to the Committee on Invalid Pensions.

By Mr. HOGG: Petition of the Business Men's Association of Pueblo, Colo., against bill H. R. 4429, for consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. HUFF: Petition of the Frankfort (Ky.) Business Men's Club, for bill S. 88 (the pure-food bill)—to the Committee on Interstate and Foreign Commerce.

Also, petition of 300 citizens of Greensburg, Pa., against sale of intoxicating liquors in all Government buildings and parks—to the Committee on Alcoholic Liquor Traffic.

Also, petition of Washington Camp, No. 627, Patriotic Order Sons of America, of Salina, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, paper to accompany bills for relief of James R. Wilson, Sarah Hice, William Fox, and Andrew J. Fillmore—to the Committee on Invalid Pensions.

By Mr. KINKAID: Petition of citizens of Crawford, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LINDSAY: Petition of J. M. Cooper et al., for an appropriation to purchase the right of way and build a road from Lebanon, Ky., to the national cemetery—to the Committee on Military Affairs.

Also, petition of the National Business League, against the anti-injunction bill—to the Committee on the Judiciary.

By Mr. LILLEY of Pennsylvania: Petition of the State Federation of Pennsylvania Women, for reservation of timber lands in Minnesota (the Morris law)—to the Committee on Agriculture.

By Mr. MAHON: Paper to accompany bill for relief of Maria Martin—to the Committee on War Claims.

By Mr. MARTIN: Petition of the Western South Dakota Stock Growers' Association, for speedy laws for the classification of the public lands west of the Missouri River to meet the best interests of the grazers and actual settlers thereon—to the Committee on the Public Lands.

Also, petition of the Western South Dakota Stock Growers' Association, for the bill extending the time from twenty-eight to thirty-six hours for keeping live stock in cars in transit—to the Committee on Interstate and Foreign Commerce.

By Mr. OLMSTED: Petition of ladies of Middletown, Pa., for preservation of forest reservations in Minnesota—to the Committee on Agriculture.

Also, petition of ladies of Middletown, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of Harrisburg Lodge, No. 383, Brotherhood of Railway Trainmen, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. OVERSTREET: Petition of the National Business League, against bills S. 2829 and H. R. 9328, 4445, and 328, relative to anti-injunction—to the Committee on the Judiciary.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., for bill H. R. 4549, relative to consolidation of third and fourth-class matter—to the Committee on the Post-Office and Post-Roads.

By Mr. SULLIVAN of New York: Petition of the National Business League of Chicago, against the anti-injunction bills (S. 2829 and H. R. 9328, 4445, and 329)—to the Committee on the Judiciary.

By Mr. WEEMS: Paper to accompany bill for relief of David McMath—to the Committee on Invalid Pensions.

By Mr. WHARTON: Petition of the executive committee of the National Business League, Chicago, against bills S. 2829 and H. R. 9328 (the anti-injunction bills)—to the Committee on the Judiciary.

By Mr. WOOD of New Jersey: Petition of New Jersey Chapter of the American Institute of Architects, for bill H. R. 17630, relative to beautifying architecturally Government buildings—to the Committee on the Library.

SENATE.

TUESDAY, *May 1, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bill and joint resolutions; in which it requested the concurrence of the Senate:

H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River, at Lock 2, Alabama;

H. J. Res. 145. Joint resolution for the appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers; and

H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter.

PETITIONS AND MEMORIALS.

Mr. KEAN presented a petition of the Home Missionary Society of the Central Presbyterian Church of Orange, N. J., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of Adopted Daughter Lodge, No. 3, Brotherhood of Locomotive Firemen, of Jersey City, N. J., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented petitions of the Woman's Home Missionary Society of the Emery Methodist Episcopal Church, of Jersey City, and of sundry citizens of Westfield, Newark, and Plainfield, all in the State of New Jersey, praying that the direction of the Alaskan schools may remain with the United States Bureau of Education; which were referred to the Committee on Territories.

Mr. NELSON presented a petition of the Minnesota State convention, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented a petition of Local Union No. 186, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Minneapolis, Minn., and a petition of sundry citizens of Red Wing, Minn., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. GALLINGER presented a petition of the Society for Political Study of New York City, N. Y., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which was referred to the Committee on Education and Labor.

Mr. BEVERIDGE presented petitions of Local Union No. 373, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Vincennes; of the N. P. Bowsher Company, of South Bend, and of Local Union No. 63, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Elkhart, all in the State of Indiana, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Local Council of Women of Union City, Ind., and a petition of Rathbone Sisters, National Council of Women, of Union City, Ind., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the congregation of the Presbyterian Church of Hanover, Ind., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of the Lake Mohonk Indian conference, of Indiana, praying for the enactment of legislation to aid education in the Territories and the insular possessions of the United States; which was referred to the Committee on Pacific Islands and Porto Rico.

He also presented petitions of Local Division No. 81, Amalgamated Association of Street and Electric Railway Employees of America, of Muncie; of Local Division No. 394, Amalgamated Association of Street and Railway Employees of America, of Tipton, and of Black Diamond Local Union No. 2412, United Mine Workers of America, of Linton, all in the State of Indiana, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. PENROSE presented a petition of the Woman's Club of New Brighton, Pa., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. McENERY, from the Committee on Private Land Claims, to whom was referred the bill (S. 5531) for the relief of Francisco Krebs, reported it with an amendment, and submitted a report thereon.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the bill (S. 4946) for the relief of certain naval officers and their legal representatives, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. ALDRICH, from the Committee on Finance, to whom was referred the bill (H. R. 8973) to amend section 5200, Revised Statutes of the United States, relating to national banks, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 15266) to amend existing laws relating to the fortification of pure sweet wines, reported it without amendment, and submitted a report thereon.

THE ZEBULON MONTGOMERY PIKE MONUMENT ASSOCIATION.

Mr. TELLER. From the Committee on Finance I report back with an amendment the bill (H. R. 13783) to grant souvenir medallions for the Zebulon Montgomery Pike Monument Association. It is purely a local matter, and I ask that the bill may be put on its passage. The amendment is as to the date. The bill has the favorable report of the Department.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment of the Committee on Finance was, in section 2, on page 2, line 14, to strike out "May" and insert "August," so as to read:

That the material from which said proposed medallions are to be made shall be furnished by the Secretary of the Treasury on or before the 1st day of August, 1906.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

BILLS INTRODUCED.

Mr. BURKETT introduced a bill (S. 5966) granting an increase of pension to C. C. Davis; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLARK of Wyoming introduced a bill (S. 5967) to acquire certain land in Washington Heights for a public park and site for the McClellan statue; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WETMORE introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5968) granting a pension to Louisa Thompson;

A bill (S. 5969) granting an increase of pension to Franklin Burdick; and

A bill (S. 5970) granting an increase of pension to Julia A. Horton.

Mr. CULLOM introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Foreign Relations:

A bill (S. 5971) relative to the fees of attorneys in cases before the Spanish Treaty Claims Commission; and

A bill (S. 5972) relative to appeals from the Spanish Treaty Claims Commission.

Mr. CLAY introduced a bill (S. 5973) for the relief of Wellborn Echols; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. FLINT introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Public Buildings and Grounds:

A bill (S. 5974) for the restoration and repair of the United States post-office building at San Francisco, Cal., damaged by earthquake and fire;

A bill (S. 5975) for restoring and repairing the building occupied by the United States mint at San Francisco, Cal., damaged by earthquake and fire;

A bill (S. 5976) for restoring and repairing the warehouse occupied by the United States appraisers at San Francisco, Cal., damaged by earthquake and fire;

A bill (S. 5977) for the restoration and repair of the United

States subtreasury building at San Francisco, Cal., damaged by earthquake and fire;

A bill (S. 5978) for the restoration and repair of the United States post-office building at Oakland, Cal., damaged by earthquake and fire; and

A bill (S. 5979) for the restoration and repair of the United States post-office building at San Jose, Cal., damaged by earthquake and fire.

Mr. McCUMBER introduced a bill (S. 5980) granting an increase of pension to Jacob Smith; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5981) granting an increase of pension to John H. La Vaque; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BEVERIDGE introduced a bill (S. 5982) granting a pension to Harriett Sprague Robins; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5983) granting a pension to Lizzie C. Gregory; and

A bill (S. 5984) granting an increase of pension to Benedict Sutter.

Mr. PENROSE introduced a bill (S. 5985) to pay the findings of the Court of Claims upon the brig Amelia, Houston, master, under act of January 20, 1885; which was read twice by its title, and referred to the Committee on Claims.

Mr. HALE introduced a joint resolution (S. R. 53) authorizing the Secretary of the Navy to receive for instruction at the Naval Academy, at Annapolis, Daniel Caballero and Andres Cardenas, of Peru; which was read twice by its title, and referred to the Committee on Naval Affairs.

AMENDMENTS TO DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. BURKETT submitted an amendment proposing to appropriate $2,500 for completing the paving of Florida avenue from Eighteenth street to Connecticut avenue, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. PENROSE submitted an amendment proposing to appropriate $3,000 for grading and improving Eighteenth street from Minnesota avenue to Harrison street, Anacostia, D. C., intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

AMENDMENT TO RAILROAD RATE BILL.

Mr. FULTON submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table and be printed.

PROPOSED METROPOLITAN POLICE INVESTIGATION.

Mr. TILLMAN. I send a resolution to the desk and ask that it be read and lie over under the rule.

The resolution was read, as follows:

Resolved, That the Committee on the District of Columbia be directed to investigate the circumstances of the arrest in the city of Washington, January 4, 1906, by the Metropolitan police of Mrs. Minor Morris, and her carriage, attended by indignity and cruelty, through the grounds and basement of one of the public buildings and thence, after being thrown violently into a cab, to the house of detention, and her incarceration for four hours on a charge of disorderly conduct, and later of insanity;

And also to investigate the manner and result of an inquiry made by Maj. Richard Sylvester, superintendent of the Metropolitan police, into the facts of the case; and to inquire whether said investigation was fair and unprejudiced and all the impartial and available witnesses examined;

Whether said superintendent undertook to make an investigation by the use of detectives and secret-service men concerning the previous life and reputation of Mrs. Morris;

Whether he procured and made use of a statement of one H. B. Weaver, M. D., who falsely pretended that Mrs. Morris had been a patient of his in Asheville, N. C., two years ago;

Whether there is any police regulation in the city of Washington which requires that any person arrested shall not be released until taken to police headquarters and there detained until a police inquiry is instituted and ended;

And especially to inquire whether the said superintendent of police and one of the chief witnesses against Mrs. Morris have since received recognition by the appointment of near relatives to office; and whether any laws should be adopted by Congress for the better regulation and improvement of the police force of the city of Washington.

The VICE-PRESIDENT. The resolution will be printed and lie over.

REGULATION OF RAILROAD RATES.

Mr. LODGE. I ask that there may be printed in pamphlet form the amendments which have been proposed to the railroad-rate bill. I ask that the amendments may be printed in the order of the sections of the bill—that is, in the order in which they will be taken up under the unanimous-consent agreement for consideration. I think it would be a great convenience to Senators to have all the amendments in one compact form.

Mr. ALLISON. In bill form?

Mr. LODGE. Yes; in pamphlet form, printed all together. They will be printed from the bill print. I mean only to put them in pamphlet form.

Mr. ALLISON. In bill size?

Mr. LODGE. Yes.

Mr. GALLINGER. I suggest to the Senator that probably some of them do not refer to any specific section, and those could be printed, I suppose, at the end.

Mr. LODGE. At the end, where there is no specific section referred to.

The VICE-PRESIDENT. Is there objection to the request?

Mr. TILLMAN. I suggest to the Senator that if they are printed in the form in which they have been offered with lines and all that, it would be much easier for us to keep tab on them to have them bound in the form in which they are already printed.

Mr. LODGE. They can be bound in that form. It will answer every purpose. My only desire is to get them together in a form like that.

Mr. TILLMAN. Will the Senator accept as an amendment that they shall be bound together?

Mr. LODGE. Certainly; bound together.

Mr. TILLMAN. There is no need of any more printing of the amendments.

Mr. LODGE. There are plenty of copies, and they can be bound together in the form in which they are now, and in the order in which they would be considered—that is, in the order of the sections.

Mr. TILLMAN. Some of them make no reference to sections.

Mr. LODGE. All those would come at the end.

Mr. TILLMAN. I was going to suggest that it might be better to classify them by having those which refer to the court review and nonsuspension provisions in one bunch, and so on down with one subject, and with an index.

Mr. LODGE. That will be done by printing them according to the sections. The court-review amendments would come under one section. I think the arrangement by sections will cover the order of the amendments as well as anything.

Mr. ALDRICH. I have no objection to any number of amendments being reprinted if the Senate desires it, but of course there will be no understanding or obligation as to any order of amendments.

Mr. LODGE. Oh, no; not the least.

Mr. ALDRICH. The Senate will be perfectly free to take any course it deems best.

Mr. LODGE. Of course we can not set aside the rules of the Senate. A Senator can offer an amendment at any stage to any part of the bill. But the unanimous-consent agreement was that the bill should be read by sections for the purpose of amendment. I thought it would be a mere matter of convenience to have all the amendments bound together in the order of the sections; I thought it would save us a great deal of trouble; that is all.

The VICE-PRESIDENT. The Chair understands the request of the Senator from Massachusetts to be that the amendments be bound together.

Mr. LODGE. So that each Senator may have a copy for his own use.

The VICE-PRESIDENT. The Senator from Massachusetts does not ask for a further print?

Mr. LODGE. No; I do not ask for a further print.

Mr. NELSON. Would it not be well to print in that connection the name of the Senator who introduced the amendment?

Mr. LODGE. That appears upon every amendment now. The only proposition is to bind the printed amendments just as they are here.

Mr. BACON. Does that include a copy of the bill to be bound with the amendments?

Mr. LODGE. Substitute bills?

Mr. BACON. The original bill, the House bill.

Mr. LODGE. Oh, no.

Mr. BACON. I think that ought to be included. It would be more convenient.

Mr. LODGE. I think it would be a great deal better to keep the bill separate.

Mr. BACON. Let it include the bill and substitute bills and the amendments.

Mr. LODGE. I think it would be much better to keep the bill separate from the amendments.

Mr. BACON. I have already had it done in that shape for my own personal convenience, and I find it very convenient to have the bills under the same cover with the amendments. Still, I shall not insist upon it.

Mr. LODGE. It would seem to me to be much more convenient to keep the amendments separate from the bill. We shall all have bills here to follow, of course. Then, if we have the amendments under a separate cover, we can turn to the amendments as they are taken up.

The VICE-PRESIDENT. Will the Senator from Massachusetts kindly restate his request?

Mr. LODGE. I ask that all amendments which have been offered to the railway rate bill may be bound in pamphlet form, a copy for each Senator, in the order of the sections to which they are offered.

The VICE-PRESIDENT. Without objection, it is so ordered.

The order was reduced to writing, as follows:

Ordered, That there be printed and stitched, in bill form, 200 sets of all the amendments proposed to the bill H. R. 12987, "An act to regulate commerce," etc., the arrangement to be in the order of the sections of the bill, and where the amendments, if any, do not designate the section to which they should be attached they are to be placed at the end.

Mr. ALDRICH. While this matter is before the Senate, I desire to see if I understand the order of the Senate made yesterday. I do not understand that the rule as agreed to prevents the presentation and disposition of amendments between now and Friday, if the Senate so orders or so desires.

Mr. BACON. I scarcely think that that suggestion would be consistent with the consent rule.

Mr. ALDRICH. I tried to state yesterday that my understanding was that amendments may be offered in the meantime. There is an amendment now pending offered by the Senator from Ohio [Mr. FORAKER]. I think that amendment could be disposed of, if the Senate so choose, between now and Friday—in other words, there is a special rule for Friday as to the amendments under a limited time for discussion. I do not know of any reason why, if we have time between now and Friday, we may not be able to dispose of some of the amendments.

Mr. TILLMAN. I thought I gave notice yesterday evening that the bill would be held before the Senate and we would either begin to vote on some amendments or we had to talk on something connected with it.

Mr. ALDRICH. That is my understanding.

Mr. TILLMAN. I expect to stand by that proposition and hope to get a vote on amendments before next Friday. We will certainly have to talk or vote, one or the other.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Massachusetts?

Mr. ALDRICH. Certainly I yield to him for a question. I am simply stating my own understanding of the order and I see that the Senator from South Carolina agrees with me in the interpretation of the order. It seems to me clearly the right of anyone to have an amendment disposed of before Friday. I see no particular reason why we should spend two or three days in debate without a vote. I am anxious to get a vote on the bill. I am not so sure that we can not dispose of the whole bill before Friday.

Mr. LODGE. I had supposed that the purpose of the agreement was to give notice to Senators that the voting on the amendments should begin on Friday.

Mr. ALDRICH. That is to be done under the fifteen-minute rule, and it was distinctly understood.

Mr. LODGE. I stated yesterday that I thought there were two points that it was desirable to determine, when we should begin to vote on the amendments and when we should take the final vote on the bill, and I supposed the unanimous-consent agreement was simply to fix a time at which the voting should begin. Of course, if we should begin voting to-day that notice would be of no value.

Mr. BACON. I do not refer now to the RECORD, but my recollection is in accord with what the Senator from Massachusetts has just stated. The agreement which was reached as to what should begin on Friday was in response to the suggestion made by him that it was important that Senators should know on what date voting on amendments would be in order.

Mr. LODGE. That is my understanding, certainly.

Mr. BACON. It was in response to that suggestion that after considerable colloquy between Senators it was so arranged and so agreed, that on Friday we would take up the bill by sections beginning with the first section and proceed with it under the fifteen-minute rule. If that is not a plain and definite agreement to the effect that it shall not be done before then, I am unable to properly construe language.

Furthermore, we all remember what the Senator from South Carolina said as to his purpose to require that the debate should continue or a vote should be called for; but when we reached the unanimous-consent agreement it certainly supplanted that previous expression of intention on his part.

Mr. LODGE. Otherwise the agreement is worthless.

Mr. BACON. It is absolutely worthless unless that is the case; and the Senator from South Carolina himself, by agreeing to it necessarily abandoned his preconceived and expressed determination to proceed with the debate, or in the absence of debate to call for a vote.

Mr. TILLMAN. Will the Senator allow me?

Mr. BACON. Certainly.

Mr. TILLMAN. The Senator will recall that four or five suggestions were made yesterday afternoon as to what the form of the agreement should be, and that they were all objected to. Finally I declared that I felt it to be my duty to get the bill before the Senate and keep it there, knowing that under the rule there must be debate or a vote would be had. I tried to get an arrangement for a fixed day, but could not. I was notified by the Senator from Texas, who is absent, that two or three Senators had signified their desire to make blanket speeches and they did not want to be limited by the fifteen-minute rule. Therefore I suggested finally that the fifteen-minute rule should begin its operation on Friday, but I did not feel, and I do not feel now, that there was any implied obligation on my part to prevent a vote on any amendment until Friday.

Mr. LODGE. Mr. President——

Mr. BACON. I will ask, with the Senator's permission, this question——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Massachusetts?

Mr. TILLMAN. Certainly.

Mr. LODGE. I wish merely to call his attention to what occurred in the debate yesterday evening.

Mr. LODGE. It seems to me it is important that all Senators should have due notice of two things—when the final vote is to be taken and when the voting on amendments is to begin. I think there ought to be notice of those two facts.

Mr. TILLMAN. I have tried to get an opportunity to do that.

Mr. LODGE. I know the Senator has. I am entirely agreed with his original proposition.

Mr. TILLMAN. I said I tried three or four times—indeed, I tried half a dozen times to get that arrangement made, but never could succeed.

Mr. ALDRICH. The colloquy to which the Senator alludes took place long before the final arrangement was made and before an objection was entered on the part of the Senator from Alabama [Mr. MORGAN].

Mr. BACON. I beg the Senator's pardon, after the agreement which was made there was no such announced intention on the part of the Senator from South Carolina. On the same page from which the Senator from Massachusetts has just read, after the statement which he has just read, that it was important that Senators should know when the voting on amendments is to begin, the colloquy proceeded, and finally the junior Senator from Texas made this suggestion:

Mr. BAILEY. I believe the Senator from South Carolina can get an agreement that next Friday morning we shall take up this bill, to be read by sections; that as each section is read amendments to that section shall be in order, and that each amendment shall be subject to consideration under the fifteen-minute rule, and when considered shall be disposed of. I believe the Senator can get that.

Mr. FRYE. So do I.

Mr. TILLMAN. I will ask unanimous consent for that.

Therefore this consent was given on the request of the Senator from South Carolina. Then the Secretary read the request:

The VICE-PRESIDENT. The Secretary will report the request of the Senator from South Carolina for unanimous consent.

Mr. TILLMAN. Now, Mr. President——

Mr. BACON. The Senator will pardon me just a moment so I may complete the record.

The Secretary read as follows:

"It is agreed, by unanimous consent, that on Friday, May 4, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill H. R. 12987, the bill to be read by sections for the purpose of amendment, the discussion upon amendments to proceed under the fifteen-minute rule"——

Mr. TILLMAN. And amendments to be disposed of when the discussion closes.

The Secretary read as follows:

"The amendments to be disposed of when the discussion thereon is concluded."

The VICE-PRESIDENT. Is there objection?

Then there was colloquy by Messrs. ALLISON, TELLER, MORGAN, and TILLMAN as to the time. Finally the Vice-President asked the question:

Is there objection? The Chair hears none, and it is so ordered.

Now, I want simply to say to the Senator from South Carolina, with his permission, that if instead of an agreement to take up

amendments on that day and vote the agreement had been to take up the bill on that day and vote, certainly the Senator would not contend that in the interim if debate failed the vote could be demanded by him. As to this agreement there was no suggestion by him that it was his purpose to keep the bill before the Senate and call for a vote if debate failed.

Mr. ALDRICH. Will the Senator from Georgia allow me to ask him a question?

Mr. BACON. With pleasure.

Mr. ALDRICH. Does the Senator contend that if debate should be exhausted between now and Friday the Senate would be precluded by this arrangement from taking a vote?

Mr. LODGE. Undoubtedly.

Mr. BACON. Undoubtedly. Otherwise the agreement means nothing. It very frequently happens, as the Senator will certainly recall, that when the Senate has made an agreement to vote on a certain day at a certain hour, debate would cease before that time and other business was taken up to occupy the interval, and the Senate carried out its original unanimous-consent agreement.

Mr. ALDRICH. This is not an agreement to vote on the bill at a certain hour. This is simply an agreement to limit debate with a certain limitation; that is all. It is no agreement to vote at any time, but simply an agreement that debate shall be limited under the fifteen-minute rule.

Mr. BACON. I beg the Senator's pardon.

Mr. ALDRICH. We can vote Friday or any other day on the whole bill and the amendments. I do not see why we should spend three or four days without voting upon amendments.

Mr. TILLMAN. Will the Senator from Georgia let me try to disentangle this matter?

Mr. BACON. With pleasure.

Mr. TILLMAN. I want to say there is no need for looking down the road to meet trouble until it gets here. And now I want to get my skirts clear. I want to renew the request for a day to be fixed when we can get a vote, and if I can get that I will very readily and gladly yield to the Senator's contention as to what he says has been already agreed to, because I do not myself feel that it is altogether just to absent Senators not to give them time to get here and participate in the running debate under the fifteen-minute rule, and also in voting on the amendments.

Now, I renew the request which I made yesterday afternoon, that on Thursday, the 10th, at 2 o'clock, the debate on the bill and on amendments then pending shall be concluded; that we will then take up the bill and vote on it and complete it before we adjourn that night.

Mr. BEVERIDGE. Does the Senator think he should make that request in the absence of the Senator from Alabama [Mr. MORGAN]? The Senator from Alabama objected to that request yesterday, and I observe that he is not in his seat.

Mr. TILLMAN. Then, I withdraw it until the Senator from Alabama comes in. I ask that the bill be laid before the Senate. I understand the Senator from Minnesota [Mr. NELSON] wants to speak upon it, and also the Senator from Virginia [Mr. DANIEL].

The VICE-PRESIDENT. The Senator from South Carolina asks unanimous consent——

Mr. PENROSE. I understand that the morning business is not over.

Mr. TILLMAN. I will yield to the Senator from Pennsylvania to introduce a bill.

[The bills introduced by Mr. PENROSE appear under their appropriate heading.]

Mr. BEVERIDGE subsequently said: I wish to ask a question of the Senator from South Carolina or the Chair, and that is whether the question which was under discussion as to whether there could be a vote before the day named in the unanimous-consent agreement has been determined?

Mr. TILLMAN. It has not. It just dropped out of sight for the moment.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On April 26:

S. 306. An act granting a pension to Cassy Cottrill;
S. 1203. An act granting a pension to Albert B. Lawrence;
S. 1354. An act granting a pension to Lydia Jones;
S. 1376. An act granting a pension to Adam Werner;
S. 1407. An act granting a pension to John McCaughen;
S. 1614. An act granting a pension to Kate E. Young;
S. 2115. An act granting a pension to Carrie E. Costinett;
S. 2832. An act granting a pension to Susan Pennington;
S. 3303. An act granting a pension to Harriett B. Summers;
S. 3817. An act granting a pension to Margaret Lewis;
S. 97. An act granting an increase of pension to Thomas F. Carey;
S. 98. An act granting an increase of pension to Doris F. Clegg;
S. 230. An act granting an increase of pension to Alfred Woodin;
S. 249. An act granting an increase of pension to Alfred F. Sears;
S. 337. An act granting an increase of pension to Lydia Ann Jones;
S. 450. An act granting an increase of pension to James Flynn;
S. 487. An act granting an increase of pension to William Sprouse;
S. 518. An act granting an increase of pension to William T. Godwin;;
S. 520. An act granting an increase of pension to William D. Johnson;
S. 524. An act granting an increase of pension to Lestina M. Gifford;
S. 558. An act granting an increase of pension to Abijah Chamberlain;
S. 563. An act granting an increase of pension to Thomas Martin;
S. 657. An act granting an increase of pension to Mary J. Reynolds;
S. 674. An act granting an increase of pension to Thomas A. Agur;
S. 829. An act granting an increase of pension to James Gannon;
S. 835. An act granting an increase of pension to John W. Scott;
S. 914. An act granting an increase of pension to Edwin R. Hardy;
S. 920. An act granting an increase of pension to Abraham S. Brown;
S. 975. An act granting an increase of pension to James Shaffer;
S. 1012. An act granting an increase of pension to Samuel H. Foster;
S. 1105. An act granting an increase of pension to Harriet Williams;
S. 1162. An act granting an increase of pension to Nelson Cook;
S. 1165. An act granting an increase of pension to James Moss;
S. 1302. An act granting an increase of pension to William A. Murray;
S. 1338. An act granting an increase of pension to Thomas Claiborne;
S. 1349. An act granting an increase of pension to Daniel C. Earle;
S. 1352. An act granting an increase of pension to Michael Scannell;
S. 1377. An act granting an increase of pension to John R. Brown;
S. 1398. An act granting an increase of pension to Edmund Morgan;
S. 1406. An act granting an increase of pension to Moses Hill;
S. 1415. An act granting an increase of pension to Alexander Esler;
S. 1434. An act granting an increase of pension to Samuel Derry;
S. 1435. An act granting an increase of pension to Lewellen T. Davis;
S. 1667. An act granting an increase of pension to John A. Stockwell, alias John Stockwell;
S. 1733. An act granting an increase of pension to George W. Trice;
S. 1884. An act granting an increase of pension to Frederic W. Swift;
S. 1910. An act granting an increase of pension to Theodore McClellan;
S. 1919. An act granting an increase of pension to Louise M. Wynkoop;
S. 1952. An act granting an increase of pension to Jesse Alderman;
S. 1953. An act granting an increase of pension to Charles M. Benson;
S. 1962. An act granting an increase of pension to Julia Baldwin;
S. 2033. An act granting an increase of pension to David Tremble;

S. 2050. An act granting an increase of pension to Jotham T. Moulton;
S. 2077. An act granting an increase of pension to Alice A. Arms;
S. 2094. An act granting an increase of pension to Rodney W. Torrey;
S. 2102. An act granting an increase of pension to George W. Lucas;
S. 2287. An act granting an increase of pension to James V. Pope;
S. 2378. An act granting an increase of pension to Maria Leuckart;
S. 2507. An act granting an increase of pension to William Wheeler;
S. 2540. An act granting an increase of pension to Benjamin S. Miller;
S. 2549. An act granting an increase of pension to George W. Boyles;
S. 2552. An act granting an increase of pension to Louise J. D. Leland;
S. 2568. An act granting an increase of pension to Noah C. Fowler;
S. 2574. An act granting an increase of pension to Parker Pritchard;
S. 2575. An act granting an increase of pension to Thomas W. Waugh;
S. 2577. An act granting an increase of pension to Francis M. Lynch;
S. 2638. An act granting an increase of pension to Thomas B. Whaley;
S. 2667. An act granting an increase of pension to Benjamin W. Valentine;
S. 2670. An act granting an increase of pension to Marie J. Spicely;
S. 2689. An act granting an increase of pension to Alonzo M. Bartlett;
S. 2725. An act granting an increase of pension to John Mather;
S. 2733. An act granting an increase of pension to Charles Crismon;
S. 2736. An act granting an increase of pension to James Williams;
S. 2745. An act granting an increase of pension to Zerelda N. McCoy;
S. 2772. An act granting an increase of pension to Charles H. Niles;
S. 2790. An act granting an increase of pension to William J. Millett;
S. 2795. An act granting an increase of pension to John Albert;
S. 2952. An act granting an increase of pension to William A. Gipson;
S. 2953. An act granting an increase of pension to Mary L. Burr;
S. 2970. An act granting an increase of pension to Thomas E. Keith;
S. 2973. An act granting an increase of pension to Minard Van Patten;
S. 3024. An act granting an increase of pension to David S. Trumbo;
S. 3035. An act granting an increase of pension to Charles W. Shedd;
S. 3112. An act granting an increase of pension to James H. Gardner;
S. 3182. An act granting an increase of pension to Walter Lynn;
S. 3222. An act granting an increase of pension to Henry Golder;
S. 3232. An act granting an increase of pension to Mary Jane Schnure;
S. 3252. An act granting an increase of pension to David F. Crampton;
S. 3254. An act granting an increase of pension to Anna Frances Hall;
S. 3257. An act granting an increase of pension to Walter Green;
S. 3284. An act granting an increase of pension to Charles B. Fox;
S. 3296. An act granting an increase of pension to Patrick Burk;
S. 3297. An act granting an increase of pension to George Conklin;
S. 3298. An act granting an increase of pension to John B. Ashelman;
S. 3300. An act granting an increase of pension to Lorenzo D. Huntley;
S. 3419. An act granting an increase of pension to Joseph H. Beale;
S. 3465. An act granting an increase of pension to John T. Vincent;
S. 3484. An act granting an increase of pension to Jacob A. Field;
S. 3493. An act granting an increase of pension to Thomas Reed;
S. 3520. An act granting an increase of pension to Ada A. Thompson;
S. 3524. An act granting an increase of pension to John N. Henry;
S. 3525. An act granting an increase of pension to Robert G. Harrison;
S. 3532. An act granting an increase of pension to Anna K. Carpenter;
S. 3566. An act granting an increase of pension to John Carpenter;
S. 3584. An act granting an increase of pension to Peter Quermbeck;
S. 3598. An act granting an increase of pension to Charles D. Brown;
S. 3618. An act granting an increase of pension to Martha E. Wardlaw;
S. 3641. An act granting an increase of pension to William P. Marshall;
S. 3653. An act granting an increase of pension to Francis J. Keffer;
S. 3676. An act granting an increase of pension to James M. McCorkle;
S. 3811. An act granting an increase of pension to Ephraim Winters;
S. 3812. An act granting an increase of pension to Truman R. Stinehour;
S. 3819. An act granting an increase of pension to William H. Houston;
S. 3821. An act granting an increase of pension to Henry Wilhelm;
S. 3834. An act granting an increase of pension to Robert McCally;
S. 3835. An act granting an increase of pension to Luther M. Royal; and
S. 3839. An act granting an increase of pension to John T. Brothers.

On April 27:

S. 1248. An act granting a pension to Elizabeth B. Bean;
S. 4146. An act granting a pension to John W. Hall;
S. 4309. An act granting a pension to Adele Jeanette Hughes;
S. 4386. An act granting a pension to George Thomas;
S. 4473. An act granting a pension to Hannah C. Peterson;
S. 4548. An act granting a pension to Hannah E. Wilmer;
S. 4826. An act granting a pension to Sarah Agnes Earl;
S. 1308. An act granting an increase of pension to Emilie Grace Reich;
S. 3843. An act granting an increase of pension to Rollin T. Waller;
S. 3893. An act granting an increase of pension to David C. Howard;
S. 3984. An act granting an increase of pension to Sarah E. Yockey;
S. 3985. An act granting an increase of pension to Matilda E. Nattinger;
S. 3987. An act granting an increase of pension to Samuel H. Hancock;
S. 3996. An act granting an increase of pension to David Morehart;
S. 4088. An act granting an increase of pension to Charles E. Chapman;
S. 4102. An act granting an increase of pension to John A. Broadwell;
S. 4106. An act granting an increase of pension to Katherine Wills;
S. 4110. An act granting an increase of pension to Absalom Wilcox;
S. 4124. An act granting an increase of pension to Alden Fuller;
S. 4180. An act granting an increase of pension to William C. Quigley;
S. 4186. An act granting an increase of pension to Samuel G. Roberts;
S. 4228. An act granting an increase of pension to Joel S. Weiser;

S. 4233. An act granting an increase of pension to Edward M. Barnes;
S. 4247. An act granting an increase of pension to Carrick Rutherford;
S. 4258. An act granting an increase of pension to James F. Hackney;
S. 4279. An act granting an increase of pension to Fannie E. Malone;
S. 4288. An act granting an increase of pension to William E. Anderson;
S. 4301. An act granting an increase of pension to Louisa Arnold;
S. 4315. An act granting an increase of pension to Elizabeth A. Vose;
S. 4324. An act granting an increase of pension to James H. Noble;
S. 4325. An act granting an increase of pension to Jabez Miller;
S. 4360. An act granting an increase of pension to John P. Dunn;
S. 4409. An act granting an increase of pension to James W. Linnahan;
S. 4424. An act granting an increase of pension to Nettie E. Tolles;
S. 4432. An act granting an increase of pension to James Dreury;
S. 4440. An act granting an increase of pension to Joseph Kauffman;
S. 4520. An act granting an increase of pension to Albert L. Callaway;
S. 4541. An act granting an increase of pension to Benson H. Bowman;
S. 4551. An act granting an increase of pension to John F. White;
S. 4556. An act granting an increase of pension to William Jandro;
S. 4557. An act granting an increase of pension to John R. McCrillis;
S. 4606. An act granting an increase of pension to Kate Gilmore;
S. 4612. An act granting an increase of pension to Jesse A. Thomas;
S. 4622. An act granting an increase of pension to Isaiah McDaniel;
S. 4650. An act granting an increase of pension to Thomas McDonald;
S. 4675. An act granting an increase of pension to Fannie P. Norton;
S. 4683. An act granting an increase of pension to William McCann;
S. 4689. An act granting an increase of pension to John Brown;
S. 4691. An act granting an increase of pension to Aaron J. Burget;
S. 4717. An act granting an increase of pension to Ellen A. Gibbon;
S. 4775. An act granting an increase of pension to Thomas A. Maulsby;
S. 4785. An act granting an increase of pension to Nehemiah M. Brundege;
S. 4786. An act granting an increase of pension to George W. Coughanour;
S. 4797. An act granting an increase of pension to Jacob Franz;
S. 4817. An act granting an increase of pension to Delight A. Allen;
S. 4834. An act granting an increase of pension to Octave Counter;
S. 4877. An act granting an increase of pension to Amanda O. Webber;
S. 4917. An act granting an increase of pension to Alfred B. Chilcote;
S. 4972. An act granting an increase of pension to Sarah E. Hull;
S. 4986. An act granting an increase of pension to Alfred Beham;
S. 5016. An act granting an increase of pension to Charles G. Polk;
S. 5074. An act granting an increase of pension to James I. Mettler;
S. 5079. An act granting an increase of pension to Andrew J. Hunter;
S. 5121. An act granting an increase of pension to James H. Haman;
S. 5172. An act granting an increase of pension to John M. De Puy;
S. 5244. An act granting an increase of pension to Horace A. Gregory;
S. 5287. An act granting an increase of pension to John M. Prentiss;
S. 5323. An act granting an increase of pension to Newton G. Cook;
S. 5324. An act granting an increase of pension to Peter Sloggy; and
S. 5520. An act to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905.

DISBURSING OFFICERS' CHECKS.

Mr. ALDRICH. I am directed by the Committee on Finance, to whom was referred the bill (S. 5811) to amend section 3646 of the Revised Statutes of the United States, as amended by act of February 16, 1885, as amended by act of March 23, 1906, to report it favorably without amendment. The bill is to correct an error in a bill which passed both Houses a few days since and became a law. It is sent here from the Treasury Department. It is in regard to issuing duplicate checks in case of lost checks, and it is important that it should be passed immediately, in view of certain complications at the Treasury Department which have grown out of the passage of the former bill. I ask unanimous consent that it may be considered.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend section 3646, Revised Statutes of the United States, as amended by act of February 16, 1885, as amended by act of March 23, 1906, by striking out the words "check or warrant" wherever the words appear in the amended act, and by substituting in lieu thereof the words "disbursing officer's check."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River at Lock 2, Alabama, was read twice by its title, and referred to the Committee on Commerce.

THANKS OF CONGRESS TO GEN. HORACE PORTER.

H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter was read the first time by its title.

Mr. LODGE. I ask for the present consideration of the joint resolution.

The VICE-PRESIDENT. The joint resolution will be read for the information of the Senate.

The joint resolution was read the second time at length, as follows:

Resolved, etc., That the thanks of the people of the United States are justly due and are hereby tendered to Gen. Horace Porter, late ambassador to France, for his disinterested and patriotic services in conducting, upon his own initiative and at his own expense, a series of researches and excavations extending over a period of six years and resulting in the recovery of the body of Admiral John Paul Jones from a forgotten grave in a foreign land and its return to the country which he had loved so well and so heroically served.

Resolved, That General Porter be requested to furnish Congress a copy of his remarks at the exercises at Annapolis, April 26, 1906, and that, when received, said remarks be printed in the RECORD.

Mr. ALDRICH. Does the joint resolution come from any committee?

Mr. LODGE. It has just come from the House. It is a resolution of thanks and passed the House without reference to a committee.

Mr. ALDRICH. I suggest that it be referred to the Committee on Foreign Relations.

Mr. LODGE. It does not seem to me worth while to be so particular when you are trying to be courteous. But still, if the Senator insists——

Mr. BACON. I hope the Senator from Rhode Island will not insist on a reference. Much of the value of this measure as a compliment depends upon the cordiality and freedom from anything like hesitation with which it is extended. I am sure there will not be a Senator on that committee or in this Chamber who would not cordially give his support to the joint resolution.

Mr. ALDRICH. I am not objecting to it or suggesting the reference with an idea of being discourteous to General Porter.

Mr. BACON. Not at all. I have not suggested that.

Mr. ALDRICH. But we are establishing what seems to me is rather a dangerous precedent. If every man who does a good thing for the country in a diplomatic capacity is to receive the thanks of Congress, I would say that it might become quite an abuse. If that is to be the custom to be established here, I should regret it very much. I say that very frankly.

Mr. BACON. We should all agree to that.

Mr. ALDRICH. The thanks of Congress have been extended in the past to great generals and to great admirals, so that it has been really a distinction worth having.

Mr. LODGE. The thanks of Congress have also been extended to great inventors.

Mr. ALDRICH. Yes; to great inventors in one or two cases long ago. If we are to recognize every duty performed in a manly way by every officer of the United States in a diplomatic capacity by extending to him the thanks of Congress, and if it is to be thought ungenerous or discourteous to suggest that resolutions for that purpose be referred to a committee, then I think I shall have to assume the position of being discourteous about it, because I think it would be establishing a very dangerous precedent, which we ought not to establish.

Mr. BACON. Mr. President, there has been no suggestion of discourtesy.

Mr. ALDRICH. Such action simply cheapens the thanks of Congress to the extent to which I am unwilling to go.

Mr. BACON. Mr. President, I do not think that extending the thanks of Congress in this instance would in any degree cheapen that recognition of worthy conduct. The Senator from Rhode Island, I think, need be under no such apprehension. There has been nothing in the past to indicate any disposition on the part of Congress to extend this very high compliment to any except those who most richly merit it.

I am surprised that there should be a suggestion that this service is of such an ordinary character that to extend this recognition to it would cheapen that compliment when such recognition shall hereafter be bestowed upon others. It is not correct, Mr. President, to state that this is simply a duty performed by an ambassador. This was entirely outside of his ambassadorial functions or outside of any duty devolved upon him as an ambassador. It was a duty undertaken by him, it is true, when he had the advantage of official position, which gave him opportunities a private citizen might not have enjoyed; but it is none the less to his credit that, moved by the highest impulse of patriotism, he undertook this most worthy work and persevered in it under circumstances which would have discouraged almost any other man; that he not only did so through a period of years, but that he did it at his own expense, and absolutely, when there was an offer to return him the money, he declined to receive it. This most valuable result, one which appeals to the patriotism of every man and every woman and every child in the land, is one which richly merits recognition on the part of Congress.

The only suggestion I made to the Senator was, not that there was any discourtesy, but that, in a matter which must, I presume, command the support of every Senator, it was something of value that the compliment be extended in a way that there should not be attached to it the slightest manifestation of hesitation on the part of the Senate of the United States.

I seriously regret that the Senator from Rhode Island takes the view of it that he does, because it would be to me personally and as a Senator a most gratifying thing that I could join in this expression of very high appreciation on the part of the American Republic of this most notable performance by this most worthy representative of the Government at the court of France.

The VICE-PRESIDENT. Is there objection to the present consideration of the joint resolution which has been read?

Mr. CULLOM. Allow me to say a word, Mr. President.

I do not understand whether the Senator from Rhode Island [Mr. ALDRICH] has withdrawn his motion to refer.

Mr. ALDRICH. I have not yet done so.

Mr. CULLOM. I hope the Senator will do so. If he does not, however, I desire that the joint resolution shall be referred without any long discussion in reference to it. It seems to me it would be much better to either pass the joint resolution without discussion or to refer it, and let it be reported back in some shape by the committee. Either one of those two things should be done without delay.

Mr. LODGE. Mr. President, when I made the request for unanimous consent, I confess it never occurred to me that it was a matter as to which there would be the slightest objection. I wish to say one word in explanation.

The joint resolution was introduced in the House of Representatives and passed there without reference to a committee, as I understand. It came over to us in that way, without going through the usual form. The service General Porter performed was not an official service. It was entirely apart from that; it was a personal service. It seems to me if Congress is going to extend the compliment of thanks—and the thanks of Congress are a very high compliment indeed—this is the only manner in which we can recognize what General Porter has done. It only seemed to me that if we were going to do it and wanted to do it, we should do it in the most generous and gracious manner possible. I had no thought that anybody would make the slightest objection, or I should not have made the request. To have discussion over it seems to me very unfortunate.

Mr. TELLER. Mr. President, I myself do not think that there is any impropriety in referring the joint resolution to a committee. I do not think such a reference would in the slightest degree detract from the importance and the value of the compliment. There have been very few men in the history of this country who have had such an honor conferred upon them; and if it is done with deliberation, as it will be if the joint resolution goes to a committee and is reported to the Senate, it certainly can not detract from the value of our action.

I think, as a matter of propriety, all resolutions of this character should go to a committee. I can understand very readily that in times of excitement a resolution of this kind might be introduced and passed through one body or the other, without there being proper ground for it. Of course this is a case in which there is not any controversy; and, therefore, I think it affords a good opportunity for us to establish a rule, and to stand by it in the future, that we will not confer such an honor upon anybody in a mere perfunctory manner or in haste. I think no Senator should object to the joint resolution going to a committee, and the committee then reporting it in proper form.

Mr. LODGE. Mr. President, of course one objection carries the joint resolution to a committee; but I withdraw the request for unanimous consent, and regret extremely that discussion should have taken place upon it.

The VICE-PRESIDENT. The joint resolution will be referred to the Committee on Foreign Relations.

CONGRESSIONAL AID FOR CALIFORNIA SUFFERERS.

Mr. TILLMAN. Mr. President——

Mr. GALLINGER. I ask the Senator from South Carolina to yield to me for a moment.

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Hampshire?

Mr. TILLMAN. I do.

Mr. GALLINGER. Mr. President, at a meeting of the Committee on Appropriations a few days ago, the Senator from South Carolina [Mr. TILLMAN] called attention to the fact that in certain newspapers in the country it had been stated that of the $2,500,000 appropriated by Congress for the relief of the people of San Francisco, only $300,000 was available. It occurred to me at the time that the people would understand the matter and that there would be no danger of an impression getting into the minds of the public that the money appropriated so generously by Congress had not been properly expended. Since that time I have noticed in two of the great newspapers of New England, as well as in some newspapers published in other parts of the country, large headlines repeating the statement that only $300,000 of the two million and a half was available for the relief of the people of that stricken city.

Mr. President, we all know that every dollar of that money has been or will be properly expended; but for the purpose of correcting what I think is an impression that has gained credence to a very considerable extent in the country, I should like to have the distinguished chairman of the Committee on Appropriations [Mr. ALLISON] state to the Senate and the country precisely what disposition has been made of that money.

Mr. ALLISON. Mr. President, by the terms of the joint resolutions the two appropriations made by Congress for the benefit of the sufferers at San Francisco were to be expended by the Secretary of War. It is well known to Senators that when this great calamity occurred the Secretary of War immediately, without legislation, proceeded to transfer to San Francisco all the available means of the War Department, including quartermaster stores, tents, bedding, blankets, and everything that was available within five hundred or a thousand miles of San Francisco. He took that responsibility, believing that Congress would reimburse the War Department for that expenditure. Within a day or two the joint resolution appropriating $1,000,000 passed; but at the time of the passage of that joint resolution the War Department had already forwarded commissary, quartermaster, medical stores, etc., in excess of the appropriation, amounting, I believe, to $1,200,000 or perhaps $1,300,000. I have not the details before me. So another million and a half dollars was asked for a like purpose. That amount was promptly appropriated by Congress.

This calamity occurred in the very last quarter of the fiscal year, when the appropriations for medical and commissary stores, transportation, etc., are nearly all expended. Therefore it became necessary for the maintenance of our Army that these expenditures made for the supplies and stores of the Army should be refunded, so that the second appropriation, providing that the expenditures already made and to be incurred should be reimbursed to the funds of the Quartermaster, Commissary, and Medical Corps of the Army. That evidently meant that the two and a half million dollars were to be expended for the benefit of the stricken people of San Francisco. But when that money was expended out of stores already in existence, pro tanto those stores were to be returned, in order that the Army itself might be enabled to live between now and the 1st of July. I understand there is now left about a half million dollars of those funds.

There ought not to be any doubt in the country on this subject, and I hope there will not be, as I am quite sure, if further money is needed, it will be promptly appropriated by Congress.

Mr. TILLMAN. Before the Senator takes his seat, I wish to say that I am glad that this explanation has been made, because the Senator will recall the fact that I directed attention to it in the Committee on Appropriations yesterday, when I suggested that the country did not understand it and that some explanation ought to be made regarding it. I have been told, and the Senator has just told the Senate, that this two and a half million dollars has been mainly used to replace the supplies which the War Department of its own volition and on its own motion had already forwarded to San Francisco before Congress made the appropriation and that, therefore, in buying the Government supplies to replace those which had been sent to San Francisco they had to take this money.

I should like to ask the Senator now if his information from the War Department is to the effect that any of this money will go for tents or things like that? For instance, I presume that this Government is ready to loan, or to give, if need be, tents to the sufferers of one kind and another from Mississippi floods, etc., its supplies of that kind free of cost, and I want to know of the Senator whether any of this money will be used to buy back for the Government the tents which have been sent to San Francisco for temporary use by the people there?

Mr. ALLISON. Mr. President, as respects the special article of tents, I have not any information as to what particular disposition has been made of them.

Mr. GALLINGER. They will probably be returned.

Mr. ALLISON. Yes; eventually they will probably be returned, though perhaps they will not be returned for some time.

Mr. TILLMAN. I was not speaking about the return. I was speaking of whether any of the money will be used to purchase new tents to supply the deficit created by the lending of those tents.

Mr. ALLISON. I say again I can not answer that question; but that is mere leather and prunella, aside from the great expenditures that have been made. The tents will cost $100,000 or $150,000.

Mr. TILLMAN. I was just going to remark——

Mr. ALLISON. I want to say to the Senator, although I am sure he knows it himself, that every dollar of this money will be accounted for in detail as respects——

Mr. TILLMAN. I have not the slightest idea to the contrary.

Mr. ALLISON. As respects the expenditures and also the disbursements.

Mr. TILLMAN. I have never had any suspicion to the contrary. I was merely trying to have an explanation made to the country as to why there was an apparent misappropriation or misuse of this money.

Mr. ALLISON. It ought to be said that the city of San Francisco and the surrounding towns will receive directly and indirectly every dollar of this expenditure. It is an absolute gift in this calamity to the stricken people who have suffered such great loss. The War Department will be reimbursed, so far as practicable, from the stores which they have taken there and which are already in use or will soon be in process of use.

Mr. TILLMAN. I was merely trying to make clear my own opinion that, if any of this money had been used to reimburse the War Department for tents and things of that character, we ought to instruct the officers of the Government to the contrary; and let them know that we want the sufferers to use our tents—at least I do—and, if necessary, to wear them out and never return them. Let us make it plain that we ought not to take the two and a half million dollars to replace the tents we have loaned.

Mr. PERKINS. I desire, Mr. President, to supplement what the chairman of the Committee on Appropriations [Mr. ALLISON] has said, and perhaps my explanation will satisfy my friend from South Carolina [Mr. TILLMAN]. Immediately after the wires had flashed the news across the continent of the great calamity that had befallen San Francisco and other cities in California, I placed myself in communication with the Secretary of War. Congress had then taken no action whatever in relation to the matter, neither House being then in session. The Secretary of War said, "Anything in my control, although not authorized by law to do so, shall be placed at the disposal of the distressed and homeless people of San Francisco." At that time my information was that 150,000 people were homeless, destitute, and without food.

I want to say in passing that the Secretary of War, the Commissary-General, the Quartermaster-General, the Military Secretary, and, indeed, all other officers of the Government in the War Department, as well as in the Navy and other Departments, vied with each other to do all they could to relieve the distress of those people. The Secretary of War remained in his office during the Sabbath day, giving his personal attention to matters of relief and directing, inditing, and dictating telegrams and other communications to the general in command in San Francisco and other officers of the Government.

I have, however, seen it stated in the newspapers referred to by the Senator from New Hampshire [Mr. GALLINGER] that part of the money appropriated by Congress has not been directed in the channels in which it was intended by Congress to go. Therefore this morning I placed myself in communication with Major-General Ainsworth, the Military Secretary, and, after consultation with the Secretary of War relative to the matter, the Secretary of War decided to send a communication to the chairman of the relief committee in San Francisco, ex-Mayor James D. Phelan. I have a copy of that dispatch, Mr. President, and I will ask the permission of the Senate that the Secretary may read it. It explains the full situation and the status of the appropriations made by Congress for the relief of the people of California.

I merely wish to add that the magnificent generosity not only of Congress, but of the people throughout our country, has excited the admiration and gratitude of the people of California, as well as of others who have an interest in and love for their fellow-beings.

I now ask that the Secretary read the communication of the Secretary of War. I think it will explain the situation fully and to the satisfaction of my friend from South Carolina.

The VICE-PRESIDENT. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

[Telegram.]

WASHINGTON, D. C., *May 1, 1906.*

JAMES D. PHELAN,
Chairman of Relief Committee and Red Cross, San Francisco:

You and your committee evidently misconceive the nature and legal limitations of the Congressional aid and do not understand the facts. Instantly on receipt of General Funston's telegram of the extent of the disaster and the pressing need of food and shelter for more than 100,000 people, although I was without lawful authority to do so, I ordered sent to San Francisco rations costing $200,000; tentage, blankets, cots, and bedding costing more than a million dollars, and medical stores costing $150,000 to be used and distributed for the relief of the sufferers.

The transportation of these supplies cost more than $150,000. I made this order anticipating that Congress would ratify my action. Congress did so by joint resolution authorizing me to furnish subsistence, quartermaster, and medical stores for relief of the sufferers and appropriated a million dollars for these purposes to be used in my discretion. The President then advised Congress that expenses had already been incurred for these purposes aggregating one million and a half of dollars and recommended the appropriation of one million and a half more, or two millions and a half in all. Congress thereupon increased the appropriation to two millions and a half in all and authorized me to use this amount not only for subsistence, quartermaster, and medical stores, but also for the transportation of troops. On the recommendation of General Greely and Mayor Schmitz I ordered twenty-five hundred more troops to San Francisco, which, with previous transportation for same purpose, involves an expense of $250,000. There is left available of the appropriation, therefore, not to exceed $700,000, which under the law can only be expended for rations, quartermaster and medical supplies, and transportation of troops, and which can only be expended through the lawful agents of the War Department, to wit, the bonded officers of the subsistence, quartermaster, and medical bureaus under my direction. I have no power or legal authority to turn over the money appropriated by Congress to your committee to be expended by you or to expend it for any but the specific purposes stated in the Congressional resolutions. Should you think that the supply of rations or quartermaster stores or medical supplies ought to be increased, I shall be glad to direct the purchase and forwarding of them to the proper Army officers in San Francisco for distribution, but I can not order the payment of money out of the Treasury of the United States to your committee for any purpose. My discretion is to be exercised only as to the amounts to be expended for the specific purposes mentioned in the Congressional resolutions and is thus limited by law. As president of the Red Cross Society, I have already directed the remittance to you by telegram of $300,000 out of the funds of that society and am prepared to order the remittance of more as you shall need it.

It will aid us in taking proper action if you will advise me of the amount of money you have on hand and in general the purposes for

which you need more. I infer from your telegrams that you now have on hand food supplies, tentage, blankets, and clothing enough for present needs.

WM. H. TAFT.
Secretary of War and President of Red Cross.

REGULATION OF RAILROAD RATES.

Mr. GALLINGER. Regular order, Mr. President.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. LODGE. Will the Senator from South Carolina allow me to make a request?

Mr. TILLMAN. Certainly.

Mr. LODGE. I ask that an additional print may be had of all the amendments offered to the railroad rate bill. There are not enough to make the sets that were ordered this morning for the use of the Senate.

The VICE-PRESIDENT. The Senator from Massachusetts asks that additional copies of the amendments pending to the railroad rate bill be printed. Is there objection? The Chair hears none, and that order is made.

Mr. DANIEL. Mr. President, the Senate confronts the greatest economic problem of this age, and, I may add, of any age. As the railroad system of the United States is the mightiest framework of commercial organization that the world has ever known, so it presents problems more diverse, more interesting, and more practical than ever have before challenged the mind of man. More complex and not less important than the tariff, these problems exact patience and conjure the highest faculties of research and understanding. However simple they may seem to the casual onlooker or auditor, to those who have studied them they grow in reach and width and depth and complication with every progressive step of inquiry, and the honest mind that seeks to compass them must be profoundly impressed, if not overweighed, by the limitations of knowledge and by the perplexities of irregular conditions and countervailing influences—geographical, financial, social, political, juridical, and economic.

A NEW PROBLEM.

This problem is unlike either the currency or the tariff, in the fact that it is a new problem. The currency and the tariff are old customers. Like the poor, they have been with us, and they will be with us always. This is a new face at the Congressional door, a young stranger, I may say, knocking for admission, and surely coming in, whether one political party or another says "not in" to the knocker. It is a child of the nineteenth century, and it is one of its rapid and gigantic growths. No one could or did forecast the destiny of this child when it was born and lay in its crude cradle. No one discerned the signs of royalty on its infantile brow. We know now that it was an infant Hercules; Hercules has grown to full statue and wields a club as big as many big sticks, pitchforks, and muck rakes bound together like the Roman fasces. Hercules is rich, too, and of near kin to Midas; so rich that in comparison Crœsus and Monte Cristo are faded specters and Plutus has his rival.

Transportation between the States and foreign nations and the regulation thereof—that is the broad significance of this problem.

It divides itself naturally into the discussion of law and the discussion of facts. We must consider the law first, and must then seek to apply and adjust it to the facts, for here, so to speak, we are in a sense judges and also jurors, and must determine both the law and the facts in so far as they enter into our consideration.

THE SCIENCE OF MOVEMENT.

This problem of transportation is a fundamental problem of the human race. Edward Atkinson has an expression on this subject that arrested my attention when I first saw it. It is a sententious utterance: "Man can create nothing; he can only move something." Out of this window of thought flashes a great light. Man can not even create so much as a mote that floats in the air. His mission is movement—movement of himself, movement of others, movement of thought, and movement of things of matter which do unto him pertain.

Things of the vegetable creation can not move themselves. A tree stays where it takes root, and there may remain while generations and centuries pass by. The grass withereth where it springs in fixed localities; but the winds bear the seeds of the tree and the plant hither and thither as they listeth, and fruits grow where the autonomy of natural forces plants them.

Animated creatures were created to move themselves, some over the earth, some in the waters under the earth, some in the air above the earth. But man, by the contrivances of nature and of his creative genius, moves everywhere, over land and over sea, and he penetrates even the kingdom of the air with his tentative designs and contemplations, which give omen and partial assurance of his yet undeveloped powers and foretoken his achievements in regions just dawning within the range of his ambitious thought.

THE SHIP AND THE ROAD.

Man not only moves his own body by the exercise of its limbs, but also by the subjection of the creatures of the land to his uses. The camel, the ox, the horse, the ass bear him and his burdens as he ordains. Turning the woods of the forest into the implements of convenience, he makes the ocean, the lake, the river the common highway of his movements, and turning them, too, into appliances for the land, he hardens those appliances with metal taken from the mines and wheels over its surface. To his vehicle he sometimes attaches his fellows, sometimes a four-footed captive of the animal kingdom, and whatever force he collects he appropriates to his own use and purposes.

The ship and the road—these have been the greatest of all the instrumentalities of man for the convenience and development of his own movements. The great nations have been those who recognize and who perfect the utility of their uses. Behold a nation that has ships in plenty and good roads, and you will behold a nation that has seized time by the forelock and taken methods of advancement by the right handle. It is the science of movement that we are to consider in our interstate relations, and the time is ripe for action.

DELAY IN DEALING WITH THE SUBJECT.

Prof. Arthur T. Hadley, instructor in political economy at Yale and commissioner of labor statistics of Connecticut, is a man of learning and of weight. No one who has read his book on railroad transportation is likely to attribute to him the disposition of the iconoclast. I commend the things which he says which go to explain why Congress did not earlier take up this subject.

In 1860 a storm burst in this country, a storm that had collected through many centuries, and lay at the deep root of long conditions of human affairs. At that time an American citizen eligible to the Senate—that is, 30 years old—was just about the age of our then railroad system, for on the Fourth of July, 1828, Charles Carroll of Carrollton laid the first rail of the Baltimore and Ohio Railroad. He was the last signer of the Declaration of Independence, and his passing from the scene in the third decade of the nineteenth century marked the beginning of the new era of transportation. But while this new era was dawning, clouds were also gathering over the people of this country. Their thoughts were so surcharged with present things that their concentration on things economical was in a degree diverted. But the earlier railroad movements of this country, Mr. President, were initiated by the States and not by the Federal Government, and it is natural that the States should have matured systems of public control earlier than the Federal Government has done so. Now, the railroad system has grown and overspread the country ere we have undertaken in any comprehensive way to regulate it.

A NATIONAL AND WORLD-WIDE PROBLEM.

This question has important local aspects; but it is not a local, but a wide, embracing subject in the phases which it presents to us, although it involves the fortunes of many localities and of many persons. It is not a State problem in the immediate view of this bill, though the fact underlies it that the States compose the nation, and that they possess connecting problems of their own which come to a focus in the central national power. It is preeminently, however, a national problem—one that concerns the whole people of the United States, both in the aggregate and in the severalties of their communal and individual parts.

But more than this, it is not only as broad as the country; it stretches beyond the ocean, through the necessities, through the vehicles, through the contacts, through the exchanges, the reciprocities and the affinities of trade and commerce, and its lines in verity run out to the uttermost parts of the earth.

Antedating the railroad system of the world lie six thousand years of history and the countless ages of prehistoric times. Before the steam engine was invented and before the iron rail was laid, civilization had overspread the earth in the older continents and had appeared and made wonderful advancement in our own country. Great cities had been builded. Immense ports and harbors had been constructed. Ships had circumnavigated the globe, and nations had risen and fallen. Peoples and languages had come and gone, and great masses of capital in

money and other properties had been invested in many of the perfected works and establishments of man.

DISTURBING AND IMPEDING ELEMENTS IN THE PROBLEMS PRESENTED.

When a new system was thus interjected into and made to overlay an old one, it is obvious that disturbing factors would immediately present themselves to the harmony and to the equitable conduct of it according to idealistic views. I will point out briefly ere I discuss the question some of these disturbing factors which reveal themselves as soon as one undertakes to solve any of the given problems which are presented to us, any one of which it would take a master mind to discuss thoroughly, and a long essay to explain to other minds.

Some of these disturbing factors may in some degree be of a permanent nature. They are certainly of an existent nature. They must be noted and they must be weighed by every fair mind that seeks to understand the causations of rates which do not take the distance traversed in the transportation of passengers and freight as a standard of the principle of price for carriage. Some of them are these: First, the distant and established markets of foreign nations—Liverpool, for instance. Unless the wheat of the Northwest and other surplus farm products of our country can reach and have a competitive part in the Liverpool market, a great amount of our own trade would be curtailed and immense material crowded back upon us. This has led to discriminating practices with respect to our foreign commerce which at the first blush strike the mind as exceedingly unjust and which may need the processes of correction. The result, however, of this condition is a substantial fact existing in the nature of civilization. So it has come to pass that less rates are charged to-day for delivery of wheat in the Liverpool market than for its delivery in the city of New York.

Then, again, Mr. President, the seas and the oceans which connect us with all foreign nations, from our western and from our eastern shores, are in themselves the causation of great currents of traffic and travel, and then these waterways constitute in themselves a free road connecting all the seashore nations. Another disturbing factor is found in our own rivers, lakes, and canals, the internal navigable waters of our own country. We have developed these waters by immense appropriations. We have shaped, constructed, or improved their channels for the convenience of our own people, and the result is that oftentimes a longer route between two points furnishes cheaper transportation by a water course than shorter routes by rail, and railroads are put under conditions which it is difficult for the most philosophic and the most equitable mind to treat with justice and with due regard to all the conflicting interests which are involved.

So, Mr. President, the seaports and the harbors of this country and the seaports and the harbors of other countries which are at varied distances from the initial point of transportation or to the terminal points are in themselves diverting and sometimes most imperious causes of great systems of traffic and differentials in rates.

Look at the great American seaports—Boston, Baltimore, New York, Philadelphia, Norfolk, Newport News, Wilmington, Savannah, Charleston, New Orleans, Tampa, Galveston. How much money have the whole people of the United States expended upon them? How have the light-houses risen at popular cost to guide the mariner? How have the harbors been dredged and dug out? How have all the improvements of art and constructive genius been applied to them?

Moreover, Mr. President, a harbor is like a mountain pass. Nature originated it, and a harbor is in a certain sense a general and a pervasive public possession and convenience.

Then again, Mr. President, comes the competitive force of rival railroad lines at varied distances from important initial and terminal points, introducing the perplexities and the variants of active and constant competition.

Then, Mr. President, arise practices which have grown in a measure out of irregular conditions—the grouping of a number of cities and of large sections within prescribed distances from initial or terminal points on one basis of charge for travel or traffic. This is what railroad men call the "basic system."

Then, Mr. President, man is a gregarious animal. It has been the habit of the human race since they commenced their journey through this world to collect together in tribes, societies, and organizations of all kinds, to build habitations and cities by systems, sometimes demanded by necessities of defense. Out of the social nature of man have grown great centers of manufacturing, of mining, or agricultural produce, of education, of art, and great emporiums of commerce which supply enormous bulks of traffic that can and do obtain carriage at wholesale rates, while retail rates are charged communities which supply less material for carriage.

I have not time, in the space that I shall endeavor to occupy the attention of the Senate, to discuss fully the nature of any of these variant and diversified causations that are constant qualities in determining the rates of traffic. I have suggested them, to begin with, that I may bring to the realization of the minds of those who have not pondered how complex, how intricate, how irregular these problems are, and how impossible in the nature of the case it is for the wit or the wisdom of man to provide at this stage of our railroad and social development any perfected code which will reach all evils or will harmonize the whole system in accordance with any perfected theory of human action.

LEADING QUESTIONS.

I shall now turn, Mr. President, to discuss a few of the practical questions which are before us. Has the Congress of the United States been invested by the Constitution with power to regulate passenger and freight charges in transportation from State to State?

Does the power to regulate passenger and freight charges include the power in Congress to fix the identical rate at which a passenger or a certain weight of freight may be carried from State to State?

Does the power of Congress include the right to fix passenger and freight rates from any station or any place in one State to any other station in another State, or is it confined to fixing the rates of carriage simply across a State line?

Has Congress the power to declare the principles upon which rates shall be fixed, and then by statute to enforce compliance with such principles on the part of the transportation companies which conduct the transportation?

Can Congress authorize a commission to ascertain and fix reasonable and just rates for the carriage of passengers and freight from State to State in compliance with the principles which it has defined by law?

Can Congress authorize a commission to enforce compliance or through the courts to seek compliance by transportation companies with the rates fixed by the Commission in accordance with the principles which it has declared by law?

To each and every one of these questions my mind readily yields an affirmative response, and to my reading the position which those answers assume is abundantly sustained by the decisions of both the State and Federal courts of this country, and by consensus of opinion on the part of the great majority of lawyers and publicists who have studied them. Indeed, Mr. President, the affirmation of these doctrines is so intrenched in American jurisprudence by the concurrence of judicial and scholarly minds and by popular acceptation that persistence in disputing any of them seems rather to flow from the egotism, from the pride, or from the enthusiasm of individual opinion or from inflamed passion of interested motive than from any fairly grounded hope or expectation that they will ever be reversed.

It is highly important, however, that the public mind be rightly informed on this subject, that it should understand the juridical status of these questions, and that our own minds should contemplate the situation from the status in which judicial decision has placed it, whether that status be one altogether pleasing to us or no. These are the reasons that actuate me in reviewing some of the ground which has already been so well occupied by others, whose profound researches and whose enlightening expositions have made this debate memorable for its display of intellectual faculties and of legal lore.

FAIR CONSTRUCTION OF THE CONSTITUTION, RATHER THAN REFINED AND METAPHYSICAL REASONING.

Certain other questions besides these are in the public mind and have become practical here. But for the present I will pass them by to discuss those which are fundamental.

Chief Justice Marshall uttered these words in the great case of Gibbons *v.* Ogden, which was decided in 1824. That case fills 240 pages of the ninth volume of Wheaton's Reports, and it seems applicable to the strenuous refinings and contractions of Congressional power which I have heard here and there in the debate made upon this floor. He said:

> Powerful and ingenious minds, taking, as postulates, that the powers expressly granted to the Government of the Union are to be contracted by construction into the narrowest possible compass and that the original powers of the States are retained, if any possible construction will retain them, may, by a course of well-digested but refined and metaphysical reasoning, founded on these premises, explain away the Constitution of our country and leave it a magnificent structure indeed to look at, but totally unfit for use.
>
> They may so entangle and perplex the understanding as to obscure principles which were before thought quite plain and induce doubts where, if the mind were to pursue its own course, none would be perceived. In such a case it is peculiarly necessary to recur to safe and fundamental principles to sustain those principles, and, when sustained, to make them the tests of the arguments to be examined. (Gibbons *v.* Ogden, 9 Wheat., 222; A. D. 1824.)

THE CONGRESSIONAL POWER TO REGULATE COMMERCE IS SPECIFIC, COMPLETE, AND COMPREHENSIVE.

Indeed, Mr. President, when we take up the Constitution, these refinements and perplexities which infest a few minds disappear before a fair and natural construction of the language employed, especially when considered with reference to the history of States and Territories. The power of Congress to regulate commerce was not conferred in any meager fashion by the Constitution of the United States. "Regulate" is a word of sovereignty; it is an imperial, a kingly word, as comprehensive as "sovereignty." It was uttered by the voice of the whole people of the United States, and it is as comprehensive as either sovereignty over the land which we inhabit and over every person and everything which pertain thereto. "God said Let there be light; and there was light." This phrase is a little briefer than that in which the people have conferred their sovereign powers upon Congress; but there is nothing meager in the one phrase more than in the other. The one applies to that creative power above us all which made that light, which he who has eyes to see let him see. The other applies to that creative and necessary power of human government which, originating in the sovereign people, was transferred by them to Congress as their servants. To these servants the people gave all of their sovereign power to regulate all of their concerns of commerce among the States. And what is "regulate?" It is "to prescribe the rule by which commerce is to be governed." "This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than prescribed in the Constitution." So says Chief Justice Marshall in Gibbons *v.* Ogden (9 Wheaton, 196).

It is a dangerous power indeed. All power is dangerous, for all power may be abused. Nevertheless, it must exist, and it does exist, and it is for us, as we may, to use it wisely, in so far as it has been committed to our hands for use. It is a sweeping and it is an all-comprehending power. Necessity and propriety are its only limitations; for Congress is given power also "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers"—that is, those that had been enumerated. (Art. I, sec. 8.)

In ascertaining the sense in which the word "necessary" is used in this clause of the Constitution, we look also to that with which it is associated. The only possible fact it has to qualify its strict and rigorous meaning and to present to the mind an idea of some choice of means of legislation is straightened and compressed within the narrow limits of dire necessity.

So arguing, the Supreme Court held that so the end be legitimate and within the scope of the Constitution, and all means which are appropriate which are plainly adapted to that end, which are not prohibited and which consist with the letter and spirit of the Constitution, are constitutional.

The Supreme Court says also, Judge Brewer giving the opinion, in South Carolina *v.* U. S., 199 U. S., 448.

The Constitution is a written instrument. As such its meaning does not alter. That which it meant when adopted it means now. Being a grant of powers to a government, its language is general, and as changes come in social and political life, it embraces in its grasp all new conditions which are within the scope of the powers in terms conferred. In other words, while the powers granted do not change, they apply from generation to generation to all things to which they are in their nature applicable. This in no manner abridges the fact of its changeless nature and meaning. Those things which are within its grants of power, as those were understood when made, are still within them, and those things not within them remain still excluded.

Yea, Mr. President, the Constitution in its outlook is like the camera obscura, which has its face always turned toward the front. Constitutions were made solely for the future. If they did not have a forward look, they would be meaningless and vain. Although the thing that the Constitution deals with may not have existed in being, or even in the imagination of man, the moment it comes within the purview of the power extended it enters into and is grasped by the Constitution, exactly like an image which passes before the glass and is reflected on the camera.

ALL NATIONS AND STATES EXERCISE POWER TO REGULATE COMMERCE AND FIX RATES.

There is no nation of this earth to-day, Mr. President, which has any part in the civilization of mankind, certainly none of the advanced nations, that does not assume and exercise the power to regulate railroad traffic and to fix rates. Out of all the forty-five States that compose the American Union there has not been a State which has denied that it possessed this power within the range of its own jurisdiction.

If it were true, as has been eagerly suggested here, that the people of the United States have withheld from Congress the power to fix rates and the power to employ the natural and appropriate administrative agencies to assist them in that work, this would, indeed, be the oddest nation that ever happened in all the tide of time.

It would also be the most impotent nation in its intimate and most important concerns that ever asserted for itself the attributes of sovereignty or that ever flew a flag on land or sea. It would stand forth the most prodigious monument of oddity and helplessness that the wondering world has ever known.

If it be true, Mr. President, that the Constitution of the United States did not intend in conferring power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes," to convey complete and all-embracing power in that sentence, it would seem that those who have been called the "sages of the Revolution" were ignorant persons who little understood the meaning of the words they were using, and that our people have been under delusion in regarding them as wise and far-seeing men.

If it be true that Congress can not fix the principles and confer on executive bodies or commissions the details of examining rate questions and of ascertaining the figures which conform the rates to the principles declared, such doctrine would paralyze government by imposing upon Congress an impossible task and nullifying practical, expedient, natural, and convenient methods by which alone Congressional powers of this description can be properly and fitly exercised.

It is well-nigh inconceivable to my mind that any other mind that is reasonably conversant with human concerns, and that is reasonably fair and righteous in reaching its conclusion, could for a moment dwell upon such nullifying doctrines without perceiving that they are weird, eccentric, destructive, and indeed impossible.

CONGRESSIONAL POWER MUST BE CONFERRED IN MANY CASES ON SUBORDINATE AUTHORITIES.

This Government has been, and now is, and the more and more must be, as populations increase, in the habit of transferring to subordinate authorities and to executive bodies the vast details of its administration, whether that administration refers to the fulfillment of either legislative, executive, or judicial powers.

Congress itself could not accomplish its work unless the executive agents of the two Houses were empowered to buy and sell, to print, to travel, and to do the myriad essential things in execution of the powers of each House or of the Congress which they compose.

Every Cabinet minister and his subordinates must of necessity hear and determine a vast variety of questions which pertain to administration. Our public lands could not be handled. Our rivers and harbors could not be improved for navigation. Our courts could not have commissioners in chancery or receivers. Our armies and navies could neither be organized, clothed, armed, fed, or moved. Our customs and tariff laws would be burdened with dead letters. Our immigration laws and quarantines would be like the Pope's bull against the comet. The Interior and Agricultural Departments would be aliunde. The Pension Bureau would become a nonentity. In short, such a doctrine, generally applied, would be as if the ice age had come again, and the glaciers had taken the place of cities, orchards, and fields, where civilization had been, but was not.

The Congressional power to regulate commerce among the States is "exclusive" as well as complete.

Not only, Mr. President, is this power to regulate commerce all embracing—"complete" and "entire," as the courts express it—it is an exclusive power. No other agency in the United States but Congress and those whom it appoints to administer it can exercise it. The power of the State ends at its boundary line. The power of the United States only ends where the oceans have circumscribed the range of its steam and its sail vessels and where its own immense boundaries meet those of foreign nations.

The Constitution of the United States having given to Congress the power to regulate commerce, not only with foreign nations, but among the several States, that subject is necessarily exclusive whenever the subjects of it are national in their character or admit only of one uniform system or plan of regulation.

So said the Supreme Court, through Judge Bradley, in Robbins *v.* Shelby County Taxing District (120 U. S., 489–492); and so it repeated, through Judge Brewer, in Atlantic Telegraph Co. *v.* Philadelphia (190 U. S., 162, 1902).

Out of this power of Congress, Mr. President, rises all the subordinate and fitting powers which are necessary to consummate and to accomplish it. To regulate commerce carries with it the power to build and maintain light-houses, piers, and breakwaters; to employ revenue cutters; to cause surveys to be made of coasts, rivers, and harbors; to appoint all necessary officers at home and abroad, to prescribe their duties, fix their terms of office and compensation; to define and punish all crimes relating to commerce within the sphere of the Constitution.

Any carriage of goods which crosses a State line is inter-

state commerce; and the fact that transportation from one State to another is accomplished, in whole or in part, through the agency of independent and unrelated carriers up to and from the State line does not affect the character of the transaction in this respect. For whenever an article destined to a place without the State is shipped or started therefor it becomes a subject of interstate commerce, and carriers employed in the transportation thereof, although neither of them may pass from one State to the other, are subjects, as instruments of such commerce, to national legislation and control.

A steamer plying between two points within a State is engaged in commerce between the States so far as she is employed in transporting goods destined for other States. (Daniel Ball (1870), 10 Wall., 557.)

When a part of the route of carriage is on a loop, outside of the State transportation on such route is interstate commerce and not within the power of the State.

Communication by telegraph and telephone is commerce if carried on between the different States, and lies as much within the power of Congressional regulation as the transportation of material things.

REGULATION OF COMMERCE WITH FOREIGN NATIONS, AMONG THE STATES, AND WITH INDIAN TRIBES.

Then, Mr. President, we come to the argument of analogy. The power to regulate commerce is specified in three respects—with foreign nations, among the States, and with Indian tribes. The courts have decided that these are commensurate powers, complete in themselves, exclusive in themselves, and equally comprehensive within themselves. They have also decided that those powers which the States may exercise within their domestic jurisdiction with respect to a regulation of freights and traffic the United States may exercise within the same region and to the same extent in interstate-commerce matters.

The power of Congress to regulate commerce among the States is sovereign, exclusive, and complete. Congress may legislate in respect thereto to the same extent, both as to the rates and all other matters of regulation, as a State may do in respect of purely local or internal commerce.

As to the conduct of commerce, the whole subject of the liability of interstate railroad companies for the negligence of those in their service, these may be covered by national legislation enacted by Congress under its power to regulate commerce between the States. (Peirce *v.* Van Duzer, 58 Fed., 700.)

The power of Congress on this subject is plenary. It may legislate as to the qualifications, duties, and liabilities of employees and others on railway trains engaged in that commerce; and such legislation will supersede any State action on the subject. But until such legislation is had it is clearly within the competency of the States to provide against accidents on trains whilst within their limits. (Nashville XC R. R. Co., 123 U. S., 99.)

"COMMERCE," NOT "ARTICLES OF COMMERCE" ONLY, WITHIN THE POWER.

It was argued by the able Senator from Ohio [Mr. FORAKER] that a rate is not an article of commerce, and therefore not to be fixed by Congress. The shortest and simplest answer to that is that the power is not one to regulate "articles of commerce," but to regulate "commerce." Mr. President, if you were to take the rate out of interstate commerce, I fancy that Hamlet would be completely out of the play. You might as well take the axle out of the wheel or the spoke out of the hub. The rate is the thing that moves all, the mainspring of commerce amongst the States; and it would be just as reasonable to say that you can not regulate the rate because it is not an article of commerce as to say, "There is my watch; fix it up; but leave out the mainspring, and take care that you do not regulate that." There is nothing that concerns commerce among the States as a part thereof, the machinery thereof, or the persons employed therein that is not within the complete and exclusive regulation of the Congress of the United States.

NEVER A SINGLE JUDGE HAS GIVEN OPINION THAT THE LEGISLATURES IN STATES OR THE CONGRESS CAN NOT FIX RATES.

Mr. President, there is one remarkable thing about this question. On the great questions of income tax and of currency and on nearly all the great questions which have agitated the public mind we have seen vacillating and divided courts. Up to date not a single judge of the United States, not a single judge of all the hundreds who have had this subject under advisement, either in the State or in the Federal tribunals, has ever yet said that Congress has no power to fix rates in interstate commerce. There is more unanimity upon this subject in the judicial mind of this country than there has ever existed upon any subject since our Constitution was founded and submitted for the interpretation of man.

THE FOUNDATIONS OF CONGRESSIONAL POWER.

I shall refer now to the foundations of this power. When we turn to the specific source of Congressional power over the regulation of commerce we find them in more than one clause of the Constitution. Indeed, there as no less than five provisions of our Constitution which should be considered in endeavoring to grasp this subject.

Article I, section 1, of the Constitution says:

(1) All legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and a House of Representatives.

There is a general grant of "all legislative powers." Then come specific enumerations:

(2) To regulate commerce with foreign nations, among the several States, and with the Indian tribes. (Art. I, sec. 8.)

* * * * * * *

(3) To establish post-offices and post-roads. (Art. I, sec. 8.)

(4) The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States. (Art. IV, sec. 3.)

That stretches over the District of Columbia and through the Territories, which are under the immediate jurisdiction of Congress.

(5) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States and in any Department or officer thereof.

Is this not as wide, specific, and clear as lucid language can make it? It is all power, saving only in so far as some restriction may be placed upon it by other parts of the Constitution, as, for instance, that—

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in any other.

If there be any matter that belongs to commerce among the States, that matter is comprehended and embraced in that power.

How, Mr. President, can one at this stage of debate on this subject find provocation or comfort in challenging a power so universally recognized and just upon the stage of application? The inventive genius of man is strained to discover a trace of difficulty or doubt upon this subject. But a little comfort has been taken by a recent expression of Judge Harlan. In the course of his opinion in the Northern Securities case, 193 U. S., page 343, he used the following words:

Would it be said that Congress can meet such emergencies by prescribing rates by which interstate carriers shall be governed in the transportation of freight and passengers? If Congress has power to fix such rates, and upon that question we express no opinion, it does not choose to exercise its power in that way or about that question.

Judge Harlan in that case simply recognized a condition, that Congress was not regulating rates. He had no provocation to express a decisive question of the decisive subject, and any allusion was obiter dictum. But it does not follow that the judge has any doubt on this subject.

A corporation—

As he has said—

maintaining a public highway * * * must be held to have accepted its rights, privileges, and franchises subject to the condition of the government creating it, or the government within whose limits it conducts its business may by legislation protect the people against unreasonable charges for the services rendered by it.

In that same case, in which Judge Harlan thus passed by without opinion, Mr. Justice White said:

The plenary authority of Congress over interstate commerce, its right to regulate it to the fullest extent, to fix the rates to be charged for the movement of interstate commerce, to legislate concerning the ways and vehicles actually engaged in such traffic, and to exert any and every other power over such commerce which flows from the authority conferred by the Constitution, is thus conceded.

In the case of the Interstate Commerce Commission *v.* Cincinnati, etc., Railroad (167 U. S.), known generally as the "Maximum Rate case," Justice Brewer, giving the opinion of the Supreme Court, used these expressions:

There were three obvious and dissimilar courses open for consideration. Congress might itself prescribe the rates, or it might submit to some subordinate tribunal this duty, or it might leave with the companies the right to fix rates, subject to regulations and restrictions, as well as to that rule, which is as old as the existence of common carriers, to wit, that rates must be reasonable. * * * Administrative control over railroads through boards or commissions was no new thing. It had been resorted to in England and in many of the States of the Union.

Thus has the Supreme Court given the imprimatur of its utterance on this question.

NO CONTRACTION OF CONSTRUCTION JUSTIFIED BY THE HISTORY OF THE COMMERCE CLAUSE.

It has been said, Mr. President, that the history of the commerce clause of the Constitution of the United States is con-

ducive to narrow and contracted construction of its meaning. Let me read a little from Bancroft:

Of many causes promoting union, four above others exercised steady and commanding influence. The new Republic as one nation must have power to regulate its foreign commerce, to colonize its large domain, to provide an adequate revenue, and to establish justice in domestic trade by prohibiting the separate States from impairing the obligations of contracts. Each of these four causes was of vital importance; but the necessity for regulating commerce gave the immediate impulse to a more perfect Constitution. (Bancroft on the Constitution, 1st vol., 146.)

While these ends, Mr. President, were being discussed, and while the Americans were getting their minds together with a view to settling commercial questions, a British order in council was made in July, 1783, restricting to British subjects and ships the carrying of American produce from American ports to any British West India island and the carrying of the produce of those islands to any port in America.

This act of British imposition stung and aroused American spirit and drew together and impelled the States together to resist the common adversary.

VIRGINIA MARSHALS THE UNITED STATES ON THEIR WAY TO A BETTER UNION.

At the same time, while we were turning the face of the coming nation toward the East, there were those who were also looking toward the West.

The complete cession of the Northwest and the grant of the desired impost were the offerings of Virginia to the general welfare. Simultaneously, her legislature, in December, took cognizance of the aggression on equal commerce. The Virginians owned not much shipping and had no special interest in the West India trade, but the British prohibitory policy offended their pride and their sense of honor, and, as in the war they looked upon "union as the rock of their political salvation," so they again rang the bell to call the other States to council. They complained of "a disposition in Great Britain to gain partial advantages injurious to the rights of free commerce and repugnant to the principles of reciprocal interest and convenience, which form the only permanent foundation of friendly intercourse," and unanimously consented to empower Congress to adopt the most effectual mode of counteracting restrictions on American navigation so long as they should be continued. And Governor Harrison, by their direction, communicated the act to the executive authority of the other States, requesting the immediate adoption of similar measures, and he sent to the Delegates of his own State in Congress a report of what had been done. This is the first in the series of measures through which Virginia marshaled the United States on their way to a better Union. (Bancroft on the Constitution, 1st vol., 148.)

WASHINGTON SEEKING TO GRAPPLE EAST AND WEST TOGETHER.

Soon Washington's practical mind was seeking to grapple the East and the West together, and in the autumn of 1784, he was journeying among the streams and paths of the Alleghenies, sketching in his mind a system of internal communication of the Potomac with the Ohio; an affluent of the Ohio to Cuyahoga, and so from the site of Cleveland and Detroit and onward to the Lake of the Woods.

A little later the people of Maryland and Virginia petitioned jointly the legislatures of their respective States for the united action for improving the navigation of the Potomac, and we find Washington himself as the leading Virginia negotiator, where he successfully consummated his mission, the plan adopted being speedily passed by the legislatures of both States to their mutual satisfaction, and, as Washington hoped, to the advantage of the Union.

This is but a slender noting of a great chapter in our constitutional history. It shows, on the one hand, how, looking to the ocean, foreign commerce inspired union, and how, on the other hand, looking to the West, internal commercial communication by practical methods was begetting in the minds of men, a consideration which in time found expression in placing the regulation of commerce between the States on the same footing in the Constitution as that of regulation of commerce with foreign nations, whether by land or by sea. The Senator from Texas [Mr. CULBERSON] has admirably presented a phase of these views, which I will not repeat, but it powerfully reenforces them. It was from the broadest view and the wisest perspective of the human mind, looking to all points of the compass, that there grew out of the minds of the Constitution builders a foundation commensurate with the mighty framework which they were about to erect, all-comprehending as to the commercial power, exclusive in its nature, leaving nothing of commerce between State, foreign or domestic, that was not put in the power of the Congress of the United States.

JUDICIAL EXPOSITIONS ON THE POWER TO FIX RATES.

Mr. President, if we have been embarrassed, in mild degree, at least, by the injection of subjects of debate which would seem to have passed out of that category into settled question, the arguments employed deserve to be completely answered, not only by the philosophy of history and by the natural reading of our constitutional papers, but as well by the juridical expositions which have been passed upon this subject. In the centennial year, 1876, the case of Munn *v.* Illinois was decided by the United States Supreme Court. Chief Justice Waite, of Ohio, a broad-minded and learned man, one of great industry and patient attention, gave the opinion. His opinion is one of the most learned essays that have gone forth on this subject. The basic principles upon which he rested it have not from that day to this been disturbed or overruled. He showed how, under the power inherent in every sovereignty, a government may regulate the conduct of its citizens toward each other, and, when necessary for the public good, the manner in which each held or used his property.

He showed further how the exercise of these powers had been customary in England from time immemorial; how they had been exercised in this country from its first colonization to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, and, in so doing, to fix the maximum charge to be made for services rendered, accommodations furnished, and articles sold. The statutes of all the thirteen original States, Mr. President, abound with such illustrations and show that our forefathers, when they were building States and molding them into a nation, had themselves no sense of the imperfection and impotence of the work which they were constructing.

Said Chief Justice Waite, in Munn *v.* Illinois (94 U. S., 113):

With the fifth amendment in force, Congress in 1820 conferred power upon the city of Washington to regulate rates of wharfage at private wharves; the sweeping of chimneys, and to fix the rates of fees therefor, * * * and the rate and quality of bread (3 Stat., 587, sec. 7); and in 1848 to make all necessary regulations respecting hackney carriages and the rates of fare of the same, and the rates of hauling by cartmen, wagoners, carmen, and draymen, and the rates of commissions of auctioneers (9 id., 224, sec. 2).

From this it is apparent that, down to the time of the adoption of the fourteenth amendment, it was not supposed that statutes regulating the use, or even the price of the use, of private property necessarily deprived an owner of his property without due process of law. Under some circumstances they may, but not all. The amendment does not change the law in this particular; it simply prevents the States from doing that which will operate as such a deprivation.

This brings us to inquire as to the principles upon which this power of regulation rests, in order that we may determine what is within and what without its operative effect. Looking, then, to the common law, from whence came the right which the Constitution protects, we find that when private property is "affected with a public interest it ceases to be juris privati only." This was said by Lord Chief Justice Hale more than two hundred years ago in his treatise De Portibus Maris (1 Harg. Law Tracts, 78), and has been accepted without objection as an essential element in the law of property ever since. Property does become clothed with a public interest when used in a manner to make it of public consequence and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use, but so long as he maintains the use he must submit to the control.

Mr. President, it will be perceived that not only does the regulation of commerce by Congress come within the clear and specific meaning of an expressly enumerated grant of power, but that in the very nature of the case and by the exercise of public employment under the jurisdiction of a sovereign power—the United States—it is a power so necessary to sovereignty, so absolutely indispensable to society, so inherent in the nature of the government of man that for centuries before this nation came into being it was exercised by our mother country, that it was brought here and introduced into every one of the States of this Union, and that by the common law, by the verdict of history, by the invariable habits of mankind, and by distinctive and clear expression of the Constitution of the United States Congress stands in the possession of this power to-day.

My distinguished and able friend the Senator from Ohio [Mr. FORAKER], who has made on this subject a speech of great instruction, one which illuminated to my own mind phases in the practical bearings of it which I had not understood or appreciated until I heard his discussion, will permit me to say—I hope without diminishing from my conception of his ability, his earnestness, his patriotism, or his power—that I conceive that he has used a misleading argument in his speech when he points out that Congress in chartering the Pacific railroads was exercising a proprietary power and not a power of regulation in prescribing their freights or putting conditions upon them such as we invoke here.

If the Senator will read the charter of the Pacific railroads, and if he will read the decisions of the courts in expounding that charter, he will see that the Supreme Court of the United States does not rest the power under any such narrow line of thought as that which he deliminates. It appears that that charter was not only over the territory described by him as under the proprietary rights of the United States, which owned it and was its immediate legislator, but that it applied as well to sovereign and perfected States. In the case of California *v.* Pacific Railroad Companies (127 U. S. Rep., p. 1) it will be found that the Supreme Court has held, in defining this power, that it is within the power of Congress to charter a

railroad to run anywhere in the United States, across the States as well as across the Territories.

In the case of the Gettysburg battlefield the Supreme Court settled another question, which up to that time——

Mr. FORAKER. Mr. President——

Mr. DANIEL. One moment, just let me finish the sentence—which up to that time had not met with its definite adjudication—that is to say, that the United States possess complete eminent domain and for any public purpose may condemn and take the land of any citizen anywhere. In 127 United States they apply that to the charter of interstate-commerce corporations, making the circle round of the completed power of the United States on this subject.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Ohio?

Mr. DANIEL. With pleasure.

Mr. FORAKER. If I rightly understand the remarks of the Senator from Virginia, he entirely misapprehended the sense in which I employed the term "proprietary" in the connection mentioned by him. I did not employ that term in that connection to indicate that the Pacific railroads, the nature of the charter for which we were then considering, were constructed through lands belonging to the United States or other lands over which the United States had exclusive jurisdiction, as over the Territories; but I employed the term to indicate that it was the United States Government that had the proprietary right in the case mentioned to grant the charter, and, granting the charter, it had a right to attach, as a condition precedent to the enjoyment of the charter, any condition it saw fit to prescribe; and if it saw fit to prescribe in the granting of a charter under which a railroad was to be constructed a right to regulate rates of fare, the taking of a charter was an agreement to that restriction. That was the only sense in which I used the term. I had no thought of using the word "proprietary" in connection with the territory through which the road would run.

Now, as to the charter of those roads, the Senator will look in vain for anything in it indicating that the Congress granted that charter in the exercise of its power to regulate commerce. It granted the charter, as is expressly stated both in the title to the act and in the body of the act, in the exercise of its power to provide for the national defense, to establish post-offices and post-roads, etc.

It is true that in 127 United States, as the Senator says, there is found in the opinion of the court a statement to the effect that Congress, in the exercise of its power to regulate commerce, may authorize the construction of a road, and, I think, it goes so far as to say may construct and operate a road; but it is not true, as I understood the Senator to say, that that was an opinion of the court and that that part of the opinion of the court was necessary to the decision of that case. It was not. It was, on the contrary, as pure an obiter dictum as was ever uttered from the bench. It had no relevancy to the questions before the court at all. The opinion was written by a very careful judge, Mr. Justice Bradley, one for whom I have the most profound respect, but it was, nevertheless, nothing in its relation to that case than an obiter dictum pure and simple.

The point I made all the way through—I hope I do not interrupt the Senator too much; and, if I do, I shall be glad, of course, to desist——

Mr. DANIEL. I yield to the Senator with great pleasure.

Mr. FORAKER. The point I made all the way through in connection with the use of the word "proprietary" was that the power to regulate commerce conferred by the Constitution on the Congress, subject only to the restrictions of the Constitution, is a plenary power, just as complete in itself as is the power of a State to regulate commerce.

But the question remains, What is the power of the State to regulate commerce? I contended then that the power of the State to fix rates was a proprietary right that does not belong to Congress in that connection. The State has the same right that the United States Government exercises when it grants a charter. The State incorporating a railroad can prescribe—and it retains the right, if it does not see fit so to prescribe in the charter—any regulation it may see fit. That is perfectly competent to the State, and the Supreme Court of the United States has never in any decision whatever passed upon the question of the right of the Federal Government in the exercise of the power to regulate commerce to prescribe what rates shall be charged, maximum or otherwise.

In the Munn case, on which the Senator comments and in connection with which he pays such a deserved tribute to the late Chief Justice Waite, the question was whether or not the State of Illinois had the power to prescribe maximum rates of charges for the use of elevators. In that connection, speaking of the sovereignties that were complete in themselves that have this proprietary right, he did quote what had been done by Congress with respect to the city of Washington in authorizing this city to prescribe maximum rates of charges for ferries and other public conveniences, but I called attention to the fact that, according to all the elementary authorities, that is not a delegation of legislative power in the sense in which we ordinarily discuss that question, but that it is an exception to that rule, quoting one authority only out of many that I might have quoted, because it is so elementary a proposition I did not think it necessary to dwell upon it.

So that there is nothing in the Munn case, where the authority under consideration was that of a State which had not only power to regulate commerce, but had the proprietary right to fix rates, and nothing in the citations the Senator makes as to what Congress did in respect to the city of Washington, which is out of the ordinary rule, that contravenes in any respect anything for which I contended.

The Senator will pardon me for such an extended interruption. I would not have done it only he was so gracious and so obliging that somehow or other when you get started in imposing on him you can not help it.

Mr. DANIEL. I am very glad the Senator interrupted me, but I think the Senator will take a good deal longer to explain his explanation. I hope, however, he will not do it now.

Mr. FORAKER. I will be content to let it stand in the RECORD alongside with what the Senator says, trusting that anybody who will read it will conclude that it does not need any explanation.

Mr. DANIEL. I did not mean to reflect upon the Senator at all, but I was attending in my own reflections to the fact that, instead of diminishing the powers of Congress, the Senator had shown by his remark that they had an additional power about building railroads, and that one of self-defense or national defense. Of course, if they may charter a railroad and build it and create it, they may put any regulation they please upon it. They can regulate it; and it occurs to me, Mr. President, that in developing a new aspect of the subject the Senator has in no wise contracted my argument, but simply enlarged and reenforced it.

Mr. FORAKER. Mr. President, if the Senator will not complain of me—I will not interrupt the Senator for a moment longer than it is agreeable—the Congress does have powers beyond the one power to regulate commerce. The point I am making is that we are proceeding here under the one independent power to regulate commerce, and that this power to do these other things is deducible, not alone from that power, but from the other powers that have been conferred by the Constitution on the Federal Government.

Mr. DANIEL. Mr. President, we are proceeding here under all the powers we have got under the Constitution. If we have power to so proceed, whose business is it to question the power we are exercising, if we have got that power?

Furthermore, the Senator says, as if making some criticism or detraction from the arguments and citations that have been made, that the Supreme Court has never yet in a direct case passed upon a rate and held that a Congressional rate was all right. It has not passed upon such a question directly for the simple reason that no such question has ever been or could have been before it.

Mr. FORAKER. Mr. President, all I want——

Mr. DANIEL. Let me finish my sentence, if you please.

Mr. FORAKER. It is an open question.

Mr. DANIEL. It has never passed upon a rate enacted by Congress, because no rate enacted by Congress or an agency of Congress has ever been before it. The Senator says it is therefore an open question. That is a very broad remark to make in view of the fact that the court has time and again, over and over, year in and year out, recognized the power of a State within itself to make a rate, and declared, or taken for granted, and expounded as a principle that our power over commerce is complete, exclusive, and unlimited in the Constitution of the United States, and built up an analogous system on the subject in the United States compared with that of the States. It is true, however, and is obliged to be true, that this particular case in this particular form has never been presented to the Supreme Court of the United States—a fact that should be taken in connection with the other fact, that all the indicia of opinion and of expression on the subject have pointed to their conclusion in like manner as has been thus stated.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Ohio?

Mr. DANIEL. Certainly.

Mr. FORAKER. I was only going to suggest to the Senator

that there is no difference of opinion between him and me as to what has been decided. The only point I was making a moment ago was this, that all the decisions of the Supreme Court with respect to rates have been with respect to rates made by the States through the acts of their legislatures or through agencies appointed by the legislatures of the States, and I was trying to distinguish now, as I did try at considerable length to distinguish when I addressed the Senate on that subject on February 28, between the power of the State to do that and the power of the Federal Government in the exercise of its power to regulate commerce.

That reminds me to say that the Senator a few moments ago commented upon my remarks at that time and took exception to what he said my statement was, that a rate was not an article of commerce. It is true I said it was not an article of commerce. I said more than that. I said that the rate charged by a carrier was not an article of commerce; neither was it an instrumentality of commerce; neither was it a facility of commerce; neither was it anything that had to do with the purpose of commerce which looks to the safe carriage of life and the safe carriage of property.

I can not any more than call attention to that at this time without unduly interrupting the Senator, and, of course, I do not want to do that; but I take advantage of this opportunity, through his kindness, to broaden his statement a little bit as to what I then said.

Mr. DANIEL. Mr. President, of course I can not quote an opinion of the Supreme Court which has decided this question on the presentation of the actual case involving a rate made by Congress. All I claim is that the views expressed by the Supreme Court comprehend and embrace such a case, and before——

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Minnesota?

Mr. DANIEL. I yield for a question.

Mr. NELSON. Has not the Supreme Court, in substance, time and again decided that the power of Congress over interstate commerce is as broad and complete as that of the State over State commerce?

Mr. DANIEL. I think I have shown that that is the view of the courts.

Mr. FORAKER. If the Senator from Virginia will allow me, what the Supreme Court of the United States has time and again decided, to which the Senator from Minnesota refers, is that the power to regulate commerce conferred by the Constitution on the Federal Government is as broad and plenary as the power to regulate commerce that belongs to a State. But the State, being a complete sovereignty, has this inherent proprietary right which enables it to go further than the Constitution authorizes the Congress to go. That is the distinction which has been made all the time.

Mr. NELSON. I want to say to the Senator from Ohio that if the State has the power to regulate rates, why has not, in like manner, Congress the same power over interstate commerce that the State has over State commerce?

Mr. FORAKER. If the Senator will read the remarks I made here on February 28 he will see stated at length why, in my opinion, the State has the power to regulate rates that does not belong to the Federal Government under the power to regulate commerce. I can not, in the time of the Senator from Virginia, answer at the length that it would be necessary for me to answer to properly make response to what the Senator from Minnesota says.

Mr. DANIEL. Mr. President, I will conclude what I have to say on this subject—that is, the power of Congress—by reading an extract from the opinion in the case of the Pensacola Telegraph Company *v.* The Western Union Telegraph Company (96 U. S.), in which Chief Justice Waite again gave the opinion. He sustained in that case the broad regulating power of Congress, and held that these powers extended in their application to telegraph lines, to the postal service, to military and post roads, and covered the whole territory of the United States, whether crossing State lines or no. He said:

> The powers thus granted are not confined to the instrumentalities of commerce or the postal service known or in use when the Constitution was adopted, but they keep pace with the Constitution of the country and adapt themselves to the new developments of time and circumstances.
>
> They extend from the horse and his rider to the stage coach, from the sailing vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph as these new agencies are brought into use to meet the demands of increasing population and wealth.
>
> They were intended for the use of the business to which they relate at all times and under all circumstances.
>
> As they were intrusted to the General Government for the good of the nation, it is not only the right but the duty of Congress to see to it that intercourse among the States and the transmission of intelligence are not obstructed or unnecessarily encumbered by State legislation.

These, Mr. President, are broad and deep-rooted principles, and it would be most curious indeed if the all-embracing power which has been expounded and illustrated in so many diverse forms, as going down to the hackney coach and to the ferry, across the ocean, along the railroad, and the telegraph line did not embrace that important, substantial, and most moving matter—the rate of freight or passenger travel upon a road. I am content thus to leave it.

THE POWER OF CONGRESS TO CREATE COMMISSIONS.

I will address myself now to another question. It is with reference to the power of Congress to put its power in the hands of a commission, and to a consideration of what is the due process of law which must be observed in dealing with questions which arise under the provisions of this measure. I heard, and I have read with deep interest, the able speech which was made on this floor by the Senator from Pennsylvania [Mr. KNOX]. He predicated much that he had to say upon a general declaration in that speech, with which I feel obliged to take issue. He said:

> It is the heritage of every English-speaking man or association of men to have his rights determined in a court. It is for the court to decide what those rights are.

This is an idealistic view of the Federal Constitution. As I read that document this view is not sustained by an examination of the Supreme Court decisions. If we regard the facts disclosed by those decisions the declaration of the learned and distinguished Senator would only be made to conform accurately with them when qualified so as to read that "sometimes it is the heritage of every English-speaking man to have his rights determined in a court," for it is equally true, as a general allegation, that sometimes, indeed many times, it is not so, according to the Supreme Court view and according to the American practice.

The conclusions drawn from this broad assertion by the Senator from Pennsylvania he thus expressed:

> An attempt to specify what right shall be determined by the court might be fatal to the constitutionality of the legislation. If the specification should not include all his rights, he would be shorn of a constitutional privilege. Should it undertake to enumerate rights which he could not establish, it would be meaningless and unintelligent legislation. If his rights are determined solely by the Constitution, that instrument would be the measure employed in their determination. If he has rights vested upon some other foundation, a limitation placed upon him to have nothing but his constitutional rights determined would be a fatal objection.

So the declaration of the Senator is designed by him to apply to every right of a citizen, and to maintain that as to his every right he can not be made to suffer without having provision made by Federal law that deals with it for testing that right in court. Any other test by an administrative board, however dignified, however competent, would be to his mind incomplete and would lack the qualities of due process of law.

But the declaration of the Senator and his conclusions are alike refuted by the Supreme Court of the United States in many decisions to which I shall presently advert. Here let me say that I do not overlook the fact that the Senator, from whose utterance I dissent, has been eminently fair and impartial in applying the doctrine he contends for, and by no means confines its protection to the carrier. He upholds, amplifies, and extends it to the shipper and the passenger. He would require, when an injunctive process issues from a court, to suspend for a time being a rate fixed by the Commission, a cash deposit or bond should be given by the carrier that would secure to the parties entitled to repayment the difference between the Commission's rate and the railroad rate if the Commission's rate were sustained.

OFTEN NOT THE HERITAGE OF AN AMERICAN CITIZEN TO HAVE HIS RIGHTS DETERMINED IN A COURT.

I undertake to say, in contravention of the broad, general, axiomatic expression of the Senator, that there are many cases in this country in which the highest and most sacred rights of property and of persons are passed upon finally under administrative law. I also undertake to say that they are of equal dignity, if not of greater dignity, than anything that is involved in the rates of passenger or freight traffic.

I wish, then, Mr. President, in order to get at the meat of this matter, as it underlies the measure which we are endeavoring to mold, to discuss what is due process of law.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Pennsylvania?

Mr. DANIEL. With great pleasure.

Mr. KNOX. Of course it was my own misfortune as well as my own fault if the Senator from Virginia understood that por-

tion of my remarks which he has just read to apply to any other class of rights than the class of rights proposed to be dealt with in this legislation—that is, rights of property, vested rights. Of course I would probably be one of the last men to stand upon the floor of the Senate and deny that under the domain of administrative law, where the nation or a State is dealing with that over which it has complete control, the rights of parties are very often, indeed almost generally, disposed of through administrative boards, as, for instance, the rights of the citizen to transmit his mail and the conditions under which he shall be permitted to transmit it through the post-office. That is a matter over which the Congress has complete control, and of course the administration of the affairs of that Department can be dealt with by Congress as it sees fit. So in the case of the distribution of public lands; so in the case of the citizenship of Indians; so in the case of immigration. Anything over which the Government has complete control and where it defines the rights of parties, of course can be handled through an administrative board.

Mr. ALDRICH. In custom matters.

Mr. KNOX. And in custom cases. But my proposition, of course, had to do only with the rights we were undertaking to deal with in this legislation; and I hold myself unfortunate that I did not more specifically indicate it. I presumed it would be assumed by those who read my remarks, and any criticism the Senator from Virginia may have upon the assertion based upon these administrative cases of course I freely accept.

Mr. DANIEL. I have no doubt the Senator fully understands the difference between those cases in which administrative law is held to be conclusive by the courts and those in which it is held that the term "due process of law" involves juridical process. At the same time, I had to treat the Senator's speech as he uttered it. I have seen that broad, sweeping sentence of the distinguished Senator from Pennsylvania put in newspapers as a campaign banner, so to speak, and as matter of rebuke and caution to those who would undertake to narrow the jurisdiction of the Federal courts in this matter. I am sure it was simply a general utterance, and had the Senator cautioned his own mind he would have confined it, as the courts confined it, to a particular class of cases, to which I shall presently refer.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield further to the Senator from Pennsylvania?

Mr. DANIEL. Certainly.

Mr. KNOX. Only for a moment. I merely want to add to what I have already said that the Senator will observe that all of the authorities I cited in support of that proposition show the distinction which I have just now undertaken to draw between the two classes of rights. So one could hardly in reading the speech as a whole or in listening to it as a whole be mistaken as to the intention.

Mr. DANIEL. I have not the slightest doubt in my own mind as to the perfect fairness and candor of the Senator from Pennsylvania. I never intended to intimate a criticism of that character in any way whatsoever. But the Senator speaks from a standpoint of such authority upon questions of law and his reputation and character are so well known that I merely apprehended that if that broad statement were continuously quoted without the explanations which belong to it, it might put some who entertain somewhat different opinions from the Senator from Pennsylvania in an ill light of criticism before other minds which did not appreciate these distinctions as he does.

I also wish to make it a basis for showing, if I may, the distinctions taken on the class of cases in which the courts consider that due process of law involves juridical process and those taken on that other class of cases which require only administrative powers as due process of law.

"DUE PROCESS OF LAW" AND "LAW OF THE LAND."

Due process of law is generally interpreted in our form of government to be an expression equivalent, or nearly so, with the term "law of the land" as used in Magna Charta. It is that law which the people themselves have ordained and laid down for the regulation of their society and to which they have become accustomed.

(1) The constitution of a State is the law of the land for that State, and observance of the procedures which it commands is due process of law.

(2) The Constitution of the United States is the law of the land for the whole Union, and procedures in consonance with that Constitution, and none other, are due process of law.

No interpretation of the law of the land or due process of law has so put its inhibition upon the power of Congress or of a State legislature as to require either body to preserve upon the statute books of the country any particular remedial statute of jurisdiction whatsoever, whether of criminal law, municipal law, civil law, or equity, which may be there at this time, provided only that a legislature under the Constitution and according to judicial construction can not remove an existing statute upon which contracts have been built so as to tear down those contracts or to subtract from their substance and foundation; provided, too, that jury trials are preserved where required by the law of the land; and provided also, that in changing some existing due process of law a legislature shall leave a fitting and appropriate remedy against constitutional wrong which preserves to the citizen the right to be heard in court when the original question of legal right or wrong is juridical, or where the original question is purely administrative leaves the right to be heard by an administrative body. To go beyond this would be to freeze, if not to completely paralyze, the powers of the legislation, and to put a bar to those changes of legal progress which may be deemed essential by representative bodies to advancement in the science of judicature and administration.

"DUE PROCESS OF LAW" OLDER THAN MAGNA CHARTA.

The term "due process of law," as used by constitutions and courts, is older in English history than Magna Charta, accorded by King John to the Barons at Runnymede in 1215, nearly seven hundred years ago. Since that period of English history, whatever aberrations our race has been afflicted with, however star-chamber courts, military courts, or usurping magistrates have invaded the law of the land, and however passionate mobs or revolutionary movements have swept over it in waves of frenzy, the masses of the people of our country and of our race have adhered in their devotion to the sacred rights of due process and law of the land, for they are basic to our liberties. These terms are a legal guaranty, and there is no principle of our liberties to which we should be more devoted or which we should more faithfully defend.

CORPORATIONS, LIKE INDIVIDUALS, ENTITLED TO PROCESS OF LAW.

Since the rise of corporations—artificial persons, as they are called—and since the fourteenth amendment was adopted, it has been established beyond debate by the courts that the corporation is a person in the sense of the Constitution, and decisions to this effect are so accepted that no one challenges them or seeks to reverse them.

It is to be remembered in the consideration of such a matter as this that whatever may be the weaknesses or the wickedness of corporations which have been developed, and whatever and however justly offenses have been imputed to them, they are no more and no less than an aggregate of human beings, concatenated together by popular opinion and by regulative enactment, and with all their vices and with all their faults they are no more and no less than reflexes of the conduct of the people of flesh and blood who compose them. It must be remembered, too, that if they be but man-made, artificial creatures, the people were and continue to be their creators, and in some respects their beneficiaries as well as their victims. Like all artificial and natural creatures they are mixtures of good and evil.

A corporation is, in fact, only a shell with a fancy name upon it. Everything inside of the shell is property acquired under charters which the people themselves have granted, plus the human beings who own the property, in the shares prescribed by law, and plus or minus the water which may in some sort of fashion have inflated the shares. These corporations, being created by law and living by and under law, have just the same title to be protected by the law of the land and by due process of that law as has every individual citizen of our country, whether he be on the inside or the outside of the corporate shell.

What, then, is the definitive meaning of law of the land and process of law as applied to such cases as this? Just this: That every individual, whether a human person or a composite person called a corporation, is entitled to have and hold his, her, or its property, his, her, or its liberty, in accordance with the laws of this land, made in pursuance of constitutional authority. The law of the land embraces the statutes as well as the Constitution. It is the general law, which, as Daniel Webster declared, "hears before it condemns, which proceeds upon inquiry and renders judgment only after trial;" "and has," he added, "the meaning that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society."

Another master of jurisprudence has said:

> The good sense of mankind has at length settled down to this, that they were intended to secure the individual from arbitrary exercise of the powers of government, unrestrained by the established principles of private right and distributive justice.

"DUE PROCESS OF LAW" SOMETIMES INCLUDES JURIDICAL POWERS AND SOMETIMES DOES NOT.

This law of the land, or due process, however, does not require that there shall be the same process of law or the same law of the land with reference to classes of persons or things which are in their nature different and which according to their nature require a variation of methods.

Story struck the right keynote when he said in his work on the Constitution that different principles are applicable in different cases and require different forms and proceedings. In some they must be judicial; in others not. (See Story on the Constitution, sec. 1943–1946.)

Every lawyer must realize that procedures must vary according to the nature of the things to be governed. A proceeding in attachment against an absconding debtor must ex necessitate rei vary from that of a suit of ejectment for land.

THE SETTLED MEASURES OF LAW FOR THE PROTECTION OF RIGHTS MUST BE OBSERVED.

A proceeding in libel against a piratical ship must vary from a proceeding for the partition of an estate or for enforcing in equity a resulting trust. So Story adds that "due process of law" in each particular case means such an exercise of the powers of government as settled maxims of law permit and sanction, and under such safeguards for the protection of the individual rights as those maxims prescribe for the class of cases to which the one being dealt with belongs. In short, then, we must deal with these cases of interstate transportation according to their kind, using such instrumentalities, observing such mechanisms, using such safeguards, as properly, naturally, customarily apply to the conditions and interests which we deal with and directing them to the protection of all individuals and all corporate rights involved.

JUDICIAL REVIEW OR APPEAL, OR BOTH, IN EQUITY.

Let me now advert to the application of these general principles and bring them to bear upon the question which has been here raised. That question is twofold. Shall we provide in this bill for the juridicial review or a judicial appeal from the action of the Interstate Commerce Commission in a given case? Are we obliged to do it or otherwise leave the bill in unconstitutional form? I share in the opinion that it is wisest and best to provide for either a judicial review or appeal, but at the same time I do not doubt that if no judicial appeal or review were provided for, the system of equitable jurisdiction which has been administered with reference to such cases for at least thirty years would prove sufficient to comprehend and to secure to all parties in interest every right to which they may justly lay claim.

COMMISSIONS AND COURTS BOTH LIABLE TO ERROR.

When a passenger or a shipper has brought a case of alleged wrong before the Interstate Commerce Commission, that body may decide in favor of him or against him. It is just as liable to err as a court, or if not so, it would be only because the Commissioners are more apt to be more familiar with the intricacies and bearings of rate questions than courts are. The men who constitute the Commission are likely to be and are assumed to be upright and honorable men. As a rule also, judges are likewise; and if there be any difference between judges and the Interstate Commerce Commission with respect to liability to err, there is a certain degree in favor of the lesser liability, in so far as the law is concerned, in favor of the judges, from the fact that they must be technically at least learned in the law, and are more apt to be trained and versed in that profession.

Now, suppose the Interstate Commerce Commission decides against a shipper or a passenger, or whosoever may claim that the transportation company has acted with error. No matter what the shipper or passenger may lose, he is at the jumping-off place and is done with unless he may appeal to a court.

Suppose that there should be such a decision against a corporation, and the corporation goes off with a sense of grievance—and the side that goes off is apt to go with a sense of grievance—is it wisest and best for the people of this country to leave the matter solely with the Interstate Commerce Commission? Men are more careful and painstaking when a reviewing body may scrutinize and pass upon their work.

THE EXISTING JURIDICAL STATUS.

But, Mr. President, I apprehend that we are foreclosed from the consideration of that subject by the juridical status of this case. As an original question, it may have been wisest and best to have reposed the whole subject of freight making in the hands of an expert and honorable commission, who would study that single subject continuously and make themselves thoroughly conversant therewith; but we do not do it, and the courts have established a system of equitable review. We have the same power to do it that the States have with respect to State charters, and that the country has with respect to Federal or national charters to repose such power in the directors of railroads. No director of any railroad has any natural right to fix freight or passenger tolls on a public highway. There has not been a day in the history of this country since a railroad was run that the tolls of that railroad were not fixed under powers delegated by the State legislatures or under powers delegated by the Federal Government. The corporation itself had no power whatsoever save what the State gave it in the one case, and the Federal corporation had no power, nor have its directors any power, nor have its officers any power, save such as were granted by Congress.

If Congress could grant to the corporation the power to make tolls and to directors to act for them in making tolls, it has the same power to grant to commissions to make tolls.

Then, Mr. President, when they grant the power to prescribe tolls according to the certain standard of reasonable and just tolls, why may they not close the matter there and let the Commission's judgment stand for good and all?

PUBLIC AND PRIVATE CORPORATIONS; AND CORPORATIONS OF PUBLIC SERVICE IMPRESSED WITH A PUBLIC USE.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. DANIEL. Certainly.

Mr. ALDRICH. I assume the Senator would also claim that the directors in any corporation would have no powers except such as were granted by a State or by the National Government?

Mr. DANIEL. Why, of course.

Mr. ALDRICH. The Senator, I suppose, does not mean to have us infer from that that either a State government or the National Government would undertake to say what private corporations should charge for articles of merchandise, or how they should conduct their business?

Mr. DANIEL. Mr. President, the consideration of private corporations has no more to do with the subject we are discussing than has the man in the moon, and the Senator might as pertinently ask me as to whether or not I consider——

Mr. ALDRICH rose.

Mr. DANIEL. Let me answer the question, please. Just wait a little while until I answer. The Senator might as pertinently ask me whether I consider that the moon is made of green cheese. The transportation corporations of this country are neither public nor private corporations. A public corporation is one that is solely organized for public purposes, such as a city, a town, a county. That is a public corporation. A private corporation is one that is solely organized for private purposes, such, for instance, as a corporation to sell green groceries or books. A transportation company or common carrier is in the nature of both a public and a private corporation, public in the sense that it has granted to it the State or Federal power of eminent domain, that it is authorized to take the realty of the citizen in invitum and appropriate it to its own use, and, in the next place, because it exercises a public calling which its charter has authorized it to pursue, either by the State or by the nation. That is the difference.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. Yes, sir; for a question, but I would like to get on with my discourse.

Mr. ALDRICH. I was not about to ask a question, but I was about to state the reason why I asked the question which I did.

The Senator was proceeding upon the theory that directors of railroad corporations have no rights except those given them by the Government, and therefore that the Government could transfer the powers of railroad directors to a commission of its own creation. He made no distinction, and apparently the sole reason was the fact that the corporation existed by reason of national action or State action, and therefore we could undertake to control all of its affairs. He did not then make the distinction which he has since made between what he calls private corporations and railroad companies, which I supposed he would make.

Mr. DANIEL. Some of us can not say all we are thinking in one sentence, and we apprehend, as a rule, that gentlemen who are hearing that sentence understand its connection. I have no doubt a little reflection would have brought these same thoughts to the mind of the Senator.

Mr. ALDRICH. I was afraid the Senator might be led into the same style of argument of which he accused the Senator from Pennsylvania a few minutes ago. He is a great lawyer, and he is speaking ex cathedra upon these subjects. I was afraid somebody might hear his remarks or read them and

conclude that he thought the Government of the United States having created private corporations, it could appoint commissions to control their business.

Mr. DANIEL. I am speaking, Mr. President, on one subject, on the subject of the corporations to conduct commerce between States—public-service corporations—that offer themselves as carriers for public patronage, that have exercised the right of eminent domain in the State and could get it from the country for public use. If the Senator will read, after it is printed, what I have said and should find that I have run off the track and made too broad an assertion, I would be very glad to correct it.

I was merely defining what I conceive to be the status of these corporations in order the better to apply to questions before us a consideration of what is due process of law with respect to them in this case. I will turn at once now to that, and to a differentiation of the juridical cases and those which are administrative in their nature.

THE JURISDICTION OF FEDERAL COURTS AND THE INJUNCTION.

It is proposed, Mr. President, to recognize in this bill the right of a carrier which has been subjected to a rate to which it was opposed by the Interstate Commerce Commission to file an original bill in equity in a circuit court of the United States, and thereby to set aside the rate fixed by the Commission. It is contended that it would be appropriate after the Commission had fixed the rate to withhold from the power of the circuit court the legal right to issue an injunction and stay the application of the rate prescribed by the Commission until the whole case was fully heard.

I am not permitted by my own reading of cases upon this subject to follow what might be the bent either of my own preference or my own opinion. The juridical status of any legal question is as much a fact as if it were composed of so much matter which could be weighed or measured. As I read the decisions of the Supreme Court of the United States, and there are not a few of them, it practically holds that when a rate has been fixed by any commission acting under Congressional power, the court of equity is open for that rate to be brought in question by any party in interest who has suffered by its infliction, and that it is appropriate under old and hoary principles of equity jurisdiction to issue an interlocutory injunction and hold the whole matter in abeyance until the subject is completely investigated and adjudicated.

Finding many decisions to this effect and finding that this practice has been observed in many cases from States in which the actions of State legislatures and State commissions have been brought to the bar of equitable consideration, I am obliged to recognize that such is the established equity practice in this country, and such also is the settled view of the Supreme Court of the United States.

THE INJUNCTION OLDER THAN MAGNA CHARTA.

The injunctive process of the court of equity is a very ancient process, older than Magna Charta. Mr. Spence, in his great work on equitable jurisprudence, finds, as he says, the first introduction of the injunction in the reign of Henry Beauclerc, the annual date of which is not given, but it was between 1100 and 1136, the period of his reign. From that day to this injunction has grown. It was borrowed from the Roman law, the interdict of the old Roman prætor, and, like the great body of the refined and conscionable principles of equity jurisprudence, it was ingrafted upon the narrow though manly and self-assertive jurisprudence of the common law by importation from the rich and fertile judicial system of Rome, the greatest nation of antiquity.

Mr. BAILEY. Will the Senator from Virginia permit me to ask him a question?

Mr. DANIEL. Certainly.

Mr. BAILEY. Does the Senator from Virginia hold that not only the processes and writs and practices of the court of chancery in England were adopted, but that the whole body of equity jurisprudence was adopted by the Constitution of the United States?

Mr. DANIEL. Mr. President, the Senator must let me answer, perhaps, by paraphrase. I do not hold that this country or this Congress is held down to any particular practice of any former generation whatsoever, saving only what is embodied in the Constitution of the United States. I have endeavored to define as clearly as I could in a previous portion of my remarks that if the new statute or amendment of existing law takes place so as to preserve in vitality and vigor a complete remedy to the person who has an ancient remedy, it is enough. I will illustrate, if the Senator will withhold his question a little while, in what limitations I express this view and why I fear the danger point would arise if his amendment were adopted, and also how I would respectfully suggest that some of the danger in that point might be avoided.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Texas?

Mr. DANIEL. Certainly.

Mr. BAILEY. I meant to indicate to the Senator the difficulty that would arise if we hold that Congress is powerless to modify the practice of proceeding or writs of a court of equity, because it must necessarily follow, then, that the great principles of equity jurisprudence are beyond the control of the Congress. I hardly think that any Senator would be willing to go that far. To say that we can not change the practice or processes, and yet that we can abolish the rule of decision, seems to be a very curious contention.

But I waive that aside, in view of the Senator's answer, and I ask him if he will be good enough to lay before the Senate any decision which holds that intermediate process is necessary to the due process of law? I heard him quote, during the course of his remarks, Webster's famous definition of the law of the land, which, as I recollect now, was a part of his address to the court in the Dartmouth College case. He described it as a system under which the matter is heard before it is decided.

So far as I am informed, I do not believe the Senator can find any cases which hold that intermediate process is essential to due process of law. I am glad, however, to see that the Senator from Virginia abandons the objections offered by others to my amendment and puts it upon the due-process clause of the Constitution instead of the judicial clause.

Mr. DANIEL. Mr. President, I am undertaking to develop a conception of this case which requires a succession of ideas and not the summary utterances of a single one. While interruptions may be naturally provoked by a certain unqualified utterance of a speaker, it is very often the case that if he were to unfold the whole of his thought the interruption would itself be answered. Do not suppose for a moment that I am complaining, Mr. President. I consider that the Senator's exposition of the powers of Congress with respect to the inferior courts of this country, which it is authorized by the Constitution to create, was a masterly and unanswerable exposition of that great theme. I will not say that I heard every word of it; I will not say that I have read every line of it; but its substantive thought utters my convictions not less than his. Nevertheless, there is an honest and sincere difficulty in my own mind in reaching the conclusion that it is wisest and best to prohibit the issue of an interlocutory injunction or a suspension of the rate until a court has passed upon it.

If I were at this moment called upon as a judge to decide that question, I should hesitate and I should desire to study it further. It is one of the most delicate subjects of our whole jurisprudence; and until I had heard it discussed pro and con and had had the very best light put before my mind that could be adressed to its consideration, I should hesitate to express my own judgment. The leaning of my mind, just as is that of the Senator from Texas, is against political power in courts, and many of the decisions of the Supreme Court on this great subject I have read with much comfort and pleasure, because the judges have time and again declared that in no case would they set aside the action of a commission unless it was palpable to their minds—plainly and clearly palpable—that the Commission had in effect taken property without full compensation. It is apropos of that declaration, which is one of the fundamental principles of the Supreme Court upon this subject, that I feel that there arises a danger in this case, to express it mildly, of undertaking by Congress to say that a remedy which has been employed for thirty years, which has become customary to the jurisprudence of the United States, which is habitual in its exercise before the courts, and which the courts have employed with the approbation of all their judges—I am afraid that if that were to go before that same court, as it naturally would, they would say that in this case the carrier has not had due process of law, and then, Mr. President, what would be the situation of this controversy? I do not doubt that you can make the general jurisdiction of the circuit court, or of any other court which Congress creates, what in your wise judgment may be your pleasure, but the case before us is not one as to the jurisdiction of the courts so much as it is what are you going to do with a case, by subtracting a case or a particular class of cases from a general jurisdiction which you have declared to be wise and just? It is a narrower question we are now discussing than the general jurisdiction of courts.

It will be observed when we read certain other decisions that however it may be with administrative matters before the executive department of this Government, it has been the habitual ruling of the Supreme Court, that with respect to

rates fixed by a State legislature or rates fixed by a State commission, neither the legislature nor the commission can make those rates conclusive, but that a United States court has the right, under the Constitution of the United States and through the process of a bill in equity, to bring the parties before the bar of a United States court, and, if such rate is found to be unjust, to set aside that rate as one that lacks in due process of law.

Nor can it be doubted that the same jurisprudence will be exercised by the United States courts as to matters of the United States. That is a juridical status that looks Congress in the face. Now, then, what has the interlocutory injunction to do with it? What is an issue in an interlocutory injunction? The issue of an interlocutory injunction is never a matter of right, but rests in the sound discretion of a court. In order to obtain an interlocutory injunction a plaintiff must show one of several things: First, either that there is no doubt of the wrongful nature of the act sought to be enjoined. Suppose it be true that it is obvious to a chancellor, as soon as he looks at a bill in equity, that a wrong has been done; is it wise for Congress to say that he shall not relieve the plaintiff? Second, or that his own claim of right has been acquiesced in without question for a long time, or that the injury which will result to himself from the refusal of the injunction will be very great and that to the defendant, from the issue thereof, very slight. Otherwise an interlocutory injunction will be denied.

I take that from a short summary in Foster's Federal Practice, volume 1, page 233.

THE STATUS WHEN THERE IS A CONFISCATORY RATE ON THE CARRIER ON ONE SIDE AND A HEAVY FINE ON THE OTHER.

Let us put ourselves in the attitude of a carrier suitor in a United States court in a case where the Interstate Commerce Commission has fixed a rate which it charges is confiscatory of its property and does not accord to it the just compensation which is required by the Constitution of the United States. By another provision of this bill, section 16, that carrier is charged $5,000 a day as a fine while he is suing in court to ask the court simply to let matters stand in statu quo until he can be fully heard. Unless he has instantly adopted and put in force the rate to which he objects, $5,000 fine per day is accumulating upon him; and when, on the other hand, the difference between what the carrier considers a righteous rate and what the Interstate Commerce Commission considers a righteous rate may amount to another $5,000 a day going out of his pocket. Is it wise, is it just, is it equitable, unconditionally to put that individual, be it corporation or man, under the pitiless storm of an incessant fine and subject him at the same time to an incessant loss until such time as everybody may be fully and finally heard and denying him the customary process of the court for his protection? It does not strike my own mind, Mr. President, as wise and equitable to do this.

JUDGE CURTIS'S OPINION IN 18 HOWARD'S REPORTS, REVENUE CLAIMS.

I am further disturbed in my meditations on this subject by reading some of the decisions of the United States Supreme Court, out of which I deduce what is regarded by the courts of this country as the difference between due process of law in purely administrative cases and due process of law in those cases of a peculiar kind, which require juridical process to their finality. I turn, Mr. President, to the case of Murray's Lessee et al. *v.* The Hoboken Land and Improvement Company. It is in 18 Howard's Reports, 272.

It was an action of ejectment. Both parties asserted title under Samuel Swartwout, the plaintiff, by virtue of an execution, sale, and deed made on judgment obtained in the regular course of judicial proceedings against him and the defendant, by a seizure and sale by the marshal of the United States, under the distress warrant issued by the Solicitor of the Treasury, under the act of Congress of May 20, 1820. Let it be noted that the Solicitor of the Treasury issued the distress warrant, not a judge. The Supreme Court of the United States unanimously held that the power exercised was executive and not judicial, and that the issue of the writ and the proceedings under it were due process of law within the meaning of the Constitution.

Judge Curtis gave the opinion of the Supreme Court. It is rare than one can read a more minute, learned, or more carefully considered opinion. It enters into the sinuosities and irregularities of our jurisprudence and into the diversified forms of process of law. In holding that the distress warrant was due process of law in the taking and selling out of real estate on executive action, he reaches that conclusion by a profound study of the history of English and American jurisprudence. It was a Government claim which related to the revenue which had in English jurisprudence the peculiarities which belong to the summary process that pertains to the revenues of the Crown. The judge said:

Tested by the common statute law of England prior to the emigration of our ancestors, and by the laws of many of the States at the time of the adoption of this amendment, the proceedings authorized by the act of 1820 can not be denied to be due process of law when applied to the ascertainment and recovery of balances due to the Government from a collector of customs, unless there exists in the Constitution some other provision which restrains Congress from authorizing such proceedings.

So that you trace the due process of law in this case to the fountain of the revenues of the Crown in England and of the Government in the United States.

DUE PROCESS GENERALLY IMPLIES A SETTLED COURSE OF JUDICIAL PROCEEDING.

Now I read another sentence from this eminent jurist:

For, though "due process of law" generally implies and includes actor, reus, judex, regular allegations, opportunity to answer, and a trial according to some settled course of judicial proceeding.

I would underscore those words, marked as they were in the language of this judge, that as a rule due process of law required the regular hearing and the trial according to some settled course of judicial proceeding.

Yet—

He said—

this is not universally true. There may be, and we have seen that there are, cases under the law of England after Magna Charta, and as it was brought to this country and acted on here, in which process in its nature final issues against the body, lands, and goods of certain public debtors without any such trial; and this brings us to the question whether those provisions of the Constitution which relate to the judicial power are incompatible with these proceedings.

WORDS OF CAUTION.

To avoid misconstruction—

Says the judge, and here come in words which I read with a sense of caution and from which I take warning—

To avoid misconstruction upon so grave a subject, we think it proper to state that we do not consider Congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law or in equity or admiralty, nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination.

Ask the question, "Is this question of a rate as confiscatory of property made by a commission now—if so, how long has it been—the subject of a suit at the common law or in equity or in admiralty?" Unquestionably, Mr. President, the true answer to that question must be that to-day and through the whole course of the jurisprudence of the United States Supreme Court on this subject this is a case held to be peculiarly appropriate to equity. Yet it is proposed to paralyze the strong arm of equity while the law is inflicting a penalty at the rate of $5,000 a day upon the one hand and while, if there be wrong, the pocket is open and pouring out upon the other.

Mr. President, in this great opinion, which is basic of nearly all the decisions which have since ramified through the Departments and the courts, I think the judge takes to pieces this whole subject and clarifies it with the illuminations of a learned, honest, and just mind.

At the same time—

Says Judge Curtis—

At the same time there are matters involving public rights which may be presented in such form that the judicial power is capable of acting on them and which are susceptible of judicial determination, but which Congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper.

That is the second class of cases.

The third class he thus refers to:

Equitable claims to land by the inhabitants of ceded territories form a striking instance of such a class of cases, and as it depends upon the will of Congress whether a remedy in the courts shall be allowed at all in such cases, they may regulate it and prescribe such rules of determination as they may think just and needful. Thus it has been repeatedly decided in this class of cases that upon their trial the acts of executive officers, done under the authority of Congress, were conclusive, either upon particular facts involved in the inquiry or upon the whole title.

* * * * * * *

The fourth class he thus points out:

It is true also that even in a suit between private persons to try a question of private right the action of the executive power, upon a matter committed to its determination by the Constitution and laws, is conclusive.

Thus it will be seen that there are four classes of cases to which the Supreme Court in the case I am considering refers.

1. Those in which "due process of law" includes juridical process—that is, cases which are the subject of suits at common law or in equity or admiralty. These are the cases declared to be unwithdrawable by Congress from judicial cognizance.

2. Matters involving public rights, which Congress may place within judicial cognizance or not as it may deem proper.

3. Cases in which Congress may grant a remedy or not as it sees fit and prescribe such rules of determination as it considers just and needful.

4. Certain matters of private right which Congress may submit to Executive determination conclusively.

THE CLASS OF CASES TO WHICH THE FIXING OF A RATE BELONGS.

Now, Mr. President, I have examined this proposition to take away the right to issue interlocutory injunctions from a court of equity pending that time when a rate is hanging between the decision of the Interstate Commerce Commission and the invited further decision of a court.

Originally a rate is fixed generally in this country by the directors of a corporation. If that rate be an erroneous and oppressive rate, everybody who has that rate imposed upon him for passenger travel or for freight traffic is wronged; but, Mr. President, there is not a moment after that wrong commences when the courts in this country are not open to the citizen to challenge the wrong and to assert his remedy against it. As soon as the wrong, if it be one, in interstate commerce is challenged, the Interstate Commerce Commission investigates it. When it decides that the rate was wrong and puts in another one, the process of law is in course of progress toward maturity, and the corporate property and the use thereof and the compensation therefor are matters in a certain sense under the surveillance and protection of the court, or at least within reach of a remedy.

It is almost as ancient as the hills that when property is in litigation and in course of legal procedure a court of equity will hold the scales in hand between the parties and keep things in statu quo until it is ready to make up its mind upon the subject, and say which way the right or the wrong shall go. The interlocutory injunctions which are issued in rate cases are predicated upon doctrines almost as old as equity, and if you intend to exercise the equitable jurisdiction and leave the bill in equity as the proper procedure in this case, I can not see my way clear to maim the hand which is lifted to apply the remedies of equity, or to attempt to shear the court of any of the rights and discretions which properly belong to the chancellor in such a case. I do believe, however, that the nature of this case is such that a better way may possibly be devised, and one which would lead to swifter decision, which, indeed, is the great end which all are seeking to subserve through the processes that are being devised.

THE LAW'S DELAY.

I have read of a case quoted here in which there was a loss of $300,000 on one side before the case could be heard. Mr. President, undoubtedly the great evil that underlies the double jurisdiction of Commission and court arises from the fact of the law's delay. Delay is destructive of equity. Rates are like perishable goods. A rate is of to-day. How it would fit three months hence who can tell? What it may be a year hence who can tell? The danger is that the wrong will have been accomplished before you get a hearing of the voice that appeals for right, and that conditions are so fluctuating and changeable that it is very difficult in any event to reach a rectification.

CARRIERS FREQUENTLY PUT ONLY PART OF THEIR TESTIMONY BEFORE THE COMMISSION.

Now, the present system is that when the rate is fixed by the Commission a bill is filed in a Federal court. What happens? The carrier goes into that court and makes the case entirely de novo. I am informed that out of some thirty-two cases decided by the Interstate Commerce Commission, while some twenty-six of them were overruled, it was by new testimony which went to the court and which did not go to the Commission. I have no doubt that the Commission has suffered in public estimate and certainly has undergone most unjust criticism from the fact that the cases decided by the court, which took different views from the Commissioners, were wholly different cases, made up in the court after the Commission had passed upon the subject. In several of these cases in the United States courts the judges have commented upon the fact and have rebuked the practice of railroad companies making new cases in the courts after they have made an imperfect showing and but a partial presentation of their case before the Commission.

Now, then, delay is the great trouble to be obviated, if possible, and the partial hearing before the Commission, antedating full hearing before the court, has been one of the processes by which this delay was increased and by which additional wrong was done. It is the policy and duty of Congress, and it should challenge the best efforts of constructive statesmanship to devise the best plan, regardful of everybody's rights, to get the case from the Commission into the court and to get a speedy hearing. If Congress can accomplish that great result in this bill it will be the author of a piece of remedial legislation which will be useful to all the good citizens of this country and a pillar of righteous, equitable, and just Federal jurisprudence.

CARRIERS AND OTHER PARTIES SHOULD BE REQUIRED TO PUT IN ALL THEIR EVIDENCE BEFORE THE COMMISSION.

It is with diffidence, sir, that I make any suggestion upon the subject, and yet these thoughts have occurred to my mind as thoughts which perhaps might be useful to one who would undertake to accomplish this end. The suggestion that I would make would first be this: Require in this bill that the carrier and all other parties in interest who have a case before the Interstate Commerce Commission shall adduce all the evidence in their behalf on the hearing before the Commission. Why not? Is not that right? Leges vigilantibus, non dormientibus perveniunt.

That is the way the wise jurisprudence of old Rome dealt with such matters. The laws are ready to help people who are awake, but not those who sleep upon their rights. Congress have provided at great cost to the people of this country an able tribunal to hear these cases. Parties in interest are duly challenged and notified to make known their minds and the state of facts respecting a question of great public interest, and the public as well as individuals have the right to require that the truth be fully told and not partially told. Therefore, require it to be told and compel them to tell it when they are summoned there.

ONLY SUCH EVIDENCE AS COULD NOT HAVE BEEN OBTAINED BY DUE DILIGENCE SHOULD BE HEARD BY THE COURTS.

Second. Require that no other evidence as to any rate fixed by the Commission shall be heard by any court in any subsequent proceeding saving only such as could not have been obtained by the reasonable diligence of the party offering the same prior to the final order in such case entered by the Commission. There would then be no danger of anybody being taken by surprise. There would be no danger of anybody being curtailed in right. There would be no danger of anybody being shorn of either legal or equitable remedy. Then, why not? That is due process of law, because it preserves in complete integrity, in unmaimed and in perfect stature, the complete right of a man to be heard both before the Commission of original investigation and to have his case heard again before a court of his country. That deprives him of the opportunity to do injustice in trifling with the laws by making an imperfect showing in the first place and exposing his full hand in the second. That is economical, in that it does not repeat the testimony and procedure, and it guards against the possibility of wrong by allowing out of grace the liberty to introduce any new testimony which could not in diligence have been obtained before.

A COPY OF THE RECORD BEFORE THE COMMISSION SHOULD ACCOMPANY THE BILL OR OTHER PROCESS IN COURT.

Third. Require, in the next place, that the copy of the record before the Commission, with all the testimony written and taken down from verbal recitation, shall be presented and made a part of the entire petition, whether you call it appeal, review, or bill to the upper court.

There, Mr. President, when you do that you have withheld one of the stimulants to interlocutory injunctions. If you file a bill in equity ordinarily to review some past procedure, you are not obliged to put the record of that procedure in your bill. You may put some affidavit of your own or any suggestive thing that you deem proper. The court will look upon the face of what you present. But if you require the complainant in the bill, appeal, or petition of review to put with his papers the full record of what was done before, you at least guard against a partial presentment of the case to the chancellor who will act upon it.

NOTICE OF APPLICATION FOR INJUNCTION.

Then, Mr. President, the suggestion by the Senator from North Carolina [Mr. OVERMAN] as to requiring that notice be given—five days is his suggestion—before any application for injunction is made would also be a just expedient and within the range of the proprieties of process to give the adverse party a full opportunity to do what might be necessary to defend his interests. And thus, Mr. President, you would reduce to a minimum the friction between two bodies, which ought to be made to work as nearly in affinity as the case may be and which should not be put in rival relations to each other. Thus, too, would be avoided the opportunities of turning down the Commission by new evidence purposely withheld from it and afterwards used in court to the unjust injury of its reputation and to the delay of justice.

These, Mr. President, are some of the suggestions which have occurred to my mind. They obviate, in a measure at least, the danger that might arise were Congress to withdraw a remedy now known and now practiced, ancient, based on sound principles, and in vogue in the courts, without substituting something equally substantial and less liable to abuse than it has proved to be.

Mr. President, I have finished discussing all that I care to

discuss about this measure, except the single question what should be involved in the appeal or review before the court after the case has been dealt with by the Interstate Commerce Commission. I had also wished to show a little further the differentiation between this case and the manifold and multiplying cases of administrative law with which we are now dealing. I have, however, been speaking for over three hours, and, if not to my own exhaustion, I am pretty sure to the exhaustion of the patience of my auditors, and I would be very glad if I might be permitted to finish that part of my discussion to-morrow instead of to-day, unless perhaps I should transgress upon some other procedure that has been arranged for to-morrow's session. If not, I would ask this indulgence of the Senate.

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

The VICE-PRESIDENT laid before the Senate the joint resolution (H. J. Res. 145) for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers, which was read the first time by its title.

Mr. WARREN. The committee has considered the subject-matter of the point resolution, and I ask unanimous consent that the joint resolution be now considered.

The VICE-PRESIDENT. The joint resolution will be read at length.

The joint resolution was read the second time at length, as follows:

Resolved, etc., That Charles M. Anderson, of Ohio; WILLIAM WARNER, of Missouri; Franklin Murphy, of New Jersey, and JAMES W. WADSWORTH, of New York, be, and the same hereby are, appointed as members of the Board of Managers of the National Home for Disabled Volunteer Soldiers of the United States; Charles M. Anderson, WILLIAM WARNER, and Franklin Murphy to succeed themselves, their terms of service expiring April 21, 1906; JAMES W. WADSWORTH to succeed Gen. Martin T. McMahon, deceased, whose term of office expires April 21, 1910.

By unanimous consent the Senate proceeded to the consideration of the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. PENROSE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and thirty-five minutes spent in executive session the doors were reopened, and (at 6 o'clock p. m.) the Senate adjourned until to-morrow, Wednesday, May 2, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 1, 1906.

PROMOTIONS IN THE NAVY.

Lieut. Commander William L. Rodgers to be a commander in the Navy from the 7th day of January, 1906, vice Commander Lewis C. Heilner, promoted.

Paul J. Bean, a citizen of Texas, to be an assistant civil engineer in the Navy from the 27th day of April, 1906, to fill a vacancy existing in that grade on that date.

Lieut. Thomas J. Senn to be a lieutenant-commander in the Navy from the 7th day of January, 1906, vice Lieut. Commander William L. Rodgers, promoted.

PROMOTION IN THE ARMY—CAVALRY ARM.

First Lieut. Ben H. Dorcy, Fourth Cavalry, to be captain from April 26, 1906, vice Whitman, Thirteenth Cavalry, detailed as quartermaster.

POSTMASTERS.

CALIFORNIA.

T. W. Henry to be postmaster at Paso Robles, in the county of San Luis Obispo and State of California, in place of Alfred R. Booth, deceased.

D. F. Hunt to be postmaster at Santa Barbara, in the county of Santa Barbara and State of California, in place of Francis J. Maguire. Incumbent's commission expired March 18, 1906.

COLORADO.

Frank B. Thomas to be postmaster at Del Norte, in the county of Rio Grande and State of Colorado, in place of John W. Wilson. Incumbent's commission expires June 2, 1906.

CONNECTICUT.

Isaac L. Trowbridge to be postmaster at Naugatuck, in the county of New Haven and State of Connecticut, in place of Isaac L. Trowbridge. Incumbent's commission expires May 21, 1906.

FLORIDA.

Dick M. Kirby to be postmaster at Palatka, in the county of Putnam and State of Florida, in place of Dick M. Kirby. Incumbent's commission expires May 13, 1906.

ILLINOIS.

John A. Leu to be postmaster at Highlands, in the county of Madison and State of Illinois, in place of Louis J. Appel. Incumbent's commission expires June 24, 1906.

W. W. Lowis to be postmaster at Greenville, in the county of Bond and State of Illinois, in place of Alexander L. Hord. Incumbent's commission expires June 7, 1906.

INDIANA.

Charles Carter to be postmaster at Converse, in the county of Miami and State of Indiana, in place of John W. Eward. Incumbent's commission expired December 12, 1905.

William C. Nichols to be postmaster at Lowell, in the county of Lake and State of Indiana, in place of Daniel Lynch. Incumbent's commission expires May 8, 1906.

IOWA.

Gordon R. Badgerow to be postmaster at Sioux City, in the county of Woodbury and State of Iowa, in place of Gordon R. Badgerow. Incumbent's commission expires June 30, 1906.

KANSAS.

P. Moore to be postmaster at Weir, in the county of Cherokee and State of Kansas, in place of Sydney W. Gould, deceased.

John McPherson to be postmaster at Blue Rapids, in the county of Marshall and State of Kansas, in place of John McPherson. Incumbent's commission expired March 14, 1906.

Thomas A. Sawhill to be postmaster at Concordia, in the county of Cloud and State of Kansas, in place of Thomas A. Sawhill. Incumbent's commission expired April 10, 1906.

KENTUCKY.

William A. Waters to be postmaster at Springfield, in the county of Washington and State of Kentucky, in place of William A. Waters. Incumbent's commission expired January 13, 1906.

MASSACHUSETTS.

Frederick B. Horne to be postmaster at Framingham, in the county of Middlesex and State of Massachusetts, in place of Frederick B. Horne. Incumbent's commission expires May 9, 1906.

Reuben K. Sawyer to be postmaster at Wellesley, in the county of Norfolk and State of Massachusetts, in place of Reuben K. Sawyer. Incumbent's commission expires June 2, 1906.

MICHIGAN.

E. Harvey Drake to be postmaster at Yale, in the county of St. Clair and State of Michigan, in place of James Wallace. Incumbent's commission expired March 19, 1906.

Hannibal A. Hopkins to be postmaster at St. Clair, in the county of St. Clair and State of Michigan, in place of Hannibal A. Hopkins. Incumbent's commission expired March 5, 1906.

John D. Smead to be postmaster at Blissfield, in the county of Lenawee and State of Michigan, in place of John D. Smead. Incumbent's commission expires May 9, 1906.

MINNESOTA.

John T. Hammar to be postmaster at Madison, in the county of Lac qui Parle and State of Minnesota, in place of John T. Hammar. Incumbent's commission expired April 5, 1906.

Frank B. Lamson to be postmaster at Buffalo, in the county of Wright and State of Minnesota, in place of Frank B. Lamson. Incumbent's commission expires June 28, 1906.

Fred A. Swartwood to be postmaster at Waseca, in the county of Waseca and State of Minnesota, in place of Fred A. Swartwood. Incumbent's commission expires June 10, 1906.

MISSOURI.

Henry A. Ayre to be postmaster at Oronogo, in the county of Jasper and State of Missouri. Office became Presidential April 1, 1906.

NEBRASKA.

John Cusack to be postmaster at North Bend, in the county of Dodge and State of Nebraska, in place of Charles A. Long. Incumbent's commission expires June 19, 1906.

Frank W. Wake to be postmaster at Genoa, in the county of Nance and State of Nebraska, in place of Frank W. Wake. Incumbent's commission expired March 1, 1906.

NEW HAMPSHIRE.

Fred H. Ackerman to be postmaster at Bristol, in the county of Grafton and State of New Hampshire, in place of Fred H. Ackerman. Incumbent's commission expires June 25, 1906.

NEW YORK.

Edward Bolard to be postmaster at Salamanca, in the county of Cattaraugus and State of New York, in place of John J. Inman. Incumbent's commission expired February 10, 1906.

Willard F. Sherwood to be postmaster at Hornell (late Hornellsville), in the county of Steuben and State of New York, in place of Willard F. Sherwood, to change name of office.

OHIO.

Samuel H. Bolton to be postmaster at McComb, in the county of Hancock and State of Ohio, in place of Reuben A. Roether. Incumbent's commission expired March 13, 1906.

John H. Oakley to be postmaster at Ravenna, in the county of Portage and State of Ohio, in place of John H. Oakley. Incumbent's commission expired April 18, 1906.

Manning M. Rose to be postmaster at Marietta, in the county of Washington and State of Ohio, in place of Manning M. Rose. Incumbent's commission expires May 7, 1906.

Seth M. Snyder to be postmaster at Coshocton, in the county of Coshocton and State of Ohio, in place of Clifford B. McCoy. Incumbent's commission expires June 9, 1906.

E. R. Titus to be postmaster at Middleport, in the county of Meigs and State of Ohio, in place of Lewis O. Cooper. Incumbent's commission expires June 9, 1906.

PENNSYLVANIA.

Silas C. Daugherty to be postmaster at Jeannette, in the county of Westmoreland and State of Pennsylvania, in place of Silas C. Daugherty. Incumbent's commission expired March 21, 1906.

Charles A. Dunlap to be postmaster at Manheim, in the county of Lancaster and State of Pennsylvania, in place of Charles A. Dunlap. Incumbent's commission expires May 29, 1906.

Richard M. Hunt to be postmaster at Houtzdale, in the county of Clearfield and State of Pennsylvania, in place of Richard M. Hunt. Incumbent's commission expires June 30, 1906.

Rudolph Neiman to be postmaster at Red Lion, in the county of York and State of Pennsylvania, in place of Rudolph Neiman. Incumbent's commission expired April 10, 1906.

John Scher, jr., to be postmaster at Dushore, in the county of Sullivan and State of Pennsylvania, in place of John Scher, jr. Incumbent's commission expires June 30, 1906.

Sydney S. Smith to be postmaster at Punxsutawney, in the county of Jefferson and State of Pennsylvania, in place of David M. McQuown. Incumbent's commission expired April 10, 1906.

TEXAS.

John A. Gray to be postmaster at Laredo, in the county of Webb and State of Texas, in place of Frank H. Pierce, deceased.

VERMONT.

Charles A. Parker to be postmaster at West Rutland, in the county of Rutland and State of Vermont, in place of Charles A. Parker. Incumbent's commission expires June 30, 1906.

WEST VIRGINIA.

Mathew A. Jackson to be postmaster at Lewisburg, in the county of Greenbrier and State of West Virginia, in place of Mathew A. Jackson. Incumbent's commission expired March 15, 1906.

Horatio S. Whetsell to be postmaster at Kingwood, in the county of Preston and State of West Virginia, in place of Horatio S. Whetsell. Incumbent's commission expired April 11, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 1, 1906.

COLLECTORS OF CUSTOMS.

John Peterson, of Minnesota, to be collector of customs for the district of Minnesota, in the State of Minnesota.

Charles T. Stanton, of Connecticut, to be collector of customs for the district of Stonington, in the State of Connecticut.

POSTMASTERS.

GEORGIA.

Frederich D. Dismuke, jr., to be postmaster at Thomasville, in the county of Thomas and State of Georgia.

WYOMING.

Ida A. Hewes to be postmaster at Casper, in the county of Natrona and State of Wyoming.

Harvey Springer to be postmaster at Cambria, in the county of Weston and State of Wyoming.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 1, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Indian appropriation bill, to nonconcur in the Senate amendments and ask for a conference.

The SPEAKER. The gentleman from New York asks unanimous consent to take from the Speaker's table the Indian appropriation bill, to nonconcur in the Senate amendments, and ask for a conference.

Mr. WILLIAMS. Mr. Speaker, I object.

Mr. SHERMAN. Will the gentleman reserve his objection for a moment to hear an explanation of the matter?

Mr. WILLIAMS. It is hardly worth while to reserve it, but I will do it if the gentleman wishes to make a statement.

Mr. SHERMAN. I desire to inform the gentleman that I have consulted with the gentleman from Texas, the ranking minority member of the committee, and the course suggested is entirely agreeable to him. There are between two and three hundred amendments to the bill, and in the neighborhood of $3,000,000 is added, so that the gentleman from Mississippi sees that it will take some considerable time in conference, and the sooner we get it there the better.

Mr. WILLIAMS. I understand.

Mr. SHERMAN. And I see no good could be gained by going into committee——

Mr. WILLIAMS. Mr. Speaker, still reserving the objection, I will state to the gentleman from New York that I saw in the Washington Post the other day where a girl out in Arizona had been asleep for seven weeks and waked up, but when she found that the sleeping statehood bill in the conference committee beat her record she went back to sleep again. I shall object, Mr. Speaker.

The SPEAKER. The gentleman from Mississippi objects.

CHANGE OF REFERENCE.

Mr. GROSVENOR. Mr. Speaker, I ask unanimous consent to change the reference of Senate bill 5572 from the Committee on Interstate and Foreign Commerce to the Committee on Merchant Marine and Fisheries. I have consulted with the chairman of that committee, and he makes no objection to the change.

The SPEAKER. It is in order to move, if the gentleman so desires.

Mr. GROSVENOR. If the gentleman from Mississippi objects, I shall simply do so.

Mr. WILLIAMS. The gentleman from Ohio had better move to save trouble.

Mr. GROSVENOR. Mr. Speaker, I move to change the reference of Senate bill 5572 from the Committee on Interstate and Foreign Commerce to the Committee on Merchant Marine and Fisheries.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

S. 5572. An act to amend section 4348 of the Revised Statutes establishing great coasting districts of the United States.

The SPEAKER. The gentleman from Ohio moves that the reference to this bill be changed from the Committee on Interstate and Foreign Commerce to the Committee on Merchant Marine and Fisheries.

The question was taken; and the motion was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. WADSWORTH. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18537—the agricultural appropriation bill.

QUESTION OF PERSONAL PRIVILEGE.

Mr. GAINES of Tennessee. Mr. Speaker, a question of personal privilege.

The SPEAKER. The gentleman from New York [Mr. WADSWORTH] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill. Is there objection?

Mr. GAINES of Tennessee. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. GAINES of Tennessee. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. GAINES of Tennessee. There appears in this morning's Washington Post a report, purporting to be of yesterday's proceedings of the House, calculated to reflect upon me as a Member of this House and upon my standing as a Member of this House and upon the confidence that, as a Member of this House, the House should have in me, and which I am entitled to have. I beg the pardon of the House for taking up its time, but I feel somewhat grieved and aggrieved about it, and beg the indulgence of this honorable body.

Mr. DALZELL. Mr. Speaker, I think the House ought to have the article in advance of stating any question of personal privilege.

Mr. GAINES of Tennessee. I am just fixing to read it.

Mr. LIVINGSTON. Send it to the desk.

Mr. GAINES of Tennessee. It says, Mr. Speaker:

Mr. GAINES of Tennessee endeavored to be heard above the noise and confusion, Mr. WADSWORTH objecting to any further discussion of seeds under the paragraph relating to "animal industry." This angered the Tennesseean, and as he sat down, by command of the Chair, he managed to say that the bill was loaded with all kinds of appropriations to take care of and suppress the "mouth and foot disease, hollow horn, and hollow tail," but took away from the farmer the few seeds that he every year looked forward to receiving.

This new outburst of eloquence on the part of Mr. GAINES threw the House into convulsive laughter. When the Members had partially recovered their composure Mr. GAINES rushed down the aisle, carrying a mass of manuscript in both hands, holding it aloft, shouting that he had hundreds of letters from farmers favoring free seeds.

As Chairman WADSWORTH reached out his hand for them, Mr. GAINES laid them on a desk and began pulling from the bunch various documents. It developed that among these "hundreds" of letters there were an unusually large proportion of bills of various sorts and other "pub. docs." that had no relevancy to the seed question.

Now, Mr. Speaker——

Mr. DALZELL. Mr. Speaker, I suggest that no question of personal privilege has been suggested.

Mr. GAINES of Tennessee. Will the gentleman wait until I get through, which will be in just a moment?

Mr. DALZELL. That article, I understand, is the basis of your——

Mr. GAINES of Tennessee. Suppose now that I say to the gentleman that I had a handful of letters from my constitutents, and it proved to be a handful of documents, would he not think I was imposing upon him and the House—flat-footedly deceiving him?

Mr. DALZELL. Not at all.

Mr. GAINES of Tennessee. Of course he would.

Now, Mr. Speaker, to show that I did have the letters—

The SPEAKER. The gentleman will suspend.

Mr. GAINES of Tennessee. I say that it affects my official standing in this House——

Mr. DALZELL. Mr. Speaker, my point of order is that no question of personal privilege has been presented.

The SPEAKER. The Chair reads from the Manual:

A newspaper article in the nature of criticism of a Member's acts in the House does not present a question of personal privilege.

The Chair has listened to the reading of the article which the gentleman furnished him. In the opinion of the Chair it does not present a question of personal privilege.

Mr. GAINES of Tennessee. Mr. Speaker, I ask unanimous consent for five minutes in which to explain the matter.

The SPEAKER. The gentleman from Tennessee asks for five minutes to address the House in the nature of a personal explanation. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. I thank the House for this courtesy. Mr. Speaker, I sent out early in the year all or about all the seeds that the Department said were to my credit. After I had done this I received a great number of letters many of which I have here, and had with me in my hands in the House yesterday, which many of you saw, from people in and out of my district, asking me to send them seeds. I have now a large bunch of these letters in one hand, which you see, and many more are here on my desk in large envelopes, compressed by rubbers, so that I could bring them up to the House again for the purpose of convincing the Members that the great masses, the plain people at least, not only want these seed, but have written to me for them. These same letters I had in my hand yesterday in the House when I requested the gentleman from Connecticut to permit me to read a paragraph from one of them, to prove to him that the people do appreciate these seed.

I was not addressing the gentleman from New York [Mr. WADSWORTH] as the Post claims when I held up these letters. The RECORD shows, as the fact was, I was addressing the gentleman from Connecticut [Mr. LILLEY]. I was standing very near him, near the middle aisle, some distance from where I now stand, when I asked the gentleman from Connecticut to permit me to read from one of these letters, I grabbed up in each hand, from the desk in front of me, a number of these letters and held them in my hand, showing to him and my brother Members that I had received these letters and actually had them with me to demonstrate that the people not only wanted these seed, but had actually written to me for them, as some of the Members say they have no requests for seeds. When the gentleman from Connecticut declined to yield further, the gentleman from New York [Mr. WADSWORTH], came over to where I was standing, and to guy me, as the RECORD shows, he said:

You have a CONGRESSIONAL RECORD and a copy of the Agricultural Report in your hands.

I was not aware that I had anything but these letters in my hands. I laid down the letters and examined them and found that underneath the letters in my hand was a CONGRESSIONAL RECORD, which I had accidentally picked up from the desk with the letters as I reached down with both hands to the desk in front of me where the letters were lying. In this way I had picked up the CONGRESSIONAL RECORD on which a bunch of my letters were lying. I had not picked up "an unusually large proportion of bills of various sort and other public documents that had no relevancy to the seed question," as the Post states. I had only those letters and this RECORD in my hand, which I had accidentally picked up, as just stated. I asked the gentleman from New York [Mr. WADSWORTH] to come and examine the letters, which he did not do. Others around me looked at them. I was acting in the utmost good faith, kept nothing concealed of which I had any knowledge, and everyone laughed—so did I—at the discovery the gentleman from New York made in finding the RECORD, as I have stated. But the manner in which the Post has reported this matter, however unintentionally it might have been done, does me great injustice, and hence I make this statement and shall now proceed to read some of these letters, to show that my constituents and others appreciate these seeds and actually wrote to me for them. I will read the first one lying before me, and as I come to them:

NASHVILLE, TENN., *March 8, 1906.*

Hon. J. W. GAINES, M. C.,
Washington, D. C.

DEAR SIR: Your kindness in sending me seed in years past prompts me again to ask you to remember me again this year, and have me placed on list for a few seed. Remember me as your supporter and admirer. Wishing you continued success in your high and honorable position.

Respectfully, yours,
L. X. NANCE,
Chief Operator, N. C. & St. L.

See list attached giving names of friends that you so kindly remembered last year:

Mrs. A. J. Nance, Sixth avenue, Nashville, Tenn.
Mrs. L. M. Nance, Lavergne, Tenn.
Mrs. W. P. Davis, Beckwith, Tenn.
Mrs. E. M. Davis, Beckwith, Tenn.
Mrs. M. D. Nance, Beckwith, Tenn.

Here is a letter, Mr. Speaker, from the United Charities of Nashville, dated January 12, from Miss Fanny Battle, a good woman, the daughter of General Battle, who helped to teach me my alphabet:

THE UNITED CHARITIES,
Nashville, Tenn., January 8, 1906.

Hon. JOHN W. GAINES,
Washington, D. C.

DEAR WESLEY: We were made very happy by your communication regarding the seeds for the very poor. In their name we most cordially thank you.

I am very proud of you as my friend and my neighbor boy and my schoolboy. Many prosperous years to you.

Your friend,
FANNY BATTLE, *Secretary.*

Here is another letter in which she writes:

THE UNITED CHARITIES,
Nashville, Tenn., January 12, 1906.

Hon. J. W. GAINES,
Washington, D. C.

DEAR WESLEY: The seeds have arrived, and there is many a family in the factory districts here that will have cause to call you blessed. We, too, are very thankful that you have remembered them.

Yours, sincerely,
FANNY BATTLE, *Secretary.*

I wrote her to give them to the very poor, and she did it. "In their name we most cordially thank you," she says; and then she speaks kindly of me. I will not read that.

I read a letter, Mr. Speaker, from Miss Mary McNellis, of Nashville, asking me to send some flower seed for the benefit of the Old Woman's Home. I sent her letter to Secretary Wilson, and here is his reply:

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., March 26, 1906.

Hon. J. W. GAINES,
House of Representatives.

SIR: As requested in your favor of the 23d instant, I have taken pleasure in directing that you be credited with ten additional packages of flower seed, which will be sent to Miss Mary McNellis, 315 Ninth avenue north, Nashville, Tenn., at an early date.

Very respectfully,
B. T. GALLOWAY, *Chief of Bureau.*

Here is another from Miss Mary Woods, of Nashville, asking to send them some seeds:

NASHVILLE, TENN., *January 20, 1906.*

Hon. JOHN W. GAINES.

DEAR SIR: On behalf of the Centennial Club I wish to thank you for the seeds and plants which came to us from the Agricultural Department as a response to your kind request. From your first letter in reply to one of mine you said you feared you could not get any more as we were late with our request, and when the plants came we were not only gratified but surprised.

We wish also to thank you for what you say in regard to Niagara. The whole nation would be grieved and mortified should such a magnificent spectacle be destroyed.

Very truly,
MARY WOODS, *Secretary.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., January 16, 1906.

Hon. J. W. GAINES,
House of Representatives.

SIR: I beg to acknowledge the receipt of your favor of the 12th instant, transmitting a letter from Miss Mary Woods, secretary of the Centennial Club, Nashville, Tenn., who asks for seeds, plants, etc., to beautify the children's gardens at Nashville. I have taken pleasure in directing that a collection of shrubs and also a supply of flower seed be forwarded to Miss Woods and trust the same will prove of service.

Very respectfully,

B. T. GALLOWAY,
Chief of Bureau.

Here is a leter from Rev. William M. Green, a preacher in the city of Nashville, asking me to send him some seed:

NASHVILLE, TENN., *February 20, 1906.*

Hon. JOHN WESLEY GAINES.

MY DEAR SIR: My little granddaughter asked: "Is Mr. GAINES still in Washington?" "Yes," I answered, "and working like a beaver." "Well, then," said she, "write to him that if he has any seeds left I would like to have some, and will be much obliged." So there you have it.

Would it not satisfy China if our Government should agree to permit 500 laborers to come over annually, and that we will not permit more than 500 of our laborers to go over there to settle permanently? Hope you are well and happy.

Yours, indeed,

WM. M. GREEN,
901 Villa Place.

Here is one from Hackberry, Tenn.; a good name, Mr. Speaker, showing that these seeds go where the hackberry bushes are, and where some of the yeomanry and good citizens of my State are. [Great laughter and applause.]

HACKBERRY, TENN., *February 25, 1906.*

JOHN W. GAINES,
United States Department of Agriculture.

SIR: We planted some of your seeds last year; it was the finest we ever had. We intend to plant some of them this year. You said please report the result of our trial to this Department.

Miss HULDAH LYLE.
Hackberry, Tenn.

I will read two from Mr. Parks, who has ridden all over the tobacco section of Tennessee and Kentucky fighting the tobacco trust:

PORT ROYAL, TENN., *March 14, 1906.*

Hon. JOHN W. GAINES.

MY DEAR SIR AND FRIEND: For a long time I have been looking for the garden seed to come to hand. They fail to come to hand. I am very much disappointed. Many of my lady friends are expecting them, and are after me almost daily about them, and that is why it bothers me for them not to come.

I have been over the country so much lately, and could have handed them out to my friends, and especially to those who are the least able to buy.

I inclose you a list of bulletins. Kindly have them sent to George D. Corbin, Greenbrier, R. F. D. 2, Robertson County. I want him to have a bulletin on grafting and budding. I want him to have all you can give him about the orchard. Kindly send Year Book. Will appreciate it if you will also send some bulletins to J. D. Sherer, Greenbrier, R. F. D. No. 2. Both are my friends, and will appreciate what you can do for them. They are anxious to learn all about the orchard.

I spent the night with Mr. Corbin last week. Mrs. Corbin fed me on canned Indian peaches, and I never ate better, and I want to do all in my power to help them.

I have lots of friends who have fed me through our great tobacco fight, and that is one of the main reasons I am so anxious about getting a big lot of seed of all kinds for them.

Your friend,

JNO. D. PARKS.

PORT ROYAL, TENN., *April 16, 1906.*

Hon. JOHN W. GAINES.

MY DEAR SIR: Your valued favor of March 22 received, in which you quoted letter from the seed department, saying they were rushed and would send out seed in a week or ten days. They did not reach me until 10th of April, and they were appreciated by those who I gave them. I did not have half to give near all those who had been feeding me and my faithful little horse through our great tobacco fight so long. And now I am bothered no little for those who have been so faithful to me to be expecting something from me they need, and not be able to furnish them.

When I noticed 38,000,000 packages of seed would be subject to the order of Representatives for distribution, to begin in December, 1905, I felt encouraged to feel like I would make lots of my good lady friends feel like I was trying to help them, and especially show in efforts and actions I had appreciated what they had done for me. It just looks sometimes like I have made the greatest failure of any man. It just begins to look like it is no use to make any great effort beyond what I can do with my own hands, and you know it is a slow go to get things down to such a point as that. I will try and work and hope for better conditions in the near future.

I am, your friend,

JNO. D. PARKS.

Here is one from Antioch, near my old home:

ANTIOCH, TENN., *March 1, 1906.*

Mr. GAINES.

DEAR FRIEND: I got your free seed last year, and they did mighty well, and I thank you for them, and if you have any beet seed to give away I would be thankful if you would send me a paper of the blood turnip-beet seed. I haven't got any and can't get them; and if you have them, send a paper of four-o'clock seed. I am a poor old woman, and have one arm broken, and can't work to buy any seed. Send me the seed, if you please, and oblige a friend. If you send the seed, direct this way: Mrs. W. F. Jones, Antioch, Tenn., R. F. D. No. 16, and oblige a friend, Mrs. W. F. Jones, and if you have them to give away, please send them as soon as you can.

Note, gentlemen, that she says she is a widow and without money. "I am a poor old woman and have one arm broke and can't work to buy any seed." [Applause.] I didn't have any to send, gentlemen, but I asked Secretary Wilson to send them and wrote her the following letter:

MARCH 10, 1906.

Mrs. W. F. JONES,
R. F. D. No. 16, Antioch, Tenn.

DEAR MADAM: your letter of recent date to hand, and I regret to say that I am entirely out of both garden and flower seed. I have, however, written to the Department of Agriculture requesting them, if possible, to send you some seed, which I sincerely trust they can do.

Am sorry that your letter did not reach me before all of mine were mailed out.

With best wishes, I am, yours, very respectfully,

_____.

Here is another one from H. C. Singleton, of Nashville:

NASHVILLE, TENN., *January 27, 1906.*

Hon. J. W. GAINES, M. C., *Washington, D. C.*

DEAR SIR: As one of your constituents, I beg the privilege of requesting you to add my name to the list of those to whom you may send farm and garden seeds, especially the latter; also flower seeds, plants, etc. I would appreciate anything in this line you may be able to send me from time to time. With highest regards, I am,

Very respectfully, yours,

H. C. SINGLETON,
No. 955 Woodland street, Nashville, Tenn.

Here is one from one of the editors of the Nashville American, which the correspondent of that paper asked me to send him:

THE NASHVILLE AMERICAN,
Nashville, Tenn., January 5, 1906.

Hon. JOHN W. GAINES,
Washington.

DEAR MR. GAINES: Many, many thanks in behalf of myself and Mrs. Ewing for the seeds.

I trust you will have a happy and prosperous year, and that you may not overwork yourself.

Very sincerely,

WM. J. EWING.

Here is one from W. A. Sears, of the Nashville Banner:

THE NASHVILLE BANNER,
Nashville, Tenn., January 22, 1906.

Hon. JOHN W. GAINES,
Washington, D. C.

DEAR SIR: Will you kindly remember "the pauper" this year with a package of vegetable and flower seeds?

Very truly, yours,

W. A. SEARS,
Nashville Banner, Nashville, Tenn.

Here is one from Mrs. Eli Morris, a widow [applause]—the widow of one of my best friends, now dead and in heaven:

NASHVILLE, TENN., *March 29, 1906.*

MY DEAR MR. GAINES: Since writing my mother, Mrs. Elkin, so beautifully about "our" Eli, she wants me to ask you again to send her flower and garden seeds. Hoping you can do this without any inconvenience, and that you are well and happy, I am,

Sincerely,

Mrs. ELI MORRIS.

Miss Sue Ella Brown, Clarksville, Tenn., says:

Please send me a collection of seed. I have tried seed from the Department and they are very fine.

Mrs. J. W. Hagerwood, Sobel, Tenn., says:

The flower seed and other seeds you sent me last year proved very satisfactory. You asked me to let you know how I liked them. They all did just as nice as they could, garden seed and all. Please pardon me for not replying sooner, and please send me some more seed.

Prof. John S. Daniel, Vanderbilt University, Nashville, Tenn., writes:

I shall thank you very much if you will have the Agricultural Department send me some nitro culture for alfalfa. I should like to get a small culture to test right away, and also a large culture to use on several bushels of seeds to plant 15 acres in March.

Mrs. Annie Castleman, Pollman avenue, Nashville, Tenn., says:

I thank you most heartily for those seed you sent me last year. They thrived and did fine.

She asks for more and some for her neighbors.

Mr. Henry F. Beaumont, Nashville, Tenn., asked me for some seed for his wife, and adds this:

Mrs. Beaumont wishes to have a good garden this year and she thinks Government seeds are the only kind that will produce the results she desires.

I have a great number of letters here asking for tobacco seed. I have another here from Mr. M. F. Bailey, Dover, Tenn.—Stewart County—who asked me for some rape seed. I sent the letter to the Department. He wanted 10 pounds for experimental purposes. I have here copies of my letter to Mr. Bailey and one to Secretary Wilson, asking that the seed be sent.

I haven't the time, Mr. Speaker, to read more of these letters. Here are a great number of them on my desk. Anyone may read them who desires. I had them with me yesterday; they are the same letters that I held in my hand when, by the accident, as stated, I picked up the RECORD with them.

You can see from this, gentlemen, the great injustice that this publication does me, and how it would tend, unexplained, to mislead the readers of the Post. I have nothing more to say,

for the present, although I would like to read all these letters. [Loud applause.]

And now, by way of extension of my remarks, through the courtesy of the House, I will print a few of these letters:

CLARKSVILLE, TENN., *February 21, 1906.*

Hon. J. W. GAINES, M. C.,
Washington, D. C.

DEAR SIR: I want you to procure for me from the seed or Agricultural Department some tobacco seed of the Cuban or Brazilian type. I do not know the name of variety, but what I want is the largest leafiest variety of a tobacco that has that peculiar Havana flavor. Please guess at balance, and send me enough seed to sow 100 square yards.

Respectfully, ED. G. DUNLAVY.

SPRINGFIELD, ROBERTSON COUNTY, TENN.

Hon. J. W. GAINES: Please send me some one sucker tobacco seed, and some good type of some other kind.

Your friend, A. G. WILLIAMS, *Farmer.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C. February 13, 1906.

Hon. JOHN W. GAINES,
House of Representatives, Washington, D. C.

SIR: We have your favor of the 2d instant, inclosing a letter from Mr. A. G. Williams, R. F. D. 4, Springfield, Tenn., requesting some one-sucker tobacco seed.

We regret to say that we have no seed of this variety on hand for distribution, but have forwarded to Mr. Williams samples of some other varieties which we think well adapted to his locality.

Very respectfully,

B. T. GALLOWAY,
Chief of Bureau.

OFFICE OF J. S. DOWLEN & SON,
Springfield, Tenn., January 20, 1906.

Hon. JOHN W. GAINES.

MY DEAR SIR: Your letter of some time since to hand; it got mislaid among some papers, hence I have not written you. If you have made no arrangements about the seed for our neighborhood, the post-office having been absorbed by rural deliveries, will make you this proposition: You send the seed to J. S. Dowlen & Son, and I will see that they are distributed among the different families. If you send any, send enough for 300 families, that none may be neglected.

Yours, very respectfully,

J. S. DOWLEN & SON,
By TONY DOWLEN.

Mr. J. W. GAINES: Please send garden seeds to the following names: A. B. Carpenter, F. A. Carpenter, Beverley Carpenter, Mollie Carpenter, P. G. Carpenter, M. J. Carpenter, Aubrey Mackey, Ella Mackey, Guthrie, Todd County, Ky., Route 5; Mrs. Florence M. Harris, R. W. Harris, Anderson Harris, Fred Harris, Frankie Harris, Trenton, Todd County, Ky., Route 3.

Hon. J. W. GAINES, M. C.

DEAR SIR: Please send me some garden seeds, and oblige,

Yours, faithfully,

WILTON SAWYER,
West Nashville, Tenn.

JANUARY 17, 1906.

Mr. WILTON SAWYER,
R. F. D. No. 5, West Nashville, Tenn.

DEAR SIR: Your letter of recent date just received, and I have requested the Department of Agriculture to send you the garden seed asked for.

Yours, very truly, ———— ————.

JANUARY 17, 1906.

Mr. B. T. GALLOWAY,
Chief of Bureau, Washington, D. C.

SIR: Please send one package of garden seed to Wilton Sawyer, R. F. D. No. 5, West Nashville, Tenn., box 70, using my franked slip herewith inclosed.

Yours, very respectfully, ———— ————.

JANUARY 12, 1906.

The honorable SECRETARY OF AGRICULTURE,
Washington, D. C.

SIR: Mr. Clay Burnell, Guthrie, Ky., wants some Alfaso de Cuba tobacco seed. Will you please send them to him, if in your power, using the inclosed franked slip.

I inclose you his letter of request, and ask you to return same.

Yours, very respectfully, ———— ————.

INDIAN MOUND, TENN., *March 8, 1906.*

Hon. JOHN W. GAINES, M. C.,
Washington, D. C.

DEAR SIR: Please forward one package of garden seed, and oblige,

Yours, truly,

W. A. HALL.

CANEYSPRING, TENN., *February 16.*

Mr. JOHN GAINES.

DEAR SIR: I saw in the Weekly American your announcement about distribution of tobacco seed. I desire to plant some tobacco this year, and, if you please, send me a package just as soon as you can, for I am in a hurry to plant.

Sincerely, yours, L. D. POWELL.

GUTHRIE, KY., *January 9, 1906.*

Hon. JOHN WESLEY GAINES.

DEAR SIR: I want to ask a favor of you. I wish you would send me some Alfaro de Cuba tobacco seed. I want them to raise some smoking tobacco. Will give you some when you are at some of our tobacco meetings next fall, such as we had at Guthrie and Trenton, Ky.; so will close, wishing you success with your tobacco bill.

Very respectfully,

CLAY BAUME.

OFFICE OF DIEHL & LORD,
Nashville, Tenn., January 4, 1906.

DEAR SIR AND FRIEND: I would be pleased if you send William Kirkpatrick, 48 Green street; John Prinz, 67 Maury street, and Lorain McDanil, care of Diehl & Lord, some seeds; Joseph Kight, care of Diehl & Lord, some seeds. They will surely appreciate same. I wish you all the good luck you might wish yourself in the new year.

Yours, ADAM DIEHL.

DEEP SPRING, TENN., *March 6, 1906.*

JOHN WESLEY GAINES.

KIND SIR: Please send us some garden seed, and oblige Joe Griffin, Annie Griffin, W. R. Harper, M. G. Harper, all of Deep Spring, Cheatham County, Tenn.

Yours, truly, JOE GRIFFIN.

JANUARY 20, 1906.

Mr. B. T. GALLOWAY,
Chief of Bureau, Washington, D. C.

DEAR SIR: Please send one package garden seed to James B. Williams, Goodlettsville, Tenn.

I inclose you franked slip for same.

Yours, very respectfully, JNO. W. GAINES.

MARROWBONE, TENN., *April 23, 1906.*

Hon. J. W. GAINES.

MY DEAR SIR: I would appreciate some of your latest watermelon and muskmelon seeds if you will send them to me.

Yours, respectfully, J. W. OWEN.

FEBRUARY 7, 1906.

DEAR SIR: Will you please procure me a few tobacco seed from the Agricultural Department of the United States? Will thank you in advance for your trouble.

Respectfully, JAS. M. GUNN,
Normandy, Tenn.

DEAR SIR: Please send me some garden seeds, and oblige,

Yours, truly,

H. H. HOGAN,
Lebanon, Tenn.

NASHVILLE, TENN., *January 19, 1906.*

JOHN W. GAINES.

DEAR SIR: Please send me some of those flower and vegetable seeds. Thanking you very much for same, I am,

Respectfully, yours, Mrs. BARBARA MCGARIGLE.

P. S.—Please send beans and sweet-corn seed, if you have them.

Oblige, B. M.

Mr. J. W. GAINES: Please send us some garden seeds to names as follows: Mrs. E. Markey, Aubrey Markey, Mollie Carpenter, Sidney Douglas, Alf Douglas, Henry Douglas, Parthena Douglas, Welton Douglas, Guthrie, Todd County, Ky., route 5, in care of Carpenter.

DOTSONVILLE, *February 5, 1906.*

Hon. J. W. GAINES.

DEAR SIR: I am desirous of finding out the cause of your quitting me and sending seeds for distribution to Sam O'Neal. Have I ever turned my back on your enemies? Have I done anything to cause this? Please answer and oblige.

Yours, respectfully, FRANK BATTLE.

NOLENSVILLE, TENN., *January 21, 1906.*

Hon. J. W. GAINES.

DEAR SIR: Please send me a variety of garden and vegetable seed (flower seed) and greatly oblige

Your friend, MRS. L. H. BATTLE.

APRIL 12, 1906.

MR. J. W. GAINES: Please send some garden seeds to the following names: A. B. Carpenter, P. G. Carpenter, Frank A. Carpenter, Aubrey Mackey, Ella Mackey, M. J. Carpenter, Guthrie, Todd County, Ky., Route 5.

Mrs. Florence Harris, Robert Harris, Frankie Harris, Anderson Harris, Mrs. Bettie Harris, Alex. Harris, Trenton, Todd County, Ky., Route 3.

P. S.—Please send me some flower seeds.

MOLLIE CARPENTER,
Guthrie, Todd County, Ky.

ANTIOCH, TENN., *January 31, 1906.*

Hon. JOHN W. GAINES, M. C.

DEAR FRIEND: Several of your friends and mine asked me to write to you and ask you if you please, sir, to send them some garden seed, as all are farmers. Their names are as follows: Ed. Hartman, F. W. Morgan, S. H. Morgan, D. Morgan, J. H. Morgan, T. L. Morgan, W. E Morgan, W. L. Morgan, and Thos. S. Thomas. Do this and oblige your friends. Please direct the seed all to me for distribution. Now, hoping that you are well and still after the rascals.

I am still your friend and wellwisher.

T. D. MORGAN.

FLAT ROCK, TENN., *March 29, 1906.*

JNO. W. GAINES.

DEAR FRIEND: About January 2 I sent you a list of about fifty names for you to send seed to, and I have not heard from you since that time. I shall be glad to hear from you and to know if you got the list of names. I hope you are well.

With best wishes and regards, I am,

Yours, truly, CALEB HILL.

NASHVILLE, TENN., *April 4, 1906.*

Senator GAINES.

DEAR SIR: Please send me the following flower seeds: Sweet peas, peonies, carnations, lilies of the valley, violets, buttercups, and chrysanthemums.

Yours, truly, Miss C. E. HODGKINS.

NASHVILLE, TENN., *January 28, 1906.*

Hon. J. W. GAINES.

DEAR SIR: Please send me an assortment of garden and flower seed, and oblige,

Your friend, A. M. WATSON.

NASHVILLE, TENN., *February 27, 1906.*

Hon. J. WESLEY GAINES,
Washington, D. C.

DEAR SIR: Some time ago you told me to write you a card to remind you to send me some garden and flower seed. I would appreciate your trouble if you would forward them to me at once.

Your friend,

Mrs. JESSIE PHILLIPS SCIRALLY.

BRENTWOOD, TENN., *February 22, 1906.*

Mr. J. W. GAINES.

MY DEAR SIR: Will you please remember me when you send out your annual garden seeds.

Yours, very truly, BUIST RAINS.

NASHVILLE, TENN., *March 19, 1906.*

J. W. GAINES, Esq.

DEAR SIR: I would be pleased to have you send me some flower seeds, as I have no room for garden seeds, and kindly oblige,

Yours, truly,

ALBERT J. BROOKER, Jr.

WHITE HOUSE, *January 24, 1906.*

Hon. JOHN W. GAINES.

DEAR SIR: As some of your constituents and warm supporters, we would be pleased to share in your allotment of garden seeds, and oblige,

Yours, respectfully,

T. B. WEBB.
J. A. COLLIS.
A. B. BRINKLEY.

JANUARY 20, 1906.

Hon. J. W. GAINES: Please send garden and flower seeds to Miss Kate Jones, Goodlettsville, Tenn.

Mrs. R. T. PERRY,
Saundersville, Tenn.

JANUARY 25, 1906.

Mr. B. T. GALLOWAY,
Chief of Bureau, Washington, D. C.

DEAR SIR: Inclosed I hand you a letter just received—Mr. John C. Vertrees, R. R. No. 21, Goodlettsville, Tenn., requesting me to send him some garden seed.

Please read over his letter and send him the seed called for.

Inclosed franked slips for the same.

Yours, very respectfully, ——— ———.

NASHVILLE, TENN., *March 8, 1906.*

Hon. J. W. GAINES, *Washington, D. C.*

DEAR SIR: Will you kindly favor me with some flower seed? If so, in the future if I can be of service to you in any way, I will gladly return the compliment.

Yours, truly, LYTTON ALLEY.

Hon. J. W. GAINES: Please send me some of your free sample flower seeds, and oblige.

Mrs. M. HILLIARD.

NASHVILLE, TENN., *December 15, 1905.*

Hon. J. W. GAINES.

DEAR SIR: I would like for you to send me some garden seed, as I want to try and see what I can do in that line this coming spring. I would like as many kinds as you can send, as I have a large garden spot.

Mrs. J. W. HARTLEY.

PORTLAND, TENN., *March 1, 1906.*

Mr. GAINES, *Washington, D. C.*

DEAR SIR: Some time ago I wrote and asked you to send me some tobacco seed, and I received your letter of February 15 to the effect that you had requested the Department of Agriculture to send me the same, but I have not received it yet. Will you please see to it and oblige,

Yours, respectfully, W. J. LEHMANN.

FEBRUARY 15, 1906.

Hon. JOHN W. GAINES.

SIR: Will you kindly send me a pack of your tobacco seed, and oblige

BILL JACKSON,
Cayce, Stewart County, Tenn.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., February 17, 1906.

Hon. JOHN W. GAINES,
House of Representatives, Washington, D. C.

SIR: I beg to acknowledge receipt of your favor of recent date, inclosing a letter from Mrs. William A. Buntin, 114 North Spruce street, Nashville, Tenn., giving a list of names of tobacco growers who are desirous of obtaining seed suitable to the dark-tobacco district of Robertson County. We also note that you inclose franks addressed to the parties in this list, and we take pleasure in forwarding a supply of seed under same.

Very respectfully, B. T. GALLOWAY,
Chief of Bureau.

NASHVILLE, TENN., *January 19, 1906.*

Hon. J. WESLEY GAINES.

DEAR FRIEND: A number of your constituents have asked me to write to you and ask you to send them some garden seed. We will plant the seed, and hope to let you reap the fruit thereof.

John T. Ahearn, T. H. Morton, T. D. Morton, Henry Kline, A. A. Doak, waterworks department, and John Keegan, 1305 Grundy street, Nashville, Tenn.

Assuring you that we are, as ever, yours, truly,

ARCH DOAK.

JANUARY 26, 1906.

Hon. JAMES WILSON,
Secretary of Agriculture, Washington, D. C.

DEAR MR. WILSON: I inclose you a letter of special importance, addressed to my former secretary, General McCord. It is from our personal friend Miss Nellie Coode, 1310 North High street, Nashville, Tenn.

As other good women of Nashville are doing in the aristocratic portion, you might say, Miss Coode is trying to beautify the yards among the common people of North Nashville, which work is a very beautiful charity.

Can you not, my faithful friend, send her some seed for this purpose? I trust you can.

Yours, very truly, ——— ———.

WEST NASHVILLE, TENN., *April 9, 1906.*

Hon. J. W. GAINES,
Washington, D. C.:

Please send me some flower seeds.

Yours, truly, BESSIE TRENT.

NASHVILLE, TENN., *March 18, 1906.*

Hon. JOHN WESLEY GAINES, *Washington, D. C.*

DEAR SIR: Kindly send me some garden seed. I want these for Crocker Springs.

Yours, truly, W. P. READY.

JANUARY 12, 1906.

Hon. SECRETARY OF AGRICULTURE.
Washington, D. C.

SIR: Inclosed I hand you letter received to-day from G. N. Allen, Nashville, Tenn.

I wrote him that my supply of flower seed was exhausted, but that you would mail him two packages of garden seed. I inclose you franked slips for same.

Yours, respectfully, ——— ———.

JANUARY 31, 1906.

Mr. B. T. GALLOWAY,
Chief of Bureau, Washington, D. C.

DEAR SIR: Inclosed I hand you a letter from John E. Fisher, requesting me to send him some flower seed. You will see from his letter that his preference is for sweet peas.

Would appreciate it very much if you will send these, using the inclosed franked slips.

Yours, very respectfully, ——— ———.

NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY,
OFFICE OF CLAIM AGENT,
Nashville, Tenn., January 20, 1906.

Hon. J. W. GAINES,
Washington, D. C.

DEAR SIR: If the supply is not exhausted I will appreciate a few seed for a suburban garden. Thanking you, I am,

Yours, truly, R. M. BARNES.

NASHVILLE, TENN., *January 22, 1906.*

Hon. JOHN WESLEY GAINES, M. C.,
Washington, D. C.

DEAR SIR: Will you kindly put my name on your mailing list for Government seed and oblige.

Very respectfully, THOMAS L. BILES.

JANUARY 12, 1906.

The honorable SECRETARY OF AGRICULTURE,
Washington, D. C.

SIR: Inclosed please find a letter from E. J. Adkisson, R. F. D. No. 13, West Nashville, Tenn., requesting me to send him some garden seed, as well as other parties mentioned in his letter.

Please send each of the parties two packages of each and charge to my quota.

Yours, very respectfully, ——— ———.

MATCH, TENN., *February 15, 1906.*

Hon. JOHN W. GAINES.

DEAR SIR: I noticed in the Nashville American where you were distributing tobacco seed. I wish you would send me a package of Brazil tobacco seed, as I want to plant a tobacco crop this year; and oblige,

Yours, truly, J. A. CROWE.

LIBERTY, TENN., *February 5, 1906.*

Hon. JOHN W. GAINES.

SIR: Please send me a package of tobacco seed. I want the wide-leaf, heavy tobacco.

T. G. BRATTEN.

NASHVILLE, TENN., *March 9, 1906.*

Mr. JOHN WESLEY GAINES.

KIND GENTLEMAN: I am told if I ask you that you will send me an assortment of garden seeds, and I gladly accept the opportunity, asking you for the following: Pole beans, bunch beans, lettuce, tomatoes, cucumbers, early corn, bunch butter beans, pepper, okra, and mustard. Thanking you very much,

I remain, Mrs. J. N. PUCKETT.

NASHVILLE, TENN., *February 13, 1906.*

Mr. JOHN WESLEY GAINES.

DEAR SIR: I would appreciate the courtesy very much if you will send me some flower and garden seeds. I am a Democrat and a defender of the old Confederates. I am in the 6-A grade at the Caldwell School.

Very respectfully, MAURICE WAIN.

GOODLETTSVILLE, TENN., *February 23, 1906.*

Hon. JOHN WESLEY GAINES,
Washington, D. C.

DEAR SIR: I have been requested by patrons to ask you to send me some garden seed for distribution. Thanking you in advance for same, remain,

Very respectfully, Dr. J. P. WILLIAMS.

HAMPTON STATION, TENN., *March 26, 1906.*

Hon. JOHN W. GAINES.

DEAR SIR: I write to ask you to send me an assortment or different varieties of garden seed, if you please.

Awaiting an early reply,

Sincerely, yours, JOHN F. JOHNSON.

CLARKSVILLE, TENN., *February 1, 1906.*

Mr. JOHN WESLEY GAINES.

DEAR SIR: I see published in the Nashville Banner that they will distribute tobacco seed through Representatives of the State. You will please send me some of the dark kind that will suit this locality.

Yours, respectfully,

H. C. LONG.

FEBRUARY, 25, 1906.

Mr. ED G. DUNLANG, *Clarksville, Tenn.*

DEAR SIR: Yours of the 24th instant to hand, and I have instantly requested the Department of Agriculture to send you some tobacco seed. If you do not receive them promptly, let me hear from you.

Yours, very respectfully,

———— ————.

FEBRUARY 24, 1906.

Mr. B. T. GALLOWAY,
Chief of Bureau, City.

DEAR SIR: Please send one package tobacco seed to Mr. Ed G. Dunlang, R. R. No. 1, Clarksville, Tenn., using the inclosed franked slip.

Yours, very respectfully,

———— ————.

AGRICULTURAL APPROPRIATION BILL.

The motion of Mr. WADSWORTH was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill, with Mr. FOSTER of Vermont in the chair.

The Clerk read as follows:

General expenses, Bureau of Plant Industry: To investigate fruits, fruit trees, grain, cotton, tobacco, vegetables, grasses, forage, drug, medicinal, poisonous, fiber, and other plants and plant industries, in cooperation with other branches of the Department, the State experiment stations, and practical farmers; to study plant and orchard diseases and demonstrate the treatment of same; to study plant physiology in relation to crop production and the origination and improvement of crops by breeding and selection; to investigate and encourage the adoption of improved methods of farm management and farm practice; to investigate the feeding value of farm crops and the use of fertilizers; to investigate the causes of decay in forest timber and timber used for construction purposes, and to devise means for preventing the decay of the same; to investigate the practical application in agriculture of the fixation of atmospheric nitrogen by bacteria and other micro-organisms in soils and in the root tubercles of leguminous and other plants; to cultivate and distribute these nitrogen fixers; to study and find methods for preventing algal and other contaminations of water supplies; to carry on special investigations of the conditions of grain production, handling, grading, and transit, and of the means of improving the same; to model fruits, vegetables, and other plants, and furnish duplicate models to the experiment stations of the several States, as far as found practicable; to investigate the methods of harvesting, packing, storing, and shipping fruits and vegetables, and for experimental shipments of fruits and vegetables within the United States and to foreign countries; and such fruits, vegetables, packages, and packing materials as are needed for these investigations and experimental shipments may be bought in open market and disposed of at the discretion of the Secretary of Agriculture, and he is authorized to apply the moneys received from the sales of such fruits, vegetables, and materials toward the continuation and repetition of these investigations and experimental shipments, and such moneys shall be available until used; to cultivate and care for experimental gardens and grounds, manage and maintain conservatories, greenhouses, and plant and fruit propagating houses; to enable the Secretary of Agriculture to continue the necessary improvements to establish and maintain a general experimental farm and agricultural station on the Arlington estate, in the State of Virginia, in accordance with the provisions of the act of Congress approved April 18, 1900; to investigate and report on the cost of making tea and the best method of cultivating and preparing the same for market; to investigate and develop the domestic production of sugar-beet seed and the best methods of increasing the tonnage of sugar beets; to continue inquiry and ascertain the progress made in the production of domestic sugar from beets and sorghum and other sugar-producing plants; to collect, purchase, propagate, test, and experiment with rare new seeds, bulbs, trees, shrubs, vines, cuttings, and plants; for the employment of investigators, local and special agents, agricultural explorers, experts, clerks, illustrators, assistants, student or scientific aids, foremen, gardeners, merchants, and all other labor and scientific assistance required in conducting investigations and experiments in the city of Washington and elsewhere. And the employees of the Bureau of Plant Industry outside of the city of Washington may, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leaves of absence not to exceed fifteen days in any one year, which leave may, in exceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agriculture, not to exceed fifteen days additional in any one year.

Mr. CRUMPACKER. Mr. Chairman, I desire to make a point of order against all after the word "countries," in line 9, page 19, down to and including the word "used," in line 17 of the same page, on the ground that it changes existing law. The provision relates to the expenditure of the appropriation which the paragraph carries. There is no legislation authorizing the Secretary of Agriculture to go into the markets of the country for the purpose of buying fruits to pack and ship to other markets in this country or to foreign countries, and authorizing him to make sales in any of the markets of the world and to use the proceeds of those sales for a repetition of the transaction. There are abundant provisions in the paragraph authorizing the investigation of the art of packing and shipping fruit. My point of order applies only to that provision which directs the Secretary of Agriculture to buy fruits and farm products for the purpose of shipment into domestic and foreign markets, and to use the proceeds for the repetition of the transaction. There is no law authorizing it. It is no part of agriculture within the meaning of the statutes. It is necessarily and essentially a part of commerce. Therefore, Mr. Chairman, I think the point of order ought to be sustained.

Mr. WADSWORTH. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded by the chairman of the committee, and the Chair sustains the point of order.

Mr. SCOTT. Mr. Chairman, I call attention to a typographical error in the second word of line 25, on page 18. It should be spelled "algæ" instead of "algal."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Change the spelling of the second word in line 25, page 18, so that it will read "algæ."

The CHAIRMAN. If there be no objection, the Clerk will make the correction.

There was no objection.

Mr. BROOKS of Colorado. Mr. Chairman, I move to strike out the last word. I should like recognition at this time for fifteen minutes.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent to continue his remarks for ten minutes. Is there objection?

There was no objection.

Mr. BROOKS of Colorado. Mr. Chairman, I listened yesterday with considerable interest to the fervid and sometimes rather hysterical eloquence of the gentlemen who were rushing in rapid procession to express allegiance to the interests of the farmers and the men who toil; and, incidentally, to express their appreciation of the work of this Department. Now, gentlemen, I realize that the period of nominating conventions is at hand, and therefore I trust that all the remarks of all the gentlemen may be as seed sown in good ground; that they may bring forth fruit, and that the results may abundantly justify the expectation at the time of harvest.

I yield to no man in my regard for the agricultural industries of this country—the great forces that are making for national prosperity. These gentlemen do not say anything on behalf of those interests in general, that I would not say if I could. But I am bound to take issue with them on some of the conclusions that they draw. I recognize as thoroughly as they do that agriculture is the great primary source of productive wealth. I recognize more, that its prosperity is the necessary and essential condition of national prosperity, advancement, and growth. I recall that the classic and Chinese mythologies gave to agriculture a divine origin, and that, in order further to dignify the subject, they brought from the heavens a god to teach its mysteries to mankind. I am inclined to think, however, that our latter-day, twentieth century, practical point of view gives even more distinct recognition, when it devotes to the study of agricultural problems, as it does, this body of trained scientists who for the last twelve years have been shedding so much luster on the Department of Agriculture and giving so much of reputation and distinction to it.

I believe in the Department of Agriculture. I believe thoroughly in its work. I believe in its great Secretary, who started it on its career of advancement and growth and who

for nearly ten years has so ably directed its progress. I believe in the men who are under Secretary Wilson, the able heads of departments, and in the faithful and energetic men who are working under them. The work fascinates me. It appeals to me. It appeals to my imagination. It appeals to my hopes of the future of this country. It appeals to my sense of duty to the people, and the constituents whom I have the honor to represent. I am not afraid of the man with the hoe, and I have no fears of the militant farmer. I am not alarmed at the size of these appropriations. They seem very small, comparatively, entirely reasonable, and abundantly justified by the work the Department has been doing.

Without going too much into detail, I should like to call the attention of the committee briefly to a few of the results of this work before saying anything on this question of free garden seeds which we are discussing.

THE AMERICAN PEOPLE AND THE DEPARTMENT OF AGRICULTURE.

The American farmer is by no means a babe in swaddling clothes. Given a fair start and an open field he can take care of himself; but his work can be vastly facilitated, his efficiency tremendously increased, and the highest interests of every citizen of the country promoted by the guidance, suggestion, and helpful advice of such bureaus as have been established in the last twelve years.

It was Mark Twain who said that the cauliflower was a cabbage with a college education, and it has been the function of the national Department of Agriculture to give college educations not only to the cabbage, but to the orange and the sugar beet, the wheat of Minnesota and the tobacco of Connecticut, to the cotton of Texas and the apple of New York and Michigan, to the horses of the mountains and the dairy cows of Iowa. True, they say that the Department reeks with paternalism, but there is paternalism and paternalism, and there is nothing in the helpful work of these bureaus which would disturb the shades even of Jefferson.

I wish it had been in the power of every member of this House to listen to the statements made before the committee by the heads of the various executive branches of the Department. Failing in that, I wish that each might find time to read the reports of these hearings. They are a liberal education in applied science in the field of agriculture, and if anyone has had the bad taste to recall the earlier designation of the Department in semi-derision as the "cow bureau," I think he will be heartily ashamed of it before he gets through with his studies. The work is not only theoretical, and it is not purely educational, although it is, and should be in the main, experimental and suggestive. It is distinctly practical and is more than justified by direct returns.

There is not one field of governmental activity where a dollar spent brings a tenth of the return in actual good to the people that does the little expenditure which we give, more or less grudgingly, to this Department. It covers a wide field in national life, and in every line of its activities it demonstrates every year in a cold matter of dollars and cents its increasing financial importance.

THE WORK OF THE SEVERAL BUREAUS.

The Weather Bureau saves in a month, in the spring floods many times its entire cost since its institution, in the saving of property and life, and its researches in the field of meteorological science are both wonderful and fascinating.

If the Bureau of Animal Industry had done nothing else in its whole career but to save the domestic animals of the country from the scourge of the hoof-and-mouth disease, it would have abundantly justified every dollar that it has cost, but that is only one small portion of its work. Its daily routine is made up of the protection of the people's food supply—increasing its volume and decreasing its cost; protecting the farmer and stock grower from diseases and adding enormously to our national wealth. It has done, and is doing, in its meat-inspection work perhaps more than any one single agency to develop and hold a foreign market for our agricultural productions, and our meats to-day find an entrance into Germany, France, Belgium, and other European centers solely because they are viséed by this Bureau.

The Department has recently taken over the immense forests on our public lands, and forested areas to-day aggregating more than 100,000,000 acres are being cared for, preserved, and developed by the Department of Agriculture. While there is a possibility for difference of opinion as to the wisdom of some phases of this work, its importance and its possibilities of good in the preservation of the forest and the conservation of the water supply, in the development of the arid regions, and the making possible of steady and successful irrigation are absolutely beyond computation; and the tact and skill with which this work has been done under its present management has gone far toward removing any possible ground for complaint.

THE EXPERIMENT STATIONS.

It is useless to enumerate in detail the individual bureaus with their almost spectacular work, but while we are talking of dollars and cents let us bear in mind that the experiment stations in all the States and Territories have cost the Government until now only $790,000 a year, and the additional work in connection with the stations in Washington increases these figures by only $200,000. That is a large sum of money, but a Minnesota experiment station alone has added more than this sum per annum to the value of the wheat crop of the country, by improving the type and character of the wheat grown. Figures are dry and meaningless things in the abstract, but in the concrete they tell their story.

The addition of a single kernel of wheat per head means an addition of more than $5,000,000 per annum to our national wealth, and the methods of seed selection introduced and practiced by these experiment stations have far more than equaled this increase.

We are spending about $30,000,000 in building vast reservoirs, canals, monumental dams, and structures, which we hope shall last to the end of time, to conserve and preserve the waters in the semiarid regions. We are doing this through the agency of trained and technical engineers whose work is exciting the admiration of every beholder. A hundred thousand dollars hardly pays for the reconnoissance for oné of the gigantic projects undertaken by the national Reclamation Service; but the Reclamation Bureau spends not one cent of its millions in solving, or attempting to solve, any of the myriad questions relating to the application of water to the soil, relating to irrigation as an art, relating to the economic use of the water it has cost these millions to save.

It remains for one of the bureaus of the Office of Experiment Stations, with a sum of only $102,000 altogether, to work along these lines and to achieve results which the western farmer regards as the most important of anything connected with the work of reclamation. There is no part of the work of the Department that meets with readier welcome at the hands of those for whom it is done than does this work of the Bureau of Irrigation and Drainage Investigation, and yet with this $102,000 that has been given to this Bureau there is to be carried on not only the irrigation work, but drainage development and experimentation in twenty States and the reclamation of millions of acres of land rendered useless by alkali and similar mineral elements.

I am very glad that the bill before us carries about $27,000 increase for this work.

With a total expenditure of less than $5,000 the Department last year located and detected the poison that, under the name of "loco," has cost the stockmen of this country, speaking conservatively, $10,000,000, and this was done although scientist after scientist, and expert after expert had declared the poison a myth.

THE BUREAU OF PLANT INDUSTRY—ITS GREAT AND INCREASING IMPORTANCE.

No one of all these phases of this work is more beneficial than is that of the particular Bureau which we have under contemplation in this item—the Bureau of Plant Industry. None is more ably officered and directed. It costs, according to the figures of this bill, about $575,000. That is the equivalent in cost, of a thousand rounds of ammunition for a 12-inch gun, and the results of the work of the Bureau of Plant Industry simply can not be computed. These results are not only a benefit to the rural population, not only to the men for whom we plead so earnestly, but they are a benefit to the whole people; they increase our food supply; they promote our commerce; they help our people in every particular.

FREE GARDEN SEEDS—A USELESS AND UNJUSTIFIABLE PERVERSION OF ITS ORIGINAL WORK.

Because they are so far-reaching, and because they are so beneficent and important, I protest against men of the character and caliber of those who are at the head of this department having their time, energies, and opportunities frittered away in sending out these absurd little donations of ordinary garden seeds to the farmer—to men who do not want them and in many cases do not use them. I do not want this important work interfered with. I do not want this great bureau to continue under our direction doing something that seems to me ignoble and unworthy—unworthy of the Congress, unworthy the Department of Agriculture, and, most of all, unworthy the American farmer.

I do not think the committee intended to take anything from the farmer. I know that I did not. I do not believe that that was the thought at all. What we wanted to do was to substitute something that was of value for something that was unimportant and inconsiderable; something that really amounted

to something, that would accomplish something, and was of practical utility for something of doubtful propriety which did little or no good.

When the Department was first organized, Congress very aptly and very properly made a part of its duty the distribution of rare and valuable seeds, but they were to be rare and valuable seeds, not the kinds that had been known for three centuries; not the variety that our forbears brought with them to Jamestown and Plymouth. They were to be rare and valuable seeds; something that would add to the productive power and wealth of the country and advance the interest of the farming population.

What the committee, if I understand it, attempted to do is simply this: they attempted to confine this work to the legitimate field of the distribution of rare and valuable seeds. There was no thought, I am sure, of dealing either illiberally or parsimoniously with it. On the other hand, they believe that they have appropriated sufficiently so that that work may be carried on with success according to its legitimate purpose.

WHAT THE SEED DISTRIBUTION SHOULD BE.

There are endless instances of the importance of the distribution if properly directed. The seedless orange was developed and introduced by the Bureau of Plant Industry, and afterwards distributed through this very appropriation. This one fruit has been worth more to the people of this country than all the radishes, pumpkins, lettuce, and beans that have been sent out through the Department of Agriculture since this distribution began. The statisticians tell us that the California crop of seedless orange alone is worth from $7,000,000 to $8,000,000 annually.

In the same way and through the same distribution the Government has been sending out macaroni wheat. The Bureau of Plant Industry introduced it from Russia and Asia and distributed it freely to our farmers, and to-day it is adding to the income-bearing possibilities of the country infinitely more than all of these ordinary seeds that they are sending out for us under our franks. This is something the farmer can not get at the corner grocery, and the cash value of the work is to be figured in millions of dollars. Last year it is estimated that we produced in this country from $10,000,000 to $15,000,000 in this product alone, and the beauty of it is that it fills a new field and positively adds that amount to our productive wealth.

Mr. WADSWORTH. And they have done that within the last three years.

Mr. BROOKS of Colorado. And the chairman calls my attention to the fact that this work has all been done within the last three years. The same thing is true of the Kaffir corn, emmer, and brome. Those are things that are of real value, and they are sent out under the appropriation for the Congressional free-seed distribution, but they are not the ordinary garden seeds that you can buy anywhere for 1 or 2 cents a package.

I was much interested yesterday in the remarks of the gentleman from South Carolina [Mr. ELLERBE]. They seemed to be very apt, very sound, and very sensible. What he said about the wilt-resisting cotton is all true. It has added enormously to the receipts of the cotton growing States and the cotton growing section has not yet begun to reap the full returns, but I did not notice any plea for free beans in the gentleman's remarks or any argument for rhubarb or radishes or anything of that sort. All that the gentleman said was the strongest possible argument for the work of the Department in sending out rare seeds and against the garden seeds.

The wilt-resisting cotton was a rare and valuable thing that was developed by the Bureau and sent out under this form of seed distribution. Now, the committee has attempted still to provide for the rare and valuable plants and seeds. There is no disposition to leave out the wilt-resisting cotton, there is no disposition to leave out the further production of the seedless orange, or the Kaffir corn, or the macaroni wheat. There will be an amendment offered by the committee that will make that matter thoroughly clear, and will secure the continuance of the work without any restrictions. What the committee attempted to do was to leave in the bill all the appropriation that hitherto had been devoted to the rare and valuable seeds, and to eliminate and leave out of the bill this indefensible donation of no value which is, in many cases, regarded with ridicule, and justly so, by the very men to whom it is sent.

There is an ample field for work with rare seeds and plants. There are hundreds of localities all over the world where we still can get just such plants as those which this Bureau has been finding for us in the last years. The scientists from the Department are now searching in Asia, in Turkey, in India, in Africa, in northern Russia, and in Australia, and from those sections we are getting things that our farmers can use and render available from one end of this country to the other. It is true that many of them are semi-tropical and will interest mainly the South, like the orange, the mango, the fig, the grape fruit, and date, but it is also true that many of them are hardy and will interest the North, like the hardier kind of wheat, and the hardy crops that will grow clear to the Canada line and in altitudes of 6,000 or 7,000 feet—grains and fruits from Siberia and northern Russia, which thrive wonderfully well when brought to our warmer sections. That is the kind of work I plead for and have interest in.

We expend something like $500,000 a year in one single drug—opium—and we import that from foreign countries. Our total importation of foreign drugs and medicinal plants amounts to more than $5,000,000 annually.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WADSWORTH. Mr. Chairman, I ask unanimous consent that the gentleman may be allowed to conclude his remarks.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Colorado may be permitted to conclude his remarks. Is there objection?

Mr. FINLEY. Mr. Chairman, I understand that the gentleman is discussing the seed proposition. I would like to know if we have reached that provision in the bill.

Mr. WADSWORTH. Oh, yes; we have.

Mr. FINLEY. Then I have no objection.

The CHAIRMAN. The Chair hears no objection.

THE WORK IN CONNECTION WITH CERTAIN RARE PLANTS.

Mr. BROOKS of Colorado. Mr. Chairman, I think I shall take only a few minutes, for I shall very briefly conclude with one or two things to which I want to call attention. As I was saying, we are expending $500,000 a year for a single drug. That drug and many others can be grown with profit, and great profit, in many localities—some in Maine, in New Hampshire, in Vermont, and in the Northern States—others in other places. Crops like these can be made a kind of by-product to the farmer and ought to be introduced, and this Department is trying to do it through this Bureau. Now, the committee proposes to extend the usefulness of the Bureau along those lines and to substitute in its distribution digitalis and stramonium and plants like those for peas and beans and such plants as you can get anywhere. Only last week there was a very apt illustration of what I am saying. There is one concern engaged in the manufacture of celluloid in this country that pays $500,000 a year for camphor. Camphor, as we all know, is a monopoly of the Japanese Government in the island of Formosa. Probably the other uses of camphor in this country amount to about $2,000,000 a year.

Last year down in Florida one of the experts of this Department, in going around found a man who was trimming some ornamental camphor trees. He got the clippings from those trees and experimented with them in the Bureau. He found that he could get a higher content of camphor oil and a better quality of camphor than they could in Formosa, where they cut down and kill the tree. He further found that large tracts of land in Florida which were comparatively valueless for other purposes were admirably adapted for growing these trees. He went immediately to the celluloid people, showed them the result of his work, and explained to them the possibility of introducing the growth of them into this country, and last week they concluded the purchase of lands in Florida for the investment of $150,000 in the growing of American camphor. How does that work compare with our donations of 2-cent packages of cabbage and rhubarb and rutabaga?

We pay $500,000 a year to Germany and France for our beet-sugar seed. The Department of Agriculture is developing a beet-sugar seed to-day in this country that is superior in saccharine content, in hardiness and availability to anything that the Germans or French can produce; and I prefer to see my Colorado farmers get this improved sugar-beet seed rather than these common seeds that they do not want, and I know my Michigan and Utah and Minnesota friends feel the same way. I believe that Department can help the gentleman from Tennessee [Mr. GAINES] to find some rare seeds of this sort, that his people will think just as much of as they do of the peas and beans which he says they prize so highly, and if he does he will accomplish a substantial result in developing new agricultural possibilities for his section.

I do not agree with the gentleman from Maryland [Mr. MUDD], and I do not believe that he got at the real point of this situation in his remarks yesterday. Shortly after I was first elected to Congress and before I knew some of the mysteries of the work of a Congressman which I have since learned, I was awakened in the dead vast and middle of night by a telegram from a very enthusiastic rural constituent, and it read like this:

Send seeds at once; no Republican seeds in this county.

I complied with that urgent demand as soon as I could, and the returns at the succeeding election, in the Republican crop,

were amply satisfactory and highly commendable from my point of view. My enthusiastic rural friend had gotten at the real gist of this question. It is an attempt to secure a little, petty, unworthy, ignoble influence for ourselves as Congressmen in a way that we ought to be ashamed of, and it is a way that I hope will be abandoned.

The American farmer is not a babe in swaddling clothes. He can see through this little gift very easily. The man with the hoe is not what he was, even when Millet painted him or when Markham maligned him into fame. In America he is not only a tiller of the soil; he is a mechanic, manufacturer, and business man, and in these later days he is a chemist, physicist, bacteriologist, and entomologist as well. I think he understands and values this 2-cent contribution at its real worth.

Mr. JAMES. Will the gentleman yield for a question?

Mr. BROOKS of Colorado. Certainly.

Mr. JAMES. Here is a publication I have which reads, "Free seeds; a few current editorials commenting on the Congressional free-seed distribution," and several editorials from different newspapers, and on the back of it it is stated: "Compiled by William Wolff Smith, newspaper correspondent, Washington, D. C." Who paid for that composition?

Mr. BROOKS of Colorado. I am sure I do not know, and it does not interest me.

Mr. JAMES. The Agricultural Committee did not.

Mr. BROOKS of Colorado. No, sir.

Mr. JAMES. Do you not know it is true that seed houses that are attempting to create a trust in seeds, who are exerting their influence to keep the Government from giving seeds to the farmers, met and contributed money to get that writer to collate these editorials and send this out for the benefit of Congress?

Mr. BROOKS of Colorado. I do not, and I do not care. What I want is that the Department shall confine itself to its legitimate work. The gentleman from Kentucky is no more anxious than I am that every farming industry shall be protected and every farmer shall get the full measure of proper support that he should. It is only the kind of help, it is only the kind of seed, it is only the kind of donation that the gentleman from Kentucky and I take issue upon. I would rather send to his constituents and mine the rare and valuable seeds, and the rare and valuable clippings—something that will add something to the wealth of the country, rather than follow this old rut in which we have been going.

Mr. GROSVENOR. Will the gentleman allow me?

Mr. BROOKS of Colorado. Certainly.

Mr. GROSVENOR. Does the gentleman feel that there ought to be some agonizing fear on the part of Congressmen where there are perhaps five or six or eight or ten millions of people who raise garden seed that they would get them all into a trust so as to oppress us?

Mr. BROOKS of Colorado. I never have felt that fear.

Mr. GROSVENOR. When every fellow is producing his own garden seed, do you think there is danger of somebody getting it all and——

Mr. BROOKS of Colorado. No; I have no fear of any such trust, and do not think the facts warrant it.

Mr. GROSVENOR. Then I feel relieved from that.

Mr. BROOKS of Colorado. I was not saying anything in the direction of trust, but I am glad the gentleman is relieved.

Mr. GROSVENOR. I now feel better.

Mr. BROOKS of Colorado. I understand. No; I do not think this is a question of the overshadowing power of any seed trust. It is a question of plain common sense between common-sense Congressmen and common-sense farmers.

I want to make myself entirely clear, and, at the risk of repetition, let me repeat that I believe in proper and legitimate seed distribution. It is only the kind of seeds that I object to. I do not and can not believe that the sending out of ordinary garden seeds is a proper or legitimate distribution, and I shall oppose it. I will, however, vote any reasonable sum for the work of sending out new, rare, and valuable seeds and plants, and believe this would result in great good in the future, as it has in the past.

For work such as I have described in some twenty bureaus we provide this year $7,250,000. It reclaims our land; it renders fertile our exhausted reaches; it improves our crops; it increases, cheapens, improves, and diversifies the food supplies of our toiling millions; it protects our forests, our flocks, and our herds; it increases by billions of dollars annually our foreign and domestic commerce; it furnishes the most wholesome, safest, and most elevating form of employment to the people; it injures no one; it is beneficent, helpful, and unobtrusive. Its total cost represents an expenditure of a million dollars a day for the days of a single week. For the arts of war, including therein, as we properly should, our pension budget, we spent this year, in round numbers, a million dollars a day for the days of a whole year, and I venture to say that no man on the floor of this House will begin to compare the usefulness, beneficence, and far-reaching results of the work of the Department of Agriculture with that of our Army and Navy combined.

I join with our friends of the Military and Naval Committees heartily, cheerfully, and enthusiastically in every effort that they make to protect this country at home and abroad, to advance its prestige, to make its name and its flag honored, respected, and revered; I yield to no one in my support of everything which makes for our national honor and advantage; I will vote battle ships as long as there is a real need. The scare head of rampant militarism has no terrors for me, but in the name of the thirty millions of farming population who make up the great producing element of our body politic I protest against any cheeseparing or restrictive economies as applied to the work of this Department. We talk about the stupendous balance of trade in our favor. On this side of the Chamber we point with pride, and justly point with pride, to an aggregate balance for the ten years of Republican ascendance amounting to something like $4,000,000,000, but we should go further and pay our respects and distinguished consideration to the farmers of this country who have not only made that balance possible, but in order to do so have wiped out an adverse balance against us for the same period of over $890,000,000.

As the work grows it is necessary that comparatively new fields from time to time be entered upon, and this bill and the two previous bills have carried one item in itself somewhat novel, of which I wish to speak very briefly. In 1904 we appropriated $25,000 for experiments in animal feeding and breeding. The appropriation was continued last year, and it is carried in the bill before us. Under that appropriation, small and meager as it is, the Department has inaugurated two small experiments in the developing of an American type of horse, one in the East and one in the West; has made instructive and valuable experiments in sheep breeding in cooperation with the Iowa station; has already done a great work in the development of the poultry industry, which, although tremendous in its returns, has never received the attention it deserved; has been carrying on a series of most valuable and interesting experiments in calorimetric tests of the heat and flesh producing value of different food elements in connection with the Pennsylvania experiment station, and in several places in the South has started, or has under contemplation, similar work in feeding and breeding.

The field that this work opens upon is vast and important and has been hitherto almost neglected by the Government. We have lagged far behind the work of the other leading powers. We spend annually hundreds of thousands of dollars in importing foreign stock. Our horses, with the exception of two strains of trotting stock, which are really families rather than types, are Percheron, Belgian, Oldenburg, and Clydesdale; our cattle are Holsteins, Ayrshires, Swiss, Jerseys, or Herefords; our sheep are Cotswolds, Southdowns, and Merinos, and our swine are foreign in their origin and names; only two breeds of chickens proudly flaunt an American name and are the result of American breeding. It is high time that the genius and energy of the American breeder should be turned to the growth and development of native strains and American subject.

FOREIGN WORK IN HORSE BREEDING.

We frequently hear how one or another phase of modern progress is due in some direct or indirect manner to the Corsican first emperor of the French.

It is interesting to know that the great Hungarian breeding stable at Lipitza was started by an Arabian stallion captured from Napoleon at the battle of Leipsic. With that beginning the Austro-Hungarian Government has gradually developed, until to-day it spends over $800,000 a year in the maintenance of its horse-breeding establishments, with immense advantage to the individual horse breeders and without any encroachment upon or interference with individual enterprises. There is a single breeding station—Mezöhegyes—extending over 50,000 acres, which employs 6,000 civil and military employees and obtains the finest breeding stock available in the markets of the world; and to-day the Imperial Government makes no more proper or beneficial use of its funds.

One of the Austrian royal stables at Kis Ber was headed by an old-time English thoroughbred, "Buccaneer." The winner of the Derby and the winner of the Grand Prix in 1876 both came from this stable, and the descendants of Buccaneer from this stable had won in 1902 $1,100,000, in prizes.

After the fall of the second Empire the French found their

agricultural industries terribly crippled, and none more than their breeding of horses, caused largely by the terrible losses suffered in the Franco-Prussian war. The French department of agriculture under the law of 1874 immediately took up this work with tremendous activity, and it has grown to such an extent that the budget of 1902, the last figures obtainable, carried an appropriation of $1,600,000 for horse-breeding stations, and no one, to my knowledge, has suggested that the French were other than frugal, careful, and businesslike in their governmental expenses. The work is a fixture in French system and has demonstrated its great and increasing value.

The Prussian Government spent in 1900 a quarter of a million dollars, and that is for Prussia alone. The Grand Duchy of Oldenburg for a hundred years has been growing and developing a strain of coach horses, until the name of Oldenburg is known, not for any statesmanship nor for military prowess, but for the excellence of its horses, from Australia to Siberia, from Germany to Japan, and from Lapland to Cape Town and back.

With all their lack of initiative and sluggishness in many regards, the Russian Government spends nearly a million dollars a year in its breeding of remounts and domestic horses.

The Italian budget for 1900 carried nearly $100,000. In 1904 the Government embarked upon a much more extensive scheme and, in addition to its previous work, in round numbers, $50,000 was devoted to the purchase of new animals, about as much for prizes and subsidies to different organizations of breeders, $50,000 for veterinary surgeons, and corresponding amounts for other purposes. Not long ago the Italian Government paid $17,000 for a Derby winner to put in one of its breeding establishments. The people are much interested and regard the work with marked approbation.

The English Government, through prizes and subsidies, spends about $30,000 a year, and its lack of initiative in this work is the subject of general regret. For many years the royal commission appointed to investigate the subject has pleaded with Parliament for larger appropriations and has pointed out the fact that the English were falling behind the other countries in this work. Some of the Canadian provinces have just started, and the press reports a few days ago contained an item that $25,000 had been paid for a single horse to start a stable at Truro, Nova Scotia.

We have invested, all told, a little over $10,000 in horses, and the State of Colorado, where the experiment was first tried, added almost as much for stables and similar expenditures connected with the work. We have to-day the beginning of an experiment which competent judges consider of the greatest promise. There is no field to which the American farmer can more safely direct his energies with greater hope and certainty of return than the breeding of fine horses; and there is no place in which the Government can more properly and more effectively render him assistance than by putting the work on a systematic and scientific basis. I do not mean breeding racing horses alone, but an average horse of superior speed, courage, strength, and endurance, which is demanded in increasing numbers by our domestic trade and by the foreign markets; of the kind, for which there is a constantly increasing demand and relatively decreasing supply.

The cost of carriage horses has increased in this country since 1891 in the average sum of over $100. The same fact is observed elsewhere. The export value is given now at $308, as against $174 then. In 1900, and the year was by no means extraordinary, Germany imported 90,000 horses, and for years Germany has spent from $17,000,000 to $20,000,000 abroad for horses annually. England in the ten years from 1891 to 1900 purchased abroad 342,000 horses, at a total cost of about $100,000,000, and the demand is steadily growing. France, on the other hand, from its greater breeding facilities, had large numbers to sell.

THE AMERICAN PLAN.

As I understand it, it is not proposed to imitate the Italian or Austrian systems, with their tremendous establishments of government-owned horses, but rather, with small national expenditure, to direct and assist cooperative circles of breeders, looking to the establishment of an available native type and to raising the general average of excellence of the American road stock.

Rather something more or less resembling the French system, which is essentially cooperative breeding under Government supervision. The expenditure is large, but the returns are proportionately even larger. As long ago as 1887, with a yearly maintenance charge and expenses for renewals and new stock amounting to some 1,400,000 francs, there was an income to the State, outside of sales, of 815,000 francs, and the statistics show that if this were the primary object, the returns could have been largely increased.

The real benefit has been the widespread general improvement in the common stock—the half-breeds, the work horse, and the ordinary driving horses—exactly the field in which we have done very little systematic work. What France and Hungary and the Grand Duchy of Oldenburg have done we certainly can, and should do.

At first the American breeders were inclined to look with some question upon this venture, but as it has begun to work itself out it now meets with almost universal approval, and I believe that a few years will demonstrate that this is one of the wisest ventures that the Department has undertaken. Similar work in the improvement of strains of dairy and beef cattle, swine and poultry and sheep, instituted in response to a very general request and demand, shows the importance of the work undertaken.

GENERAL IMPORTANCE OF THE WORK—MODERN PROBLEMS.

I have devoted considerable attention to the work of two particular bureaus, not because they excel the work of the other bureaus, but because of the particular interest which attaches to their work at the present time. The whole Department of Agriculture is serving the people in a most admirable way. There is no other form of governmental activity that should receive a more liberal degree of support at the hands of Congress than does the Department of Agriculture.

There is every reason why that should be so. The latter-day problems which are pressing on this country for solution are almost without exception problems which come from, and are the result of a change of the type of development over great areas of this country. A change from an essentially rural and agricultural type to an essentially industrial and manufacturing type. We view with alarm the great and disproportionate growth of our industrial centers. We view with alarm the influx of alien hordes, the growth of socialistic ideas, the growing urban discontent and the strife of wage-earners and the masses. We regret and deplore the drift from the country to the city, the passing of the saner forms of rural life, the simpler mode of living which characterized generations that have gone, and thus far we have only deplored and only viewed with regret. We have not done one single thing for a remedy.

Mr. Chairman and gentlemen, the remedy, if remedy there exists, in my judgment, lies along the very line on which the Department of Agriculture is working. It lies in making the work of the American farmer more elevating, more pleasant, more attractive and more profitable. It lies in bringing his occupation to a proper plane of dignity, in recognizing the importance of his pursuit as a profession as well as a means of livelihood. It lies in teaching young men they can devote to this work just as much intelligent preparation, just as much thoughtful earnestness, just as much ability, as to railroad problems or finance or any other form of industry that occupies the human mind. It lies in keeping the young men on the farms and preventing their crowding into the less desirable, but apparently more attractive occupations.

And we can best do this, gentlemen, by liberally and generously supporting these men, who for years, without flourish of trumpets and without any accessories of military parade, have quietly, but with an efficiency equaled by no other similar body of men in the world, been bringing before the farmers of this country the richest fruit of all the ages and the highest results of scientific investigation when applied to the field of agricultural science, and we can not do it by this petty little distribution of free garden seed. [Applause.]

Mr. WOOD of Missouri. Mr. Chairman, I move to strike out the last two words; and I ask unanimous consent that I may proceed for ten minutes.

The CHAIRMAN. The gentleman from Missouri [Mr. WOOD] moves to strike out the last two words, and asks unanimous consent that he may proceed for ten minutes. Is there objection?

There was no objection.

Mr. WOOD of Missouri. Mr. Chairman, somewhere in an old book that I have read there is a statement that "Unto him who hath much shall be given, but from him who hath little shall be taken even that which he hath." It seems to me that to-day some of the gentlemen on the other side of this Chamber are endeavoring to make true that old statement. There are gentlemen who come here and attempt to give much unto him who already hath much. You come here and you give unto the steel combination, to the watch trust, and to the beef and sugar monopolies; you give unto these; you protect them by your high protective tariffs; you protect many special industries—you give unto him who hath much. But now from the farmer—him who hath little—you are striving to take even that which he hath; you are striving to take even that which hath been given to him in past years. [Applause on Democratic side.]

You are complaining about the passage of this one little

item; you are refusing to give the farmer the miserable little $100,000 or $200,000 for these free seed. Why, it is a mere bagatelle. Why this economy on this point, and why do you not exercise economy in a vast number of other ways where your extravagance runs riot? We have just passed the post-office bill, carrying one hundred and ninety-odd millions, with subsidies contained therein of larger sums than this; we are about to pass the naval bill, carrying one hundred millions, in round numbers. This Congress will appropriate more than a billion dollars, yet you seek to take out this little item which is meant for the benefit of the farmer. Why, sir, of all the industries where economy should be practiced this is the last of all the Departments of our Government whose appropriations you should in justice cut; this Department should be the last, because it is vastly the most important.

You must remember that 70 per cent of our people live in the country and but 30 per cent in the cities. You must remember that all business rests on that of the farmer. When he is prosperous the country is prosperous; when he is not prosperous, neither is any other line of business. I do not care what pursuit you take, whether it is the banker, the manufacturer, or business man of any line, his business must come back finally to the farmer. It is on the productions of the farms that all business rests.

Our nation's true glory, sir, has not in the past rested in its generals who have led our armies to victory on the field of battle, nor on its admirals who have commanded our ships on the high seas, but rather on the vast body of patriotic toiling American farmers who have gone out early and toiled until late, causing the earth to produce the raw materials which has made it possible for the machinery of our factories to turn out products for trade and traffic that have enriched our nation, causing our merchant marine to be seen in every port. [Applause.]

Our nation's welfare does not depend on the eloquence alone of its legislators in our halls of legislation; but rather on the toil and industry, the unfaltering patriotism, and the faithful pursuit of their duties of the farmers throughout the land. Our country's true citadels are not to be found in its fortresses, from which the gaping mouths of cannon may be seen, but rather in the vine-clad cottage on the hill, the home of the American farmer under the trees in the valley, surrounded by the fields made fertile by his industry.

These, sir, are the foundation and bulwark of our nation's prosperity and glory. There is more true music to our nation's glory in the sound of the plow as it goes through the furrow, in the sound of the sickle as it cuts down the grain, in the sound of the reaper as it gathers home the harvest—there is more true music, I say, to our nation's glory in all this than there is in the sound of the building of war ships or the beating of iron into cannon. Build more battle ships if you must! Buy more cannon if you will! But let us at least encourage the idea of using our iron for pruning shears!

Let us not, then, take from him, but rather let us give more to encourage the man with the hoe, the sickle, and the scythe. Let us do all we can to foster this industry. Let us not take from, but let us add to.

Why, sir, as a great orator has said, you might burn down your cities; but leave the farms and the cities will spring up again as if by magic; but destroy the farms and the grass will grow in the streets of every city in this land. [Applause.] We have had a recent illustration of that. A short time ago San Francisco stood out in all of its splendor a proud and happy city. In a day's time it was reduced to a heap of ashes. But from out those ashes will spring up a city that will be more glorious, a prouder city than the San Francisco of the past. There will spring up in an incredibly short time a city that will be a fair mistress of the seas, a splendid guardian of our golden western gate. And how will that be possible? Why, Mr. Chairman, because back of that city, surrounding that ash heap, are the great fertile valleys of the Sacramento and the San Joaquin, where thousands of American farmers by their industry are making the earth to produce its plenty. Because these farms exist, San Francisco must and will be rebuilt; but if those farms did not exist, its ash heap would remain there forever. If you could have reversed that scene, if you could have left the city stand in all of its splendor, but by the same bolt that destroyed the city have reduced those farms to ruin, I tell you that it would not be long before dust and rust would be the prevailing features of the city.

And so I might say of all the industries in America, for all depend on the farming industry. Let us, then, do all we can to encourage the calling.

We have discovered that the seed dealers of the land have combined in an effort to prevent the further distribution of these seeds. They have discovered that the free seed distribution was the only seed rate regulator, and they wish to rid themselves of all restraint. We have heard letters read from different parties against this distribution of seed; but I apprehend that many of them were obtained by these seed dealers. I venture the assertion that if anyone interested on the other side should call for letters favoring the distribution of seed you would have a thousand in favor of the distribution of seed to one against the distribution.

If the distribution of seed accomplished but the one object of binding the farmers closer to the National Government at Washington it would be well worth the sending of them out. There can be no question but every package of seed that goes out from the Government at Washington to a certain extent binds the man who receives it closer to his Government. It is all right for business men to pooh-pooh this idea; it is well enough for you to talk about your "kid-glove farmers," men of large affairs who have mixed with the world, but I will tell you it is a different question with the isolated farmer, the farmer living on the plains where he has little opportunity of mixing with the world, where the postman comes but seldom. When such a farmer receives one or several of these packages of seed he can not but welcome them with pleasure. It will at once occur to him that his Government at Washington has remembered him, and it can not but bind him closer to his Government.

Some simple-minded people are inclined to look down upon the calling of the farmer, and some farmers may feel that their calling is not looked up to with the highest of respect, but when he gets these seeds from Washington he realizes that the Government is a sort of partner with him, that the Government recognizes his calling as the highest of all, and he can not help but be encouraged.

It has been suggested on this floor that we should send out sample suits of clothes or sample articles of merchandise. Those questions, while propounded in good faith, are ridiculous. This Government does not recognize the selling of clothes or any other one line of business as a national affair, but it does recognize that agriculture is the great business of the nation; that it is from agriculture we have obtained our national prosperity; that this nation is predominantly an agricultural nation. Agriculture is recognized as the great national calling, and by sending out these seeds the nation very properly places its stamp of approval on this one business. There is no analogy whatever between the sending out of sample suits of clothes and the sending out of free seed.

Again, Mr. Chairman, the sending out of these seeds suggests and encourages the idea of planting. We should inculcate upon the minds of every growing boy and girl the necessity of planting trees and all kinds of fruits and vegetables, and to-day I am glad to see in many of our schools tree planting has become a part of the instruction to the scholars. Now, the sending out of these seeds not only encourages but suggests the idea. There is little doubt in my mind that when the people throughout the Union receive these seeds the idea of planting is suggested to them. It must be true that a great deal more planting is done throughout the Union on this account, for when a package of seed is received it is in nearly every instance planted, not alone, but with other packages purchased. Small plats of ground that would otherwise be vacant are made to blossom on account of the seed. The seeds arrive and the people are reminded that it is planting time, and thus a great industry is fostered.

They tell us that this is a graft. The idea is too ridiculous to need refutation. There can be no graft where all the people receive the benefit. These seed go to all the people. It is the people's money redistributed to the people. I was particularly impressed with the remarks of the gentleman from Kentucky yesterday, who suggested that if this really were a graft, if it were some special individual or some special industry or some favored corporation that was receiving an immense graft, those gentlemen who now oppose the distribution of these free seed would remain quietly in their seats. They would not oppose a real graft. If the steel combination or some other combination was making another gigantic steal, there would be no one—on the other side of the Chamber, at least—to oppose it; but since this is no graft, since it is a giving to the people—the common people, the great mass of the people—a very little of their own; since it does not accrue to the benefit of some specially favored interest, then, of course, they are loud to protest, as they always have been, against any measure that was for the benefit of the people, for the benefit of the masses, instead of for the benefit of some favored class. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WOOD of Missouri. I ask unanimous consent to be permitted to proceed for three minutes longer.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. WOOD of Missouri. Now, gentlemen, if we can inculcate the idea with every growing boy and girl of tree planting and plant planting, that would be a great national blessing. Boys and girls throughout the land look forward to the time they will receive these seed, and they plant them eagerly. It creates an interest in planting that could probably not be obtained so well in any other way.

There are a great many other and better arguments that might be made in favor of the continuance of the distribution of seeds, but these arguments, or many of them, have already been made by others on the floor of this House, and I shall not take up your time by repeating them.

The purpose of the great seed dealers in fighting this appropriation is plain. They recognize that the sending out of these Government seed is a great seed regulator, and they wish to be rid of all regulations tending to the benefit of the people.

I say, gentlemen, that we should continue this appropriation. I believe in some of the remarks of the gentleman who spoke last, who favored the distribution of peculiar seed as appropriate. But I say, Put back the usual appropriation, and instruct the Department to get a different kind of seed and a better kind than it has had in the past.

Though I come from a district lying entirely within the city of St. Louis, I am glad to take this opportunity to raise my voice in favor of this measure, which I believe to be of great benefit to the American farmers. I am glad to say a word in their behalf. I appeal to you, in the name of the farmers of America, that you do not this great wrong, but that you appropriate this money for the further continuation of this measure which in the past has resulted in the accomplishment of so much good. [Loud applause.]

Mr. LEVER. Mr. Chairman, I shall not discuss the over-discussed proposition of free seeds; not because I do not regard the distribution of first-class garden and flower seed as valuable to the farmers of the country, but because I know that the proposition of distributing seed among the farmers will have sufficient champions upon the floor of the House.

I want to call attention to that item in this bill which makes provision for experiments in medicinal and poisonous plants.

We import into the United States each year drugs estimated in value $16,000,000. We buy from foreign countries drugs to the amount of $16,000,000 per annum. Dr. Rodney H. True, the chief in charge of this work, estimates that we can produce in the Southern States, on our own soil and with our peculiar climate, drugs which would amount in value to something over four or five million dollars per annum. We have at Florence, S. C., in the district of my colleague [Mr. ELLERBE] a drug farm operated by the Department of Agriculture. We are growing various drug plants there which are now imported into this country. We are growing belladonna, capsicum, and various other kinds of drug-producing plants, and we are growing them so successfully, from a financial point of view, that the expert in charge gives it to me as his opinion that that farm will net at least $75 per acre. Professor Galloway, who appeared before our committee, estimates that certain lands in the South, planted in these drug plants, will bring back to the cultivator a value of $40 or $50 per acre. The Department estimated for an increase of $8,000 for this work, not this particular work in South Carolina, but for the work scattered all over the United States. The committee allowed an increase of $4,000, but in making up the bill, by error that amount was left out, so that the bill as it now stands carries only what it carried last year for this particular purpose. I want to call the attention of the House to that fact, so that when the time comes for us to make the increase the Members will understand and know what we were doing. I want to insert in the RECORD a letter just received by me from Mr. J. W. McCowan, clerk of the court of Florence County, who has personal knowledge of this drug farm in South Carolina and of its success. It makes interesting reading.

In that connection I want also to insert a letter from Dr. Rodney H. True, the physiologist in charge of this work.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to insert certain letters in the RECORD in connection with his remarks. Is there objection?

There was no objection.

The letters are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., January 30, 1906.

Hon. A. F. LEVER,
House of Representatives.

SIR: I beg to acknowledge receipt of your letter of January 25, requesting information concerning the future plans for drug work in South Carolina, and I beg to outline the plans in so far as they have shaped themselves, presuming, of course, on the means wherewith to carry them out.

An increased sum for the work of drug-plant investigations was asked in order to enable us to respond to certain demands for new work which have been very pressing and represent an undoubted necessity. Our plans also include the continuation of the old work, with such extensions as might be permitted. As to South Carolina the plans for the future years include the following main items:

A continuation of our work at Ebenezer on an area of 15 acres, in cooperation with Mr. E. Cottingham. On this area we plan to put out material for experimental purposes primarily, on which we can not only study the adaptation of climate and soils, but also methods of curing, selection, etc. On this area the primary object is to get information along scientific lines as well as along economic lines.

In response to the urgent request of the Board of Trade at Florence we have contemplated taking charge of another area of 15 acres, furnishing merely the seed and supervision, the Board of Trade or the gentleman on whose place the experiment is to be placed meeting all of the expenses. On this area we plan to put such crops as seem to promise good financial return without any special effort to get anything other than a purely economic test—that is, without special reference to the scientific aspect of the problem.

The increase contemplated would not carry more work in South Carolina than that here outlined, and if further work were to be done it would need to be met by additional funds.

Very respectfully,
R. H. TRUE,
Physiologist in Charge.

Approved:
B. T. GALLOWAY, *Chief of Bureau.*

FLORENCE, S. C., *April 20, 1906.*

Mr. A. F. LEVER,
House of Representatives, Washington, D. C.

DEAR SIR: In view of the success that has already been achieved toward the drug-plant experimental work that the Department of Agriculture has been conducting in this county, and in behalf of its future welfare, I take the liberty, as a citizen of the county, to write you and ask you to do all you can in your capacity to help the work. We are well aware that you have always been ready to help South Carolina enterprises, and that you have been very successful in that direction.

I now write not only to enlist your sympathies, which doubtless we now have, but to ask your heartiest cooperation toward the support of this work. We believe that great possibilities are embraced in this problem and the meager fund now available for the work is not sufficient to develop the industry.

We know that it is in the power of Congress alone to give this help, and we look to you as our able Representative for help, knowing that your position in Congress puts you where you can be of aid to us.

Trusting that in the future we might see the fruits of your works,
I beg to remain, yours, very truly,
J. W. MCCOWN.

Mr. KLINE. Mr. Chairman, I move to strike out the last two words.

I ask unanimous consent that I may be recognized for ten minutes.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to continue his remarks for ten minutes. Is there objection?

There was no objection.

Mr. KLINE. Mr. Chairman, I am in favor of an amendment to this bill appropriating a reasonable and adequate sum for the purchase of seeds and distribution of the same. In support of my personal conviction as to this item, I desire to be heard and place on record a few reasons why I am in favor of the same.

Much has been said, pro and con, during the past sessions of Congress why this item of appropriation should be included in the agricultural appropriation bill, or why it should be excluded from the same. It has been asserted with a great deal of confidence and candor and frankness that the distribution of seeds amongst the constitutents of a Member of Congress was not a very dignified function, and it was not the kind and character of work which should be imposed upon one holding so important and honorable a position as Representative in our Federal legislative body. In earlier years it was not contemplated to be a part of his duties. It must be conceded to some extent that the distribution of seeds is in the nature of graft, but the expenditure of money in other Departments and liberality in favor of many other classes of citizens may also be denominated a character of graft.

The original intention of an appropriation for the purchase of seed and distribution of the same was to disseminate rare seeds in various parts of the country, and exchange, plant, develop, and adapt the same to the diversified soils and climatic conditions of the United States.

Through succeeding years the character of this business enlarged and the demands for seed multiplied until its size, magnitude, and ramifications acquired the present proportions.

Notwithstanding the humiliating and sometimes undignified character of this function, I am still in favor of continuing the appropriation for the purchase of seeds and distribution of the same. In favoring this measure, or amendment, and continuing the past practices I am only expressing my individual sentiment as the same is emphasized and has been voiced by my constituency through past experience.

I represent a district in eastern Pennsylvania whose interests are, approximately, half farming and half city—industrial

and manufacturing. It is a district which according to the last census had a population of 253,508, and presently approximates 300,000; a district which at the last Congressional election, in 1904, polled 51,294 votes for the several candidates for Congress. The usual allotment of seeds to a Member was inadequate to accommodate the large demand of my large and disproportionate constitutency, and by reason thereof the Secretary of Agriculture credited me with a double quota (24,000 packages in all), which have been distributed among the electors and families of my district; and still there is and was a clamor and demand for more, and I have frequently observed that those who were omitted in the distribution made complaint and inquired why they have been overlooked in the distribution of this Government favor, gift, or graft, or whatever you may term it.

Besides the voluntary dissemination of seed through my clerks, amongst my constituency I am in receipt of thousands of postal cards and letters, in every conceivable form and language spoken by my constituency, begging for garden and flower seeds. This extraordinary and popular demand for this governmental favor convinces me that I would be violating my obligations and the demand of my constituency if I should refuse to support this amendment to the agricultural appropriation bill for the purchase and delivery of seeds. I am in receipt of a communication of but a single constituent, out of a total of 300,000, opposing the continuance of free distribution of seeds.

Our farmers and agricultural interests represent the solidity and foundations of the strength, progression, and permanence of our Republic and its institutions. I can not observe any humiliation or undignified conduct in the distribution of this Government patronage. Every rural Member, in his contest for nomination or election, has solicited the true, honest, clean, and nonpurchasable farmer vote, and the victory and success of many Members has depended entirely on this class of our citizenship.

Congress has granted to every Member an allowance for clerk hire. The average clerk has little to do after adjournment, during the summer and fall season. He can with ease and without great loss of time during that period procure the names of those who desire this favor, address the franked slips, and forward them to the Department, whereupon in due time they are forwarded to the persons to whom the franks are addressed. And all this is and can be done without inconvenience, care, attention, or loss of dignity or caste of the Congressman.

If this favor can be called a "graft," then, indeed, it is a small one, and it is the only graft that the farmer receives out of our governmental patronage. It has been said that it is a useless expenditure. If the farmer desires the same, I say and shall insist that we give it to him. The only thing the agriculturist receives for his numerous contributions is good government, the protection of his home and the country in which he lives, which we all so much love.

We had much better cut down the appropriations and the expenditures in other Departments, where we spend hundreds of millions of dollars, than to cut off this patronage or appropriation, which is not equivalent to one thousandth part of our total expenditures.

We have passed a pension appropriation bill carrying almost $140,000,000. We have enacted into law an Army appropriation bill carrying more than $80,000,000. We annually appropriate for the maintenance of our Navy more than $100,000,000. The expenses of our post-office facilities and Post-Office Department aggregate $190,000,000. To maintain our legislative, executive, and judiciary departments there must be appropriated annually approximately $30,000,000; our consular service, our fortifications, and the management of the business of our Government annually cost us additionally $100,000,000 and upward.

May I ask, Who assists and pays a large portion of these enormous expenditures? The answer inevitably must be that the farmer, the agriculturist, and the small holder of real estate contribute their fair proportion. And yet there are some on the floor of this House who, with eloquence and emphasis, would deny this small favor or gift to that class of people who in the past have been enjoying and receiving the same.

Thus wrote my stenographer from my home city during the distribution period about a year ago. She said:

Did you ever read Oliver Twist, by Charles Dickens; and if you have, do you remember the famous author's chapter, how the thieves came to see Nancy Sikes? Well, that's me. They have all been here, and they all came for seed. Some were long and some were short; some were fat and some were lean; some had one eye and some had two; but they all came to see Nancy. They have come from the slate and cement regions, from the cities, boroughs, the country districts, and all sections. All classes have come, including the Slavs and Huns, with buckets, baskets, and bags for the seed that Uncle Sam so generously, properly, and considerately deals out to his people. I am kept busy from morning till night giving out seed.

The farmer is subjected to onerous burdens of life in trade and in business. By reason of the inequalities of our tariff schedules he pays proportionately more to the maintenance of the Government than any other class of citizens. Nearly everything that he requires to support and maintain his family, and that he uses to till and cultivate the soil and prepare his commodities for market, are subject to high and unjust tariff duties. The Paris green which he must use to exterminate the potato bug is taxed 15 per cent ad valorem; the paints which he uses to beautify his home and farm buildings are subject to a tariff of $5.25 per ton; he must pay for his table knives, his forks, steels, and other kinds of knives a duty of no less rate than 45 per cent ad valorem; the nails and spikes, iron and steel, which he requires to make and repair his fences, are taxed six-tenths of 1 per cent per pound; the sugar which he daily consumes in his household is subject to a tax of 0.95 cent per pound on No. 16 Dutch Standard, testing not above 75 degrees, and on every additional degree said article is taxed thirty-five one-thousandths of 1 per cent per pound; the cotton and woolen goods which he and his family wear to protect them from the inclemencies of heat and cold, are heavily taxed; his agricultural implements, manufactured out of iron and steel, are so highly taxed that the farmer and dealers in Europe, South America, and Canada can purchase them cheaper than the American farmer. Yea, nearly everything that he must use and wear contributes, and in many instances unjustly and inequitably, to the support and maintenance of the Government. And yet it is contemplated to deny to the American farmer the use of a few packages of seed, which he has in times past used, enjoyed, and appreciated.

I hope that every Member representing a rural district will remember the farmer vote which he received in his political contest. I believe in reciprocity, and I believe it to be the duty of every Member representing a rural district to support an amendment, such as I suggested during the beginning of my remarks. At least, I shall not have it said that by my vote and action the farmer will be denied the use and reception of this favor or patronage, which is contemplated by an amendment to be proposed to the agricultural appropriation bill now under consideration. [Loud applause.]

The CHAIRMAN. If there is no objection, the pro forma amendment will be considered as withdrawn, and the Clerk will read.

The Clerk read as follows:

For actual and necessary traveling expenses; for telegraph and telephone service; for gas and electric current; for forage, ice, postage, and washing towels; for express and freight charges; for the purchase of chemicals, materials, office, field, and laboratory supplies, fertilizers, office fixtures, fuel, apparatus, machinery, tools, and other implements, and repairs to same, horses, vehicles, horseshoeing, and harness; for rent and repairs, not to exceed $19,000, in the District of Columbia; and for all other necessary expenses, $389,260.

Mr. LAMB. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Purchase and distribution of valuable seeds: For the purchase, propagation, testing, and distribution of valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants; for rent and repairs; the employment of local and special agents, clerks, assistants, and other labor required, in the city of Washington and elsewhere; all necessary office fixtures and supplies, fuel, transportation, paper, twine, gum, printing, postal cards, gas, and electric current, traveling expenses, and all necessary material and repairs for putting up and distributing the same, and to be distributed in localities adapted to their culture, $242,920, of which amount not less than $202,000 shall be allotted for Congressional distribution. And the Secretary of Agriculture is hereby directed to expend the said sum, as nearly as practicable, in the purchase, testing, and distribution of such valuable seeds, bulbs, shrubs, vines, cuttings, and plants, the best he can obtain at a public or private sale, and such as shall be suitable for the respective localities to which the same are to be apportioned, and in which same are to be distributed as hereinafter stated, and such seeds so purchased shall include a variety of vegetable and flower seeds suitable for planting and culture in the various sections of the United States. An equal proportion of five-sixths of all seeds, bulbs, shrubs, vines, cuttings, and plants shall, upon their request, after due notification by the Secretary of Agriculture that the allotment to their respective districts is ready for distribution, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their constituents, or mailed by the Department upon the receipt of their addressed franks; and the person receiving such seeds shall be requested to inform the Department of the results of the experiments therewith: *Provided*, That all seeds, bulbs, plants, and cuttings herein allotted to Senators, Representatives, and Delegates in Congress for distribution remaining uncalled for on the 1st of April shall be distributed by the Secretary of Agriculture, giving preference to those persons whose names and addresses have been furnished by Senators and Representatives in Congress, and who have not before, during the same season, been supplied by the Department: *And provided also*, That the Secretary shall report, as provided in this act, the place, quantity, and price of seeds purchased, and the date of purchase; but nothing in this paragraph shall be construed to prevent the Secretary of Agriculture from sending seeds to those who apply for the same. And the amount herein appropriated shall not be diverted or used for any other purpose but for the purchase, testing, propagating, and distribution of valuable seeds, bulbs, mulberry and other rare and valuable trees, shrubs, vines, cuttings, and plants: *Provided, however*, That upon each envelope or

wrapper containing packages of seeds the contents thereof shall be plainly indicated, and the Secretary shall not distribute to any Senator, Representative, or Delegate seeds entirely unfit for the climate and locality he represents, but shall distribute the same so that each member may have seeds of equal value, as near as may be, and the best adapted to the locality he represents: *Provided, also,* That the seeds allotted to Senators and Representatives for distribution in the districts embraced within the twenty-fifth and thirty-fourth parallels of latitude shall be ready for delivery not later than the 10th day of January: *Provided further,* That $37,780 of which sum, or so much thereof as the Secretary of Agriculture shall direct, may be used to collect, purchase, test, propagate, and distribute rare and valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants from foreign countries or from our possessions for experiments with reference to their introduction into and cultivation in this country; and the seeds, bulbs, trees, shrubs, vines, cuttings, and plants thus collected, purchased, tested, and propagated shall not be included in general distribution, but shall be used for experimental tests, to be carried on with the cooperation of the agricultural experiment stations: *And provided also,* That $3,000 of the sum thus appropriated, or so much thereof as may be necessary, may be used for the erection of necessary buildings. Total for free-seed distribution, $242,920. Total for Bureau of Plant Industry, $792,340.

Mr. WADSWORTH. Mr. Chairman, I reserve the point of order on that amendment. I would like to agree with the gentleman from Virginia as to the limit of debate on the amendment.

Mr. LAMB. What time does the gentleman from New York propose?

Mr. WADSWORTH. How much does the gentleman need on that side?

Mr. HAY. Mr. Chairman, let us have the point of order debated now and decided.

Mr. WADSWORTH. Does not the gentleman want to debate the merits of the amendment?

Mr. HAY. I understand the gentleman from New York has reserved the point of order with a view to have debate on the merits of the amendment. I think we ought to have the debate on the point of order first.

The CHAIRMAN. The gentleman from Virginia demands that the point of order be debated first.

Mr. WADSWORTH. Well, Mr. Chairman, I make the point of order that there is no warrant of law for it.

Mr. POLLARD. Mr. Chairman, I would like to inquire whether this amendment offered by the gentleman from Virginia is an amendment to the paragraph or a new paragraph.

The CHAIRMAN. It is an amendment to the paragraph just read.

Mr. POLLARD. I have an amendment to the amendment, then.

The CHAIRMAN. The gentleman will have an opportunity to offer that at the proper time.

Mr. HAY. I understood the Chair to say that the amendment offered by the gentleman from Virginia was an amendment to the paragraph just read. I did not understand that the gentleman from Virginia offered it as an amendment, but as a new paragraph.

The CHAIRMAN. Does the gentleman from Virginia offer this as an amendment to the paragraph just read or as a new paragraph?

Mr. LAMB. As a new paragraph. The Chair will bear in mind that it embraces the next paragraph in the bill.

The CHAIRMAN. That being the case, before taking up the amendment of the gentleman from Virginia, it will be in order to perfect the paragraph that has just been read, and if there are any amendments they should be offered now.

Mr. KEIFER. And the point of order pending against the amendment offered by the gentleman from Virginia.

The CHAIRMAN. The gentleman from Nebraska offers an amendment to the paragraph which has just been read, which the Clerk will report, and the amendment offered by the gentleman from Virginia will be considered as an amendment pending, as a new paragraph.

Mr. KEIFER. And subject to a point of order.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Nebraska.

Mr. DAVIS of Minnesota. Mr. Chairman, it seems to me that the amendment offered by the gentleman from Virginia must be an amendment to the paragraph that has just been read, because it changes the total amount; it changes the figures in the final paragraph.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Nebraska.

The Clerk read as follows:

Amend lines 18 and 19, page 21, by making them read "four hundred and thirty-nine thousand two hundred and sixty dollars."

Mr. POLLARD. Mr. Chairman, I desired during the general debate on this bill to use thirty minutes of time for the consideration of the bill, but there were three or four members of the committee who desired to discuss the bill who gave way last Saturday to allow the prolonged political discussion that took place. Inasmuch as this is a very important matter which I wish to present, and in view of the fact that I was denied my time under general debate, I should like to ask unanimous consent to proceed for twenty minutes.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent that he may proceed for twenty minutes. Is there objection?

There was no objection.

Mr. POLLARD. Now, Mr. Chairman, we have heard a prolonged debate here as to the merits and demerits of free Congressional garden seeds. We have heard very little discussion of the one question that goes to the meat of the cocoanut. Gentlemen seem to have the idea that there is a great deal of merit wrapped up in this item of the distribution of garden seeds. I take the position, Mr. Chairman, that there is absolutely no good that comes from the item known as the "distribution of garden seeds," where it relates wholly to common varieties, such as are usually sent out under the Congressional frank.

Mr. Chairman, my amendment seeks to increase the appropriation for carrying on the work of introducing new varieties, developing and perfecting new varieties, and the distribution of them throughout the country, and to carry to the people the information that has been accumulated by this Department.

Now, for the distribution of garden seeds there has been appropriated an amount of money as follows:

For the Congressional vegetable and flower seeds, for seeds and plants entering into regular quotas; cotton, tobacco, lawn grass, orange trees, not in regular quotas, and so on, making a total of $132,754.73. There has also been appropriated in addition to this, from the statutory roll of salaries, $19,320, and there has also been expended in the payment of freight or postage to the railway companies, in the distribution of these garden seeds, $34,500, making a total of $186,574.73 that has been expended for the distribution of common sorts of seeds.

Mr. Chairman, I do not care to enter into a discussion of the merits of these seeds that are sent out. We will all concede that they are the very best that can possibly be secured. There is no question about that at all; but, granting that, the fact remains that there is absolutely no good derived from the distribution of these garden seeds outside of the advantages derived by those who are engaged in truck gardening. I will admit that people who are engaged in gardening in the suburbs of our great cities or on farms near the great cities might perhaps secure some good from the continuation of the distribution of these free garden seeds; but as far as the farmer is concerned, as far as the great mass of farmers of this country is concerned, it does them no good whatever. What good does it do the farmer to receive a little package worth perhaps 25 cents? To show the appreciation that the people in my district have of this matter, I want to read one or two letters that I have received. These letters came unsolicited on my part and are the honest expressions of the writers. Here is a letter from Weeping Water, my own county, Nebraska:

I have just received the garden seed, for all of which I wish to return thanks. Nevertheless I wish the distribution of ordinary garden seed might be discontinued, and believe it ought to be. So far as I can find out, very few, if any, of them are ever used, and when they are, frequently prove to be less desirable varieties than can be bought at home for a little, if any, more than the postage costs the United States.

Here is another letter from a farmer living near the city of Lincoln, Nebr., and he closes his letter by saying:

Cut out old, bum seeds. Anything new and scarce is what we want.

Mr. CANDLER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Nebraska yield to the gentleman from Mississippi?

Mr. POLLARD. I yield for a question.

Mr. CANDLER. Those two letters in which the gentlemen say they want the seed cut out are all right, but I would like to ask the gentleman how many letters he has received from people who desire to have the seed sent to them?

Mr. POLLARD. I want to say to the gentleman that I have sent out under my frank something like 13,000 packages of garden seed, and I have not received to exceed fifteen or eighteen letters in acknowledgment of the receipt of those seeds; and there has not been a single one who has asked me to continue it or who has thanked me for the seeds and who accompanied that statement by the information that the seeds were of any value or that they placed any appreciation upon them at all.

Mr. CANDLER. Mr. Chairman, the gentleman evidently does not understand my question. I ask how many letters he has received making personal requests for garden seed?

Mr. POLLARD. I do not know. I received something like thirty or forty. I have not kept a record of them, but I do not believe the number would exceed that.

Mr. CANDLER. The gentleman has received a great many

more of that kind of letters than of the kind that he has just read.

Mr. POLLARD. Yes; and I will say in connection with that, that it is customary all over the country for a great many people when they can get something for nothing to undertake to secure it. The part that the people like about this free garden seed is your recognition of them. Now, I have not a doubt but every person who received a package appreciated it from this point of view, that he was glad I did not overlook him, but he placed no importance whatever upon the real value of the seeds themselves.

I want to read now a portion of a letter from the Secretary of Agriculture bearing directly upon this point. In a letter dated March 15, written to Hon. J. A. TAWNEY, the Secretary uses this language:

> In my former letter I commented on the value of this miscellaneous distribution of garden seeds, calling attention to the fact that it was difficult to state what such value might be. I also emphasized the fact that in my judgment the money thus expended could be put to better use in line with a class of work described under group 2. As long as the Department is required to do the work, however, it has been our effort to secure the very best seeds available and to see that they were thoroughly tested and true to type in order that their distribution might in a gradual cumulative way encourage people throughout the country to demand the highest grades of seeds.

So it will be seen from the quotation from the Secretary of Agriculture that he is not anxious about the continuation of the distribution of the ordinary seeds, but is anxious about the continuation of the work in the propagation and introduction of new varieties of high value.

Mr. HINSHAW. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman yield?

Mr. POLLARD. Yes.

Mr. HINSHAW. Is there any reason why under this bill everything that the gentleman asks and all the appropriation he demands should not be put into the bill and at the same time the appropriation be kept up for the distribution of seeds?

Mr. POLLARD. I think there is, Mr. Chairman, and I will answer the gentleman by saying this, that the reason I think that is the case is because I believe that every Member on the floor of this House when he took his oath of office pledged himself to scrutinize every appropriation that came in here, whether it amounts to $5 or whether it amounts to $5,000,000, because the principle is the same, and that the expenditure of every dollar of the public money ought to be where it can be of some service and will bring value for value given. And I do not believe there is any good of any character whatever derived from the distribution of free garden seed.

Mr. POWERS. Do you not think those Members who believe that the expenditure of this money is a benefit to the farmers in their district are quite as conscientious in expending money for the public good as any others?

Mr. POLLARD. I certainly do.

Mr. POWERS. Then why refuse this appropriation rather than many others?

Mr. POLLARD. I do not question the motive of the gentleman from Maine or any other gentleman on the floor of this House, and I do not care to be understood in that way at all.

Mr. GAINES of Tennessee. Will the gentleman yield?

Mr. POLLARD. For a question.

Mr. GAINES of Tennessee. Is not this the first time the gentleman has scrutinized an appropriation bill in this House?

Mr. POLLARD. No, sir; it is not.

Mr. GAINES of Tennessee. What other bills has the gentleman scrutinized?

Mr. POLLARD. All of them that came before the House.

Mr. GAINES of Tennessee. Have you made speeches on them?

Mr. POLLARD. I have not.

Mr. MANN. Oh, yes; you made a speech on the deficiency appropriation bill, and a very good one, too.

Mr. POLLARD. Now, Mr. Chairman, I do not care to devote any more of my time to the discussion of the question of garden seed, but I have another matter that I wish to present to the House that is of the utmost importance, and I wish o devote House that is of the utmost importance, and I wish to devote quite a little time to that. Now, my purpose in making my address to-day is this: I believe there are other fields of the Agricultural Department where we can do a great deal more good for the farmer. If that is the object of our appropriations, if that is the object of our solicitude, to carry the most good to the farmer, then I have another proposition which I submit, and I hope I can receive the careful attention of the committee. Mr. Chairman, we have in the great Mississippi and Missouri valleys of the West something like 92,000,000 apple trees. Last year there were produced on those 92,000,000 trees something like 62,000,000 bushels of apples, two-thirds of a bushel per tree. This very light yield of apples from these 92,000,000 apple trees was due to the fact that there is existing in the orchards of the great West parasites, insects, and various kinds of fungi that are utterly ruining our orchards. Under a properly cultivated and cared-for orchard those trees that only produce two-thirds of a bushel of apples ought to produce not less than 5 bushels of apples per tree, and that is a very low estimate, as anyone will concede who knows anything about the growing of fruit. Mr. Chairman, with that yield we would have, instead of 62,000,000 bushels of apples, 460,000,000 bushels, or a valuation of not less than $110,000,000. In addition to that, there is a direct loss to the fruit growers of this country who are engaged in the production of peaches, pears, plums, cherries, grapes, and other varieties of fruit of something like $40,000,000 more, making a total loss of $150,000,000 annually. Now, the trouble with this whole proposition is this, gentlemen: There is not a disease that attacks our fruit trees in this country that I know of; there is not a single disease where the remedy is not known; there is not a single one of the many diseases that are destroying the fruit interests of the West that the Agricultural Department here in Washington has not discovered a remedy that will destroy every one of those pests. Now, then, Mr. Chairman, here is a place where we can spend some money at a profit. Here is a place where we can do the farmer some real good. Here is the place where we can spend some money that will add some value to the wealth of the nation. Along this line I wish to spend the money I vote for as a Member in this august body. [Applause.]

Now, Mr. Chairman, in the Bureau of Animal Industry, in our live-stock interests, the situation in a measure is the same. Diseases in our live-stock interests, such as blackleg, scab, that attacks our sheep and cattle; the foot-and-mouth disease, that has recently been suppressed in the New England States; the cattle tick or Texas fever, which has afflicted the cattle interest of the whole Southwest, and many other diseases I might mention, bring about an annual loss of something like $150,000,000. And in connection with this I wish to say the situation is very different from the fact that the United States Department of Agriculture has furnished the farmer the remedy. When a contagious disease breaks out, when the live-stock interest is attacked by some disease, an expert is sent out there. That contagious disease or territory in which this contagious disease is running rampant is placed under a most strict and stringent quarantine. The most strict quarantine laws are observed in order to wipe out such disease. That is right and proper, and I understand the Committee on Agriculture has taken care of this subject in an ample way, which I think is just.

But the situation is different when we come to our fruit interests. When a farmer sends in a report to the Agricultural Department at Washington that his apples are being destroyed, that his cherries are being destroyed, that his pear trees are being destroyed, by parasites and these other enemies that are affecting his crops, what do they do? Instead of sending experts out there to place a quarantine about the infected district, he is simply sent a farmers' bulletin, and that is the extent of the effort that is made by the Department to help him to control those diseases. Mr. Chairman, in this connection I wish to say that while I appreciate, I think, fully the importance and the value of the farmers' bulletins that are sent out, yet they do not offer a sufficient remedy. When I first came to Washington, in view of the fact that I have always lived on a farm, in view of the fact that that is my occupation now, the first thing that I did was to go to the Department of Agriculture, simply because I thought that that was the one Department in which I had the greatest interest, and the Department through which I could give my people the best service. And the first thing I did was to secure from the Secretary a list of the bulletins that they published. I went through that long list of bulletins, and I was only able to find five or six that I cared to send to the people of my district.

Now, why is that the case? The trouble with these farmers' bulletins lies in the fact that they are written by experts, by scientific men, and they shoot entirely over the heads of the people that are not familiar with scientific questions. The trouble lies in the fact that when a farmer gets one of these bulletins it is couched in technical terms, and after he has read it he knows very little about the practical way of reaching the remedy which is suggested in the bulletin. In addition to that, these bulletins are too verbose; they have too much in them. The scientist discusses too many matters that are entirely irrelevant and have no bearing whatever upon the question in which the farmer is directly interested. As a result his mind is diverted and his attention is attracted to other matters and he does not reach the real remedy that is offered.

And in addition to this, Mr. Chairman—and I consider this one of the greatest objections and greatest faults that I find in these farmers' bulletins—is the fact that we have a great country in these United States, and when one of these scientists comes to write a bulletin he tries to write one that will fit and apply to the whole United States. The bulletin is not prepared with reference to locality, and when a farmer in Nebraska is sent a bulletin it may treat on subjects that relate wholly to the New England States, and vice versa.

My colleague [Mr. HINSHAW] has just handed me a slip of paper which carries the information that the suggestion has gone out that I am a nurseryman. I do not know that that has any bearing on the question, but I simply want to say that I never sold five cents' worth of shrubs or trees of any character in my life, nor was I ever connected with any nursery of any character whatever. I do not know that it would be any offense if I had been, as far as that is concerned.

My attention has been diverted from the point I had in mind, but I wish to come back to it.

I think that the Committee on Agriculture ought to take up this subject of farmers' bulletins, and I think the whole system ought to be revised. When a bulletin is published, I do not care on what subject it treats, it ought to be prepared with reference to a locality, and when a Congressman from Mississippi or from Nebraska or from any other State sends to the Department for a bulletin he ought to be given a bulletin that relates wholly to the subject applying to his district or locality.

Mr. MURDOCK. May I interrupt the gentleman?

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. POLLARD] has expired.

Mr. HINSHAW. Mr. Chairman, I ask that the gentleman may have time in which to conclude his remarks.

The CHAIRMAN. The gentleman from Nebraska [Mr. HINSHAW] asks that his colleague, the gentleman from Nebraska [Mr. POLLARD], may have leave to complete his remarks. Is there objection?

There was no objection.

Mr. MURDOCK. The gentleman has read some of these farmers' bulletins himself?

Mr. POLLARD. Yes, sir.

Mr. MURDOCK. I have read a good many of them very carefully, and a good many of them are on general subjects. I have found them all very interesting and all very simple, and I approve of them. Now, the gentleman said they should be written as regards locality. Will he give the subject-matter of some of the bulletins that ought to be written as regards locality—cotton, of course, as regards the South, and corn as regards the Mississippi Valley? Now, will the gentleman give us just one bulletin regarding one locality that is not written?

Mr. POLLARD. I shall be glad to do so. Take the one subject of fruit industry. It is a fact that no bulletin can be prepared with reference to the State of Kansas. Carry it down to the last analysis, affecting the question of apples, that will apply to your whole State. Now, then, when that fact exists in relation to a single State, why is it that the great Department of Agriculture goes on and prepares bulletins that should not take into account the different sections and localities of the country and have the bulletin prepared with reference to the peculiarities of that locality instead of making them all of a general character?

Mr. HOWELL of Utah. Is it not a fact that the agricultural colleges of the different States are able to make up the bulletins necessary for that particular State and supplement the bulletins sent out by the Agricultural Department?

Mr. POLLARD. They do a splendid work along that line, and they do great good, and so far as they go their work is complete, but the trouble with the whole matter is this——

Mr. HOWELL of Utah. Would it not be better to intrust the State agricultural colleges of the different States with those investigations that apply to the different States in which the colleges are situated, and provide them with the necessary means rather than intrust the whole matter to the Department of Agriculture?

Mr. POLLARD. I will take that matter up when I reach it during the course of my remarks. I do not care to do so at this time.

I do not wish to take the position, nor do I wish to carry the impression that I am opposed to the publications of these farmer bulletins, because that is not the case. I think these bulletins do great good. I think they ought to be published, but I think this whole system ought to be revised, and that the bulletins ought to be remodeled. A great deal of the matter that is put in them ought to be eliminated, because it is not germane and is immaterial. It ought to be cut out and the bulletin ought to be made more plain, more explicit, and simple and clear of all scientific and technical verbiage that simply beclouds a man who is not familiar with scientific questions.

Mr. LEVER. Will the gentleman allow me to ask him a question?

Mr. POLLARD. Certainly.

Mr. LEVER. As I understand the gentleman from Nebraska, his idea is that the bulletins of the Department ought to have more peculiar reference to the individual communities and sections?

Mr. POLLARD. That is my idea.

Mr. LEVER. Let me ask the gentleman if he does not think it best to permit the State experiment stations through their bulletins to reach that problem?

Mr. POLLARD. Now, Mr. Chairman, I will say that which I have in mind is this: I received a bulletin from the Department of Agriculture which I think was one of the best bulletins I read among the whole lot which were sent to me for distribution. I did not send out this particular bulletin. The trouble with the bulletin was this: It went on to urge persons to plant orchards for home use. It presented the idea that every farmer in every part of the country should plant in his garden at least sufficient fruit trees to produce enough fruit for the use of his own family—and that is right; that is something we ought to encourage with every farmer from one extreme of the country to the other; he ought to have a garden patch in which he should have certain trees of all the particular kinds of fruit that will grow in that section of the country, so that the family could have fruit all the year. The trouble was that it recommended certain varieties of trees to be planted. If I had sent that bulletin out to the people of my district it would have told the farmers to plant certain varieties of trees that every farmer who knows anything about fruit trees in that country knows will not grow in our section of country, thereby absolutely nullifying all the good effects that might be derived from that particular bulletin. That is why I object to these bulletins, and that is the trouble about them. They put something into them that destroys the force and effect of all good that might be derived from the whole bulletin.

Now, Mr. Chairman, I must hasten on. The position I take is that I want these bulletins revised, simply eliminating abuses that have grown up and those features that tend to confuse the mind of the farmer.

The present purpose of my whole remarks, and the purpose of my amendment is this: I want, instead of sending out these farmers' bulletins, that is general, as an entire solution of this problem and as the summum bonum of all the work the Department does of this kind, I want to send the experts into the country from the Department of Plant Industry, just the same as they have in the Department of Animal Industry.

Through the experiment stations, I want experts sent out to teach the people how to apply the remedies that will control these evils. Down here in Virginia and West Virginia during the last year they have lost something like $10,000,000 as a direct result of the ravages of the bitter rot in the apples, and yet the Department here at Washington has positive information that will enable the people down there entirely to drive out that disease that is destroying the apple crop. The same thing is true in the great West. We have out there a disease known as the "apple scab," which is prevalent all over the country, but which has broken out in very virulent form all through the Mississippi Valley and is literally destroying our whole fruit interest. Now, I want the Department of Agriculture to take experts, and, through the Nebraska Experiment Station, through the Missouri Experiment Station, through the Iowa Experiment Station, and all these other experiment stations, by cooperation with them and with the fruit growers, introduce methods that will exterminte these evils and these diseases that are destroying our fruit interests. I think this work should be carried on all over the country. It has begun in a small way through the South. The Department of Agriculture has spent thousands of dollars in educating the people of the South how to combat the cotton boll weevil. It has cooperated in the way I have suggested should be done with our fruit interest, in introducing new varieties of cotton that will ripen before the boll weevil comes in and by improving the quality of the cotton along other lines has done a great work which I think is right. I have no objection to that money being spent in the South, but I want the same energy that has been put forth for the suppression of the cotton diseases in the South also to be expended throughout the North and the Northwest.

A great deal has been done in the way of farmers' institutes in carrying information to the farmers as to how to destroy these pests that are devastating our crops, and that also is a good work, but there is nothing that does the same amount of

good or that will carry the same amount of weight or the same influence as an oral or ocular demonstration. Oral demonstrations should be conducted under the supervision of these Government experts in the different fruit sections and demonstrate to the people how to control these diseases. Experts should be sent direct into orchards here and there all over the fruit belt. The farmers in the surrounding neighborhood should be invited to witness the oral demonstration the expert makes. In this way the orchardist will be taught what remedies to use, and how and when to apply these remedies that will destroy these pests. That is what I am pleading for now. In my amendment I have asked that $50,000 be added to this item for the purpose of carrying to the people this great fund of information that has been gathered on this subject.

We have spent thousands upon thousands of dollars in accumulating this scientific information that is of inestimable value to the people. Now, gentlemen, those of us who are so anxious to do something for the farmer, to give him something of real value, let us insert this item in the appropriation bill and clothe the Agricultural Department with funds that will enable them to go out in the country and give the people the information that will make them able to control these pests that are simply exterminating the fruit interests all over the United States. [Applause.]

Mr. Chairman, I am using altogether too much time, but there is another very important subject that I can not pass over without referring to it at least casually. That is the subject of the improvement of the standard of quality of our seeds. A great deal has been done in the last few years in the way of plant breeding, of improving the quality of our seeds. It has been the custom for years in the animal kingdom for men who are engaged in the production of certain strains of cattle and hogs and horses to breed to a type. Their animals are pedigreed and they keep on breeding year after year, gradually perfecting the breed and attaining the ideal standard. Now, it is found that in the plant kingdom men can breed with greater accuracy. They can produce the desired type to a greater degree of certainty, than in the animal kingdom. Great work has been done along that line.

Now, to call your attention to one great loss of the agriculturists of the country, I want to refer to our wheat interests. In 1903 we produced in this country 33,000,000 bushels less wheat than we produced in 1902. The average yield was 1½ bushels less per acre. In 1904 we produced 120,000,000 bushels less wheat than we did in 1902, a reduction in the average yield of 2 bushels per acre. We lost in those two years 150,000,000 bushels of wheat, and it was due entirely to the ravages of the rust in the wheat and to the Hessian fly. Now, here is a great field for the agriculturists to work in. Here is a great field of opportunity for the agricultural scientists to carry some information to the pepole that will be of real value.

The Department has discovered, as I understand, that it is impossible to introduce a cure or a remedy that will destroy the rust, so they have started out on another line. They have undertaken by breeding to produce a new variety of wheat that will be rust-resisting, and I understand the Chief of the Bureau of Plant Industry says that they have already originated a species that is rust-resistant. We should encourage this work. If we can aid these experts to introduce a new variety of wheat that will be immune to rust it will be worth millions of dollars to the farmers of the country.

Now, here is another line on which I want some of this $50,000 which I have asked to be inserted in the bill to be spent. That is along the line of corn. There is an inviting field of experimental work and the Department is doing work along this line. I do not wish to carry the impression that they are not doing that, because they are, but I want the work to continue. I want the work pressed forward. I want more money spent along that line, because it is of the greatest possible consequence to the people all over the country.

Mr. MARSHALL. Will the gentleman yield for a question?

Mr. POLLARD. Certainly.

Mr. MARSHALL. It has been understood that the committee intended to offer an amendment similar to this, except that the amount would be $76,000 instead of $50,000. Why does not the gentleman, if he is in favor of these things which he has been talking about, increase his amendment to the amount which the committee are in favor of?

Mr. POLLARD. I am glad the gentleman has asked me the question. I will answer it in this way: The $76,000 that the committee proposes to insert in the bill simply gives the Department of Plant Industry an amount of money they had last year. I believe the chairman of the committee thinks that it carries something like $3,000 or $4,000 more than they used last year for that work.

Mr. WADSWORTH. The bill carries $15,000 more than last year.

Mr. POLLARD. I beg the gentleman's pardon; it does not carry $15,000. If $15,000 were added to the bill, according to the gentleman's suggestion, it would not increase the appropriation for the other work by $15,000, but by $4,000.

Mr. WADSWORTH. Mr. Chairman, if the gentleman will allow me, he has quoted me and I want the statement correct. I stated that the appropriation for the Bureau of Plant Industry is increased $15,460 over the appropriation allowed the Bureau of Plant Industry last year.

Mr. POLLARD. I thank the gentleman for his information. The gentleman from New York always tries to confuse the situation. I remember, when we had before us a discussion on the deficiency appropriation for the inspection of meat, the gentleman came in with the assertion that the Department had all the money it needed; all they had to do was to divert the appropriation along the line asked for. The trouble with the suggestion lies in the fact that if you do that they must and will be compelled to take it from some other work that is already being carried on, and that is the trouble with this suggestion. The $15,000 the committee has added to the bill has been asked for by the Chief of the Bureau for other work, and has nothing to do with the matter I am suggesting, and the gentleman knows very well that it does not.

Mr. WADSWORTH. If the gentleman will pardon me, I did not refer to the work he is in favor of. I said that the amount appropriated for the Bureau of Plant Industry had been increased $15,460 over the amount carried by the bill for the Bureau of Plant Industry last year. I am not referring to the work that the gentleman from Nebraska wants done; I am not referring to any particular work that the Bureau wants to do. I am simply referring to the amount of the appropriation.

Mr. POLLARD. I did not mean to misquote the gentleman.

Mr. MARSHALL. Will the gentleman yield for a question?

Mr. POLLARD. Certainly.

Mr. MARSHALL. I still do not understand that the gentleman has answered my question. I would like to know whether he is willing to increase this amount to $76,000. I am for his amendment, but I am preferably for the amount that the committee wants inserted.

Mr. POLLARD. I was interrupted before I had finished my answer. I am glad the gentleman has called my attention to it. The $76,000 that the committee seeks to add to this item in the bill will give, I think, only $4,000 more than the bill now carries. I will qualify that statement in this way: The $76,000 proposed simply seeks to cover the work that has been done heretofore in introducing new and choice varieties of seed and the cooperation work that is being done all over the country through the agricultural experimental stations. That is what the $76,000 seeks to cover. The bill as it now stands does not do that; it covers $37,740, which is to cover the work that has been done heretofore in accumulating choice seeds bought in foreign countries and bringing them into this country to introduce them—fruits, and things of that kind. Now, then, this $76,000 seeks to continue that work and help to introduce new varieties that are propagated in this country by breeding or otherwise. It simply gives the Bureau of Plant Industry the same amount of money, plus $4,000, that they had last year.

That is what the $76,000 seeks to cover, and if $76,000 is added to the bill, it will then give the Agricultural Department $4,000 more than they had last year for that particular work. Mr. Chairman, I want added, in addition to that, $50,000 to extend the work that I have been advocating on the floor. That $4,000 is not sufficient if this work is to be carried on as it should be all over the country. The Department has been accumulating this information, and what the committee wants is that they should continue that. I want them to do more than that. I want they should continue the improvement of this and then carry the information to the people, so that they will have the benefit of it. That is all there is to this whole proposition, and that is all there is to my amendment. If the committee comes in and seeks to increase the amount $76,000, I want the $50,000 also to be added in order that this work may be taken care of.

The Department, through its experiments, has demonstrated that under proper selection and cultivation not only the yield of corn can be increased but that the protein content can also be increased. Corn is the great staple crop of the West. This is the cereal that puts the fat on our swine and cattle. Scientific men tell us that corn, as a feed, is too rich in fat-producing ingredients and deficient in protein matter. In order for corn, with clover or timothy hay, to make completely balanced ration the protein content of corn should be increased. Under experiments already undertaken it has been demonstrated that this can be done by proper breeding and selection.

For the last six years there has been an annual yield of $2,261,000,000 in round numbers. If this work is encouraged by enlarging the appropriation for this item it seems to me that it is fair to assume that the annual yield can be increased not less than 10 per cent. This would increase the annual production of corn by at least $22,500,000. Mr. Chairman, I am in favor of substituting for the free garden seed expenditures appropriations for carrying on oral demonstrations with the farmers from all over the country through the State experiments that will give the people information that will enable them to destroy the pests that are ruining our fruit interests. I am also in favor of spending some money for the development of a variety of wheat that will be rust resistant and for a variety of corn that will give a larger yield and a greater protein content. I am in favor of spending money along lines that will result in adding millions of dollars annually to the wealth of the farmers of this country. I think it is more important to give the farmer a variety of corn that will give an increased yield of 10 or 15 bushels per acre than it is to send him a package of garden seed that is perhaps worth 10 cents.

In conclusion, I wish to say this: We have been expending money ever since the foundation of the Government in different ways for the benefit of the people. We have been expending money for the improvement of our harbors and our rivers. We have been expending money for constructing levees along our rivers. We have been expending money for the expansion of the rural free delivery throughout the country, and we have been expending money for the erection of public buildings for the accommodation of the people. That work is all good. I have no objection to it, but the idea goes out or is suggested that this is a matter that should be left to the States, that Congress ought not to take it up. If that is the case, why is it that the people living along the river that should be dredged and deepened for the use of commerce should not bear that expenditure? Why should not the people pay in the different localities in the different communities for the extension of the free rural service? Why should not the people in the cities pay for the erection of their own public buildings, if that should be done? No one pretends that the people in the local communities should bear this expense. It is right that the Government should pay for it. My proposition is simply in line with work that has been carried on ever since the beginning of the Government. I believe it is right and proper that Congress should help to build up this great industry and help to extend the scope of it, and that is why I am advocating this amendment to-day, and I hope the committee will see to it that when this paragraph is passed it will carry not only the $76,000 the committee seeks to add to it, but also the $50,000 that I am presenting. [Great applause.]

I want to explain this matter before I leave the floor. If the amendment offered by the gentleman from Virginia [Mr. LAMB] be adopted, it will simply give to the Agricultural Department the same amount of money and no more than they had last year. It will not extend to this Bureau anything excepting this $15,400 which the chairman says they have added to the bill, but that is put in for some other work. I want this $50,000 added here and then when we take up the amendment of the gentleman from Virginia [Mr. LAMB] and that is adopted, that only will carry what the Department has had heretofore plus the $15,000 which the chairman of the committee says they have given, and I want my $50,000 added on to that. For that reason, I hope the $50,000 will be added, and then when we take up the amendment of the gentleman from Virginia [Mr. LAMB] we can add on the $76,000 which the chairman of the committee says they propose to insert in the bill. [Applause.]

Mr. WADSWORTH. Mr. Chairman, it was my intention, by direction of the Committee on Agriculture——

The CHAIRMAN. If the gentleman will suspend for a moment, the Chair will state that the gentleman from North Dakota [Mr. MARSHALL] wanted to offer an amendment to the pending amendment.

Mr. MARSHALL. Mr. Chairman, I shall withhold my amendment for the present, until the chairman of the committee makes his statement.

Mr. WADSWORTH. Mr. Chairman, I was directed by the Committee on Agriculture to ask that the appropriation be increased $76,000 for the Bureau of Plant Industry, and at the proper time I propose to offer such an amendment. If that is done the amendment of the gentleman from Nebraska [Mr. POLLARD] increasing the amount by $50,000 is not necessary. The Department asks only $76,000, and they will be perfectly satisfied and will be able to do the work that the gentleman from Nebraska wants and all other legitimate work during the fiscal year. I hope, therefore, that the amendment of the gentleman will be voted down.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. WADSWORTH. Yes.

Mr. MANN. What is this $76,000 for?

Mr. WADSWORTH. It is "For the collection, purchase, testing, propagating, and distribution of rare and uncommon seeds, bulbs, trees, shrubs, vines, cuttings, etc." I quote the language of the bill.

Mr. MANN. I understand what the bill says, and I understand also that that has not been the practice of the Department. What I want to get at is the fact. Does the gentleman propose to offer an amendment which will permit the Bureau of Plant Industry to use directly the sum of money which heretofore it has used out of the so-called Congressional seed fund?

Mr. WADSWORTH. Yes.

Mr. MANN. For the distribution of valuable plants.

Mr. WADSWORTH. That is it.

Mr. MANN. So that that omission is to be corrected.

Mr. WADSWORTH. All the work of the Bureau of Plant Industry has been consolidated and covered, I might say, in one paragraph. Formerly there was a division of pathology, a division of botany, a division of agrostology, a division for tea investigation and sugar investigation, and others, and Mr. Galloway, the head of the Bureau, consolidated all these investigations in one paragraph, which expedites and facilitates the auditing of the accounts in the Treasury Department and results in less work. On page 18——

Mr. LIVINGSTON. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Georgia?

Mr. WADSWORTH. In just a moment. On page 18, in line 11, "to study plant and orchard diseases and demonstrate the treatment of the same." That covers the work the gentleman from Nebraska wants.

Mr. POLLARD. That authorizes the work, but it does not give the money to carry it out.

Mr. LIVINGSTON. I want to ask the gentleman from New York, the chairman of the committee, if this amendment is adopted does the proposition make appropriation for common seeds or does it affect the proposition of $37,000 to be given the experimental stations?

Mr. WADSWORTH. No; it does not; that is the next paragraph of the bill, at the bottom of page 21.

Mr. LIVINGSTON. Now, I ask you to close up this paragraph you are on before taking up the next one.

Mr. WADSWORTH. We are not taking up the next one. The motion before the House is that of the gentleman from Nebraska to increase this appropriation $50,000.

Mr. THOMAS of North Carolina. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. THOMAS of North Carolina. As I understand it, the amendment of the gentleman from Virginia [Mr. LAMB] is pending as an independent and separate paragraph. Now, to what part of the bill is this amendment of the gentleman from Nebraska [Mr. POLLARD]—is it after the word "dollars," in line 19 of page 21?

The CHAIRMAN. It is pending to the last paragraph read.

Mr. THOMAS of North Carolina. I ask that it be again read for the information of the committee.

The CHAIRMAN. Unless objection is heard, the Clerk will again report the amendment.

The amendment was again reported.

Mr. HINSHAW. Mr. Chairman, I wish to ask this question of the gentleman from New York: If this committee should put back into the bill the $240,000 for Congressional seed distribution, and then add the $76,000 you have suggested in your coming amendment, will it be an addition of $76,000 to what the former bill carried?

Mr. WADSWORTH. It will.

Mr. POLLARD. I would like to ask the gentleman from New York whether if the amendment of the gentleman from Virginia prevails, adding to the bill $240,000, which he says it carried, whether then the gentleman from New York will seek to add on the $76,000?

Mr. WADSWORTH. I answered that question to your colleague. I stated it would increase it $76,000.

Mr. POLLARD. In addition to $240,000?

Mr. WADSWORTH. I answered that question to your colleague.

Mr. BROOKS of Colorado. I am afraid gentlemen do not understand the effect of the amendment of the gentleman from Nebraska. It certainly should not prevail in the interest of the larger work of the Department, because it is not adequate. It only adds $50,000. Now, the committee amendment proposes to add to the same item $76,000. Therefore if we vote for the

amendment of the gentleman from Nebraska you vote to restrict rather than enlarge the very work that you seem to take so much interest in and in which the committee has just as much and just as genuine an interest.

Mr. POLLARD. I would like to ask the gentleman a question. If the committee wants to increase this paragraph by $76,000, why does it not introduce an amendment?

Mr. BROOKS of Colorado. Because we have not got to it, and the amendment is in the hands of the chairman to introduce just as quick as we get to it at the proper time.

Mr. POLLARD. Well, we are at the place now. Now, I would like to have this situation thoroughly understood. I do not want to be misunderstood in this matter. What I want to do is to increase the appropriation for this Department by $50,000 in excess of what they had last year. Now, then, if the chairman of this committee——

Mr. ADAMS of Wisconsin. To clear this situation up—and I think possibly the gentleman himself is somewhat confused as to the actual meaning of this bill—now, when we cut out the Congressional seed distribution business and cut everything out, we did not make any provision for the growing of varieties of grain and plants here or for the purchase of rare and valuable seed. But the committee agreed among themselves to restore that portion of the original law which had been cut out, and we have not reached it.

Mr. POLLARD. This is the paragraph right here.

Mr. ADAMS of Wisconsin. And the gentleman from Nebraska proposes to add to this total, so that it shall be four hundred and thirty some odd thousand dollars, while the committee amendment proposes to increase it to $465,000.

Mr. POLLARD. Now, Mr. Chairman, the committee is simply undertaking to befog this situation. What I wanted to do, as I said, is to increase it $50,000 over what they had last year. Now, if the committee is sincere in their position, why do they not undertake to increase my amendment by the $76,000? Why do they not do that?

Mr. ADAMS of Wisconsin. We are perfectly willing.

Mr. BROOKS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POLLARD. I will yield to a question.

Mr. BROOKS of Colorado. Does the gentleman question the good faith of the committee and its purpose to introduce this amendment for $76,000?

Mr. POLLARD. I do not. Not at all. But, Mr. Chairman, I want my amendment adopted, and then if the committee are sincere and want to bring in their amendment, they can do so. My amendment is directly before the House. Let us adopt that. That is to increase this appropriation by $50,000, and then if the chairman of the committee wants to bring in his amendment he may do so. But let us put on this $50,000 first.

Mr. WADSWORTH. Mr. Chairman, let me say just one word.

Mr. MANN. Is there any way we can get information?

Mr. WADSWORTH. Mr. Chairman——

Mr. POWERS. Mr. Chairman, as I understand, the gentleman from Nebraska consumed the definite time that was given to him and surrendered the floor.

The CHAIRMAN. The gentleman took it again for five minutes. His time has expired and he has resumed his seat.

Mr. POWERS. Mr. Chairman, during the time I have served in this House I believe I have never made any objection to any extension of time, but if we are ever to get through with this bill I think I must make objections to any extensions in the future.

Mr. MANN. Mr. Chairman, I move to amend by striking out the last word of the amendment.

The CHAIRMAN. The gentleman from Illinois moves to strike out the last word of the amendment.

Mr. MANN. Mr. Chairman, I would like to make an inquiry of the distinguished gentleman from New York [Mr. WADSWORTH] as to where he proposes to insert the additional $76,000.

Mr. WADSWORTH. I was going to insert it on page 22. The total for the Bureau of Plant Industry, $587,200, with that increase of $76,000 would be $663,200, and if the amendment of the gentleman from Virginia prevails that will be so much more, and the total will have to be corrected. I was going to correct the total all at once.

Mr. MANN. If the amendment of the gentleman from Virginia prevails that takes care of the question. But suppose it does not prevail?

Mr. WADSWORTH. It only partly takes care of the question.

Mr. MANN. You say you increase the bulk sum of the appropriation?

Mr. WADSWORTH. Yes.

Mr. MANN. That would not do any good. You have got to increase the authority to spend somewhere.

Mr. WADSWORTH. Oh, no. They have all the authority they want.

Mr. MANN. I see no authority in here authorizing the Department of Agriculture to do what they have been doing for years—as, for one instance, sending out seed that is inoculated with bacteria.

Mr. WADSWORTH. On the bottom of page 18, line 20, it reads:

To investigate the practical application in agriculture of the fixation of atmospheric nitrogen by bacteria and other micro-organism in soils and in the root tubercles of leguminous and other plants.

Mr. MANN. Will that authorize——

Mr. WADSWORTH. That authorizes just what the gentleman requests.

Mr. MANN. As I understand, that distribution has been made from the fund provided in the so-called "Congressional seed distribution?"

Mr. WADSWORTH. It is from the Bureau of Plant Industry fund.

Mr. MANN. And a portion of that money, I understand, has been used in the distribution of these seeds which are sent out through the country at the request of Members of Congress or otherwise, not included in the ordinary quota of distribution?

Mr. WADSWORTH. A portion of it has been used for this purpose—"to collect, purchase, propagate, test, and experiment with rare new seeds, bulbs, trees, shrubs, vines, cuttings, and plants."

Mr. MANN. That paragraph of the bill only relates to the seed imported from foreign countries?

Mr. WADSWORTH. Oh, no.

Mr. MANN. Oh, well——

Mr. WADSWORTH. I know what I am talking about. If the gentleman will look at the bottom of page 21 he will see the paragraph he refers to. It reads:

For the collection, purchase, testing, propagating, and distribution of rare and uncommon seeds, bulbs, trees, shrubs, vines, cuttings, and plants from foreign countries or from our possessions, etc.

Mr. MANN. I thought the gentleman was referring to that paragraph.

Mr. WADSWORTH. No. I was referring to line 7 on page 20.

Now, Mr. Chairman, I think I can simplify this whole thing. I move, as a substitute for the amendment offered by the gentleman from Nebraska, the committee's amendment, that the amount be increased by $76,000. I move that as a substitute for the amendment offered by the gentleman from Nebraska.

Mr. DAVIS of Minnesota. Mr. Chairman, I move to strike out the last two words, and do so for the purpose of getting some information and give what I believe is the situation. Mr. Chairman, the paragraph on page 21, beginning with line 9 and ending with line 19 with the word "dollars," is the last paragraph that has been read in this bill. That paragraph does not in any way contain reference to any of the matters under discussion. At the expiration of the reading of that paragraph ending on line 19, the gentleman from Virginia offered an amendment which was, in substance and in fact, the old law which carried with it the Congressional seed appropriation. In my judgment, the time for the introduction of that amendment, or substitute, as it is, should have been postponed until the conclusion of the reading of the next paragraph. The gentleman from Virginia said that his substitute, or his amendment, took the place of the succeeding paragraph.

Mr. WADSWORTH. The motion of the gentleman from Virginia is not before the House at all at the present time.

Mr. DAVIS of Minnesota. That is what I am coming to.

The CHAIRMAN. It is not before the House, and it is an additional paragraph.

Mr. DAVIS of Minnesota. But, Mr. Chairman, at the conclusion of the reading of the substitute, or amendment, of the gentleman from Virginia the gentleman from Nebraska moved to amend the gentleman's motion, as I understand it.

Mr. WADSWORTH. No; increase the sum, $389,260, by $50,000. That is the motion of the gentleman from Nebraska—to increase that sum $50,000. I ask him if that is the case?

Mr. POLLARD. It is.

Mr. DAVIS of Minnesota. Now, the chairman of the Committee on Agriculture proposes, when we reach the next paragraph, to increase it $76,000, accomplishing the same purpose as the gentleman from Nebraska. There has been considerable discussion upon that. I do not think the House understands it. Now, in my judgment, the adoption of either one of these proposed amendments would tend to defeat the Congressional seed distribution.

Mr. WADSWORTH. That does not defeat free seed distribution.

Mr. DAVIS of Minnesota. In my judgment that will be the effect of it.

Mr. WADSWORTH. The gentleman is entitled to his opinion.

Mr. DAVIS of Minnesota. Certainly; therefore to clarify this situation, it seems to me we ought not to increase any of these totals until the amendment of the gentleman from Virginia is voted on, to ascertain whether Congress desires to continue the Congressional appropriation for the distribution of seeds. The law refers to "new and valuable seeds." And in my judgment the motion of the gentleman from Virginia seeks to introduce into the Western States and all States certain new and valuable seeds, as the statute contemplates. There is no law authorizing the purchase of rare and uncommon seeds upon the statute books at the present time. The next item, if allowed to stand here as the committee left it, would be subject to the point of order. I shall disagree with the gentleman from Nebraska in what he says as to the value of the seeds. Certainly those that are included in the Congressional distribution are new and valuable, but I do not care to take up that, because that question will come up as soon as the motion of the gentleman from Virginia is reached.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAVIS of Minnesota. Mr. Chairman, I would like to have two minutes more.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent that his time may be extended for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. DAVIS of Minnesota. Now, it seems to me, to simplify the whole situation, that if they would pass the pending paragraph, and after it is concluded then read the succeeding paragraph, beginning with line 20, page 21, and at the conclusion of that if we would adopt the motion of the gentleman from Virginia and let the amendment of the gentleman from Nebraska and the committee amendment be added, the whole situation would be made clear, and then you can amend the totals corresponding with the fact, and the committee can vote intelligently upon the matter. [Cries of "Vote!"]

Mr. MARSHALL. Mr. Chairman, I desire to offer an amendment to the substitute offered by the gentleman from New York.

Mr. WADSWORTH. Mr. Chairman, has my substitute been reported by the Clerk?

The CHAIRMAN. It has not.

Mr. WADSWORTH. I would like to have it read.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

Strike out "thirty" and insert "sixty-five;" so as to read: "Four hundred and sixty-five thousand two hundred and sixty dollars."

The CHAIRMAN. That is an amendment to the pending amendment.

Mr. WADSWORTH. That is what I understand.

The CHAIRMAN. The Clerk will report the amendment in the nature of a substitute offered by the gentleman from North Dakota.

The Clerk read as follows:

Increase the amount of the substitute of the gentleman from New York, by increasing the amount $25,000; so as to read: "Four hundred and ninety thousand two hundred and sixty dollars."

Mr. MARSHALL. Mr. Chairman, I desire to increase this total as suggested by the substitute of the gentleman from New York, by the amount of $25,000, to be used for a purpose outlined in a bill (H. R. 8753) which I introduced and which has been pending before the Agricultural Committee. The bill provided—

That there be appropriated, out of the public moneys in the Treasury of the United States not otherwise appropriated, for all expenses necessary to enable the Secretary of Agriculture to investigate methods of dry-land farming suited to the arid and semiarid regions of the Western United States, where irrigation is impracticable, the sum of $60,000, of which sum $5,000 shall be immediately available.

Upon my request, this bill was referred to the honorable Secretary of Agriculture, and upon that bill he made the following report:

It is the evident intention of the framer of this bill to provide additional funds for the development and extension of the work in dry-land farming already begun under an appropriation made last session for cereal investigations. This work has developed so rapidly and the demands from the people in the semiarid portions of the country have become so urgent within the last few months that it is now evident that additional funds will be necessary if the work is to be developed to the extent demanded by the conditions which exist in this vast area which can not be reclaimed by irrigation but which must be utilized by some method of dry-land farming in order to provide homes for the people who are flocking to these unoccupied lands in such numbers, and to prevent as far as possible the disastrous failures that have heretofore been the result of attempts to settle this region.

I have a number of times called attention in my annual report to the importance of this line of investigation.

Now, mind you, these are the words of the Secretary of Agriculture.

And I believe that if this bill (H. R. 8753) be incorporated in the general appropriation act of the Department much needed work could be done.

Now, Mr. Chairman, I appeared before the committee and made a strong statement of the conditions prevailing in an immense tract of country, about 200 miles in width, which extends from the Canada line to the Gulf of Mexico. For several years preliminary work has been in progress by the Department of Agriculture in the study of dry-land agriculture. Nearly one-third of the area of the United States has insufficient rainfall for the best culture of the ordinary crop plants. It has been pointed out in previous reports that after all possible extension is made of irrigation there must remain enormous areas, approximating a fourth of the entire land surface of this country, which will necessarily remain perpetually in their present arid or semiarid condition for want of an adequate supply of water for irrigation. Dry farming is a necessity in order to utilize such lands where irrigation can never be practiced. Enough preliminary work has now been accomplished to show that large areas of such dry but often extremely fertile lands can ultimately be utilized by adopting systems of dry farming and cultural methods and specially adapted crop plants. To carry out the introduction of new industries in such regions it is necessary to study most carefully the life history of each particular crop which it is desired to introduce in order to determine with some degree of accuracy its needs as to climate and soil and its cultural requirements and the best methods of marketing or otherwise utilizing its products. It is believed that a careful investigation of this whole subject will establish methods and systems and determine the crops suited to build up agricultural industries on a safe basis in such regions.

The simple facts are, gentlemen, that a vast area of country extending, as I have said, from the Canadian line to the Gulf of Mexico has recently been and is being settled up rapidly to homesteaders, and throughout that region there is what may be termed an "area of doubtful rainfall," the rain averaging from 10 to 15 and possibly, in some small sections, 20 inches per annum. Owing to a few recent extra good years the people have been pouring in there, but unless some remedy is found for the prevailing conditions many of them will suffer and be obliged to desert their homes.

Now, at the same time that my bill was considered by the honorable Committee on Agriculture there were one or two other bills of a somewhat similar character considered, and out of these grew some confusion. The other bills provided for experiments to be carried on by the Bureau of Experiment Stations, and the Committee on Agriculture have provided, in the language of their bill, $25,000 to be used for this purpose. That item comes under the next heading, of "Experiment stations."

[Here the hammer fell.]

Mr. NORRIS. I ask unanimous consent that the gentleman be allowed to proceed for five minutes.

The CHAIRMAN. Unanimous consent is asked that the gentleman from North Dakota may proceed for five minutes. Is there objection?

Mr. LIVINGSTON. I object.

Mr. NORRIS. Mr. Chairman, I move to strike out the last word.

Now, since the gentleman from North Dakota [Mr. MARSHALL] can not proceed, I desire to offer a few suggestions along the line of his amendment. If I can't get time for him, I will take up the subject myself. I should like to have the attention of the Members of the House briefly while I call their attention to some conditions existing in the western part of our country that his amendment seeks to reach.

In the western part of our country there is a large section that from its very nature can not be brought under irrigation, a section that has rainfall enough during a year to raise a crop, but because the rainfall comes at such irregular intervals—sometimes too much and often not enough—there results a failure of crops. This soil is of the richest in the world. Scientific investigation and experimentation have demonstrated that during a long dry spell there are perpendicular pores formed in this soil terminating at the surface of the ground, and through these pores the moisture reaches the surface and passes off by evaporation. Scientists have demonstrated in various ways, notably by what has become known as the "Campbell system," that if these pores can be broken up and this evaporation prevented this moisture in the soil can be used in the sustenance of plant life, for the production of crops.

Mr. JOHNSON. Will the gentleman yield?

Mr. NORRIS. In a moment. This method, recently discovered, has been designated as "dry farming" in that portion

of our country where irrigation can not be had and where there is not sufficient rainfall at all seasons of the year to produce a crop, and these experiments have been made mainly by private parties, with the idea of conserving the moisture in the soil and using it at times when no moisture comes in the shape of rain, for the purpose of feeding and caring for the crops that grow on the land. This amendment seeks to appropriate money for the Department of Agriculture to continue those experiments. It has been determined already that where the rainfall comes in vast quantities so that it passes off by evaporation or otherwise before it is used by the crop growing in the soil, and then the seasons of dry weather coming on that the crop fails, when, as a matter of fact, during the season there has been sufficient rainfall to produce the best of crops. Experiments have shown, carried on mainly by private parties in some of the western portions of the country, that this moisture can be conserved in the soil by what is known as "surface cultivation," and that a large rainfall will be conserved in the soil, and by surface cultivation and other methods of cultivation it will be prevented from evaporating, so that it will pass through to the roots of the crop growing on the land and by that means produce a crop.

Now, I want to say that a few years ago I went out in the western part of my State, when we had a long dry spell, and looked at two crops of corn, with nothing in the world between them but a wire fence. One had been experimented with in this way and was perfectly green, without a dead stalk, and while the ground on the top appeared to be dry, by scratching under the surface an inch or 2 inches the soil was so moist that you could mix it into a ball. Just over the fence the other corn crop was cultivated in the usual way, and it was perfectly dead, and would have burned if you had touched a match to it. Now, there is a vast scope of territory of this kind, and it is for the purpose of developing the best methods and experimenting with those methods of cultivation that will be the means of making all this territory produce crops that this appropriation is desired. Now, I will yield to my friend from South Carolina.

Mr. JOHNSON. I wanted to ask if this experiment is not already being carried on at the experimental stations in this country?

Mr. NORRIS. No; they are not carried on at all of them, although they are in some. This amendment is for the purpose of providing funds for carrying them on upon a larger scale. In my judgment it will be the means of making productive a very large scope of country that heretofore has been considered useless for agricultural purposes, and that has been used only as grazing land. It will eventually redeem millions of acres of land heretofore of little value, and provide pleasant homes and profitable farms for thousands of our people. In my judgment there is no item in this bill that will be productive of more beneficial results.

Mr. MARSHALL. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from Nebraska, to strike out the last word. I verily believe, Mr. Chairman, that the Agricultural Committee would have included this item in their bill had it not been for some confusion in regard to the matter. It will be understood that Doctor True, the head of the experiment station work, carries on certain work along the lines of irrigation with which we are all familiar. Doctor Galloway, who is at the head of the Bureau of Plant Industry, carried on certain other experiments of an entirely different character. Now, in order to explain that, I am going to read from pages 790 and 791 of the hearings before the committee. Doctor True says:

I am informed that owing to the broad phraseology of the bills covering this subject which have recently been before your committee there has been some fear of duplication of work or of conflict between the Office of Experiment Stations and the Bureau of Plant Industry on this matter. I am glad to say that, as regards our respective lines of work, Doctor Galloway and myself have a good understanding and are prepared to avoid duplication or conflict.

It is not the intention of the Office of Experiment Stations to engage at all in what is ordinarily called "dry farming." That belongs to the Bureau of Plant Industry, whose work includes all matters relating to varieties of crops and methods of cultivation. The Office of Experiment Stations, through its division of rural engineering, will deal exclusively with experimental work in irrigation, drainage, pumping, and farm machinery. Of course on tracts where we are testing methods of irrigation we shall grow crops, but they will be ordinary crops of the region, or those which we are advised to grow by the Bureau of Plant Industry. We shall not make crop experiments. The respective lines of work of these two bureaus are clearly differentiated.

The difficulty has arisen from the broad phraseology of the bills before your committee, which undoubtedly covers the field of both bureaus. * * *

What it needs is money. When you have decided what more you will appropriate for the object of these bills, give Doctor Galloway his share for the dry-farming experiments and give me my share for Mr. Mead's work in irrigation in the semiarid region.

Now, it is to clear up this subject that I have read this testimony. I believe that if this testimony had been fully brought to the attention of each member of the committee there would have been no question but that this item which I am asking for would have been included in the bill.

The CHAIRMAN. The time of the gentleman from North Dakota has expired.

Mr. SCOTT. Mr. Chairman, I desire to call the attention of the committee to the facts as disclosed by the hearings before the Committee on Agriculture that the work which it is proposed by the amendment offered by the gentleman from North Dakota to do is already being done and is fully provided for in the present appropriation. On page 158 of the hearings I asked Mr. Woods, who was then before the committee, this question:

Mr. SCOTT. At these substations you are studying what they call "dry farming?"

Mr. WOODS. That leads into a very important branch of dry farming, and for a number of years we have been looking out and trying to get good crops which are adapted for agricultural use in this area, which for a number of years at a time may have a very low rainfall, only 10 or 12 inches. The cultivation methods there are mainly for the purpose of conserving the moisture.

Mr. SCOTT. And are you conducting experiments all the way down from the Dakotas to Texas which involve the art of dry farming?

Mr. WOODS. Yes, sir.

Mr. SCOTT. I asked that question particularly because there is a bill before this committee to make a special appropriation for carrying on experiments in dry farming, and it occurs to me that if the Department is already doing that work in such a way as to develop whatever the facts may warrant it would not be necessary to make a special appropriation for it.

The CHAIRMAN. That question of cultivation comes under this item. What are the experiment stations in all of these States doing?

Mr. WOODS. They are cooperating with us very heartily.

The CHAIRMAN. And are you working in cooperation with them?

Mr. WOODS. Yes, sir.

The CHAIRMAN. Where are you making actual experiments—experiments in the actual growing of the wheats?

Mr. WOODS. Those experiments are being conducted at Dickinson and Edgely, N. Dak.; Highmore, S. Dak.; North Platte, Nebr.; Hays and Garden City, Kans.; Channing and Amarillo, Tex., as well as several other points between the ninety-eighth and one hundred and fourth meridians.

The CHAIRMAN. That is under the control of the experiment stations, and the Department is acting in an advisory capacity every year and furnishing the money to help the experiments along?

Mr. WOODS. Yes, sir. We put an expert there to carry out our part of the work. The stations assist by furnishing the land and furnishing the ordinary labor and the buildings, and so forth, and we look after the scientific part of it.

This makes it clear, I am sure, that under the present appropriation the work asked for by the gentleman from North Dakota [Mr. MARSHALL] is already being thoroughly and carefully done.

Mr. MARSHALL. Mr. Chairman, I am very glad indeed that the gentleman from Kansas read that testimony. The work is being carried on out of the funds for cereal investigations, which was covered by a bill that I introduced at the last session and which was incorporated in the appropriation bill by the Senate; a total of about $5,000 has been used out of the $25,000 and has been spread out among nine stations in the United States—a mere bagatelle, simply starting the work which the amount I now propose to add to this bill will extend. It is true that it is carried on in cooperation with State experiment stations, and that is exactly what I want, only I want to carry on the work more systematically and on a somewhat broader and more permanent plan.

Mr. SCOTT. Mr. Chairman, I only desire to call the attention of the committee to the fact that the work is already being done on a large scale all through the semiarid regions, and it can not be done all at once. The only thing that can be done is to conduct the experiments at the different places throughout the arid regions in order to demonstrate the feasibility of the project, and that is being done now.

Mr. MONDELL. Mr. Chairman, I trust that the amendment offered by the gentleman from North Dakota [Mr. MARSHALL] to the amendment offered by the chairman of the committee may be adopted. I believe that the work contemplated under that amendment is second only in importance to the great work of irrigation in the same region in which the Government is now expending millions of dollars. There lies between the Canadian line and Mexico, about the one-hundredth meridian, millions of acres of land having a rainfall of from 14 to 20 inches, not sufficient for the growth of crops under the ordinary methods of cultivation, not sufficient for the assured growth of the varieties of crops which have heretofore been generally grown in the same latitude farther east in that region, taking one year with another.

Mr. MURDOCK. Mr. Chairman, I will say to the gentleman that there are 300,000,000 acres on the high plains in the territory he speaks of.

Mr. MONDELL. In addition to this great region which the gentleman from Kansas [Mr. MURDOCK] says contains 300,000,000 acres there are scattered all through the States and Territories known and recognized as being generally arid consider-

able isolated areas having sufficient rainfall and soil of such character that agriculture can be carried on by improved methods and careful selection of crops advantageously and profitably. This vast region consists very largely of Government lands, lands to which we are now inviting the home seeker, lands that will make homes for the people of the East and the Central States now moving westward. Much has been accomplished in demonstrating what can be done in so-called "dry farming."

Already considerable areas have been conquered from the desert and successfully farmed, and it is proposed now to further extend the aid the Government has heretofore been giving to this great work of extending the nation's farm area by increasing this appropriation. It is true that the committee, after the hearings on this subject, did add $20,000 or $25,000 to the appropriation made for the division of irrigation and drainage investigations of the Bureau of Experiment Stations. That appropriation will assist in the development of dry farming as an auxiliary to the development of small irrigated farms. That was the purpose of that appropriation.

The Bureau of Experiment Stations is already doing and has done an exceedingly valuable work in this field, and in order that the splendid work carried on by the division of irrigation of the Office of Experiment Stations, and which should be under the charge of that Office, may be supplemented by the Bureau of Plant Industry it is proposed to add to the appropriation of that Bureau the sum of $25,000; and the gentleman from North Dakota [Mr. MARSHALL] has well said that this is a mere bagatelle when we take into consideration the valuable character of the work to be done, the vast extent of territory over which it can and ought to be carried on, and the thousands of homes that it will make possible on lands now popularly supposed to be available only for grazing purposes. Great as will be the development by irrigation ultimately in the United States, in my opinion, based on considerable experience in the western country, we will ultimately conquer from the desert, at least advance from grazing lands of small value to farming lands supporting comfortably large populations, many more acres by dry farming than we can reclaim by irrigation, owing to the limited water supply available for that purpose. [Applause.]

Mr. LAMB. Mr. Chairman, I move that all debate on the pending paragraph and amendments thereto be now closed.

Mr. WADSWORTH. Mr. Chairman, I would ask the gentleman from Virginia to withhold that motion for one minute until the gentleman from Colorado [Mr. BROOKS], on the committee, has an opportunity to make an explanation.

Mr. LAMB. Very well; I will yield to the gentleman for one minute.

Mr. BROOKS of Colorado. Mr. Chairman, it is true that the bill as reported carries $25,000 for the item of dry farming. That is on page 51 of the bill, under the drainage investigation, and the language of the text is as follows: "With especial suggestions of the best method for the utilization of irrigation waters in agriculture." Now, the language is perhaps not very specific, but in the opinion of the Department it covered that particular feature.

Mr. MARSHALL. Do you pretend for one moment that that item covers the proposition I have offered here as an amendment?

Mr. BROOKS of Colorado. I think I can answer that frankly, and I will. Mr. Chairman, there were, I think, eight or ten——

Mr. NORRIS. Before the gentleman does that, will he point out the location of this language? I would like to read the language myself.

Mr. BROOKS of Colorado. On page 51, lines 2 and 3.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. BROOKS of Colorado. Yes; certainly.

Mr. MONDELL. I did not understand the gentleman is opposed to a further appropriation for the work of dry farming experiments.

Mr. BROOKS of Colorado. I am on the Agricultural Committee, and the committee, at my suggestion, made the appropriation which I have alluded to, and I am bound to stand by my committee; but I want to answer frankly the question of the gentleman from North Dakota. There were six or seven bills introduced covering features of dry farming. Now, three or four of those bills had reference to the irrigation side of the subject and three or four of them had reference to the cultural-method side of it. The gentleman from North Dakota introduced a bill covering the cultural methods—that is to say, the cropping treatment of the soil and the systems of dry farming, which are being considered at this time; and the other class of bills had reference to the storage of inadequate surface water supply, the making available of subterranean water, and that class of work.

Mr. STEPHENS of Texas. I desire to ask the gentleman whether there was an appropriation made for the bill I introduced, providing $10,000 for experimental purposes in Texas? Was there any provision made relative to that bill? I understood it was to be taken care of and put in in an omnibus appropriation.

Mr. BROOKS of Colorado. There was; and the gentleman from Texas introduced one of the bills of the class which I have just described—that is to say, having particular reference to the cultivation of land where the water supply was inadequate to raise ordinary crops.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Virginia moves that debate upon the pending paragraph and amendments thereto be closed.

Mr. WADSWORTH. I hope the gentleman from Virginia will allow Mr. BROOKS, a member of the committee, to finish.

Mr. LAMB. For how long a time?

Mr. BROOKS of Colorado. Three minutes; and, Mr. Chairman, before I go on——

The CHAIRMAN. Does the gentleman from Virginia withdraw his motion?

Mr. LAMB. I do.

The CHAIRMAN. The gentleman from Colorado is recognized for three minutes.

Mr. BROOKS of Colorado. I would ask unanimous consent to extend my previous remarks in the RECORD.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. GAINES of Tennessee. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. MARSHALL. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Colorado yield?

Mr. BROOKS of Colorado. I yield for a question, but I have but a few moments now.

Mr. MARSHALL. In order to clear up this matter will the gentleman kindly explain how he expects an appropriation under the head of "Office of Experiment Stations" to be added to the Bureau of Plant Industry? Now, if you will clear up that question it will settle the whole thing.

Mr. BROOKS of Colorado. The gentleman asks a difficult question, but I think I can answer it. The whole work is one, but it has two phases. One is Doctor Galloway's work and the other is Mr. Mead's work. Now, as the gentleman from Kansas said, Doctor Galloway's work is to some extent covered by the general appropriations for his Bureau, but it is not covered by this specific appropriation for Mead's work. There is no question about that, and I do not want to mislead the committee. What I am trying to say is this, that the bill carried an increase of $25,000 for one phase of dry farming. That is all I can say. This increase, on page 51, does not cover the matter of improved cultural methods on which Doctor Galloway is working.

Mr. STEPHENS of Texas. Does this cover Professor Mead's system of dry farming?

Mr. BROOKS of Colorado. It does, and I will say further that in drafting the amendment to page 51, which incorporated the terms of the bill which I introduced on this subject, I consulted Mr. Mead, and he thought it was adequate for everything wanted for his work.

Mr. POLLARD. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to the gentleman from Nebraska?

Mr. LAMB. Mr. Chairman, I renew my motion.

Mr. BROOKS of Colorado. To sum up, then, there were two phases of this work before this committee, but they both had reference to dry farming, and we added $25,000 to the bill for Mr. Mead's work.

Mr. LAMB. Mr. Chairman, I renew my motion.

The CHAIRMAN. The gentleman from Virginia moves that the debate be now closed.

Mr. POLLARD. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Nebraska rise?

Mr. POLLARD. To ask unanimous consent to withdraw my amendment. There is a great deal of confusion——

The CHAIRMAN. The gentleman from Nebraska [Mr. POLLARD] asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. WADSWORTH. Mr. Chairman, I ask unanimous consent to withdraw my amendment to the amendment offered by the gentleman from Nebraska.

The CHAIRMAN. The gentleman from New York [Mr. WADSWORTH] asks unanimous consent to withdraw his amendment to the amendment offered by the gentleman from Nebraska. Is there objection?

There was no objection.

Mr. MARSHALL. Mr. Chairman, I desire to offer an amendment to the paragraph.

The CHAIRMAN. The gentleman from North Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

In line 18, page 21, strike out the words "three hundred and eighty-nine" and insert the words "four hundred and fourteen."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. WADSWORTH. Mr. Chairman, that is an amendment which the gentleman offers to the amendment of the gentleman from Nebraska and my amendment to the amendment. The subject has been thoroughly debated. I hope it will not prevail. [Cries of "Vote!"]

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the Chair announced that the noes seemed to have it.

Mr. MARSHALL. Division, Mr. Chairman.

Mr. BONYNGE. Before the question is put, Mr. Chairman, I desire to ask a parliamentary question. What is the motion that is now being submitted to the committee?

The CHAIRMAN. Unless there is objection, the Clerk will again report the amendment.

The Clerk reread the amendment.

Mr. BONYNGE. Mr. Chairman, if I understand, that is an increase of $25,000 for dry farming?

Then, on motion of Mr. MARSHALL, the committee divided; and the Chair announced—ayes 44, noes 71.

So the amendment was rejected.

Mr. PALMER. Mr. Chairman, I offer the following as a new paragraph, and I wish to have it considered as pending.

Mr. LAMB. Mr. Chairman——

The CHAIRMAN. The Chair holds that it can not be received at this time.

Mr. PALMER. I do not ask to have it considered before the paragraph offered by the gentleman from Virginia.

Mr. LAMB. Mr. Chairman, I thought I had the floor.

Mr. WADSWORTH. A point of order, Mr. Chairman.

Mr. POWERS. Mr. Chairman, I have an amendment to offer to that paragraph.

Mr. MURPHY. I have an amendment to offer to that paragraph, Mr. Chairman.

The CHAIRMAN. The pending paragraph?

Mr. MURPHY. Yes.

Mr. LIVINGSTON. Mr. Chairman, I insist that while a point of order is pending that the gentleman can not offer an amendment.

Mr. PALMER. Yes, he can.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Missouri [Mr. MURPHY].

The Clerk read as follows:

After the word "dollars," on line 9, page 21, insert: "*Provided*, That the Secretary of Agriculture is authorized and directed to expend $5,000 of the amount hereby appropriated to especially investigate parasites and orchard diseases prevalent in the Ozark Mountain region of the State of Missouri, and to work out, if possible, in cooperation with the fruit experiment station at Mountain Grove, the problem of prevention of such diseases and destruction of parasites and diffuse information along these lines."

Mr. HAY. A parliamentary inquiry, Mr. Chairman.

Mr. LIVINGSTON. Mr. Chairman, I make the point of order.

Mr. HAY. I understand that is an amendment to the paragraph just read.

The CHAIRMAN. The preceding paragraph, which has been perfected.

Mr. POWERS. I want to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. POWERS. In case the new paragraph offered by the gentleman from Virginia——

The CHAIRMAN. The Chair will state that we have not reached that paragraph yet.

Mr. POWERS. Will this section after that be opened to amendment?

The CHAIRMAN. We have not reached that paragraph yet. The Chair will answer that when we come to it. The question is on agreeing to the amendment offered by the gentleman from Missouri.

Mr. MURPHY. Mr. Chairman, I ask unanimous consent for five minutes.

Mr. CANDLER. Mr. Chairman, debate by motion has been closed.

The CHAIRMAN. All debate has been closed.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Missouri [Mr. MURPHY] may have five minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Missouri [Mr. MURPHY] may have five minutes.

Mr. LIVINGSTON. Mr. Chairman, I object.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Missouri [Mr. MURPHY].

The question was taken; and the Chair announced that the noes seemed to have it.

Mr. MURPHY. Division, Mr. Chairman.

The committee divided; and the Chair announced that there were—ayes 65, noes 46.

Mr. WADSWORTH. Tellers! Mr. Chairman, I do not think the House understands——

Mr. HAY. Mr. Chairman, I call the gentleman from New York to order.

Mr. WADSWORTH. I ask for tellers. [Cries of "Regular order!"]

Tellers were ordered.

The CHAIRMAN. The gentleman from New York [Mr. WADSWORTH] and the gentleman from Missouri [Mr. MURPHY] will take their places as tellers.

The House divided; and the tellers proceeded to count.

Mr. WADSWORTH (during the count). I withdraw the demand for the vote by tellers.

The CHAIRMAN. On this question the yeas are 65, the noes are 47.

So the amendment was agreed to.

The CHAIRMAN. Are there any more amendments to the pending paragraph? If not, the question will come on the motion of the gentleman from Virginia.

Mr. WADSWORTH. On that I make the point of order that it is new legislation and that it is not warranted by law.

The CHAIRMAN. The gentleman from Virginia has offered an amendment, which has been read, to which the gentleman from New York reserves the point of order.

Mr. LAMB. Mr. Chairman, this amendment has become necessary by reason of the fact that the Committee on Agriculture one morning in a merry mood, on a motion tentatively made, suggested that we strike out of the appropriation bill the item carrying a certain amount for seed. Not one word was heard before the committee from anyone advocating or opposing this seed distribution.

Mr. WADSWORTH. I make the point of order that the gentleman is not speaking to the point of order, and that the gentleman from Virginia [Mr. HAY] demanded the regular order.

Mr. LAMB. I will discuss the point of order. Do not fear about that, my friend.

On the morning referred to a gentleman on our committee, who comes from Long Island [Mr. COCKS], moved to strike that appropriation out in equally a jocular mood, and the able, amiable, and venerable chairman of this committee seconded it, and on that vote it stood 8 to 7—a historical number in this glorious country of ours. [Laughter and applause.] The next morning a member of the committee moved to take that resolution from the table, where it had been placed, and reconsider it.

Mr. WADSWORTH. I am compelled to call the gentleman to order. He is not debating the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LAMB. I am coming to the point of order. Be patient please.

The CHAIRMAN. The gentleman will be in order. The Chair will be glad to hear the gentleman on the point of order.

Mr. LAMB. I hope the Chairman will not press that, because I am going to discuss the point of order immediately. Nothing was said here in all the skirmish yesterday on this point at all. No member of the committee has disclosed——

Mr. WADSWORTH. I insist on my point of order.

The CHAIRMAN. The gentleman from New York insists upon the point of order. The gentleman from Virginia will discuss the point of order.

Mr. LAMB. Well, I will not offend any more, as the gentleman said the other day, under like conditions.

This amendment, Mr. Chairman, is not contrary to existing

law. Here is the law. It is not new; it is existing to-day and has existed for fully forty years. On May 15, 1862, this law was enacted:

Be it enacted, etc., That there is hereby established at the seat of government of the United States a Department of Agriculture, the general designs and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

Within a few months of that time, in the same Congress, in fact, the following appropriation was made:

For collection of agricultural statistics, investigations for promoting agricultural and rural economy, and the procurement, propagation, and distribution of cuttings and seeds, $60,000: *Provided, however,* That in the expenditure of this appropriation, and especially in the selection of cuttings and seeds for distribution, due regard shall be had to the purposes of general cultivation, and the encouragement of the agricultural and rural interests of all parts of the United States.

Now, is that sufficient? Does not that satisfy any reasonable man here of the correctness of the position I take, that this amendment is germane and that it can not be subject to a point of order? The chairman of this committee, in his report, makes use of this language:

The item covering the Congressional free distribution of vegetable and flower seed has been entirely omitted from the bill. There is not and never has been any warrant of law for such expenditure.

And yet for ten years, since I have been here, we have been making this appropriation *against law and precedent*, according to this report, for this very purpose.

Mr. Chairman, it does seem a huge pity that a subject like this, so momentous to the people of this country and particularly to the 7,000,000 who till the soil, should be decided and perhaps terminated by an appeal to a point of order. [Applause.] But we are not without precedents in this case. Every gentleman who was in the last Congress remembers when a point of order was made by my friend from Texas [Mr. SHEPPARD], and the gentleman from Maine [Mr. POWERS] was in the chair, that this very question was discussed. I will not stop here to read the ruling of the gentleman from Maine [Mr. POWERS] on that occasion, because so many of these gentlemen who are interested in this subject have read it and know just as much about it as I do. The ruling is familiar. Mr. Chairman, you can not rule against us in this matter unless you overrule the decision of the gentleman from Maine [Mr. POWERS] in an exactly analogous case, one standing on all fours with this. I desire to call your attention to the fact that the very exceptions that were made in that case have been obviated in this amendment that I have offered, and there is no reason on earth why any man who may happen to be in the chair should sustain this point of order. There are others here who have studied this question and are prepared to speak.

I have submitted briefly, as pointedly as I know how, and with all the lamb-like modesty that I possess, the arguments in favor of this amendment and against this point of order. [Applause.]

The CHAIRMAN. The Chair will be glad to hear from the gentleman from New York on the point of order.

Mr. WADSWORTH. I do not care to say anything on the point of order. There is nothing in the organic law providing for this seed distribution, and I based my point of order on this fact. I think even the Department itself has always held that there was no authority for this seed distribution except that granted by the appropriation bill.

Mr. POWERS. Mr. Chairman, as the gentleman from Virginia [Mr. LAMB] has referred to a ruling of mine, made four years ago, when a similar section was in the agricultural appropriation bill, I desire to make a few remarks upon my ruling and on the point of order by the gentleman from New York [Mr. WADSWORTH].

Now, first of all, in order that we may fully understand whether this amendment is or is not subject to a point of order, it might be well to read the statute authorizing the purchase and distribution of seeds, and if you will pardon me I will read it.

It reads as follows:

The purchase and distribution of seeds by the Department of Agriculture shall be confined to such seeds as are rare and uncommon to the country, to such as can be made more profitable by frequent changes from one part of the country to another—

Which applies to all the seeds, in my judgment, as a change from one section of the country to another of similar seeds is often attended with beneficial results—

and the purchase, propagation, and distribution of trees, plants, shrubs, vines, and cuttings, shall be confined to such as are adapted to general cultivation, and to promote the general interests of horticulture and agriculture throughout the United States.

Now, that that statute authorizes the purchase of seeds no one can deny. That it authorizes the distribution of seeds no one can deny. A reference to the CONGRESSIONAL RECORD will show that I ruled out of order a paragraph which contained a proposition directing another branch of the Government, or another Department or bureau—in short, the Public Printer—to furnish franks and to do certain things in reference to the distribution of seeds when there was and is no statute imposing this duty, because I believe that that was not justifiable and was clearly within the prohibition of the rule forbidding new legislation upon an appropriation bill. But the question arises here and now, there being a statute of the United States which authorizes the purchase and distribution of these seeds, may we not specify in this appropriation bill, and may we not in an amendment to it direct what that Department shall do, the method it shall adopt, what course it shall take, and how it shall make that distribution? If we may do that, and I submit it seems to me we can, then the amendment offered by the gentleman from Virginia simply carries out and gives effect to the provisions of the statute, and, I think, is not subject to a point of order.

If, however, after the statutes of our country authorize the Secretary of Agriculture to purchase and distribute seeds, cuttings, and so forth, we can not specify the manner and the agencies and methods which shall be used by him in any distribution which he shall make, then perhaps the proposed new section is subject to a point of order. Now, I believe that while the law or the rule which makes legislation on an appropriation bill subject to a point of order is generally wise, especially when applied to subjects not germane to the bill under consideration, yet when the amendment offered is germane to the subject-matter as this is, if there are any doubts as to whether it is subject to a point of order or not, they should be resolved in favor of permitting the submission of that amendment, or, as in this case, new section, to a vote of this House in Committee of the Whole. [Applause.]

I do not think that a careful examination of my ruling at that time will make it necessary for the present Chairman to rule in conflict with my decision in deciding to sustain the point of order, as I ruled out the section for the reason before specified and gave no opinion as to the portions now before the House, upon which the point is now raised; yet I wish to call the attention of this committee to the fact that there is nothing, in my judgment, in the amendment offered by the gentleman from Virginia that is not necessary and required for a proper distribution of these seeds, which distribution he is authorized by the statute to make, and I believe can legally make through the agencies and in the manner set forth in the section offered by the gentleman from Virginia, and I wish to impress upon the Members of this House again the fact that the amendment is germane to this appropriation bill and, in my judgment, does not change existing law or enact new law or impose any limitation or restriction upon the Secretary of Agriculture exercising all his perogatives.

I wish also to refer to the other fact—let it have what weight it may—that the ruling I made four years ago was made at the request and instance of the gentleman who makes the point of order against this amendment. [Laughter.] That ruling was acquiesced in not only by him, but by the committee. He took advantage of it when it was in his favor, and the Committee on Agriculture have placed it in all their appropriation bills since that time except the present one.

Mr. SCOTT. Will the gentleman allow me a question?

Mr. POWERS. Yes.

Mr. SCOTT. The gentleman from Maine has said that the ruling was made at the suggestion of the chairman of the committee. I would like to inquire if it was made because the chairman of the committee requested it, or because it was the opinion of the gentleman from Maine, who was in the chair?

Mr. POWERS. I will say that the subject was one not free from doubt, and I so stated at the time; but I acted upon the principle, which I have tried to impress upon the committee, that where a matter is germane to the appropriation bill under consideration I resolve that doubt in favor of permitting the committee to consider it upon its merits and to vote upon it rather than take it from them by an arbitrary ruling of doubtful validity.

Now, the paragraph in the bill which was ruled upon then and which was sustained by the action of the committee, I am informed, is similar to that which has been in many bills before, and is identical with that which has been in three or four appropriation bills which have preceded this one. That paragraph, after it had been amended by the chairman of the Agricultural Committee, and the amendment of the gentleman from Virginia are identical. Now, understand me, I held the whole section bad in the first instance on the ground that it prescribed certain things to be done by the Printing Bureau, which was clearly

new legislation, and as that portion was subject to a point of order, the whole section had to be ruled out, and after that had been stricken out the chairman of the committee offered the same paragraph with that part eliminated and no contest was made as to its validity.

Mr. LAMB. That very language to which the gentleman refers is erased from this amendment.

Mr. POWERS. I know that. I said that it was identical with the paragraph after the objectionable matter was stricken out. After that the committee not only adopted the section with that stricken out, but, by unanimous consent, to the end that Members might have the privilege of using their franks, they put back the objectionable part into the section.

I have no feeling or pride of opinion about this matter. I do not know as I ruled right. I acted under the best light I had at the time, and I acted in a way that would let the committee have a chance to pass upon the paragraph. I believe that the extreme restriction which takes away from consideration of this House matter on the ground that it is new legislation—matters that are really germane to the bill under consideration—I believe that power should be used with caution, and that proposed amendments should be construed with great liberality. Having made this statement and having no wish, purpose, or desire to ask that anyone be influenced by what I may have ruled, only to consider that this same legislation has been in the bill ever since, and that it was the view of the House at that time, I leave the matter with the chairman of the committee, having every confidence that a right conclusion will be reached.

Mr. JAMES. I would like to ask the gentleman if any appeal was ever taken from his decision?

Mr. POWERS. No appeal was ever taken, and up to the present time the Agricultural Committee and the Committee of the Whole House, by their acts at least, have ratified and confirmed it.

Mr. OLMSTED. Mr. Chairman, independent of the question of the wisdom or unwisdom, the propriety or impropriety, of the subject-matter of this paragraph, the question of order is one of considerable importance. I desire to call the attention of the Chair to a provision found in volume 18 of the Statutes at Large, page 343, to which attention perhaps has not been called:

That seed transmitted by the Commissioner of Agriculture or for any Member of Congress or Delegate receiving seeds for distribution from the seed department, together with agricultural books emanating from the Department and so transmitted, shall, under such regulations as the Postmaster-General shall prescribe, pass through the mails free of charge. The provisions of this section shall apply to ex-Members of Congress and ex-Delegates for the period of five months after the expiration of their terms as Members and Delegates.

That is found in the act of March 3, 1875, and is permanent legislation. Now, if I understand it, the paragraph which the gentleman from Virginia has offered is taken verbatim from a provision in the agricultural appropriation bill as passed at the last session in 1905. It seems to me that the point of order raised is a very delicate question which may not be entirely free from doubt. It seems to me, Mr. Chairman, that that provision which begins "an equal proportion of two-thirds of all seeds, bulbs, shrubs, vines, cuttings, and plants shall, upon their request, after due notification by the Secretary of Agriculture that the allotment to their respective districts is ready for distribution, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their constituents," as found in the appropriation bill of 1905, may be fairly construed to be in the nature of permanent law.

But, Mr. Chairman, I am not quite certain that the preceding part of the provision, which, as I understand, is at the commencement of the paragraph offered by the gentleman from Virginia [Mr. LAMB], containing this language: "And the Secretary of Agriculture is hereby directed to expend said sum of money" in such and such directions. It is possible that that, being a limitation upon the discretion of the Secretary not found in existing law, may make the whole paragraph subject to the point of order. If, however, you construe it as a mere limitation upon this appropriation, of course the point is not good.

Mr. CRUMPACKER. Mr. Chairman, will the gentleman allow a question?

Mr. OLMSTED. Certainly.

Mr. CRUMPACKER. Does the statute anywhere vest this discretion in the Secretary? There is no law vesting the discretion that is contained in the provision the gentleman has just quoted from in the Secretary of Agriculture, is there?

Mr. OLMSTED. Then clearly this is a change of existing law.

Mr. CRUMPACKER. It is a direction of an appropriation that Congress made—a direction within a purpose allowed by law, and therefore clearly a limitation.

Mr. OLMSTED. But, in my opinion, the act creating the Department authorizes the Secretary of Agriculture to purchase seeds in his own discretion as to the manner thereof. This particular language seems to be a limitation upon that discretion. It is perhaps an immaterial part of the amendment. It is a matter that, if the Chair shall rule the paragraph out of order, can be very readily corrected by offering a paragraph omitting the objectionable portion, and that would be clearly not subject to the point of order. That being the case, there is really not very much to be gained, I would suggest to the gentleman from New York [Mr. WADSWORTH], by taking up the time of the committee in the discussion of this point of order. It seems to me that it is a fairly debatable question, very close. I personally feel that except for the limitation upon the discretion of the Secretary the paragraph might safely be held in order.

The CHAIRMAN. Will the gentleman from Pennsylvania refer again to the language of that limitation which he has in mind?

Mr. OLMSTED. I am reading from the appropriation act of 1905, which I understand to be identical with the language of the amendment offered by the gentleman from Virginia. It says that the Secretary of Agriculture is hereby directed to expend said sum in such and such manner. It seems to me that if there was a simple appropriation of this amount of money in the language of the act of Congress that is permanent law, the Secretary of Agriculture could readily treat the balance of the act of 1905 as permanent law for the purpose of distribution.

Mr. CRUMPACKER. The second volume of the Supplement to the Federal Statutes, that contains all that the compiler regarded as permanent law that is carried in appropriation bills, carries this same provision as permanent legislation. That is, I think, on page 1513 of the second volume of supplements and on another page.

Mr. DALZELL. Which provision is that?

Mr. CRUMPACKER. All this provision that might be freely termed "legislation." There is one other thing, with the permission of the gentleman from Pennsylvania, that I desire to say in connection with that provision which he has been discussing, that the Secretary of Agriculture is hereby directed to expend said sum "as nearly as practicable." Now, who determines whether it be practicable? It still vests that discretion in the Secretary of Agriculture. I think it is a legitimate and proper limitation upon the expenditure of money.

Mr. OLMSTED. Why, Mr. Chairman, there is no controversy between the gentleman from Indiana [Mr. CRUMPACKER] and myself as to the paragraph he finds on page 1513 of the supplement. That is exactly what I stated may in my judgment be construed to be permanent law. The only question that troubles me is the direction to the Secretary to expend the money in a certain direction, in possible limitation of the discretion now conferred upon him by law.

The CHAIRMAN. The Chair would like to ask the gentleman what he says about this provision: That the person receiving such seed may be requested to inform the Department of the results of experiments therewith, and so on?

Mr. OLMSTED. That, I think, is part of permanent law today. I think it is unnecessary in the paragraph, but I do not think its presence makes the paragraph subject to a point of order.

The CHAIRMAN. The Chair would like to call the attention of the gentleman to the language "and the person receiving such seeds," apparently the seeds referred to in the very appropriation bill—the very seeds provided for in the appropriation bill.

Mr. LAMB. Mr. Chairman, I shall ask the privilege of amending that by using the word "authorized" instead of the word "directed," and it seems to me that that would correct the trouble weighing on the gentleman's mind.

The CHAIRMAN. The gentleman from Virginia is not in order at the present time. Debate is proceeding on a point of order.

Mr. OLMSTED. Mr. Chairman, that seems to me to refer to the seeds allotted in that provision which I construe to be permanent law to-day. The principal difficulty that I have with this is in the direction which seems to control the discretion of the Secretary of Agriculture, which he might have under existing law, and it is such a close and narrow question and so easily corrected by another amendment that the gentleman from New York [Mr. WADSWORTH] might or might not feel like insisting on his point of order.

Mr. LAMB. I ask for a ruling, Mr. Chairman.

The CHAIRMAN. The Chair desires to alternate between those supporting the point of order and those opposing it, and if the gentleman from Pennsylvania desires to support the point of order the Chair will recognize him.

Mr. DALZELL. Mr. Chairman, just a word. If I were called upon to decide this question upon the language of the statutes as they are printed under the head of the "Department of Agriculture," to wit, section 520 and sections 526 and 527, I should say without doubt the point of order ought to be sustained for the reason that so far as section 520 is concerned it was evidently in contemplation of the legislature that the Secretary of Agriculture should have the distribution himself, as the head of the Department, of a particular and limited kind of seed, not the general distribution contemplated by this amendment, and it seems to me that that idea is further emphasized by the language of section 526, and especially by the language of section 527.

Purchase and distribution of seeds by the Department of Agriculture shall be confined to such seeds as are rare and uncommon to the country, or such as can be made more profitable by frequent changes from one part of our country to another.

Now, as I say, if the point of order was to be decided simply upon those statutes which relate to the Department of Agriculture it seems to me clear the point of order ought to be sustained. That is to say, those statutes seem to contemplate the distribution by the Department direct, not through the intervention of any other party, and a distribution of a particular kind of seed, not the kind of seed that is contemplated by the amendment offered. If, however, what the gentleman from Indiana says is true, and if the language of the appropriation bill of 1905 is upon the statute books as a permanent statute, so recognized by those entitled to say what shall go upon the statute book as permanent, then it seems to me it would be a very doubtful question. Now, it is for the Chair to say what effect shall be given to the alleged statute quoted by the gentleman from Indiana. If that be the law, then the amendment, in my judgment, is not a change of law. If that be not the law, and the point of order is to be decided simply upon the language creating the Department of Agriculture and defining its duties, then, in my judgment, the point of order ought to be sustained. In any event it seems to me a very doubtful question.

Mr. UNDERWOOD. Mr. Chairman, I would like to ask the gentleman from Pennsylvania a question.

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Alabama?

Mr. DALZELL. Certainly.

Mr. UNDERWOOD. I understand that the point of order the gentleman from Pennsylvania insists should be sustained is that it is provided in the original enabling act of the Department of Agriculture that these seeds should be distributed by the Secretary of Agriculture and the provision of the existing amendment provides that they shall be distributed by Members of Congress.

Now, I want to ask the gentleman from Pennsylvania if this is not the fact, that the enabling act of the Department of Agriculture first provides for the purchase and distribution of seeds, and that that is an entity to itself independent of the question of distribution by the Secretary of Agriculture; and if that is so, has not Congress power to provide for the purchase and distribution of seed and then limit that appropriation, as it can limit all other appropriations that Congress makes? If we purchase a battle ship, we can limit it by saying that the ship shall be built in a certain navy-yard, or that the ship be made of wood or iron. In the same way, does not the enabling act of the Department of Agriculture provide temporarily for the purchase and distribution of seed and rare plants, and then if Congress in its wisdom desires to limit that by providing that it shall be distributed by Members of Congress, by the governors of the States, or any other way, can not we direct on a particular appropriation bill how that particular money shall be expended? I do not think there is any doubt about that decision.

Mr. DALZELL. Why, there is no doubt at all about the power of Congress in the premises. That is not the question involved here. The question is as to whether Congress can legislate in a particular way—to wit, upon an appropriation bill, and the question here is whether or not this is not new legislation.

Mr. UNDERWOOD. But is it not a limitation when we provide for the expenditure of money to purchase and distribute seed then to provide how the seed purchased under this particular act—not in the future, but these seeds that are to be purchased by this appropriation—are to be distributed. It is a limitation and not new legislation, and I say that the decisions of the House repeatedly have held that.

Mr. DALZELL. Well, I should not agree with the gentleman that it is a limitation. I think that the doctrine of limitation has been stretched beyond all reason already, and that would be going a step further.

Mr. OLMSTED. I desire to ask my colleague what bearing he thinks the act of March 3, 1875, would have? I read it, perhaps, in his absence.

Mr. DALZELL. I was not here, and I did not hear it.

Mr. OLMSTED. That is a provision of permanent law that states that—

Seeds transmitted by the Commissioner of Agriculture or by any Member of Congress or Delegate receiving seeds for distribution from said Department, together with agricultural reports emanating from that Department, and so transmitted, shall, under such regulations as the Postmaster-General may prescribe, pass through the mails free of charge.

The provisions of this section shall apply to ex-Members of Congress and ex-Delegates for a period of nine months after the expiration of their term as Members and Delegates.

Mr. DALZELL. I would say that that was an enlargement of the authority conferred by the organic act, and it seems to me it is such a close question, Mr. Chairman, that it is unfortunate that the Chair has to be called on to rule upon it, especially in view of the temper of the House.

Mr. WADSWORTH. Mr. Chairman, in view of what has been said I will withdraw the point of order. [Applause.]

The CHAIRMAN. The question is on the adoption of the amendment.

Mr. WADSWORTH. Tellers, Mr. Chairman.

Tellers were ordered; and Mr. WADSWORTH and Mr. LAMB were appointed tellers.

The committee divided; and the tellers reported—ayes 153, noes 58.

So the amendment was agreed to.

[Applause.]

Mr. SHEPPARD. Mr. Chairman, I desire to offer an amendment as a new section.

The CHAIRMAN. The gentleman from Texas offers an amendment by way of a new paragraph, which amendment the Clerk will report.

The Clerk read as follows:

Provided, That a Member may, upon his request, be allotted his entire quota in field seeds, such as cotton, corn, wheat, alfalfa, rye, clover, tobacco, and so forth, in plants, grass seed, vine cuttings, and so forth, or in such proportions of field seeds, vegetable seeds, plants, grass seeds, vine cuttings, and the like as he may designate.

Mr. WADSWORTH. Mr. Chairman, I have no objection to that.

Mr. SHEPPARD. Mr. Chairman——

Mr. MANN. Mr. Chairman, it has been impossible to hear the amendment read, and without hearing it I shall have to reserve the point of order.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk reread the amendment.

Mr. MANN. Mr. Chairman, I make the point of order on that provision. It seems to me that it is going a good deal further than we have gone before, and it seems to me a positive provision. They do it whenever you want them to do it now, do they not?

Mr. SHEPPARD. You are confined now to vegetables and flower seeds. This extends the scope so you can supply other kinds of seed—valuable seeds.

The CHAIRMAN. Does the gentleman offer that as an addition to the amendments already made?

Mr. SHEPPARD. Just simply as a new section of that amendment, an amendment to the section just adopted. Technically, however, it is a new paragraph or section of the bill.

Mr. MANN. Mr. Chairman, the amendment that was offered by the gentleman from Virginia [Mr. LAMB] has been adopted by the House. That provision is not subject to an original amendment.

Mr. SHEPPARD. This is not an original amendment.

Mr. MANN. An amendment that is offered now must stand upon its merits, so far as new legislation is concerned.

Mr. SHEPPARD. Certainly. It stands as a separate paragraph. In reality, however, it is connected with the paragraph preceding it, enlarges its scope and enables Members to distribute field seeds whenever field seeds are desired by the people of their respective districts.

Mr. MANN. It extends the scope of the Congressional seed distribution?

Mr. SHEPPARD. Certainly.

Mr. MANN. For that reason I rise to a point of order.

Mr. SHEPPARD. It extends the distribution so as to include valuable seeds.

Mr. MANN. I think the Secretary ought to comply with the original law.

Mr. CRUMPACKER. If the gentleman from Illinois [Mr. MANN] will allow a question, I will state that this amendment vests in the Members of Congress severally the right to designate the kind of seeds that shall be purchased. It is a radical change in the present methods of selecting, because it gives to

each Senator and Representative the right to say what particular kind of seeds shall be sent into his district, and it certainly changes existing law. There never has been a provision authorizing selection in that manner, and there is none in the present bill. There is none in the amendment that has been adopted, and it seems to me it would be the most embarrassing thing that could be done as a matter of policy.

Mr. SHEPPARD. My intention is to provide that the Secretary may, in his discretion, make the desired distribution on the request and designation of a Member.

Mr. CRUMPACKER. Well, then, as a few Members may require a particular kind of seed the selection or designation is a matter of legislation that would have to be made before the Secretary of Agriculture made his purchase at all.

Mr. SHEPPARD. Indeed, that is what I hope shall be done.

Mr. CRUMPACKER. The amendment does not provide it.

Mr. SHEPPARD. It follows by implication. At any rate, the amendment expresses my position, and I shall endeavor to secure its enactment into law in some other way, if it can not be inserted here.

Mr. CRUMPACKER. I certainly think the point of order made by the gentleman from Illinois is well taken.

The CHAIRMAN. The Chair would like to inquire of the gentleman from Texas whether he offers this amendment as an additional amendment to the one that has just been adopted or as a new paragraph?

Mr. SHEPPARD. I offer it as a new section. The recent amendment has already been voted on.

Mr. MANN. A new paragraph.

The CHAIRMAN. If it is a new paragraph, the Chair sustains the point of order. The Clerk will read.

Mr. WADSWORTH. Mr. Chairman, I ask unanimous consent to go back to line 19, page 21, and offer the committee amendment increasing the appropriation $76,000.

The CHAIRMAN. Is there objection to the request of the gentleman to return to the page indicated? [After a pause.] The Chair hears none. The gentleman from New York offers the amendment which the Clerk will report.

The Clerk read as follows:

Strike out three hundred and eighty-nine and insert four hundred and sixty-five, so as to read "$465,260."

Mr. POLLARD. I have not the sum total of the figures, but I move to substitute for the amendment offered by the gentleman from New York that the amount be increased $125,000. That takes care of the matter I was presenting to the House a while ago.

The CHAIRMAN. The gentleman from Nebraska offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend the amendment by adding $50,000, so as to make it read "$515,260."

Mr. LIVINGSTON. A parliamentary inquiry.

Mr. CANDLER. I will ask the gentleman if the totals have been added to so as to include the amendment offered by the gentleman from Virginia?

The CHAIRMAN. The Chair refers the gentleman to the gentleman from New York.

Mr. CANDLER. Do you change the total?

Mr. WADSWORTH. We have not yet; but they will be changed when we reach them.

Mr. LIVINGSTON. With the understanding, Mr. Chairman, that that will be done, I have no objection.

Mr. WADSWORTH. I hope the amendment offered by the gentleman from Nebraska will not prevail. I do not think the Committee on Agriculture has been parsimonious in making appropriations for the Department. I think in this bill the Bureau of Plant Industry has sufficient money appropriated to carry on the work asked for by the gentleman. To increase the amount provided by $50,000 is absolutely excessive. I want to say one thing to this committee. These appropriations have gone on for years for these scientific purposes. They will go on probably until we are all dead. The only thing for this committee and this House is to pass upon the question, How much money can these scientific bureaus expend judiciously within the fiscal year? It is not like an appropriation for a public building or any specific object. The committee have simply to decide how much can be judiciously expended within the fiscal year.

Mr. FINLEY. In what way is this money to be expended?

Mr. WADSWORTH. The appropriation for the Bureau of Plant Industry is to be expended in all the work provided for on pages 15, 16, 17, 18, 19, to 22. It covers all the work that can properly be done by that Bureau. The paragraph is drawn by the Agricultural Department, and covers every line of work they could suggest.

Mr. FINLEY. Do I understand the gentleman's remarks to include all the items of appropriation here, or to single out some of them?

Mr. WADSWORTH. The appropriation is to cover all of them.

Mr. FINLEY. Do I understand the gentleman's remarks to refer to all of the items, including the provision read?

Mr. WADSWORTH. It is to be under the Bureau of Plant Industry.

Mr. FINLEY. Does the gentleman think that too much money is appropriated as a whole, or under any one of these items?

Mr. WADSWORTH. The work of the Bureau of Plant Industry is not divided. It is covered by one paragraph of the bill. If the gentleman will read the bill he can understand it a great deal better than I can explain it.

Mr. FINLEY. I have read it. I wanted to get at the purpose of the gentleman's remarks in order to see whether what he said referred to the total or to some of the items.

Mr. WADSWORTH. It does not include the total to the Bureau of Plants. The total of the Bureau of Plant Industry with the free-seed amendment put in will have $242,000 added to the sum total of it, and this adds $76,000. I have just offered that as an amendment offered by the committee.

Mr. FINLEY. Of which one of these particular items does the gentleman complain?

Mr. WADSWORTH. I object to the further raising of the committee amendment of $76,000 by the gentleman from Nebraska [Mr. POLLARD]. I think there is sufficient money to cover all the work that can be properly done within the fiscal year.

Mr. FINLEY. I only wished to understand the gentleman.

The CHAIRMAN. The question is on the amendment of the gentleman from Nebraska.

Mr. POLLARD. I should like to ask the chairman of the committee a question, if I may?

Mr. WADSWORTH. Yes.

Mr. POLLARD. I should like to ask the chairman of the committee whether this $76,000 is simply intended to give the Bureau of Plant Industry the same amount of money they have heretofore had for the propagating of new varieties, and plant breeding, and work of that kind.

Mr. WADSWORTH. I do not put it that way, in view of the fact that the paragraph is drawn differently from last year's bill. The money appropriated for the Bureau of Plant Industry can be allotted for any work under that bureau that the Secretary of Agriculture may decide upon, and in amounts sufficient to meet all the demands.

Mr. POLLARD. Is this simply to make up the amounts that the committee took out?

Mr. WADSWORTH. Oh, no; this is absolutely extra to the Bureau of Plant Industry, absolutely in excess of what the committee reported.

Mr. BROOKS of Colorado. Does the gentleman from Nebraska understand that as a net result there is now added to the appropriation over last year $15,000 allowed by the committee, $4,000 allowed by the committee, and $72,000 allowed by the committee at this time?

Mr. WADSWORTH. That is right.

Mr. POLLARD. How do you get the $72,000 allowed by the committee at this time?

Mr. BROOKS of Colorado. By the committee amendment. It is over and above the totals of last year. There is added fifteen thousand and some odd dollars reported by the committee and incorporated in the bill. There is added now $4,000 for the matter covered by the amendment of the gentleman from South Carolina [Mr. LEVER] and myself, which was omitted by an oversight. There is also added $72,000 through the committee amendment made by the chairman.

Mr. POLLARD. That has not been adopted yet.

Mr. BROOKS of Colorado. It is proposed to be adopted.

Mr. POLLARD. Is it offered?

Mr. BROOKS of Colorado. Yes.

Mr. MANN. It is rather important to know whether we are adding or not adding this amount.

Mr. WADSWORTH. We are adding it.

Mr. MANN. I understood from the gentleman from Colorado [Mr. BROOKS] that this proposed $76,000 is a new item in the bill, so far as the amount is concerned.

Mr. WADSWORTH. Yes.

Mr. MANN. That has never been carried in the bill before.

Mr. WADSWORTH. It is a clean addition to the amount originally recommended by the committee.

Mr. MANN. I understood the gentleman this morning to say

that this work was not paid for heretofore out of the Congressional distribution fund. My understanding was that it was so paid for.

Mr. WADSWORTH. I said that it was so paid for.

Mr. MANN. I understood the gentleman to say it was not.

Mr. WADSWORTH. Oh, no; I said it was.

Mr. MANN. The gentleman contradicted me when I said it was.

Mr. WADSWORTH. Then I misunderstood the gentleman.

Mr. MANN. So that this item is in addition?

Mr. WADSWORTH. In addition.

Mr. MANN. For instance we have now an Agricultural Department expert in China, and the Department is to have another one in that part of China called Manchuria.

Mr. WADSWORTH. It has one there.

Mr. MANN. Engaged in making selections of foreign plants or seeds for propagation here. Now, that can be of a great deal more service than anything else. I would rather cripple any other service of the Government than to cripple that, if I had my way about it.

Mr. WADSWORTH. That is the intention of the committee, by adding the $76,000.

Mr. MANN. It is so hard for us to believe that the Committee on Agriculture have voluntarily added $76,000 under the prodding they have received in the House to-day that it takes a little time for us to come to a full realization of the generosity of the committee. [Laughter.]

Mr. WADSWORTH. Oh, we farmers do not mind the little prodding we have had to-day; and we have had some satisfaction in watching the growth of the opposition to free seeds. A year or two ago the opposition could only count 5 votes. To-day it is 58.

Mr. MANN. I did not vote for free seeds. I think that part of it is a good deal of buncombe; but this is of real benefit to the country, the collection of new seeds. The distribution of foreign plants, fruits, and so forth, in this country is of more value, in my opinion, than anything that is provided for in any other one separate function of the Government. Every fruit we have almost is a foreign fruit. We ought to have experts in India and other places throughout the world gathering up new fruits.

Mr. WADSWORTH. There are experts traveling in Italy, Germany, Holland, Guatemala, Cuba, Peru, Manchuria, and we have entomologists traveling in Germany and Austria. I think the Department can be trusted in this matter. I think the gentleman has omitted one thing also. The next paragraph in the bill provides $37,000 "for the collection, purchase, testing, propagating, and distribution of rare and uncommon seeds, bulbs, trees, shrubs, vines, cuttings, and plants from foreign countries."

Mr. MANN. That is the item I would like to see increased, and I suppose a part of the $76,000 would be used for that purpose.

Mr. HENRY of Connecticut. It can be used for that purpose.

Mr. WADSWORTH. The committee consulted with Doctor Galloway and he said he would prefer to have it under the general clause.

Mr. MANN. Where they can use it for this purpose if they wish to?

Mr. WADSWORTH. Yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska.

Mr. POLLARD. Mr. Chairman, this matter seems to be somewhat confused. I understand the chairman of the committee to say that his amendment seeks to give the Bureau of Plant Industry the amount of money that they had last year for propagating the works of new varieties and breeding and the introduction of the varieties through the experiment station. It does not provide anything new to carry on the work which I have outlined before the committee, and for that reason I think my amendment ought to prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska.

The question was taken; and on a division (demanded by Mr. POLLARD) there were—ayes 18, noes 62.

So the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from New York [Mr. WADSWORTH].

The question was taken; and the amendment was agreed to.

Mr. LIVINGSTON. Now, Mr. Chairman, I move that $242,000 be added to the total.

Mr. WADSWORTH. I will offer that amendment at the proper time.

The Clerk read as follows:

For the collection, purchase, testing, propagating, and distribution of rare and uncommon seeds, bulbs, trees, shrubs, vines, cuttings, and plants from foreign countries or from our possessions for experiments with reference to their introduction into and cultivation in this country, $37,780; and the seeds, bulbs, trees, shrubs, vines, cuttings, and plants thus collected, purchased, tested, and propagated shall be used for experimental tests, to be carried on with the cooperation of the agricultural experiment stations.

Total for Bureau of Plant Industry, $587,200.

Mr. WADSWORTH. Mr. Chairman, I ask that the Clerk be authorized to correct the total, adding to it the $76,000 and the amount carried in the amendment offered by the gentleman from Virginia [Mr. LAMB].

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Correct the total so as to read $906,120.

The amendment was considered and agreed to.

The Clerk read as follows:

For ascertaining the natural conditions upon and for utilizing the national forest reserves; and the Secretary of Agriculture may, in his discretion, permit timber and other forest products cut or removed from the forest reserves of the United States, except the Black Hills Forest Reserve in South Dakota, to be exported from the State, Territory, or the district of Alaska, in which said reserves are respectively situated; and hereafter sales of timber on forest reserves in the State of California shall in every respect conform to the law governing such sales in other States, as set forth in the act of June 6, 1900 (31 Stat. L., p. 661); and hereafter all moneys received as deposits to secure the purchase price on the sale of any products or the use of any land or resources of the forest reserves shall be covered into the Treasury in the manner provided by section 5 of the act of Congress approved February 1, 1905, entitled "An act providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture," and the fund created by that act shall be available, as the Secretary of Agriculture may direct, to make refunds to depositors of money heretofore or hereafter deposited by them in excess of amounts actually due to the United States; and hereafter all moneys received as contributions toward cooperative work in forest investigations shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said investigations by the Forest Service and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations, for the employment of fiscal and other agents, clerks, assistants, and other labor required in practical forestry, in the administration of forest reserves, and in conducting experiments and investigations in the city of Washington and elsewhere; and he may dispose of photographic prints (including bromide enlargements), lantern slides, transparencies, blueprints, and forest maps at cost and 10 per cent additional, and other property or materials under his charge in the same manner as provided by law for other bureaus, the money received from such sales to be deposited in the Treasury; for collating, digesting, reporting, illustrating, and printing the results of such experiments and investigations; and for the purchase of all necessary supplies, apparatus, office fixtures, law books to an amount not exceeding $500; for freight, express, telegraph, and telephone charges, electric light and power, fuel, gas, ice, washing towels, and traveling and other necessary expenses, $887,140, of which sum not to exceed $35,000 may be used for rent. And the employees of the Forest Service outside of the city of Washington may, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leaves of absence not to exceed fifteen days in any one year, which leaves may, in exceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agriculture, not to exceed fifteen days additional in any one year.

Mr. SCOTT. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 24, line 17, after the word "situated," insert "*Provided*, That the exportation of dead and insect-infested timber only from said Black Hills Forest Reserve shall be allowed until such time as the forester shall certify that the ravages of the destructive insects in said reserve are practically checked, and in no case after July 1, 1908."

Mr. SCOTT. Mr. Chairman, I offer this amendment at the request of the gentleman from South Dakota [Mr. MARTIN], who was unable to be here to-day, and I understand that it is satisfactory to the committee.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

Laboratory, Department of Agriculture: General expenses, Bureau of Chemistry: Chemical apparatus, chemicals, laboratory fixtures and supplies, repairs to engine and apparatus, gas and electric current, purchase of all necessary office fixtures, supplies, and necessary expenses in conducting investigations in this Bureau, including actual and necessary traveling and other expenses, telegraph and telephone services, for express and freight charges, labor and expert work in such investigations, in the city of Washington and elsewhere, and in collating, digesting, reporting, and illustrating the results of such experiments; to continue the collaboration with other bureaus and divisions of the Department desiring chemical investigations and to collaborate with other Departments of the Government whose heads request the Secretary of Agriculture for such assistance, and for other miscellaneous work; for the employment of additional assistants and chemists, when necessary, and for the rent of buildings occupied by the Bureau of Chemistry; to investigate the adulteration, false labeling or branding, and laws, regulations, and decisions relative thereto, of foods, condiments, beverages, and drugs, when deemed by the Secretary of Agriculture advisable, and to publish the results of such investigations when thought advisable: *Provided*, That before any adverse publication is made notice shall be given to the owner or manufacturer of the articles in question, who shall have the right to be heard and to introduce testimony before the Secretary of Agriculture or his representative, either in person or by agent, concerning the suitability of such articles for food, or as to false labeling or branding. To investigate the effect of cold storage upon the healthfulness of foods; to enable the Secretary of Agriculture to investigate the character of food preservatives, coloring matters, and other substances added to foods, to determine their relation to digestion and to health, and to establish the

principles which should guide their use; to enable the Secretary of Agriculture to investigate the character of the chemical and physical tests which are applied to American food products in foreign countries, and to inspect before shipment, when desired by the shippers or owners of these food products, American food products intended for countries where chemical and physical tests are required before said food products are allowed to be sold in the countries mentioned, and for all necessary expenses connected with such inspection and studies of methods of analysis in foreign countries; to enable the Secretary of Agriculture, in collaboration with the Association of Official Agricultural Chemists, and such other experts as he may deem necessary, to establish standards of purity for food products and to determine what are regarded as adulterations therein. To investigate, in collaboration with the Bureau of Animal Industry, the chemistry of dairy products and of adulterants used therein, and of the adulterated products; to determine the composition of process, renovated, or adulterated and other treated butters, and other chemical studies relating to dairy products, and to make all analyses of samples required for the execution of the law regulating the manufacture of process, renovated, or adulterated butters. To study, in collaboration with the Weather Bureau, the Bureau of Plant Industry, and agricultural experiment stations, the influence of environment upon the chemical composition of wheat and other cereals, with especial reference to the variation in the content of gluten, and the suitability of barley for brewing and other purposes. To investigate the chemical composition of sugar and starch producing plants in the United States and its possessions, and, in collaboration with the Weather Bureau, the Bureau of Plant Industry, and agricultural experiment stations, to study the effects of environment upon the chemical composition of sugar and starch producing plants. And the Secretary of Agriculture, whenever he has reason to believe that any articles are being imported from foreign countries which are dangerous to the health of the people of the United States, or which shall be falsely labeled or branded either as to their contents or as to the place of their manufacture or production, or which are kinds of products excluded from any foreign country for any cause whatever when coming from this country, shall make a request upon the Secretary of the Treasury for samples from original packages of such articles for inspection and analysis, and the Secretary of the Treasury is hereby authorized to open such original packages and deliver specimens to the Secretary of Agriculture for the purpose mentioned, giving notice to the owner or consignee of the sampling of such articles, who may, after notification, be present and have the right to introduce testimony before the Secretary of Agriculture or his representative, either in person or by agent, concerning the suitability of such articles for entry; and the Secretary of the Treasury shall refuse delivery to the consignee of any such goods which the Secretary of Agriculture reports to him have been inspected and analyzed and found to be dangerous to health or falsely labeled or branded, either as to their contents or as to the place of their manufacture or production, or which are forbidden entry or to be sold, or are restricted in sale in the countries in which they are made or from which they are exported, or which are kinds of products excluded from any foreign country for any cause whatever when coming from this country. Employing such assistants, clerks, and other persons as the Secretary of Agriculture may consider necessary for the purpose named, $130,920: *Provided*, That no payment for storage, cartage, or damage incident to the inspection of food products which are found unsuitable for entry shall be made nor payment for similar expenses incident to the entry of other food products except accruing from an order of the Secretary of Agriculture, and then for no longer period than that terminated by notification by the Secretary of Agriculture that the articles are entitled to entry.

Total for Bureau of Chemistry, $158,500.

Mr. CRUMPACKER. Mr. Chairman, I desire to make a point of order against that part of the paragraph after the word "adulteration," in line 12, on page 28, to and including the word "thereto," line 13, on the same page. The words embraced are "false labeling or branding, and laws, regulations, and decisions relative thereto." There is no law authorizing an appropriation for that service.

Mr. WADSWORTH. Mr. Chairman, that is undoubtedly subject to a point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. CRUMPACKER. Mr. Chairman, I desire to make a point of order against other provisions in the paragraph.

Mr. BARTLETT. Mr. Chairman, I want to make a point of order to a further portion of the paragraph.

The CHAIRMAN. The gentleman will have the opportunity.

Mr. MANN. What was the point of order made by the gentleman from Indiana?

Mr. CRUMPACKER. I made a point of order against lines 12 and 13, on page 28, and now I make the further point of order, on page 30, to all after the word "plants," line 10, of the entire remainder of the paragraph.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order?

Mr. PERKINS. Before the gentleman yields I would like to know how much is covered by his second point of order?

Mr. CRUMPACKER. The point of order is to all that part of the paragraph after the word "plants," on page 30, line 10—the balance of the paragraph.

Mr. PERKINS. That would be down to and including line 22 on page 31.

Mr. CRUMPACKER. Yes; but I may conclude to limit the point of order to specific provisions.

Mr. BARTLETT. Mr. Chairman, I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. Mr. Chairman, I want to make certain points of order to this section, and I don't know whether the gentleman from Indiana [Mr. CRUMPACKER] has made them or not. I do not desire to be held not to be in time with them, and I desire now to give notice that I am going to make certain points of order.

The CHAIRMAN. The rights of the gentleman from Georgia will be preserved.

Mr. WADSWORTH. Mr. Chairman, I want to understand also to what the gentleman from Indiana [Mr. CRUMPACKER] makes his point of order.

Mr. LACEY. I want to inquire where the gentleman's point of order is.

Mr. CRUMPACKER. I want to say on this proposition, Mr. Chairman——

Mr. MANN. Mr. Chairman, before the gentleman begins his discussion I wish to make a further point of order to another portion of the section.

The CHAIRMAN. The gentleman's rights will be preserved.

Mr. CRUMPACKER. Mr. Chairman, I have no disposition to eliminate anything from this bill that seems to be proper matter in an agricultural appropriation bill, nor to take from the Secretary of Agriculture any power that he properly and reasonably ought to have. But all of the provision objected to I am satisfied is new legislation and subject to a point of order. It practically grants absolute control over the question of pure food as relates to imports from foreign countries, and the ethical question which was emphasized by the distinguished head of the Bureau of Chemistry in his testimony before the Committee on Interstate and Foreign Commerce, in relation to the labeling and branding and of weights and measures of commodities that are brought from foreign countries.

Mr. MANN. Mr. Chairman, will the gentleman yield to a question?

Mr. CRUMPACKER. Certainly.

Mr. MANN. Is the gentleman aware that this is the law already?

Mr. CRUMPACKER. I am aware that it is not the law in the manner that it is included here.

Mr. MANN. Is the gentleman aware that this provision was enacted into law last year, identically?

Mr. CRUMPACKER. Oh, no.

Mr. MANN. Well, the gentleman ought to be made aware then that this has no place in an appropriation bill, because it is already the law. It does not purport to be a limitation.

Mr. CRUMPACKER. Mr. Chairman, if the gentleman from Illinois [Mr. MANN] will give me his attention for a moment, I desire to say that I have the agricultural bill for last year before me, and all of the paragraph that I have included in my point of order was not in the agricultural appropriation bill for last year. There is new matter interspersed all the way through the balance of the paragraph after the word "plants," on page 30, line 10. For instance, in line 15, page 30, after the word "production," there are the words "or which are kinds of products excluded from any foreign country for any cause whatever when coming from this country." That is new matter.

Mr. WADSWORTH. That is right; that is new.

Mr. CRUMPACKER. Then, in line 23 the words "of the sampling" were not in last year's bill, and in the same line all after the word "notification" was not in last year's bill. Then, in line 24, after the word "testimony," there is language which is not in last year's bill.

Mr. WADSWORTH. Mr. Chairman, we do not modify the powers granted at all; we simply completed it.

Mr. CRUMPACKER. Mr. Chairman, I am showing what was not in last year's bill—after the word "testimony," in line 24, the words "before the Secretary of Agriculture, or his representative, either in person or by agents, concerning the suitability of such articles for entry," were not in last year's bill. Then on line 9, page 31, after the word "exported," the words "or which are kinds of products excluded from any foreign country for any cause whatever, when coming from this country," were not in last year's bill. In addition to that none of the proviso was in last year's bill.

Mr. MANN. The proviso is subject to a point of order.

Mr. WADSWORTH. Mr. Chairman, those little amendments do not alter the sense or purport of the clause in any particular. It simply perfects it and really gives the shipper more opportunity to defend his shipments.

Mr. CRUMPACKER. Mr. Chairman, I am inclined to modify my point of order so as to include the new provisions only. The new matter in lines 15, 16, and 17, on page 30, ought not to be in this bill or any other bill.

The CHAIRMAN. The gentleman modifies his points of order, does the Chair understand?

Mr. CRUMPACKER. I will make that statement in a moment. I am explaining the proposition. The new matter contained in lines 15, 16, and 17 on page 30 ought not to be in this

bill or any other bill, and it is a most dangerous power to confer on any Department officer. What is the meaning of it? It means that whenever the Secretary of Agriculture has reason to believe that any articles are being imported from foreign countries which are dangerous to the health of the people of the United States, or which shall be falsely labeled or branded, either as to their contents or as to the place of their manufacture or production, or which are kinds of products excluded from any foreign country for any cause whatever, when coming from this country, they shall be excluded. Now, I believe in the policy of retaliation. We already have a statute upon that subject, vesting in the President of the United States the power to exclude products coming from foreign countries which exclude similar products when sent there from this country, but here this provision excludes products coming from one foreign country when the same kind of products coming from this country are excluded from any country whatever. To illustrate——

Mr. MANN. Of course, if the gentleman will pardon me, if the gentleman's construction of that be right I think nobody would defend it.

Mr. CRUMPACKER. Well, isn't it right? Can it mean anything else?

The CHAIRMAN. The question is on the point of order, and a discussion of this kind is not relevant to the point of order which is now before the committee.

Mr. CRUMPACKER. Mr. Chairman, I want to make this statement——

The CHAIRMAN. If the gentleman has anything to say on the point of order, the Chair will be glad to hear it.

Mr. CRUMPACKER. Mr. Chairman, we are trying to arrange so that the point of order can be so reduced as not to include so much of the bill, and I will be ready in a couple of minutes to designate the particular parts of the paragraph I desire to go out on the point of order.

Mr. MANN. If the gentleman will pardon me, the object of that provision is this: Germany, for instance, or some other country excludes articles which we wish to send over there——

Mr. CRUMPACKER. Yes.

Mr. MANN. For the reason that it is preserved in a certain way or put up in a certain way. Now, why should we permit German manufacturers, if it be Germany, to send over here the precise article which Germany excludes from here and put us to all that trouble? Now, the purpose is, of course, to limit that to the particular nation that does exclude us.

Mr. CRUMPACKER. I have no objection to that at all. As I said a moment ago, this provision excludes products from one country in all cases where similar products of this country are excluded, not from that country, but from any country, for any cause whatever.

Mr. LAMB. I suggest to the chairman to accept the proposition.

Mr. CRUMPACKER (continuing). Under the language of this provision, if articles come from France or England to this country, and Germany excludes similar articles coming from the United States, we are not permitted to let the French articles or English articles in.

Mr. MANN. Well, I do not think it bears that construction.

Mr. CRUMPACKER. I do not think it bears any other construction. It may have been the intention to retaliate only against the country discriminating against us, but it does not say so. Under the provision, if Germany excludes articles shipped from this country we must deny admission of similar articles not only from Germany, but from any foreign country—England, France, Austria, Belgium, or any foreign country whatever. Now, Mr. Chairman, I desire to limit the point of order to the new language in lines 15, 16, and 17.

Mr. WADSWORTH. Just read the section.

Mr. CRUMPACKER. All after the word "production," in line 15, page 30, to and including the word "country," in line 17, page 30.

Mr. WADSWORTH. I concede it is subject to the point of order, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard upon the point of order?

Mr. MANN. I understand the point of order is restricted only to the new matter.

The CHAIRMAN. The Chair sustains the point of order.

Mr. CRUMPACKER. Mr. Chairman, there are two other provisions——

Mr. MANN. That includes the proviso?

Mr. CRUMPACKER. Well, it will. Strike out all after the word "export" in line 9, page 30, including the entire language of line 11 of the same page.

Mr. WADSWORTH. That is subject to the point of order.

Mr. CRUMPACKER. And also the entire proviso on page 31.

Mr. WADSWORTH. That is subject to the point of order. It is new legislation. I simply want to say, Mr. Chairman, in defense of the committee, that it was the only way in which we could build up this Bureau of Chemistry and render it efficient in preventing the introduction into this country of adulterated and falsely branded articles of food, in view of the fact that we had no general law on the subject. The object sought to be attained is excellent and for the preservation of health, and I am sorry the gentleman from Indiana raises the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BARTLETT. Mr. Chairman, I do not know to what extent the point of order made by the gentleman from Indiana went. I want to understand, but if it is necessary——

The CHAIRMAN. Without objection, the Clerk will again report the point which went out.

The Clerk again reported the portion stricken out.

Mr. BARTLETT. Now, Mr. Chairman, I make the point of order, if it has not been made, on line 11, page 28, "to investigate the adulteration, false labeling or branding, and laws, regulations, and decisions relative thereto, of foods, condiments, beverages, and drugs."

The CHAIRMAN. The Chairman will also state that has gone out. If the gentleman from Georgia will wait a moment the Clerk will again report the portions that have been stricken out.

The Clerk again reported the portions stricken out.

Mr. BARTLETT. Mr. Chairman, I raise the point of order on page 29 to the language "to establish standards of purity for food products and to determine what are regarded as adulterations therein." I make the point of order that there is no law——

The CHAIRMAN. What lines?

Mr. BARTLETT. Page 29, lines 14, 15, and 16; and the chairman of the committee, I apprehend, will admit that there is no law for that.

Mr. WADSWORTH. You want to commence to strike out on line 11, and down to where?

Mr. BARTLETT. Down to "therein."

Mr. WADSWORTH. It is true there is no authority in law for that, except as it has been carried in the appropriation bill for at least five years.

Mr. BARTLETT. I desire to say that for four years this provision has been carried in the agricultural appropriation bill, but there is no other law for it. I make the point of order. It is a proposition of law which has been repeatedly ruled upon—that the fact that it is carried in an appropriation bill for that year does not make it permanent law, as has been time and time again decided by various Chairmen of the Committee of the Whole House. There is no law for this. Mr. Chairman, did I understand that the proviso in line 16, page 28, was also stricken out?

The CHAIRMAN. Page 31?

Mr. BARTLETT. Page 28.

The CHAIRMAN. No.

Mr. BARTLETT. Mr. Chairman, I make the point of order on that, commencing with the proviso on line 16 on page 28, down to and including the word "used," on line 2, page 29. I make the point of order against that and the other to which I have called the attention of the Chair.

Mr. MANN. We ought to have the matter clearly before us, Mr. Chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The point of order against the proviso on page 28, which reads: "*Provided*, That before any adverse publication is made notice shall be given to the owner or manufacturer of the articles in question, who shall have the right to be heard and to introduce testimony before the Secretary of Agriculture or his representative, either in person or by agent, concerning the suitability of such articles for food, or as to false labeling or branding. To investigate the effect of cold storage upon the healthfulness of foods; to enable the Secretary of Agriculture to investigate the character of food preservatives, coloring matters, and other substances added to foods, to determine their relation to digestion and to health, and to establish the principles which should guide their use."

The CHAIRMAN. We will return first to the point of order raised by the gentleman from Georgia [Mr. BARTLETT] on page 29, lines 14, 15, and 16.

Mr. MANN. Mr. Chairman, of course the point of order which the gentleman raises goes to all of the provisions.

Mr. BARTLETT. Yes, sir.

Mr. MANN. All of these provisions. It practically goes to the bill, so far as that is concerned.

The CHAIRMAN. The Chair sustains the point of order with reference to this question.

Mr. PARKER. With reference to the other point of order that was made, as to the proviso on page 28, I would suggest to

the Chair that the proviso is a mere limitation and not new legislation. The old legislation in the last appropriation bill allowed the Bureau of Chemistry to investigate the adulteration of foods and to publish the results, and it is now proposed to provide that before any publication be made they shall give notice to the owner. This is a limitation, and it seems to me, therefore, not to be new legislation. I think it is a valuable provision anyhow. I do not understand why anyone should wish to strike it out.

Mr. BARTLETT. Mr. Chairman——

Mr. PARKER. Mr. Chairman, I submit to the gentleman that the proviso helps the bill.

Mr. BARTLETT. Mr. Chairman, I thought the point of order made by the gentleman from Indiana reached more than the two lines. I make the point of order against the words commencing on line 11, page 28, to "investigate," ending with the word "advisable," in line 16, and including the proviso.

Mr. PARKER. Mr. Chairman, on that point of order I desire to say that the law last year provided for just that investigation—to investigate the adulteration of foods, condiments, beverages, and drugs when deemed by the Secretary of Agriculture advisable, and to publish the result of such investigations when thought advisable. That is in the law of last year.

The CHAIRMAN. The Chair desires to ask the gentleman from New Jersey whether he considers that the law which he has now read is permanent law?

Mr. PARKER. It seems to me that when the bill says "Laboratory, Department of Agriculture, general expenses, Bureau of Chemistry," to do certain enumerated things, that this is an assignment to that Bureau of certain functions, and that you can not construe that law in any other way than as such an assignment.

The CHAIRMAN. Which is not necessary.

Mr. PARKER. But if it is a repetition——

Mr. MANN. Whether it is necessary is for the committee to say.

Mr. PARKER (continuing). It is merely discretionary to put it in, and if it is a repetition it does no harm. It is an assignment of a certain function. But if you leave this function out you do not appropriate the money for it. If you want them to do that work you must repeat the words, so as to say that they are to perform the same functions as they did last year. The object I have in rising is that while I have the same objection that the gentleman from Georgia and other gentlemen here have against giving discretion to these Departments and do not believe in their using——

The CHAIRMAN. The gentleman is not speaking to the point of order.

Mr. PARKER. I know that I am speaking only by unanimous consent. I only want to indicate the purport of what I meant to say hereafter. I am in favor, I am greatly in favor, of letting the people know what they eat and drink. I am going to move to insert the word "composition," so that the Bureau may investigate and publish the composition of foods and let the people know what they eat or drink, without having the Department say what they shall or shall not eat or drink. The real good will be attained by simply publishing the result of the investigation.

The CHAIRMAN. The Chair is prepared to rule.

Mr. MANN. The Chair may be prepared to rule. Will the Chair listen?

The CHAIRMAN. With much pleasure, if the gentleman desires to speak on the point of order.

Mr. MANN. I desire very likely to reserve the point of order on the whole paragraph after the Chair rules.

Mr. BARTLETT. May I inquire if the Chair knows fully the extent of my point of order?

The CHAIRMAN. Yes.

Mr. PERKINS. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PERKINS. I would like to ask whether a point of order has yet been made against page 29, beginning after the word "countries," contained in line 11, down to the word "therein," line 16.

Mr. WADSWORTH. That has all gone out.

Mr. PERKINS. That has been made and sustained.

The CHAIRMAN. It seems to the Chair that if this language included in the lines upon which the point of order is made by the gentleman from Georgia is permanent law, as is claimed by the gentleman from New Jersey, then it should not be here. If it is not permanent law, then it seems to the Chair that it is new legislation and is clearly subject to the point of order.

Mr. MANN. Does the Chair hold that he can rule out something because it is really the law? Can we not reenact it? The committee has a right to a ruling of the Chair on the point of order; but it is for the judgment of the committee as to whether we reenact, as to whether that shall be in or not, with all due deference to the Chair. As to whether it is the law, or is contrary to law, that is a matter which we have a right to have the Chair determine.

The CHAIRMAN. The Chair agrees with the gentleman from Illinois. The Chair desires to find whether it is subject to the point of order.

Mr. PARKER. May I suggest to the Chair, very deferentially, that if you rule out the words on account of being permanent law, you rule out the appropriation for the purpose of carrying out the law, taking from the Department the money to carry it into effect. The money can not be used for that purpose unless the words are repeated.

The CHAIRMAN. It seems to the Chair that if it is permanent law, it is on the statute book now, and the appropriation carried in the bill would be expended under the law.

Mr. PARKER. The appropriation must be made for that specific purpose, or else it will not be expended for that. If you do not appropriate for the Department of Chemistry, the Department of Chemistry gets nothing; and if you do not appropriate for doing that particular work in the Department of Chemistry, that work can not be done.

Mr. BARTLETT. May I make a suggestion to the Chair?

The CHAIRMAN. The gentleman from Georgia.

Mr. BARTLETT. I insist that under the rule governing these provisions the fact that the appropriation was carried in the last appropriation bill does not make it permanent law.

The CHAIRMAN. The Chair recognizes that fact. The Chair is familiar with the proposition that the gentleman from Georgia has in mind.

Mr. PERKINS. The gentleman from Georgia [Mr. BARTLETT] having suggested that being the well-established rule, it seems to me these provisions must necessarily be ruled out upon the point of order, because I do not see how it can be claimed on the other side that these provisions have ever been enacted into positive law. That disposes of the point made by the gentleman from Illinois.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MANN. I desire to make the point of order on the whole paragraph. There is no law for anything in here that I know of—or anything in the bill.

Mr. WADSWORTH. Do you mean the whole paragraph relating to the Bureau of Chemistry?

Mr. MANN. Yes; the laboratory.

Mr. PARKER. There is no authorization for the laboratory except on an appropriation bill.

Mr. MANN. I understand it is all in the same boat, Mr. Chairman. The bureaus in the Department of Agriculture have grown on appropriation bills. If it is the purpose to wind them up, why, let us wind them up now.

Mr. PERKINS. What is the gentleman's point of order?

Mr. MANN. I make the point of order on the whole paragraph of the laboratory.

Mr. CRUMPACKER. Where is there any objection to the provision in the bill now, since the new matter has gone out on a point of order?

Mr. MANN. A lot of the old matter has gone out on a point of order. They have taken out of the bill now most of it that is any good.

Mr. WADSWORTH. Mr. Chairman, I have only to say this to the point of order made by the gentleman from Illinois: The act under which the Department was organized provides in section 522 for one chemist, at a salary of $2,000; one assistant chemist, at a salary of $1,500; and certainly it implies the formation of a Bureau of Chemistry. What would these chemists have to do if you did not give them work to do?

Mr. PERKINS. They would do no harm, at any rate.

Mr. CRUMPACKER. Then, another thing. Since the Chair has sustained the point of order, I think there is nothing left in the paragraph that is subject to a point of order.

Mr. WADSWORTH. There is nothing to which anybody can object at all.

Mr. CRUMPACKER. There is nothing that changes existing law, and therefore a point of order against what remains of the paragraph is certainly not well taken.

The CHAIRMAN. The Chair will be glad to hear from the gentleman from Illinois.

Mr. MANN. The provisions which the Chair has ruled out upon the point of order stand upon the same footing, as far as the law is concerned, as the balance of the provisions of this paragraph. The Chair rules out of order the provision—

To investigate the effect of cold storage upon the healthfulness of foods.

By the same token you should rule out the provision—

To enable the Secretary of Agriculture to investigate the character of the chemical and physical tests which are applied to American food products in foreign countries.

And the provision—

To investigate the chemistry of dairy products and of adulterants used therein, and of the adulterated products; to determine the composition of process, renovated, or adulterated and other treated butters.

They all stand on the same footing. While I do not agree with the Chair in its ruling (and this was not called to the attention of the Chair, and I do not know that it would modify the opinion of the Chair), I think this is a work in progress now. We have a great Bureau of Chemistry, with a large laboratory over here. To rule it out, of course, closes it up. It is a work in progress according to my notion. But it is all upon the same footing. There is no provision of law for any of it, unless it is already provided by law.

Mr. WADSWORTH. There is one provision——

Mr. MANN. There might be some one provision that is authorized by law, but that would have to go out with the rest of it.

The CHAIRMAN. The organic law provides for practical and scientific experiments, but it does not provide, so far as the Chair is able to ascertain, for any of the investigations referred to in the matter that has been ruled out.

Mr. MANN. But the Chair ruled out another thing——

Mr. ADAMS of Wisconsin. Does not the Chair regard that kind of an investigation as "practical and scientific?"

The CHAIRMAN. Yes. But the organic law provides (sec. 526):

That the Commissioner of Agriculture shall procure and preserve all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power.

The information must relate to agriculture.

Mr. ADAMS of Wisconsin. Mr. Chairman, this very important work has been carried on for the last five years by the Government in the way of detecting adulterants designed for food and drinks brought here from foreign countries. That is done for two reasons: First, perhaps, to protect the people of the United States, the consumers, and also in the interest of American agriculture, to prevent dishonest competition with the products of the farm and the honest products of the factory.

The CHAIRMAN. The Chair does not question that. The Chair does not question the importance of the legislation, which the chairman of the Committee on Agriculture said that he felt was absolutely necessary to carry on the work that has already been undertaken by the Secretary of Agriculture, but which he admitted was subject to the point of order. Now, if general legislation is necessary it can be had; but the Chair is given no discretion in determining these points of order. The Chair must follow the rules of the House.

Mr. SCOTT. Mr. Chairman, I would like to ask the Chair, in the event that this point of order is sustained, what he would do with the portions of this paragraph which are undoubtedly inserted to give the Secretary of Agriculture power to carry out the law that does exist? For example, the provision with reference to oleomargarine, which is specifically referred to on page 29, in which it gives the Secretary the power to investigate the chemistry of dairy products by adulterants used therefor. In accordance with the execution of that law relating to that process there is this provision for carrying into effect the existing law, and if this entire paragraph is ruled out I hardly know what will become of that.

The CHAIRMAN. Does the gentleman understand that any point of order has been raised against that provision?

Mr. SCOTT. I understood the gentleman from Illinois to raise a point of order against the whole paragraph.

Mr. BARTLETT. I want to say to the gentleman that, as far as I was concerned, I carefully avoided making any point of order against that provision which he has just read.

Mr. SCOTT. That is true, but the gentleman from Illinois made a point of order against the entire paragraph, and if it is sustained, we are striking out a provision in accordance with existing law.

Mr. BROOKS of Colorado. Mr. Chairman, I would like to inquire if the Chair is considering the point of order raised by the gentleman from Illinois, the point of order on the whole section?

The CHAIRMAN. The Chair certainly is.

Mr. BROOKS of Colorado. Mr. Chairman, it seems to me that the point of order decided in the first session of the Fifty-seventh Congress, which will be found on page 4847 of the RECORD, with reference to the Bureau of Chemistry, is certainly in point and certainly furnishes authority for the work covered by the paragraph. I think as to specific clauses, the portions objected to by the gentleman from Indiana, the point is good, but I think this decision ought to cover the objection to the section. There the provision was for investigations by the Department of Agriculture in the Bureau of Chemistry, the Bureau of Animal Industry, and the work of the Weather Bureau, and also investigation into the chemical composition of sugar-producing plants. The point of order was overruled by the gentleman from Maine [Mr. POWERS]. The point was made by Mr. CANNON, and it was overruled on the general authority of the organic act establishing the Department of Agriculture.

Mr. PARKER. Was it not on the ground that Congress could limit the general power to do certain specific acts?

Mr. BROOKS of Colorado. It was on the principle that the work was authorized by the organic act.

Mr. PARKER. The act only limited the appropriation to certain parts of the chemical work?

Mr. BROOKS of Colorado. Mr. Chairman, I think so. I have the section of the RECORD here, if the Chair wishes to see it.

Mr. MANN. Mr. Chairman, before a final ruling is made I wish to call the attention of the Chair to another proposition, and that is as to whether this Chemical Bureau could be sustained on the ground that it is a continuation of an appropriation for an object already in progress. The Government several years ago, creating the Bureau of Chemistry and the Laboratory of Chemistry, entered upon a work as carried out by the appropriation bill certainly with some object in view. That object was a consideration of foods and other things in connection with drinks and foods from a chemical standpoint. It proceeded further, and entered upon the project of excluding from the country various adulterated and misbranded foods which were brought into the country. I supposed that that was an object in view. Whether it is an object in progress, under the meaning of the clause of the rule, I do not feel at all certain myself, but I submit the idea to the Chairman.

Mr. PARKER. Mr. Chairman, I hope this decision will go over until to-morrow morning, but I want to have a single word on the law of this matter. I desire to submit that the organic law provides that the object of the Agricultural Department shall be "to acquire and diffuse among the people of the United States useful information on subjects connected with agriculture," and that, of course, includes foods, "in the most general and comprehensive sense of that word," and that law further provides that there shall be a chemist and assistant chemist in the Department. That law thus gives general power to make chemical investigations. That being so, Congress by the appropriation bill every year can limit the use to which the money shall be put by saying that it shall not be used on any sort of chemical investigation that the Department pleases, but shall be devoted to certain branches of that chemical investigation. That is a limitation. It is not a new law. It says, "You can make chemical investigations of this sort or chemical investigations of that sort out of that appropriation, but nothing else," and therefore I consider that in this particular clause all these provisions that say that the Bureau may investigate adulterations, or whatever it may be, are directing the purpose of the appropriation to something already authorized by law, and so limiting it to particular things and not giving it to general purposes.

The CHAIRMAN. Will the gentleman from New Jersey tell the Chair what he read from?

Mr. PARKER. I read from Title XI, Department of Agriculture, in the Revised Statutes, page 87, first under section 520 and next under section 522. Section 520 states the object of the Department, namely, to acquire and diffuse information on subjects connected with agriculture, and section 522 provides that there should be a chemist and an assistant chemist.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BARTLETT. Mr. Chairman, I desire to ask the gentleman from New York if the total ought not to be changed on page 31. The total is $158,500. Since these items have gone out of the bill, does not the gentleman think that that amount ought to be changed.

Mr. WADSWORTH. They do not affect the total appropriated at all.

Mr. BARTLETT. Very well.

The Clerk read as follows:

Soil investigations: General expenses, Bureau of Soils: Investigation of the relation of soils to climate and organic life; for the investigation of the texture and composition of soils in the field laboratory; for the investigation of the cause and prevention of the rise of alkali in the soils of the irrigated districts; the investigation of the relation of soils to drainage and seepage waters, and of methods for the prevention of the accumulation of and injury from seepage waters in irrigated districts; for investigations of soils and for indicating upon maps or plats, by coloring or otherwise, the results of such investigations; to map the tobacco soils of the United States; to investigate the soils and conditions of tobacco growth in Cuba, Sumatra, and other tobacco-

competing countries; to investigate, in cooperation with the Bureau of Plant Industry, the methods of curing, with particular reference to fermentation, to originate, through selection and breeding, improved varieties for the principal tobacco districts of the United States, and to secure, as far as may be, a change in the methods of supplying tobacco to foreign countries; the location of the stations; rent of buildings, not to exceed $4,000 per annum, for office and laboratory purposes; the employment of local and special agents, clerks, assistants, and other labor required in conducting experiments in the city of Washington and elsewhere, and in collating, digesting, reporting, and illustrating the results of such experiments; the preparation and printing of reports, drawings, and illustrations; for materials, tools, instruments, apparatus, gas, and electric current, furniture, supplies; for telegraph and telephone service, and for traveling expenses, freight and express charges, and other necessary expenses, $180,000.

Mr. MUDD. Mr. Chairman, I offer an amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by inserting on page 33, line 17, after the word "countries," as follows: "To investigate with a view of improving the conditions relating to the supply and sale of domestic tobacco to any foreign country or countries where the business of buying and selling tobacco is conducted by the Government."

Mr. WADSWORTH. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. MUDD. Mr. Chairman, I ask permission to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. DRISCOLL. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Line 4, page 34, after "dollars," insert: "*Provided*, That $5,000 of the amount hereby appropriated shall be expended by the Secretary of Agriculture in experimental work in raising tobacco in Onondaga County, State of New York."

Mr. DRISCOLL. Mr. Chairman, the chairman of the Committee on Agriculture approves of this amendment.

Mr. WADSWORTH. Mr. Chairman, I have no objection to the amendment.

Mr. LEVER. Mr. Chairman, I would like to ask the gentleman from New York the object of his amendment.

Mr. DRISCOLL. Mr. Chairman, I have offered this amendment and sincerely hope it may be allowed, in order that the tobacco growers of the State of New York, and especially of the county of Onondaga, may be given a little assistance and encouragement in the development of their industry by the Department of Agriculture through the Bureau of Soils; and in this we ask only the same treatment and benefits which have been given to other tobacco-producing districts in the country. Experiments in tobacco culture have been made in other tobacco districts, and we ask that the same kind of experimental work be done in our district. By the assistance of the Department of Agriculture in other localities the yield per acre has been increased, the quality improved, the price enhanced, and the acreage enlarged. And in order that our tobacco growers may be encouraged and stimulated in the same way this amendment is offered.

For a long time I have been trying to interest the Department and the Bureau of Soils in the tobacco districts of our State, and have made a little progress. Three years ago a soil survey was made of the tobacco district in Onondaga County, extending over into Cayuga County, in the district represented by Mr. PAYNE, and into Oswego County, in the district represented by Mr. KNAPP. Samples of soils were taken to Washington and analyzed, and other necessary data and information were accumulated. Later on a map and report were made and issued by the Bureau of Soils. Those were sent to tobacco growers in that district, and since that time they have been appealing to the Department to interest itself in experimental tobacco growing in that locality, in the same manner it has done in other States. They ask that a station be established there, and that men of experience from the Bureau of Soils be sent out among their tobacco growers to give them the benefits of their scientific knowledge and experience gained in similar work in other fields. In their behalf I have again and again applied to the Department and the Bureau of Soils every year since the survey was made for such aid, and my application has been denied, always on the ground that the appropriations were not large enough. I have been told on all occasions that an experiment station could not be established and properly conducted in New York without the withdrawal of a tobacco party from some other State in which the experiments have not been completed, for it requires more than one year to thoroughly do this work and educate the farmers so that they may continue on their own account. It takes several years for a tobacco party to complete experiments in the selection of seeds and their adaptation to the several soils, the selection of the best and most economical fertilizers and the amounts to be used, and in cutting, curing, fermenting, assorting, and otherwise handling the product to the best advantage, and in educating the farmers so that they may continue the work understandingly and advantageously.

The Secretary of Agriculture and the Chief of the Bureau of Soils have always expressed themselves as very anxious to take up the work in the New York district. They admit that it is very necessary and would be a great benefit to the tobacco growers, but they say that the appropriation for the Bureau of Soils will not permit it.

Now, these experiments have been made, and are being made, in other States and tobacco districts in Connecticut, Pennsylvania, Ohio, Virginia, Georgia, Florida, Alabama, and Texas with excellent and profitable results. And we submit that New York should not be longer overlooked or neglected in this scheme of beneficial assistance, even if it requires an extra appropriation of $5,000, or if the Secretary of Agriculture be directed to spend $5,000 of this appropriation in experimental work in the tobacco districts of Onondaga County, N. Y.

The natural conditions in New York are very similar to those in Connecticut. The climate is about the same, the soils are very similar, and the varieties of tobacco grown in both States are very much alike. Both grow fillers, binders, and wrappers. Both produce cigar-making tobacco.

Some years ago the Bureau of Soils interested itself in the culture of tobacco in the Connecticut Valley. Experimental stations were established there. Tobacco experts were sent there. The plant was cultivated in the shade, and extensive and quite expensive experiments were made generally, and the farmers were given all the benefits, experience, and scientific knowledge possessed by the Bureau of Soils. As a result the tobacco interest has been improving and prospering in that State while it has been languishing and falling off in ours. The following statement, or table, speaks for itself:

Tobacco production in New York.

Year.	Number of acres planted.	Average yield per acre.	Total yield.	Average price per pound.	Total value of crop.
		Pounds.	*Pounds.*	*Cents.*	
1901	11,307	1,234	13,958,370	8	$1,172,296
1902	8,040	1,250	10,050,000	8	804,000
1903	7,900	1,125	8,955,000	8	716,400
1904	5,492	1,145	6,288,340	10	628,834
1905	6,151	1,148	7,061,340	10½	741,442

Tobacco production in Connecticut.

Year.	Number of acres planted.	Average yield per acre.	Total yield.	Average price per pound.	Total value of crop.
		Pounds.	*Pounds.*	*Cents.*	
1901	10,119	1,673	16,930,770	18	$3,074,0[illegible]2
1902	12,725	1,712	21,785,200	16	3,485,6[illegible]2
1903	13,234	1,600	21,174,400	15½	3,282,0[illegible]2
1904	12,705	1,685	21,407,925	22	4,838,1[illegible]1
1905	13,340	1,725	23,011,500	17	3,911,9[illegible]5

Investigation and experimental work have been conducted by the Bureau of Soils in Ohio. The different tobacco soils, and seeds adaptable to those soils, have been studied. Improved methods of cultivating and curing have been developed. Improved methods of planting, cultivating, handling, and fermenting the tobacco in bulk have been introduced. A higher grade of Cuban filler tobacco has been developed. The yield is increasing, and the quality of tobacco is improving. The Ohio district is now growing about 36,000,000 pounds annually of a better quality than heretofore. It brings a better price in the market, and this industry is prospering there.

In Texas and Alabama the Department is assisting the tobacco growers, and is introducing Cuban filler tobacco upon soils adapted to it and determined by their various soil surveys made in those States. There is a belt of land lying about 200 miles back from the Gulf coast, upon which the Cuban filler tobacco is nearly up to the grade of that grown in the island of Cuba. Under the benign assistance of the Department the tobacco interests in the State of Texas are extending and prospering. A fine grade of filler tobacco is being introduced and is being improved by those better methods of cultivation and selection. This is a new crop there, and is becoming not only profitable but is a substitute for cotton, which in some localities is seriously threatened by the boll-weevil.

In Virginia, too, the work of improving the tobacco leaf has been carried on for several years. The best grades of this product are being used in the United States for plug wrappers, and large quantities are being exported. Many and extensive experiments have been made in that State in different localities, and as a result the industry has been stimulated, the farmers have been encouraged, the quantity has been increased, and the quality improved.

Through the work of the Department of Agriculture and efforts of individual tobacco growers, the yield of the tobacco product in Florida has been greatly increased, and what was formerly a languishing industry is now thrifty and prosperous. Those experiments, and the experiments of the Department in other States, illustrate what may be accomplished by introducing new grades of tobacco, selecting proper and economical fertilizers, reforming the methods of cultivating, curing, and handling so that losses may be avoided, and introducing sound business methods in the management of this industry. Possibly some losses have been suffered by individual farmers in experimental work and in trying to follow new methods introduced or suggested by the Department. But the general results of these experiments by the Department in the various districts and States have been good, and have tended to increase the yield, improve the quality, reduce the expense, encourage and stimulate the tobacco growers, and in many instances to revive languishing industries. The Bureau of Soils, by reason of several years of experience in this experimental work, is now fully equipped to enter new fields, improve the varieties, and stimulate the tobacco business, without any material risk to the farmers in trying to follow their suggestions.

We ask that the tobacco growers in the State of New York be given the benefits of this experience and scientific knowledge. The tobacco industry in New York is not new. The plant was first grown in the town of Marcellus, Onondaga County, in the year 1845. It was found to be a success, and its cultivation continued to grow and spread throughout the county of Onondaga and adjoining districts and also into the county of Chemung. Seed leaf and Habana seed tobacco are grown in Onondaga. Both varieties are used in the manufacture of cigars, and both produce filler, binder, and wrapper grades. The light, silky, flexible tobacco leaf is produced on open-textured sandy soils and the heavier leaves are grown on close-textured loamy or clay soils. But the character of the leaf is determined not only by the soil, but by the methods of cultivation and the kinds and amounts of fertilizers, as well as by the methods of fermenting, curing, and handling.

The soil survey of the Onondaga district locates about 14,528 acres of Miami fine sand, a soil which in many of its characteristics is very much like the sandy soil in the Poquonock district in Connecticut. It locates about 19,968 acres of Miami fine sandy loam, 39,424 acres of Miami gravelly loam, and 41,536 acres of silt loam. These different varieties of soils produce different grades of tobacco. The light, sandy soils produce silky, high-grade wrappers and the solid, close-textured soils produce heavier grades of tobacco, which are used for fillers and binders.

The preliminary work has been done in the soil survey—map and report. The experts in the Agricultural Department, with their large experience in other places, can render great assistance to our farmers and tobacco growers in advice and suggestions, in recommending the proper grades of tobacco to fit the soil, and in educating them according to the most approved methods how to plant, cultivate, dry, and generally handle the product to the best possible advantage.

New York's agricultural interests may possibly be overlooked or overshadowed by the tremendous importance of its commercial, manufacturing, and financial achievements. Manhattan Island beats the world in location, formation for drainage, rock bottom for large buildings, climate, natural defenses, magnificent harbor and dockage, and all the natural advantages for a great commercial center. Greater New York is the metropolis of the western continent and its nervous center of commerce and finance, and is, in my judgment, beyond comparison the greatest city in the world. New York is a State of cities and large towns. Our ordinary municipalities suffer by comparison.

As an agricultural State, our relative position in the Union may not be recognized. Yet, according to the census of 1900, as an agricultural State New York heads the list in the value of its hay and forage, milk and cream, general dairy live stock, market-garden products, vegetables and apples, and is second in other products of the farm. Although it is the twenty-eighth on the list of States in area, it was fourth in the value of its farm products, and only eleventh in its tobacco industry. And while in other States and districts this industry has been growing and prospering since 1900, the tobacco industry in our State has been languishing and going backward. This should not be. Our farmers are sturdy, thrifty, and generally prosperous. In intelligence, industry, and even in scientific farming they are second to those of no other State in the Union. But our tobacco growers have not had a fair chance. They have been neglected and overlooked and permitted to shift for themselves, while the tobacco growers in other districts and other States have been helped in various ways by the Department. New York does not deserve this. The tobacco districts in New York, Onondaga and Chemung, do not deserve it. They are located in the Empire State. Onondaga is the geographical center. Our farmers do not ask many favors from the General Government. They have no arid lands to be irrigated, no swamps to be drained, no rivers and harbors to be improved. Our State is now building a barge canal throughout its whole length, from Lake Erie to the Hudson, at an estimated cost of $101,000,000, and the chances are that it will cost another hundred million before it is fully completed and in operation and the large liabilities are paid for riparian damages. And this great waterway, as a channel of commerce and transportation, will tend to keep down freight rates, which we are now trying to accomplish by legislation. It will inure to the benefit of the farmers throughout the great West by cheapening transportation, and it will injure our farmers by bringing the products of the fertile Mississippi Valley into their market. But of this they do not complain. New York, by reason of its diversified interests and its foremost position in the great activities which go to make up the prosperity of the nation, deserves well of the other States and of their Representatives in Congress.

This appeal of our tobacco growers, in order that they may have an even chance and a square deal with the people engaged in the same business in other States, should be recognized by the allowance of this little appropriation and the adoption of this amendment. It should be respected by the gentlemen who represent arid-land districts, which receive large benefits from the General Government. It should be recognized by you whose districts border on tide water and on large rivers, for the improvement of whose rivers and harbors large appropriations are being made from the Federal Treasury.

It should be recognized by the gentleman representing other tobacco-growing States and tobacco-growing districts, because it is only fair and just and reasonable. It should be recognized by you gentlemen whose cotton industry is being threatened by the boll weevil, and for the extermination of which a liberal appropriation is carried in this bill. It should be recognized by you gentlemen whose industries are being damaged by the gypsy moth and the cattle tick, and for the eradication of which appropriations are being made. I appeal to the inherent judgment and the spirit of fair play always manifested by members of this body; and especially I appeal to the distinguished chairman of the Committee on Agriculture, a New Yorker by birth, an agriculturist by occupation, an honored member of a great, distinguished, and patriotic family, and the progenitor of the brilliant and accomplished young speaker of the New York assembly, who, let me venture to say without disrespect to others, promises to eclipse the whole line of his distinguished forbears in well-doing and patriotic accomplishment. It is true that tobacco is not grown in his district, and in that regard he is not directly interested; but he is a gentleman of too broad and comprehensive vision to object on that ground. He is aware that the prosperity of one district tends to the prosperity of the whole Commonwealth, and the prosperity of one State tends to the prosperity of all the States. He is aware that our tobacco interests in New York have been going backward, languishing, and suffering. He is aware that our tobacco growers have not had a fair chance with the tobacco growers in other parts of the country. He is aware that they need such assistance as the Bureau of Soils and experienced experts can supply, in order that this industry may be revived, and he is also aware that this industry will continue to languish and suffer unless it is stimulated in this way. On all these grounds, and many others which may be advanced, I appeal to him to join with me in asking that this amendment be allowed in the interest of the tobacco growers of Onondaga.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. OLMSTED having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 13783. An act to provide souvenir medallions for the Zebulon Montgomery Pike Monument Association; and

H. R. 11796. An act for the diversion of water from the Sac-

ramento River, in the State of California, for irrigation purposes.

AGRICULTURAL APPROPRIATION BILL.

The committee resumed its session.

Mr. WADSWORTH. No; I will say to the gentleman from South Carolina the work of Connecticut is almost finished and at some other points, and they can easily go now to New York State. No experiments have been made in New York State.

Mr. LEVER. I will say to the gentleman from New York if the gentleman from Kentucky is willing to do that I will make no objection.

Mr. HENRY of Connecticut. Let me say in reply to the gentleman from New York that the work in Connecticut is not completed and is not likely to be in the next ten years.

Mr. WADSWORTH. That, Mr. Chairman, is a different understanding from what I have on the subject. I think Mr. Whitney, head of the Bureau, said before the committee that the work was almost completed.

Mr. HENRY of Connecticut. Doctor Galloway is doing the work.

Mr. WADSWORTH. Oh, that is another appropriation; I thought the gentleman was mistaken. One is under the Bureau of Plant Industry and the other is under the Bureau of Soils.

Mr. LEVER. What I was about to say, Mr. Chairman, is this: I am perfectly willing for the gentleman from New York to have this; but if he is to have that I must insist on increasing the lump sum in this bill $5,000 in order that the work being done in other sections of the country may not suffer by reason of this. If the chairman of the committee is willing to do that I shall make no objection to this.

The CHAIRMAN. The question is upon the adoption of the amendment offered by the gentleman from New York.

The question was taken; and the amendment was agreed to.

Mr. LEVER. Now, Mr. Chairman, I move to add $5,000 to the sum total of this Bureau.

Mr. WADSWORTH. Mr. Chairman, I hope this motion will not prevail. It is not necessary. We raised the appropriation of the Bureau of Soils $10,000 this year over last, and it is sufficient to carry on this work.

Mr. LEVER. In reply to that, Mr. Chairman, I would say we are taking $5,000 of the $10,000 increase and giving it to the State of New York.

Mr. WADSWORTH. Suppose that is so, that does not materially alter the question, and I want to repeat what I said before to you—that this is a scientific investigation and this appropriation is only for the fiscal year.

Mr. LEVER. I have heard the gentleman from New York say that so many times——

Mr. GARNER. Will the gentleman from South Carolina yield for a moment?

Mr. LEVER. Certainly.

Mr. GARNER. If it is necessary that this Bureau should be increased $10,000 extra, why, it seems to me, we ought to add this additional $5,000, because it is being taken out for a specific purpose. Either they did need it or did not need it.

Mr. WADSWORTH. This is not extra work; it is work on the line of the regular work by this Bureau. It is not new work entirely. It is directing the Bureau of Soils to conduct work in one section; that is all.

Mr. LEVER. We are up against just this kind of proposition: Either the increase of $10,000 allowed by the committee was needed or it was not needed. If it was not needed it ought not to be put in this bill. If it was needed, then the committee did right in putting it into the bill. If it was needed, then we are taking $5,000 away from it and giving it to the State of New York, and therefore we ought to put $5,000 more to the sum total of this appropriation. That is my proposition.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The question was taken; and the Chair announced that the noes appeared to have it.

On a division (demanded by Mr. LEVER) there were—ayes 27, noes 21.

So the amendment was agreed to.

Mr. WADSWORTH. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. FOSTER of Vermont, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill H. R. 18537—the agricultural appropriation bill—and had come to no resolution thereon.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 15911. An act to amend the laws of the United States relating to the registration of trade-marks;

H. R. 17757. An act extending to the subport of Spokane, in the State of Washington, the privileges of the seventh section of the act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement;

H. R. 11037. An act relating to the transportation of dutiable merchandise without appraisement; and

H. R. 11946. An act to amend section 6 of an act approved February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes."

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 1565. An act for the relief of Theodore H. Bishop;

H. R. 1340. An act granting a pension to Robert Kennish;

H. R. 2796. An act granting a pension to Benjamin T. Odiorne;

H. R. 3333. An act granting a pension to William Simmons;

H. R. 4264. An act granting a pension to Frances E. Maloon;

H. R. 4669. An act granting a pension to Joseph E. Green;

H. R. 6949. An act granting a pension to Alice W. Powers;

H. R. 6985. An act granting a pension to Susan C. Smith;

H. R. 7232. An act granting a pension to Alba B. Bean;

H. R. 7737. An act granting a pension to William H. Winters;

H. R. 7844. An act granting a pension to Phoebe Keith;

H. R. 8475. An act granting a pension to John F. Tathem;

H. R. 8687. An act granting a pension to William I. Lusch;

H. R. 8820. An act granting a pension to Inez Talkington;

H. R. 9046. An act granting a pension to William Berry;

H. R. 9287. An act granting a pension to Eliza Byron;

H. R. 9441. An act granting a pension to Clara N. Scranton;

H. R. 9442. An act granting a pension to Dora C. Walter;

H. R. 9606. An act granting a pension to Martha Jewell;

H. R. 9993. An act granting a pension to George W. Warren;

H. R. 10408. An act granting a pension to Anna E. Middleton;

H. R. 10424. An act granting a pension to Emanuel S. Thompson;

H. R. 10775. An act granting a pension to Ellen S. Cushman;

H. R. 11565. An act granting a pension to Sarah A. Brinker;

H. R. 11654. An act granting a pension to Emma A. Smith;

H. R. 11703. An act granting a pension to Laura McNulta;

H. R. 11898. An act granting a pension to Lars F. Wadsten, alias Frederick Wadsten;

H. R. 11918. An act granting a pension to Mary A. Weigand;

H. R. 12099. An act granting a pension to Charlotte A. McCormick;

H. R. 12715. An act granting a pension to George B. Kirk;

H. R. 12803. An act granting a pension to Emma C. Waldron;

H. R. 13217. An act granting a pension to Joshua Barnes;

H. R. 13726. An act granting a pension to Sarah J. Manson;

H. R. 14677. An act granting a pension to Reuben R. Ballenger;

H. R. 15321. An act granting a pension to Charles Skaden, jr.;

H. R. 15431. An act granting a pension to Theresa Creiss;

H. R. 15569. An act granting a pension to Harriet A. Duvall;

H. R. 15895. An act granting a pension to Harry D. McFarland;

H. R. 16520. An act granting a pension to Edward Farrell;

H. R. 16582. An act granting a pension to Ellen T. Sivels;

H. R. 16930. An act granting a pension to Virginia A. Hilburn;

H. R. 16972. An act granting a pension to Harriet L. Morrison;

H. R. 17151. An act granting a pension to William T. Morgan;

H. R. 17273. An act granting a pension to Mary B. Watson;

H. R. 1893. An act granting an increase of pension to Henry C. Maxwell;

H. R. 1910. An act granting an increase of pension to Andrew H. Nichols;

H. R. 1953. An act granting an increase of pension to Susan S. Theall;

H. R. 2102. An act granting an increase of pension to Eugenie Tilburn;

H. R. 2173. An act granting an increase of pension to Thomas H. Padgett;

H. R. 2721. An act granting an increase of pension to Ashford R. Matheny;
H. R. 2731. An act granting an increase of pension to James M. Eddy;
H. R. 2778. An act granting an increase of pension to Patrick Mahoney;
H. R. 2794. An act granting an increase of pension to Richard E. Davis;
H. R. 2801. An act granting an increase of pension to Alexander M. Lowry;
H. R. 2852. An act granting an increase of pension to James Dayton;
H. R. 3347. An act granting an increase of pension to Orestes B. Wright;
H. R. 3419. An act granting an increase of pension to John Biddle;
H. R. 3430. An act granting an increase of pension to Peter M. Culins;
H. R. 3456. An act granting an increase of pension to David B. Ott;
H. R. 3689. An act granting an increase of pension to Charles W. Lyons;
H. R. 3738. An act granting an increase of pension to Daniel Boughman;
H. R. 3979. An act granting an increase of pension to Paul Stang;
H. R. 4230. An act granting an increase of pension to William H. Miles;
H. R. 4242. An act granting an increase of pension to Mary A. Foster;
H. R. 4294. An act granting an increase of pension to Annie R. E. Nesbitt;
H. R. 4350. An act granting an increase of pension to Joseph W. Vance;
H. R. 4679. An act granting an increase of pension to Franklin D. Clark;
H. R. 4763. An act granting an increase of pension to John C. Matheny;
H. R. 5044. An act granting an increase of pension to Hiram G. Hoke;
H. R. 5178. An act granting an increase of pension to Elijah Pantall;
H. R. 5274. An act granting an increase of pension to William T. Branam;
H. R. 5822. An act granting an increase of pension to Miner L. Braden;
H. R. 5853. An act granting an increase of pension to Quincy Corwin;
H. R. 5956. An act granting an increase of pension to Joseph H. Wagoner;
H. R. 14374. An act granting an increase of pension to Benjamin B. Cahoon;
H. R. 14299. An act granting an increase of pension to Rose V. Mullin;
H. R. 13741. An act granting an increase of pension to George R. Scott;
H. R. 13823. An act granting an increase of pension to William Van Keuren;
H. R. 13840. An act granting an increase of pension to Absalom Shell;
H. R. 13862. An act granting an increase of pension to Luther S. Holly;
H. R. 13871. An act granting an increase of pension to William Delany;
H. R. 13881. An act granting an increase of pension to Amos Dyke;
H. R. 13961. An act granting an increase of pension to Julius Buxbaum;
H. R. 13928. An act granting an increase of pension to Harvey Foster;
H. R. 14001. An act granting an increase of pension to Nathan S. Ruddock;
H. R. 14116. An act granting an increase of pension to John P. Rains;
H. R. 14117. An act granting an increase of pension to William H. H. Fellows;
H. R. 14227. An act granting an increase of pension to Anna C. Bassford;
H. R. 12996. An act granting an increase of pension to Eugent B. McDonald;
H. R. 13139. An act granting an increase of pension to William Walrod;
H. R. 13345. An act granting an increase of pension to Frank Clendenin;
H. R. 13171. An act granting an increase of pension to Jonathan K. Porter;
H. R. 13437. An act granting an increase of pension to Samuel R. Lowry;
H. R. 13445. An act granting an increase of pension to Thomas T. Blanchard;
H. R. 13504. An act granting an increase of pension to Elizabeth Thompson;
H. R. 13730. An act granting an increase of pension to Joseph Shroyer;
H. R. 13738. An act granting an increase of pension to Henry Hahn;
H. R. 12888. An act granting an increase of pension to Jacob Sannar;
H. R. 11538. An act granting an increase of pension to Eli Duvall;
H. R. 11591. An act granting an increase of pension to John B. Hall;
H. R. 11593. An act granting an increase of pension to Evans Blake;
H. R. 11606. An act granting an increase of pension to Edmund W. Bixby;
H. R. 11692. An act granting an increase of pension to John P. Wishart;
H. R. 11824. An act granting an increase of pension to Jennie P. Starkins;
H. R. 11907. An act granting an increase of pension to August Danieldson;
H. R. 12017. An act granting an increase of pension to James B. Simkins;
H. R. 12019. An act granting an increase of pension to Henry Jacob Fox;
H. R. 12059. An act granting an increase of pension to Mildred W. Mitchell;
H. R. 12389. An act granting an increase of pension to Isaiah B. McDonald;
H. R. 12390. An act granting an increase of pension to John W. Raynor;
H. R. 12407. An act granting an increase of pension to Robert Bivans;
H. R. 12415. An act granting an increase of pension to Elizabeth Bodkin;
H. R. 12521. An act granting an increase of pension to Alice Eddy Potter;
H. R. 12526. An act granting an increase of pension to Solomon Johnson;
H. R. 12534. An act granting an increase of pension to Richard Reynolds;
H. R. 12556. An act granting an increase of pension to Joseph W. Coppage;
H. R. 12663. An act granting an increase of pension to Frederick Friebele;
H. R. 12755. An act granting an increase of pension to Nathaniel W. Plymate;
H. R. 6919. An act granting an increase of pension to Joseph A. C. Curtis;
H. R. 7540. An act granting an increase of pension to William F. Griffith;
H. R. 7687. An act granting an increase of pension to Charles Hammond, alias Hiram W. Kirkpatrick;
H. R. 7720. An act granting an increase of pension to Stephen M. Sexton;
H. R. 7745. An act granting an increase of pension to Wheeler Lindenbower;
H. R. 7821. An act granting an increase of pension to Mathias Brady;
H. R. 7837. An act granting an increase of pension to Mary J. McKim;
H. R. 7902. An act granting an increase of pension to Eugene Orr, alias Charles Southard;
H. R. 7968. An act granting an increase of pension to Palmetto Dodson;
H. R. 8046. An act granting an increase of pension to James Thompson Brown;
H. R. 8157. An act granting an increase of pension to Milton H. Wayne;
H. R. 8277. An act granting an increase of pension to Samuel S. Garst;
H. R. 8290. An act granting an increase of pension to Lloyd D. Bennett;
H. R. 8518. An act granting an increase of pension to Samuel Meadows;
H. R. 8711. An act granting an increase of pension to James F. Howard;

H. R. 8778. An act granting an increase of pension to George Henderson;
H. R. 8780. An act granting an increase of pension to Abraham M. Barr;
H. R. 8948. An act granting an increase of pension to John W. Hammond;
H. R. 9257. An act granting an increase of pension to Nathaniel M. Stukes;
H. R. 9261. An act granting an increase of pension to William C. Herridge;
H. R. 9288. An act granting an increase of pension to Catherine E. Bragg;
H. R. 9415. An act granting an increase of pension to John E. Murphy;
H. R. 9417. An act granting an increase of pension to George A. Havel;
H. R. 9556. An act granting an increase of pension to Thomas C. Jackson.
H. R. 9578. An act granting an increase of pension to Alfred B. Menard;
H. R. 9601. An act granting an increase of pension to John B. Page;
H. R. 9627. An act granting an increase of pension to Daniel Craig;
H. R. 9791. An act granting an increase of pension to Amelia E. Grimsley;
H. R. 9829. An act granting an increase of pension to William J. Thompson;
H. R. 9833. An act granting an increase of pension to James C. Miller;
H. R. 10030. An act granting an increase of pension to Arby Frier;
H. R. 10161. An act granting an increase of pension to Benjamin R. South;
H. R. 10173. An act granting an increase of pension to John H. Lockhart;
H. R. 10250. An act granting an increase of pension to Ephraim Marble;
H. R. 10358. An act granting an increase of pension to Charles Dorin;
H. R. 10456. An act granting an increase of pension to William T. Edgemon;
H. R. 10473. An act granting an increase of pension to John B. Gerard;
H. R. 10494. An act granting an increase of pension to Hannah C. Reese;
H. R. 10580. An act granting an increase of pension to Samuel Fish;
H. R. 10591. An act granting an increase of pension to Sarah A. Scott;
H. R. 10686. An act granting an increase of pension to George W. Adams;
H. R. 10727. An act granting an increase of pension to Aquilla M. Hizar;
H. R. 10924. An act granting an increase of pension to Thomas J. Sizer;
H. R. 11143. An act granting an increase of pension to Levi B. Noulton;
H. R. 11306. An act granting an increase of pension to John C. Parkinson;
H. R. 11348. An act granting an increase of pension to Cynthia Cordial, now Vernon;
H. R. 11361. An act granting an increase of pension to Thomas Hughes;
H. R. 11367. An act granting an increase of pension to Manning Abbott;
H. R. 11374. An act granting an increase of pension to Fanny L. Conine;
H. R. 11532. An act granting an increase of pension to Andrew J. Speed;
H. R. 10881. An act granting an increase of pension to Jerry Edwards;
H. R. 6864. An act granting an increase of pension to Henry Good;
H. R. 6213. An act granting an increase of pension to Hiram Linn;
H. R. 6238. An act granting an increase of pension to Jesse Woods;
H. R. 6256. An act granting an increase of pension to Solomon Riddell;
H. R. 6450. An act granting an increase of pension to Nannie L. Schmitt;
H. R. 6452. An act granting an increase of pension to William H. Doherty;
H. R. 517. An act granting an increase of pension to Luke Waldron;
H. R. 14915. An act granting an increase of pension to Andrew W. Tracy;
H. R. 14498. An act granting an increase of pension to Eliza Davidson;
H. R. 14534. An act granting an increase of pension to Jasper N. Harrelson;
H. R. 14552. An act granting an increase of pension to Henry Davey;
H. R. 14553. An act granting an increase of pension to Jesse Lienallen;
H. R. 14566. An act granting an increase of pension to Robert E. McKiernan;
H. R. 14657. An act granting an increase of pension to David W. West;
H. R. 14688. An act granting an increase of pension to Robert Timmons;
H. R. 14698. An act granting an increase of pension to William F. Drake;
H. R. 14780. An act granting an increase of pension to John A. Royer;
H. R. 14782. An act granting an increase of pension to Michael Manahan;
H. R. 14853. An act granting an increase of pension to Helen C. Sanderson;
H. R. 14442. An act granting an increase of pension to Esther M. Lowe;
H. R. 531. An act granting an increase of pension to Ebenezer Rickett;
H. R. 601. An act granting an increase of pension to Israel E. Munger;
H. R. 667. An act granting an increase of pension to George H. Gaskill;
H. R. 1018. An act granting an increase of pension to Silas Flournoy;
H. R. 1138. An act granting an increase of pension to Joseph S. Rice;
H. R. 1151. An act granting an increase of pension to Valentine Bartley;
H. R. 1245. An act granting an increase of pension to David Rankin;
H. R. 1375. An act granting an increase of pension to Silas Mosher;
H. R. 1567. An act granting an increase of pension to Edward Duffy;
H. R. 1734. An act granting an increase of pension to William H. Lee; and
H. R. 1858. An act granting an increase of pension to James Jacobs.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 442. An act granting an increase of pension to Francis Colton—to the Committee on Invalid Pensions.
S. 869. An act granting an increase of pension to Baltzar Mowan—to the Committee on Invalid Pensions.
S. 1513. An act granting an increase of pension to Harriett A. Rawles—to the Committee on Invalid Pensions.
S. 4177. An act granting an increase of pension to Harlan P. Cobb—to the Committee on Invalid Pensions.
S. 5780. An act granting a pension to Lorenzo E. Johnson—to the Committee on Invalid Pensions.

SACRAMENTO RIVER.

The SPEAKER laid before the House the bill (H. R. 11796) entitled "An act for the diversion of water from the Sacramento River, State of California, for irrigation purposes," with Senate amendments.

The Senate amendments were read.

Mr. NEEDHAM. Mr. Speaker, I move that the House concur in the Senate amendments.

The question was taken; and the Senate amendments were concurred in.

LEAVE OF ABSENCE.

The SPEAKER laid before the House the request for unanimous consent for leave of absence as follows:

Of Mr. HOGG, for three weeks, on account of important business.

Of Mr. WEBBER, for thirty days, on account of sickness in family.

Mr. GARNER. Mr. Speaker, I object.

The SPEAKER. The question is on granting the leave asked for.

The question was taken; and the leaves were granted.

Mr. WADSWORTH. Mr. Speaker, I move that the House do now adjourn.

Accordingly (at 5 o'clock and 40 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of Commerce and Labor submitting an estimate of appropriation for relief of the officers and crew of the light-house tender *Manganita*—to the Committee on Claims, and ordered to be printed.

A letter from the Postmaster-General, transmitting a schedule of papers not needed in the transaction of public business—to the Committee on Disposition of Useless Papers in the Executive Departments, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for buildings at the Government Hospital for the Insane—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. McKINNEY, from the Committee on the Territories, to which was referred the bill of the Senate (S. 5513) to provide for the disposition of certain property in the Territory of Hawaii, reported the same without amendment, accompanied by a report (No. 3702); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LLOYD, from the Committee on the Territories, to which was referred the bill of the House (H. R. 18443) to amend the act to provide a government for the Territory of Hawaii, approved April 30, 1900, reported the same without amendment, accompanied by a report (No. 3704); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WACHTER, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 18435) to authorize the Secretary of Commerce and Labor to cooperate, through the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries, with the shellfish commissioners of the State of Maryland in making surveys of the natural oyster beds, bars, and rocks in the waters within the State of Maryland, reported the same without amendment, accompanied by a report (No. 3705); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RICHARDSON of Alabama, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18439) to authorize the construction of a bridge across Tallahatchie River, in Tallahatchie County, Miss., reported the same without amendment, accompanied by a report (No. 3703); which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. LIVINGSTON: A bill (H. R. 18847) to acquire certain land in Washington Heights for a public park and site for the McClellan statue—to the Committee on Public Buildings and Grounds.

By Mr. CURTIS (by request): A bill (H. R. 18848) for the purpose of enrolling certain intermarried white persons in the Cherokee Nation, Indian Territory, and for other purposes—to the Committee on Indian Affairs.

By Mr. MAHON: A bill (H. R. 18849) authorizing the Secretary of State to pay the claim of the Cuba Submarine Telegraph Company for compensation on account of expenses incurred in repairing the damage done to its cables and property by United States forces during the war with Spain—to the Committee on War Claims.

By Mr. McGUIRE: A bill (H. R. 18850) donating lands in Oklahoma Territory for educational purposes—to the Committee on the Territories.

By Mr. ALLEN of Maine: A bill (H. R. 18851) to amend the laws of the United States relating to patents in the interest of the originators of horticultural products—to the Committee on Patents.

By Mr. WACHTER: A bill (H. R. 18852) to authorize the appropriation of money for the payment of certain advances made to the United States by the State of Maryland—to the Committee on Claims.

By Mr. STEPHENS of Texas: A bill (H. R. 18853) providing for the development, leasing, and final disposition of the mineral lands in Indian reservations—to the Committee on Indian Affairs.

By Mr. NEVIN: A bill (H. R. 18854) providing for sittings of the United States circuit and district courts of the southern district of Ohio at the city of Dayton, in said district—to the Commitee on the Judiciary.

By Mr. KNOWLAND: A bill (H. R. 18855) appropriating $15,000 for the restoration and repair of the United States post-office building at Oakland, Cal., damaged by earthquake and fire—to the Committee on Public Buildings and Grounds.

By Mr. HAYES: A bill (H. R. 18856) for the restoration and repair of the United States post-office building at San Jose, Cal., damaged by earthquake—to the Committee on Appropriations.

Also, a bill (H. R. 18857) for the restoration and repair of the United States post-office building at San Francisco, Cal., damaged by earthquake and fire—to the Committee on Appropriations.

Also, a bill (H. R. 18858) for the restoration and repair of the United States mint and other Federal buildings in San Francisco, Cal., damaged by earthquake and fire—to the Committee on Appropriations.

By Mr. MOON of Tennessee: A bill (H. R. 18890) to appropriate $10,000 to erect a chapel in Fort Oglethorpe, Ga., for religious purposes—to the Committee on Appropriations.

By Mr. HEARST: A joint resolution (H. J. Res. 152) authorizing the reconstruction and replacement of Federal buildings and property destroyed and the restoration and repair of Federal buildings damaged in San Francisco, Oakland, and San Jose, in the State of California, by the recent earthquake and fire—to the Committee on Public Buildings and Grounds.

By Mr. BRICK: A concurrent resolution (H. C. Res. 30) providing for the publication of 10,000 copies of addresses delivered at the exercises commemorative of John Paul Jones, at the Naval Academy, Annapolis, April 29, 1906—to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ALLEN of Maine: A bill (H. R. 18859) relative to the conveyance of certain land in the District of Columbia—to the Committee on Public Buildings and Grounds.

By Mr. BELL of Georgia: A bill (H. R. 18860) granting a pension to Andrew J. Anderson—to the Committee on Pensions.

Also, a bill (H. R. 18861) granting a pension to John S. Dillard—to the Committee on Invalid Pensions.

By Mr. BONYNGE: A bill (H. R. 18862) granting an increase of pension to Joseph H. Weaver—to the Committee on Pensions.

By Mr. BROWNLOW: A bill (H. R. 18863) granting an increase of pension to Noah N. Greer—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 18864) granting an increase of pension to Samuel A. Kennedy—to the Committee on Invalid Pensions.

By Mr. CUSHMAN: A bill (H. R. 18865) for the relief of John and David West—to the Committee on Claims.

Also, a bill (H. R. 18866) granting an increase of pension to Henry H. Warner—to the Committee on Invalid Pensions.

By Mr. DAVEY of Louisiana: A bill (H. R. 18867) for the relief of Mark G. Bobé—to the Committee on Claims.

By Mr. DEEMER: A bill (H. R. 18868) granting an increase of pension to Fannie B. Pitts—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18869) granting an increase of pension to Ellis L. Ayres—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18870) granting an increase of pension to Henry S. Day—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18871) granting an increase of pension to Emanuel Raudabaugh—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 18872) granting an increase

of pension to Joseph Conlon—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: A bill (H. R. 18873) for the relief of the estate of James O'Donnell, deceased—to the Committee on War Claims.

Also, a bill (H. R. 18874) granting a pension to Nannie T. Johnson—to the Committee on Claims.

By Mr. GOULDEN: A bill (H. R. 18875) for the relief of Dennis Reardon—to the Committee on Military Affairs.

By Mr. GRAFF: A bill (H. R. 18876) granting an increase of pension to Lemuel Hand—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 18877) granting a pension to Nancy Lay—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18878) granting an increase of pension to Eli B. Miner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18879) granting an increase of pension to Thurman H. Rodeheaver—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18880) granting an increase of pension to William W. Dunn—to the Committee on Invalid Pensions.

By Mr. HERMANN: A bill (H. R. 18881) granting an increase of pension to Alexander B. Mott—to the Committee on Invalid Pensions.

By Mr. HINSHAW: A bill (H. R. 18882) granting an increase of pension to William Martin—to the Committee on Invalid Pensions.

By Mr. KLINE: A bill (H. R. 18883) granting an increase of pension to William H. Paul—to the Committee on Invalid Pensions.

By Mr. McKINNEY: A bill (H. R. 18884) granting a pension to Weymouth Hadley—to the Committee on Invalid Pensions.

By Mr. McLAIN: A bill (H. R. 18885) granting a pension to William B. Metcalfe—to the Committee on Pensions.

By Mr. PEARRE: A bill (H. R. 18886) granting an increase of pension to Conrad Michael—to the Committee on Invalid Pensions.

By Mr. ROBERTSON of Louisiana: A bill (H. R. 18887) granting an increase of pension to Alexander W. Carruth—to the Committee on Pensions.

By Mr. SCHNEEBELI: A bill (H. R. 18888) granting an increase of pension to Samuel Lambert—to the Committee on Invalid Pensions.

By Mr. SOUTHALL: A bill (H. R. 18889) for the relief of Davis and Roper & Co.—to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of International Federation of Sunday Rest Associations, for Sunday closing of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

By Mr. ADAMS of Pennsylvania: Petition of Henry T. Oxnard, Truman G. Palmer, et al., against any attack on the existing schedules of the tariff—to the Committee on Ways and Means.

Also, petition of Marine Engineers' Beneficial Association, No. 13, against bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. ADAMS of Wisconsin: Petition of citizens of Portage, Kilburn, and Adams Center, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BATES: Petition of P. M. Cutshall, master of Grange No. 190, of Townville, Pa., and F. C. Wimersberger, master of Grange No. 997, of Lundys Lane, Pa., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of J. C. Collins and John T. Harding, of Erie, Pa., for the Hamilton bill pensioning those confined in Confederate prisons—to the Committee on Invalid Pensions.

Also, petition of the Erie Board of Trade, for the Hull bill, to increase the Coast Artillery forces—to the Committee on Military Affairs.

Also, petition of the National Business League of Chicago, Ill., against bills H. R. 9328, 4445, and 328, relative to an anti-injunction law—to the Committee on the Judiciary.

Also, petition of the International Federation of Sunday Rest Associations, for Sunday closing of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

Also, petition of the Union City Chair Company, of Union City, Pa., for a tax on all prison-made goods—to the Committee on Ways and Means.

Also, petition of the Business Men's Club of Frankfort, Ky., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Corry, Pa., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Griswold Manufacturing Company and the Erie Foundry Company, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

Also, petition of the National Board of Trade, of Philadelphia, Pa., for the subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. BELL of Georgia: Paper to accompany bill for relief of heirs of John B. Graham—to the Committee on Claims.

Also, paper to accompany bill for relief of Gilbert E. L. Falls—to the Committee on Claims.

By Mr. BURLEIGH: Petition of Cushman Grange, of Goldsboro, Me., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BUTLER of Pennsylvania: Petition of Hooper Bros. & Thomas, of Westchester, Pa., favoring law for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

By Mr. CALDERHEAD: Petition of the Mirror, Tonganoxie, Kans., against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of 24 citizens of Dickinson County, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of George W. Chase, of Junction City, Kans., favoring a law to furnish each pensioner with a penalty envelope at the same time of sending check for pension, to insure against the shortage in postage often occurring in the disbursement of pensions—to the Committee on Invalid Pensions.

By Mr. COOPER of Pennsylvania: Petition of citizens of Belle Vernon, Pa., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Western Pennsylvania Branch of the Consumers' League, for bills S. 50, H. R. 4462, and S. 2962, the child-labor and children's bureau bills—to the Committee on the District of Columbia.

Also, petition of Local No. 417, American Federation of Musicians, for bill H. R. 8748, for relief of civilian musicians—to the Committee on Naval Affairs.

Also, petition of the Society for Political Study, of New York City, for bills S. 50, H. R. 4462, and S. 2962, the child-labor and children's bureau bills—to the Committee on the District of Columbia.

By Mr. DEEMER: Petition of J. M. Webber, of Fishing Creek Grange, No. 1246, et al., favoring bill H. R. 344—to the Committee on Agriculture.

By Mr. DRAPER: Petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills) and S. 2962 (children's bureau)—to the Committee on the District of Columbia.

By Mr. FLETCHER: Petition of citizens of Minneapolis, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FOSTER of Vermont: Petition of Tyler Branch Grange, of West Enosburg, Vt., for an experimental parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. FULLER: Petition of the National Business League, of Chicago, Ill., against bills H. R. 9238, 2829, 4445, and 328, relative to anti-injunction legislation—to the Committee on the Judiciary.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of Catherine O'Donnell—to the Committee on Pensions.

By Mr. GRANGER: Petition of the League of Improvement Societies in Rhode Island, for an appropriation for extermination of gypsy moth—to the Committee on Agriculture.

By Mr. HINSHAW: Petition of citizens of Beatrice, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LACEY: Petition of the civil war veterans of Milton, Iowa, for the McCumber service-pension bill—to the Committee on Pensions.

By Mr. LINDSAY: Petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills) and S. 2962 (the children's bureau bill)—to the Committee on the District of Columbia.

Also, petition of the American National Live Stock Association, for extension of the twenty-eight-hour limit on shipments of live stock—to the Committee on Interstate and Foreign Commerce.

By Mr. LITTLEFIELD: Petition of the National Grange

Monthly Bulletin, against the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. OVERSTREET: Petition of the Society for Political Study, of New York City, consisting of 200 women, for bills S. 50 and H. R. 4462 (the child-labor bill) and S. 2962 (for a children's bureau)—to the Committee on the District of Columbia.

By Mr. PAGE: Petition of certain citizens of the United States, for admission of works of art duty free—to the Committee on Ways and Means.

By Mr. POWERS: Petition of citizens of Lowell, Me., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ROBERTSON of Louisiana: Paper to accompany bill for relief of Alexander W. Carruth—to the Committee on Pensions.

By Mr. RYAN: Petition of the Caddo Commercial Club, of Indian Territory, for proper provision in the Indian appropriation bill for the Five Civilized Tribes of Indians—to the Committee on Indian Affairs.

Also, petition of the Society for Political Study, of New York City, for the child-labor bills (S. 50 and H. R. 4462) and the children's bureau bill (S. 2962)—to the Committee on the District of Columbia.

By Mr. SAMUEL: Petition of Center Grange, No. 56, of Lime Ridge, Pa., favoring the President's ideas on the railway rate question and for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SULZER: Petition of the Society for Political Study, of New York City, for bills S. 50, H. R. 4462, and S. 2962 (the child-labor and children's bureau bills)—to the Committee on the District of Columbia.

By Mr. WACHTER: Paper to accompany bill for relief of the State of Maryland (to compensate the State of Maryland for advances made to the United States)—to the Committee on Claims.

SENATE.

WEDNESDAY, *May 2, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

OFFICE OF SURVEYOR-GENERAL OF CALIFORNIA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior submitting an amended estimate for incorporation in the legislative, etc., appropriation bill in lieu of the item for $1,500 for contingent expenses, office of surveyor-general of California, etc.; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

FINDINGS OF THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting the findings of fact filed by the court in the following causes; which, with the accompanying papers, were referred to the Committee on Claims, and ordered to be printed:

In the cause of the Trustees of the Market Street Episcopal Church, of Winchester, Va., *v.* The United States; and

In the cause of Robert G. Griffin, Catharine H. Harris, and Isaac P. Cromwell, administrators of the estate of Hannah T. Cromwell, deceased, sole heirs of the estate of Robert Anderson, deceased *v.* The United States.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 11796) for the diversion of water from the Sacramento River, in the State of California, for irrigation purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

H. R. 517. An act granting an increase of pension to Luke Waldron;

H. R. 531. An act granting an increase of pension to Ebenezer Rickett;

H. R. 601. An act granting an increase of pension to Israel E. Munger;

H. R. 667. An act granting an increase of pension to George H. Gaskill;

H. R. 1018. An act granting an increase of pension to Silas Flournoy;

H. R. 1138. An act granting an increase of pension to Joseph S. Rice;

H. R. 1151. An act granting an increase of pension to Valentine Bartley;

H. R. 1245. An act granting an increase of pension to David Rankin;

H. R. 1340. An act granting a pension to Robert Kennish;

H. R. 1375. An act granting an increase of pension to Silas Mosher;

H. R. 1565. An act for the relief of Theodore H. Bishop;

H. R. 1567. An act granting an increase of pension to Edward Duffy;

H. R. 1734. An act granting an increase of pension to William H. Lee;

H. R. 1858. An act granting an increase of pension to James Jacobs;

H. R. 1893. An act granting an increase of pension to Henry C. Maxwell;

H. R. 1910. An act granting an increase of pension to Andrew H. Nichols;

H. R. 1953. An act granting an increase of pension to Susan S. Theall;

H. R. 2102. An act granting an increase of pension to Eugenie Tilburn;

H. R. 2173. An act granting an increase of pension to Thomas H. Padgett;

H. R. 2721. An act granting an increase of pension to Ashford R. Matheny;

H. R. 2731. An act granting an increase of pension to James M. Eddy;

H. R. 2778. An act granting an increase of pension to Patrick Mahoney;

H. R. 2794. An act granting an increase of pension to Richard E. Davis;

H. R. 2796. An act granting a pension to Benjamin T. Odiorne;

H. R. 2801. An act granting an increase of pension to Alexander M. Lowry;

H. R. 2852. An act granting an increase of pension to James Dayton;

H. R. 3333. An act granting a pension to William Simmons;

H. R. 3347. An act granting an increase of pension to Orrestes B. Wright;

H. R. 3419. An act granting an increase of pension to John Biddle;

H. R. 3430. An act granting an increase of pension to Peter M. Culins;

H. R. 3456. An act granting an increase of pension to David B. Ott;

H. R. 3689. An act granting an increase of pension to Charles W. Lyons;

H. R. 3738. An act granting an increase of pension to Daniel Boughman;

H. R. 3979. An act granting an increase of pension to Paul Stang;

H. R. 4230. An act granting an increase of pension to William H. Miles;

H. R. 4242. An act granting an increase of pension to Mary A. Foster;

H. R. 4264. An act granting a pension to Frances E. Maloon;

H. R. 4294. An act granting an increase of pension to Annie R. E. Nesbitt;

H. R. 4350. A act granting an increase of pension to Joseph W. Vance;

H. R. 4669. An act granting a pension to Joseph E. Green;

H. R. 4679. An act granting an increase of pension to Franklin D. Clark;

H. R. 4763. An act granting an increase of pension to John C. Matheny;

H. R. 5044. An act granting an increase of pension to Hiram G. Hoke;

H. R. 5178. An act granting an increase of pension to Elijah Pantall;

H. R. 5274. An act granting an increase of pension to William T. Branam;

H. R. 5822. An act granting an increase of pension to Miner L. Braden;

H. R. 5853. An act granting an increase of pension to Quincy Corwin;

H. R. 5956. An act granting an increase of pension to Joseph H. Wagoner;

H. R. 6213. An act granting an increase of pension to Hiram Linn;

H. R. 6238. An act granting an increase of pension to Jesse Woods;
H. R. 6256. An act granting an increase of pension to Solomon Riddell;
H. R. 6450. An act granting an increase of pension to Nannie L. Schmidt;
H. R. 6452. An act granting an increase of pension to William H. Doherty;
H. R. 6864. An act granting an increase of pension to Henry Good;
H. R. 6919. An act granting an increase of pension to Joseph A. C. Curtis;
H. R. 6949. An act granting a pension to Alice W. Powers;
H. R. 6985. An act granting a pension to Susan C. Smith;
H. R. 7232. An act granting a pension to Alba B. Bean;
H. R. 7540. An act granting an increase of pension to William F. Griffith;
H. R. 7687. An act granting an increase of pension to Charles Hammond, alias Hiram W. Kirkpatrick;
H. R. 7720. An act granting an increase of pension to Stephen M. Sexton;
H. R. 7737. An act granting a pension to William H. Winters;
H. R. 7745. An act granting an increase of pension to Wheeler Lindenbower;
H. R. 7821. An act granting an increase of pension to Mathias Brady;
H. R. 7837. An act granting an increase of pension to Mary J. McKim;
H. R. 7844. An act granting a pension to Phoebe Keith;
H. R. 7902. An act granting an increase of pension to Eugene Orr, alias Charles Southard;
H. R. 7968. An act granting an increase of pension to Palmetto Dodson;
H. R. 8046. An act granting an increase of pension to James Thompson Brown;
H. R. 8157. An act granting an increase of pension to Milton H. Wayne;
H. R. 8277. An act granting an increase of pension to Samuel S. Garst;
H. R. 8290. An act granting an increase of pension to Lloyd D. Bennett;
H. R. 8475. An act granting a pension to John F. Tathem;
H. R. 8518. An act granting an increase of pension to Samuel Meadows;
H. R. 8687. An act granting a pension to William I. Lusch;
H. R. 8711. An act granting an increase of pension to James Howard;
H. R. 8778. An act granting an increase of pension to George Henderson;
H. R. 8780. An act granting an increase of pension to Abraham M. Barr;
H. R. 8820. An act granting a pension to Inez Talkington;
H. R. 8948. An act granting an increase of pension to John W. Hammond;
H. R. 9046. An act granting a pension to William Berry;
H. R. 9257. An act granting an increase of pension to Nathaniel M. Stukes;
H. R. 9261. An act granting an increase of pension to William C. Herridge;
H. R. 9287. An act granting a pension to Eliza Byron;
H. R. 9288. An act granting an increase of pension to Catherine E. Bragg;
H. R. 9415. An act granting an increase of pension to John E. Murphy;
H. R. 9417. An act granting an increase of pension to George A. Havel;
H. R. 9441. An act granting a pension to Clara N. Scranton;
H. R. 9442. An act granting a pension to Dora C. Walker;
H. R. 9556. An act granting an increase of pension to Thomas C. Jackson;
H. R. 9578. An act granting an increase of pension to Alfred B. Menard;
H. R. 9601. An act granting an increase of pension to John B. Page;
H. R. 9606. An act granting a pension to Martha Jewell;
H. R. 9627. An act granting an increase of pension to Daniel Craig;
H. R. 9791. An act granting an increase of pension to Amelia E. Grimsley;
H. R. 9829. An act granting an increase of pension to William J. Thompson;
H. R. 9833. An act granting an increase of pension to James C. Miller;
H. R. 9993. An act granting a pension to George W. Warren;
H. R. 10030. An act granting an increase of pension to Arby Frier;
H. R. 10161. An act granting an increase of pension to Benjamin R. South;
H. R. 10173. An act granting an increase of pension to John H. Lockhart;
H. R. 10250. An act granting an increase of pension to Ephraim Marble;
H. R. 10358. An act granting an increase of pension to Charles Dorin;
H. R. 10408. An act granting a pension to Anna E. Middleton;
H. R. 10424. An act granting a pension to Emanuel S. Thompson;
H. R. 10456. An act granting an increase of pension to William T. Edgemon;
H. R. 10473. An act granting an increase of pension to John B. Gerard;
H. R. 10494. An act granting an increase of pension to Hannah C. Reese;
H. R. 10580. An act granting an increase of pension to Samuel Fish;
H. R. 10591. An act granting an increase of pension to Sarah A. Scott;
H. R. 10686. An act granting an increase of pension to George W. Adams;
H. R. 10727. An act granting an increase of pension to Aquilla M. Hizer;
H. R. 10775. An act granting a pension to Ellen S. Cushman;
H. R. 10881. An act granting an increase of pension to Jerry Edwards;
H. R. 10924. An act granting an increase of pension to Thomas J. Sizer;
H. R. 11143. An act granting an increase of pension to Levi B. Noulton;
H. R. 11306. An act granting an increase of pension to John C. Parkinson;
H. R. 11348. An act granting an increase of pension to Cynthia Cordial, now Vernon;
H. R. 11361. An act granting an increase of pension to Thomas Hughes;
H. R. 11367. An act granting an increase of pension to Manning Abbott;
H. R. 11374. An act granting an increase of pension to Fanny L. Conine;
H. R. 11532. An act granting an increase of pension to Andrew J. Speed;
H. R. 11538. An act granting an increase of pension to Eli Duvall;
H. R. 11565. An act granting a pension to Sarah A. Brinker;
H. R. 11591. An act granting an increase of pension to John B. Hall;
H. R. 11593. An act granting an increase of pension to Evans Blake;
H. R. 11606. An act granting an increase of pension to Edmund W. Bixby;
H. R. 11654. An act granting a pension to Emma A. Smith;
H. R. 11692. An act granting an increase of pension to John P. Wishart;
H. R. 11703. An act granting a pension to Laura McNulta;
H. R. 11824. An act granting an increase of pension to Jennie P. Starkins;
H. R. 11898. An act granting a pension to Lars F. Wadsten, alias Frederick Wadsten;
H. R. 11907. An act granting an increase of pension to August Danieldson;
H. R. 11918. An act granting a pension to Mary A. Weigand;
H. R. 12017. An act granting an increase of pension to James B. Simkins;
H. R. 12019. An act granting an increase of pension to Henry Jacob Fox;
H. R. 12059. An act granting an increase of pension to Mildred W. Mitchell;
H. R. 12099. An act granting a pension to Charlotte A. McCormick;
H. R. 12389. An act granting an increase of pension to Isaiah B. McDonald;
H. R. 12390. An act granting an increase of pension to John W. Raynor;
H. R. 12407. An act granting an increase of pension to Robert Bivans;
H. R. 12415. An act granting an increase of pension to Elizabeth Bodkin;
H. R. 12521. An act granting an increase of pension to Alice Eddy Potter;

H. R. 12526. An act granting an increase of pension to Solomon Johnson;
H. R. 12534. An act granting an increase of pension to Richard Reynolds;
H. R. 12556. An act granting an increase of pension to Joseph W. Coppage;
H. R. 12663. An act granting an increase of pension to Frederick Friebele;
H. R. 12715. An act granting a pension to George B. Kirk;
H. R. 12755. An act granting an increase of pension to Nathaniel W. Plymate;
H. R. 12803. An act granting a pension to Emma C. Waldron;
H. R. 12888. An act granting an increase of pension to Jacob Sannar;
H. R. 12996. An act granting an increase of pension to Eugene B. McDonald;
H. R. 13139. An act granting an increase of pension to William Walrod;
H. R. 13171. An act granting an increase of pension to Jonathan K. Porter;
H. R. 13217. An act granting a pension to Joshua Barnes;
H. R. 13345. An act granting an increase of pension to Frank Clendenin;
H. R. 13437. An act granting an increase of pension to Samuel R. Lowry;
H. R. 13445. An act granting an increase of pension to Thomas T. Blanchard;
H. R. 13504. An act granting an increase of pension to Elizabeth Thompson;
H. R. 13726. An act granting a pension to Sarah J. Manson;
H. R. 13730. An act granting an increase of pension to Joseph Shroyer;
H. R. 13738. An act granting an increase of pension to Henry Hahn;
H. R. 13741. An act granting an increase of pension to George R. Scott;
H. R. 13823. An act granting an increase of pension to William Van Keuren;
H. R. 13840. An act granting an increase of pension to Absalom Shell;
H. R. 13862. An act granting an increase of pension to Luther S. Holly;
H. R. 13871. An act granting an increase of pension to William Delany;
H. R. 13881. An act granting an increase of pension to Amos Dyke;
H. R. 13928. An act granting an increase of pension to Harvey Foster;
H. R. 13961. An act granting an increase of pension to Julius Buxbaum;
H. R. 14001. An act granting an increase of pension to Nathan S. Ruddock;
H. R. 14116. An act granting an increase of pension to John P. Rains;
H. R. 14117. An act granting an increase of pension to William H. H. Fellows;
H. R. 14227. An act granting an increase of pension to Anna C. Bassford;
H. R. 14299. An act granting an increase of pension to Rose V. Mullin;
H. R. 14374. An act granting an increase of pension to Benjamin B. Cahoon;
H. R. 14442. An act granting an increase of pension to Esther M. Lowe;
H. R. 14498. An act granting an increase of pension to Eliza Davidson;
H. R. 14534. An act granting an increase of pension to Jasper N. Harrelson;
H. R. 14552. An act granting an increase of pension to Henry Davey;
H. R. 14553. An act granting an increase of pension to Jesse Lienallen;
H. R. 14566. An act granting an increase of pension to Robert E. McKiernan;
H. R. 14657. An act granting an increase of pension to David W. West;
H. R. 14677. An act granting a pension to Reuben H. Ballenger;
H. R. 14688. An act granting an increase of pension to Robert Timmons;
H. R. 14698. An act granting an increase of pension to William F. Drake;
H. R. 14780. An act granting an increase of pension to John A. Royer;
H. R. 14782. An act granting an increase of pension to Michael Manahan;
H. R. 14853. An act granting an increase of pension to Helen C. Sanderson;
H. R. 14915. An act granting an increase of pension to Andrew W. Tracy;
H. R. 15321. An act granting a pension to Charles Skaden, jr.;
H. R. 15431. An act granting a pension to Theresa Creiss;
H. R. 15569. An act granting a pension to Harriett A. Duvall;
H. R. 15895. An act granting a pension to Harry D. McFarland;
H. R. 16520. An act granting a pension to Edward Farrell;
H. R. 16582. An act granting a pension to Ellen T. Sivels;
H. R. 16930. An act granting a pension to Virginia A. Hilburn;
H. R. 16972. An act granting a pension to Harriet L. Morrison;
H. R. 17151. An act granting a pension to William T. Morgan; and
H. R. 17273. An act granting a pension to Mary B. Watson.

CLAIMS OF CALIFORNIA.

Mr. PERKINS. The members of the California delegation are in receipt of a telegraphic dispatch from the governor of California in the form of a petition, which I present, and I ask that it may be read.

The telegraphic dispatch was read, and referred to the Committee on Claims, as follows:

OAKLAND, CAL., *May 1, 1906.*

HON. GEORGE C. PERKINS,
United States Senate:

Will Congress, in California's present great need, pass our 5 per cent public lands claim, amounting to about $1,000,000; also our war of rebellion claims, aggregating four million odd dollars; also our Indian war claims, originally six hundred and sixty thousand, on account of destruction of three hundred million San Francisco property, which represents one-fifth assessed valuation of entire State? Our State funds, including schools and maintenance of asylums, penitentiary, and repairs of public buildings injured and destroyed by earthquake will all be greatly hampered unless Congress can see its way clear to pass these claims, the justice of which has never been seriously questioned. Please bring the matter before Congress and explain our needs. We are under great obligations to Congress already, but we venture to ask for this further aid.

GEO. C. PARDEE, *Governor.*

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented petitions of the Council of Jewish Women of Philadelphia, Pa., of the Council of Jewish Women of Syracuse, N. Y., and of the Council of Jewish Women of Baltimore, Md., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. PLATT presented a petition of the Society for Political Study of New York City, praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia, and also to establish a children's bureau in the Department of the Interior; which was referred to the Committee on Education and Labor.

He also presented petitions of Local Union No. 489, of Plattsburg; of Local Union No. 490, of New York City; of Local Union No. 201, of Albany, all of the Brotherhood of Painters, Decorators, and Paper Hangers of America; of Stanton M. Smith, of New York City, all in the State of New York, and of sundry citizens of Asheville, N. C., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. DRYDEN presented the memorial of G. H. Lembeck, of Jersey City, N. J., remonstrating against the passage of the so-called "employers' liability bill," etc.; which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of New Jersey, praying for an investigation into the charges made and filed against the Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented petitions of Lucy Webb Hayes Council, No. 12, Daughters of Liberty, of Vineland, N. J., and of sundry citizens of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented the petition of Prof. H. B. Cornwall, of Princeton, N. J., praying for the adoption of a metric system of weights and measures; which was referred to the Select Committee on Standards, Weights, and Measures.

He also presented petitions of Local Councils Nos. 16 and 399, American Federation of Musicians, of Newark, N. J., praying for the enactment of legislation prohibiting Government bands from competing with civilian bands; which were referred to the Committee on Military Affairs.

He also presented petitions of sundry manufacturing jewelers of New Jersey, praying for the enactment of legislation requiring the stamping of the quality on each and every article of jewelry manufactured; which were referred to the Committee on Finance.

He also presented petitions of sundry citizens of Newark, Elizabeth, Mullica Hill, Hoboken, Hillsdale, Moorestown, Trenton, Riegelsville, New Brunswick, and Hackensack, all in the State of New Jersey, and of New York City, N. Y., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. DICK presented memorials of sundry citizens of Medina, Ohio, remonstrating against the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of sundry local granges, Patrons of Husbandry, in the State of Ohio, praying for the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Builders' Exchange and Master Carpenters' Association of Akron, Ohio, and a memorial of the Builders' Exchange of Toledo, Ohio, remonstrating against the passage of the so-called "anti-injunction bill;" which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Marietta, Ohio, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Elyria, Massillon, Bowling Green, Galion, Cleveland, and Marion, all in the State of Ohio, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings and grounds; which were referred to the Committee on Public Buildings and Grounds.

He also presented petitions of sundry women's clubs in the State of Ohio, praying for the enactment of legislation to prevent the impending destruction of Niagara Falls, on the American side, by the diversion of the waters for manufacturing purposes; which were referred to the Committee on Foreign Relations.

He also presented the petition of A. E. Flint and sundry other citizens of Springfield, Ohio, praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

He also presented petitions of sundry local granges, Patrons of Husbandry, in the State of Ohio, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of sundry local councils, Daughters of Liberty, and of sundry local councils, Junior Order of United American Mechanics, all in the State of Ohio, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of sundry women's clubs in the State of Ohio, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented petitions of sundry local unions, American Federation of Labor, in the State of Ohio, praying for the passage of the so-called "eight-hour bill" and also the "anti-injunction bill;" which were referred to the Committee on Education and Labor.

Mr. CULLOM presented a petition of the congregation of the Presbyterian Church, of Trenton, Ill., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Batavia, North Aurora, and Champaign, all in the State of Illinois, and of Local Union No. 363, Painters, Decorators, and Paper Hangers of America, of Champaign, Ill., praying for the removal of the internal-revenue duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a memorial of the National Business League, of Chicago, Ill., remonstrating against the passage of the so-called "anti-injunction bill;" which was referred to the Committee on the Judiciary.

He also presented a petition of Local Subdivision No. 44, Brotherhood of Locomotive Engineers, of Murphrysboro, Ill., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Clearing House Association, of Jacksonville, Ill., praying for the enactment of legislation permitting the loaning by national banks, to one individual borrower, of their capital and surplus; which was referred to the Committee on Finance.

Mr. OVERMAN presented a petition of sundry citizens of Shallotte, N. C., praying that an appropriation be made for the improvement of the Shallotte River in that State; which was referred to the Committee on Commerce.

Mr. FRYE presented a petition of J. F. Perham and sundry other citizens of Maine, praying for the removal of the internal revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. NELSON presented a petition of sundry citizens of Maynard, Minn., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. GALLINGER presented a petition of Mrs. Andrew Fossum, of Woodridge, D. C., praying for the enactment of legislation to purchase the property known as "Old Fort Thayer," in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of Joseph I. Weller, of Washington, D. C., praying that an appropriation be made to enlarge the McKinley Manual Training School, in the District of Columbia; which was referred to the Committee on Appropriations.

Mr. HEMENWAY presented the petition of the Rathbone Sisters of Union City, Ind., praying that an appropriation be made for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a petition of the Caroline Scott Harrison Chapter, Daughters of the American Revolution, of Indianapolis, Ind., praying for the enactment of legislation to prevent the further destruction of Niagara Falls on the American side by the diversion of its waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

He also presented petitions of the C. W. Meikel Company, of Indianapolis; of the Buckeye Manufacturing Company, of Anderson; of the Krell-French Piano Company, of New Castle; of the Model Gas Engine Works, of Auburn; of the N. P. Bowsher Company, of South Bend; of the Lambert Gas and Gasoline Engine Company, of Anderson; of the Kitchel Elevator Company, of Kitchel; of the Ford & Johnson Company, of Michigan City; of the Auto-Grand Piano Company, of New Castle; of the Lieber Company, of Indianapolis; of the W. D. Allison Company, of Indianapolis; of the congregation of the Grace Methodist Church, of Richmond; of W. P. Squibb & Co., of Lawrenceburg; of the Nordyke & Marmon Company, of Indianapolis; of Frank B. Sheets and 50 other citizens of Lawrenceburg; of Shelbyville Mirror Works, of Shelbyville; of Local Union No. 444, Brotherhood of Painters, Decorators, and Paperhangers of America, of Princeton; of Local Union No. 156, Brotherhood of Painters, Decorators, and Paperhangers of America, of Evansville; of Schaff Brothers Company, of Huntington; of the Federal Arms Company, of Indianapolis, and of the Vigo Cooperage Company, of Terre Haute, all in the State of Indiana, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. WETMORE presented a petition of the State League of Improvement Societies in Rhode Island, praying that an appropriation be made to assist in the suppression of the gypsy and brown tail moths; which was referred to the Committee on Agriculture and Forestry.

Mr. RAYNER (for Mr. GORMAN) presented sundry papers to accompany the bill (S. 2120) for the relief of Mrs. Sara C. Mitchell; which were referred to the Committee on Claims.

Mr. BULKELEY presented a petition of Local Union No. 481, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Hartford, Conn., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17683) granting an increase of pension to John Hoch;

A bill (H. R. 17671) granting a pension to Sarah A. Thompson;

A bill (H. R. 17308) granting a pension to Margaret E. Eveland;

A bill (H. R. 17202) granting an increase of pension to Benjamin H. Cool;

A bill (H. R. 17003) granting an increase of pension to Eleazer C. Harmon;

A bill (H. R. 17384) granting an increase of pension to William Warnes;

A bill (H. R. 17238) granting an increase of pension to John G. Vassar; and

A bill (H. R. 17014) granting an increase of pension to Jackson D. Thornton.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17006) granting an increase of pension to Fountain M. Fain; and

A bill (H. R. 17144) granting an increase of pension to Jesse Wiley.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17781) granting an increase of pension to Frank M. Parker;

A bill (H. R. 17690) granting a pension to Ellen E. Leary;

A bill (H. R. 17597) granting an increase of pension to Charles Lee;

A bill (H. R. 17422) granting an increase of pension to Orlando Hand;

A bill (H. R. 17430) granting an increase of pension to John A. Mather;

A bill (H. R. 17174) granting an increase of pension to Nathaniel C. Sawyer;

A bill (H. R. 17205) granting a pension to Alice Garvey;

A bill (H. R. 17108) granting a pension to Edith F. Morrison;

A bill (H. R. 17012) granting an increase of pension to Mary Thackara; and

A bill (H. R. 17004) granting an increase of pension to Willard F. Sessions.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15768) granting an increase of pension to Mary J. Halbert;

A bill (H. R. 17684) granting an increase of pension to Joseph M. Hays;

A bill (H. R. 17591) granting an increase of pension to William Hall;

A bill (H. R. 17244) granting an increase of pension to James Crandol;

A bill (H. R. 17344) granting an increase of pension to John L. Fuhrman; and

A bill (H. R. 17055) granting an increase of pension to George Fankell.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17638) granting an increase of pension to York A. Woodward;

A bill (H. R. 17613) granting an increase of pension to Susan E. Nash;

A bill (H. R. 17372) granting an increase of pension to Arethusa M. Pettit;

A bill (H. R. 17310) granting an increase of pension to Francis A. Hite;

A bill (H. R. 17143) granting an increase of pension to William Taylor;

A bill (H. R. 17067) granting an increase of pension to Simeon Pierce;

A bill (H. R. 17070) granting an increase of pension to Thomas Blakney; and

A bill (H. R. 17069) granting an increase of pension to William L. Wilcher.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17854) granting an increase of pension to John Eubank;

A bill (H. R. 17842) granting a pension to Josephine V. Sparks;

A bill (H. R. 17761) granting an increase of pension to Thomas J. Mackey;

A bill (H. R. 17644) granting an increase of pension to Henry C. Eastler;

A bill (H. R. 17619) granting an increase of pension to Davia D. Spain;

A bill (H. R. 17558) granting a pension to Lizzie H. Prout;

A bill (H. R. 17406) granting an increase of pension to William B. McAllister;

A bill (H. R. 17402) granting an increase of pension to Isaiah H. Hazlitt;

A bill (H. R. 17342) granting an increase of pension to Wesley G. Cox;

A bill (H. R. 17278) granting an increase of pension to Mary E. Patterson;

A bill (H. R. 17231) granting an increase of pension to Rachel Allen; and

A bill (H. R. 17036) granting an increase of pension to Josephine L. Jordan.

Mr. DILLINGHAM, from the Committee on the Judiciary, to whom was referred the bill (H. R. 7) to provide a seal for United States commissioners, reported it without amendment, and submitted a report thereon.

Mr. CLAPP, from the Committee on Claims, to whom was referred the bill (S. 1751) to revive and amend an act to provide for the collection of captured and abandoned property and the prevention of frauds in insurrectionary districts within the United States and acts amendatory thereof, reported it with an amendment, and submitted a report thereon.

Mr. CARTER, from the Committee on Public Lands, to whom was referred the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves, reported it with an amendment, and submitted a report thereon.

Mr. CULLOM, from the Committee on Foreign Relations, reported an amendment proposing to appropriate $3,500 for the salary of the consul-general at Dalny, Manchuria, and $5,000 for the salary of the consul-general at Boma, Kongo Free State, intended to be proposed to the diplomatic and consular appropriation bill, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17303) granting an increase of pension to William H. Hester; and

A bill (H. R. 17700) granting an increase of pension to Andrew T. Michell.

Mr. PILES, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17385) granting an increase of pension to James S. Ruby; and

A bill (H. R. 17120) granting a pension to Rhoda Munsil.

BRIDGES ACROSS CLINCH AND HOLSTON RIVERS.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (S. 5890) to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5891) to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee, reported it without amendment, and submitted a report thereon.

Mr. MARTIN. I ask unanimous consent for the present consideration of the two bills just reported by the Senator from Arkansas from the Committee on Commerce. They are brief bridge bills and uncontested. I should be glad to have them considered now.

The VICE-PRESIDENT. The first bill reported by the Senator from Arkansas will be read for the information of the Senate.

The Secretary read the bill (S. 5890) to authorize the South and Western Railroad Company to construct bridges across Clinch River and the Holston River, in the States of Virginia and Tennessee; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. BURKETT. I should like to ask a question, which just occurs to me from hearing the bill read. The word "bridge" is in the plural, and there is no place designated where it shall be built. I know that we have passed a general bridge bill, but is it not usual to put in the place where the bridge is to be located? The bill provides that it may be built anywhere on the river.

Mr. MARTIN. There is a very short distance in which these bridges will have to be built, and under the general act of Congress, to which this bill is made subject, the Secretary of War will control the matter. This bill has been to the War Department, and it has been approved by the Chief of Engineers.

Mr. FRYE. I might call the attention of the Senator from

Nebraska to the fact that we have passed a general law during the present session of Congress touching the construction of bridges. This bill shows conclusively how much benefit may be derived from that act. Ordinarily this bill would have covered four or five or six pages. Now it comprises only one page, because every requirement is contained in the general law, to which this bill refers.

Mr. BURKETT. I will say in reply to the Senator from Maine that I remember the general act, and, of course, I understand that it has obviated the necessity of having a long bill passed; but I asked the question because this bill is in the plural, giving the company the right to build bridges across the river, and it does not specify where the bridge is to be located or anything about it. But if, from the circumstances, there is necessarily only a short distance, as the Senator says, where they can locate the bridge, that covers all I wished to inquire into.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The VICE-PRESIDENT. The second bill reported by the Senator from Arkansas will be read for the information of the Senate.

The Secretary read the bill (S. 5891) to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DAMS AND POWER STATION ON COOSA RIVER, ALABAMA.

Mr. FRYE. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 15334) to authorize the construction of dams and power stations on the Coosa River at Lock 2, Alabama, to report it favorably without amendment.

Mr. PETTUS. I ask the unanimous consent of the Senate for the present consideration of this local bill.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. TELLER. I should like to know what the bill is before it is passed.

Mr. FRYE. It simply gives authority to build a dam or dams across a river which, so far as navigation is concerned, has been abandoned by the Government.

Mr. TELLER. Is it a navigable river?

Mr. FRYE. It is not at the point where the dam is to be erected, and the Government has abandoned all idea of making it so.

Mr. TELLER. If that is the case, I understand that the Government of the United States has nothing to do with the river. The Government of the United States has no control over a river beyond the navigable point.

Mr. FRYE. But of course the Coosa River is a navigable river, and only at this point it is not proposed to make any appropriation to secure navigation farther up the river. Of course the Government retains the right whenever it pleases to reconsider its action and make it a navigable river, and this bill makes provision for that event.

Mr. TELLER. I am not going to object to the consideration of the bill, but I want to put myself on record against the control by the General Government of any nonnavigable waters within a State. Nonnavigable waters belong to the State and not to the General Government. Whenever a river ceases to be navigable the jurisdiction of the General Government ceases over it.

My only objection to the bill is as a precedent; but of course if it will benefit somebody I do not care about interfering with a matter which concerns the people in another section of the country from mine.

Mr. BACON. I wish to ask the Senator from Maine who is the author of the bill?

Mr. FRYE. It came from the House of Representatives.

Mr. BACON. I have some familiarity with the Coosa River. It is a river which is navigable the entire length in sections. There are shoals which interrupt the navigation at different points. It is not a river in the class of which the Senator from Colorado speaks. It is a river navigable all the way up to Rome, in Georgia. While it lies mainly in Alabama, it is navigable to Rome, and above that point on the tributary rivers which form the Coosa.

I have been over the particular sections to which the bill relates. I was not fortunate in hearing the reading of the bill, but I understand that it simply proposes that the water power may be utilized, and I am quite sure that the water can be utilized without in any manner interfering with the navigation of the river when the Government shall proceed hereafter to construct dams and docks at the shoals which will make the navigation uninterrupted.

Mr. FRYE. All those rights are reserved to the Government in the bill.

Mr. BACON. I thought I would take the liberty of making this statement. It is a fine river, and a river which is navigable throughout its entire length, with interruptions at shoals which confine the navigation to sections, and the navigation is in sections rather than a continuous navigation. But it may be made continuous and become a valuable artery of commerce whenever the Government shall proceed to construct locks and dams upon the other shoals as it has already done upon three or four of the shoals, and they are very important works there.

Mr. FRYE. Yes; we have expended a good deal of money on the river.

Mr. BACON. And it is very fine work. I have been over it.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THANKS OF CONGRESS TO GEN. HORACE PORTER.

Mr. LODGE. I am instructed by the Committee on Foreign Relations, to whom was referred the joint resolution (H. J. Res. 149) extending the thanks of Congress to Gen. Horace Porter, to report it favorably without amendment, and to ask for its immediate consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. TALIAFERRO introduced a bill (S. 5986) for the establishment of a fish-culture station in the State of Florida; which was read twice by its title, and referred to the Committee on Fisheries.

He also introduced a bill (S. 5987) for the relief of the heirs of J. L. F. Cottrell, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 5988) granting an increase of pension to L. N. Lafontisee; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CARTER introduced a bill (S. 5989) to authorize the construction of a bridge across the Missouri River in Broadwater and Gallatin counties, Mont.; which was read twice by its title, and referred to the Committee on Commerce.

Mr. PENROSE introduced a bill (S. 5990) granting a pension to Jacob Peter; which was read twice by its tile, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. BURROWS introduced a bill (S. 5991) granting an increase of pension to George F. Ford; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5992) granting an increase of pension to Franklin Craig; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FORAKER introduced a bill (S. 5993) granting a pension to Mary M. Marpe; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5994) granting an increase of pension to John Dickey; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5995) to remove the charge of desertion from the military record of Joseph Gardner; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WARNER introduced a bill (S. 5996) to remove the restrictions on the alienation of land in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole nations, Indian Territory; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions.

A bill (S. 5997) granting an increase of pension to William Miser;

A bill (S. 5998) granting an increase of pension to William A. McGaha; and

A bill (S. 5999) granting an increase of pension to Cyrus M. Miller.

Mr. DRYDEN introduced a bill (S. 6000) granting an increase of pension to James H. Baum; which was read twice by its title, and referred to the Committee on Pensions.

Mr. OVERMAN introduced a bill (S. 6001) granting an increase of pension to Emily Killian; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6002) for the relief of Peter F. Pescud, jr., John S. Pescud, Sue B. Craig, and Mollie I. Pescud, heirs at law of Peter F. Pescud, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. PILES introduced a bill (S. 6003) to construct and place a steel light-ship on "Forty Fathom Bank," so called, off the entrance to the Straits of Juan de Fuca; which was read twice by its title, and referred to the Committee on Commerce.

Mr. FORAKER introduced a bill (S. 6004) to provide an American register for the steam yacht Waturus; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Commerce.

AMENDMENTS TO RAILROAD RATE BILL.

Mr. MARTIN submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

Mr. BACON submitted two amendments intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which were ordered to lie on the table, and be printed.

Mr. TILLMAN. I desire to offer an amendment to the rate bill—House bill 12987. It was prepared by the Interstate Commerce Commission at my request, following some correspondence in regard to the sixth section of the act, which seemed to me to be somewhat confused, and more or less conflicting with other parts of the bill.

I ask that the correspondence between the chairman of the Interstate Commerce Commission and myself be printed, and that the memorandum which they sent along with the amendment be also printed. My request is that all the papers as I send them to the desk be printed for the use of the Senate, and then that the amendment be printed separately.

The VICE-PRESIDENT. Without objection, it is so ordered.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GALLINGER submitted an amendment proposing to appropriate $3,000 for widening and grading Minnesota avenue from Pennsylvania avenue northward as far as the land may have been dedicated therefor, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. BURROWS submitted an amendment relative to the pay of letter carriers and clerks in charge of substations of rural delivery service, intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. NELSON submitted an amendment proposing to fix the salaries of six justices of the peace of the District of Columbia at $3,000 each per annum, etc., intended to be proposed by him to the District of Columbia appropriation bill; which, with the accompanying paper, was referred to the Committee on the District of Columbia, and ordered to be printed.

WITHDRAWAL OF PAPERS—WILSON W. BROWN AND OTHERS.

On motion of Mr. FORAKER, it was

Ordered, That there may be withdrawn from the files of the Senate all papers relating to the bills (S. 4349, 55th Cong.; S. 873, 56th Cong.; S. 2028, 57th Cong., and S. 3294, 58th Cong.) granting an increase of pension to Wilson W. Brown and others, there having been no adverse report on any of said bills.

HEARINGS BEFORE COMMITTEE ON INTERSTATE COMMERCE.

Mr. KEAN submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Interstate Commerce be, and the same is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee, and to have the hearings and bills printed for the use of the committee, and that such stenographer be paid out of the contingent fund of the Senate.

CONFERENCES AND CONFERENCE REPORTS.

Mr. CLAPP. I am advised that there remain very few copies of Senate Report No. 1545, Fifty-seventh Congress, first session, being the report of the Committee on Appropriations in response to a resolution of the Senate directing it to have prepared a manual of the law and practices in regard to conferences and conference reports. I move that the document be reprinted.

The motion was agreed to.

AID IN REBUILDING SAN FRANCISCO.

Mr. NEWLANDS. I introduce a concurrent resolution, and I ask unanimous consent that I may be permitted to make a few remarks regarding it.

Mr. GALLINGER. Let the resolution be read at length, if it is to be discussed.

The concurrent resolution was read, as follows:

Whereas two-thirds of the city of San Francisco has been destroyed by fire following an earthquake, such destruction including the entire banking, commercial, wholesale, and manufacturing section, as well as over one-half of the residential section; and

Whereas over 200,000 people are now homeless; and

Whereas San Francisco has been and is the leading port of the Pacific coast intimately related with every part of the United States in the transaction of interstate commerce and with oriental and other foreign countries in the conduct of foreign commerce; and

Whereas it is of the highest importance not only to the Pacific coast and intermountain region, but to the entire United States that the city should be immediately restored with a view to the promotion of interstate and foreign commerce, and the cooperation of the nation is of the highest importance in such restoration; and

Whereas, though the courage shown by the people of San Francisco in this emergency will doubtless prove equal to the restoration of the city through individual enterprise, it is probable that such restoration will be slow and it is proper and wise that the nation should consider its own vast interest in the speedy completion of such work upon lines which will make for the highest commercial and industrial development of the country; and

Whereas it has been suggested that the nation under its powers relating to the general welfare and the regulation of commerce between the States and with foreign countries should come to the aid of San Francisco either by a direct loan or by a guaranty of credit or by cooperation with the entire American people in a broad financial project which shall involve the restoration of San Francisco upon comprehensive and enduring plans: Now, therefore,

"*Resolved by the Senate (the House of Representatives concurring)*, That the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate consider jointly the various plans for financial aid in the restoration of San Francisco, and that they report to the Congress whether or not it is advisable or practicable for the National Government to aid in the restoration of San Francisco, either by a guaranty of credit to the city of San Francisco which will enable the city to secure at low rates of interest the money necessary for public works, as well as the money necessary for the restoration of the commercial, residential, and manufacturing buildings of San Francisco, to be loaned at fair rates of interest by the city to property owners upon note and mortgage, such guaranty of credit to be conditioned upon the approval by a commission, to be appointed by the President of the United States, of the plans proposed and the expenditures made thereunder; or whether it is practicable or advisable to promote the organization of a great financial corporation, national or State, half of whose stock shall be taken by subscribers for cash and half of which stock may be taken by San Francisco property owners for property conveyed to such corporation, at an appraised valuation, the cash subscribed to be used either for loans to individual owners of San Francisco property or to be expended in improving property so conveyed to such corporation, with provisions for the gradual sale of such property after the successful completion of the work of restoration; such plan to involve profit to the stockholders thus cooperating; and whether or not it is practicable or advisable for the United States to invest in the stock of such corporation or to make a loan to such corporation upon the lines heretofore pursued by the National Government in aid of national expositions for the promotion of commerce between the States and with foreign nations, or whether any other plan is advisable or practicable for national aid in the restoration of San Francisco.

"That whatever plan of aid be advised, a board of national commissioners experienced in exposition building, to be appointed by the President, by and with the advice and consent of the Senate, shall be included, with such powers of control over both plans and expenditures as may be deemed advisable."

Mr. NEWLANDS. I ask that a newspaper clipping which I send to the desk be read by the Secretary.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

ONE HUNDRED MILLION DOLLARS BY NEW YORK TO REBUILD SAN FRANCISCO—UNITED STATES SENATOR NEWLANDS, OF NEVADA, SAYS HUGE SUM HAS BEEN PRACTICALLY AGREED ON BY FINANCIERS—BANKS RESUME IN EARTHQUAKE CITY.

SAN FRANCISCO, *May 1, 1906*.

One hundred million dollars is to be subscribed by New York capitalists toward making a city beautiful by the Golden Gate if a plan outlined by United States Senator NEWLANDS, of Nevada, in a telegram received by W. F. Herrin, chief counsel of the Southern Pacific Railroad, here to-day proves feasible.

Senator NEWLANDS in his message announces that New York financial houses have virtually consented to supply the money on a bond and mortgage basis, and while the names of the houses subscribing to the fund are not yet made public the news was greeted here by business men with the greatest pleasure.

The local finance committee, headed by James D. Phelan, is discussing the terms of the offer, and it is deemed that should they prove capable of acceptance such an impetus will be given to construction that the new city's practical completion will thus be advanced in wonderful measure.

Mr. NEWLANDS. Mr. President, I was quite surprised this

morning to find this announcement in the New York Herald and in other newspapers. It has doubtless been given wide currency. It was not my intention to say anything in public upon this subject, but I think now that a public statement should be made by me in explanation of this article.

For the last two or three days I have been in New York City and have been in conference with leading financial men there with reference to a project for the restoration of San Francisco. I deemed it of the highest importance that the two great railroad systems, the Santa Fe and the Southern Pacific system, controlling nearly 30,000 miles of railroad, with all the banks and financial men back of them, should aid in such a project. I therefore telegraphed to William F. Herrin, the chief counsel of the Southern Pacific system at San Francisco, a man of great breadth of view and energy of character, outlining a plan or project, and asking him to consult with others, particularly with Mr. Harriman, and to advise me as to whether or not they thought the project practicable or advisable. I had no idea that any communication of this would be given to the press. I assume that in some unauthorized way it has got to the information of the press, and, of course, under those conditions such statements are usually incorrect or exaggerated. The plan has not reached such proportions as is suggested in the telegram. I have had no definite assurance from any of the financiers in New York as to whether they would be willing to enter upon such a project. I found, however, that there was in New York, as there is throughout the whole country, great sympathy with San Francisco and great disposition to aid her in any practicable way. So, Mr. President, when I saw this article this morning, I concluded to draw up the resolutions in an alternative form, which would present to Congress the suggestions for national aid and cooperation which may be essential to the speedy restoration of San Francisco.

Let me say, by way of preliminary, that though I have been a heavy loser in that fire, and those associated with me have been very heavy losers, a very large proportion of their income being lost, we do not propose to be the beneficiaries of any plan here suggested. We propose ourselves to finance the reconstruction of the hotel and other buildings which have been destroyed in San Francisco, and in which we are interested, and to move with the utmost energy and faith in the outcome. I say this lest interested motives might be attributed to me. I am not personally interested in these suggestions, except as one having an interest in that city and in the coast, and having a warm affection and regard for the city of San Francisco and its people.

I wish to add that I have offered these resolution without consulting either of the Senators from California. I know the great pride and self-reliance of the people of that State, and I know how reluctant either one of those Senators would be to present a matter here which might appear to be an appeal for help and an abandonment of the self-reliance which California has always shown.

RESTORATION OF SAN FRANCISCO A NATIONAL MATTER.

I believe that the restoration of San Francisco is a national matter, in which the people of all sections should participate through subscriptions to a private financial project, if that be practicable, or through national aid if practicable, or both combined, and I see no constitutional or practical difficulties in the way.

San Francisco has about 450,000 people. Of those 450,000 people nearly 300,000 are to-day homeless. Two-thirds of the city has been destroyed by fire; all of the financial, the commercial, the manufacturing, and wholesale districts of the city have been destroyed. Whilst the insurance is considerable, it is in process of adjustment and it may take a long time for adjustment. San Francisco is the great port of the Pacific Ocean, through which a large portion of the interstate commerce and through which a large portion of the foreign commerce of the nation is conducted. That city not only has relations with the entire Pacific coast and entire intermountain region, but it is the gateway through which the entire nation conducts its commerce with the Orient and many foreign nations. As a matter, therefore, of the regulation of interstate commerce and of commerce with foreign nations, as a matter affecting the general welfare of the United States, it is obvious that the nation itself is interested in the immediate restoration of San Francisco.

OUTSIDE AID WILL FACILITATE RESTORATION.

Restoration without outside aid can be accomplished, but it will be slow and accidental. In many cases the money received from insurance will only be sufficient to pay the mortgage upon the property; in many cases the money received from insurance, even though the property be clear, will be entirely inadequate to restore the buildings. The loans of that city and of the entire State are made through great popular savings banks with vast accumulations. Obviously those banks keep little money on hand; they loan it out upon note and mortgage, and they pay fixed rates of interest to their depositors. As, therefore, these moneys are already loaned ont, and there are no large accumulations in many of the savings banks, it is clear that the financial institutions there can not give the aid that is necessary for the restoration of that city. Nor can we trust simply to individual action. Individual action is necessarily accidental in its results. The restoration of San Francisco must be upon broad and comprehensive lines, involving a greater strength and beauty in the development of the city in the future than has been displayed in the past. The development of that city requires a central control—a central control of the plans and a central control of the finances, such control as has been exhibited in the great expositions of the country, the World's Fair at Chicago, the great exposition at St. Louis, and the exposition at Buffalo, where, through the aid of the nation and through the aid of the various States, great white cities have sprung up almost in a nighttime, with a perfection of plan and a beauty of detail unequaled in the history of the world. If we trust to individual effort, if each man in San Francisco who owns a lot seeks to put up some kind of a structure upon it, we will, of course, have an accidental growth, a dangerous growth, so far as fire is concerned.

Here let me say that as to fire and earthquake in San Francisco, the earthquake itself did very little in the way of the destruction of San Francisco; indeed, almost nothing. The destruction came from fire. That can be guarded against in the future, for San Francisco is almost entirely surrounded by water—the water of the ocean on one side and the water of the bay on the other, and doubtless in the comprehensive plan for the future provision will be made for getting sea water from the ocean and from the bay that will meet the emergency of any possible conflagration.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Pennsylvania?

Mr. NEWLANDS. Certainly.

Mr. KNOX. I should like to ask the Senator from Nevada if he has any information as to how the modern structures built of steel stood the shock of earthquake? I have seen various conflicting statements upon that subject, and it is an extremely interesting and important fact to know.

Mr. NEWLANDS. I have received both telegrams and letters upon that subject, and the universal testimony is that the steel structures stood the earthquake admirably. In some cases a little of the filling was shaken out, but the structures remained and are capable of being put in order for occupation.

USE OF CONCRETE ADVOCATED.

In that connection, I will state that I think that the buildings in San Francisco will in the future be largely constructed of reenforced concrete. Concrete itself being composed largely of cement which has been subjected to an immense fire test, resists the flames, and it also has a cohesiveness that almost nothing else has. Reenforced by steel under the modern system of construction, it presents an admirable and cheap material for building. California has an abundance of the best natural deposits for the making of Portland cement. It has also stone, sand, and gravel in abundance which can be utilized. Yesterday I visited Atlantic City for the purpose of inspecting a hotel that had recently been constructed, a part of it twelve stories high. It was composed entirely of reenforced concrete, and it is clear that that style of construction will be the most useful in San Francisco. I was told that such hotel construction costs only 22 cents per cubic foot, whilst the ordinary hotel construction costs from 40 cents to a dollar a cubic foot.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Illinois?

Mr. NEWLANDS. Certainly.

Mr. HOPKINS. I should like to know if the Senator from Nevada has made any calculation as to the number of millions of dollars that would be required from the Treasury of the United States to carry out the scheme that is embodied in his resolution?

$300,000,000 NEEDED TO RECONSTRUCT SAN FRANCISCO.

Mr. NEWLANDS. Well, Mr. President, I have my view regarding that, but it is not based upon any accurate computation, and I should prefer not to state it now. The resolutions which I have introduced make it a matter of inquiry by the Committee on Finance and the Committee on Ways and Means of the other House. I have no doubt that competent people will appear before that committee and give testimony upon that subject. I will abandon my caution, however, and say to the

Senator that I think the entire restoration of San Francisco will cost about $250,000,000 or $300,000,000.

Mr. HOPKINS. The Senator will remember that a few years ago there was a crop failure all through the Middle West——

Mr. NEWLANDS. Will the Senator allow me to state right there, however, that of course it is not expected the National Government shall give relief to that extent. There will probably be one hundred or one hundred and fifty million dollars in insurance that can be applied to the work of restoration, and then, doubtless, private enterprises will take hold of another large part.

Mr. HOPKINS. So that $100,000,000 from the Government Treasury would restore San Francisco, with the money that you would get from other sources?

Mr. NEWLANDS. I should think so.

Mr. HOPKINS. I should like to ask the Senator, Mr. President, how his scheme differs from the project that was suggested a few years ago of aiding the farmers when their crops failed, and it was proposed that the Government should loan them money at 2 per cent and take mortgages on the crops that were to be raised in the future?

CAN NOT THE GOVERNMENT AID CALIFORNIA AS IT HAS AIDED CUBA AND THE PHILIPPINES?

Mr. NEWLANDS. Well, Mr. President, I am not very familiar with the plan that was proposed at that time, and I would rather speak of aid that has been given rather than aid that has been simply contemplated. But I will state to the Senator that a country that could spend $200,000,000 in the cause of humanity for the purpose of freeing Cuba, that a country that can spend $300,000,000 for the purpose of instructing the Filipino people in the science of self-government, can certainly afford to lend its credit simply to the extent of $50,000,000 or $100,000,000 for the restoration of a great port, essential to the conduct of interstate and of foreign commerce and essential to the general welfare of the country, and whose energies are now paralyzed by almost unprecedented calamity.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Illinois?

Mr. NEWLANDS. Yes.

Mr. HOPKINS. I understand, Mr. President, that the Senator sees no constitutional objection to either the project of advancing $100,000,000 to the people of San Francisco for the purpose of their carrying on their private interests, or of advancing $50,000,000 or $100,000,000 to the farmers of the country whenever there is a drought or a lack of the annual production of the various farm products.

Mr. NEWLANDS. I will not enter into the question of the loan to the farmers. I speak only of cases where the Government itself has given aid. It will be recalled that when Galveston was destroyed the Government gave aid—I do not know to what extent—but if it gave aid to a small extent it could give aid to a large extent. The extent of aid depends upon how far the national interests are involved and the necessity for it. So also with reference to national expositions. Under what power do we give aid to these national expositions? Under that delegated power regarding the regulation of commerce between the States and with foreign nations, and if we were willing to give $10,000,000 to the St. Louis Exposition for recreation and business, can we not undertake to give at least that amount, or our credit to that amount or a larger amount, for positive work that will be of advantage to the entire country?

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Illinois?

Mr. NEWLANDS. Certainly.

Mr. HOPKINS. If the Senator approves of the Government of the United States loaning John Jones or Bill Smith, of San Francisco, $100,000 to reconstruct a hotel there, why on the same principle should not the Government advance money to an insurance company that will be broken if it is required to pay the money on the property that it insures in the city of San Francisco, so as to keep it and its stockholders from any loss?

Mr. NEWLANDS. Mr. President, I can not permit myself to be drawn into side issues. The resolutions that I have drawn commit the United States to nothing except an inquiry, and that inquiry is as to whether it is constitutional or advisable or practicable to aid in the restoration of San Francisco in any way. That is all. I do not propose now to commit myself to any theory. It may be when the exposition of this whole matter is presented to us by the committee that I may not be in favor either of a direct loan to San Francisco or of aid in the shape of credit. It may be that that committee may conclude it is not wise to do anything; and possibly I may support that committee in its conclusion. All that I wish to do now is to have the nation consider this matter, first, as to whether it has the power; and, second, whether it has the disposition and the willingness to aid in some way in the restoration.

Our aid may simply take the form of public works there—in the construction of public buildings. It may take simply the form of harbor improvements intended for the benefit of foreign commerce. So I do not propose here to allow myself to be dragged into a seeming antagonism with the Senator from Illinois when no antagonism exists. I have as open a mind as he has upon the subject; but I do beg leave to present some considerations tending to show that this fearful calamity is not simply of local importance, but that it is a matter of national importance; that it affects the greatest port upon the Pacific coast; that it intimately affects interstate commerce and foreign commerce and the prosperity and welfare of the entire people of the United States; and the American people are not what I think them to be if they will not, either through private effort or governmental effort, or both combined, work for the immediate and speedy restoration of San Francisco.

If San Francisco is to be restored, it is important that it should be immediately restored. If it is to be restored, it can be restored as well in a year as it can be in five years, and with infinitely more advantage to the entire country. If by a long pull, a strong pull, and a pull all together we can restore San Francisco to its former greatness and glory, I ask whether it will not be an act of which every American will be proud?

THE GOVERNMENT MIGHT GUARANTEE SAN FRANCISCO BONDS.

Mr. President, what form is it suggested that direct aid to San Francisco should take? Not the form of an individual loan by the Government of the United States to the property owners of that city for the purpose of enabling them to rebuild their houses. That is not the form. The form suggested is that the United States should simply guarantee the bonds of the city of San Francisco to the extent of one or two hundred million dollars, in order that she may float the loan at a low rate of interest, the money to be turned over to San Francisco, though subject, of course, to some national supervision and control as to expenditure by reason of the national guaranty, and then, after the——

Mr. HOPKINS. Will the Senator allow me right there?

Mr. NEWLANDS. If the Senator will hear me through and allow me to complete my sentence first. And after this money is received by San Francisco, that city can expend a certain portion of it in public works and can, if she chooses and is so authorized by the State, loan out that money for reconstruction of buildings upon note and mortgage at 4 or 4½ per cent, providing for repayments in annual sums, and thus gradually the bonds will be retired. The loans to the individuals are to be made by the city of San Francisco. The United States is simply to guarantee the bond issue, for which there is ample security, as to-day San Francisco is absolutely free from debt.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Illinois?

Mr. NEWLANDS. Yes.

Mr. HOPKINS. Mr. President, the Senator is recognized as a good lawyer, and I should like to ask him to make the distinction between a direct loan by the Government to an individual of San Francisco and a guarantee of a loan made by the city of San Francisco to the individual. Is there any difference in principle?

Mr. NEWLANDS. The Government is not to have anything to do with the individual. Its guaranty is to extend to the city's credit only. But I will not pretend to enter into that question. If ever such a plan is presented, I will come to a conclusion, after study, as to whether I can sustain it or not. I am now simply stating what is suggested. This is one of the things that is suggested that I should like to have go before the Finance Committee of the Senate and the Ways and Means Committee of the House for their consideration, and if they conclude that we have not the power to do it or that it is inadvisable to do it, that would probably end the matter.

That is the suggestion, so far as direct aid is concerned. It is said San Francisco itself could secure this loan. Well, it could under ordinary conditions, but you can not tell how much and how far the fear of earthquakes may affect the investing public. Certainly if San Francisco should put a large sum upon the market the rate of interest exacted would be a large one, and if the Congress of the United States can, in the exercise of its constitutional power, save the city of San Francisco that sum in the shape of interest, which, if paid into a sinking

fund, would in the space of thirty years absolutely retire the debt, I ask whether it can not consistently be asked to exercise that power?

STATE AND NATIONAL GOVERNMENTS SHOULD COOPERATE.

Here we have a dual sovereignty in this country—the sovereignty of the State and the sovereignty of the nation. I see no reason why when either sovereignty is in danger the other sovereignty should not rush to the rescue, within, of course, its constitutional powers. It is this mutual spirit of cooperation between the States and the National Government that will give us the prosperity which we seek. We are all bound together by the ties of amity and interest, and when interstate or foreign commerce is impeded by the paralysis of a port in a particular State the concern is national and is not confined to a particular State or to the port itself.

THE GOVERNMENT MIGHT GIVE AID TO A CORPORATION FOR THE RECONSTRUCTION OF THE CITY AS IN THE CASE OF EXPOSITION CORPORATIONS.

Now, what is the other suggestion? The other suggestion is simply one of a private financial corporation with a capital of, say, $100,000,000 represented by stock. That corporation could be organized either under national or State law. Fifty million dollars of that stock could be taken partially by the great financial interests of the country, particularly the interests that are backing the great transcontinental railroads which are directly interested in this matter. I have no doubt also that a popular subscription would be responded to most liberally, for this project would have in view not simply humanity, not simply patriotism, but profit, and it would prove an exceedingly profitable venture.

The nature of the venture would be this, that one-half of the capital could be subscribed in cash and the other half could be taken by the people of San Francisco, who lack capital for rebuilding, in exchange for real estate at appraised values. Such a corporation then would have the land to improve and it would have the money with which to improve it, and the corporation could be so organized as to provide after the restoration for the gradual sale of the properties, so as to prevent monopoly in land holding. Such a corporation could also make loans on note and mortgage to people who wished to improve on their own account, but it would exercise a wise control as to character and strength of the structures and their adaptability to existing requirements. We would thus have the benefit of a strong financial corporation, something like the great exposition corporations, with large capital, acting through intelligent and capable men, treating this entire problem as a whole instead of in the disjointed manner in which individuals will necessarily treat it.

To such a corporation would it not be entirely proper for the United States to make a subscription or a loan? Have we not done it repeatedly in the case of all the expositions? In some cases we have made gifts ranging as high as millions of dollars, and in other cases we have made loans. We helped the St. Louis exposition to the extent of $10,000,000. Under what power? Simply under the power as to interstate and foreign commerce and under the powers relating to the general welfare of the United States; and it seems to me it would be entirely wise and proper for the United States, when this project is taken up by the great financiers of the country and properly backed and presented, with able and honest and capable management, to aid such a corporation either by a direct loan or by a subscription to its stock.

Such a corporation would doubtless make large profits. We have the history of the Chicago fire before us regarding that. One enterprising man of St. Louis, I am told, after the Chicago fire sold his property in St. Louis, from which he realized about $250,000, and went immediately to Chicago and planted it there among its ashes, and he has realized a fortune from that venture of $25,000,000. Such a project properly backed and indorsed in some way by the National Government, or aided in some way by the National Government, with the stamp of approval by the National Government, would be taken up by the entire country in the shape of a popular subscription; and with $50,000,000 put into improvements upon property conveyed to such a corporation by people who are unable to improve that property, the property being taken at its just and fair value, based upon present conditions, such a project could not but prove immensely profitable.

It seems to me it is important that the nation itself should take part in this great work just as it has in all great expositions of manufacture and commerce. We could accompany any legislation which we propose here by a provision that the plans proposed and the expenditures made should be subject to the approval of a commission to be appointed by the President of the United States, with the advice and consent of the Senate, and acting in cooperation with the local authorities. And doubtless the President of the United States would select from the great body of exposition builders such men as Burnham, of Chicago; Carrerre, of New York; McKim, of New York, and the leader of the St. Louis exposition, men who would give energy and direction to a movement which would result in the restoration of San Francisco within a year or a year and a half.

EFFECTS OF THE DISASTER NOT YET FELT BY THE NATION.

The country does not realize as yet how hard hit it is by the San Francisco catastrophe. I speak not simply of California, or the Pacific coast, but I speak of the entire country, for it is interested in all forms of investment there. The East owns all the railroads that traverse that country, and a blow to those railroads is a blow to the East itself. It seems to me it is entirely practical either that we should give direct aid and credit to the city of San Francisco or that we should indorse some financial corporation, properly guarded, that will relieve the entire situation.

THE FUTURE OF SAN FRANCISCO.

Mr. President, in this connection I wish to say that it is of the highest importance that the plans shall be broad and comprehensive. San Francisco prior to the fire had just entered upon an era of enlarged development. She had employed Mr. Burnham, of Chicago, the builder of the great White City, to prepare plans, and doubtless those plans will be largely followed. Probably hereafter the city will be divided by intersecting parkways, one parkway running north and south and the other east and west, so as to divide the city into four sections, each of which will be protected by the space from fire in the other, and the sea wall will be laid out upon lines of beauty as well as of utility. Doubtless a great boulevard on the water front will open up the incomparable view of water and mountain, at the same time meeting every demand of trade and commerce.

The position of San Francisco is unsurpassed so far as commercial advantage is concerned and so far as beauty of scenery is concerned. From the hills of that city you can view the ocean upon one side and the bay upon the other, with the enduring mountains in easy reach, a variety of view and landscape and a perfection of climate and opportunities for ease and comfort and pleasure unsurpassed by any city in the United States. All that San Francisco lacks is the money with which to make its restoration complete and with which to make that city one of the most beautiful and prosperous in the world. If this is done the late calamity will be regarded as a benefaction rather than as a misfortune, and a new San Francisco, incomparable in beauty and prosperity, will rise upon the ashes of the old.

Mr. President, I wish to ask whether there is any objection to the immediate consideration of the resolution, which commits the Senate to nothing, but simply provides for an inquiry?

Mr. ALDRICH. I ask that the resolution may be again read.

The VICE-PRESIDENT. The Senator from Nevada asks for the present consideration of the resolution submitted by him. Is there objection?

Mr. ALDRICH. I should like to have it read again.

The VICE-PRESIDENT. The Secretary will again read the resolution.

Mr. TILLMAN. Without the whereases. They merely present a statement of the conditions, and the resolution proper, the thing we want to consider, the working part of it, is all that it is necessary to read.

Mr. NEWLANDS. I should like to have it all read.

Mr. TILLMAN. All right.

The VICE-PRESIDENT. Does the Senator from Nevada wish the preamble and the resolution read?

Mr. NEWLANDS. Yes; I should like to have it all read.

The VICE-PRESIDENT. The Secretary will read as requested, without objection.

The Secretary again read the concurrent resolution.

SENATOR FLINT URGES IMMEDIATE ACTION.

Mr. FLINT. Mr. President, I desire to say a few words on the resolution that has just been read. I ask for the immediate consideration of this resolution, as I do not want the people of my State, and especially those in San Francisco who are working to rebuild that city, which has been almost destroyed, buoyed up by false hopes that the Congress of the United States will make an appropriation of a hundred million dollars for their relief. They should not be left in doubt as to what action Congress will take in this matter.

The members of the California delegation have been working to carry out every wish of the people of that State and to aid them as far as it is possible for them to do so. A committee of business men from the State of California is now on the way

east to present matters to the California delegation which, in their opinion, will relieve the situation, so as to enable the California delegation to intelligently present the needs of the people of the State to Congress. It therefore seems to me that if action on this resolution should be delayed it would have an injurious effect upon the people who are expecting aid in the matter of rebuilding San Francisco.

Two propositions are presented—one is a newspaper clipping which has been read, being the plan outlined by the Senator from Nevada, by which the people in New York are to aid the people of San Francisco by a loan. The second is the plan outlined in the resolution asking Congress to make a loan or guarantee a loan.

The members of the Senate and House from the State of California in all probability will have some definite plan to present for the relief of the people of our State, and we do not want to have them relying upon an appropriation from Congress, and then fail to secure such an appropriation, when they may have an opportunity to adopt another plan. For that reason I ask that the resolution may be acted upon, and if it is possible to have Congress make an appropriation or guarantee a loan I should be very glad to have this action taken.

There are many matters in which we are asking assistance at this time, not only to help those who are desirous of erecting steel-frame buildings in San Francisco, but also to supply the people with meat and bread who are walking the streets homeless and hungry. That is what immediately confronts us, and the California delegation are now devoting their energies to the relief of the destitute and suffering people and will be glad to cooperate in carrying out any plan that will relieve the people of our State.

Mr. NEWLANDS. Mr. President, I hope the Senator from California will not feel that I have trenched at all upon the province of the Senators from that State in making the suggestion. I do not know whether he was in the Senate Chamber when I opened my remarks, but I stated then that I had designedly failed to consult them regarding it, because I did not wish to put upon them the responsibility either of accepting it or of rejecting it; that I knew the great courage and self-reliance of the people of that State, and I knew their first disposition would be to rely upon themselves.

Mr. FLINT. I have no feeling in that way, and I know my colleague has not. I heard the remarks of the Senator from Nevada.

Mr. NEWLANDS. The Senator, then, has no misapprehension upon that subject.

I wish to say further that all my interviews in New York were of a confidential character, and that my telegram to the West was in confidence, and I never expected to make this a public matter. But inasmuch as the telegram has gone to the entire country, stating that I had conducted a successful negotiation through which $100,000,000 had been raised for the purpose of restoring San Francisco, I thought it only fair and candid that I should make a thorough exposition of the matter to the Senate and the country.

Mr. PERKINS. Mr. President, I regret exceedingly that this resolution has been offered at the present time. Congress and the country generally have responded most generously and most liberally to the call that has come to them because of the distress of our people, brought on by this great calamity. I am informed that the legislature of California is about to be convened in extra session. The municipal authorities of San Francisco, the board of supervisors, have not yet had an official session since the great calamity visited the city. Certainly, for one, I should be opposed to any action on the part of Congress until a request had come to us through our legislature or through the municipal authorities of San Francisco. And then it would be a question of expediency or policy whether it is advisable for the Government to aid in such an undertaking as this. The sentiment expressed by the Senator from Nevada I know is actuated and prompted by the most generous impulses, but it is a grave question in my mind whether it is practicable and expedient, even if it is constitutional, to extend aid in this way.

But, be that as it may, at this time California is simply asking the Government to restore the Government buildings there that have suffered, and suffered very much less indeed than those of the municipality and those of private owners. Congress has responded most generously. Bills for that purpose are now pending before the Committees on Public Buildings and Grounds, and I have assurances that they will be considered and favorably reported to Congress, and judging by the course that Congress has heretofore pursued they will be favorably passed upon. That is all that the California delegation in Congress feel called upon at this time to ask of Congress, that it will simply make appropriations to restore to good order the Government buildings which have been damaged and to construct proper depot buildings for the headquarters of the Army and Navy in San Francisco.

I hope my colleague, therefore, will consent that the resolution of inquiry proposed by the Senator from Nevada may go to the Committee on Finance, there to be properly considered. If my friend the Senator from Nevada had consulted the delegation from California in Congress about the resolution, they would have endeavored to persuade him to withhold action at this time.

Mr. NEWLANDS. Mr. President, I wish to say that in this matter I am taking my individual responsibility as a Senator of a neighboring State interested in the welfare of California and entitled to its view as to the speed of restoration of the great port of that coast and a great port of the United States. I regret very much that my action does not meet with the approval of the Senator from California [Mr. PERKINS], but notwithstanding I should have pursued this course, and for the following reasons:

San Francisco has been almost in a state of chaos. Order has been maintained there only by practical martial law. How are the people of that city in a condition to bring forward any practicable plan which in its operation will embrace the cooperation of the entire United States? The State has been shaken, also, for San Francisco is the heart of the State, and when you paralyze San Francisco you paralyze the State. When the legislature of that State is convened, I ask how can it meet this question adequately unless it knows the attitude of the United States Government and the attitude of financiers generally toward the question of restoration; whether they are to rely absolutely upon themselves or whether they may expect reasonable aid, both from the Government and from the people of their sister States?

PRECEDENTS FOR GOVERNMENT GUARANTEE OF SAN FRANCISCO BONDS.

It will go a great way in the shapping of their deliberations if they can know definitely and conclusively that the Congress of the United States will not consider any measure for their relief. Even that certainty would be a blessing. One of the conditions to be overcome is the uncertainty that exists, and that uncertainty would have existed whether the resolution had been introduced or not. A pronouncement came from leading men in that city advising national aid in the way of a guaranty. They had seen that we had practically guaranteed the bonds of a Philippine railroad. They knew we had guaranteed the bonds of the Union Pacific Railroad and the Southern Pacific Railroad and the Texas Pacific Railroad. They knew that the Congress of the United States, in the exercise of its power relating to interstate commerce and foreign commerce, and having regard for the welfare of the entire nation, had not hesitated to give its credit and to advance its moneys—the moneys of the entire people—for the prosperity and welfare of the entire people. And realizing the value of their port to the entire United States, they had suggested national cooperation in a local restoration of national importance.

IMMEDIATE ACTION IMPERATIVE.

It is important, therefore, that they should have a definite answer as quickly as possible. If they are to rely upon themselves, and the great people of the United States are to rely upon them, to accomplish a great national purpose, the restoration of a harbor and port essential to interstate and foreign commerce, it is important that they should know it.

Mr. FLINT. That is all I ask.

Mr. NEWLANDS. I do not misapprehend at all the Senator from California. I quite agree with him. What he wants is certainty, and he wants it as quickly as possible.

Now, with those few words of explanation I shall have no objection whatever, as the senior Senator from California proposes that the resolution shall go to the Committee on Finance for consideration, to that reference. So I will not now press its consideration unless he has modified his view. But I wish to add just one word. The purpose of the resolution is simply an inquiry by a committee of the Senate and by a committee of the House, but it puts us upon inquiry contemporaneously with the people of San Francisco and of California.

If the legislature of California shall have something to propose, we will be ready to act, or if they are not ready to propose anything, we may have something to suggest. The minds of all good people in the United States ought now to be engaged upon this great problem, and there should be no more inertia or inactivity here than there is in San Francisco or Sacramento. Over 200,000 people are there now without adequate shelter; thousands are dependent on charity for food. Such conditions are necessarily demoralizing. If they scatter, it will be no light task to reassemble them. What they need is not so much charity, but work, which will make benevolence un-

necessary. This will restore confidence, maintain the city's population, and secure the city's growth. Delay means disaster. San Francisco's task in restoring her system of schools, police, and municipal administration is itself sufficient for the strength of her authorities. We should think for her in much that relates to the financing of her restoration.

Mr. ALDRICH. I move that the resolution be referred to the Committee on Finance. I appreciate the force of the suggestions made by the junior Senator from California [Mr. FLINT], and I assure the Senate that the committee will take up the resolution and act upon it promptly and report it back with their judgment as to the suggestions contained therein.

The VICE-PRESIDENT. The Senator from Rhode Island moves that the concurrent resolution be referred to the Committee on Finance.

The motion was agreed to.

RAILROAD DISCRIMINATIONS AND MONOPOLIES.

Mr. TILLMAN. I send to the desk a resolution for which I ask immediate consideration.

The resolution was read, as follows:

Resolved, That the Interstate Commerce Commission be directed to send to the Senate as soon as practicable all the findings of fact and its conclusions thereon in regard to the subjects now under investigation or already investigated by it under joint resolution No. 32, approved March 7, 1906, as amended March 21, 1906.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. KEAN. I have no objection to the present consideration of the resolution, but I do not see what the Senator is going to get by it. The Commission is still investigating the subject.

Mr. TILLMAN. I will explain it to the Senator. The Senate will recall the fact that on the 7th of March I introduced, by order of the Interstate Commerce Committee or upon its approval, a joint resolution, instructing the Interstate Commerce Commission to make certain investigations in relation to coal and oil and their transportation.

This work has been carried on more or less diligently and the newspapers have been quite full of a good many statements purporting to be the evidence or the facts brought out in that investigation. Those statements, if they are true, would bear very directly and be an important light on the rate bill which will come up for debate day after to-morrow. It is with a view of getting anything the Commission has now in the way of facts that I want to have the resolution passed.

Mr. KEAN. But the Senator asks in the resolution that the Commission shall state their findings and conclusions.

Mr. TILLMAN. If they have not made any conclusions, they will not give us any.

Mr. KEAN. How can they reach any conclusions until they have completed their work?

Mr. TILLMAN. I say if they have not reached any conclusions they will not give them to us.

Mr. KEAN. As I said, I have no objection to the resolution, but I can not see how the Senator is going to accomplish anything by it.

Mr. TILLMAN. If I do not get anything, it will be because I throw my net in a place where there are no fish. I believe there are some fish in there.

The resolution was considered by unanimous consent, and agreed to.

PROPOSED METROPOLITAN POLICE INVESTIGATION.

The VICE-PRESIDENT. The Chair lays before the Senate a resolution coming over from yesterday.

Mr. TILLMAN. I presume that is the resolution which I offered.

The VICE-PRESIDENT. It is the resolution offered yesterday by the Senator from South Carolina.

Mr. TILLMAN. It is nearly 2 o'clock, and I ask that the resolution may go over and retain its place, or that it shall be subject to call.

The VICE-PRESIDENT. The resolution will go over, retaining its place, subject to the call of the Senator from South Carolina.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate. The Senator from Virginia [Mr. DANIEL] is ready to proceed.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. DANIEL. Mr. President, in the case of Railway Company *v.* Gill (156 U. S. Rep., p. 666), the Supreme Court, citing Mr. Justice Miller, uses the following language:

The remedy for a tariff alleged to be unreasonable should be sought in a bill in equity or some equivalent proceeding wherein the rights of the public, as well as those of the company complaining, can be protected.

Two things have been determined by the Supreme Court on this subject:

First. That the question of the justice or reasonableness of a rate requires juridical process to determine it.

Second. That the juridical process which now exists and is proper in the premises is a bill in equity, "else some equivalent proceeding."

HOW THE ABOLITION OF THE INTERLOCUTORY INJUNCTION WOULD LEAVE THE RATE QUESTION.

The amendment to abolish the interlocutory injunction leaves the question of a rate suspended in the air, denied the full remedy of equity which is there referred to, and with no equivalent proceeding to substitute it.

In the course of his observations on this subject in the debate, the Senator from Texas [Mr. BAILEY] said:

The only possible way to protect the Commission and to protect the people against frivolous suits instituted in bad faith is to provide that the court can not set aside the rate until the question has been fully adjudicated.

Two troubles suggest themselves to my mind about this declaration. They are practical difficulties and are hard to get over.

First. If a court can not act by interlocutory injunction on the question whether a rate is just until the whole case is fully heard, great delay may ensue in the application of any remedy. Pending that delay, the irreparable injury which has invoked equity jurisdiction may come to pass and be largely consummated.

Second. If the jurisdiction of the court be nullified for any period and if its preventive hand be stayed by positive law for that period, obviously there is created a wrong without a remedy. That wrong is a constitutional wrong. That wrong consists in the continuous, and for the time uninterrupted, taking of property without just compensation which is corresponsive to its use. Nature abhors a vacuum. So does justice. The equity devised to fill the vacuum being denied, the vacuum remains.

The weak spot in the argument for making the order to correct delay lies in the fact that the Supreme Court, if it adheres to its present views of equity jurisdiction, would ignore the act of Congress, unless a judicial revolution takes place.

I have been asked the question, Mr. President, if I conceive that the jurisdiction of the high court of chancery in Great Britain was made a part of the due process of law of this country. My reply was it was not. Nevertheless it is also true that the general principles of equity jurisprudence as known to the high court of chancery were made a part of our jurisprudence, and are always put in play when without them there is no remedy with which a party may defend a right held to be one under the protection of the juridical process of the country.

Observe, Mr. President, I do not say all rights. There are many rights of the citizen of the most sacred character which are disposable by administrative process; but when there is a right the disposition of which can not be effected without juridical process, and when the law has not provided a complete and adequate remedy equity jurisprudence will always assert itself; and in that fact lies the great place which equity jurisprudence has obtained for itself in the judgment of mankind and in its adoption as a part of our State and Federal institutions.

GENERAL PRINCIPLES OF EQUITY.

The general limits of the equitable jurisdiction of the Federal court, as has been stated time and again, are those that prevailed at the time when the Constitution was adopted and were recognized by the high court of chancery in England. It is provided in the Revised Statutes of the United States, section 723, that suits in equity shall not be sustained in the courts of the United States in any case where plain, adequate, and complete remedy may be had at law. This section is regarded simply as declaratory of the law as it existed when the Federal Constitution was adopted. The Supreme Court of the United States has said on this subject, in the case of the Mississippi Mills *v.* Cohn (150 U. S., 206), that the inquiry to be made to ascertain whether or not a particular case is cognizable in equity in a Federal court is this: Whether by the principles of common law and equity, as distinguished and defined in this and the mother country, at the time of the adoption of the Constitution, the relief sought was one obtainable in a court of law, or one which only a court of equity was fully competent to yield.

It is obvious, Mr. President, that in the state of the law on this subject as we find it to-day this remedy of the bill in

equity and the injunction process is one which only a court of equity is competent to yield; and it is obvious also that if you paralyze the interlocutory injunction, which is the hand that it uplifts in order to yield it, you strike down and withdraw for that whole period the protecting hand of any court of the United States.

Now, Mr. President, this interlocutory injunction in this particular case belongs, as it would seem to me, to that class of cases to which Judge Curtis referred in the great leading Hoboken Land Company case, in 18 Howard, when he said that he would not contend that cases could be withdrawn from equity jurisdiction. I venture to say, though I can not declare that I have investigated every one of the cases which have been cited here in debate, that when you examine the record of those cases you will find that where Congress has eliminated any part of an ancient process their action has been sustained because the party who had the right to the benefit of that process have been left with full and adequate remedies, which he could assert instead thereof. This is notably true in that case which has been cited here, I believe, by several of the debaters on this subject—the case of Bank of Columbia *v.* Oakley (4 Wheat., 235)—where, in an old statute passed five years after the revolution, an execution was allowed to be issued by a bank in certain cases, and Congress subsequently withdrew the right to issue that execution. The court said Congress had all right to give the execution and had all right to take it away, but after it had taken it away it left the party in full possession of his rights at common law, and they were perfectly effective to secure and protect him. But if you deprive in this case the party who is entitled thereto under the settled system of procedure by interlocutory injunction, which has perfected itself in our courts, you leave that party naked and remediless to correct the intervening evil.

SHIPPERS AIDED IF BETTER PROCEDURE CAN BE SUPPLIED.

Now, Mr. President, I do not agree with any of those gentlemen who have asserted that the only possible way of protecting the people—the shippers, the passengers; that mass of people to whom we should have a clear eye and should endeavor to protect by every means in our power—is by stopping the interlocutory injunction. The equity procedure in this case has grown out of the fact that Congress has not provided any other procedure which would reach the evil complained of. It was wise in the eminent judge, who used the sentence with which I began my remarks, to say that that proceeding or some equivalent proceeding was the system that should be followed.

AN EQUIVALENT PROCEEDING TO THE BILL IN EQUITY CAN BE PROVIDED.

When the Interstate Commerce Commission has got through with its work and its administrative duty is completed, it is the consensus of this body, if I may judge by the many expressions of opinion which have been made by gentlemen in debate, that there should be a review provided for. It was assumed in the bill and justly under the decision which I have read, and under many others which might be quoted, that equity would intervene. So it would. But there is no difficulty, according to our American systems of jurisprudence and according to the elasticity and inventiveness of Congressional legislation, to provide any other remedy which you please which will reach the case and make itself perfect to guard all the rights that are involved therein.

A SUITABLE REMEDY PROPER TO THE NATURE OF THE CASE AND SANCTIONED BY USAGE SUFFICES.

There is a notable case about due process of law in the State of Michigan. It is that of Attorney-General *v.* Jochim, 99 Michigan, 371. Judge Hooker, in that case, sums up the principle which underlies due process of law. I will not read all of this able opinion, but here is the sum of it in conclusion:

> It is in all cases that kind of procedure which is suitable and proper to the nature of the case and sanctioned by the established customs and usages of the courts.

The kind of procedure which is suitable and proper to the nature of the case and which has been sanctioned by the established customs and usages of the courts of the United States ever since this became a juridical question is the stretching forth of the equitable act and the issuing of the interlocutory injunction to prevent intermediate wrong. But at the same time that the courts have done that they have recognized the fact that it was within the power and within the discretion of Congress, if they chose to do it, to provide any other more convenient, more flexible, or more suitable method that would substitute the equitable relief and equally guard and defend the litigants.

APPEALS, WRITS OF ERROR, BILLS IN EQUITY, WRITS OF CERTIORARI, AND PETITIONS FOR REVIEW.

Now, Mr. President, what forms might a measure emanating from this body take? First, that of an appeal to any appropriate court. Doubt has been suggested as to every idea which has been put forward as to methods of procedure in cases before the Interstate Commerce Commission. Appeal, it is true, is borrowed from the civil law. It is usual in equitable cases. It translates to the upper court the whole case.

Writ of error is a common-law writ, applicable in its methods to cases before courts and juries in which common-law rights have been litigated.

The writ of certiorari is another way in which superior courts require the records of inferior ones to be brought before them, and the learning on the subject is complete. It is a known system, which is now fully in vogue and practice.

Then there is another method. It is one which has originated out of our American concerns. I find an illustration of it in an act of Congress of March 3, 1851. It is a petition for review, and it is provided by section 9 of that act, which is entitled "An act to ascertain and settle the private land claims in the State of California," that an appeal or petition of review rather, to use the accurate word of the statute, will lie from a decision of the three commissioners who settled the land claims in California to the United States court, and that with that petition the review should be a transcript of the whole record of the case. That case was carried into the United States Supreme Court without any objection on the part of that body to this method of procedure.

I cite the section here that the method may be fully seen:

> SEC. 9. *And be it further enacted*, That in all cases of the rejection or confirmation of any claim by the board of commissioners, it shall and may be lawful for the claimant or the district attorney, in behalf of the United States, to present a petition to the district court of the district in which the land claimed is situated, praying the said court to review the decision of the said commissioners, and to decide on the validity of such claim; and such petition, if presented by the claimant, shall set forth fully the nature of the claim and the names of the original and present claimants, and shall contain a deraignment of the claimant's title, together with a transcript of the report of the board of commissioners, and of the documentary evidence and testimony of the witnesses on which it was founded; and such petition, if presented by the district attorney in behalf of the United States, shall be accompanied by a transcript of the report of the board of commissioners, and of the papers and evidence on which it was founded, and shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, a copy of which petition, if the same shall be presented by a claimant, shall be served on the district attorney of the United States, and, if presented in behalf of the United States, shall be served on the claimant or his attorney; and the party upon whom such service shall be made shall be bound to answer the same within a time to be prescribed by the judge of the district court; and the answer of the claimant to such petition shall set forth fully the nature of the claim, and the names of the original and present claimants, and shall contain a deraignment of the claimant's title; and the answer of the district attorney in behalf of the United States shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, copies of which answer shall be served upon the adverse party thirty days before the meeting of the court, and thereupon, at the first term of the court thereafter, the said case shall stand for trial, unless, on cause shown, the same shall be continued by the court.

There are several other cases, Mr. President—the cases of the Cherokee Nation against Southern Kansas R. R., 135 U. S., 641, the case of U. S. *v.* Duell, 172 U. S., 576, an appeal from the Commissioner of Patents; and the Fossat case, 2 Wallace, 649, are instances. Wherever Congress has been of opinion that it could devise a method of procedure not strictly in the lines of equity and not strictly in the lines of common law, but could use the writs, petitions, and other agencies known to the law to put a case decided by commissions, by boards, by department officers, or others before the courts, there is no possible constitutional objection to it; and it has been done in practice, approved by the Supreme Court of the United States, and acknowledged in at least three separate courses of procedure which I have examined.

Now, Mr. President, it seems to me that if Congress desires to do something that is practicable for the benefit of the shippers and travelers of this country, to assure to them their rights, and put into their hands the methods of defense which they can promptly use, they should not leave it to equity to beat its own pathway over a country which the law had not explored, but should itself explore that country and should then devise and adopt the methods of procedure and jurisprudence which will best effectuate the remedy in view.

PROPER PROVISIONS FOR A REVIEW.

Provide a petition of review in the United States court, and require, first, that all the parties put in their evidence before the Interstate Commerce Commission; provide, second, that no other evidence shall be heard in a court thereafter unless such evidence as could not have been obtained by due diligence until after the Interstate Commerce Commission had disposed of the case; third, require a copy of the record to be carried up before the court which is thus appealed to; fourth, require that notice be given—say, five days—by any person moving to suspend or enjoin the action of the Commission; fifth, require that a full bond be given, and see that that bond defended and covered

all the rights of the case before the party gets a suspending order; sixth, require that the case shall be made a preferred one on the docket and shall be promptly heard, and, seventh, as far as practicable to do so, assure that hearing during that period of time when the Commission's order is suspended by itself and is not declared to be in force, covering the period that might come thereafter by requiring a good bond to be given.

Now, I should like to know upon what ground can such a system as that be challenged? The right of due process of law, fundamentally speaking, is the right to be heard fairly and fully. Will it be said that the courts must take all the evidence over again? Who more competent to take evidence in such a case than the Interstate Commerce Commission, with the lawyers of each side to superintend it? Will it be said that they are not just as competent as any casual notary public or commissioner in chancery or justice of the peace, who in this State or that is the usual person for taking testimony?

I undertake to say that no more respectable, no more intelligent, and no better informed commissioners for taking testimony could be devised by law than the Interstate Commerce Commission. To guard against mistake, and in the full grace of generous law, any evidence that they had not put in and could not have obtained by due diligence, let them put in. Does anyone suggest that the courts would not permit this limitation upon testimony? Hardly, I think. But suppose the court did, no damage would be done, for the court would simply admit other testimony and take it de novo, and your statute would not be set aside as unconstitutional, because it did not foreclose the door or prevent the court from ruling, whatever its conscience and its learning and its judgment might dictate upon the subject.

SWIFT AND FINAL HEARING SHOULD BE PROMOTED.

Unless, Mr. President, we shall give attention to the subject, avoid the delays which have brought the Interstate Commerce Commission, unjustly in some cases, under criticism and rebuke, put parties back, and so postpone their rights that the case was virtually lost in benefit to them before it was heard, this bill will multiply its present deficiencies and will be a sorer disappointment to the people than it would otherwise be, even with the many deficiencies which it contains.

The bill is far from a complete one; but if in this measure we can secure the one thing that is obtainable, a swift hearing before a competent tribunal upon that question in which the tribunals all hold they must have the opportunity to hear—if that is done, you will have positive and veritable progress in the right direction.

All reforms, Mr. President, have always moved slowly. The greatest difficulties in reforms are often found in the over-eagerness of their advocates and in their desire to accomplish everything at once. Any positive, firm step forward is a great advancement, either in jurisprudence or in economics, and this point has focused the attention and elicited the debate of the best minds in the Senate over and over again, because they realize that it is therein the people may be disappointed and that it is therein they are looking for some relief and progress in their methods of getting right before the tribunals of the country.

I do not dispute, Mr. President, and I shall not dispute, the right of Congress to control the jurisdiction of the courts. It is not true, as a general principle, that whatever either the Senate creates or the House of Representatives or Congress creates it can destroy. The power to destroy is not coeval with or coequal with the power to create, and the second is not the corrollary of the other, but with respect to the jurisdiction of courts which the Constitution has committed entirely to the jurisdiction of Congress, undoubtedly the Congressional power to create is the power to destroy. Senators hold up their hands in holy horror at the idea suggested to their minds that Congress has the power to destroy the inferior tribunals of the country. It is no new thing, Mr. President. They have had that power ever since this Government was created, and they have had the power to destroy the country, too, by taxation. Any man who has a pistol in his hand has the power to shoot another, but it does not follow that he is going to do it, and it does not follow that Congress is going to destroy anything that is wise and good.

There is no disposition, here, Mr. President, to destroy either the general jurisdiction of the inferior courts or the courts themselves. Congress has always treated, and continues to treat, the courts with the highest respect and to make full and generous provision for them. It has given their judges salaries higher than it gives it own Members; it has amplified their conveniences with libraries, and upheld them in the exercise of their offices; it has made provision for the retirement of judges on pay; and these suggestions of alarm or danger, it seems to me, rather arise from the exigencies of argument than from any composed view of the public situation or any alarm for the good of the country.

But, Mr. President, the destruction of the courts or changing the courts is an utterly and wholly different thing from endeavoring to declare how a court, whose general jurisdiction is maintained, shall do or not do about a particular case or a particular class of cases. I am apprehensive that, if the Congress of the United States were to enact that a court of equity, which has jurisdiction of the case, might still keep that jurisdiction, but should not exercise it in that particular case which particularly invoked it, and then by so doing leave a wrong existent without a remedy—I am apprehensive that the courts might say as to that particular item of statutory law, that it was unconstitutional and left the case entirely without the due process of law which is habitual and in constant practice in all such cases as this.

THE EXTENT OF JURIDICAL INTERFERENCE AS TO RATES.

Now, Mr. President, I want to say something about reasonable rates. In the case of Chicago and Grand Trunk Railway Company *v.* Wellman (143 U. S., 339), the Supreme Court, in answer to a suggestion that the legislature had no authority to prescribe maximum rates for railroad transportation, through Judge Brewer said:

> The legislature has power to fix rates, and the extent of judicial interference is protection against unreasonable rates.

There, Mr. President, in two lines and one sentence you have the sum of equitable jurisprudence, apart from its practice, of the United States Supreme Court on this subject.

In the case of Reagan *v.* Farmers' Loan and Trust Company (154 U. S., 397), Judge Brewer expressed pretty similar ideas in this language:

> The courts are not authorized to revise or change the body of rates imposed by a legislature or a commission; they do not determine whether one rate is preferable to another, or whether under all circumstances would be fair and reasonable as between the carriers and the shippers; they do not engage in any mere administrative work.

JUST COMPENSATION THE SOLE ISSUE BEFORE THE COURTS.

So, Mr. President, the sole function of the court is to hear the case, to suspend decision until it is fully heard, and at the end of that time to ask itself the question, "Is this rate just; and, if unjust, does it impose upon the carrier, and in a confiscatory sense?" And unless the court sees palpably and plainly, and is clearly of opinion, that it does so impose upon the carrier it dismisses the procedure.

It will be observed, Mr. President, that the term "reasonable rates," the term "just rates," and the term "fair return for service and property," and the term "fair remuneration" are sometimes used in discussing this subject. The appropriate term to use, and the only legal term which properly defines the issue before a Federal court, is the term "just compensation." I like that word "just." It is the ancient term of our fathers, embedded in the jurisprudence which they brought with them from the mother land; it is a yardstick of morality and justice, which commands to the mind that is measuring property, Be just.

The term "reasonable" is used time and again throughout many decisions of the Supreme Court. It has been used in debate here, and it is commonly used in conversation between learned men, as well as amongst those who do not weigh the precise meaning of terms, as the synonym of "just." That term "reasonable" has a different origin as applicable to this case. It is a term of commerce and common law rather than a term of the Constitution. It is more elastic and flexible than "just." It is like the quantum meruit in an action of assumpsit—what do the services merit—or like the quantum valebant in an action of assumpsit—what is this property worth? It does not string up and confine the mind of the judge to the severe and proper question, Is this price just, is it right?

Mr. President, I will read on this question a note, and a very valuable note, of Judge Noyes, in his book on American Railroad Rates. Judge Noyes is a scholar, a jurist, and a railroad president. He has no relation to this case which might possibly class him amongst those who were too partial toward popular as against vested rights. In his book on Railroad Rates, on page 212, he says:

> Dicta may be found in this—
>
> The decision on which he is commenting—
>
> and in other decisions to the effect the courts may prevent the enforcement of a schedule of rates made by a railroad commission upon the ground that it is unreasonable. The word "unreasonable" in this case and most others is, however, used in the sense of "confiscatory." If a broader meaning were intended the dicta would not seem well founded. As we have seen, when the legislature confers upon a commission discretionary power to make a rate, the result of the commission's action is the same as if the legislature itself had acted. The rate when made is made by legislative authority. It becomes in legal effect a law. The courts can deal with it only with respect to

its constitutionality. If not confiscatory it is not invalid. The question is not whether the legislative-made rate is unreasonable, but whether it is so unreasonable as to amount to a taking of property. As said by the Supreme Court of the United States in its latest decision upon the subject (Minneapolis Railroad Company *v.* Minnesota, 186 United States Reports, 268, decided in 1902), in holding rates made by the Minnesota commission valid: "The action of the commission in fixing the rate complained of as to this particular class of freight has not been shown to be *so unjust or unreasonable as to amount to a taking of property without due process of law.*"

The reasoning, Mr. President, of Judge Noyes in this note to his valuable book is so clear that he who runs may read it. It is so convincing that any suggestion to the contrary of its conclusions, whether made in the able and considerate speech of the Senator from Pennsylvania [Mr. KNOX] or by anyone else on this floor, is obliged to fail as soon as that mirror is held up to the decisions of the Supreme Court of the United States and to the analysis of a clear mind that can read and appreciate their meaning.

WHAT IS "REASONABLE" IS AN ADMINISTRATIVE QUESTION UNLESS THE UNREASONABLENESS AMOUNTS TO CONFISCATION.

Let me add, Mr. President, to these reflections of Judge Noyes, that the question whether a rate is reasonable or not, unless it be so unreasonable that it amounts to a taking of property without just compensation, is purely an administrative question. Such is the flexibility of the human mind and such are the variations in the situations and conditions of properties that there is obliged to be in reason a margin of price or a margin of value. While we assess values for taxes and for other purposes in the accurate expressions of dollars and cents, it is impossible in the nature of things to measure them by any such precise scale as you may apply in the apothecary shop or by the refined instrumentalities of physical science; but in so far as the question lies within the range of reasonableness it is not a judicial question, and can not be made one unless the unreasonableness is so great and is so patent that the mind can discern the fact that in adopting that rate the property has been taken without just compensation. So that, whether you were to approach this line of thought upon the question of reasonableness or upon the question of just compensation, the mind is obliged to wind up in holding up to itself the one standard of the Constitution—"Is this just as a return for that property or that service?"

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. Certainly.

Mr. ALDRICH. Does the Senator think that the rate which affords just compensation for the service rendered is a reasonable rate?

Mr. DANIEL. I do.

Mr. ALDRICH. And that a rate which does not afford just compensation is an unreasonable rate?

Mr. DANIEL. I do not care to enter into any speculations which do not belong to the controversy.

Mr. ALDRICH. I am not entering into any speculations at all.

Mr. DANIEL. Neither am I.

Mr. ALDRICH. I am asking a simple question.

Mr. DANIEL. Well, what is it?

Mr. ALDRICH. I asked the Senator whether he thought that a rate which afforded just compensation for the service rendered was a reasonable rate.

Mr. DANIEL. I do.

Mr. ALDRICH. And that a rate which did not afford just compensation was an unreasonable rate.

Mr. DANIEL. I should like to take time to reflect on that question.

Mr. ALDRICH. That is the whole controversy, as I understand it.

Mr. DANIEL. It may be or not, but I am not answering unnecessary questions. I am arguing the case which is before us and as the courts have put it, but I have seen courts impair the force of their opinions by obiter dicta and I have seen Senators ruin good points by making bad ones. The point which I make is—and I set it forth clear as a flag which all men can see—that the Supreme Court of the United States says that the question is one of just compensation, and that wherever it has used the word "reasonable" instead of "just," it meant "just," but was, perhaps, a little infelicitous in terms, as I might also be if I were to stop to answer questions that do not belong to the gravamen of this controversy.

WHY THE TERM "JUST" IS DIFFERENTIATED FROM THE TERM "REASONABLE."

Mr. President, I want to show how this question arises or where it comes from. Why is it that this question of what is a just rate has been differentiated by the courts of the United States from the great mass of matters purely administrative which are passed on by the President, by the courts not sitting in court, but as the delegates of Congress in fixing rates, and by all our Cabinet ministers? If we were to seek the genesis of the idea of the courts of the United States that a rate was a matter which must be passed on by juridical process, instead of being concluded by administrative process, we would probably find that it originates in part in the Constitution of the United States in the conference of equitable powers upon the judiciary. It would probably be found also in the great attention which was paid to the fourteenth amendment after the civil war.

It took a long time, Mr. President, after the war was over to get the feverishness out of the blood which war had engendered. A large portion of the people looked more and more to the courts for the guardianship of rights, and in the fourteenth amendment, too, there was a clause as to equal rights and as to due process of law.

Chief Justice Waite, in the case of Munn *v.* Illinois, calls attention to the fact that, while the term "due process of law" had been in the Constitution of the United States by the fifth amendment since the foundation of the Government, it was not until after the fourteenth amendment was adopted that the courts began to apply it to cases of this description or to conceive that it was applicable to those cases in which States or communities regulated common carriers and prescribed rates of hire for their service and use by the people. Whatever may be the tracery and trail of the genesis of the doctrine, its headquarters are found now in the various provisions of the Constitution of the United States to which the judges referred in applying it.

THE JURIDICAL QUESTIONS THAT ARISE UNDER THE CONSTITUTION.

We have, first, in the fifth amendment to the Constitution that no person can be "deprived of life, liberty, or property without due process of law." What is due process of law is thus made a Federal and constitutional question.

Second. The words that follow in the fifth amendment to the Constitution are "nor shall private property be taken for public use without just compensation;" so that a second Federal and constitutional question is presented in the inquiry, "Is this rate prescribed for the use of the property and service employed in interstate commerce just compensation therefor?"

Third. Sometimes the question of equal protection of the laws becomes a Federal and constitutional question, although by consequential effect, rather than by the direct words of the fourteenth amendment as applicable to the Congress of the United States.

No State—

Says the fourteenth amendment; not Congress—

can deprive any person of life, liberty, or property without due process of law—

That applies to States—

nor deny to any person within its jurisdiction the equal protection of the laws.

So that equal protection of the laws as well as what is due process of law arises in every State of this Union as a question in the conduct of State regulation of its domestic affairs, including transportation. Originating as an inquiry in the State, under the fourteenth amendment, in the first instance, it becomes, the moment that the State passes on that inquiry, a question of Federal jurisdiction in the Federal courts. But, Mr. President, the principles upon which these inhibitions upon the State are based and embodied in our organic law are such that, overspreading as they do the area and embracing as they do the whole population of the United States, they have, as it were, by percolation, gone into and been absorbed by the chancellors of the country, and are almost as persuasive in Federal affairs, though they are not in the terms of the Constitution directly a limitation upon this body. It is by these various clauses of the Federal Constitution that the shipper and the carrier in the United States find their protection against the oppressive, extortionate, and discriminatory schedules fixed in transportation by the directories of corporations engaged in interstate commerce or fixed by the Commission, should they, in executing either a legislative or, in Federal affairs, a Congressional enactment to regulate commerce, apply unjust standards.

RATES MUST BE PALPABLY UNREASONABLE AND UNJUST TO JUSTIFY JUDICIAL INTERFERENCE.

It results, Mr. President, from this standard of just compensation, from its being made a constitutional question, that the carrier engaged in interstate commerce can demand just compensation for the use of his property, and just compensation only, and the shipper can accordingly get remedy in the courts for any excessive rate which may be charged against him. The courts have never been given authority by Congress, and do not assume constitutional power or jurisdiction, to supervise commissioners or boards in every respect, nor in any re-

spect, saving only in that particular respect which relates to the justness of the rate fixed by the Commission or the board. Many times in addition to those cases to which I have referred have the courts so declared.

The courts can not, after the board has fully and fairly investigated and acted by fixing what it believes to be reasonable rates, step in and say its action shall be set aside and nullified because the courts upon a similar investigation have come to a different conclusion as to the reasonableness of the rates fixed.

So, while the court in this opinion is using the word "reasonable" it is acting upon it as if it meant "just," for it says that even though the court may say it is not reasonable, in its own judgment, it can not set it aside, showing how vain it would be for us to put that question before the court.

There must be actual fraud in fixing the rates or they must be so palpably and grossly unreasonable and unjust as to amount to the same thing.

This language which I have just quoted is the language of the supreme court of California in the Springs Valley Waterworks case, 82 California, 286. It is made a part of the opinion of the Supreme Court of the United States rendered by Judge Harlan in the San Diego Land Company case, 174 United States, 750. I shall presently refer further to that case, for it is, to my mind, one of the most clear, equitable, and just of all the many essays which have emanated from the courts on this subject.

WHAT IS JUST COMPENSATION?

Mr. President, let us ask ourselves what is this just compensation which is to be the standard. I know of no words which may synonymously interpret these two plain words. Of course, justice, like every attribute or virtue which is intelligently exercised, must float in the atmosphere of reasonableness. But when one comes to exercise simply the faculty of reason without straightening it up to the ideal of justice, there is more flexibility about it than when the moral idea is impressed upon the conscience and when the conscience and the intellect, as it were, are commanded to pull together. When you put into a statute new words, like "fairly remunerative," you are suggesting to the mind a new train of thought not suggested by "just compensation." You are getting out of the four corners of the Constitution of the United States. You are getting away also from the old body of common law, which applied reason. You are holding dangling, as it were, before the eye of desire remuneration, profit, greed, ambition, and all that train of things that appeal to the human imagination when it fixes its eye and follows the trail of attention in that direction.

Woe be unto him who upsetteth the landmark! Just compensation is an ancient landmark and a strong tower. By that standard the railroad has taken other people's property in invitum and laid its iron rail from the Atlantic to the Pacific ocean. No man could properly have asked the question when this land was taken, "Is this fair remuneration?" Remuneration was not the thing. Justice was. Why the desire to substitute a new dress for an old uniform which all eyes recognize and know? Who would like to see the State coat of arms or national standard changed? The dreams and the deeds of years close around and fasten upon the things that they are. So with our jurisprudence, and so with the bed-rock principles and expressions that underlie it and upon which systems of law and equity and of conscience have been builded.

Mr. President, I turn to the case of the San Diego Land Company *v.* National City. It is reported in 174 United States Reports, 750. It destroys some of the overweening conceptions of what is meant by due process of law, but it hews to the line, in my judgment, as to what substantially is due process of law. Let me state the case.

Under an act of the California legislature it was the official duty of the board of supervisors, town council, board of aldermen, or other legislative bodies of any city, county, or town to fix water rates. National City, in California, by its governing body proceeded to fix water rates. They were assailed as a taking of property without just compensation, and therefore a deprivation of property without due process of law. The rates were sustained and the bill dismissed.

The grounds of dismissal are instructive. It was insisted that the State constitution and laws authorized rates to be established without notice to the corporation or person immediately interested in the matter and without hearing in any form, and therefore they were repugnant to that clause of the Federal Constitution which declares that no State shall deprive any person of property without due process of law.

When the case went to the Supreme Court Judge Harlan expressed himself fully upon the question of notice. It was a loose order of hearing. It was no such order of hearing as we will have before the Interstate Commerce Commission with lawyers on each side; no such set and precise way of hearing testimony as there; but, nevertheless, the notice and the hearing were all held to be sufficient. As to the meetings of the council that fixed the water rates, the judge said:

These meetings are public and not secret. The time and place for holding them are fixed by law.

There is no ground to say that the appellant did not in fact have or was denied an opportunity to be heard upon the question of rates.

Next Judge Harlan strikes a key to which our ears should attend.

It was equally clear—

He says—

that this power could not be exercised arbitrarily and without reference to what was just and reasonable as between the public and those who appropriated the water and supplied it for general use, for the State can not by any of its agencies, legislative, executive, or judicial, withhold from the owners of private property *just compensation for its use.* That would be a deprivation of property without due process of law.

The same principles which are thus so clearly expressed in objection to laying down an arbitrary rule as to the exercise of process which is recognized to be one which has a right to be established in court are also applicable to the stretching forth of the Congressional hand to deny the writ of injunction in a proper case, made to the satisfaction of a court in ascertaining what is due process and in guarding the property while the process is moving. It shows the differentiation of the question now before this body in saying whether or not we shall embody the inhibition of interlocutory injunction, from the broader and general question as to whether or not we can in the architecture of courts say what jurisdiction we shall give or take away from them. We are complete masters in the latter case. But when we have set judicial process in motion and are providing it, we can not arbitrarily take away a part of that general process which has grown up as a system of law applicable to the case and leave the person who invokes the aid of equity to find a one-armed and maimed judge instead of one who has two hands to relieve him.

RATES MUST BE PALPABLY CONFISCATORY TO BE SET ASIDE.

The court points out, as it has done in some of the previous citations, what are the limitations upon itself.

But it should also be remembered that the judiciary ought not to interfere with the collection of rates established under legislative sanction unless they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just to both the owner and the public—that is, judicial interference should never occur unless the case presents clearly and beyond all doubt such a flagrant attack upon the rights of property under the guise of regulations as to compel the court to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for the public use. (Chicago and Grand Trunk Rwy. *v.* Wellman, 143 U. S., 339, 344; Reagan *v.* Farmers' Loan and Trust Co., 154 U. S., 362, 399; Smyth *v.* Ames, above cited. See also Henderson Bridge Co. *v.* Henderson City, 173 U. S., 592, 614, 615.)

In view of these principles, can it be said that the rates in question are so unreasonable as to call for judicial interference in behalf of the appellant?

In the residue of this opinion are most thoughtful suggestions as to various matters which may be considered in making a rate. I regard the opinion as so instructive, so correct in its differentiations, that I give it still more fully:

AS TO NOTICE AND HEARING ON THE FIXING OF RATES.

On this point Judge Harlan said (174 U. S., 752):

Was the appellant entitled to formal notice as to the precise day upon which the water rates would be fixed by ordinance? We think not. The constitution itself was notice of the fact that ordinances or resolutions fixing rates would be passed annually in the month of February in each year, and would take effect on the 1st day of July thereafter. It was made by statute the duty of the appellee, at least thirty days prior to the 15th of January in each year, to obtain from the appellant a detailed statement, showing the names of the water-rate payers, the amount paid by each during the preceding year, and "all revenue derived from all sources," and the "expenditures made for supplying water during said time." It was the right and duty of the appellant in January of each year to make a detailed statement, under oath, showing every fact necessary to a proper conclusion as to the rates that should be allowed by ordinance. (Act of March 7, 1881, sec. 2, above cited.) Provision was thus made for a hearing in an appropriate way. The defendant's board could not have refused to receive the statement referred to in the statute, or to have duly considered it and given it proper weight in determining rates. If the State, by its constitution or laws, had forbidden the city or its board to receive and consider any statement or showing made by the appellant touching the subject of rates, a different question would have arisen. But no such case is now presented. In Kentucky Railroad Tax cases (115 U. S., 321, 333) it was said: "This return by the corporation through its officers is the statement of its own case, in all the particulars that enter into the question of the value of its taxable property, and may be verified and fortified by such explanations and proofs as it may seem fit to insert. It is laid by the auditor of public accounts before the board of railroad commissioners, and constitutes the matter on which they are to act. They are required to meet for that purpose on the 1st day of September of each year, at the office of the auditor at the seat of government. * * * These meetings are public, and not secret. The time and place for holding them are fixed by law."

There is no ground to say that the appellant did not in fact have or was denied an opportunity to be heard upon the question of rates. On the contrary, it appears in evidence that the subject of rates was considered in conferences between the local authorities and the officers

of the appellant. Those officers may not have been present at the final meeting of the city board when the ordinance complained of was passed. They were not entitled, of right, to be present at that particular meeting. They were heard, and there is nothing to justify the conclusion that the case of the appellant was not fully considered before the ordinance was passed.

That it was competent for the State of California to declare that the use of all water appropriated for sale, rental, or distribution should be a public use and subject to public regulation and control, and that it could confer upon the proper municipal corporation power to fix rates of compensation to be collected for the use of water supplied to any city, county, or town, or to the inhabitants thereof, is not disputed, and it is not, as we think, to be doubted.

MISCONCEPTIONS POINTED OUT AS TO THE NECESSITY OF RATES PAYING OPERATING EXPENSES AND DIVIDENDS IN ALL CASES—PUBLIC CONSIDERATIONS ARE PRIMARY.

The court then comments on some misconceptions, which can not be too firmly expressed. Judge Harlan said:

What elements are involved in the general inquiry as to the reasonableness of rates established by law for the use of property by the public? This question received much consideration in Smythe *v.* Ames, above cited. That is, it is true, related to rates established by a statute of Nebraska for railroad companies doing business in that State. But the principles involved in such a case are applicable to the present case. It was there contended that a railroad company was entitled to exact charges for transportation as would enable it at all times not only to pay operating expenses, but to meet the interest regularly accruing upon all its outstanding obligations and justify a dividend upon all its stock; and that to prohibit it from maintaining rates or charges for transportation adequate to *all* those ends would be a deprivation of property without due process of law and a denial of the equal protection of the laws.

After observing that this broad proposition involved a misconception of the relations between the public and a railroad corporation, that such a corporation was created for public purposes and performed a function of the State, and that its right to exercise the power of eminent domain and to charge tolls was given primarily for the benefit of the public, this court said: "It can not, therefore, be admitted that a railroad corporation maintaining a highway under the authority of the State may fix its rates with a view solely to its own interests and ignore the rights of the public." Then he points out that the fair value of property must be considered.

"But the rights of the public would be ignored if rates for the transportation of persons or property on a railroad are exacted without reference to the fair value of the property used for the public or the fair value of the services rendered, but in order simply that the corporation may meet operating expenses, pay interest on its obligations, and declare a dividend to stockholders." He then shows that fictitious values must not weigh. "If a railroad corporation has bonded its property for an amount that exceeds its fair value, or if its capitalization is largely fictitious, it may not impose upon the public the burden of such increased rates as may be required for the purpose of realizing profits upon such excessive valuation or fictitious capitalization; and the apparent value of the property and franchises used by the corporation, as represented by its stocks, bonds, and obligations, is not alone to be considered when determining the rates that may be reasonably charged." (169 U. S., 544.) In the same case it was said: "The basis of all calculation as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property used by it for the convenience of the public." He then notes some of the elements of value: "And in order to ascertain that value the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth." (169 U. S., 466, 546.) He finally concludes that justice to all parties must be subserved.

"This court had previously held in Covington and Lexington Turnpike Road Company *v.* Sandford (164 U. S. 578, 597, 598)—which case involved the reasonableness of rates established by legislative enactment for a turnpike company—that a corporation performing public services was not entitled, as a right, to realize a given per cent upon its capital stock; that stockholders were not the only persons whose rights or interests were to be considered, and that the rights of the public were not to be ignored. The court in that case further said: 'Each case must depend upon its special facts, and when a court, without assuming itself to prescribe rates, is required to determine whether the rates prescribed by the legislature for a corporation controlling a public highway are, as an entirety, *so unjust as to destroy the value of its property for all the purposes for which it was acquired*, its duty is to take into consideration the interests both of the public and the owner of the property, together with all other circumstances that are fairly to be considered in determining whether the legislature has, under the guise of regulating rates, exceeded its constitutional authority, and practically deprived the owner of the property without due process of law. * * * The utmost that any corporation operating a public highway can rightfully demand at the hands of the legislature, when exerting its general powers is that it receives what under all circumstances is such compensation for the use of its property as will be *just both* to it and will be just to the public.

"These principles are recognized in recent decisions of the supreme court of California. (San Diego Water Company *v.* San Diego (1891), 118 California, 556; Redland's Domestic Water Company *v.* Redlands (1898), 53 Pac. Rep. 843, 844.)

REAL VALUES HE INSISTS SHALL BE CONSIDERED.

"The contention of the appellant in the present case is that in ascertaining what are just rates the court should take into consideration the cost of its plant; the cost per annum of operating the plant, including interest paid on money borrowed and reasonably necessary to be used in constructing the same; the annual depreciation of the plant from natural causes resulting from its use, and a fair profit to the company over and above such charges for its services in supplying the water to consumers, either by way of interest on the money it has expended for the public use, or upon some other fair and equitable basis. Undoubtedly all these matters ought to be taken into consideration and such weight be given them when rates are being fixed as under all the circumstances will be just to the company and to the public. The basis of calculation suggested by the appellant is, however, defective in not requiring *the real value of the property and the fair value in themselves of the services rendered to be taken into consideration.* What the company is entitled to demand in order that it may have just compensation is a fair return upon the reasonable value of the property at the time it is being used for the public. The property may have cost more than it ought to have cost, and its outstanding bonds for money borrowed and which went into the plant may be in excess of the real value of the property. So that it can not be said that the amount of such bonds should in every case control the question of rates, although it may be an element in the inquiry as to what is, all the circumstances considered, just to both the company and the public." (174 U. S., 752–758.)

This opinion shows, in answer to some of the arguments that have been made, that it is not the constitutional right of any common carrier or of any public service corporation to require that a rate be so fixed that it shall derive a profit. It declares that the carrier has no right to fix the rate with entire regard to itself. Let it speak for itself. It shows furthermore that the public interest——

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. I will yield to the Senator in a moment. I may have to read the whole case to him before I get through.

Mr. ALDRICH. Oh, no.

Mr. DANIEL. It shows that the public interest is itself an element to be considered and calculated in making the rate, and that neither the carrier nor any commission has a right to disregard that element in the compensation or the quid pro quo for services. Now I yield to the Senator from Rhode Island.

Mr. ALDRICH. I understood the Senator from Virginia to say that the carrier had no right in making rates to take into consideration the element of profit.

Mr. DANIEL. No; I did not say that.

Mr. ALDRICH. The Senator said something which seemed to me like that.

Mr. DANIEL. It was like that. Nullus similis est idem. Like is not the same.

Mr. ALDRICH. What I should like to ask the Senator from Virginia is what he means by "profit." Does the Senator mean that the carrier shall not be permitted to pay dividends?

Mr. DANIEL. No, sir; I do not.

Mr. ALDRICH. Or to pay interest upon its bonds?

Mr. DANIEL. I do not.

Mr. ALDRICH. They are permitted, then, to earn sufficient money, through the rates fixed, to pay their fixed charges——

Mr. DANIEL. I refer the Senator to the reports of the New York Stock Exchange. He will see the carriers are doing it every day.

Mr. ALDRICH. No.

Mr. DANIEL. Nearly every day, including dividends upon much watered stock.

Mr. ALDRICH. Will the Senator permit me to finish my question?

Mr. DANIEL. Certainly.

Mr. ALDRICH. Without undertaking to say whether the stock is watered or not, the railroad, I think, has the right to collect rates that will provide for the payment of running expenses, fixed charges, interest upon bonds, and a reasonable dividend upon its stock.

Mr. DANIEL. That depends. If the railroad chooses to give to its president a salary of a hundred thousand dollars, or an extortionate price for his services, a court will look at that and see to it that the expenditures are reasonable and not extortionate.

Mr. ALDRICH. Unquestionably. I do not think that proposition has ever been disputed.

Mr. DANIEL. Therefore it is not the right of a railroad company, regardless of its expenses, operative or for salaries, to demand a profit that will pay dividends without considering the public interest in it and making them subordinate to that public whose creature it is.

Mr. ALDRICH. Unquestionably. I think there is no contention at all upon the other side of that proposition.

Mr. DANIEL. Then there is nothing——

Mr. ALDRICH. Supposing all those things are done——

Mr. DANIEL. The Senator can not raise a controversy with me if there is no such contention.

Mr. ALDRICH. I am not trying to raise a controversy with the Senator at all. I am only trying to recall to his attention the fact that a reasonable rate, based upon the payments which I suggested, would be the kind of a rate that the Commission must fix and which the court would uphold; and that a rate less than that——

Mr. DANIEL. Less than what?

Mr. ALDRICH. Less than the rate I have just defined.

Mr. DANIEL. May I ask what is the Senator's definition?

Mr. ALDRICH. A rate which would permit the railroad company to pay its running expenses, its fixed charges, interest upon its bonds being included in fixed charges, and a reasonable dividend upon its stock. Supposing in all these cases that the payments are reasonable and proper, made within the exercise of a wide discretion, I say that rates fixed upon that condition are just and reasonable rates, and rates that do not permit those payments would be unjust and unreasonable rates and would not afford just compensation for services rendered and would therefore have to be set aside by the court.

Mr. DANIEL. Mr. President——

Mr. CLAPP. Will the Senator from Virginia yield to me for a moment?

Mr. DANIEL. Certainly.

Mr. CLAPP. I think the Senator from Virginia is the first Senator who has struck the keynote of what in its last analysis has got to be the basis upon which a rate is fixed—a rate that is fair alike to the shipper and the carrier. If the Senator will pardon me, I will make the request that at this time he read that decision. I think it would be well if he would do so.

Mr. ALDRICH. I agree perfectly with the Senator from Minnesota in regard to this matter, and I think there is no one here contending for any rate to be adopted by anybody which is not fair both to the public and to the carrier. I think that is one of the things to which every man in the Senate will agree.

Mr. CLAPP. If the Senator from Virginia will pardon me further——

The VICE-PRESIDENT. Does the Senator from Virginia yield further to the Senator from Minnesota?

Mr. DANIEL. I do.

Mr. CLAPP. The speech made here last week by the Senator from Arkansas [Mr. CLARKE] I think proceeded entirely upon the theory that the rate must be one that would yield a fair return upon the present value of the property, entirely ignoring the right of the shipper in a relative position to the carrier. If the Senator from Virginia will analyze that decision, I think it will go far toward clearing up a misapprehension on that point.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield further to the Senator from Rhode Island?

Mr. DANIEL. Certainly.

Mr. ALDRICH. In the absence of the Senator from Arkansas, I will say that I have no doubt if he were present he would disclaim any suggestion that he was ignoring the rights of the public or of the shipper in his contentions in regard to rates.

Mr. DANIEL. Mr. President, a man can not, by a mere categorical answer to this question or that, dispose of a question on which the mind must bring to focus the multiform considerations which must be held in view in making a rate. In the case in which I have put in the whole residue of the opinion, or nearly the whole, which I feel it would be a trespass upon my colleagues to read in full, the Senator from Rhode Island and others will find their questions answered.

But basic to the opinion is this declaration, the public interest and the value of the property, which is at the base of the use, are the things primarily to be considered, and I happen to hold in my hand at this moment numerous other points which are to be considered in bringing before human judgment the matters and things out of which the justice of a rate is to be constructed. Mr. Snyder, in a small book which embodies notes on the interstate-commerce act, has given this list of things:

Amount of through and local business; bonded debt; bulk; character of commodity; comparison of rates.

A thing some want to leave out, but it is most material.

Competition.

My own observation about competition is that some is wise, and some is exceedingly meretricious, deceitful, and so designed as necessarily to injure.

Consequence of rate changes; cost of production; cost of service; cost of local business; distance; dividend on capital stock.

Certainly these things are to be considered, but you can not charge more for your property than it is worth in order to do anything.

Empty cars.

That is a casual consideration. It is obliged to enter. Sometimes you can put a train halfway across the continent and bring the cars back full. Sometimes the course of trade is such that you have to bring them back empty. This is often the case with the great coal trade that moves from our mountains down to the seaboard, and the conditions in this regard are of course considerations that address themselves to the minds of justice.

Fixed charges.

Your fixed charges, operating expenses, of course are to be considered; but you must consider them first, if you be the carrier, and must see to it that they are held within reasonable bounds, because if you put your salaries too high or misspend your money you can not rob Peter to pay Paul.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. Yes, sir.

Mr. ALDRICH. Is the Senator willing to concede that the court must take all these things into consideration in determining whether a rate affords just compensation?

Mr. DANIEL. I do not care to do so many immaterial things. My concession on the subject is not a factor in this case. I am only showing what courts have considered, and I concede that they have considered them. What a court is going to do in the future one must judge by the past. My concession or the Senator's concession, however intelligent it might be, is not a matter that should at all worry the Senate in the consideration of this matter.

Operating expenses; other articles consumed; population along the line; proportion to local traffic; relative reasonableness of rates; relative amount of through and local business; return loads; revenue; rates prima facie; risk; special train service; storage capacity; unsettling of rates; use to the public; value of freight; volume of business; weight.

Do not forget, but hold ever in mind, that the railroad is a public highway ordained and dedicated by the State and the nation to public use. When the Senator on yesterday asked me something about a private corporation which is doing a mere corporate business he compared to this subject a matter which has no more relation to it than has the conduct of a citizen in his own home, which is his castle, compared to the Capitol of the United States dedicated by the nation to public use.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. I will yield.

Mr. ALDRICH. I made the observation which I did because the Senator was basing the right of the United States to fix rates not upon the ground that they were public corporations doing a public business, but that they were corporations and creatures of the State or of the United States, and therefore that the creator could do these things. I called his attention to the fact that he was stating that proposition so broadly that it might include private corporations, and not for the purpose of contesting the right of Congress to fix rates for a corporation doing a public business.

THE INTERSTATE COMMERCE COMMISSION MUST EXERCISE THE FACULTIES OF JUDGMENT AND DISCRETION IN PASSING ON FACTS.

Mr. DANIEL. Now, Mr. President, another thing I wish to show, and then I have done. In the exercise of its duties to fix a rate, the Interstate Commerce Commission must exercise its own individual judgment and discretion. The standard of that independent judgment and discretion never has been in all civilization put into the form of a mathematical equation. The human mind never existed that could take all the considerations that are worthy of reflection in going to make up the composite thing of human judgment, label one of them 2 per cent, and another 3 per cent, and another 10 per cent. "What is truth?" asked the jesting Pilate, and turned away, not waiting for an answer. What is judgment? It is a certain attribute of the human mind indefinable by any words in which we would attempt to put our idea and concept of it. And what is justice? A thing of conscience, a thing of intelligence, a thing of desire to do the right thing. But no standard ever has bottled up judgment into a mathematical equation, and it is vain for man to attempt to take a bond of fate and reduce to exact science those things which belong to the speculations of the human intellect and to the throbs of the human heart and the movements of the nerves in man's body.

But let it be understood that the Interstate Commerce Commission, as well as a court, must have power to exercise the faculties of the human understanding, matured into its own independent and conscionable judgment, and to put that judgment into the equation of rates which they fix for the people of this country.

Now, Mr. President, on this line I am going to read, or at least analyze, some of the cases in which it is shown clearly, as I conceive it, that this country is obliged to execute the powers of Congress by delegations of power to its subordinate instruments. The distinguished Senator from Texas, who sits

on my right, in his own very admirable address on this subject, pointed out that in conferring powers upon Congress in the Constitution that instrument had given it powers to confer upon others whatever powers were necessary and proper to execute its own powers; that that is in itself a substantive part of the Constitution of the United States, and that in the exercise of that additional conference of power upon the Congress of the United States, Congress had delegated its legislative power in a sense to the President of the United States, to the Supreme Court of the United States, to every Cabinet minister that is an executive hand of the President, and to many bureau officers. It is a fact of political history which we ought to recognize that to-day were it not for this power of Congress which has been challenged here about this matter, the whole Government of the United States would be flabby and fall to the earth like a helpless bag.

DELEGATED POWERS OF CONGRESS CONFERRED ON THE PRESIDENT BY CONGRESS.

I start with the President of the United States. In the year 1890, by the act of October entitled "An act to reduce the revenues and equalize duties on imports," the President was authorized to suspend by proclamation the free introduction of sugar, molasses, coffee, tea, hides. When? When "he is satisfied"—not when we, the delegated lawmakers of the people, who can enact laws on this subject—"that any country producing any such articles imposes duties or other exactions upon the agricultural or other products of the United States which he may deem to be reciprocally unequal or unreasonable——

Mr. ALDRICH. The Senator from Virginia is a great lawyer, and I know he wants to be accurate in this matter. Congress did not authorize the President of the United States to suspend duties, and it could not have done it. Congress itself suspended duties when the President found certain facts to be in existence.

Mr. DANIEL. Certainly.

Mr. ALDRICH. The Senator inadvertently, I have no doubt, said Congress authorized the President to suspend duties.

Mr. DANIEL. Well, we did so through him. That is the point.

Mr. ALDRICH. Oh, no; Congress allowed the President of the United States to ascertain facts.

Mr. DANIEL. Exactly.

Mr. ALDRICH. And upon the proclamation of those facts Congress itself suspended certain duties.

Mr. DANIEL. Just exactly as in this case we propose to authorize the Interstate Commerce Commission to fix the point of reasonableness or justice, and then we say that is the rate. As I was saying, this might be done by the President when satisfied another country imposed duties or other exactions upon the products of the United States which he might deem to be reciprocally unequal or unreasonable. This was held to be constitutional. A single man for 80,000,000 of people, without judge, without jury, without Congress, ascertains and determines the facts upon which devolve levies of taxation on the people of the United States. The act left to his—the President's—"satisfaction" the ascertainment of certain things. It left to his "deeming"—that is to say, to his judgment or opinion—the conclusion of the fact as to the duties or other exactions imposed by other countries on agricultural or other products of the United States. Predicating on his "satisfaction," "deeming," and judgment in the law, we enacted what he said in that process to be correct.

THE DISTINCTIONS MADE BY THE SUPREME COURT.

In passing upon this case, Mr. Justice Harlan said:

The true distinction is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion—

Mark the word "discretion"—

as to its execution, to be exercised under and in pursuance of the law. The first can not be done; to the latter no valid objection can be made.

The latter is just what we propose to do in this bill. In these words Judge Harlan quoted the language of Judge Ranney, of Ohio, in the case of the Cincinnati, Wilmington, etc., Railroad against Commissioners, 1 Ohio State, 88.

Half the statutes on our books—

Says the Pennsylvania court, which Judge Harlan quotes from, in Moers *v.* City of Reading (21 Penn. St., 188, 202)—

Half the statutes on our books are in alternative, depending on the discretion of some person or persons to whom is confided the duty of determining whether the proper occasion exists for executing them. But it can not be said that the exercise of such *discretion* is the making of the law.

So, in Locke's appeal (72 Penn. St., 491, 498):

To assert that a law is less than a law because it is made to depend on a future event or act is to rob the legislature of the power to act wisely for the public welfare whenever a law is passed relating to a state of affairs not yet developed, or to things future and impossible to fully know.

The proper distinction, the court said, was this:

The legislature can not delegate its power to make a law, but it can make a law to delegate a power to determine some fact or state of things upon which the law makes or intends to make its own action depend.

Suppose we deny this principle, Mr. President. Here is the consequence which the court points out:

To deny this would be to stop the wheels of government. There are many things upon which wise and useful legislation must depend which can not be known to the lawmaking power, and must, therefore, be a subject of inquiry and determination outside of the halls of legislation.

So, Mr. President, it is determined that Congress can leave it to the "satisfaction," to the "power," to the "discretion," and "deeming judgment" of one man to ascertain and to determine without appeal to any court the facts upon which hinge the taxes upon the whole people of the United States, and that nothwithstanding the fact that Congress is in exclusive possession, unrivaled, of the whole tax-laying power of the United States.

CONGRESSIONAL POWERS DELEGATED TO THE COURTS.

I turn now, Mr. President, to the courts themselves. We are told that the courts will not accept and should not exercise any administrative function. That is true as a general principle; but let me ask argumentatively a question in relation to that proposition. It will be perceived how nearly they have gone toward doing it. Whence are derived the ninety-four equity rules which are the law of the land for the people of the United States? Congress never enacted them; they are not in any ancient equity that by any construction can be taken to have been embodied in the jurisprudence of the United States, and yet they are a part of the law of this land, and they control the practice of equity in the inferior courts of the United States.

How did those rules get into force and being? The Supreme Court of the United States made them. By any inherent power of the court? Not so. I have little faith in the inherent power of courts. The inherent power of courts is, to my contemplation, first cousin to the divine rights of kings. Courts have no power except that which the sovereign people of this country have specifically or by necessary implication conferred upon them, and they are just as much trustees in the exercise of powers subordinate to the sovereign as is any officer or agent of the United States.

POWERS EXCLUSIVELY LEGISLATIVE CAN NOT BE DELEGATED, BUT THOSE NOT EXCLUSIVELY LEGISLATIVE CAN BE DELEGATED.

The authority given to the Supreme Court to make these rules is found in the Revised Statutes, sections 913 and 917. These rules embrace the taking of testimony and the reference to the proceedings before masters. We have provided that they must not be inconsistent with any law of the United States, and the right of Congress to delegate its power over process and to make rules for the courts of the United States to the Supreme Court has been upheld and sustained in Wayman against Southard, 10 Wheaton, page 42, in the year 1825.

Now, Mr. President, the opinion which was given in upholding this power of Congress and this delegated power of the court is an instructive one, and it makes a distinction which I have not heard referred to in this debate. Judge Marshall gave the decision, and I read an extract:

It will not be contended—

Says he—

It will not be contended that Congress can delegate to the courts, or to any other tribunals, powers which are strictly and exclusively legislative.

That is what the well-informed lawyer means when he says that the legislature can not delegate its powers. It means those powers which are strictly and exclusively legislative and belong and appertain necessarily to itself as a legislative body.

But—

He says—

Congress may certainly delegate to others powers which the legislature may rightfully exercise itself. Without going further for examples, we will take that, the legality of which the counsel for the defendants admit, the seventeenth section of the judiciary act and the seventh section of the additional act empower the courts respectively to regulate their practice. It certainly will not be contended that this might not be done by Congress. The courts, for example, may make rules demanding the return of writs and processes, the filing of declarations and other pleadings, and other things of the same description. It will not be contended that these things might not be done by the legislature without the intervention of the courts; yet it is not alleged that the power may not be conferred on the judicial department.

The line has not been exactly drawn which separates those important subjects, which must be entirely regulated by the legislature itself, from those of less interest, in which a general provision may be made and power given to those who are to act under such general provisions to fill up the detail.

So, Mr. President, to start off with, we have the assured right to delegate certain powers to the President and to the courts with respect to matters about which we might act, but

in which it has been concluded we may better act by the employment of these executive hands.

THE INTERIOR DEPARTMENT AND DELEGATED POWERS TO LAND COMMISSIONERS.

Mr. President, I will step from here over to the Interior Department. The decree of the three Commissioners which I have pointed out in the California Land case, which was appealed to the courts, although they were not themselves a court, was passed on in the case of United States *v.* Halleck, 1 Wallace, 439; United States *v.* Billings, 2 Wallace, 448, and in The Fossatt, 2 Wallace, 649. It was held by the Supreme Court that an appeal lies to the district court and thence to the Supreme Court under the act referred to.

Now, we find further in the Land Office of the Interior Department and in various bureaus of the Interior Department the gravest questions are passed upon by subordinate officials involving interests and titles to millions of acres of land. These questions are determined entirely by the administrative officers of the United States without the power of any judge whatsoever to pass upon any of them.

On yesterday, Mr. President, I called attention to the declaration of the Senator from Pennsylvania [Mr. KNOX] that it is a right of every American citizen and English-speaking man to have his legal right passed on by a court and to have a day in court to show that it was mere imagination and not basic under any American principle of jurisprudence in the great body of American things, for the reason that many were seeking to put at disadvantage those who upon this floor contended that the Interstate Commerce Commission should have the right to fix a rate, and that that should be made as nearly conclusive as it is in the power of Congress to make it.

Now I will cite some further cases. I cite the case of Burfenning *v.* The Chicago and St. Paul Railroad (163 U. S.). There it is said:

Whether, for instance, a certain tract is swamp land or not, saline land or not, mineral land or not, presents a question of fact not resting on record, dependent on oral testimony; and it can not be doubted that the decision of the Land Department, one way or the other, in reference to these questions is conclusive and not open to relitigation in the courts, except in those cases of fraud, etc., which permit any determination to be reexamined.

Of course, Mr. President, I always except fraud. The truth, legally speaking, about fraud is sententiously expressed by a great English judge, who said, "fraud cuts down everything."

In another case, Riverside Oil Company *v.* Hitchcock (190 U. S., 316), it is said:

Whether he decided right or wrong is not the question. Having jurisdiction to decide at all, he had necessarily jurisdiction, and it was his duty to decide as he thought the law was, and the courts have no power whatever under those circumstances to review his determination by mandamus or injunction.

The next case I quote is Marquez *v.* Frisbie, 101 United States, 473. This is a bill in equity to review the decision of the Land Department in a preemption case. Mr. Justice Miller gave the opinion of the court.

This means—

Said the judge—

and it is a sound principle of law, that where there is a mixed question of law and fact and the court can not so separate it as to show clearly where the mistake of law is, the decision of the tribunal to which the law has confided the matter is conclusive.

I refer next to Gaines *v.* Thompson, 7 Wallace, 347. It was held in that case that the Supreme Court would not interfere, either by injunction or mandamus, to control the head of a Department.

In Dunlap *v.* Black, 128 United States, 40, it was said that the courts will not interfere by mandamus with the executive officers of the Government in the exercise of their ordinary official duties, even where those duties require an interpretation of the law, no appellate power being given them for that purpose.

The rule upon this subject may be summarized as follows: That where the decision of questions of fact is committed by Congress to the judgment and discretion of the head of a Department, his decision thereon is conclusive; and, second, that even upon mixed questions of law and fact, or of law alone, his action will carry with it a strong presumption of its correctness, and the courts will not ordinarily review it, although they may have the power and will occasionally exercise the right of so doing.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Iowa?

Mr. DANIEL. Certainly.

Mr. DOLLIVER. I was interested in the suggestion of the Senator from Pennsylvania [Mr. KNOX] yesterday, that these matters to which the Senator from Virginia is referring are matters relating to the Government dealing with its own, and I should like to ask the Senator from Virginia if there is a real distinction in law between the Government's rights when dealing with its own—that is to say, for example, with public land or the postal service or the customs service—and its right to deal with property and property interests not particularly its own?

Mr. DANIEL. I think the courts have drawn a distinction, and I am going to sum up what I conceive to be the judicial distinction as I wind up. I can not state the distinction all at once. That is the misfortune of a speech, that you can not state everything in a lump. I am approaching the conclusion of my own mind, and I hope I may have the concurrence of the distinguished and able Senator from Iowa when I get to that point. Though I may be a little tedious in reaching it, I think that some who have occasionally misconceived some of these principles might perhaps follow the delineations of the courts without being entirely harmed in their knowledge of the Constitution of this country as it is construed and practiced.

Mr. DOLLIVER. I will say to the Senator——

Mr. DANIEL. I am not referring to the Senator.

Mr. DOLLIVER. I will say to the Senator from Virginia that I was simply anxious that he, being a recognized master of the law, might clarify the matter, although I think his conclusion would reach by proper judicial reasoning an opinion that I have cherished rather on instinct than on any other basis.

Mr. DANIEL. I hope and believe we will not be far apart. Of course, I was not referring in the slightest degree in any light way to my friend, whose ability I much admire. I suppose he knows that. He does not need any assurance of that. But I appreciate the fact, Mr. President, that we have got one of the most delicate questions to handle here that Congress has ever undertaken to deal with. It is sincerely my desire—and nothing else would actuate me to speak so long on the question if I did not wish to seek to put this measure, when it goes before the Senate foursquare to all the winds that blow, without incurring the risk needlessly, according to my own conception, of being uprooted or curtailed by judicial decision; and I have taken pains to follow through their intricacies the lines of thought that underlie the various decisions on this question in order the better to show how we may avoid danger and how danger does lie, as I apprehend, in a certain direction. That is all.

ADMINISTRATIVE POWERS OF THE POST-OFFICE DEPARTMENT CONCLUSIVE.

Before I undertake to answer the Senator's question, let me call his attention here to another case. It is the case of the Clearing House *v.* Coyne (194 U. S., 497), where the highest civil rights are dealt with—not public lands, which we may dispose of as we please; we have passed out of that. Congress sought to suppress—

First. Schemes for the distribution of money, etc., by lot, chance, or drawing of any kind; and,

Second. All schemes or devices for obtaining money or any real or personal property by any kind of means of false or fraudulent pretenses, representations, or promises. To this end it enacted, in 1890, September 19 (26 Stat., 465), that—

The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any kind of real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any post-office at which registered letters arrive directed to any such person or company * * * to return all such registered letters to the postmaster at the office at which they were originally mailed, with the word "fraudulent" plainly written or stamped upon the outside thereof.

By section 4041, the Postmaster-General is authorized in similar terms to forbid the payment by any postmaster of any postal money order in favor of any person engaged in the prohibited business; and by section 4 of the act of March 2, 1895 (28 Stat., 963), the power thus conferred upon the Postmaster-General by the preceding section, 3929, is extended and made applicable to all letters or other matter sent by mail.

The Supreme Court said, in passing upon the right thus devolved upon a single man to decide these numerous questions, that—

If the ordinary daily transactions of the Departments which involve an interference with private rights were required to be submitted to the courts before action was finally taken, the result would entail practically a suspension of some of the most important functions of the Government.

Again (194 U. S., 515):

But, as already indicated, it would practically arrest the executive arm of the Government if the heads of Departments were required to obtain the sanction of the courts upon the multifarious questions arising in their Departments before action was taken in any matter which might involve the temporary disposition of private property (p. 515).

So the Senator will observe that a temporary disposition of

private property, a matter of individual right, is thus permitted to be disposed of under the positive enactment of the Congress of the United States by one man, and that it is unchallengeable before any tribunal whatsoever of this country and is conclusive as to all law and all facts. In that decision the court went a step further than it did in those I before cited and answered in some measure the question which the distinguished Senator put to me. The letters were not "our own," but letters of our citizens and patrons that were condemned.

THE SECRETARY OF COMMERCE AND LABOR AND HIS FINAL DECISIONS.

I step a little further, Mr. President, as to the rights of an American citizen. I read next, or give a citation, from the case of The United States *v.* Ju Toy (198 U. S., 253). Ju Toy was a citizen of the United States; he was a native of the United States. He had just the same right to the protective power of the Constitution and the laws of the United States that my honorable friend and myself enjoy. One of our rights is to go here or there, as we may please, to California and back, or out of the country and back. What were his rights? He was denied permission to land in the city of San Francisco, in his own native home country, when returning on shipboard after temporary departure. By whom denied? The collector of the port detained him. The Secretary of Commerce and Labor, to whom he appealed, sustained the collector's ruling. In habeas corpus proceedings the Supreme Court held the administrative process to be due process of law and to be final. Not even the sacred writ of habeas corpus could take by the hand the native-born American citizen and give him that right which we hear heralded here to be the sacred right of every English-speaking man, and the citizen could not receive that heritage which it is said belongs to us all.

THE SECRETARY OF THE NAVY AND HIS FINAL DECISION OF A PENSION CLAIM.

I have another case which, I believe, I want to cite before I finish this subject. I can not lay my finger on it at this moment, Mr. President, but it is the case, in 14 Peters, of Decatur against Paulding. The appellant there was the widow of Stephen Decatur, a naval officer of the United States of very distinguished and honorable career. At that time the Secretary of the Navy was Paulding, and under the statutes of the United States it became his duty to pass upon her right and title to a pension provided in certain cases by Congress. He passed upon the claim of the widow of Stephen Decatur and denied the pension. It was, as she contended, a matter of right. It was predicated upon those considerations of honorable service to the country which all nations of high spirit hold dear. Her appeal was denied. Notwithstanding that, the Secretary of the Navy had to pass upon the interpretation of the laws in a certain judicial sense and had to take the responsibility of determining the question, like a court. The Supreme Court declared that the Secretary's opinion was conclusive.

So, Mr. President, whether it be the sacred right of personal freedom, the sacred right of private property, the right of going and coming, the right of receiving a benefit decreed by law, the right of being made infamous by having "fraud" written upon your back, so to speak, by a Cabinet minister—no matter how high these rights are, no matter how dear they are to the human beings who possess them, they are within the power of the Congress of the United States, and daily, in the exercise of that power, those rights are administered, as necessarily they must be, by one man or by the subordinates that Congress has chosen as trustees to carry out these things.

Yet, Mr. President, when on a public highway in this country Congress undertakes to give to a commission of public administrators, chosen by the President of the United States, and, in the nature of things, men of learning and dignity and character, the power to fix a toll upon a public road—a thing which was done by our ancestors through generations without question by the courts—we are first met in this debate by the challenge of the commercial power of Congress, and then by the assertion that we must guard this or that in the administration of the laws.

DIFFERENTIATION OF THIS CASE FROM PURELY ADMINISTRATIVE CASES.

I intend to march up to the very truth and justice of this case wherever I may find it, and, no matter where the chips may fall, to hew to the line of wisdom as to our legislation, as I may best see that line through the mysteries of jurisprudence. Where is the differentiation in this case from all of these administrative cases? Here, in the fact that the Supreme Court of the United States, construing what it regards to be due process of law, has held that in questions which involve the right and title to property dedicated to public use and coming quite near to the thought which the Senator from Iowa [Mr. DOLLIVER] suggested to me, and especially where property is taken in invitum by condemnation originally or where the owner is constrained by public law to allow its use for a fixed compensation, in such and in similar cases the words "due process" involve and require a settled course of judicial procedure. Furthermore, for thirty years the laws of this country have been administered with that understanding, and the whole system of jurisprudence has so grown up.

Seeing those facts to exist, having them before our eyes, and with an expression of the Supreme Court of the United States, in words and form which I will presently read, I can not believe that I would be acting as a wise and prudent legislator, and as one who held foremost the good of the people in whose service we are to legislate, if I undertook to take away from the courts such jurisdiction as they had asserted themselves to possess, and which had been recognized as the law of the land and as due process of law for thirty years. Here are some of the expressions of the Supreme Court on this subject:

> The question of the reasonableness of a rate of charge for transportation by a railroad company, involving as it does the element of reasonableness both as regards the company and as regards the public, is eminently a question for judicial investigation, requiring due process of law for its determination. (Chicago, Milwaukee and St. Paul R. R. Co. *v.* Minnesota, 134 U. S., 458.)

Again it says:

> While rates for transportation of persons and property within the limits of a State are primarily for its determination, the question as to whether they are unreasonably low as to deprive the carrier of its property without such compensation as the Constitution secures, and therefore without due process of law, can not be conclusively determined by the legislature of the State or by regulations adopted under its authority, that the matter may not become the subject of judicial inquiry. (Smythe *v.* Ames, 169 U. S., 526.)

Again the Supreme Court says:

> When we recall that, as estimated, over ten thousand millions of dollars are invested in railroad property, the proposition that such a vast amount of property is beyond the protecting clauses of the Constitution, that the owners may be deprived of it by the arbitrary enactment of any legislature, State or nation, without any right of appeal to the courts, is one which can not for a moment be tolerated. (Chicago, Milwaukee, etc., R. R. Co. *v.* Tompkins, 176 U. S., 172.)

When the Supreme Court has thus solemnly declared that neither State nor nation, which means neither a legislature nor Congress, can take away the right of appeal to the courts in a case like this, shall we not hesitate to deprive the courts of any appropriate and customary power that belongs to such appeal? Should we not strive to avoid collision between Congressional enactment and court decisions and seek all reasonable and honorable methods to that end? If the courts did not tolerate what we do the people would suffer thereby.

Let me observe here, Mr. President, that it is not attempted nor sought in the amendment proposed, which I am now debating, to take away entirely from the court the power of injunction; neither is it asserted that there is any purpose to intercept or prevent the power of appeal or review in some way or other. What, then, is it that is sought to be done? Not anything that does any particular good to anybody except for a short period, and, Mr. President, that particular thing which is done for a short period, which is a period of delay, is the very vital thing which provokes the power of equity in the case, and it goes in itself to the very heart and core of the matter in so far as the carrier is concerned.

No lawyer can contemplate these decisions—at least none can if he interprets them as I do—without at least the grave and serious apprehension that, should we adopt that amendment to this bill, which abolishes the interlocutory injunction, we would be like the commander of a ship who whirled his broadside to the guns of an enemy instead of bearing down upon that enemy with the prow foremost. I can not see that it is prudent or that it is wise to do this or that it is judicious legislation. If a man must take a risk, let him take it wholly and without regard to consequences; but no wise man takes any risk which he may fittingly, honorably, and prudently avoid. So should no statesman.

HOW RISK MAY BE AVOIDED.

How may we prudently avoid it? By providing for a review modeled upon the California land act; by requiring the record to be produced in the petition for review; by requiring the parties to put in all their testimony before the Interstate Commerce Commission, except such as they could not get hold of by due diligence; by requiring five days' notice of a motion for any suspensory order or injunction; by requiring a good and full bond to be presented as condition to that suspension order or injunction; and by putting the period of appeal or review as near as possible to the decision of the Interstate Commerce Commission. Thus as short a time as may be will go by as between the decision of the intermediate and administrative body and the conclusive order of a court. Thus, too, the best practicable ends we may subserve by procedure may be accomplished.

To my mind, Mr. President, we can not subserve the interests of the great population of the United States who ship their

produce by rail, or the immense public that must travel by rail, better than by giving them a water-tight remedy; one that can not be easily assailed; one that has got all of our Anglo-Saxon rights, equities, and liberties cased up and fortified in it; one that exposes them to nobody, but challenges the just sense of everyone who impeaches its justice by provisions for the fairest, fullest, and most complete hearing that the wit and wisdom of man can devise for the ends of justice between all parties to the case.

Mr. WARREN. I ask if the regular order has been laid aside for the day? If so, I should like to have taken up for reading the Army appropriation bill.

The VICE-PRESIDENT. The regular order has not been laid aside for the day.

Mr. KEAN. I understood that the senior Senator from Minnesota [Mr. NELSON] was to speak to-day. However, the Senator from South Carolina will be here in a moment.

JOHN M. FARQUHAR.

Mr. GALLINGER. With the consent of the Senator from Wyoming [Mr. WARREN], I ask for unanimous consent for the present consideration of the bill (S. 4983) granting an increase of pension to John M. Farquhar. It is an important pension bill, and I should like to have it considered. I mean it is important in view of the fact that it is urgent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Pensions with an amendment, in line 6, after the word "late," to strike out "major" and insert "captain Company B;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John M. Farquhar, late captain Company B, Eighty-ninth Regiment Illinois Volunteer Infantry, and pay him a penison at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 395) concerning foreign-built dredges, asks for a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. GROSVENOR, Mr. MINOT, and Mr. SPIGHT managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

H. R. 8997. An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes;

H. R. 11796. An act for the diversion of water from the Sacramento River, in the State of California, for irrigation purposes;

H. R. 14989. An act granting an increase of pension to Arcatie E. Thompson;

H. R. 14990. An act granting an increase of pension to Lucius D. Whaley;

H. R. 14993. An act granting an increase of pension to Riley M. Smiley;

H. R. 15007. An act granting an increase of pension to Henry Hares;

H. R. 15011. An act granting an increase of pension to John Eldridge, jr.;

H. R. 15024. An act granting an increase of pension to Henry C. Keyser;

H. R. 15050. An act granting an increase of pension to William H. Near;

H. R. 15061. An act granting an increase of pension to Ethan Allen;

H. R. 15119. An act granting an increase of pension to Cornelius Westman;

H. R. 15216. An act granting an increase of pension to Truman C. Stevens;

H. R. 15240. An act granting an increase of pension to James W. Fowler;

H. R. 15256. An act granting an increase of pension to Benjamin F. Greer;

H. R. 15277. An act granting an increase of pension to George W. Pierce;

H. R. 15380. An act granting an increase of pension to Valentine Gunselman;

H. R. 15396. An act granting an increase of pension to John T. Jacobs;

H. R. 15415. An act granting an increase of pension to Ann R. Nelson;

H. R. 15484. An act granting an increase of pension to Robert Dick;

H. R. 15487. An act granting an increase of pension to Truman Aldrich;

H. R. 15548. An act granting an increase of pension to Jacob Ferber;

H. R. 15616. An act granting an increase of pension to Pleasant Calor;

H. R. 15621. An act granting an increase of pension to Caleb M. Tarter;

H. R. 15670. An act granting an increase of pension to Daniel E. Durgin;

H. R. 15683. An act granting an increase of pension to Thomas Brown;

H. R. 15701. An act granting an increase of pension to William Brown;

H. R. 15717. An act granting an increase of pension to Ebenezer A. Rice;

H. R. 15780. An act granting an increase of pension to Peter Cole;

H. R. 15794. An act granting an increase of pension to Samuel Pepper;

H. R. 15835. An act granting an increase of pension to George M. Thompson;

H. R. 15840. An act granting an increase of pension to Edgar B. Hughson;

H. R. 15863. An act granting an increase of pension to William Louther;

H. R. 15894. An act granting an increase of pension to Alma L. Wells;

H. R. 15928. An act granting an increase of pension to Herbert D. Ingersoll;

H. R. 15956. An act granting an increase of pension to Walter F. Bean;

H. R. 15982. An act granting an increase of pension to Henrietta W. Wilson;

H. R. 16023. An act granting an increase of pension to Sheldon B. Fargo;

H. R. 16024. An act granting an increase of pension to Katie B. Meister;

H. R. 16179. An act granting an increase of pension to William N. J. Burns;

H. R. 16182. An act granting an increase of pension to Samuel F. Williams;

H. R. 16190. An act granting an increase of pension to James T. Caskey;

H. R. 16210. An act granting an increase of pension to Abraham G. Long;

H. R. 16250. An act granting an increase of pension to Augustus J. Morey;

H. R. 16266. An act granting an increase of pension to Margaret A. Rucker;

H. R. 16296. An act granting an increase of pension to Henry C. Coffin;

H. R. 16334. An act granting an increase of pension to Enos Day;

H. R. 16376. An act granting an increase of pension to Joseph Muncher;

H. R. 16428. An act granting an increase of pension to Edwin Hicks;

H. R. 16433. An act granting an increase of pension to Marius S. Cooley;

H. R. 16437. An act granting an increase of pension to Samuel H. Frazier;

H. R. 16442. An act granting an increase of pension to John A. Powell;

H. R. 16445. An act granting an increase of pension to Henry H. Sibley;

H. R. 16454. An act granting an increase of pension to Samuel E. Carlton;

H. R. 16455. An act granting an increase of pension to John Long;

H. R. 16504. An act granting an increase of pension to Thomas W. Barnum;

H. R. 16514. An act granting an increase of pension to John W. Barton;

H. R. 16523. An act granting an increase of pension to Charles P. Hopkins;

H. R. 16578. An act granting an increase of pension to Edward Lilley;

H. R. 16583. An act granting an increase of pension to David R. Walden;

H. R. 16650. An act granting an increase of pension to Robert B. Williby;

H. R. 16985. An act granting an increase of pension to Gilson Lawrence;

H. R. 17028. An act granting an increase of pension to Lorenzo D. Hartwell;

H. R. 17194. An act granting an increase of pension to Jennie White;

H. R. 17235. An act granting an increase of pension to Martha Howard;

H. R. 17274. An act granting an increase of pension to Andrew J. Mosier;

H. R. 17589. An act granting an increase of pension to Sidney A. Lawrence;

H. R. 17608. An act granting an increase of pension to Sidney S. Brewerton; and

H. R. 18709. An act making additional appropriations for the public service on account of earthquake and attending conflagration on the Pacific coast.

REGULATION OF RAILROAD RATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. WARREN. Mr. President——

Mr. BERRY. Mr. President, what disposition was made of the unfinished business? Was it temporarily laid aside?

Mr. KEAN. It has not yet been.

The VICE-PRESIDENT. The Senator from New Jersey stated to the Senate——

Mr. KEAN. I ask the Senator from Wyoming to withhold his request for a moment, until the Senator from South Carolina can be present.

Mr. WARREN. I have no desire to interfere with the pending measure if I could, but I understand that no one is ready to proceed on it, and I am very anxious in that case to take up House bill 14397, being the Army appropriation bill, and to proceed with its consideration as far as we can this evening.

Mr. BERRY. Unless it be done by unanimous consent, it will displace the unfinished business.

Mr. WARREN. I ask unanimous consent.

Mr. TILLMAN entered the Chamber.

Mr. KEAN. I ask unanimous consent that the unfinished business be temporarily laid aside without prejudice. Of course if anyone else desires to be heard on the unfinished business this afternoon, I shall insist that he be allowed to proceed.

Mr. WARREN. In order that there may be no misunderstanding, I agree that if anyone is ready to proceed on the rate bill I will ask that the Army bill be laid aside.

The VICE-PRESIDENT. The Senator from New Jersey asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

ARMY APPROPRIATION BILL.

Mr. WARREN. I renew my request for unanimous consent for the present consideration of the Army appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 14397) making appropriation for the support of the Army for the fiscal year ending June 30, 1907, which had been reported from the Committee on Military Affairs with amendments.

Mr. WARREN. I ask that the first formal reading of the bill be dispensed with, that it be read for amendment, and that the committee amendments be first considered.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Wyoming? The Chair hears none, and it is so ordered.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Military Affairs was, on page 2, line 6, after the word "expenses," to strike out "fifteen" and insert "twenty;" so as to make the clause read:

Army War College: For expenses of the Army War College, being for the temporary hire of office rooms, purchase of the necessary stationery, office, toilet, and desk furniture, text-books, books of reference, scientific and professional papers and periodicals, binding, maps, police utensils, and for all other absolutely necessary expenses, $20,000.

The amendment was agreed to.

The next amendment was, on page 5, line 10, after the word "dollars," to insert the following proviso:

Provided, That of the receipts of the Washington-Alaska Military Cable and Telegraph System that have been covered into the Treasury of the United States, the sum of $179,000 be, and the same is hereby, made available for defraying the cost of such extensions and betterments of the system as may be approved by the Secretary of War, the extent of such extensions and the cost thereof to be reported to Congress by the Secretary of War.

The amendment was agreed to.

The next amendment was, on page 5, line 21, after the word "dollars," to insert the following proviso:

Provided, That all commissioned officers of the Army may transfer or assign their pay accounts, when due and payable, under such regulations as the Secretary of War may prescribe.

The amendment was agreed to.

The next amendment was, on page 6, line 2, to increase the appropriation for pay of officers for length of service, to be paid with their current monthly pay, from $950,000 to $1,255,000.

The amendment was agreed to.

The next amendment was, under the subhead "Ordnance Department," on page 7, line 17, to increase the appropriation for additional pay for length of service from $30,000 to $46,886.

The amendment was agreed to.

The next amendment was, under the subhead "Pay to clerks, messengers, and laborers at headquarters of divisions and departments and office of the Chief of Staff," at the top of page 10, to insert:

Fifteen clerks at $1,600 each per annum.
Twenty-seven clerks at $1,400 each per annum.
Seventy-three clerks at $1,200 each per annum.
One hundred clerks at $1,000 each per annum.

The amendment was agreed to.

The next amendment was, on page 10, after line 11, to insert:

One captain of the watch at $900 per annum.
Three watchmen at $720 each per annum.
One gardener at $720 per annum.
One packer at $840 per annum.
Two messengers at $840 each per annum.
Seventy-four messengers at $720 each per annum.
Two messengers at $600 each per annum.
One laborer at $660 per annum.
Two laborers at $600 each per annum.
One laborer at $480 per annum.
Five charwomen at $240 each per annum.
In all, $329,040.

The amendment was agreed to.

The next amendment was, on page 11, line 8, after the word "clerks," to insert "messengers, and laborers;" and in line 11, after the word "clerk," to insert "messenger, or laborer;" so as to make the clause read:

And said clerks, messengers, and laborers shall be employed and assigned by the Secretary of War to the offices and positions in which they are to serve: *Provided*, That no clerk, messenger, or laborer at headquarters of divisions, departments, or office of the Chief of Staff, shall be assigned to duty with any bureau in the War Department.

The amendment was agreed to.

The next amendment was, on page 11, after line 15, to strike out—

Adjutant-General's Department: For pay of the Adjutant-General of the Army, $7,500.

The amendment was agreed to.

The next amendment was, under the subhead "Retired officers," on page 15, line 6, after the word "rank," to insert the following proviso:

Provided further, That officers who served creditably during the civil war and who now hold the rank of brigadier-general on the active list of the Army, having previously held that rank for two years or more, shall, when retired from active service, have the rank and retired pay of major-general.

Mr. KEAN. Let the amendment be passed over for the present.

The VICE-PRESIDENT. The amendment will be passed over, at the request of the Senator from New Jersey.

The reading of the bill was resumed. The next amendment of the Committee on Military Affairs was, under the subhead "Miscellaneous," on page 16, line 11, to increase the appropriation for pay of ninety paymasters' clerks from $139,560 to $139,560.29.

The amendment was agreed to.

The next amendment was, on page 16, line 13, to increase the appropriation for pay of paymasters' messengers from $15,000 to $16,000.

The amendment was agreed to.

The next amendment was, on page 17, line 6, to increase the appropriation for clothing not drawn due to enlisted men on discharge from $1,000,000 to $1,082,000.

The amendment was agreed to.

The reading of the bill was continued to the end of line 9, on page 17.

Mr. WARREN. At this point there is a committee amendment, which the Senator from Connecticut desires to offer.

Mr. BULKELEY. A few days since I gave notice of a proposed committee amendment, and I now offer it.

The VICE-PRESIDENT. The Senator from Connecticut, on behalf of the Committee on Military Affairs, proposes an amendment, which will be stated.

The SECRETARY. On page 17, line 9, after the word "deposits," it is proposed to insert the following:

As may not be repaid on June 30, 1906, as shown by the books of the Paymaster-General's Office, said sum to be transferred in the Treasury Department from pay of the Army to the credit of the deposit fund created by section 1305 of the Revised Statutes, as herein amended.

That sections 1305 and 1308 of the Revised Statutes of the United States are hereby amended, to take effect July 1, 1906, and to read as follows:

"SEC. 1305. Any enlisted man of the Army may deposit his savings, in sums not less than $5, with any Army paymaster, who shall furnish him a deposit book, in which shall be entered the name of the paymaster and of the soldier, and the amount, date, and place of such deposit. The amount so deposited shall be accounted for in the same manner as other public funds, and shall be deposited in the Treasury of the United States and kept as a separate fund, known as pay of the Army deposit fund, repayment of which to the enlisted man on discharge from the service shall be made out of the fund created by said deposits, and shall not be subject to forfeiture by sentence of court-martial, but shall be forfeited by desertion, and shall not be permitted to be paid until final payment on discharge, or to the heirs or representatives of a deceased soldier, and that such deposits be exempt from liability for such soldier's debts: *Provided*, That the Government shall be liable for the amount deposited to the person so depositing the same.

"SEC. 1308. Clothing balances accumulating to the soldier's credit under section 1302 shall, when payable to him upon his discharge, be paid out of the appropriation for pay of the Army for the then current fiscal year."

Mr. CULBERSON. Mr. President, is the bill being read for committee amendments?

The VICE-PRESIDENT. It is being read, and committee amendments are to be first considered.

Mr. CULBERSON. I will ask that this amendment may go over.

The VICE-PRESIDENT. It is an amendment offered by the Senator from Connecticut on behalf of the committee.

Mr. CULBERSON. Very well. I should like it to go over.

The VICE-PRESIDENT. The amendment will go over at the request of the Senator from Texas.

Mr. FORAKER. As I understand, the amendment does not affect anything except only the method of bookkeeping. It is simply to enable the Department to improve the method of keeping the books.

Mr. CULBERSON. I merely wish to have an opportunity to read the amendment and see what there is in it.

Mr. WARREN. I take it for granted the amendment will appear in the RECORD, so that the Senator from Texas and others may read it. It is a matter of better bookkeeping. There is no objection to its going over.

The VICE-PRESIDENT. The proposed amendment will go over for the present.

The reading of the bill was resumed.

The next amendment of the Committee on Military Affairs was, on page 17, after line 14, to insert:

For extra pay to enlisted men employed on extra duty for periods of not less than ten days in the offices of district artillery engineers and district ordnance officers, $4,599.

The amendment was agreed to.

The next amendment was, on page 17, line 20, before the word "thousand," to insert "and fifty;" so as to read:

For mileage to officers and contract surgeons when authorized by law, $450,000.

The amendment was agreed to.

The next amendment was, on page 17, line 22, after the word "troops," to insert "and retired officers who have so traveled since March 3, 1905;" so as to read:

Provided, That hereafter officers, active and retired, when traveling under competent orders without troops, and retired officers who have so traveled since March 3, 1905, shall be paid 7 cents per mile and no more.

Mr. KEAN. I ask the Senator from Wyoming, what is the effect of the amendment?

Mr. WARREN. Mr. President, after considerable contention a law was passed providing that retired officers should receive the pay of active men up to that of a major, but those having higher rank and serving as active officers while on the retired list could only get the pay and allowances of a major. By a construction of the Comptroller mileage is not considered an allowance, and therefore while an officer below the rank of major may draw his pay, a retired colonel serving on the active list has to accept the pay of a major and has no mileage. This is to pay that mileage while he is so engaged, and it is also to cover the few cases that have already transpired.

Mr. KEAN. But they have all been retired at one grade higher.

Mr. WARREN. Oh, no.

Mr. KEAN. I mean above the rank of colonel.

Mr. WARREN. There are a great many on the retired list who were not in the civil war, and of course they did not get one rank higher, and even if a brigadier-general should to-day be put upon active service he can only draw the pay of a major in the active service. This is to provide for mileage, which all officers have who are on duty in active service; no more and no less.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Committee on Military Affairs.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Military Affairs was, on page 20, line 2, after the word "troops," to insert "and the amount so paid shall not include any shore expenses at port of embarkation or debarkation;" and in line 6, after the word "Archipelago," to insert "the Hawaiian Archipelago;" so as to read:

And provided further, That for all sea travel actual expenses only shall be paid to officers, contract surgeons, contract dental surgeons, and veterinarians, to paymasters' clerks, and to the expert accountant of the Inspector-General's Department, when traveling on duty under competent orders, with or without troops, and the amount so paid shall not include any shore expenses at port of embarkation or debarkation; but for the purpose of determining allowances for all travel under orders, or for officers and enlisted men on discharge, travel in the Philippine Archipelago, the Hawaiian Archipelago, the home waters of the United States, and between the United States and Alaska shall not be regarded as sea travel and shall be paid for at the rates established by law for land travel within the boundaries of the United States.

The amendment was agreed to.

The next amendment was, on page 20, after line 10, to strike out:

For additional 20 per cent increase on pay of enlisted men serving in the Philippine Islands, the island of Guam, Alaska, China, and Panama, $540,369.48.

For additional 10 per cent increase on pay of commissioned officers serving in the Philippine Islands, the island of Guam, Alaska, China, and Panama, $200,201.39.

And insert:

For additional 20 per cent increase on pay of enlisted men serving beyond the limits of the States comprising the Union and the Territories of the United States contiguous thereto (excepting Porto Rico and Hawaii), as provided by act approved June 30, 1902, the time of such service to be counted from the date of departure from said States to the date of return thereto, $540,369.48.

For additional 10 per cent increase on pay of commissioned officers serving beyong the limits of the States comprising the Union and the Territories of the United States contiguous thereto (excepting Porto Rico and Hawaii), as provided by act approved June 30, 1902, the time of such service to be counted from the date of departure from said States to the date of return thereto, $200,201.39: *Provided*, That the appropriations for pay of the Army for the fiscal years ending June 30, 1905, and June 30, 1906, shall be available for the payment of the increase for service at foreign stations to which commissioned officers and enlisted men are entitled under the provisions of the act of June 30, 1902.

The amendment was agreed to.

The next amendment was, on page 22, line 8, after the word "dollars," to insert the following proviso:

Provided, That men hereafter enlisted in the Porto Rico Provisional Regiment of Infantry shall be enlisted for a period of three years and may be reenlisted.

The amendment was agreed to.

The next amendment was, on page 23, line 5, after the word "dollars," to insert the following proviso:

Provided, That all enlisted men of the Regular Army who have been appointed commissioned officers of Philippine Scouts subsequent to March 2, 1903, or who may hereafter be so appointed, and who, upon their muster out, have returned or may return to the ranks of the Regular Army, shall have such period of service counted as if it had been rendered as enlisted men, and that they be entitled to all continuous-service pay and to count in computing the time necessary to enable them to retire as enlisted men.

The amendment was agreed to.

The next amendment was, on page 25, line 8, after the word "dollars," to insert the following proviso:

Provided, That hereafter when any portion of the organized militia of any State, Territory, or the District of Columbia participates in the encampment, maneuvers, and field instruction of any part of the Regular Army, under the provisions of section 15 of the act of January 21, 1903, they may, after being duly mustered by an officer of the Regular Army, be paid at any time after such muster for the period from the date of leaving the home rendezvous to date of return thereto as determined in advance, both dates inclusive, and such payment, if otherwise correct, shall pass to the credit of the paymaster making the same.

Mr. KEAN. Will the Senator from Wyoming kindly explain the amendment?

Mr. WARREN. The amendment is one that was sent up by

the Paymaster, and the purpose is to facilitate the payment of those members of the militia who may attend the field maneuvers. The trouble has been that the Comptroller rules that the payment can not be made in advance. The men are paid on the field a small amount——

Mr. KEAN. I think I remember a case that we had in the Committee on Claims; and this provision will cure the defect in those cases?

Mr. WARREN. It will cure that defect.

Mr. KEAN. There was a case from the Senator's own State.

Mr. WARREN. Yes. I will say, however, that this grew out of several other cases and was not put in the bill because of any desire on the part of the committee, but to conform to the desire of the Paymaster-General and the Comptroller.

The VICE-PRESIDENT. The question is on agreeing to the amendment reported by the Committee on Military Affairs.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Military Affairs was, under the subhead "Subsistence Department," on page 26, line 18, after the word "roasters," to insert "for cooking apparatus in the field, and when traveling (except on transports), bake ovens and apparatus pertaining thereto;" so as to read:

For payments: For meals for recruiting parties and recruits, including applicants for enlistment while held under observation; for hot coffee, canned meats, and baked beans for troops traveling, when it is impracticable to cook their rations; for coffee roasters, for cooking apparatus in the field, and when traveling (except on transports), bake ovens and apparatus pertaining thereto; scales, weights, measures, utensils, tools, stationery, etc.

The amendment was agreed to.

The next amendment was, on page 27, line 19, after the word "absence," to insert "for payment of commutation of rations in lieu of the regular established ration for members of the Nurse Corps (female) while on duty in hospital, and for enlisted men sick therein, at the rate of 30 cents per ration (except that at the General Hospital at Fort Bayard, N. Mex., 50 cents per ration is authorized for enlisted patients in said hospital) to be paid to the surgeon in charge;" on page 28, line 3, after the word "service," to strike out "for difference between the cost of the ration at 22 cents per day and the amount of 37 cents per day, to be expended by commissaries on request of medical officers for special diet to enlisted patients in hospital (except that at the General Hospital at Fort Bayard, N. Mex., the difference between the cost of the ration at 22 cents and 50 cents per day is authorized) who are too sick to be subsisted on the Army ration;" in line 12, after the word "determine," to insert "for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed $900 per annum;" and in line 17, after the word "all," to strike out "six million dollars" and insert "six million two hundred and forty-nine thousand seven hundred and three dollars and seventy cents;" so as to read:

To enlisted men selected to contest for places or prizes in department and army rifle competitions while traveling to and from places of contest; to male and female nurses on leaves of absence; for payment of commutation of rations in lieu of the regular established ration for members of the Nurse Corps (female) while on duty in hospital, and for enlisted men sick therein, at the rate of 30 cents per ration (except that at the General Hospital at Fort Bayard, N. Mex., 50 cents per ration is authorized for enlisted patients in said hospital) to be paid to the surgeon in charge; for subsistence of the masters, officers, crews, and employees of the vessels of the Army transport service; for ice to organizations of enlisted men stationed at such places as the Secretary of War may determine; for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed $900 per annum; in all, $6,249,703.70, to be expended under the direction of the Secretary of War and accounted for as "Subsistence of the Army," and for that purpose to constitute one fund.

The amendment was agreed to.

The next amendment was, under the subhead "Quartermaster's Department," on page 30, line 8, after the word "dollars," to insert the following proviso:

Provided, That hereafter fuel may be furnished to commissioned officers on the active list by the Quartermaster's Department, for the actual use of such officers only, at the rate of $3 per cord for standard oak wood, or at an equivalent rate for other kinds of fuel, the amount so furnished to each to be limited to the officer's actual personal necessities as certified to by him.

The amendment was agreed to.

The next amendment was, on page 34, line 24, after the word "stations," to insert "to provide such furniture for the public rooms of officers' messes at military posts as may be approved by the Secretary of War;" so as to read:

For barracks and quarters for troops, storehouses for the safe-keeping of military stores, for offices, recruiting stations, to provide such furniture for the public rooms of officers' messes at military posts as may be approved by the Secretary of War, and for the hire of buildings and grounds for summer cantonments, and for temporary buildings at frontier stations, for the construction of temporary buildings and stables, and for repairing public buildings at established posts, including the extra-duty pay of enlisted men employed on the same.

The amendment was agreed to.

The next amendment was, on page 35, line 18, before the word "dollars," to insert "one hundred and fifty thousand;" so as to make the additional proviso read:

Provided further, That the number of and total sum paid for civilian employees in the Quartermaster's Department, including those paid from the funds appropriated for regular supplies, incidental expenses, barracks and quarters, Army transportation, clothing, camp and garrison equipage, shall be limited to the actual requirements of the service, and that no employee paid therefrom shall receive a salary of more than $150 per month, except upon the approval of the Secretary of War, $3,150,000.

The amendment was agreed to.

The next amendment was, on page 35, line 18, after the word "dollars," to insert the following proviso:

Provided further, That the Secretary of War be, and he is hereby, authorized, in his discretion, to use not more than $300,000 of the sum set apart for barracks and quarters in the act of appropriation for the support of the Army for the fiscal year ending June 30, 1906, in the acquisition by purchase of 310 acres of land adjoining the military reservation at Fort Sam Houston, Tex., at a cost not exceeding $188,000; and in the acquisition by purchase of 17,000 acres of land comprised in the Oppenheimer and Shaas tracts, lying near San Antonio, Tex., at a cost not exceeding $112,000.

Mr. KEAN. Let that amendment be passed over for the present.

The VICE-PRESIDENT. The amendment will be passed over.

Mr. WARREN. If the Senator will withhold his objection until I can perfect the amendment, it may then be passed over.

Mr. KEAN. Certainly.

Mr. WARREN. In line 3, on page 36, after the words "purchase of," I move to insert "not less than."

The amendment to the amendment was agreed to.

Mr. WARREN. After the word "land," in the same line, I move to strike out the words "comprised in the Oppenheimer and Shaas tracts."

The amendment to the amendment was agreed to.

Mr. WARREN. In line 4, after the words "San Antonio, Texas," I move to insert "for use as an artillery and rifle range."

Mr. FORAKER. Should it not also be used for a drill ground?

Mr. WARREN. It is intended for that as well.

Mr. FORAKER. That would limit the use to an artillery and rifle range and exclude the use of it for drill purposes.

Mr. WARREN. I think not. However, there is no objection to adding the words the Senator suggests.

Mr. FORAKER. I suggest that there be added the words "and for drill purposes."

Mr. WARREN. I do not think it is necessary, perhaps, to state that it is for use as an artillery and rifle range, and I would be satisfied with the amendment without stating that it was for that purpose.

Mr. FORAKER. "For military purposes" would be a better phrase.

Mr. WARREN. If the Senator wishes we can make it read "for use for military purposes."

Mr. FORAKER. I think that would be better.

The VICE-PRESIDENT. The amendment to the amendment proposed by the Senator from Wyoming will be stated.

The SECRETARY. After the word "Texas," in line 5, insert "for use for military purposes."

The amendment to the amendment was agreed to.

Mr. WARREN. On page 34, line 24, after the words "purchase of," I move to insert "not less than."

The amendment to the amendment was agreed to.

Mr. WARREN. Now let the amendment as amended be read slowly.

The VICE-PRESIDENT. The amendment as amended will be read, at the request of the Senator from Wyoming.

The Secretary read as follows:

Provided further, That the Secretary of War be, and he is hereby, authorized, in his discretion, to use not more than $300,000 of the sum set apart for barracks and quarters in the act of appropriation for the support of the Army for the fiscal year ending June 30, 1906, in the acquisition by purchase of not less than 310 acres of land adjoining the military reservation at Fort Sam Houston, Tex., at a cost not exceeding $188,000; and in the acquisition by purchase of not less than 17,000 acres of land lying near San Antonio, Tex., for use for military purposes, at a cost not exceeding $112,000.

Mr. WARREN. Now, the amendment as amended may lie over, if the Senator from New Jersey wishes.

Mr. KEAN. I ask that the amendments may lie over.

The VICE-PRESIDENT. The amendment as amended will be passed over for the present.

Mr. KEAN subsequently said: I should like to turn back to page 35—the amendment in regard to the purchase of a camp ground at Fort Sam Houston, Tex. I withdraw my request that the amendment be passed over.

The VICE-PRESIDENT. The Senator from New Jersey withdraws his request to have the amendment passed over. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

The next amendment of the Committee on Military Affairs was, on page 39, line 16, before the word "million," to strike out "eleven" and insert "twelve;" in the same line, before the word "hundred," to strike out "seven" and insert "six;" in line 17, before the word "thousand," to strike out "and fifty;" and in the same line, after the word "dollars," to strike out—

Provided, That no part of this appropriation shall be applied to the payment of the expense of using transports in any other Government work than the transportation of the Army and its supplies.

So as to read:

Provided further, That the number of draft animals purchased from this appropriation, added to those now on hand, shall be limited to such numbers as are actually required for the service, $12,600,000.

The amendment was agreed to.

The next amendment was, on page 39, after line 20, to insert:

For the construction and maintenance of military and post roads, bridges, and trails in the district of Alaska, to be expended under the direction of the board of road commissioners described in section 2 of an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905, and to be expended conformably to the provisions of said act, $150,000.

The amendment was agreed to.

The next amendment was, on page 40, line 14, before the word "hundred," to strike out "one" and insert "two;" so as to make the clause read:

Barracks and quarters, Philippine Islands: Continuing the work of providing for the proper shelter and protection of officers and enlisted men of the Army of the United States lawfully on duty in the Philippine Islands, including the acquisition of title to building sites when necessary, and including also shelter for the animals and supplies, and all other buildings necessary for post administration purposes, $250,000.

The amendment was agreed to.

The next amendment was, on page 41, line 12, after the word "garrisons," to strike out "275,000" and insert $500,000: *Provided*, That the following sums be used in the erection of modern sanitary hospitals at the posts named: Eighty thousand dollars at Fort D. A. Russell, Wyo.; $100,000 at Columbus Barracks, Ohio; and $75,000 at Jefferson Barracks, Mo.;" so as to make the clause read:

Construction and repair of hospitals: For construction and repair of hospitals at military posts already established and occupied, including the extra-duty pay of enlisted men employed on the same, and including also all expenditures for construction and repairs required at the Army and Navy Hospital at Hot Springs, Ark., and for the construction and repair of general hospitals and expenses incident thereto, and for additions needed to meet the requirements of increased garrisons, $500,000: *Provided*, That the following sums be used in the erection of modern sanitary hospitals at the posts named: Eighty thousand dollars at Fort D. A. Russell, Wyo.; $100,000 at Columbus Barracks, Ohio; and $75,000 at Jefferson Barracks, Mo.

Mr. CLAY. I wish to call the attention of the Senator from Wyoming to the fact (I may be mistaken about it, though I do not think I am) that this amendment provides for striking out "$275,000" and inserting "$500,000," and "that the following sums be used in the erection of modern sanitary hospitals at the posts named: Eighty thousand dollars at Fort D. A. Russell, Wyo.; $100,000 at Columbus Barracks, Ohio; and $75,000 at Jefferson Barracks, Mo.," and yet I see no estimate for these additional hospitals and no recommendation from the War Department.

Mr. WARREN. They are all of them estimated for and particularly recommended. The estimate is $500,000, and the particular hospitals, if the Senator will look, he will see are recommended.

Mr. CLAY. Does the Senator mean that they are all estimated for?

Mr. WARREN. Yes, sir; every one of them, and more.

Mr. CLAY. I do not find them in the Book of Estimates.

Mr. WARREN. I will find them for the Senator.

Mr. CLAY. I will take the word of the Senator.

Mr. WARREN. If the Senator accepts my assurance, I can say that they are all there.

Mr. CLAY. I was looking over the Book of Estimates, and I did not find any estimates at all for this purpose.

The amendment was agreed to.

The next amendment was, under the subhead "Medical Department," on page 43, line 24, after the word "dollars," to strike out the following proviso:

Provided, That hereafter the purchase of medicines and medical stores or the engagement of services not personal for the Medical Department of the Army may be made by the Medical Department in open market, in the manner common among business men, when the aggregate of the amount required does not exceed $200, but every such purchase or employment shall be promptly reported to the Secretary of War for approval, under such regulations as he may prescribe.

The amendment was agreed to.

The next amendment was, on page 44, line 8, after the word "*Provided*," to strike out "*further;*" so as to read:

Provided, That no contract or purchase on behalf of the United States shall be made unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the War and Navy Departments, etc.

The amendment was agreed to.

The next amendment was, under the subhead "Ordnance Department," page 47, after line 14, to strike out:

Ordnance Service: Current expenses of the Ordnance Service required to defray the current expenses at the arsenals; of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, light, water, and advertising; of stationery and office furniture; of tools and instruments for service; incidental expenses of the Ordnance Service and those attending practical trials and tests of ordnance, small arms, and other ordnance supplies, including purchase of publications for libraries for the Ordnance Department and payment for mechanical labor in the office of the Chief of Ordnance, $300,000.

And to insert:

For the current expenses of the Ordnance Department in connection with purchasing, receiving, and issuing ordnance and ordnance stores, comprising police and office duties, rents, tolls, fuel, light, water, and advertising, stationery, and office furniture, tools, and instruments for service; for the incidental expenses of the Ordnance Service and those attending practical trials and tests of ordnance, small arms, and other ordnance stores, and for publications for libraries of the Ordnance Department, including the Ordnance Office, and payment for mechanical labor in the office of the Chief of Ordnance, $300,000.

The amendment was agreed to.

The next amendment was, on page 48, line 22, to increase the appropriation for ordnance stores and ammunition from $600,000 to $624,000.

The amendment was agreed to.

The next amendment was, on page 49, line 2, before the word "dollars," to insert "one hundred thousand;" so as to make the clause read:

Small-arms target practice: Ammunition, targets, and other accessories, for small-arms target practice and instruction; marksmen's medals, prize arms, and insignia for all arms of the service, $1,100,000.

The amendment was agreed to.

The next amendment was, on page 50, line 3, after the word "artillery," to insert "and articles for field and coast artillery material;" and in line 4, before the word "thousand," to insert "and fifty;" so as to make the clause read:

Ordnance stores and supplies: For overhauling, cleaning, repairing, and preserving ordnance and ordnance stores in the hands of troops and at the arsenals, posts, and depots; for purchase and manufacture of ordnance stores to fill requisitions of troops; for infantry, cavalry, and artillery equipments, including horse equipments for cavalry and artillery and articles for field and coast artillery material, $1,150,000.

The amendment was agreed to.

The next amendment was, on page 50, after line 4, to insert:

Benicia Arsenal, Benicia, Cal.: For increasing the facilities for the repair of seacoast armament, field artillery, and general stores, $50,000.

The amendment was agreed to.

Mr. WARREN. I wish to offer an amendment at this point, a committee amendment, which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 50, after line 7, insert the following separate paragraph:

That the Secretary of War be, and he is hereby, authorized to establish on the military reservation at Fort Mason, Cal., a general depot for the supply departments of the United States Army, and to construct thereon the necessary storehouses, offices, shops, stables, sheds, power houses, quarters, and other buildings, together with wharves for the accommodation of at least four ships of the Army transport service: *Provided*, That a contract or contracts may be entered into by the Secretary of War for the construction of the buildings herein provided for, including the preparation of the ground for building sites, the acquisition by condemnation proceedings of the submerged land needed for wharves, the construction of roads, walks, and drainage, and for the installation of sewerage, water-supply and electric-light systems, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate the sum of $1,500,000, of which amount $750,000 shall be immediately available.

The amendment was agreed to.

The reading of the bill was continued to line 19 on page 50.

Mr. BLACKBURN. On behalf of the committee, I wish to offer an amendment to come in after line 19 on page 50.

The SECRETARY. On page 50, after line 19, insert:

That the following sum be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to pay under the direction of the Secretary of War the actual expenses of members of the National Board for the Promotion of Rifle Practice, incident to attending official meetings of said board called by the Secretary of War during the fiscal years ended June 30, 1903, June 30, 1904, and June 30, 1905, the sum of $2,162.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Military Affairs was, on page 51, line 14,

after the word "purchase," to insert "exceeding $100;" so as to make the clause read:

Hereafter the purchase of supplies and the procurement of services for all branches of the Army service may be made in open market, in the manner common among business men, when the aggregate of the amount required does not exceed $500; but every such purchase exceeding $100 shall be promptly reported to the Secretary of War for approval, under such regulations as he may prescribe.

The amendment was agreed to.

The next amendment was, on page 51, after line 22, to strike out:

That the sum of $5,000 be, and the same is hereby, appropriated and the Secretary of War be, and he is hereby, authorized to expend the same, or so much thereof as may be necessary, in protecting and preserving the battlefield of Balls Bluff, in Loudoun County, Va., and the burial place of those killed in that battle. In his discretion and within said appropriation said Secretary of War is authorized to buy so much of said battlefield as he deems proper for the purposes aforesaid.

The amendment was agreed to.

The next amendment was, on page 52, after line 6, to insert:

That the Secretary of War is hereby authorized to accept, on behalf of the United States, the dedication and gift by Mrs. Rachael A. Paxson, as stated in her written offer of January 14, 1902, of a strip of land 30 feet wide from the Leesburg and Point of Rocks turnpike in Loudoun County, Va., to the 41-acre tract over which the United States now has a right of way to the Balls Bluff National Cemetery; and the sum of $5,000, or so much thereof as may be necessary, is hereby appropriated to enable the Secretary of War to build a substantial road from the Leesburg turnpike to said cemetery, and to properly fence and protect the same, and, within said appropriation, buy so much of the Balls Bluff battlefield as may be necessary for its protection and preservation.

The amendment was agreed to.

The next amendment was, on page 52, after line 20, to insert:

For the fencing, protection, and maintenance of the Government reservation at Nahant, Mass., $5,000.

The amendment was agreed to.

The next amendment was, on page 52, after line 23, to insert:

That subject to the approval of the Secretary of War, and to be expended under his direction, the sum of $15,000 is hereby appropriated for purchasing right of way and approaches and for constructing proper driveways and approaches from the city of Salisbury, N. C., to the national cemetery at or near said city, the beginning, direction, and terminus of said driveway and approaches to be determined by the Secretary of War.

The amendment was agreed to.

Mr. OVERMAN. On page 53, after line 6, I offer the amendment which I send to the desk. This proposition has heretofore passed the Senate, and I understand the chairman of the Committee on Military Affairs agrees to accept it.

The VICE-PRESIDENT. The amendment proposed by the Senator from North Carolina will be stated.

The SECRETARY. On page 53, after line 6, it is proposed to insert:

That the Secretary of the Treasury be authorized, and he is hereby directed, to pay to the governor of the State of North Carolina the sum of $5,000, to be by him transferred to the Moores Creek Monumental Association, incorporated by the legislature of the State of North Carolina, for the purpose of repairing the monument already erected on said battlefield and for inclosing and beautifying the same.

Mr. KEAN. I do not like to object to the amendment proposed by the Senator from North Carolina, but we all have a great many amendments of a similar character which we should like to have put on appropriation bills. I do not think we ought to place that amendment on this bill.

Mr. WARREN. I will say that the amendment proposed by the Senator from North Carolina is one which has had the approval of the committee, and it has heretofore passed the Senate.

Mr. KEAN. I have no doubt the amendment has the approval of the committee and has passed the committee, but I think it is hardly fair that it should be inserted in this bill.

Mr. OVERMAN. I hope the Senator will withdraw his objection. The amendment is one which has several times passed the Senate in the shape of a bill, and the Senator will remember that it was favored by the late Senator Hoar, of Massachusetts.

Mr. KEAN. I have introduced a bill which has passed the Senate many times in regard to the Princeton battlefield monument, which, if this amendment is adopted, I should like to have inserted as an amendment to this bill.

Mr. OVERMAN. This is a provision for the repair of a monument which is falling down, and which, unless repaired, will go to pieces. It is also intended to beautify and inclose the grounds surrounding it.

Mr. KEAN. I think the Senator from North Carolina ought to be satisfied with the $15,000 which he got for the road in there, without asking for $5,000 additional to repair the monument.

The VICE-PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from North Carolina [Mr. OVERMAN].

Mr. KEAN. I suppose the Senator from North Carolina would not object if I offered an amendment appropriating $30,000 for a monument on the battlefield at Princeton?

Mr. OVERMAN. I should not object to anything of that kind.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Military Affairs was, on page 53, after line 6, to insert:

That sections 1 and 2 of an act approved April 15, 1904, entitled "An act to regulate shipping in trade between ports of the United States and ports or places in the Philippine Archipelago, between ports or places in the Philippine Archipelago, and for other purposes," shall not take effect until July 1, 1909.

Mr. WARREN. I ask the Senate to disagree to that amendment of the committee, the subject-matter having been passed upon here by a special bill a few days ago.

The amendment was rejected.

The reading of the bill was concluded.

Mr. WARREN. Now, I wish to return to page 41. On page 41, line 15, before the word "thousand," in the amendment of the committee heretofore agreed to, I move to strike out "eighty" and insert "one hundred and twenty."

The VICE-PRESIDENT. The amendment will be regarded as still open to amendment. The Senator from Wyoming proposes an amendment to the amendment, which will be stated.

The SECRETARY. On page 41, line 15, before the word "thousand," it is proposed to amend the amendment of the committee by striking out "eighty" and inserting "one hundred and twenty;" so as to read:

One hundred and twenty thousand dollars at Fort D. A. Russell, Wyo.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. FRAZIER. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Tennessee will be stated.

The SECRETARY. On page 53, line 6, after the amendment adopted on the motion of Mr. OVERMAN, it is proposed to insert:

That the Secretary of War is hereby authorized to accept, under the will of Martha J. Patterson and from the heirs of W. B. Bachman, all descendants of Andrew Johnson, late President of the United States, free of cost to the Government, the tract of land where said Andrew Johnson's remains now lie, known as "Monument Hill," containing not exceeding 10 acres, and situated in Greene County and in or near the town of Greeneville, Tenn., and upon presentation of good and perfect title to said tract of land the Secretary of War is authorized and directed to establish thereon a national cemetery of the fourth class.

Mr. WARREN. The committee accepts that amendment.

The amendment was agreed to.

Mr. FORAKER. I offer the amendment which I send to the desk, to come in on page 5, after line 18.

The VICE-PRESIDENT. The amendment submitted by the Senator from Ohio will be stated.

The SECRETARY. On page 5, after line 18, it is proposed to insert:

That the Secretary of War is hereby authorized to construct, and thereafter maintain and operate, a submarine cable from Key West, Fla., to the United States naval station at Guantanamo, Cuba, and from thence to the Canal Zone, on the Isthmus of Panama; and for the purpose of carrying the foregoing provisions of this paragraph into execution the sum of $927,000, or so much thereof as is necessary, to be immediately available, is hereby appropriated: *Provided*, That in connection with the installation and operation of such cable system the Secretary of War is authorized and empowered to utilize, if consistent with the public interest, the personnel and resources of the military establishment, as far as they can be advantageously used without detriment to the public interest, and to employ such experts and other persons as may be deemed necessary to assist in carrying into execution the provisions of this paragraph.

Mr. BACON. Mr. President, I should like to inquire of the Senator from Ohio, as I am not quite sure that I caught the reading of the amendment correctly, whether it provides simply for a cable from Key West to Guantanamo?

Mr. FORAKER. From Key West to Guantanamo, and on through to Panama.

Mr. BACON. Of course, I presume the Senator is acting upon some survey and estimate; but the reason I make the inquiry is that Guantanamo is on the southern coast of Cuba, and it would be very much more direct to have the cable on the northern side of Cuba, unless it is desirable to have it laid entirely under water for the purpose of maintaining control of it.

Mr. FORAKER. We are following in this matter the recommendation of the War Department. They have very carefully considered it; and the sum proposed to be appropriated is the estimate which they made of the expense. We have a naval station at Guantanamo.

Mr. BACON. I understand that very well.

Mr. FORAKER. The idea is to avoid going with our cable through any foreign country.

Mr. BACON. And to lay it altogether under water?

Mr. FORAKER. To keep it altogether under water. We are now compelled, in communicating by cable with Panama, to use a cable that passes through two foreign countries—Mexico and Nicaragua. We are keeping up that kind of communication at very great expense. This plan will perhaps save a great deal of embarrassment if there should come trouble of any kind, as there might come at any time.

Mr. BACON. I presume the advantage of having the cable not pass through foreign territory is that which is to be considered more than the matter of expense.

Mr. FORAKER. That is the controlling consideration—to have a cable which belongs to the Government, under Government control, and not subject to any foreign jurisdiction.

Mr. WARREN. I presume the Senator from Ohio has not forgotten that it is intended that the cable shall not only run to Cuba and Panama, but that it shall eventually be extended also to Porto Rico; that it is to take in all three of those countries.

Mr. FORAKER. Yes. Ultimately the cable will probably be extended to Porto Rico, though it is not so extended by this provision.

The VICE-PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Ohio [Mr. FORAKER].

The amendment was agreed to.

Mr. BULKELEY. I offer the amendment I send to the desk, to come in on page 47, line 3, after the word "dollars."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 47, line 3, after the word "dollars," it is proposed to insert a colon and the following proviso:

Provided further, That in addition to the number of chaplains now authorized by law there shall hereafter be one for the Corps of Engineers.

The amendment was agreed to.

Mr. SUTHERLAND. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 53, after line 6, it is proposed to insert:

That there is hereby granted to the University of Utah the following-described land lying within the Fort Douglas Military Reservation and adjacent to the site of said university in the State of Utah, namely: Beginning at the point of intersection of the west boundary line of Fort Douglas Reservation and north boundary line of Fourth South street, of Salt Lake City, which point is 10.23 rods east and 192.14 rods south of the northeast corner of section 5, township 1 south, range 1 east, Salt Lake meridian, and which marks the southwest corner of the present campus of the University of Utah, and running thence south 48 rods, thence east 80 rods, thence north 184 rods to the intersection of the prolongation of the north boundary of the campus of the University of Utah, thence west 9.4 rods to the northeast corner of the university campus, thence south 136 rods along the east boundary of the campus to the southeast corner of same, thence west 70.6 rods to point of beginning: *Provided*, That the State of Utah shall improve the said property and maintain the same for university purposes and not otherwise, and that in case said land shall be abandoned by the State for said purposes the said land and all improvements thereon shall revert to the United States: *Provided further*, That the grant of said land shall in no manner carry with it any right or title in or to any portion of the waters of the Red Butte Canyon Creek: *And provided further*, That there is reserved to the United States the perpetual right to maintain, alter, rebuild, and enlarge the sewer which runs from the Fort Douglas military post across said tract of land, or to construct and maintain a new sewer system across the same should it be desirable so to do.

Mr. WARREN. That is a matter which the committee have duly considered. It will cost no money, it is approved by the War Department, and is a concession of the use of certain United States land to the State university. The committee accepts the amendment.

The amendment was agreed to.

Mr. CARTER. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 41, after line 18, it is proposed to insert the following:

To erect a guardhouse at Fort Keogh, Mont., $11,000; to erect two double barracks at Fort Keogh, Mont., at $55,000 each, $110,000; in all, $121,000.

Mr. CARTER. I have a letter from the Quartermaster-General that refers to the subject-matter of the amendment which I ask may be read.

The VICE-PRESIDENT. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
Washington, January 25, 1906.

DEAR SENATOR CARTER: Your favor of the 23d instant is at hand, and in reply I would state that Fort Keogh is on the list of permanent posts for four troops of cavalry. While the officers' quarters are not good, they will answer all purposes for the present; the guardhouse is in very bad condition, not repairable on account of age and poor arrangement of rooms, and should be replaced by a new, modern structure; barracks are also very old and will not last much longer, therefore they should be replaced by new barracks.

I think the new construction should be of brick, with stone foundations and water table.

A new guardhouse would cost, approximately	$11,000
Two double barracks, at $55,000 each	110,000
Total	121,000

There can be no question as to the necessity of the buildings mentioned, and it is thought a special appropriation by Congress of $121,000 would be a good and proper starter, and for the other necessary buildings this could be followed year after year by funds specifically furnished by Congress or taken from the appropriations "Barracks and quarters" or "Military posts," allowed this office for general construction.

Very truly,

C. F. HUMPHREY,
Quartermaster-General United States Army.

Hon. THOMAS H. CARTER,
United States Senate, Washington, D. C.

Mr. WARREN. Mr. President——

Mr. ALDRICH. Before the Senator rises to a point of order, I should like to ask the Senator who presented the amendment what is meant by "a starter?" [Laughter.]

Mr. CARTER. That is a technical phrase well understood in the Army, I believe. [Laughter.]

Mr. ALDRICH. I suppose it must be.

Mr. LODGE. If this is a mere "starter," how much does the Senator think will be required hereafter?

Mr. CARTER. Mr. President, Fort Keogh is one of the old permanent posts of the western country. The reservation is, I think, the best reservation in the entire country. The buildings certainly must be replaced. The military board put Fort Keogh upon the list of permanent military posts, and it is well understood by those familiar with the country that a military post is required there. I hope the Senator will take the amendment under advisement and that he will give it at least fair consideration.

Mr. WARREN. I am willing that the amendment shall be printed and lie over. I withhold the point of order against it, but I desire to say just a word or two in relation to it.

There are a great many cases like the one which the Senator seeks to provide for in the amendment which he has offered which are never dealt with, and should not be dealt with, upon the regular Army appropriation bill. They should be dealt with on the sundry civil, or else in special bills. They are not estimated for in the Army appropriation bill, and, unless a special paragraph should go in, the appropriation is obnoxious to the law which governs these appropriations. However, I am willing to let the amendment go over until the morning, so that I may look it up more carefully and the Senator can do the same, reserving the point of order.

Mr. CARTER. I am quite sure, if the Senator investigates the matter and reflects upon it, he will be glad to allow the amendment to become a part of the bill.

I now desire to present the amendment which I send to the desk, which, not carrying an appropriation, I suppose will be instantly adopted. I hope so at any rate.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 34, after line 21, it is proposed to insert:

The Secretary of War is authorized, in his discretion, to permit the Department of Agriculture to use, for the purposes of an experimental horse-breeding station, such portion of the Fort Keogh Military Reservation, in Montana, as may not, in his opinion, be required for military purposes.

Mr. WARREN. I hope the Senator will not press that amendment, unless it has been considered by the Department and he has some statement from it regarding the subject.

Mr. CARTER. I understand the fact to be that the Department of Agriculture is seeking to establish certain experimental breeding stations, one having been already established in Colorado. Inasmuch as the amount of land embraced in the Fort Keogh Military Reservation furnishes a very excellent breeding ground, without the necessity of purchasing land, and in view of the further fact that the major portion of the reservation is not used for military purposes, it does seem expedient to authorize the Secretary of War, in his discretion, to permit the use of such ground belonging to the United States as is not required for one public purpose to be devoted to another public purpose. The amendment will certainly not cause any embarrassment to the military establishment, because the matter of use is left entirely in the discretion of the Secretary of War. I trust the amendment may be adopted.

Mr. WARREN. Has the Senator from Montana any recommendation of the amendment from the Department of Agriculture?

Mr. CARTER. Not from the Department of Agriculture. I expect the Department of Agriculture to utilize——

Mr. WARREN. Let me suggest to the Senator, would it not be better to submit the amendment to the Department of Agriculture for recommendation, and then propose it to the agricultural appropriation bill?

Mr. CARTER. Well, Mr. President, the Senator from Wyoming knows that the reference from one bill to another is an ordinary method of getting rid of an amendment entirely. I have gone with amendments to the Committee on Appropriations time and again—the most affable body of men whom I know; and it was my privilege to be a member of that committee for many a day, and I regret that I am not a member of it now, because to serve for a brief time upon the Committee on Appropriations is indeed a liberal education——

Mr. WARREN. I may say that, as a member of that committee, I regret the Senator is not now serving on it.

Mr. CARTER. The Senator flatters me. I am sure he speaks sincerely, because we worked together, as a rule, on that committee, and I hope we will on this particular occasion. I trust the Senator will accept the amendment.

Mr. WARREN. Serving as I do on the Committee on Agriculture, I think we could come nearer, perhaps, to attaining the object through that committee; but there is this about it——

Mr. CARTER. If I should seek to have the amendment placed on the agricultural bill, I fear I would be made aware of the fact that it would involve the appropriation of a certain amount of land set aside by Congress for military purposes, and that jurisdiction on the agricultural bill might be considered very questionable.

Mr. WARREN. It would be under the approval of the Secretary of War, just as it is now, of course.

Mr. CARTER. Most assuredly.

Mr. LODGE. This amendment, as the Senator has pointed out, has the great merit of carrying no appropriation.

Mr. CARTER. That should commend it, I think, to public approval.

Mr. LODGE. I suppose the expenditure made necessary by the establishment of the station at Fort Keogh will follow on the agricultural bill.

Mr. CARTER. I presume the agricultural bill will take notice of any expenditure the Department of Agriculture may recommend.

Mr. WARREN. I think there is a very easy way of accomplishing what the Senator desires. If he would move to do away with Fort Keogh, and turn the entire reservation over to the Agricultural Department, we would then have the reservation for agricultural purposes.

Mr. CARTER. We are so near Wyoming there that we think it better to maintain the post so as, if possible, to help maintain order amongst our neighbors on the south. [Laughter.]

Mr. WARREN. Then I will not push the matter.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Montana.

Mr. WARREN. I shall have to raise the point against the amendment that there is no estimate or recommendation from the Department.

Mr. CARTER. There is nothing to estimate for. There is no appropriation proposed.

Mr. WARREN. It is a matter of general legislation, as the Senator knows.

Mr. CARTER. It is a matter of permitting the use by the Government of the United States of its own property for another purpose, when the present purpose does not entirely absorb it.

Mr. WARREN. I think it is subject to the point of order that it is general legislation, but so far as I am concerned, if the Senator will make it read that when Fort Keogh Military Reservation is not needed for military purposes it may be used for this purpose, I shall not object.

Mr. CARTER. Some years ago I assisted the Senator from Wyoming in securing the establishment of a military post in Wyoming a short distance south of this place, and at that time I received the Senator's assurance of perpetual allegiance to Fort Keogh. [Laughter.]

Mr. WARREN. If I have overlooked that, I will admit, for the sake of the argument, that I am trying to protect it now; and in this connection I wish to call the attention of the Senator to one point. I have never yet seen an encroachment upon a military reservation, either by using a portion of it temporarily or any other, that it did not raise the question in somebody's mind whether the military reservation was necessary, and I believe the Senator himself, if he will reflect upon it, will consider that that alone will carry a doubt, perhaps, against the maintenance of Fort Keogh, which neither he nor I would care to admit.

Mr. CARTER. The use of the land for such purpose as the Government may put it to certainly can carry nothing persuasive as to the military necessity for the continuance of the fort at that point.

I believe it is true that the War Department has given much attention to the raising of cavalry horses. I think it would be a matter of public economy if more attention be given to the breeding of cavalry horses. The condition of the British army in South Africa is an example of the utter inefficiency of a force when not provided with proper cavalry horses and equipment. For many months our western plains were the scene of enormous purchases of horses for use in South Africa. The Senator knows and I know that the British soldiers found that most of those wild horses were more injurious to the men who attempted to ride them than their presence upon the field furnished a menace to the enemy. I think the breeding of cavalry horses is a matter to which the Department of Agriculture is giving attention, and this is a most excellent location upon which to engage in the experimental work of the Department.

Inasmuch as the amendment carries no appropriation, but merely grants a permission which may not be availed of, I shall say nothing more of it. I leave it to the Senator in charge of the bill. I believe it is good policy for the Government to use its own property to the best advantage it can. I have not any doubt whatever that the Secretary of War would, with this permission granted or authority given, if called upon by the Secretary of Agriculture, set aside something like a township on that reservation for a breeding station for experimental purposes. If it is thought best that the Government property be permitted to lie idle, and that the Secretary of Agriculture be put to the necessity of renting land from private individuals, well and good; I shall have nothing more to say about it.

Mr. WARREN. There is much force in what the Senator from Montana stated. I agree with him entirely as to the matter of cavalry horses. I think probably the matter may be reached by reducing that reservation for this purpose and probably safely. I will ask, reserving the point of order against the amendment, to have it printed and lie over, and I will look into the matter further. I should be very glad, indeed, to find some way to carry out the idea of the Senator from Montana and the improvement he desires to accomplish.

The VICE-PRESIDENT. The proposed amendment will go over and be printed.

Mr. PERKINS. Mr. President, if it meets with the approval of the chairman of the committee, I should like to ask permission to have printed in the RECORD, for the information of the conferees, that part of the President's message relating to the depot at Fort Mason. It contains estimates and letters from the Quartermaster-General and the Commissary-General.

The VICE-PRESIDENT. Without objection, the portion of the President's message indicated by the Senator from California will be printed in the RECORD.

The matter referred to is as follows:

To the Senate and House of Representatives:

* * * * * * *

Furthermore, I recommend that the Congress act on the recommendations of the War Department and appropriate the money necessary to establish a building as a general supply and storage depot for the supply departments of the Army and transport service on a part of the military reservation of Fort Mason. This project is set forth in Senate bill 4475 of the present session.

I have requested the Treasury and Post-Office Departments to prepare their estimates for replacing or repairing the other Government buildings in San Francisco. These estimates will be ready in a short while and will then be laid before you.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *April 25, 1906.*

WAR DEPARTMENT,
Washington, April 24, 1906.

The PRESIDENT:

Replying to your letter of 23d instant directing that a report be made regarding the buildings required for the War Department in San Francisco, I have the honor to invite your attention to the inclosed memorandum from the Quartermaster-General relative to the establishment of a general supply and storage depot for supply departments of the Army and the transport service on a part of the military reservation of Fort Mason, Cal. This project is set forth in Senate bill 4475 of the present session, upon which, in response to call therefor, the Department, on February 21 last, submitted to the chairman of the Committee on Military Affairs, United States Senate, reports from the Quartermaster-General, the Judge-Advocate-General, and the Chief of Staff.

The subject of establishing a general supply depot in San Francisco to cover all branches of the Army service was first taken up in 1903 and has since been very fully investigated and considered by the bureaus concerned, and particularly by the Quartermaster's Department. The memorandum herewith from the Quartermaster-General is a résumé of the subject, from which it will be seen that the Department owned no buildings in the city of San Francisco, but occupied rented accommodations at a total annual expenditure of $76,550. As the Quartermaster-General very pertinently remarks, this project, which was originally presented on its merits in the interests of good administration and a saving of time and expense for rentals and employees, has

now assumed a character of indispensable and imperative necessity for the military service on the Pacific coast, Hawaii, and the Philippine Islands.

The amount called for has been increased from $1,350,000 to $1,500,000, and the amount to be immediately available from $500,000 to $750,000, in view of the necessity of adopting a stronger, more durable, and permanent system of construction than the type originally considered. The construction of this depot will afford ample and modern provision for all the supply departments of the Army and result in an annual saving in rent of at least $60,000, leaving as the only branches of the service unprovided for the division and department headquarters, which are required by convenience to be located within the city; and the engineer offices, which, as stated by the Chief of Engineers in his accompanying letter, will be accommodated either through renting private quarters or perhaps in securing quarters in the proposed new custom-house.

The War Department does not own any public buildings at Sacramento, San Jose, and Oakland.

Very respectfully,

ROBERT SHAW OLIVER,
Acting Secretary of War.

[Inclosures.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 23, 1906.

The honorable the SECRETARY OF WAR.

SIR: 1. I have the honor to acknowledge the receipt of a copy of a letter of the President relating to estimates for public buildings in San Francisco.

2. It is not thought that the Engineer Department of the Army is involved in the matter, however. Heretofore two offices have been maintained in rented buildings in San Francisco in connection with river and harbor and fortification work. The office buildings occupied have been destroyed, and new provision must be made, but this will be accomplished through renting private quarters or, perhaps in the future, securing quarters in the proposed new custom-house.

3. Two companies of engineer troops are quartered at Fort Mason, but it is believed that no damage of a serious character has occurred there, and that the repairs of these garrison buildings would, in any event, be made by the Quartermaster's Department, and would be covered by estimates submitted by the Quartermaster-General under the terms of the President's letter of April 23, 1906.

Very respectfully,

A. MACKENZIE,
Brigadier-General, Chief of Engineers, U. S. Army.

WAR DEPARTMENT,
OFFICE OF THE SURGEON-GENERAL,
Washington, April 23, 1906.

Memorandum for the information of the Secretary of War.

The Secretary of the Treasury, under date of January 29, 1906, in connection with H. R. 10117, for the erection of a building for the use of such Government officials as may now be occupying rented quarters at San Francisco, requested to be advised as to the space at present occupied by officials of the War Department in rented quarters.

Under date of February 5, 1906, the chief surgeon, Department of California, reported to this officer that he would require for his office (3 rooms) 952 square feet floor space; for the attending surgeon's office (3 rooms) 1,008 square feet, and the officer in charge of medical supply depot would require 47,000 square feet in the event of a Government building being erected in San Francisco.

This represents the space that has been occupied in San Francisco by the medical department. The offices of the chief surgeon and attending surgeon were in the portion of the Phelan Building occupied by Headquarters Department of California, and this office does not know what would be its proper proportion of the rental paid. The annual rent of the medical supply depot on Mission street was $18,000 per annum.

R. M. O'REILLY,
Surgeon-General, U. S. Army.

WAR DEPARTMENT,
OFFICE OF THE COMMISSARY-GENERAL,
Washington, April 23, 1906.

Memorandum for the Secretary of War in re Senate bill No. 4475, introduced in the Senate February 15, 1906, by Senator PERKINS.

Regarding construction at Fort Mason, Cal., of wharf, storehouse, and quarters for occupancy in lieu of the various buildings rented in San Francisco, in an inspection of the station of San Francisco made August 30 and 31 and September 1, 1905, the inspector, Colonel Chamberlain, under date of October 3, 1905, states:

"The present annual rental paid for offices, wharfage, and storage in San Francisco for the quartermaster's depot, the transport service, the subsistence depot, and medical supply depot amounts to $49,400.04, exclusive of $2,592 paid for commutation of quarters for the officers on duty in connection with the said depots. That the amount so expended will diminish is very improbable. On the contrary, an increase is probable.

"In the interest of convenience and economy it is recommended that a wharf, suitable office building, storehouses, and quarters for the depot officers be constructed at Fort Mason. A suitable site, owned by the Government, is, I believe, available."

That paper was referred to this office, and the depot commissary in San Francisco, under date of November 23, 1905, reported as follows:

"Referring to your letter (173223) of the 14th instant, I have the honor to report as follows for your information:

"The Government pays $4,800 rental per annum for the premises 46 Spear street, occupied in part by this depot. One-fourth of the building is used by the Quartermaster's Department, which makes the cost of the space assigned to the Subsistence Department $3,600 per annum.

"Subsistence stores for posts in the United States, except large lots, are assembled at the warehouse and prepared for shipment. Large lots of stores are delivered by the sellers direct to the railroad or steamers.

"Stores for use of transports are delivered direct to the transports. About 24,000,000 pounds of subsistence supplies purchased and shipped to the Philippines each year are delivered to the transports by the sellers, saving thereby to the Government the cost of handling, storage, and drayage.

"So far as the Subsistence Department is concerned, there would be no economy in constructing a wharf and erecting an office building, storehouse, and quarters at Fort Mason."

The Quartermaster-General, under date of November 6, 1905, stated: "This scheme of transfer of the San Francisco depot to Fort Mason was submitted by this office to the Secretary of War with detailed estimates for buildings, roads, walks, wharves, etc., amounting to $1,256,280, December 10, 1903. This included all the supply departments of the Army and the transport service."

On January 29, 1906, the Secretary of the Treasury wrote to the Secretary of War referring to House bill No. 10117, for the erection of a building for the use of Government officials now occupying rented quarters at San Francisco, inquiring with regard to space at present occupied by officials in the War Department in rented quarters in the city of San Francisco, and the amount required to meet present and prospective needs, to which this office replied as follows:

"Referring to letter dated January 29, 1906, from the Secretary of the Treasury, relative to amount of space required by War Department in proposed building in San Francisco for use of such Government officials as may now be occupying rented quarters there, which was referred by you to this office for report, I have the honor to state that the chief commissary of the Department of California will require three rooms, only two rooms being allotted now for his needs, and the depot and purchasing commissary will require 36,800 square feet of space for office, storage, and shipping facilities, while the present space occupied for this purpose is 18,420 square feet. The increase is necessary to meet prospective needs and to provide for emergencies."

From the foregoing it appears that the matter has been thoroughly considered and that detailed estimates have been submitted. As Senate bill No. 4475 appropriates an amount just about equal to the estimate of the Quartermaster-General, it is recommended that the same be returned to Congress, urging favorable consideration. It is necessary that some provision should be promptly made to properly house the subsistence department in San Francisco, so as to provide for the proper supply of the transports and the forwarding of supplies to the troops in the Philippine Islands.

HENRY G. SHARPE, *Commissary-General.*

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
Washington, April 23, 1906.

Memorandum relative to establishment of a general supply and storage depot for supply departments of the Army and the transport service, on a part of the military reservation of Fort Mason, Cal.

The project contemplates the construction of the necessary buildings, wharves, roads, walks, tramways, water supply, sewerage, and lighting and power plants on public land constituting a part of the military reservation, Fort Mason, Cal., locally known as Black Point.

The purpose is to do away with all the buildings and premises now rented at very high annual rentals in the city of San Francisco, Cal., and concentrate at one place all the facilities needed for the administration and operation of the quartermasters and other supply departments of the Army, and the transport service, in connection with the military service at San Francisco and posts in its vicinity and in the Hawaiian Islands and the Philippines, in so far as said operations can be conducted to advantage at that port.

As outlined in plans originally prepared in December, 1903, the project contemplated construction of:

A general office building for the administrative and clerical work of all the different supply departments of the Army.

Three storehouses for clothing, equipage, and other quartermaster supplies.

One storehouse for the subsistence department.

One storehouse for the medical department.

One general packing house.

One general repair shop.

Stables, corrals, and sheds for wheel transportation.

Power house with machinery for furnishing light, power for elevators, etc.

One storehouse for the transport service.

Construction of wharves and necessary dredging for accommodation of at least four ships of the size of the largest Army transports.

Preparing ground for building sites, construction of roads, walks, drainage, sewerage, water supply, etc.

Five sets of quarters for officers of the supply departments whose services would be required at this depot.

The estimated cost of the entire project was $1,256,250.

This did not, however, cover any expenditures for purchase of additional land, but recent developments indicate that it will be necessary to acquire, by purchase or condemnation, the rights of certain private owners to a part of the land which would be needed for wharves and slips for the transport service, and it was estimated that the aggregate sum needed to carry out the project as originally laid out should be increased to $1,350,000.

The plans as heretofore considered had in view construction of brick buildings with stone or concrete foundations, but with the ordinary wooden floors and wood frame for roofing. More recent observation and experience indicate that, although first cost would be increased, it will be far preferable to adopt a stronger and more durable and permanent system of construction, having in view the use of stone, brick, and concrete masonry, with steel frames, trusses, etc. This, together with enhanced cost of material and skilled labor incident to the great demands that will be made upon all sources of supply on account of the reconstruction of the city of San Francisco, will require a greater sum than that above given to complete the project as a whole, and it is therefore recommended that the total amount be increased to $1,500,000, and that the amount to be immediately available be increased to $750,000.

The destruction of nearly every facility heretofore used in connection with the supply departments and the transport service in San Francisco renders it imperative that work on a larger scale than first contemplated be commenced at once.

In a memorandum on this subject prepared by this office January 17, 1906, it was stated:

"Carrying out this project would place the military establishment in San Francisco in possession of a system of terminal facilities by land and water which can not be surpassed and bring under the direct supervision of the responsible officers the operations of the transport service and the several supply departments which are necessarily related and dependent upon each for prompt and efficient service.

"The necessity for an establishment of this kind in San Francisco in December, 1903, when the report was submitted, is much greater to-day than it was then. Not only are rents rising all over the city, but it

has been found impracticable to secure at any reasonable cost accommodations required for convenient and expeditious transaction of operations of the supply departments and owners of premises now held under lease have made it known in several instances that leases would not be renewed.

"With facilities for the ordinary routine operations of the military service cramped, expensive, inconvenient, and inadequate during a period of profound peace, it can be readily foreseen what would be the result if emergencies should arise rendering necessary greater activities in the transport service and the supply departments at this important port."

At this time it is known that with the exception of the rented wharf from which Army transports sail, no facilities for storage of supplies and conducting the ordinary operations of the supply departments of the Army can be obtained in San Francisco, and a project which was originally presented on its merits, in the interests of good administration and a saving of time and expense for rentals and employees, has now assumed the character of indispensable and imperative necessity for the military service on the Pacific coast, Hawaii, and the Philippine Islands.

Even if the wharf used by Army transports in San Francisco is saved—of which there is at this time no positive information at hand—its relinquishments by the Army would be a great relief to the commercial shipping interests of the city.

A list of premises rented and amount of rentals in the city of San Francisco, Cal., for the various uses of the military services, also copy of report of the Judge-Advocate-General of the Army in respect to the subject of adverse claims to a part of the water-front lands at Fort Mason, Cal., and remarks of this office by indorsement of February 19, 1906, on the same subject, are inclosed.

C. F. HUMPHREY,
Quartermaster-General United States Army.

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
Washington, April 23, 1906.

List of buildings and properties rented for use of the various branches of the military service in San Francisco, Cal.

	Monthly rental.
For the army transport service:	
* One wharf, Folsom street	$1,500.00
For harbor-boat service:	
* One wharf, Washington street, steamer *McDowell*	120.00
* One wharf, Washington street, steamer *Mifflin*	120.00
For quartermaster's depot and storage:	
* One building, Montgomery street	666.67
* One building, Folsom and Spear streets	425.00
* One stable, Pine street	75.00
For medical department:	
* One building, Mission street, storage and supply	1,500.00
For subsistence department:	
* One building, Spear street	400.00
For administrative offices:	
Eighth floor, Grant Building, headquarters Division of the Pacific	332.50
Fourth floor, Phelan Building, headquarters Department of California	900.00
Three rooms, Rialto Building, recruiting service	100.00
* Commutation of quarters for five officers of the supply departments of field officers' rank would be	240.00
Total monthly rental	6,379.17
Total per year	76,550.00

The items marked thus * in foregoing list pertain directly to the operation of the transport and harbor service and supply departments of the Army, and aggregate—

Per month	$5,046.67
Per year	60,560.04

The above amount, aggregating $60,560.04 per year on the basis of prices heretofore paid, would be saved on rentals alone when the buildings and improvements contemplated are available for use. [Or over 2 per cent per annum on $3,500,000, but aside from this these buildings, if properly constructed, by reason of their isolation from other buildings will afford absolute security for the quartermaster, commissary, and medical supplies, United States Army.—Mr. PERKINS.]

C. F. HUMPHREY,
Quartermaster-General United States Army.

WAR DEPARTMENT,
OFFICE OF THE JUDGE-ADVOCATE-GENERAL,
Washington, D. C., February 12, 1906.

Respectfully submitted to the Secretary of War.

This is a proposition to establish a general supply depot on a portion of the Fort Mason Military Reservation at San Francisco, Cal. Senator PERKINS desires that a bill for the purpose above stated be drafted by the Department with a view to its introduction in the Senate.

Drafts of two bills are submitted herewith, one carrying an appropriation of $1,350,000, such appropriation to be made outright, and another authorizing the establishment of the depot in the operation of a contract system like that now applied to the construction of works of river and harbor improvement, in which the legislative authority is given to contract for the entire improvement, with an appropriation of a sufficient sum to enable the work to be carried on for the next fiscal year and the usual proviso that later payments are to be made in pursuance of specific appropriations of Congress.

The submerged lands in front of the Fort Mason Reservation are now held in private ownership, and such parcels as are necessary for the construction of wharves will have to be obtained by a resort to condemnation proceedings. These are provided for in the bill. The question of the submerged lands was fully discussed in a report rendered by this office on the 10th instant of an offer submitted by William B. Sharp, attorney for the owners, to sell such submerged lands to the United States for $400,000.

It was recommended by this office, for reasons stated, that Attorney Sharp's offer be declined. If a resort be had to condemnation proceedings, it is probable, in view of the easements imposed on such lands in the Constitution, that they will be acquired at a cost of from $50,000 to $100,000. The Quartermaster-General estimates the cost of the improvements at $1,256,250. To this sum about $94,000 has been added, in the draft of the bills, to cover the cost of the submerged lands.

GEO. B. DAVIS,
Judge-Advocate-General.

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
Washington, February 19, 1906.

Respectfully returned to the Secretary of War.

The accompanying bill—S. 4475, Fifty-ninth Congress, first session—is in accordance with recommendation made by the Chief of Staff February 13, 1906. It embodies the appropriation that was asked for by this office for improvements at Fort Mason, these being contained in papers forwarded to the Secretary of War December 10, 1903, containing a full report of all that relates to that part of the subject, together with the cost of submerged lands, estimated by the Judge-Advocate-General in the total sum of $1,350,000. Of this, the estimate for the submerged lands amounts to $94,000.

It appears from the Judge-Advocate-General's indorsement of February 12, 1906, herewith, submitting drafts of the bill, that the question of the submerged lands was discussed by him in a report rendered to the Secretary of War on the 10th instant on the subject of an offer made by William B. Sharp, attorney for the owners, to sell such submerged land to the United States for $400,000. The recommendation of this office concerning this offer was that no action be taken favorable to its acceptance on account of the difficulty in determining title.

This question of title is, according to the estimate of the Judge-Advocate-General, one that could reasonably be expected to be justly settled for $94,000, and this, as stated above, is included in the appropriation of $1,350,000.

These claims have been developing and pending for more than fifty years, and a favorable opportunity to bring the matter to a final conclusion seems never to have been offered in such manner as to give a proper solution.

The report referred to by the Judge-Advocate-General relative to the submerged land is supposed to contain all the information required to elucidate this subject, and it is presumed that all further information needed on the subject of title of these submerged lands will be found in the Judge-Advocate-General's office.

This bill as it stands appears to cover all the essential requirements to establish the depot required at Fort Mason, with a perfect title on the part of the Government to the land which has been for so long a time subject to adverse claims, and the passage of this bill is recommended.

C. F. HUMPHREY,
Quartermaster-General United States Army.

Mr. NELSON. I offer an amendment, to come in at the end of line 11 on page 15.

The VICE-PRESIDENT. The Senator from Minnesota offers an amendment, which will be stated.

The SECRETARY. On page 15, after line 11, it is proposed to insert:

That upon written application to the Secretary of War, and subject to the conditions and requirements hereinafter contained, the name of each surviving major-general and brigadier-general of volunteers in the United States Volunteer Army of the civil war, and each surviving field officer of a volunteer regiment therein, who was at any time appointed and commissioned by the President, by and with the advice and consent of the Senate, as brigadier-general or major-general of volunteers, by brevet, on account of services rendered in said Army, shall be entered on a roll, to be known as the volunteer retired list. Each person so entered shall have served as an officer or an enlisted man not less than two and a half years in said Volunteer Army between April 15, 1861, and July 15, 1865, at least one year of which service shall have been in the field with troops; he shall have been honorably discharged from said service and shall have reached the age of 70 years; he shall not belong to the Regular Army and shall not have been retired; said application to be accompanied with proof of the identity of the applicant, and both the application and proof to be under oath: *Provided*, That an officer who lost an arm, leg, or both eyes by wounds in battle, if otherwise qualified, shall be entitled to retirement without reference to the length of his services in said Volunteer Army.

That each applicant whose name shall be entered upon said list shall be entered as of the highest rank held by him while serving in said Volunteer Army, and when so entered on said list he shall be paid, out of any money in the Treasury not otherwise appropriated, one-half pay, according to his actual rank, which pay shall be the same as that now received by retired officers of like rank in the Regular Army, and shall be paid in like manner; such pay to begin on the date of filing his said application with the Secretary of War and to continue during his natural life.

That each person who shall receive pay under this act shall thereby relinquish all his right and claim to pension from the United States after the date of filing said application, and any payment of such pension made to him covering a period subsequent to the filing of his said application shall be deducted from the amount due him on the first payment or payments under this act; and pay allowed by this act shall not be subject or liable to any attachment, levy, lien, or detention under any process whatever; and persons whose names are placed upon said list shall not constitute any part of the United States Army.

Mr. WARREN. Mr. President, I have a great deal of sympathy with the object of this measure, but of course the Senator from Minnesota will agree with me that it is not permissible at this time on the pending bill. The matter is before the Committee on Military Affairs; it has been considered at one or two meetings; hearings have been had, and perhaps more will be had. But it is not estimated for; it is not an amendment recommended by any standing committee, and, in my judgment, is legislation. Therefore I feel that I must make the point of order, although I will not make it now if the Senator from Minnesota desires to be heard.

Mr. NELSON. Mr. President——

Mr. WARREN. The amendment may lie over, if the Sena-

tor does not wish to take it up at so late an hour. But I will reserve the point of order.

Mr. NELSON. If the bill is not to be disposed of this evening, let the amendment lie over until morning.

Mr. WARREN. I suggest that it lie over. I reserve the point of order on it.

Mr. LODGE. Oh, yes; the point of order is reserved.

The VICE-PRESIDENT. The proposed amendment will lie over.

Mr. MARTIN. I send to the desk an amendment which I offer.

The VICE-PRESIDENT. The Senator from Virginia proposes an amendment, which will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

To be expended under the supervision and direction of the Secretary of War in the improvement of the national boulevard owned by the United States, between Princess Anne street and the gate to the national cemetery, at Fredericksburg, Va., the sum of $30,000.

Mr. MARTIN. Mr. President, I desire to say that 17,000 soldiers are buried in this cemetery, and the Government owns in fee simple this roadway from the city of Fredericksburg to the gate of the cemetery. The Government at one time made some expenditure for the improvement of the road, but the sum was entirely inadequate. The road is now in a miserable condition. I have recently been over it, and it is almost impassable. It is a disgrace to the National Government.

Mr. WARREN. The Government owns the road itself, does it?

Mr. MARTIN. In fee simple. It owns 60 feet in width, and on one occasion it expended a sum of money for its improvement. But the amount expended was entirely inadequate to make a suitable roadway, and it has been going from bad to worse, until now it is a scandal and a disgrace to the Government that such a roadway should exist between the city of Fredericksburg and a national cemetery where there are 17,000 soldiers buried.

I will say, furthermore, that this amendment has been to the Secretary of War and comes back with his approval. The amendment, as I originally prepared it, carried an appropriation of $50,000, but the Secretary of War estimates that $30,000 will answer the purpose. I think the amendment comes within the rule in such cases. It is not subject to any point of order, because it has been estimated for by the Secretary of War; and the amendment, in my judgment, is of urgent importance and necessity. I hope the Senate will adopt it. I send to the desk the recommendation of the Secretary.

Mr. HEMENWAY. Is this a highway used by the general public?

Mr. MARTIN. The general public use it like they use any highway leading to a national cemetery where there are 17,000 soldiers buried.

Mr. HEMENWAY. I understand; but is it used only for the purpose of reaching the cemetery?

Mr. MARTIN. I suppose it is not. There is no prohibition to its use. The Government can do as it chooses about it. The Secretary of War can regulate that.

Mr. HEMENWAY. I do not think the Senator understands the question. Is it a part of a public highway that extends beyond the cemetery?

Mr. MARTIN. I think not. My understanding is it runs to the gate of the cemetery. There may be some other roads leading from there, but they are not a part of this highway. This is owned in fee simple by the Government.

Mr. HEMENWAY. I understand that.

Mr. MARTIN. I have been to the War Department, and I ascertained what I knew before I went there, that this strip of land, 60 feet in width, is under the absolute dominion, control, and ownership of the Government.

Mr. HEMENWAY. But it is used by the general public as a highway?

Mr. MARTIN. I have no doubt that anybody travels it who desires to do so, because the Secretary of War very wisely would not put any restrictions on a highway leading to a national cemetery.

Mr. WARREN. Reserving the point of order, I ask the Senator from Virginia if he is willing to have the amendment go over?

Mr. MARTIN. I am willing that it go over.

The VICE-PRESIDENT. The amendment will go over. What disposition does the Senator from Virginia wish to have made of the papers he has sent to the desk?

Mr. MARTIN. I think they had better be printed.

Mr. WARREN. Let me suggest that if the Senator from Virginia has the recommendation of the Secretary of War, it be printed.

Mr. MARTIN. It is here, and I would be very glad to have it printed.

The VICE-PRESIDENT. It will be printed in the RECORD.

The matter referred to is as follows:

UNITED STATES SENATE,
Washington, D. C., April 5, 1906.

CLERK SENATE COMMITTEE ON MILITARY AFFAIRS,
Washington, D. C.

DEAR SIR: I introduced yesterday a bill providing for an appropriation of $50,000 for the improvement of the national boulevard between Princess Ann street and the gate to the national cemetery at Fredericksburg, in the State of Virginia, which boulevard is owned by the United States.

I introduced at the same time a similar provision in the form of an amendment to the military appropriation bill. I will be obliged if you will send the bill and the amendment both to the War Department for investigation and report as soon as practicable.

Yours, very truly,

THOMAS S. MARTIN.

[First indorsement.]

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
April 9, 1906.

Respectfully returned to the Secretary of War.

Approval of this project is recommended. It is, however, further recommended that the amount be reduced to $30,000, which amount is considered by this office to be sufficient for the purpose.

C. F. HUMPHREY,
Quartermaster-General United States Army.

[Second indorsement.]

WAR DEPARTMENT, *April 11, 1906.*

Respectfully returned to the chairman Committee on Military Affairs, United States Senate, inviting attention to the foregoing report of the Quartermaster-General of the Army approving the bill, if reduced in amount to $30,000, which amount is considered sufficient for the purpose.

WM. H. TAFT, *Secretary of War.*

Mr. KEAN. If the Senator from Wyoming does not care to go on any further this evening, I suggest that we have a brief executive session.

Mr. WARREN. Very well.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Thursday, May 3, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 2, 1906.

SECRETARY OF LEGATION.

Henry L. Janes, of Wisconsin, now secretary of the legation at Habana, to be secretary of the legation of the United States at Santiago, Chile, vice Edward Winslow Ames, resigned.

SURVEYOR OF CUSTOMS.

Robert A. Ravenscroft, of Maryland, to be surveyor of customs in the district of Baltimore, in the State of Maryland. (Reappointment.)

PROMOTIONS IN THE NAVY.

P. A. Surg. Holton C. Curl to be a surgeon in the Navy from the 16th day of December, 1905, vice Surg. John M. Steele, promoted.

The following-named ensigns to be assistant naval constructors in the Navy from the 30th day of April, 1906, to fill vacancies existing in that grade on that date:

Edwin G. Kintner.
Alexander H. Van Keuren.
Paul H. Fretz.
Roy W. Ryden.
Fred G. Coburn.
Waldo P. Druley.

POSTMASTERS.

ARKANSAS.

R. S. Coffman to be postmaster at Searcy, in the county of White and State of Arkansas, in place of Everett F. Pilkington. Incumbent's commission expired April 1, 1906.

William C. Roberts to be postmaster at Rogers, in the county of Benton and State of Arkansas, in place of William R. Cady. Incumbent's commission expires June 10, 1906.

CALIFORNIA.

La Fevre Webster to be postmaster at Ventura, in the county of Ventura and State of California, in place of La Fevre Webster. Incumbent's commission expired April 25, 1906.

ILLINOIS.

Levi W. Davison to be postmaster at Earlville, in the county of Lasalle and State of Illinois, in place of Levi W. Davison. Incumbent's commission expires June 4, 1906.

Milton A. Ewing to be postmaster at Neoga, in the county of Cumberland and State of Illinois, in place of Milton A. Ewing. Incumbent's commission expires June 10, 1906.

Joseph E. Helfrich to be postmaster at Carthage, in the county of Hancock and State of Illinois, in place of Joseph E. Helfrich. Incumbent's commission expires May 8, 1906.

Frank Rockwell to be postmaster at St. Charles, in the county of Kane and State of Illinois, in place of Frank Rockwell. Incumbent's commission expires June 10, 1906.

Jerome B. Stewart to be postmaster at Wilmington, in the county of Will and State of Illinois, in place of Jerome B. Stewart. Incumbent's commission expired March 14, 1906.

Sylvanus S. Thompson to be postmaster at Marseilles, in the county of Lasalle and State of Illinois, in place of Sylvanus S. Thompson. Incumbent's commission expires June 30, 1906.

INDIAN TERRITORY.

John McFall, jr., to be postmaster at Ramona, in district 4, Indian Territory. Office became Presidential April 1, 1906.

KANSAS.

Frank E. Shoemaker to be postmaster at Neodesha, in the county of Wilson and State of Kansas, in place of Frank E. Shoemaker. Incumbent's commission expires June 5, 1906.

Alonzo H. Williams to be postmaster at Holton, in the county of Jackson and State of Kansas, in place of Alonzo H. Williams. Incumbent's commission expires June 5, 1906.

LOUISIANA.

John A. Duplan to be postmaster at Patterson, in the parish of St. Mary and State of Louisiana, in place of John A. Duplan. Incumbent's commission expired April 17, 1906.

MISSISSIPPI.

William F. Elgin to be postmaster at Corinth, in the county of Alcorn and State of Mississippi, in place of William F. Elgin. Incumbent's commission expired April 2, 1906.

Sallie Millsaps to be postmaster at Hazlehurst, in the county of Copiah and State of Mississippi, in place of Sallie Millsaps. Incumbent's commission expired March 25, 1906.

Louis J. Piernas to be postmaster at Bay St. Louis, in the county of Hancock and State of Mississippi, in place of Louis J. Piernas. Incumbent's commission expires June 27, 1906.

Neal M. Woods to be postmaster at Water Valley, in the county of Yalobusha and State of Mississippi, in place of Thomas B. Leland. Incumbent's commission expired April 2, 1906.

MISSOURI.

James H. Nay to be postmaster at Holden, in the county of Johnson and State of Missouri, in place of Cyrus H. Hartzell. Incumbent's commission expired March 14, 1906.

NEBRASKA.

Edward R. Sizer to be postmaster at Lincoln, in the county of Lancaster and State of Nebraska, in place of Edward R. Sizer. Incumbent's commission expired January 31, 1906.

NEW JERSEY.

Edward S. Hance to be postmaster at Wharton, in the county of Morris and State of New Jersey, in place of Edward S. Hance. Incumbent's commission expires May 14, 1906.

NORTH CAROLINA.

John O. Burton to be postmaster at Weldon, in the county of Halifax and State of North Carolina, in place of John O. Burton. Incumbent's commission expires June 27, 1906.

NORTH DAKOTA.

Arnold J. Brunner to be postmaster at Minot, in the county of Ward and State of North Dakota, in place of Peter Fugelso. Incumbent's commission expired March 1, 1906.

OHIO.

William H. Antram to be postmaster at Lebanon, in the county of Warren and State of Ohio, in place of William H. Antram. Incumbent's commission expired January 16, 1906.

W. B. Bryson to be postmaster at Wooster, in the county of Wayne and State of Ohio, in place of Thomas L. Flattery. Incumbent's commission expires June 9, 1906.

Gilbert D. McIntyre to be postmaster at Orrville, in the county of Wayne and State of Ohio, in place of Gilbert D. McIntyre. Incumbent's commission expires June 24, 1906.

PENNSYLVANIA.

Edgar J. Graff to be postmaster at Blairsville, in the county of Indiana and State of Pennsylvania, in place of Edgar J. Graff. Incumbent's commission expires June 30, 1906.

Lott I. Leech to be postmaster at Chicora, in the county of Butler and State of Pennsylvania, in place of Simon Frankle. Incumbent's commission expires June 30, 1906.

R. A. Fulton Lyon to be postmaster at Greensburg, in the county of Westmoreland and State of Pennsylvania, in place of R. A. Fulton Lyon. Incumbent's commission expired April 10, 1906.

TENNESSEE.

Gale Armstrong to be postmaster at Rogersville, in the county of Hawkins and State of Tennessee, in place of Gale Armstrong. Incumbent's commission expires June 9, 1906.

Frank E. Britton to be postmaster at Jonesboro, in the county of Washington and State of Tennessee, in place of Frank E. Britton. Incumbent's commission expires May 16, 1906.

William A. Pamplin to be postmaster at Fayetteville, in the county of Lincoln and State of Tennessee, in place of William A. Pamplin. Incumbent's commission expired March 1, 1906.

TEXAS.

William S. Hart to be postmaster at Humble, in the county of Harris and State of Texas. Office became Presidential April 1, 1906.

Tom Richards to be postmaster at Sherman, in the county of Grayson and State of Texas, in place of Tom Richards. Incumbent's commission expired March 25, 1906.

Walter S. Yates to be postmaster at Forney, in the county of Kaufman and State of Texas, in place of Walter S. Yates. Incumbent's commission expires June 27, 1906.

WASHINGTON.

Emery Troxel to be postmaster at Connell, in the county of Franklin and State of Washington. Office became Presidential April 1, 1906.

James M. Vernon to be postmaster at Everett, in the county of Snohomish and State of Washington, in place of James M. Vernon. Incumbent's commission expires June 30, 1906.

WISCONSIN.

Christian N. Johnson to be postmaster at Merrill, in the county of Lincoln and State of Wisconsin, in place of Christian N. Johnson. Incumbent's commission expired January 21, 1906.

Rollin C. Lybrand to be postmaster at Richland Center, in the county of Richland and State of Wisconsin, in place of Rollin C. Lybrand. Incumbent's commission expires June 19, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 2, 1906.

ASSISTANT SECRETARY OF THE TREASURY.

John H. Edwards, of Ohio, to be Assistant Secretary of the Treasury.

ASSISTANT TREASURER AT SAN FRANCISCO.

Julius Jacobs, of California, to be assistant treasurer of the United States at San Francisco, Cal.

POSTMASTERS.

NEW YORK.

Frank N. Webster to be postmaster at Spencerport, in the county of Monroe and State of New York.

OHIO.

E. R. Titus to be postmaster at Middleport, in the county of Meigs and State of Ohio.

PENNSYLVANIA.

Rudolph Neiman to be postmaster at Red Lion, in the county of York and State of Pennsylvania.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May 2, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

AGRICULTURAL APPROPRIATION BILL.

Mr. WADSWORTH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18537—the agricultural appropriation bill—with Mr. FOSTER of Vermont in the chair.

The Clerk read as follows:

Bureau of Entomology.

Mr. LAMB. Mr. Chairman, I ask unanimous consent to be recognized for one minute. I desire to return to page 21, under the Bureau of Animal Industry, and move to strike out——

The CHAIRMAN. The gentleman from Virginia asks leave to return to page 21 for the purpose of offering an amendment. Is there objection?

There was no objection.

Mr. LAMB. Mr. Chairman, I move to strike out from and including line 20, page 21, to line 4, page 22, inclusive, as follows:

For the collection, purchase, testing, propagating, and distribution of rare and uncommon seeds, bulbs, trees, shrubs, vines, cuttings, and plants from foreign countries or from our possessions for experiments with reference to their introduction into and cultivation in this country, $37,780; and the seeds, bulbs, trees, shrubs, vines, cuttings, and plants thus collected, purchased, tested, and propagated shall be used for experimental tests, to be carried on with the cooperation of the agricultural experiment stations.

I offer the amendment for this reason: The amendment I have already offered embraces this very appropriation for extra seed, and it will be duplicated unless this is stricken out.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. HEPBURN. What is the amendment? It has not been reported from the Clerk's desk, has it?

The CHAIRMAN. Unless objection is made, the Clerk will report the amendment.

The Clerk read the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. LAMB].

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

Collecting agricultural statistics: General expenses, Bureau of Statistics: Collecting domestic and foreign agricultural statistics, compiling, writing, and illustrating statistical matter for monthly, annual, and special reports; special investigations and compilations; purchase of maps and charts, stationery, office supplies, blanks, blank books, circulars, paper, envelopes, postal cards, postage stamps, office fixtures, telegraph and telephone services, freight and express charges, including employment of labor in the city of Washington and elsewhere, actual and necessary traveling expenses: *Provided*, That the monthly crop reports, which shall be issued on or before the 10th of each month, shall embrace statements of the conditions of the crops by States, in the United States, with such explanations, comparisons, and information as may be useful for illustrating the above matter, and that it shall be submitted to and officially approved by the Secretary of Agriculture before being issued or published: *Provided further*, That the condition reports of the cotton crop shall be issued on the same day as the first ginners' report of actual cotton ginned in each month, respectively, during the months in which both condition reports and ginners' reports are issued, $93,000, of which not more than $20,000 shall be expended for salaries in the city of Washington, D. C.

Mr. CRUMPACKER. I move to strike out the last word, with a view to asking a question upon the subject of the collection of agricultural estimates. I read over the report of the Keep Commission respecting the collection of agricultural statistics, and I was impressed with the criticisms that Commission made in relation to the manner in which the estimates are collected and the expense, the unnecessary expense, that the Government is subjected to under the present system and the lack of accuracy and reliability in the estimates. I suppose the appropriations this year are substantially the same as those made last year, and they contemplate, I suppose, a continuation of substantially the same methods of gathering the agricultural statistics.

Mr. WADSWORTH. They do.

Mr. CRUMPACKER. The report of the Keep Commission shows that there are about 250,000 people in the United States that contribute somewhat toward the collection of crop and acreage statistics or estimates, and the Commission reports that the Department relies almost exclusively upon the special agents and the State agents for the accuracy of the estimates and that a large volume of work and tabulation is made necessary by this great army of volunteer guessers throughout the country that is of no value at all.

Mr. WADSWORTH. Now, Mr. Chairman, in answer to the gentleman from Indiana I would say we gave the so-called "Keep report" full consideration, but as against that the representatives of the cotton growers, representatives of the cotton manufacturers, representatives of the cotton ginners, appeared before our committee simultaneously on the same day and they agreed that these statistics, or if you please to call them so, these "guesses," were practically correct, or as correct as it was possible under any circumstances or under any other methods to make them; and in view of that fact, all parties interested seeming to be satisfied with their accuracy, the committee inserted in the bill the clause as it has existed for several years.

Mr. CRUMPACKER. The Agricultural Department makes its crop reports not upon the correspondence of these 85,000 volunteer reporters throughout the country—practically pays no attention to their estimates at all—and it seemed to me that the whole question is one of averages. Several thousand men make estimates and reports from different sources, and they are added together and the average obtained, and that average comes nearly the truth; but as a matter of fact the individual estimates differ widely from the truth. These statistics are regarded throughout the country, and particularly by the cotton growers, as of vital importance; but I have wondered whether they are of any real benefit or not. It seems to me that they tend to encourage gambling in the produce and cotton market, that they do more to encourage speculation in the form of gambling than they do to advance the interests of the producer. Stock and provision gambling not only contributes nothing to increase the wealth of the country, but does much to demoralize commerce and trade generally and to destroy decent business ideals. But I am not disposed to set up my judgment against the judgment of men who are so deeply interested, but I have simply wondered if a good deal of this correspondence could not be eliminated and just as good results obtained as now. The estimates are averages of guesses. We might as well select 500 people at random and let them take the acreage and amount of products for the past year and guess upon what it will be this year, and the average would be about as correct as the reports made by the Agricultural Department.

Mr. WADSWORTH. Touching generally the item of expense, I think if this item was transferred to the Census Bureau it would cost a good deal more money.

Mr. CRUMPACKER. I think so too.

Mr. WADSWORTH (continuing). And in view of the fact that all the parties interested seem to be satisfied at the way in which the work is now done, we thought it best to insert the paragraph just as it is.

Mr. CRUMPACKER. I would not favor the transfer of that work to the Census Bureau. I know it would cost more, because the Census Bureau would take an actual census. It could not afford to do the work any other way. The Census Bureau has no business with these estimates. It is a work which belongs to the Agricultural Department, and not to the Census Bureau if it is to be done at all.

Mr. WADSWORTH. The Census Bureau collects the ginning reports.

Mr. CRUMPACKER. That is an actual count; and the Census Bureau would be very glad if they did not have to do that.

Mr. STEPHENS of Texas. I would like to ask the gentleman a question. I desire to know whether or not this amount of $93,000 covers the cost of persons who are sent to ascertain the cotton statistics, the number of bales ginned by the different gins?

Mr. WADSWORTH. That is done by the Census Bureau.

Mr. STEPHENS of Texas. Then what is it you refer to when you say gathering and collecting statistics from the agricultural country? Is that for traveling expenses? And then I see that you say that not more than $20,000 shall be expended in the city of Washington.

Mr. WADSWORTH. That is for clerks who tabulate the returns.

Mr. STEPHENS of Texas. Then there is $73,000 for traveling expenses.

Mr. WADSWORTH. That is for inspectors that travel over the country conferring with special and local agents.

Mr. STEPHENS of Texas. Is not this work duplicated by the Census Bureau?

Mr. WADSWORTH. No; I do not think that work in itself is duplicated.

Mr. SIMS. No, sir; no part of it.

Mr. WADSWORTH. The ginning is entirely separate and is done by the Census Bureau.

Mr. SCOTT. Mr. Chairman, I move to strike out the last two words. I offer this pro forma amendment for the purpose of directing the attention of the House to a few facts in connection with this statistical work that I think make a sufficient answer to the objection made by the gentleman from Indiana [Mr. CRUMPACKER]. This is a matter that the committee has investigated more carefully than anything else in connection with the work of the Department of Agriculture. It was very carefully inquired into by the committee at its recent hearings, and Members will find several score of pages regarding it in the hearings which are now before them. It was developed in the course of these hearings that the accuracy of the forecast has been something very remarkable, indeed. It was stated that during the past six years, as compared with

the census reports, the forecasts made by this statistical division have not been more than 1½ per cent in error.

It may interest the House to know that the report of the Census Bureau, which is published this morning, and shows 10,575,000 bales of cotton as the crop of 1905, varies only 3 per cent and a small fraction over from the estimate made by the Statistical Division of the Agricultural Department last December, which showed a probable crop of 10,168,000 bales.

The work of the Bureau has justified itself amply, it seems to me, in a great many ways. The suggestion of the gentleman from Indiana that it promotes gambling can hardly be maintained in view of the fact that if the Department did not make the estimates private individuals would make them, as they have always made them, and certainly a report that came from a firm of private statisticians would promote gambling in the same way.

Mr. BARTLETT. Will the gentleman yield?

Mr. SCOTT. I will yield to the gentleman.

Mr. BARTLETT. The trouble about the statistics from the Agricultural Department has been that some one in the Department has promulgated the information before the time it should have been given out. In other words, gamblers have been able to use it for their purpose by reason of the fact that the information got out improperly.

Mr. SCOTT. It is notorious, of course, that a scandal did arise in connection with the work recently, but so far as my information goes it has been only one time during the whole history of this work that such a scandal has arisen. But changes have now been made in the manner of collecting and collating and publishing the report which, the officials think, will make it impossible hereafter for such a scandal to be repeated.

Mr. BARTLETT. The gentleman says it only occurred once. He means by that that they only got caught one time. It had been done before on prior occasions, and prices had been improperly forced up and forced down. Last year it was ascertained that this sort of information had been given out improperly, and that it had been given out on other occasions improperly.

Mr. SCOTT. There was no information before the committee that there had been other scandals of a similar nature.

Mr. SIMS. I want to ask the gentleman a question.

Mr. SCOTT. I will yield to the gentleman from Tennessee.

Mr. SIMS. Is it not the opinion of the gentleman that actual information from reliable sources and disinterested sources will have a deterrent effect and tend to prevent gambling in the product?

Mr. SCOTT. There is no doubt about that.

Mr. JAMES. Will the gentleman yield for a question?

Mr. SCOTT. I will.

Mr. JAMES. If I understood the gentleman correctly, he said that this leakage had only occurred one time from the Statistical Bureau of the Agricultural Department.

Mr. SCOTT. That was the information before the committee.

Mr. JAMES. Did it not occur in regard to tobacco, and was not a statement issued purporting to come from the Agricultural Department saying there was more tobacco planted or set than ever before and giving the per cent of acreage in the dark-tobacco region, which is in Kentucky and Tennessee, as greater than ever before, the purpose of which was to cause the farmer who was holding back for a higher price to sell at once to the trust? When that matter was investigated, was it not found out that the report was false, and instead of being as the statement went forth was in reality and truth only a 60 per cent crop? Yet this false report redounded to the great benefit of the tobacco trust by causing the farmers who had been holding their crop to sell for fear of this great increase in production of tobacco.

Mr. SCOTT. This statement which the gentleman makes comes to me for the first time.

Mr. JAMES. It is a matter of common knowledge, published throughout every newspaper in the United States.

Mr. SCOTT. I merely say that it has not come before the committee, and I have no information in regard to it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last three words. I do so for the purpose of calling the attention of the House and of the country to the most important factor in the prosperity of the country which we now enjoy. We have heard a great deal recently, and I apprehend we will hear a great deal more during the coming campaign this year of the causes of the prosperity of the American people. Our friends on the other side claim that it is due entirely to the protective tariff. I desire to call attention now, while we are upon this subject, of the means for obtaining statistics by the Agricultural Department of the cotton crop, to the fact that it is due in the largest measure to that great staple crop of the country, raised in only one section of the country, from a part of which I have the honor to come as one of its Representatives on the floor of the House, that the immense sum of excess of exports over imports has flowed into the Treasury of the people of the United States; that it has been the exportation of the South's cotton crop which has produced this remarkable prosperity that we enjoy to-day. The figures taken from the reports of the Chief of the Bureau of Statistics of the exports and imports show that this country has exported during the past year a very large excess over and above the amount that it has imported, and by reason of that fact is a selling nation instead of a buying nation, the balance being upon our side of the books, instead of upon that of the foreigner, and that this great staple crop of the South is responsible for the prosperity which we now enjoy. Not only the prosperity of the South, but that of the entire United States. I hold in my hand figures which, in my judgment, show this beyond question or doubt. During the last year we exported $1,491,744,641, and imported $1,117,513,071. The excess of exports over imports amounted to $401,048,595. Of that amount exported raw or unmanufactured cotton formed $379,965,014. So that out of the $401,000,000 of excess of exports over imports the great staple agricultural product of the South produced all except $21,000,000 of that excess. So I say to-day, and call the attention of the House and country to the fact, that that part of the country which has prospered and will continue to prosper and which has produced the prosperity in which the whole country has shared has brought it about through its cotton crop and produced this great excess of exports over imports, for which crop not a penny of tariff protection exists, and none is wanted.

Mr. Chairman, the South has poured into the lap of the entire people of the country more than her share, and nearly all of this prosperity of the country, and to her the entire country is indebted. [Applause.] I hold in my hand a statement made by the Manufacturers' Record, of Baltimore, of January 4, 1906, which shows that during five years—from 1900 to 1905—the cotton crop and its by-product of seed amounted to $2,974,000,000 and that the entire output of the gold and silver of the whole world for those years did not, by over $400,000,000 equal the value of this staple product of the South for the same period. [Applause.] The whole amount of gold and silver produced in the world during those five years amounted to only $2,578,852,000. This is the raw product of our farmers, and of the South, and not one penny, not one-hundredth part of a cent, of tariff is levied for its benefit or protection; and it is this export of cotton to the world and its consumers that has brought prosperity to the South and prosperity to America. [Applause.] We are proud, Mr. Chairman, to exhibit to the country the wonderful progress and prosperity of the South because, when we show it with these figures, which can not be disputed, it shows that that section has contributed more than any other in bringing to our shores millions and millions of foreign gold, and with this influx of foreign gold has followed prosperity for all. [Applause.]

In this connection, Mr. Chairman, I ask permission to insert as a part of my remarks the compilation made by the Manufacturers' Record, of Baltimore, which shows the increase in wealth and farming products and other matters, in which the South has advanced during the past five years. It may read like a romance, but it is true. By these figures it will appear that for every day during 1905 the South's wealth increased $2,750,000.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to insert the document referred to as a part of his remarks in the RECORD. Is there objection?

There was no objection.

The following is the article referred to:

[From Manufacturers' Record, January 4, 1906.]

STEADY ADVANCE IN SOUTHERN WEALTH.

With a population 5,000,000 or 6,000,000 less than the population of the whole country in 1860, the wealth of the fourteen Southern States is now greater than the wealth of the whole country in 1860. Authoritative figures compiled by the Manufacturers' Record show that the assessed property values in the South in the year just closed were $6,648,000,000. These may be safely estimated as representing true values of $16,620,000,000. Such a fact is not surprising to anyone who has studied recent southern development. Three weeks ago it was shown through letters in the Manufacturers' Record received from bankers in the cotton belt that the true value of farm lands in their section had increased by about $1,000,000,000 during the past two years. That this enhancement is beginning to be effective in swelling assessed values was apparent a year ago. It becomes more apparent in the figures of the assessed valuation of property in the fourteen Southern States in 1905, which, through the friendly cooperation of the governors and other officials of the States, the Manufacturers' Record presents in the

following table, furnishing a basis for comparison of 1905, 1904, and 1900:

State.	1900.	1904.	1905.
Alabama	$270,408,432	$322,878,793	$344,224,221
Arkansas	201,908,783	261,377,180	a270,000,000
Florida	96,686,954	116,967,310	a122,000,000
Georgia	433,323,691	530,894,755	577,967,938
Kentucky	640,688,240	767,997,638	795,771,824
Louisiana	276,659,407	351,018,941	396,821,157
Maryland	616,719,782	680,743,794	705,561,456
Mississippi	215,765,947	271,771,757	284,343,137
North Carolina	306,579,715	442,418,677	460,521,670
South Carolina	176,422,288	210,331,854	a219,000,000
Tennessee	396,363,586	428,665,262	445,832,036
Texas	914,007,634	1,082,587,438	1,139,022,730
Virginia	480,425,025	536,494,820	554,188,687
West Virginia	240,634,580	247,816,028	332,948,351
Total	5,266,594,044	6,246,964,247	6,648,203,217

a Estimated.

For three of the States, as noted, the figures are estimated, it is believed, below rather than above those which are yet to be officially announced. The figures for Mississippi must be read in the light of the fact that no assessment of realty has been made since 1902, and the value of bank stock had not been assessed in Virginia at the time that the figures for that State were compiled. But the approximate total, $6,648,203,217, is an advance of $401,238,970 over the total of $6,246,964,247 in 1904. Between 1900 and 1904 the advance was $980,370,203, or at the rate of about $245,000,000 a year.

The advance between 1890 and 1900 was but $755,668,807, or at the rate of about $75,000,000 a year. In the last five years the total increase has been $1,381,609,173, or at the rate of about $276,000,000 a year. The average increase per year between 1900 and 1905 was more than three times the average increase per year between 1890 and 1900, and the total increase in the five-year period was $625,940,373 greater than the total increase in the preceding ten-year period, and was equal to more than a half of the increase in the twenty-year period between 1880 and 1900.

The gratifying advance in southern wealth since the turn of the century is immediately connected with the betterment of the cotton situation in that period. The crop of 1899–1900, 9,422,000 bales, followed a period of great depression for the cotton grower, as in the decade before 1900 the price of cotton fell to its lowest point since the war, and the price of the 1899–1900 crop, with its seed, about $362,000,000, marked a turning point in cotton history and a starting point for greater development in southern agriculture and greater prosperity for the South generally.

For the hard years had, in bitter experience, impressed upon the South the necessity not only to systematize its efforts in making and handling the cotton crop, to the end that the crop of this season, 1905–6, with its seed, will bring about $685,000,000, or $300,000,000 more than the crop in the season of 1899–1900, but also to direct its energies upon other crops.

The accompanying tables of corn, hay, and potato production clearly show the tendency toward diversification of southern agriculture.

CORN.

State.	Bushels.		Value.	
	1900.	1905.	1900.	1905.
Alabama	29,355,942	42,971,548	$17,026,446	$27,501,791
Arkansas	45,225,947	38,323,738	19,447,157	21,078,056
Florida	4,156,192	6,518,702	2,493,715	4,302,343
Georgia	34,119,530	47,255,164	19,448,132	33,078,615
Kentucky	69,267,224	94,893,638	27,706,890	40,804,264
Louisiana	24,702,598	19,516,499	12,351,299	11,905,064
Maryland	15,232,802	23,202,536	6,245,449	11,137,217
Mississippi	25,231,998	30,027,569	14,634,559	19,517,920
North Carolina	29,790,180	37,596,331	16,980,403	24,061,652
South Carolina	13,129,137	20,480,860	8,402,648	15,155,836
Tennessee	56,997,880	77,207,912	27,928,961	38,603,956
Texas	81,962,910	139,146,404	38,522,568	68,181,738
Virginia	28,183,760	43,514,874	13,810,042	23,062,883
West Virginia	19,299,708	22,813,122	9,649,854	12,090,955
Total South	476,655,808	643,468,897	234,648,123	350,482,290
Total United States	2,105,102,516	2,707,993,540	751,220,034	1,116,696,738

HAY.

State.	Tons.		Values.	
	1900.	1905.	1900.	1905.
Alabama	94,061	104,966	$992,344	$1,314,174
Arkansas	228,580	130,664	2,022,933	1,254,374
Florida	6,418	19,239	87,927	312,634
Georgia	190,237	132,081	2,425,522	2,080,276
Kentucky	390,064	599,343	4,427,226	6,371,016
Louisiana	50,302	49,422	472,839	568,353
Maryland	302,292	371,814	4,247,206	4,432,023
Mississippi	99,922	75,273	994,224	840,799
North Carolina	176,680	201,013	1,978,816	2,572,966
South Carolina	192,453	84,479	2,213,210	1,128,639
Tennessee	313,432	543,114	3,698,498	6,256,673
Texas	548,879	751,760	3,732,377	6,104,291
Virginia	589,133	572,607	7,835,469	7,226,300
West Virginia	547,600	773,463	7,337,840	9,010,844
Total South	3,730,053	4,409,238	42,466,428	49,473,362
Total United States	50,110,906	60,531,611	445,538,870	515,959,784

As a corn grower the South is doing well in comparison with the whole country. It increased its corn production between 1900 and 1905 from 476,655,808 bushels to 643,468,897 bushels, or nearly 35 per cent, while the increase for the whole country was from 2,105,102,516 to 2,707,993,540 bushels, or something more than 28 per cent. In 1900 the southern crop was 22.6 per cent of the total crop, and in 1905 it was nearly 24 per cent of the total. The South's corn crop of 1905 was worth $116,000,000 more than that of 1900.

The production of hay in the South increased in the five-year period from 3,730,053 tons to 4,409,238 tons, or 18 per cent, and in the whole country from 50,110,906 to 60,531,611, or 20 per cent, rather a favorable showing for the South, where for a large portion of it there is no necessity to make hay or other forage crops.

The South dominates in the raising of sweet potatoes, the annual output being valued at between $16,000,000 and $18,000,000. But it is steadily going forward as a producer of Irish potatoes, the increase between 1900 and 1905 being from 16,940,410 to 24,599,038 bushels, or 45 per cent, while the increase in the whole country was from 210,926,897 to 260,741,294 bushels, or not quite 24 per cent.

IRISH POTATOES.

State.	Bushels.		Value.	
	1900.	1905.	1900.	1905.
Alabama	417,933	763,520	$342,705	$671,898
Arkansas	2,127,816	1,425,710	1,212,855	1,040,768
Florida	104,280	308,250	110,537	369,900
Georgia	391,816	560,755	301,698	628,046
Kentucky	2,807,490	3,012,825	1,403,745	1,596,797
Louisiana	539,630	585,344	426,308	532,663
Maryland	1,269,455	2,758,895	685,506	1,600,159
Mississippi	347,094	644,930	288,088	548,190
North Carolina	1,063,474	1,992,991	691,258	1,355,234
South Carolina	335,946	767,750	335,946	790,782
Tennessee	1,365,660	1,888,000	792,083	1,095,040
Texas	916,918	2,236,160	806,888	2,079,629
Virginia	2,223,778	4,628,820	1,312,029	2,592,139
West Virginia	3,029,120	3,025,088	1,544,851	1,754,551
Total South	16,940,410	24,599,038	10,254,497	16,655,796
Total United States	210,926,897	260,741,294	90,811,167	160,821,080

The aggregate value of the crops of corn, hay, and potatoes in the South in 1905 was $416,611,448, of which $350,482,290 represented corn, $49,473,362 hay, and $16,655,796 Irish potatoes. To these should be added the values of wheat, $56,299,021; of oats, $26,413,956; of rye, $1,550,471; of tobacco, $35,021,641, and of rice, $12,285,834, which will bring the total to $548,182,371. In addition, the value of sugar products may be safely estimated at $25,000,000, of dairy products at $130,000,000, of poultry products at $150,000,000, of miscellaneous fruits and vegetables at $100,000,000, of live stock and miscellaneous products at $155,000,000. The value of all southern agricultural products in 1905 may be conservatively estimated, therefore, in round numbers, as follows:

Cotton, with seed	$685,000,000
Corn	350,400,000
Poultry products	150,000,000
Dairy products	130,000,000
Fruits and vegetables	100,000,000
Live-stock products	145,000,000
Wheat	56,300,000
Hay	49,500,000
Oats	26,400,000
Tobacco	35,000,000
Sugar	25,000,000
Irish potatoes	16,600,000
Sweet potatoes	16,500,000
Rice	12,300,000
Miscellaneous	10,000,000
Total	1,808,000,000

The total, $1,808,000,000, is the farm value of the products sold, and with the value of products consumed would approach a total of $2,000,000,000 as the value of the southern agricultural output last year, against $660,000,000 in 1880 and $773,000,000 in 1890.

It is not surprising that, with gross returns from farming operations of between $1,800,000,000 and $2,000,000,000, the increasing wealth of the South, clearly indicated in the fact that between 1892 and 1903, the latest year for which figures are available, deposits in national, State, savings, and private banks and loan and trust companies in the fourteen Southern States increased from $316,000,000 to $708,000,000, or by $392,000,000, is already being recorded in an increase in assessed values of property in one year of $400,000,000, which, with the usual proportion of assessed and true values that has prevailed in recent years, means an increase in true values in one year of at least $1,000,000,000.

Of course, agriculture is by no means the sole source of this increasing wealth, as the following figures show:

	1900.	1905.
Cotton mills:		
Spindles	6,407,403	9,346,701
Bales consumed	1,597,112	2,215,674
Bituminous coal, short tons mined	49,048,059	70,600,000
Pig iron, long tons made	2,604,671	3,100,000
Petroleum:		
Barrels produced	17,000,000	60,000,000
Railroad mileage	52,594	60,980

Since 1900 the output of southern coal mines has increased from 49,000,000 to 70,000,000 tons a year; its oil wells have increased their production from 17,000,000 to about 60,000,000 barrels; its furnaces are now turning out 3,100,000 tons of pig iron, against 2,600,000 tons in 1900; and its cotton mills, increasing as to their spindles from 6,400,000 to 9,300,000, consumed during the last season 2,215,000 bales,

against 1,600,000 bales in 1900. Contributing immensely to the general advance, and at the same time consequent upon it, is the extension of railroads. The South is now rapidly increasing its railroad construction, and since 1900 has laid 8,386 miles, making its total mileage 60,980.

The close relation of the railroads to the growth of the South is probably in no way better illustrated than by statistics of the railroad business of that section. Taking the ton-mileage of the United States for a period of years, we have the following:

Year.	United States.	South Atlantic States.	Gulf and Mississippi Valley States.
	Tons.	*Tons.*	*Tons.*
1882	39,302,209,249	1,152,261,588	894,184,392
1890	79,192,985,125	3,921,778,157	3,618,298,877
1900	141,162,109,413	10,598,796,262	5,709,612,838
1904	173,613,762,130	13,964,627,573	7,626,175,159

Comparing the total for the South during these years with the rest of the United States, the figures are as follows:

Year.	Southern States.	United States, not including South.
	Tons.	*Tons.*
1882	2,046,445,980	37,255,763,269
1890	7,540,077,034	71,652,908,091
1900	16,308,409,100	124,853,700,313
1904	21,590,802,732	152,022,959,398

In 1882 the South had less than one-eighteenth as much as the rest of the country, in 1890 a fraction over one-tenth, in 1900 a little less than one-eighth, and in 1904 nearly one-seventh.

These figures show that while the total mile-tons of the railroads of the United States of 1904 was about four and a half times as great as in 1882, the mile-tons of the South in 1904 was more than ten times as great as in 1882.

Agriculture, mining, lumbering, and manufacturing, based upon these elemental industries, railroad construction, internal trade, and foreign commerce, added last year to the true wealth of the South at the rate of $2,750,000 a day. It would be difficult to give a correct estimate of the gross income of the South from all these energies, but with agriculture yielding at least $1,800,000,000 and manufacturing and mining a larger sum, an estimate of $4,000,000,000 as the gross income for 1905 would not be an exaggeration.

That the steady increase of southern earnings was reflected in an increase in assessed values of property of about $980,000,000 between 1900 and 1904 and of $400,000,000 in the past year shows that the South is spending its money in improving its condition in all directions. The earnings of 1905 will be likewise employed in betterment of farm homes within and without, in improving barns, in purchasing up-to-date machinery and implements, in making better fencing, in adding to stock, in enlarging manufacturing equipment, in constructing new schoolhouses, court-houses, and other public buildings in city, town, and country, in building good roads and up-to-date highways in the cities, in installing waterworks and sewerage systems, in extending railroads, and in wide diversity of other enterprises aided materially by southern financial institutions with better facilities than they ever enjoyed before. Manufacturers of many kinds, and investors of mind, money, or muscle in other parts of the country, will surely profit if they avail themselves of these opportunities in the South, and will participate in an emphasis of the truth that the development of the South means the enrichment of the nation.

The Clerk read as follows:

Total for library, Department of Agriculture, $25,880.

Mr. SIMS. Mr. Chairman, I move to strike out the last word, and ask unanimous consent to print in the RECORD a letter that I have just received bearing on the question of rural mail boxes.

The CHAIRMAN. The gentleman from Tennessee moves to strike out the last word, and asks unanimous consent to insert a letter in the RECORD. Is there objection?

There was no objection.

The letter is as follows:

HOWELL, MICH., *April 28, 1906.*

Hon. T. W. SIMS, M. C., *Washington, D. C.*

DEAR SIR: I am pleased to note by the press that one lone Congressman, after years have flown, has had moral courage enough to attack the rural letter-box swindle.

It will take a breaking plow, a stump puller, and a steam dredge to uncover even a part of the iniquity in the development of this good public service, and no muck rake will be successful in exposing the tap-roots of its corruption, and I sincerely hope you may pull the stumps of arrogance, fraud, and deceit, even if it takes a few sticks of dynamite.

Three hardware dealers here were making excellent boxes for 75 cents to $1.50.

William Green, a wealthy farmer of Deerfield Township, told me that after they had all bought boxes they were ordered to go to Fenton and buy one of "fourteen accepted boxes approved by the Department."

Upon going there they found only four or five to select from, at prices from $2 to $3.50, and none any better than those already had.

He protested, because many of the poorer farmers could not afford to pay twice, nor to get unnecessary boxes no better than home industries produced.

I wrote a protest to the Department, and said while it might be proper for the Department to specify size, material, and general dimensions, that inasmuch as these boxes were paid for and owned by the people they ought to be allowed to buy where they could buy the cheapest or make them themselves.

In reply, I received a printed statement of law that if one mutilated a letter box he was subject to heavy fine and imprisonment.

I at once, October, 1901, wrote to President Roosevelt, stating the case and facts, and saying that "No Administration can hope to make itself popular with the American people when 4,000,000 to 6,000,000 farmers each believed himself robbed of $1 or $1.50 by a monopoly and graft established and promoted by the Government, and when every hardware dealer and tin shop in the country felt that it had been robbed of legitimate business by the same fraud."

I received a reply from Private Secretary Cortelyou that the matter would be brought to the attention of the President.

I later got the impression that the graft had been stopped and am surprised that it still exists in your country.

While this was going on, so-called examiners or inspectors went over the routes and made very obnoxious rulings and arbitrary directions in relation to moving posts (even "6 inches to confirm our authority"), and many were the people whose indignation at their treatment was great. One widow had a wooden box. The examiner said mail could not be delivered in it. She said: "Throw it on the grass." They said it will not be delivered. She dared them to carry it by, and the examiner told the carrier, "I guess you better deliver her mail and let her have her way," showing the elasticity of their scheme when trouble was likely.

Congressmen must have known of these almost universal doings, and I have always been surprised that some of them didn't use their influence with the Government in behalf of the people or expose the graft.

Some Congressmen took upon themselves all the credit of the origin and development of the system and that their own district was getting special favors and bought votes, so to say, under the false claim of their great influence, getting special favors (?) for the constituents of their own district, when the fact was that from Texas to Maine other districts were getting just as much as the Sixth district of Michigan.

I ran for Congress in 1902, and my attention was brought to proved cases where carriers were taking a poll of voters in a little book they carried as to whether voters were going to vote for Wood or Smith; also that in some places they were sticking my opponent's buttons on people's paper mail.

In the midst of the campaign I wrote, by registered mail, to the President protesting against such partisan iniquity, and received a reply that it would be investigated.

February following I wrote the Civil Service Commission.

April following an inspector called, six months too late to be of any value except to correct future evil. I suppose it was all dropped or whitewashed by the report.

But it was not always thus. I was a civil service clerk once. I heard a New York Congressman say to Col. J. F. Bates, superintendent of free delivery in Post-Office Department, when he was a member of a committee to select the large newspaper boxes for cities, "The people and Department want the best box—are entitled to the best. Mr. ——— box is the best, and moreover, Colonel, if you select the best box there will be no need for you to sit in a poor man's seat the rest of your life."

He was led out of the office and told never to return, and good, honest Colonel Bates died a poor man.

The people are entitled to the very best public service at the least possible fair cost and full and prompt report upon all public business.

Truth is inimitable, it does not change to suit circumstances and it exists regardless of the belief or unbelief of men.

Partisanship and government by party, life tenure, and organization of public officials to secure it and increase their own salaries are menaces to free institutions.

Parties are vehicles for the people to ride in, not to be ridden over; to get what they want, not to be coerced by absolutism in government.

Rules and system must prevail to secure public order, but the people are the Government, the people are the State, and public officials are their temporary public servants, and any sentiment that the people are granted favors is un-American, corrupt, illegal, and dangerous. Such suggestions from political charlatans lead to false conceptions and are a menace to future patriotism and present public good.

Favors imply that some receive beyond their deserts while others are denied their common rights. Equal treatment of all citizens before the law leads to just appreciation of the true principles of government and tends to satisfaction, content, pride in public service and affairs, and permanent patriotism.

I have the honor to be, very respectfully, yours,

W. H. S. WOOD.

P. S.—Please send me copy of your speech.

W.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BUTLER of Pennsylvania having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bill and joint resolutions of the following titles:

H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River at Lock 2, Alabama;

H. J. Res. 145. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers; and

H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter.

The message also announced that the Senate had passed bill of the following title; in which the concurrence of the House of Representatives was requested:

S. 5811. An act to amend section 3646 of the Revised Statutes of the United States as amended by act of February 16, 1885, as amended by act of March 23, 1906.

AGRICULTURAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Nutrition investigations: To enable the Secretary of Agriculture to investigate and report upon the nutritive value of the various articles and commodities used for human food, with special suggestions of full, wholesome, and edible rations less wasteful and more economical than those in common use, including special investigations on the nutritive value and economy of the diet in public institutions; and the agricultural experiment stations are hereby authorized and directed to cooperate with the Secretary of Agriculture in carrying out said investigations in such manner and to such extent as may be warranted by a

due regard to the varying conditions and needs of the respective States and Territories, and as may be mutually agreed upon; and the Secretary of Agriculture is hereby authorized to require said stations to report to him the results of any such investigations which they may carry out, whether in cooperation with the said Secretary of Agriculture or otherwise, $20,000.

Mr. PERKINS. I wish to make a point of order upon the last section on the ground that it is not authorized by existing law. I would say that as I understand from the chairman of the committee this is one of the expenses that once begun forever continues. How many years have appropriations of this sort been made?

Mr. WADSWORTH. Mr. Chairman, appropriations for these nutrition investigations have been made ever since I have been chairman of the committee and, I think, for a year or two preceding that time—anyway, for ten or twelve years.

Mr. PERKINS. Very likely.

Mr. WADSWORTH. That item has been carried on the appropriation bill for at lease twelve years, and that is the only authority of law that there is for it.

Mr. PERKINS. That is it exactly.

Mr. WADSWORTH. And the question is whether it is subject to the point of order or not.

Mr. PERKINS. Mr. Chairman, it seems to me that if for twelve years these investigations with reference to wholesome articles of food have been made, we ought to have some results. It is certainly trifling to carry an appropriation like this year after year and year after year that furnishes a livelihood for a few employees, whose successors will be on the rolls a hundred years from now. I raise the point of order because I think it is a perpetual waste that is bringing us no valuable results.

Mr. ADAMS of Wisconsin. Mr. Chairman, I should like to say just a word with reference to the point of order. This has been the law for a number of years, and under the operation of the law work has been carried on in this matter of nutritive investigation, which is really of vital importance, and in connection with that work the Department has been assisted by the various State experiment stations, and they are doing work of interest and of very great value. Now, I think the point of order is not good, because this work has been authorized for years by law. The work is in progress, and this simply provides for a continuation of the work.

The CHAIRMAN. The Chair would like to interrogate the gentleman from New York [Mr. PERKINS].

Mr. PERKINS. I shall be pleased to be interrogated.

The CHAIRMAN. Will the gentleman state his point of order?

Mr. PERKINS. The point of order is that the appropriation of $20,000 is made to enable the Secretary of Agriculture to investigate and report upon the value of various articles, as stated in the first part of the paragraph, and that such work has never been authorized by law. Appropriations have been made from year to year, but, as I understand the rule, no appropriations made in an appropriation bill amount to the creation of a law authorizing appropriations to be made in the future. They make the law for that one year, and no more. It was made last year, but it does not as a result of that become the law this year. That I understand to be the effect of the rulings of the Chair on these questions. If the point is a good one, I wish to make it.

Mr. BROOKS of Colorado. I should like to say a word on the point of order, if the Chair will hear me.

The CHAIRMAN. The Chair will be glad to hear the gentleman from Colorado.

Mr. BROOKS of Colorado. I submit that there is specific authority of law for this appropriation. The Chair will note that these items that we are now considering are under the head of the Office of Experiment Stations. Now, the Hatch Act, so called, establishing the experiment stations (I have sent for the act), specifically authorizes investigations in nutrition, in physiology, in food stuffs, and in all subjects allied to agriculture. This appropriation is under direct authority of the Hatch Act, because it is for the purpose of more fully carrying it into effect, and therefore can not be subject to the point of order which the gentleman raises. It is, I think, authorized by existing law.

The CHAIRMAN. Will the gentleman from Colorado direct the attention of the Chair to the act?

Mr. WADSWORTH. I have it here, Mr. Chairman, and will hand it to the gentleman from Colorado.

Mr. BROOKS of Colorado. Mr. Chairman, I read from section 2 of the Hatch Act:

That it shall be the object and duty of said experiment stations to conduct original researches or verify experiments on the physiology of plants and animals.

Then a considerable number of other objects—

The chemical composition of manures, natural or artificial, with experiments designed to test their comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of food for domestic animals; the scientific and economic questions involved in the production of butter and cheese; and such other researches or experiments bearing directly on the agricultural industry of the United States as may, in each case, be deemed advisable, having due regard for the varying conditions and needs of our respective States or Territories.

The CHAIRMAN. The Chair would like to have the gentleman from Colorado point out anything in that chapter authorizing the Secretary of Agriculture to make any such investigations. Is it not limited to the experiment stations?

Mr. BROOKS of Colorado. I have not read the whole act, but I submit that this provision authorizes the Secretary of Agriculture to do, through the experiment stations, and in cooperation with the experiment stations, the things specified in this item. I call the attention of the Chair to lines 9 and 10 of the bill, on page 50:

And the agricultural experiment stations are hereby authorized and directed to cooperate with the Secretary of Agriculture in carrying on such investigations.

And so forth.

Mr. Chairman, I read further from section 3 of the Hatch Act as to the point the Chair last mentioned. This act was passed when the Department was under the head of a commissioner, and by the act incorporating the Department all laws referring to the Commissioner are now made applicable to the Secretary of Agriculture:

That in order to secure, as far as practicable, uniformity of methods and results in the work of said stations it shall be the duty of the United States Commissioner of Agriculture to furnish forms, as far as practicable, for the tabulation of results of investigation or experiments; to indicate, from time to time, such lines of inquiry as to him shall seem most important; and, in general, to furnish such advice and assistance as will best promote the purposes of this act.

Mr. PERKINS. I would like to state, Mr. Chairman, that the purpose of this act, as stated, is only in reference to agriculture. Under the general authority it is claimed that the Secretary of Agriculture may, under this clause, investigate the nutritive value of various articles used for human food, with particular investigation into the various penal institutions. Certainly, Mr. Chairman, under the act that gives general authority to investigate questions of agriculture there can not be included the power to investigate, for instance, beef or mutton to be used for human food or in penal institutions. If you can cover that you can cover anything that might be required for the use of man or beast.

Mr. BROOKS of Colorado. I call the Chair's attention to the language of Mr. HULL, of Iowa, in the chair, in the first session of the Fifty-fourth Congress, which, though obiter, illustrates the proposition I am stating. There the point of order was raised against a provision in the bill providing for the publishing of dairy tests at the Columbian Exposition. It was held out of order because it was made by private parties; but the Chair states:

There can be no question as to the right of the Agricultural Committee to insert a clause requiring the Department of Agriculture to make the tests and publish the results.

Now, that kind of test was, it seems to me, identical in principle with the kind of test provided in this section. I refer again to the same decision to which I referred last night. The first session of the Fifty-seventh Congress, at page 4847, where upon the pure-food investigation and experiments Mr. CANNON made the point of order, and after a very elaborate discussion the point of order was overruled on the general authority of the act organizing the Department of Agriculture and outside of the Hatch Act entirely.

Mr. CRUMPACKER. Mr. Chairman, this is a question of order, and its importance is far greater than the mere settlement of matters in the paragraph under consideration. The Hatch Act, as quoted by the gentleman from Colorado, provides for an investigation respecting the composition and digestibility of foods. This appropriation authorizes the Secretary of Agriculture or the experiment stations to investigate and report upon the nutritive qualities, not composition and digestibility, but the nutritive qualities of various articles and commodities used for human food, with special suggestion of full, wholesome, and edible rations, and to report, not upon the composition and digestibility, but upon the palatability and upon the nutritive qualities; and also upon the amount, upon the strength of the rations that the ordinary citizen of the country can best get along with. It involves a great deal more than is authorized by the Hatch Act. It is the law of the House that if a proposition contains more than is authorized by law, although it may be partly authorized, the whole provision must go out. I think there is no provision in the Hatch Act authorizing investigations respecting the nutritive quality of food or respecting the amount of food that a person should eat at any particular time, or respecting the edibility and procurement of edible rations less wasteful and more economical than those in common use. The

Hatch Act had more relation to the healthfulness and wholesomeness of food. This relates to the economical features of the food question and the palatability aspect of it.

Mr. BROOKS of Colorado. I would like to ask the gentleman from Indiana a question, if he will permit.

Mr. CRUMPACKER. I will be glad to yield to the gentleman.

Mr. BROOKS of Colorado. The gentleman said, I think, there was no authority in the Hatch Act to make this line of investigation. I would like to ask the gentleman if he does not think the results of the investigation will be "useful and practical information on subjects connected with agriculture?"

Mr. CRUMPACKER. I do not. I think when we use the term "agriculture" in legislation it must be given its ordinary meaning. Agriculture means production from the soil.

It means production. It does not mean the marketing of products, and does not embrace questions of wholesomeness or palatability of food. It has no relation to questions of health, of the nutritive quality of that which is produced, or of what ought to be a fair-sized meal or an economical meal for the average citizen of the country. This provision goes far beyond anything contained in the Hatch Act.

Mr. PERKINS. The gentleman thinks that agriculture is not diet?

Mr. CRUMPACKER. Is not diet.

Mr. BROOKS of Colorado. In this decision in the Fifty-seventh Congress the Chair distinctly held that "food matters were connected with agriculture in the widest sense of the term," and the Chair will remember that the original expression in the organic act was, "agriculture in the widest and most comprehensive sense of the term."

The CHAIRMAN. The Chair would like a more definite idea in regard to the precedent than the gentleman has just proposed.

Mr. BROOKS of Colorado. It is in the first session of the Fifty-seventh Congress, at pages 4847 and 4848. The gentleman from Maine [Mr. POWERS] was in the chair. The point of order was made by Mr. CANNON on pure-food investigations in the Department of Agriculture, and upon that the Chair ruled that such work was connected with agriculture in the widest sense of the term.

Mr. WADSWORTH. Mr. Chairman, I simply want to call attention to section 520, which I think also may cover this point, as follows:

> The general design and duties of which shall be to acquire and diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and most comprehensive sense of that word.

Certainly, according to the old saying, "All flesh is grass," food is an agricultural production, and investigation as to its nutritive qualities is in line with the general purpose of the Department.

Mr. PERKINS. Does the gentleman think that dyspepsia is an agricultural product?

Mr. WADSWORTH. Yes.

Mr. BROOKS of Colorado. The precedent is an important one. The matter directly under consideration is not important, but the limiting of the work of the Deparment in that way, the authority of Congress to legislate in the general appropriation bill would certainly be unfortunate.

Mr. ADAMS of Wisconsin. Mr. Chairman, I would like the consent of the House to say a few words, and to ask my friend from New York [Mr. PERKINS] to withdraw his point of order, if I may be permitted.

Now, the reason for this kind of work is this: That it is well known to my friend from New York that men engaged in the business of raising stock, not only for the last ten years, but for a hundred years, have been studying the matter of a scientific ration—that is, to find out in Germany, England, and in this country and everywhere else what kind of food the farmer can give his cow, his horse, or his hog and not waste his food or his money. Now, in these nutrition investigations carried on by the experiment stations in the Department of Agriculture they are applying the same theory to the food used by the human race; and this work is important. It means an instruction to the American people, through careful and scientific experiment, as to what food they can most profitably and economically use. And I appeal to the gentleman from New York [Mr. PERKINS], because of the practical value of this work, to withdraw his point of order.

Mr. PERKINS. Mr. Chairman, I would love to oblige my friend from Wisconsin [Mr. ADAMS], and if I thought his suggestions were accurate I certainly would withdraw my point of order. I have no desire to make a point of order that may be technically correct against work that I regard of actual value. But, as the gentleman truly said, for a hundred years they have been endeavoring to find out the value of these food products, and it is my belief that just as long as an appropriation of this sort is carried, which should finally result in some actual definite information, just so long we shall not have the information. If for twelve years we spend $20,000 a year for men to investigate, they certainly in the ordinary progress of science, if they are competent to do the work, and if they are willing to bring their work to an end, should tell us what is good and what is bad. We will never have a result so long as this Bureau is continued and the appropriation is made. So I must decline, with great regret, to withdraw my point of order.

Mr. MANN. Will the gentleman yield to a question?

Mr. PERKINS. Certainly.

Mr. MANN. Has the gentleman examined the reports which have been made of this investigation?

Mr. PERKINS. No; I took the facts stated by the gentleman yesterday; when any branch of investigation was created, it was his experience it was never brought to an end. So stated the chairman of this very committee yesterday on this floor. He stated also that this particular appropriation has been made much longer than he remembers, and still we are appropriating and trying to find out. It is a very simple thing to find out the nutritive value of the articles used for human food. After they have been trying for twelve years, as I understand, they can not yet tell us the nutritive qualities of beef and mutton and pork and beans. I think when we have no result we might as well, for a while, take a rest.

Mr. ADAMS of Wisconsin. That is just exactly the point I want to make clear to my friend. Neither in one nor in five nor in ten years will all the problems of science be worked out to their perfection. We are making progress. You take this very matter of nutritive rations, the rations given to dairy cows. For twenty-five years the dairy judgment of the United States and the agricultural scientific judgment of the United States accepted the German ratio, which had been worked out in Germany, of five parts of carbon to one of nitrogen. Through the experiments that have been carried on at the experiment stations of the different States and at the Agricultural Department we have found that this is not the most profitable ratio. We find that less nitrogen is required, which is the most expensive part; and we have economized the forces which the farmers are constantly using to produce as cheap an article as possible, that not only may he make more money, but, finally, that the consumers of the United States shall get a cheaper food product. You can not work out this problem in one year or one century.

Mr. PERKINS. It seems to me, from the time they have taken to develop the telephone and the automobile, that they might have found the nutritive value of beef and chicken by this time.

Mr. ADAMS of Wisconsin. It took two thousand years to develop the telephone problem.

Mr. PERKINS. I did not know that the first application was made so far back.

Mr. MANN. Mr. Chairman, the gentleman from New York and myself are built somewhat on the same mold.

Mr. PERKINS. The gentleman does me great honor.

Mr. MANN. Well, I feel that I take great credit to myself in saying that. But I have very little hope of getting the gentleman to withdraw the point of order on that account. Still, I wish to say to the gentleman that in the course of the investigations which it has fallen to my lot to make in relation to pure food and food investigations I have had occasions to examine the reports and methods followed in this investigation.

I say to the gentleman that, so far as my judgment is concerned, there is no investigation carried on by the Government of more practical value than the investigation of the nutritive value of food. The gentleman assumes that they have not learned the nutritive value of beans and pork and beef. He can ascertain on an investigation of these matters there are far more important lessons to learn as to the different kinds of food. They never will be through investigating so long as food and people exist. Now, there is not a cooking school in this country—and there are thousands of them now in this country—there is not a cooking school in this country that does not receive and study carefully these reports of this investigation work.

Mr. PERKINS. As to the nutritive value of the articles?

Mr. MANN. That is the good part of the report. I see that the gentleman makes an objection because of the large expense. It differs from the great modern method. The gentleman from New York does the same thing in the change of judgment as to the foods used in the section from which he comes. Only a few years ago they used to eat pie for breakfast [great laughter] and now they eat breakfast food. It was not long ago when people coming from Rochester to my part of the country and asked what they wanted would ask for puddings

and pies, and now they call for cereal foods. Why? Because it has been found by these investigations carried on by this Bureau that they are the best in building up the system rather than catering merely to the appetite.

Mr. PERKINS. I would reply to the gentleman that the Pilgrim Fathers, the men who made this country great, the men who are responsible in large part for its greatness and development, ate doughnuts and pie.

Mr. MANN. Yes; and they showed good judgment; and if we lived the same kind of lives that they lived I do not know but we could stand doughnuts and pie for breakfast.

Mr. WADSWORTH. And pickles.

Mr. MANN. But we do not live that kind of a life now. There is many a man and woman in this country who wakes up in the morning with a headache who does not know the reason why. It is because they are endeavoring to eat the kind of food which the gentleman would have the country eat. I will say to the gentleman frankly, after a good deal of study of this subject, that, in my judgment, there has been no work of the Government which has been of more practical value or that is made more use of throughout the country by people who are interested in the subject than this very investigation.

The CHAIRMAN. The Chair is prepared to rule. The Chair may be permitted to say that it seems to the Chair a matter of regret that general legislation of this importance should be included year after year in these appropriation bills and that the question of continuing the work under them should finally be determined on a point of order. But, as the Chair indicated yesterday, when these points of order were raised, the Chair has no choice, but must follow the rules of the House.

In the judgment of the Chair there is no authority for this paragraph except that found under Title XII of the Revised Statutes. The Chair does not think that the law relating to experiment stations, to which the gentleman from Colorado [Mr. BROOKS] called the attention of the Chair, has any force here. Now, section 520 of the Revised Statutes does give the Secretary of Agriculture authority to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of that word. That is a very broad and general authority. And yet it seems to the Chair that it can not be said that authority "to investigate and report upon the nutritive value of the various articles and commodities used for human food, with special suggestions of full, wholesome, and edible rations less wasteful and more economical than those in common use, including special investigations on the nutritive value and economy of the diet in public institutions," can be said to be useful information on subjects connected with agriculture, even in the most general and comprehensive sense of that word.

The Chair held yesterday that certain work provided for in this bill, namely, among other things, authority "to investigate the adulteration, false labeling or branding, and laws, regulations, and decisions relative thereto, of foods, condiments, beverages, and drugs, when deemed by the Secretary of Agriculture advisable," was subject to a point of order, and it seems to the Chair that portions of this paragraph are equally subject to the point of order. The Chair therefore sustains the point of order.

The Chair will say in this connection that the precedent which arose in the Fifty-seventh Congress, to which the gentleman from Colorado [Mr. BROOKS] called the attention of the Chair, does not seem to be in point. While the case may be an analogous one, it is not a similar case. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

Irrigation and drainage investigations: To enable the Secretary of Agriculture to investigate and report upon the laws of the States and Territories as affecting irrigation and the rights of appropriators and of riparian proprietors and institutions relating to irrigation and upon the use of irrigation waters, at home and abroad; with especial suggestions of the best methods for the utilization of irrigation waters in agriculture, and upon plans for the removal of seepage and surplus waters by drainage, and upon the use of different kinds of power and appliances for irrigation and drainage; and for the preparation, printing, and illustration of reports and bulletins on irrigation and drainage, including employment of labor in the city of Washington or elsewhere; and the agricultural experiment stations are hereby authorized and directed to cooperate with the Secretary of Agriculture in carrying out said investigations in such manner and to such extent as may be warranted by a due regard to the varying conditions and needs and laws of the respective States and Territories as may be mutually agreed upon, and all necessary expenses, $102,200, $5,000 of which amount, or so much thereof as may be necessary, shall be expended in making a drainage survey of the Neosho Valley, in the State of Kansas.

Mr. SIMS. I make the point of order against the following part of this paragraph:

Five thousand dollars of which amount, or so much thereof as may be necessary, shall be expended in making a drainage survey of the Neosho Valley, in the State of Kansas.

I regard that as new legislation, not authorized by law, and making a special provision in the act.

Mr. SCOTT. If the gentleman from Tennessee will reserve the point of order, I should like to be heard on it before the Chair passes upon it.

Mr. SIMS. Mr. Chairman, I do not want to waive it. I am willing, of course, that the gentleman shall make any statement he desires. I reserve the point of order.

Mr. SCOTT. I simply ask the Chair to give me his attention for a moment.

The CHAIRMAN. The gentleman from Tennessee [Mr. SIMS] reserves the point of order.

Mr. SCOTT. I wish to direct the attention of the Chair to the fact that this is a limitation on an appropriation bill. It is certainly customary for the House in appropriation bills to direct that certain portions of a given appropriation shall be devoted to a given project, and, as I understand it, this is all that is done by this phrase.

The CHAIRMAN. The Chair recognizes the fact indicated by the gentleman from Kansas, but the object must be one already provided for by law, must it not? The Chair would like to know whether there is any authority in existing law for this project.

Mr. SCOTT. I think there is no question that there is authority in existing law for a project of this character. I do not claim that there is for this particular project, but I will call the attention of the Chair to section 520 of the Revised Statutes, in which this language is used:

SEC. 520. There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

It seems to me that this certainly gives to the Secretary of Agriculture authority to investigate drainage as well as irrigation problems. It is certainly as much a function of the Government to help the people grow crops on land that is too wet as upon lands that are too dry by nature. That is all that it intended to do by the work which the Department has carried on in the matter of drainage and in the investigation of draining propositions.

Mr. CRUMPACKER. Will the gentleman allow a question?

Mr. SCOTT. Yes.

Mr. CRUMPACKER. Does not the reclamation act, as it is generally termed, confer some authority upon the Secretary of Agriculture in irrigation matters.

Mr. SCOTT. I think not, as contemplated in the paragraph under consideration. Now, Mr. Chairman, the work of conducting drainage investigation has been proceeding under the direction of the Secretary of Agriculture for a great many years. There are now a number of projects under way upon which last year there was expended about $15,000.

The CHAIRMAN. Can the gentleman from Kansas indicate to the Chair any law under which that investigation is being carried on?

Mr. SCOTT. I think the investigations are being made under the general provision of the act establishing the Department.

The CHAIRMAN. But under no special law?

Mr. SCOTT. Under no special statute.

Mr. MANN. Will the gentleman yield for a question?

Mr. SCOTT. Certainly.

Mr. MANN. Does the gentleman think that an item in this bill making an appropriation to construct this drainage system would be subject to a point of order? Does the gentleman think there is any warrant in law by which we could appropriate a million or ten million dollars to do the work?

Mr. SCOTT. I do not think there is.

Mr. MANN. There not being any law for doing the work, how is there any law for making a survey to find out what it will cost?

Mr. SCOTT. Because by making the survey you diffuse useful information among the people of the United States and promote the interests of agriculture. That is what this statute provides.

Mr. MANN. Oh, no; it is not for the purpose of getting useful information throughout the United States. If there is no law for doing the work, I do not see how there is any law for making the survey.

Mr. SCOTT. I think it can hardly be maintained that because there is no authority of law for doing a given work by the United States that therefore no authority can be conferred showing the people how to do the work. The soil investigation and a great many other investigations are carried on by the different bureaus of this Department all in the direction of diffusing useful information, and yet no one would claim that

the law would confer on the Department authority to go ahead and do the work which the bureau points out the way to do.

Mr. MANN. There is a project to drain the Dismal Swamp. Does the gentleman think that we would have a right on an agricultural appropriation bill to put in an item spending a hundred thousand dollars or a million dollars to investigate and find out how that was to be done without passing a law providing for it?

Mr. SCOTT. I think if it could be shown that the drainage survey of the Dismal Swamp would result in furnishing information to the people which would promote the interests of agriculture, that such work could be done under the authority of the general statute.

Mr. MANN. If there be general authority, then to give special authority is a change of law and absolutely makes it subject to a point of order.

Mr. SCOTT. I can not consent to that construction of it. It seems to me, as the chairman has just stated, that if the project is authorized by law then this phraseology simply places a limitation upon the appropriation.

Mr. LEVER. Mr. Chairman, if the gentleman from Kansas [Mr. SCOTT] will allow me to make a statement in this matter, I believe the gentleman from Tennessee [Mr. SIMS] will withdraw his point of order.

Mr. SCOTT. Mr. Chairman, I am quite willing that the gentleman should make his statement.

Mr. LEVER. Mr. Chairman, the Department was spending $74,000 already for this kind of work, and it asks for an increase of $8,000. They estimated for that increase and came before the committee and made their statement. The committee really gave them an increase of over $30,000, and that is entirely sufficient to do the work in which the gentleman from Tennessee [Mr. SIMS] is interested and in which I am particularly interested myself. I am satisfied that none of us can be hurt by diverting this fund to the work in Kansas.

Mr. SIMS. Why is it that the committee is pointing out here a specific work where the money shall be expended.

Mr. LEVER. I admit the point of order is well taken.

Mr. SIMS. Is it not bad policy to establish such a precedent?

Mr. LEVER. So far as that is concerned, the bill is full of these specific directions.

Mr. SIMS. If the bill is full of such as that, I am sorry somebody did not notice it before I did.

Mr. LEVER. We had an instance of it yesterday in which we directed that a certain amount in the Bureau of Soils should be expended in the State of New York.

Mr. SIMS. I suppose no one made any point of order on it, and they were willing to accept it.

Mr. LEVER. That is very true, and for that reason we would like to treat the gentleman from Kansas [Mr. SCOTT] with equal fairness.

Mr. SCOTT. Mr. Chairman, I should like to call the attention of the gentleman from Tennessee [Mr. SIMS] to the facts stated in the hearings here which show that work precisely similar to that provided for in this appropriation is now being carried on. The engineer in charge of the drainage service is Mr. Elliott, and on page 795 of the hearings and on two or three succeeding pages he states that last year they had several such projects. One was that of making a drainage survey in Red River—the valley counties of North Dakota. They did similar work in the Kankakee Marsh, in the State of Indiana, and they also made similar investigations of the tidal coast lands of South Carolina with a view of benefiting the rice-growing industry in those lands, and if I cared to take the time I could show the gentleman a number of projects precisely similar to this which are now under way. I may as well say that this phraseology was inserted in the bill at my request, and I asked to have it done for the reason that for the past four or five years there have been very disastrous floods in the Neosho River Valley, destroying many millions of dollars' worth of property. The people have attempted to remedy that situation by building dikes and cutting canals, but their work has been done without expert advice. There is nobody in the State who is competent to give that advice. Consequently the money to a large extent has been wasted. At the same time it seemed to them and it seemed to me and to the committee that if these drainage experts could be sent there to make a drainage survey of that river they could make a report which would show the people living along the valley where to expend their money to the best possible advantage. It is not proposed to follow this up with a request that an appropriation be made to do the work. Nothing of that kind is expected or desired. We are perfectly willing to do the work and bear the expense ourselves, but we do believe that it is a proper function of the Government to send its experts to show us how to do the work with the least possible expense and the best results.

Mr. SIMS. Without this provision here could not the Secretary of Agriculture under his general authority do that very thing?

Mr. SCOTT. Undoubtedly.

Mr. SIMS. Then why distrust him on the merits of the proposition?

Mr. SCOTT. I do not think he regards the insertion of these words as in any way a reflection upon him or as conveying the idea of distrust of him.

Mr. SIMS. It must necessarily be that.

Mr. SCOTT. I can say frankly to the gentleman that I simply wanted to see to it that this project was done this year.

Mr. SIMS. But the gentleman is not willing to trust the Secretary of Agriculture unhampered by statute.

Mr. SCOTT. There may have been pressure on him to do other work in other parts of the country. The hearings brought out the fact that precisely similar projects were under way in other parts of the country, but the hearings also brought out the fact that they had been sufficiently concluded so that the money asked for in this respect could be diverted to a new project without interfering in any way with the prosecution of the work already under way.

Mr. SIMS. Why not increase the amount $5,000 and leave it to the Secretary?

Mr. SCOTT. Because the amount stated is all that is needed.

Mr. WADSWORTH. I would state to the gentleman that the committee did increase this item to meet this in the gentleman's absence.

Mr. SCOTT. I am informed by the chairman of the committee that during my absence the amount was increased to meet this item.

Mr. SIMS. Now, then, it comes right down to the point that the gentleman wants to put a legislative halter upon a Cabinet officer after having appropriated the money to do the work.

Mr. SCOTT. I think the gentleman will remember that that is very frequently done, and I trust that in asking that it be done in this case I am not violating any precedents or casting any reflection upon a Cabinet officer.

Mr. SIMS. I certainly have no objection to that work being done. The only objection I have is to point out and specifically require a certain amount of a general appropriation to be spent for a particular work that the whole country is not interested in. In other words, suppose I want a job of that kind, and I go to your committee, or another man does, and asks the same thing, the first thing you know the whole appropriation is specifically appropriated and nothing is left to the discretion of the Secretary of Agriculture.

Mr. SCOTT. I simply repeat what I said, that this is a provision that is frequently inserted in appropriation bills, and the work is very important and so much desired that I very much hope the gentleman will withdraw the point of order.

Mr. SIMS. Do you not think all that will appeal to the Secretary of Agriculture?

Mr. SCOTT. Undoubtedly it will.

Mr. SIMS. Now, Mr. Chairman, it looks to me that is enough. There is no gentleman in the House for whom I have a higher regard than the gentleman from Kansas. I would like the best in the world to help him, but I see where it is going. We will all have these kind of things, and inasmuch as the case is so meritorious I am perfectly willing to trust the Secretary of Agriculture to do justice. Now, the chairman of this committee says the appropriation has been increased with this work specifically in view. Now, certainly after this discussion and statement on the floor of the House by the chairman himself the Secretary of Agriculture will so spend the money if the work is as represented, which I do not doubt.

Mr. SCOTT. I certainly would not ask the gentleman from Tennessee to withdraw the point of order as a personal matter, although I appreciate the expression of the gentleman's personal regard. I believe the point is not well taken, and will await the decision of the Chair.

The CHAIRMAN. It seems to the Chair this is not a limitation upon an appropriation, but an affirmative limitation upon the judicial functions of the Secretary of Agriculture, and the Chair therefore sustains the point of order.

The Clerk read as follows:

Salaries, Office of Public Roads: One director, who shaall be a scientist and have charge of all scientific and technical work, $2,500; one chief of records, $1,800; one instrument maker, $1,200; one editorial clerk, $1,200; one clerk, class 1, $1,200; three clerks, at $1,000 each, $3,000; two clerks, at $720 each, $1,440; in all, $12,340.

Mr. MANN. Mr. Chairman, reserving the point of order on that paragraph, I would ask the gentleman whether there is authority of law for this director of roads?

Mr. WADSWORTH. Under the ruling of the Chair, I admit there is none.

Mr. MANN. Is there any authority for the next item in the bill, may I ask the gentleman?

Mr. WADSWORTH. The item you are reading now?

Mr. MANN. No; we have read the one creating the officials, and I do not know whether it would be fair to strike out the authority to do the work and leave the officials in, and that is the reason why I ask.

Mr. WADSWORTH. Under the ruling just made, Mr. Chairman, I concede that the whole item of public roads is subject to the point of order.

Mr. MANN. May I ask the gentleman what is the value of this work? I think they built one public road once in my district for the benefit of some private parties——

Mr. WADSWORTH. The object of the appropriation, I think, is well stated in the paragraph on page 52:

To enable the Secretary of Agriculture to make inquiries in regard to the systems of road management throughout the United States; to furnish expert advice on road building; to make investigations in regard to the best methods of road making, and the best kinds of road-making materials in the several States; to investigate the chemical and physical character of road materials; for the employment of local and special agents, clerks, assistants, and other labor required in the city of Washington and elsewhere; for collating, digesting, reporting, and illustrating the results of such investigations and experiments.

Mr. MANN. May I say to the gentleman from New York that reading the bill does not give any information as to what they are doing. If this work is accomplishing any good, very well; but my impression has been, I say to the gentleman, that the men who have been in charge of this work have been practically engaged in traveling around the country advertising themselves and not doing any actual work, and if I am mistaken about it I will be glad to know it.

Mr. WADSWORTH. Let me say in answer to the gentleman from Illinois that the charge the gentleman makes perhaps had some ground of truth in it some months ago, but that has all been changed now, and the present head of the Bureau is a perfectly competent, honest man.

Mr. MANN. Then there is real reform there now?

Mr. WADSWORTH. I think there is.

Mr. THOMAS of North Carolina. Mr. Chairman——

Mr. MANN. Oh, well, I just reserved the point of order——

Mr. THOMAS of North Carolina. I will say to the gentleman from Illinois [Mr. MANN], Mr. Chairman, that I know the Office of Public Roads of the Department of Agriculture has been doing some exceedingly valuable work, not only throughout the country, but especially at this particular time in North Carolina.

Mr. PERKINS. What particular thing has it done?

Mr. THOMAS of North Carolina. I will state to the gentleman.

Mr. PERKINS. What particular specific, valuable work is rendered?

Mr. THOMAS of North Carolina. The language of the bill indicates the scope of the work performed by the Public Roads Office. It is as follows:

To enable the Secretary of Agriculture to make inquiries in regard to the systems of road management throughout the United States; to furnish expert advice on road building; to make investigations in regard to the best methods of road making, and the best kinds of road-making materials in the several States; to investigate the chemical and physical character of road materials; to collate, digest, report, and illustrate the results of such investigations and experiments, and to enable him to assist the agricultural colleges and experiment stations in disseminating information upon this subject—

Meaning the subject of public roads.

Now, Mr. Chairman, in reply to the question of the gentleman from New York [Mr. PERKINS] as to specific work, I do not know what has been done in other States, but I do know what has been done in North Carolina. Upon the request of the senior Senator from my State and myself, as Representative of my district, Mr. Page, who is a most efficient man and who is Director of the Office of Public Roads, sent down into my State a road expert. This road expert advised the citizens, who furnished the materials, in regard to the building of roads. He advised them with reference to the best character of materials to use and the best method of the improvement and construction of the road which runs from Magnolia, on the Atlantic Coast Line, to the county seat of the county of Duplin, Kenansville, and Mr. Page and this Office or Bureau of Roads are preparing to do most excellent work in other counties in that portion of North Carolina. There is no question but that Director Page is a most efficient man, and that his Office under his direction is doing most efficient work. The gentleman from Illinois [Mr. MANN] and the gentleman from New York [Mr. PERKINS], I believe, and other Members of Congress as well as myself, are interested in this particular item, or should be. The building of good roads means the extension of the rural free delivery, quick transportation, easier access to markets, and it means a great many other things to the people who live in the country. It will be a mistake on a point of order or otherwise to let this item go out of the bill.

Mr. PERKINS. Now, is it possible that in the great State of North Carolina——

Mr. THOMAS of North Carolina. Yes; it is a great State. I heartily concur in that observation.

Mr. PERKINS (continuing). There are no engineers, that there are no surveyors, that there are no persons to investigate, in behalf of the State, the building and construction of roads, and that they have to turn to Washington as their sole source of information. I know the gentleman is very tenacious about the rights of the States. I think the rights ought to also carry with them responsibility.

Mr. THOMAS of North Carolina. Well, I do not care to be diverted on the rights of the States. We can discuss that later; but I will say, in reply to the gentleman, that there are plenty of good engineers in North Carolina, and in New York, and in Illinois, but those engineers are not specialists, and when these experts——

Mr. PERKINS. I suppose——

Mr. THOMAS of North Carolina. Just a moment. When these experts are sent down by Mr. Page, who is at the head of the bureau of good roads, to North Carolina, or to your State, or any other State, they go there to advise the local engineers, and they are directed to cooperate with them.

Mr. PERKINS. Yes; but it seems to me an engineer whose business it is to build a road either knows enough to build the road, in which case he needs no other assistant, or he does not know enough, in which case he ought not to be employed at all.

Mr. THOMAS of North Carolina. It is not, I will say to the gentleman from New York, a question of building roads, with North Carolina or any other State, but it is a question of advice as to the best methods for the construction of the road and the best materials. I will illustrate this: The particular road to which I referred in my own district—from Magnolia to Kenansville—is being constructed by cooperation between the citizens and State and National governments. Mr. Page sent a road expert there. He was instructed to meet the representative of the State and county, and this Government road expert advised how to select the very best material for the construction of this road, which runs 10 or 12 miles from the railroad, out to the county seat.

The Agricultural Department, through the Office of Public Roads, besides furnishing an expert engineer to cooperate with and advise the State and county authorities and citizens as to materials and construction, also furnished some road machinery.

The citizens subscribed liberally to build the road, had public meetings, and took great interest in its construction, and did their part in every way.

The citizens furnished all the materials, labor, etc. The Government sent the expert and machinery—some machinery.

The expert's advice was very valuable in selection of materials.

Mr. PERKINS. If we had a man up our way, when we were building a public road, who would not be able to select good material, but would have to run somewhere else to get advice, we certainly would discharge him, and I think they would do the same in North Carolina.

Mr. MANN. If somebody else did not have to pay for it.

Mr. PERKINS. The public pays for it.

Mr. THOMAS of North Carolina. Well, if the public pays for it, this is a great public object. This small appropriation of $60,000 is not only for North Carolina, but applies to the whole country. I think it is something that the gentleman from New York is interested in as well as I am. While I am a States rights man, I feel justified in having the advantage of the advice of a Government expert as well as of the good engineers down in North Carolina in building good roads there and elsewhere.

Certainly there are few objects more important to farmers and those who live in the country than good roads. This item has been in the bill for many years, and results have been good. Now, in regard to the point of order, I think this is a continuation of a public work and public object, and therefore the paragraph would not be subject to the point of order. I hope, however, that the point of order will be withdrawn.

By leave of the House, and in extension of my remarks upon this subject, I submit the following statement of the work of the office of public roads, obtained from the Director:

During twelve years, since the establishment of the Office of Public Roads, the aggregate appropriation by Congress has been only $196,000. On this small appropriation the office has maintained a corps of engineers and experts, who have made comparative investigations into all known methods of road construction and all known road-making ma-

terials; have conducted careful tests and experiments for the purpose of discovering or providing substitutes for natural road materials which could be used for road building without excessive cost. The benefit of its investigations has been given to the general public in the way of engineering advice and expert supervision in the construction of approximately 100 object-lesson roads. All of these roads were built at local expense and served a most excellent purpose, the entire cost to the Federal Government being limited to salary and expenses of the engineer and expert. Road machinery was secured by the office in most cases from the manufacturers without cost to the Government. A road-material laboratory is maintained for the purpose of testing free of charge to citizens of the United States samples of road material. The value of this laboratory work is apparent when it is known that certain qualities are absolutely essential in a stone in order to make it suitable for road construction. The tests of the laboratory determine what material available is best suited for a particular road.

During the past year, with an appropriation of only $35,000, 21 object-lesson roads were built and much assistance was given to local communities in the form of lectures, advice to local officials, and by the dissemination of information through publications of the office.

At present object-lesson roads are being constructed in North Carolina, Alabama, Louisiana, Washington, Oregon, Maryland, Nebraska, Kentucky, Indiana, District of Columbia, North and South Dakota, and Montana. An example of the value of this work is that in Duplin County, N. C. The county officials did not feel that the county could afford to build hard roads, and they had tried, without success, to build other types of roads. An object-lesson road was constructed at Kenansville of sand and clay, mixed in the proper proportion,, which is proving a thorough success, the total cost being only $500 per mile. This short section of road has had the effect of inducing the local authorities to continue improving the roads of the county in the same manner.

Many special problems arise in carrying on the work, and discoveries are made which will undoubtedly have an important bearing upon the future of road building.

During the past summer experiments were conducted at Jackson, Tenn., in the use of oil and tar as road materials. Important results were obtained, justifying continuance of the experiments, and arrangements have been made whereby sections of road will be treated with oil and tar, in cooperation with the War Department, within the next few weeks. The results of these experiments may be far-reaching in prolonging the life of the ordinary macadam road and in satisfactorily disposing of the dust problem.

Vast areas of country in the Mississippi Delta and in the prairie region are destitute of natural road materials. The Office has been conducting experiments in burning clay or gumbo, with a view to its use as a hard substitute for rock. Results thus far obtained are gratifying, and it is hoped will have some effect in mitigating the conditions now prevailing in those sections of the country.

The sand-clay method of construction is being introduced by the Office in portions of the country where it can be successfully adopted and where hard roads are impracticable, and gratifying results have been achieved in North Carolina, Alabama, and Florida especially.

For some time past investigations have been carried on in the chemical laboratory of the Office of Public Roads on a number of problems the solving of which are of the utmost importance to the intelligent road builder. As a result of these investigations much valuable information has been obtained, which will in the near future undoubtedly help to perfect the methods now employed in road construction. As a result of the study of the effect of water on rock powders the direct cause of the cementing value of different road materials has been explained. This property is one of the most important factors in the life of a road, as upon it depends the preservation of the road proper from the destructive action of rain and wind. A good cementing rock will produce a clean, compact wearing surface, while one lacking in this respect will produce a loose surface, easily rutted and worn away.

It has been found, as a result of work done in this laboratory, that the cementing value of rocks which are ordinarily poor in this respect can be greatly increased by mixing in proper proportions with rocks of a different nature, and that the results obtained from thus blending the two materials may be increased to a point far beyond that of either separately. For instance, a granite whose cementing value was found to be 6, when mixed with a limestone whose cementing value was 20 gave a material whose cementing value reached 82, an increase of over four times that of the limestone alone and over seven times their common average.

In studying the decomposition of feldspars under the action of water the amount of potash liberated was found to be so great that the idea suggested itself of using the material as a fertilizer. Acting upon this suggestion, experiments have already been made in cooperation with the Bureau of Plant Industry upon tobacco plants, using the ground feldspar as a fertilizer, and up to the present time the results obtained have surpassed all expectations.

This Office is now engaged in collecting information from every county in the United States in regard to the mileage of improved and unimproved roads, the amount of cash tax, the number of men required to work upon the roads, the amount of bond issue which has been used for road improvement, and other information of a similar nature. This information is practically complete for a majority of the States, only the statistics for the States of Washington, Arizona, Arkansas, Oregon, and Virginia having been published up to the present time. The circulars for North Carolina, Alabama, and Iowa are now available. The total expenditures for the States named above, including the estimated cash value of the labor tax, for the year 1904, were as follows:

Washington	$1,436,070.19
Arizona	109,309.43
Arkansas	1,395,342.80
Oregon	796,375.97
Iowa	3,106,607.50
Alabama	1,576,434.27
Virginia	687,751.06
North Carolina	1,358,687.23

The percentages of roads which have been permanently improved in the States above named are as follows:

Washington	6
Arizona	4
Arkansas	7
Oregon	7.5
Iowa	1.7
Alabama	3.4
Virginia	3
North Carolina	2.5

The work of collecting this information has consumed about a year, and the expense has been about one-tenth of the total appropriation for the Office—that is, approximately, $5,000.

It is proposed to continue and enlarge this investigation next year by collecting information regarding the methods and cost of building roads throughout the United States.

The Office, through both foreign and domestic publications, uses every means possible to keep in touch with modern methods of road improvement and the testing of road materials, and has complete files of all reports and journals dealing with the subject, which are available to all road builders of the country.

Mr. MANN. Some years ago this department of the Agricultural Department came down into the district that I then represented to build a road. We certainly had many engineers in Chicago who would do it just as cheaply or cheaper than they did. It was of absolutely no value to anybody, except the people living on the road, and they did not want to pay for it. Now, it may be that this service is valuable. I do not know. I have never seen anything of it. I have read their reports, and their reports are silly, as a rule, as far as any value respecting building roads is concerned. In cities where they have engineers engaged in constructing a macadam or other kind of street, they do not need the service of any engineer from the Agricultural Department. The people of the country who have to work on the dirt roads do not need the services of these people over here. It may be in North Carolina, where they have plenty of material at hand, that they can build the roads. Road building is not a great problem.

Mr. HENRY of Connecticut. The gentleman from Illinois is criticising the past conditions in the Department here, and I think the points he makes are very well taken, as applying to the bureau of road inquiry several years ago.

Mr. MANN. I was just going to remark, for the benefit of my friend from Connecticut, I dislike very much to interfere with any work carried on by the Agricultural Department, which I think is the best Department of the Government, so far as work is concerned. And, so far as I am concerned, I am going to withdraw the point of order and allow this to go over for another year, and see whether this Bureau of the Agricultural Department will do any good. I hope the time will come when that will be taken out. I withdraw the point of order.

Mr. HENRY of Connecticut. I thank the gentleman.

The Clerk read as follows:

Public roads: To enable the Secretary of Agriculture to make inquiries in regard to the systems of road management throughout the United States; to furnish expert advice on road building; to make investigations in regard to the best methods of road making, and the best kinds of road making materials in the several States; to investigate the chemical and physical character of road materials; for the employment of local and special agents, clerks, assistants, and other labor required in the city of Washington and elsewhere; for collating, digesting, reporting, and illustrating the results of such investigations and experiments; for preparing, publishing, and distributing bulletins and reports; for rent and repairs of a building not to exceed $1,200; for necessary office fixtures and supplies, apparatus, and materials; telegraph and telephone service, traveling and other necessary expenses, and to enable him to assist the agricultural colleges and experiment stations in disseminating information on this subject, $47,660.

Total for Office of Public Roads, $60,000.

Total, Department of Agriculture, $7,040,460.

Mr. LLOYD. I would like to ask the chairman of the committee what connection there is between the Public Roads Inquiry department and the National Good Roads Association?

Mr. WADSWORTH. None whatever, that I know of.

Mr. LLOYD. Is it true that the National Good Roads Association has been announcing to the country that it does have connection with the Bureau of Public Roads Inquiry?

Mr. WADSWORTH. Not that I know of. I have never heard it and have never seen it in print.

Mr. HENRY of Connecticut. I think that is true; but it is an assumption on the part of the National Good Roads Association. The Department of Agriculture, the Secretary and Mr. Page, who has that work in charge, repudiates any connection with the National Good Roads Association.

Mr. LLOYD. That is exactly my information.

Mr. HENRY of Connecticut. The claim of the National Good Roads Association has brought discredit upon the work of the Department.

Mr. LLOYD. My purpose in calling attention to this matter was to draw out exactly what the gentleman from Connecticut says—that the National Good Roads Association has been claiming that it did have connection with the public road inquiry department, and the effect of it has been to discredit this branch of governmental work.

Mr. WADSWORTH. I answer the gentleman to the best of my knowledge. I had no knowledge that they had advertised themselves in that way at all.

Mr. THOMAS of North Carolina. I wish to ask the gentleman from New York a question that I had intended to ask when the point of order was made, and I want to join with the gentleman from Connecticut in thanking the gentleman from Illi-

nois for having withdrawn the point of order. Do you give to the Bureau of Public Roads the amount which the Department asks this year?

Mr. WADSWORTH. We do not give them the estimates; we raised the appropriation $10,000 over last year.

Mr. THOMAS of North Carolina. I am glad to know it.

Mr. WADSWORTH. Mr. Chairman, I want to remind the Clerk to correct that total. It has been changed by the addition we have made to the Bureau of Plant Industry.

The CHAIRMAN. The Clerk does not make it. The Chair would state to the gentleman from New York that it is necessary that the changes be suggested.

Mr. WADSWORTH. Very well; let it be passed for the time being, and I will make the computation and give the correct figures.

The Clerk read as follows:

To enable the Secretary of Agriculture to meet the emergency caused by the continued spread of the gypsy moth, $65,000, or so much thereof as may be necessary, is hereby appropriated and made immediately available. And the Secretary of Agriculture is hereby authorized to expend said appropriation by establishing a quarantine against such further spread in such manner as he shall deem best, in cooperation with the authorities of the different States concerned and with the State experiment stations.

Mr. PERKINS. I move to strike out the last word.

There seem to be two appropriations for the same thing here.

Mr. WADSWORTH. Mr. Chairman, if my colleague from New York will read these items, they explain themselves.

Mr. PERKINS. I have read them, but I do not understand them.

Mr. WADSWORTH. One of them is for the Bureau of Plant Industry:

To enable the Secretary of Agriculture to meet the emergency caused by the continued spread of the Mexican cotton boll weevil in the Southern States by encouraging the diversification of crops, improved cultural methods, breeding of new cottons, and to study the diseases of cotton.

Now, under the Bureau of Entomology:

To study the habits and damage of the pest, the collection of data regarding its status, the study of parasites and diseases, the testing of remedies suggested, and the completion of experiments now under way.

Mr. PERKINS. It is not the same thing then?

Mr. WADSWORTH. Oh, no; one is under the Bureau of Plant Industry and the other is under the Bureau of Entomology.

Mr. PERKINS. I do not care about the bureaus, but do they do different work?

Mr. WADSWORTH. Absolutely. One treats absolutely of the cultural methods and the other of the parasites.

The CHAIRMAN. If there be no objection the pro forma amendment will be considered as withdrawn.

Mr. ROBERTS. Mr. Chairman, I move to strike out the last word. I made that motion, Mr. Chairman, for the purpose of begging the indulgence of the committee that I may make a statement concerning this paragraph which has just been read.

There was an understanding, while general debate on the bill was in progress, that I should be allowed one hour, but owing to the time occupied by the tariff speeches it was not possible for me to be granted any time. I therefore ask the unanimous consent of the committee that I be allowed to proceed for thirty minutes.

The CHAIRMAN. The gentleman from Massachusetts [Mr. ROBERTS] asks unanimous consent to continue his remarks for thirty minutes. Is there objection?

There was no objection.

Mr. ROBERTS. Mr. Chairman, as the result of bills introduced by me the Committee on Agriculture have incorporated in the pending measure an appropriation of $65,000 for establishing a quarantine against the further spread of the gypsy moth. This pest was not known in this country prior to 1868. It had been known in foreign countries for over a century prior to that time, and had ravaged extensive tracts of country in the European portion of the Eastern Hemisphere, doing immense damage.

In 1868 Prof. Leopold Trouvelotte, a distinguished French astronomer and scientist, residing at that time in the town of Medford, Mass., introduced some of these gypsy moths for the purpose of experimenting with them, with the idea of introducing a new silk worm into the United States. In the course of his experiments some of these moths escaped. It is not known definitely how, but it is thought that some of them escaped from the bushes upon which he was feeding them in his garden, by reason of a high windstorm which destroyed the netting he had over them. However it may have been, they escaped, and immediately upon the professor's becoming aware of that fact he notified the local authorities of the danger which menaced the community from the escape of these insects.

The people knew nothing of the insect or what it would probably do in the community, and little or no attention was paid to it.

For twenty years nothing was done to exterminate or in any way to control the spread of these insects. In that time it developed quite rapidly, and in 1888 it became such a serious menace and was doing so much damage in the town of Medford that the local authorities took the matter up, and in 1890 they brought it to the attention of the State legislature. In that year the State legislature began to appropriate money for the extermination of this pest.

Let me read briefly from a handbook issued by the State of Massachusetts in 1898 for the information and guidance of our citizens. That was some eight years after the State had commenced spending money to exterminate the pest. They say:

The gypsy moth destroys nearly every useful grass, plant, flower, shrub, garden or field crop, fruit, shade, or forest tree which grows in Massachusetts, and is a menace to the agriculture, horticulture, and forestry of the entire United States.

That was not an alarmist statement by any means, as will be seen if anybody will take the trouble to examine the document I have here, which is issued by the city of Medford, showing the conditions existing in that city resulting from the depredations of this moth.

Mr. JOHNSON. How does the moth extend itself?

Mr. ROBERTS. The moth extends itself largely by means of the automobile, carriages, freight trains, and such methods as that. I will come to that point a little later, if the gentleman will permit me.

The moth of itself does not spread rapidly, for the reason that the female bearing the eggs can not fly to any considerable distance. If the female moth attempts to leave the tree where she may be she comes to the ground within a distance of 100 or 200 feet. She can not fly off laterally, as can most moths that we know of. For that reason the spread of this moth has not been as rapid as has been the spread of other insect pests of that nature in the country. The danger, however, from this moth lies in the fact that it is omnivorous. As I have quoted from this pamphlet, it eats almost everything that grows in the State of Massachusetts. It was stated before the Committee on Agriculture, at the hearings held this year, by Professor Fernald, of the State Agricultural College of Massachusetts, who had been for years connected with the work of exterminating the gypsy moth in our State, that he had been in charge of the experiments carried on in connection with that work. His efforts were directed to ascertaining what the moth fed upon, and he found that it ate nearly everything that grew in our State. He says:

In regard to the destruction of this insect: Many of our insects feed on a single food plant, and they may destroy that one food plant; but here we have an insect that feeds upon about everything that comes along. I have a list of plants which he has fed upon in the State of Massachusetts, which reads as follows:

"Food plants of the gypsy moth: Apple, crab apple, pear, plum, cherry, quince, apricot, lime, pomegranate, peach.

"Grape, gooseberry, currant, strawberry.

"Rose, wild rose, woodbine, hydrangia, wisteria, umbrella tree, barberry, poison ivy, Japanese quince, lilac.

"Cabbage, dandelion, lettuce, celery, horse-radish, plantain, burdock, other weeds.

"Corn, herds grass, other grasses.

"Elm, linden, maple, poplar, balm of gilead, birch, beech, oak, ash, butternut, buttonwood, walnut, hickory, locust, sycamore.

"Horse chestnut, ironwood, English hawthorn, catalpa, willow, hop hornbean, hazlenut, witch-hazel, wild red cherry, wild black cherry, chokecherry.

"Spruce, pine, fir, larch, cedar.

"Cotton plant."

When we go through that list we have not much else in Massachusetts for them to feed upon. I will mention that my friend Mr. Kirkland, who was at that time in charge of the scientific part of the work under my direction, sent down into the South and had some fresh cotton plants sent North, and the caterpillars were put on that, and they ate the whole thing. I wonder what would be the result if this insect were allowed to spread and should get into the fields in the cotton belt.

This gypsy moth is unique in this respect, that it attacks coniferous trees, and one stripping of a coniferous tree means the death of that tree. It attacks the other kinds of trees as well, but the deciduous trees will stand two and sometimes three strippings and still live. Usually, however, the third stripping means the death of the tree.

The life habits of this insect are what make it so extremely dangerous when introduced into any community. That is owing to the fact that the female seeks the dark and obscure places in which to deposit her eggs. They do not deposit their eggs out in the open, like most moths, where they can be seen and easily destroyed. If they can find a place under the bark of a tree, if they can find a place under a loose stone or in the crevices of stone walls, or get under a dead and rotten tree, there they will deposit their eggs. They not only deposit eggs there, but in thickly infested districts they swarm over the

houses and outbuildings and deposit their eggs under the steps, under the clapboards, and in all places that are dark and out of the way. This fondness for the darkness makes it extremely difficult to hunt up and destroy its eggs while the insect is in that stage of development. The greatest periods of danger of spread of this moth are of course while they are in the moth and caterpillar stages. These eggs hatch out in April and May; they are beginning in the infested districts to be hatched out at the present time.

As soon as the eggs are hatched the little caterpillars begin to feed on everything they come to, and when they have eaten all the foliage on the tree upon which they may have been hatched they move down on the ground and eat the growing crops. Prof. A. H. Kirkland, the director of the gypsy moth work in Massachusetts, says:

There are many cases where the moth has multiplied in woodlands and orchards, and run out of food, and then it comes down to the garden crops, and then to the grass, and makes a clean sweep wherever it goes. This last summer I knew of a market gardener who lost his entire crop from the moths from the woodland near by. They increased and multiplied in there until they simply boiled over and took his entire crop. That was on Mr. Charles Cummings's property in Burlington, Mass.

The next stage is the pupal, in which the caterpillar goes into the chrysalis form, from which it emerges as a moth again. There is danger of the pest spreading when in all its forms, but it is more likely to be carried from one section of the country to another when in the egg, caterpillar, and moth periods. When the eggs have been deposited you have the nucleus of a new colony, the growth of which will be rather slow at first, but they will increase with alarming rapidity. The eggs are laid in clusters of about 500 during the months of July and August and do not hatch until the following April or May. In this form the liability of a further distribution of the moth is quite serious. Prof. H. G. Wheeler, representing all the agricultural organizations of Rhode Island, including the State board of agriculture, says:

We have at the present time, I have been told within two or three days, a lot of lumber which was shipped in from Massachusetts, and this lumber is covered, I was informed, with the egg clusters of the gypsy moth, and they will hatch out in the spring and start out on their travels if we are not successful in exterminating them.

So that you will see that the menace is not only from the automobile, but it also comes from other materials which are shipped from the infested region; and, furthermore, they have a custom of sidetracking cars in Massachusetts occasionally, and they are shipped out to other States, going all over the Union, and unless every car which goes out is examined there will be continual danger of this pest being carried. Now, I fear that our appropriation is not large enough to bring about the extermination of this moth, but we intend as far as possible to draw a line around the infested area and try to keep it within its limits, and also to try to have an inspection around each railway station. Railway stations are likely to be centers of infection. We feel in Rhode Island that the thing is liable to be carried at any moment by means of the New York, New Haven and Hartford Railroad, and by the large number of automobiles passing through our State, into Connecticut and New Jersey. From our standpoint the reasonable proposition seems to be to establish if possible a quarantine line.

When the young caterpillars emerge from the egg clusters they crawl about in search of food. At this time they can exist for a week or more without food and may and often do wander a hundred feet from the place of birth before they commence feeding. As soon as they are hatched these tiny insects begin spinning a silken thread, and while thus suspended they are blown from place to place by the wind, and, falling upon passing vehicles, are conveyed to distant places, there to found a new source of trouble and damage. Testimony is abundant and conclusive that the gypsy moth has been widely spread in Massachusetts in this way. About the 1st of July the caterpillars pupate and remain in the pupal state a little over two weeks, when the moths begin to appear, the males a few days in advance of the females. If nature had endowed the female with the same ability to fly as the male, it would be impossible to prevent the rapid spread of this pest over the entire eastern portion of the United States, but while she has well-developed wings she is either too heavy with eggs or else too weak to fly. Concerning the spreading of the moth, I beg to quote from the Massachusetts Crop Report for July, 1904, issued by the State board of agriculture, as follows:

We have spoken of the natural spreading of the pest, but the artificial distribution by the insects falling on teams and other vehicles is much more important. Teams passing under infested trees early in the spring, or even when the caterpillars are half grown or more, take on a number of these accidental insect passengers and transport them from place to place. In this way the moth has become thoroughly distributed along the main lines of travel. Wood roads and other places much frequented by the public are also generally infested. The grounds around Bunker Hill Monument and at Mount Auburn Cemetery are two localities which remain infested from year to year, and which well illustrate the point. However severe the suffering and loss which have occurred in recent years in the metropolitan district, it is not to be compared in its economic significance with that which will result through the spreading of the moth into noninfested areas. Large colonies such as now exist in Arlington, Medford, or Malden continually menace not only the territory immediately contiguous, but also the towns and cities lying along the lines of travel which pass through these regions. The writer has repeatedly found the caterpillars on his team after a day spent in the moth colonies. Several people have reported finding the gypsy moth caterpillars in electric cars. At the Oak Grove station on the Boston and Maine Railroad the caterpillars literally have hung in festoons, under which it was practically impossible for passengers to walk without picking up one or more caterpillars. Dr. L. C. Jones, of Malden, an observant naturalist as well as a skilled physician, informs the writer that he has seen female moths in considerable numbers laying their eggs on trucks and sides of freight cars at the Oak Grove station. These few facts, taken at random from a large number of authentic instances, show the means by which the moth is spreading from the neglected colonies and portend a wide distribution of the insect in the course of a few years.

I started to tell the committee a moment ago that the State of Massachusetts began this work of extermination in 1890. They carried on that work every year until the 1st of February in the year 1900, and during that time the State expended out of the public treasury nearly a million and a quarter of dollars, and succeeded in reducing this pest to a comparatively small area. When the work ceased in 1900 the gypsy moth was found in an area of only about 350 square miles. The work was not taken up again in Massachusetts until last year, 1905, and when it was taken up it was found that between the 1st of February, 1900, and the year 1905, a period of about five years, these pests had extended over an area of 2,224 square miles. Not only had they spread from 350 square miles to 2,224 square miles in the State of Massachusetts, but they were also found to be in the State of Rhode Island and in the State of New Hampshire, and it is believed they are in the State of Maine. Since the entymologists of the New England States appeared before the Committee on Agriculture I have seen a statement in the press that gypsy moths have appeared in Connecticut along the line of the New York, New Haven and Hartford Railroad, showing they are spreading more rapidly now than they did in the decade from 1890 to 1900. The scientific men attribute this great and rapid spread to the large increase in the number of automobiles which are traveling about the country and which go through these infested districts taking the moths in the caterpillar state along with them and depositing them in these remote sections. But as I have before indicated, that is not the only method by which these moths are transmitted. In this connection I desire to call the attention of the committee to a communication received by Professor Marlatt, Acting Chief of the Division of Entomology, since the agricultural bill has been under discussion. It is from C. Abbott Davis, the curator of the Roger Williams Park Museum in the city of Providence, R. I., and is as follows:

ROGER WILLIAMS PARK MUSEUM,
Providence, R. I., April 21, 1906.

MR. C. L. MARLATT.

DEAR SIR: A short time ago Professor Stene, of Kingston College, and myself began a systematic survey of the gypsy moth districts to see if they were spreading. We hunted up and found the map made by Mr. James M. Southwick, and have discovered startling facts. They have spread over Ward 6 till they are within one block of Roger Williams Park. They are on all the principal avenues of the west side, are known to be in six out of ten wards, and may be in the others. We got a $5,100 appropriation pushed through at the last session of the State legislature, and are now at work on the city council for an additional sum. The United States Government ought to help also, as they are within one-half mile of the docks and will be carried all over the Atlantic coast by our ships. Professor Kirkland says that they have been carried to Connecticut from here on the New York, New Haven and Hartford Railroad, whose track is badly infested at several places. They will be spread all over Rhode Island by the automobiles, as they are along Elmwood avenue, Cranston street, Broad street, Broadway, and Westminster. My time will probably be devoted to trying to save our parks. If you can come on now it will do a lot of good, and try to impress on the authorities that the gypsies are spreading rapidly toward New York and Washington. Special appeals will be made directly to Senator ALDRICH and President Roosevelt by the State League of Improvement Associations and others. We begin work Monday here on Roger Williams Park and surrounding orchards, but have little money to work with.

Respectfully, C. ABBOTT DAVIS, *Curator.*

Now, for the eleven years that the State of Massachusetts was at work on this problem we were trying to hold the moth within the limits in which it appeared, and we were also trying to exterminate it within those limits, and, as I have stated, we expended nearly a million and a quarter of dollars of our own money in that effort; but in spite of all the money we spent, in spite of all the care we exercised to prevent the spread of these moths they got outside of those limits and into the adjoining States, and they are probably spreading from day to day now. It is not at all improbable that there may be colonies of these moths now located in New York, New Jersey, Pennsylvania, Delaware, and all that tier of States lying to the west of the New England States. When they first make their appearance they do not attract particular attention, because they have not developed to a sufficient extent to become a nuisance, but having been once established they, growing like a wave rolling in from the sea, increase every moment until the first thing the people of the vicinity know there is an outbreak of this pest, and it is firmly established in their midst, only to be controlled by great effort and the expenditure of

vast sums of money. If this pest finds lodgment in the forest regions of this country, it is impossible to calculate the amount of damage that will ensue, largely because of the difficulty of combating it and the great labor and expense of controlling or exterminating these insects.

The liberal expenditures of Massachusetts, aggregating more than a million and a half of dollars, spent and being expended, does not by any means measure the cost to the State and her citizens of their fight against the gypsy moth pest. Professor Marlatt, in Circular No. 58, issued by the Bureau of Entomology in July, 1904, estimates that in the two preceding years there was an expenditure by individuals aggregating $200,000 annually. He says:

The amount expended during the last two years in such work of control, judging from careful inquiry and estimate, probably almost equals the amount expended by the State during the years of its most active operations against the gypsy moth, namely, approaching $200,000. A single individual, Gen. S. C. Lawrence, has, for the last three years, had a large force of men working on certain gypsy moth colonies in his own and adjoining forest lands, expending each year, as he assures the writer, more than the actual value of the lands. Hundreds of individuals in each town have expended sums ranging from $10 to $100 in the control of the gypsy and brown-tail moths. Nearly every town corporation has made expenditures of from a few hundred dollars to several thousand dollars for the same purpose. A number of experts, or foresters, have gone into the business of clearing the premises of individuals of gypsy and brown-tail moths, and find constant employment for considerable forces of men. In general this work is excellently done.

I think his estimate is very conservative, and it is beyond question that the annual outlay by municipalities and individuals has enormously increased since his report was made.

There is something very singular with regard to insect pests.

INTRODUCED PESTS THE MOST NOXIOUS.

Experience shows that pests introduced into a foreign country congenial to them are far more destructive than in their native home.

THE SAN JOSE SCALE.

The San Jose, or "pernicious," scale was introduced into this country in 1870. Though scarcely noticed as a pest in foreign lands, it has already developed frightful capacity for injury here.

THE COTTON WORM.

The cotton worm, an introduced native of Mexico and the West Indies, and not especially noxious there, has ravaged the cotton crop of this country nearly every year since 1825, and has caused in the United States a recent average loss of from twenty-five to fifty million dollars a year.

HUNDREDS OF MILLIONS OF DOLLARS WASTED.

The grape phylloxera, a native of this country, has never been considered here a serious pest. Introduced into France some thirty years ago it nearly destroyed the entire grape industry of southern France. Extending to Portugal, it destroyed the livelihood of many thousands of people. They, emigrating to Brazil, carried the pest there, and it is to-day as great a scourge in Brazil as in Portugal or France. It has also been introduced into other countries, notably Spain, South Africa, and Australia, where it has become a plague of the first magnitude. It has cost France hundreds of millions of dollars, and the people are still fighting it at a heavy cost. The Governments of Germany and Russia, profiting by the experience of France, have wisely adopted energetic measures to stamp it out wherever it appeared, and it has made no headway in these two countries.

I stated these pests were known in European countries since 1752, and that they have done great damage in various sections of Europe. In this same handbook, from which I quoted a moment ago, there appear many extracts showing what has been observed concerning them by the scientists of various countries, from which I quote:

EUROPEAN RAVAGES.

Insects have been scientifically named only since 1758, and therefore their ravages before that date can not always with certainty be ascribed to any definite species. Since then, however, the recorded observations of competent observers show that the gypsy moth has appeared in enormous and destructive numbers in some part of Europe nearly every year. The following, selected from among many other definite records, will give a fair idea of the destructiveness of the gypsy moth in Europe:

THE PEST OF THE FRUIT GARDEN.

1752.—From an account of gypsy-moth ravages, by Jacob C. Schäffer:

"The quick increase and great harmfulness of some sorts of caterpillars were already known to me, * * * but alas, all the ideas which I had entertained heretofore were as nothing to the spectacle which my eyes now beheld; I found, not only in many places in Saxony, but in Zeitz, Altenburg, Naumburg, Sangerhausen, and other counties, that the trees in gardens and vineyards, the bushes in fields, yes, even whole forests, were stripped of their leaves. The branches and limbs were thickly covered with caterpillars instead of leaves, and the caterpillars also lay in hosts upon the ground."

1781.—From C. G. Rimrod, pastor of Quenstedt, in the dukedom of Mansfeld, Germany:

"In the beginning of July, on returning home from a week's absence, I found my whole orchard presenting a winter's appearance in the middle of summer; the white linen hung out to dry in the yard was entirely blackened by the caterpillars. * * * The caterpillar which has thus devastated the fruit trees in my neighborhood and destroyed the hopes of our orchardists is no new monster in nature (but well known). * * * I see nothing which can reconcile the gardener or economist to this hateful insect."

1794.—Panzer (Germany) says:

"These caterpillars appeared for many years in phenomenally frightful numbers, and destroyed our fruit trees, to the utmost misfortune of their owners."

1804.—"On account of its large broods and great voracity the gypsy moth is a formidable insect, against which very active measures must be taken. Linnæus calls it the pest of the fruit garden." (Bechstein, Leipzig.)

EXTREME DEVASTATION OF FOREST TREES AND CROPS.

1817.—"The fine cork oaks which extend from Barbaste to Podenas (France) are completely devastated by the caterpillars of the gypsy moth, which have destroyed not only the leaves, but the acorns. This sort of caterpillar is not at all particular about its food, but is satisfied with anything, feeding, indeed, on nearly everything that possesses leaves. It has attacked our corn and millet, our pastures, our few vines, and our fruit trees in general. The houses near infested places are filled with insects, and can no longer furnish the unfortunate owners with dwelling places." (From French journals of the time, quoted by Prof. E. Henry and others.)

1828.—Daudeville, speaking of the gypsy moth, says that over one district (near St. Quentin, France) of about 60 square miles "the insatiable insects stripped the trees bare as in winter, and attacked not only the leaves, but the buds, blossoms, and fruit of the trees, and, as a result, many trees died."

1837–1839, 1842.—"The gypsy moth completely devastated in three years a region around Toulouse of about 230 square miles [about the extent of the whole region in Massachusetts which has so far been infested by the gypsy moth]. The hosts of caterpillars at this time made, in feeding, an ominous noise, plainly audible from a distance." (Joly.)

ENORMOUS HORDES—TREES KILLED.

1851–1853.—Abstract of account of Doctor Gerstäcker, Germany:

"Of destructive caterpillars this caterpillar may be mentioned first as being the largest and most ravenous. I know of instances in which many trees—beeches and others—have died from the effects of its ravages. In the great devastation of the Zoological Gardens at Berlin in 1851–1853, the gypsy moth caterpillar attacked all sorts of trees and shrubs, both native and foreign."

1852.—A vast army of gypsy moth caterpillars, having stripped the foliage from the trees in the provinces of Kazan, Kishenev, and Ekaterin, betook themselves to the young shoots and completely ruined many trees. (Keppen, Russia.)

1861.—Gypsy moths were seen marching in armies from the mountains of Majorca, the trees of which, including evergreens, they had completely stripped. (Homeyer.)

1868.—The gypsy moth every year causes much damage, and in certain cases it becomes a veritable plague to agriculture. (Blanchard, Paris.)

1867–1869.—In the provinces of Kazan, Samara, and Pensa (Russia), forests, orchards, nurseries, and gardens suffered a most shocking devastation by the caterpillars, whose numbers were frightful to contemplate. By June great forests looked bare as in winter, and in places the gypsy caterpillars, dying from starvation, formed putrid masses which the police were forced to order removed. (Keppen.)

1869.—So numerous were the caterpillars of the gypsy moth that no tree or shrub was spared; they all stood leafless, pointing their bare branches like fingers of warning at the beholder, as if they begged for his protection against such a destructive enemy. (Ratzeburg, Germany, in Die Waldwerderber.)

1871.—These caterpillars stripped the forests of Chianti, Italy, to an extent and with a severity that was frightful. Many of the oaks were destroyed. (Appelle Del.)

1871.—The gypsy-moth caterpillar not unfrequently appears in the Crimea in enormous hordes. During 1871 it nearly destroyed the gardens of the Crimea. (Porchinsky.)

1872.—The damage done by the gypsy moth in 1872 was great in Sarne, province of Posen, especially so among the fruit trees, of which many died. (Pabst, Germany.)

1878.—The caterpillars so abounded in the vicinity of Zmiev, Russia, that in migrating from one forest to another they marched over and literally covered the walls of the houses lying in their way. (Yaroschev.)

VAST REGIONS OVERRUN.

1879–80.—Nine provinces of Russia (covering a territory as extensive as all our Atlantic coast States, from Maine to Florida, inclusive) were overrun by the gypsy moth in 1879–80. (Gazen and other authorities.)

1880.—The gypsy moth caused the complete failure of the chestnut crop about Florence. *1882.*—It stripped the forests of northern Italy. *1883–1889.*—It devastated the woods of Tuscany. The gypsy moth is at times a veritable scourge in Italy. (Antonio Alio.)

1890.—In the forest of Perlacher, Germany, the number of caterpillars massed on the tree trunks bordered on the infinite. The ground was literally covered to a considerable depth with the manure constantly dropped by the caterpillars. (Eckstein.)

DRIVEN FROM THEIR HOMES.

1891.—In and about the park adjoining the Royal School of Agriculture the invading gypsy-moth caterpillars, having eaten the forest leaves, went to the gardens, grasses, herbs, and hedges, and even into houses, filling every crevice, climbing to the roofs, compelling the inhabitants to leave their homes. (From Bulletin No. 12 of the Royal Superior School of Agriculture, Portici, Italy.)

1891–92.—In the government of Warsaw, Poland, the gypsy moth appeared in immense numbers. The fruit trees of Warsaw were so injured that they bore no fruit. (Nasonov.)

1893.—It is hardly possible to enumerate here all the plants that the gypsy-moth caterpillar eats. This caterpillar feeds on almost all leaf-bearing trees, and even on evergreens, and is the arch enemy of horticulture. (Doctors Judsich and Nitsche, Germany.)

1895.—When the gypsy-moth caterpillars have eaten bare the forest trees * * * they move to the fields of grain, destroying oats, barley, and wheat. Considering their voracity and large size, it is easy to see the immense damage they cause in the foliage of trees when appearing in such enormous numbers, as was the case in 1894. (K. E. Lindeman, Russia.)

1897.—The latest official information at hand indicates that about a million acres of Government forest in Russia are now overrun by the gypsy moth, exclusive of the infestation of private holdings, which must be of vast extent.

You will notice that in 1891 in Italy these moths became so numerous that they drove the people from their homes. That is not an exaggeration, because we have had that same condition of affairs in Massachusetts. These caterpillars have swarmed about residences in such numbers that people have been obliged to move. They have depreciated the value of real estate, for people would not live in houses that were in these infected districts on account of the terrible nuisance of these caterpillars, which crawled over the house, into the doors and windows, even getting into the beds, and were an unendurable nuisance generally. Professor Kirkland said before the Committee on Agriculture:

The amount of harm done was simply tremendous. Real estate was made unrentable and in some places unsalable. Mortgages were foreclosed on property because tenants could not be found for it, and the havoc wrought in fruit and shade trees has been pitiful.

The State of Massachusetts has heretofore called the attention of the National Government to the conditions existing there with regard to the gypsy moth, but nothing has been done. In 1898 the legislature memorialized Congress, but the matter received no attention here. Again, last year a bill was introduced by me providing for some national assistance. As a result of that effort the agricultural appropriation bill of 1905 carried a provision of $2,500 for the investigation and introduction of parasites and other natural enemies of the gypsy and brown-tail moths. At the same time the State of Massachusetts had an appropriation of $10,000 a year running for three years—1905-6-7—for the same purpose, and out of that $10,000 appropriated by the State of Massachusetts $5,000 was set aside to be expended under the direction of Professor Howard, head of the Bureau of Entomology of the Department of Agriculture. Professor Howard went abroad himself, if I am not mistaken, and found what were thought to be parasites of the gypsy moth, and with the money of the State of Massachusetts brought over a number of those parasites, which are now being propagated in Massachusetts at the expense of the State, so that up to the present time all that the National Government has done in this regard has been to pay, out of an appropriation of $2,500, the bare traveling expenses of one of its scientists to make this investigation—the cost of collecting, transporting, and propagating the supposed parasites being borne wholly by the State of Massachusetts. But the State of Massachusetts did not stop with the appropriation of $10,000 a year. The same act which made that appropriation went further. It declared by statute law the gypsy moth to be a public nuisance and appropriated $75,000 for the year 1905, $150,000 for the year 1906, and $75,000 for the year 1907 for the purpose of extermination and control, this being in addition to the $10,000 a year for three years for parasite work, making $330,000 that the State of Massachusetts had obligated and is now herself expending in the attempt not only to exterminate this pest within her own borders, but to prevent its spread to the other States of the Union.

That act of 1905 was the most comprehensive and the most far-reaching that our State had ever enacted with regard to this insect. It declared the gypsy and brown-tail moths to be a public nuisance, and provided that communities and individuals must suppress the nuisance. If they do not suppress it, then there are provisions in the statute for public officials to go onto the premises, do the work, and charge up the cost to the owner, the expense to be collected in the form of taxes and to constitute a lien upon the land. There are also provisions in the law compelling the local communities to take this work in hand, dividing them into three classes, according to their wealth, and providing that when they shall have expended a certain amount of money in any given year on this work they shall be reimbursed by the State a certain percentage of all expenditures over that amount. A grave difficulty has developed in handling this question of extermination. The moths get into a woodland lot. The wood and the land itself are not particularly valuable, yet for the owner to undertake to exterminate the pest would cost more than the value of his land. Now, that statement is not at all an exaggerated one, because right in the city of Medford, which issues this pamphlet to which I have before referred, one public-spirited citizen, who happens to be a very wealthy man, endeavored to combat the gypsy moth, which attacked his premises. He has, I am informed, spent $70,000 already on that work, and he has not succeeded yet in fully exterminating them. He made the statement to Professor Marlatt, who was sent up to Massachusetts at my request in 1904 to investigate the spread of this insect, that he was paying out annually in his effort to exterminate the moth more than the value of his land. With that condition of affairs it can be readily seen how difficult it is to stop the spread of such an insect as that, because not all the people owning property attacked by it are millionaires or in a position to expend annually more than the value of their land in their effort to prevent the further spread of this plague. What we are asking the National Government to do is to assist us along the lines of quarantine work. We want the National Government to come in and draw a quarantine line around these infected areas wherever they appear in the various States, prevent the further spread of the insect, and leave us to fight it inside of that quarantine. And we think we are not making an unreasonable request; that we are not asking the Government to do something which it has not done under almost similar conditions, but in another line of the work of the Department of Agriculture.

You will all remember that about three years ago there was an outbreak of the foot-and-mouth disease in the vicinity of Boston. The Department of Agriculture, through its agents, came in and established a quarantine to prevent the further spread of the disease. But they did not stop there. They did something we are not asking the Department to do. They went inside of our quarantine lines, they went to the barns and the pastures of the farmers and dairymen within that region and slaughtered every animal they thought was infected with this foot-and-mouth disease.

They came right in there and took that work in charge and effectively stamped it out. Now, if for the protection of the animal industries of this country the Government can go in, as it does go in, to different localities and quarantines against further spread and also stamps out the disease within the infected area, why should not the Government step in when a serious pest like the gypsy moth threatens the whole of the United States—threatens every agricultural interest in the entire country.

I stated a moment ago that these insects eat everything that grows in the State of Massachusetts. They do, with one exception. They seem to have the discrimination not to eat the onion, but they eat every other plant, every other vegetable, every other tree. There is no end to what they will eat, and an effort was made to find out some of the things they would feed on growing outside of the State of Massachusetts. The scientists conducting these experiments sent down into the Southern States, had some cotton plants brought up with the cotton in the boll, if that is the proper term, put these insects upon the cotton plant, and they ate up everything, boll, leaves, stems, and everything that could be eaten about those cotton plants.

Our friends from the South think they are having great trouble with the Mexican cotton-boll weevil. I want them to consider what the effect would be if these gypsy moths were carried into the cotton belt, as is more than likely if their further spread is not checked. As to the imminence of that danger, I refer you to the letter from Mr. Davis, of Rhode Island. What would be the effect on the cotton industry of the South? I want the members of the committee to consider what the effect would be if these insects got over into New York, Pennsylvania, Delaware, or into any of the States in the East that have great agricultural interests. Think what would happen to the peach crop of Delaware, with the gypsy moth domiciled in the peach orchards.

Mr. SPERRY. Do they eat tobacco?

Mr. ROBERTS. I am given to understand that they do eat tobacco plants. They eat everything that grows in Massachusetts, I am told, and we grow tobacco up in the Connecticut Valley.

It seems to me, Mr. Chairman, this is one of the most worthy objects in this whole agricultural bill. I want the members of this committee to consider just for a moment what incalculable benefit would have accrued to the Government of the United States and to the people of the United States had the Department of Agriculture stepped into the State of California when the San Jose scale first made its appearance there in 1870 and stopped its further spread. The orchardists all over the United States would not now be troubled with a pest which causes them hundreds of thousands of dollars of damage annually. Consider for a moment what a blessing it would have been to the agricultural interests of this country if the Government had gone into the State of Colorado when the potato bug first made its appearance there, quarantined it where it appeared, and prevented its spread from one ocean to the other. Consider for a moment the benefit that would have accrued to the cotton growers of this country if the Government had gone into the State of Texas when the cotton boll weevil made its appearance there in 1894, quarantined it, and stopped it from spreading. We should have saved hundreds of thousands of dollars of public money that is now being and will hereafter be appropriated to control and exterminate that pest, and we would have saved millions of dollars yearly to the growers of cotton.

I assert, Mr. Chairman and gentlemen of the committee, the Government owes it as a duty to the people of this country when a pest of this nature appears, one that is likely to spread and will, if not checked, overrun the country, causing damage and ruin in its wake, to step in and stop its further spread. You can not expect the people of one State to look out for the people of all the States, to stop the spread of these insects that appear within their borders. We have done in Massachusetts the very best we could to exterminate an insect and prevent its spread beyond our own borders, but it is not in the nature of things for any one State to handle a pest of this sort and to prevent its going to other parts of the country. [Applause.]

Mr. AIKEN. Mr. Chairman, while I am not a member of the Agricultural Committee, I feel the deepest interest in all that pertains to agriculture and to any legislation looking to its advancement.

I desire to direct special attention to a certain provision of the agricultural bill, and incidentally to refer to the general matter of appropriations for agricultural purposes.

The item of the agricultural appropriation bill which authorizes the expenditure of $20,000 to "further develop the dairy industry of the Southern States by conducting experiments, holding institutes, and giving object lessons in dairying," a separate proposition incorporated in the bill at the instance of my colleague [Mr. LEVER], is a good measure, and I wish to express my heartiest indorsement of it. The only objection that I have to the measure is that the amount appropriated is too small. But many measures which prove to be of the greatest importance have had just such a small beginning, and so this one, once its advantages have been impressed upon the public mind, may find more liberal support in Congress.

There are many advantages which peculiarly recommend the South as a dairying section, and that this is not one of its chief industries to-day is due more to the lack of information on the subject than to any other cause.

Perhaps one of the greatest advantages that the South offers as a dairying section is the cheapness of land and the sparseness of its population. Pasture lands are necessary for profitable dairying, and pasture lands come pretty high at forty and fifty dollars per acre, the common price in populous sections.

In South Carolina we have some 19,000,000 acres of land, of which only about 6,000,000 acres are in cultivation, and South Carolina, perhaps, offers little advantage over other Southern States in this particular. More than two-thirds of our land is idle, in a measure unprofitable, for lack of sufficient farming population. A large per cent of this land is well adapted to pasturing for beef and dairying purposes. If only our farmers could be brought to realize the profits of dairying as an independent industry, these lands, now unprofitable, would furnish a new source of wealth to that section; or if dairying could be carried on more extensively and more systematically as an adjunct to the well-conducted farm, the advantage to the farmer in land building as well as in receipts from dairy products would make it well worth his while.

Most of the Southern States have a luxuriant growth of natural grass that is green nine or ten months of the year, and in my own State Bermuda and many other introduced grasses grow in perfection. The hay from this Bermuda grass is unexcelled in the world. This I can personally vouch for.

While grass alone may not be relied on for profitable dairying it is an essential, and properly used with cotton-seed hulls and meal produces splendid results. The natural grasses of South Carolina would furnish ample pasturage for great herds of cattle ten months in the year. No extensive effort has ever been made to grow winter grasses, but in thousands of yards and lawns may be seen a practical demonstration of the fact that blue grass and lawn grass both grow there beautifully under proper conditions.

The great difficulty with our southern people has been the one-crop idea; and so profitable has been this crop for the past few years that they have not felt the necessity of diversification. The man who is doing well raising cotton never thinks that he might do better raising something else.

Even the local demand for dairy products in the South far exceeds the supply, to say nothing of the demand, at most profitable prices, coming from our large cities. It would be hard to find a small town in the South that has not had its periodical butter famines, and yet nature has made this a favored spot for the production of that article.

Much in the way of object lessons has been done by Clemson Agricultural College, which has resulted in higher grades of cattle in the counties surrounding the college, and in better and more profitable use of the products. In some of the counties of my district, for instance, individuals and corporations are successfully manufacturing cheese, for which they find a ready market.

Dairying is a growing industry. The proceeds from this source during the year 1905, were, in round numbers, $650,000,000, and the demand far exceeds the supply. With the possible exception of the corn crop, no single farm product reaches this stupendous amount. The South could easily add at least 30 per cent to this amount without the loss of a single dollar from its present sources of revenue. The Government could not spend money to better advantage than in encouraging this industry there, and in instructing the people in its proper management.

For agricultural purposes I favor the most liberal appropriations. The products of the soil, and that which goes with the ordinary farm, constitute the basis of our wealth; all else is but so much margin on the crude products. What blood is, coursing through the veins and arteries of the human system, that the farm product is distributed through the great railroad lines of this country. Each carries in its composition the life-sustaining essence.

The various farm products of the United States last year aggregated the stupendous sum of $6,415,000,000, and each year brings an increase of over $250,000,000. Literally we feed and clothe the world, furnishing, as we do, more than 30 per cent of the grain, a still larger per cent of the meat, and fully 80 per cent of the cotton of the world. In the past six years the farmers have secured a balance of trade amounting to $5,635,000,000.

The Government is year by year "lengthening its cords and strengthening its stakes." Is it not the part of wisdom to lend every encouragement to that which constitutes the basis of its strength, if not its very life? Surely, "there is a giving that enricheth and a withholding that impoverisheth."

Although agriculture stands incomparably first in the production of wealth, it occupies the lowest place in the scale of appropriations. A statement prepared by Senator ALLISON, covering the average annual appropriations as well as the aggregate appropriations for various purposes for the past six years, will doubtless prove of interest, and hence I give it here:

Purpose of appropriation.	Total for six years.	Annual average.
Appropriation for all purposes	$4,594,225,982	$749,037,663
Post-Office Department	882,966,168	147,161,028
Pensions	846,791,090	141,131,848
Army	545,746,106	90,957,684
Navy	502,317,683	83,719,615
Sundry civil expenses	327,401,735	54,566,956
Legislative expenses	159,456,711	26,576,118
River and harbor	115,743,786	19,290,636
Indians	52,777,576	8,796,262
Fortifications	43,501,095	7,250,182
Agriculture	32,545,080	5,424,180

Occupying the position of the first nation of the world as a producing people, we are almost parsimonious in the appropriations which go to build up the farming interests.

With farming interests more extensive than those of benighted Russia, we spend less than one-third the amount expended by that country for agricultural purposes. A comparative statement of the amounts spent by the leading powers shows this Government up in very bad light. Russia spends $25,000,000 annually; France, $9,000,000; Austria, $9,275,000; Hungary, $9,400,000; while the United States, with its vast area and diversified farming, calling for the most scientific methods, spends less than $7,000,000. Such has been the yield of our virgin soil, no matter how unscientific our methods, that the Government for many years overlooked the necessity of establishing an Agricultural Department worthy of the name.

From the formation of the Government the demands of agriculture have been forced, inch by inch, upon the unwilling ears of Congress. There was not even an agricultural bureau until 1839; and after that time, even to the year 1889, owing to inadequate appropriations, it was little more than a bureau. In 1889 the real life of the Agricultural Department began, and with it began a new era in American farming.

It is a mistake to consider the agricultural appropriation a gift to the farmer. It is, in fact, but a loan, for which the nation is indirectly reimbursed a hundredfold.

Returning to the proposition of dairying in the South, let me say that the Government has here the opportunity to open up a vast field of wealth. It is to be hoped that the amount appropriated as an experiment in this line will be passed without opposition. It is too small, but it may serve to demonstrate

the necessity for even more extensive work along this line in the future. [Applause.]

The Clerk read as follows:

For Bureau of Animal Industry: To enable the Secretary of Agriculture to undertake experimental work in the cooperation with State authorities in eradicating the ticks transmitting southern cattle fever, $65,000, of which sum $20,000 shall be immediately available.

Mr. WADSWORTH. Mr. Chairman, I want to insert a committee amendment after line 15.

The Clerk read as follows:

In line 15, page 55, after the word "available," insert the following: "For the Bureau of Forestry, for the erection of a wire fence and necessary sheds on the Wichita forest and game preserve, to provide a range for the buffalo herd presented by the New York Zoological Society, and to provide for the maintenance of said herd, $15,000; of which sum not to exceed $500 shall be expended in building."

The question was taken; and the amendment was agreed to.

Mr. HEPBURN. I want to ask the gentleman in charge of the bill if he wants these two lines to remain in the bill, and what use are they?

Mr. WADSWORTH. Simply so that the committee and the House may know what the total amount appropriated by the bill is.

Mr. HEPBURN. Having served that purpose, you do not want them as a part of the law?

Mr. WADSWORTH. I should think it would answer a useful purpose in giving the amount appropriated by the bill.

Mr. HEPBURN. I do not see how.

Mr. WADSWORTH. By leaving it in you have in the two lines the amount appropriated, and to obtain it otherwise you have to add item by item and paragraph by paragraph, while this adds them in two lines. I ask unanimous consent that the Clerk may change these totals according to the figures.

The CHAIRMAN. Without objection, the Clerk will make the corrections.

The Clerk read as follows:

The total amount of this bill is $7,481,440.

Mr. WADSWORTH. That is the total of the bill.

The Clerk resumed and concluded the reading of the bill.

Mr. AIKEN. Mr. Chairman, I ask unanimous consent that I may extend my remarks in the RECORD.

There was no objection.

Mr. ROBERTS. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

There was no objection.

Mr. WADSWORTH. I move that the committee do now rise and report the bill with amendments to the House; and, pending that motion, I desire to give notice that a yea-and-nay vote will be asked for on the free-seed item.

The motion was agreed to.

The committee accordingly rose, and Mr. FOSTER of Vermont, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18537, and had directed him to report the same with amendments, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

Mr. WADSWORTH. I move the previous question on the bill and amendments to the passage of the bill.

The question was taken; and the previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. WADSWORTH. I ask a separate vote on the seed-distribution item.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the vote will be taken on the remaining amendments in gross.

No other separate vote being demanded, the question was taken on the other amendments in gross, and they were agreed to.

The SPEAKER. The gentleman demands a separate vote upon the amendment which the Clerk will read.

The Clerk proceeded to read the amendment.

The SPEAKER. By unanimous consent, the reading of the amendment will be dispensed with. Is there objection? [After a pause.] The Chair hears none.

Mr. WADSWORTH. I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 153, nays 83, answered "present" 10, not voting 135, as follows:

YEAS—153.

Adamson	Bennett, Ky.	Burnett	Chapman
Aiken	Bishop	Burton, Del.	Clark, Fla.
Allen, Me.	Brantley	Calder	Clark, Mo.
Barchfeld	Broocks, Tex.	Calderhead	Cole
Bartlett	Brownlow	Campbell, Ohio	Conner
Beall, Tex.	Brundidge	Candler	Crumpacker
Bell, Ga.	Burgess	Chaney	Curtis
Darragh	Hale	McKinney	Schneebeli
Davis, W. Va.	Hamilton	McLain	Shackleford
Dawes	Hay	McMorran	Shartel
Dawson	Heflin	McNary	Sims
De Armond	Henry, Tex.	Macon	Smith, Cal.
Deemer	Hepburn	Maynard	Smith, Md.
Dickson, Ill.	Hill, Miss.	Meyer	Smith, Tex.
Dixon, Ind.	Hinshaw	Michalek	Smyser
Dunwell	Hopkins	Moon, Pa.	Southall
Ellerbe	Howell, Utah	Moon, Tenn.	Sparkman
Ellis	Huff	Mouser	Spight
Finley	Humphreys, Miss.	Murphy	Stanley
Flack	Hunt	Nevin	Steenerson
Flood	James	Palmer	Sulloway
Floyd	Johnson	Pearre	Talbott
Fordney	Jones, Va.	Powers	Taylor, Ala.
Fowler	Kennedy, Nebr.	Pujo	Taylor, Ohio
French	Kinkaid	Rainey	Thomas, N. C.
Fuller	Klepper	Randell, Tex	Tirrell
Gaines, Tenn.	Kline	Reeder	Townsend
Gardner, Mich.	Knowland	Reid	Trimble
Gardner, N. J.	Lacey	Rhinock	Underwood
Garner	Lafean	Rhodes	Watkins
Garrett	Lamb	Richardson, Ala.	Webb
Gilbert, Ind.	Landis, Chas. B.	Richardson, Ky.	Weems
Gill	Landis, Frederick	Rixey	Wiley, Ala.
Gillett, Cal.	Lever	Robertson, La.	Williams
Glass	Lewis	Robinson, Ark.	Wood, Mo.
Graham	Lindsay	Rucker	Woodyard
Gregg	Little	Russell	
Gronna	Livingston	Ryan	
Gudger	Lloyd	Samuel	

NAYS—83.

Acheson	Draper	Kitchin, Claude	Pollard
Adams, Pa	Driscoll	Kitchin, Wm. W.	Prince
Adams, Wis.	Esch	Knopf	Rives
Alexander	Fitzgerald	Lawrence	Roberts
Bartholdt	Foss	Lilley, Conn.	Scott
Bates	Foster, Vt.	Littauer	Smith, Iowa
Birdsall	Fulkerson	Littlefield	Southwick
Bonynge	Gillett, Mass.	Lorimer	Sperry
Bowersock	Goebel	Loudenslager	Stafford
Brick	Graff	McCall	Sullivan, Mass.
Brooks, Colo.	Grosvenor	McCarthy	Sulzer
Burke, Pa.	Haskins	McCreary, Pa.	Tawney
Burton, Ohio	Haugen	McGavin	Thomas, Ohio
Butler, Pa.	Hayes	McLachlan	Vreeland
Capron	Henry, Conn.	Murdock	Wachter
Cocks	Howell, N. J.	Needham	Wadsworth
Cooper, Pa.	Hubbard	Olcott	Waldo
Cooper, Wis.	Hull	Page	Wanger
Cousins	Kelfer	Parker	Weeks
Dalzell	Keliher	Payne	Wilson
Dixon, Mont.	Ketcham	Perkins	

ANSWERED "PRESENT"—10.

Boutell	Greene	Madden	Stephens, Tex.
Currier	Hoar	Mann	
Goulden	Jenkins	Olmsted	

NOT VOTING—135.

Allen, N. J.	Dresser	Lee	Scroggy
Ames	Dwight	Le Fevre	Sheppard
Andrus	Edwards	Legare	Sherley
Babcock	Fassett	Lester	Sherman
Bankhead	Field	Lilley, Pa.	Sibley
Bannon	Fletcher	Longworth	Slayden
Bede	Foster, Ind.	Loud	Slemp
Beidler	Gaines, W. Va.	Lovering	Small
Bennet, N. Y.	Garber	McCleary, Minn.	Smith, Ill.
Bingham	Gardner, Mass.	McDermott	Smith, Ky.
Blackburn	Gilbert, Ky.	McKinlay, Cal.	Smith, Samuel W.
Bowers	Gillespie	McKinley, Ill.	Smith, Wm. Alden
Bowie	Goldfogle	Mahon	Smith, Pa.
Bradley	Granger	Marshall	Snapp
Broussard	Griggs	Martin	Southard
Brown	Hardwick	Miller	Sterling
Buckman	Hearst	Minor	Stevens, Minn.
Burke, S. Dak.	Hedge	Mondell	Sullivan, N. Y.
Burleigh	Hermann	Moore	Towne
Burleson	Higgins	Morrell	Tyndall
Butler, Tenn.	Hill, Conn.	Mudd	Van Duzer
Byrd	Hitt	Norris	Van Winkle
Campbell, Kans.	Hogg	Otjen	Volstead
Cassel	Holliday	Overstreet	Wallace
Clayton	Houston	Padgett	Watson
Cockran	Howard	Parsons	Webber
Cromer	Hughes	Patterson, N. C.	Weisse
Cushman	Humphrey, Wash.	Patterson, S. C.	Welborn
Dale	Jones, Wash.	Patterson, Tenn.	Wharton
Davey, La.	Kahn	Pou	Wiley, N. J.
Davidson	Kennedy, Ohio	Ransdell, La.	Wood, N. J.
Davis, Minn.	Knapp	Reynolds	Young
Denby	Lamar	Rodenberg	Zenor
Dovener	Law	Ruppert	

So the amendment was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. SHERMAN with Mr. RUPPERT.

Until further notice:

Mr. HITT with Mr. LEGARE.

Mr. CROMER with Mr. VAN DUZER.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. OTJEN with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. WATSON with Mr. SHERLEY.

Mr. MORRELL with Mr. SULLIVAN of New York.

For this day:
Mr. BINGHAM with Mr. HEARST.
Mr. BABCOCK with Mr. COCKRAN.
Mr. BEIDLER with Mr. BANKHEAD.
Mr. BUCKMAN with Mr. BUTLER of Tennessee.
Mr. BURKE of South Dakota with Mr. CLAYTON.
Mr. DENBY with Mr. MCDERMOTT.
Mr. BURLEIGH with Mr. BYRD.
Mr. LONGWORTH with Mr. BOWIE.
Mr. CAMPBELL with Mr. DAVEY of Louisiana.
Mr. KAHN with Mr. GARBER.
Mr. KENNEDY of Ohio with Mr. GILBERT of Kentucky.
Mr. KNAPP with Mr. GRANGER.
Mr. LE FEVRE with Mr. GILLESPIE.
Mr. MCCLEARY of Minnesota with Mr. GOLDFOGLE.
Mr. MARSHALL with Mr. LESTER.
Mr. MILLER with Mr. HARDWICK.
Mr. MUDD with Mr. LAMAR of Florida.
Mr. SIBLEY with Mr. MOORE.
Mr. SAMUEL W. SMITH with Mr. PATTERSON of North Carolina.
Mr. WILEY of New Jersey with Mr. PATTERSON of Tennessee.
Mr. RODENBERG with Mr. TOWNE.
Mr. CASSEL with Mr. WEISSE.
Mr. WM. ALDEN SMITH (for) with Mr. SHEPPARD (against).
Mr. LOUD with Mr. ZENOR.
On this vote:
Mr. CURRIER (for) with Mr. BURLESON (against).
Mr. ALLEN of New Jersey (for) with Mr. DALE (against).
Mr. STEPHENS of Texas (for) with Mr. OVERSTREET (against).
Mr. SOUTHARD (against) with Mr. PATTERSON of South Carolina (for).
Mr. DAVIDSON (against) with Mr. LEE (for).
Mr. JONES of Washington (against) with Mr. SLAYDEN (for).
Mr. LILLEY of Pennsylvania (for) with Mr. BENNET of New York (against).
Mr. HOAR (against) with Mr. HOUSTON (for).
Mr. GREENE (for) with Mr. AMES (against).
Mr. BOWERS (for) with Mr. GOULDEN (against).
Mr. DRESSER (against) with Mr. ANDRUS (for).
Mr. BOUTELL (against) with Mr. GRIGGS (for).
Mr. BROWN (against) with Mr. POU (for).
Mr. MCKINLEY of Illinois (for) with Mr. BRADLEY (against).
Mr. HILL of Connecticut (against) with Mr. FIELD (for).
Mr. MADDEN (against) with Mr. WALLACE (for).
Mr. BEDE (against) with Mr. RANSDELL (for).
Mr. LAW (for) with Mr. PARSONS (against).
Mr. DWIGHT (for) with Mr. BROUSSARD (against).
Mr. FASSETT (for) with Mr. BANNON (against).

Mr. CURRIER. I should like to inquire if the gentleman from Texas, Mr. BURLESON, is recorded as voting?

The SPEAKER. He is not recorded.

Mr. CURRIER. I am paired with the gentleman. If he had been present he would have voted "no" and I would have voted "aye." I wish to have my name called and to be recorded as "present."

Mr. MADDEN. I should like to know if the gentleman from Arkansas, Mr. WALLACE, is recorded as having voted?

The SPEAKER. He did not vote.

Mr. MADDEN. I voted "no." I am paired with the gentleman and wish to withdraw my vote and to answer "present."

Mr. GREENE. Is the gentleman from Massachusetts, Mr. AMES, recorded?

The SPEAKER. He is not recorded.

Mr. GREENE. I voted "aye," and I wish to withdraw my vote and to answer "present."

The result of the vote was announced as above recorded.

The announcement of the result was received with applause.

The bill was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

On motion of Mr. WADSWORTH, a motion to reconsider the last vote was laid on the table.

LEAVE TO EXTEND REMARKS.

Mr. THOMAS of North Carolina. Mr. Speaker, I made some remarks on the agricultural appropriation bill, on the subject of good roads. I ask leave to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

FOREIGN-BUILT DREDGES.

The SPEAKER laid before the House the bill (H. R. 395) concerning foreign-built dredges, with Senate amendments thereto.

The Senate amendments were read.

Mr. GROSVENOR. I move that the House disagree to the Senate amendments.

The motion was agreed to.

Mr. GROSVENOR. I move that the House ask for a conference.

The motion was agreed to; and the Speaker announced as conferees on the part of the House Mr. GROSVENOR, Mr. MINOR, and Mr. SPIGHT.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 11796. An act for the diversion of water from the Sacramento River, in the State of California, for irrigation purposes;

H. R. 14989. An act granting an increase of pension to Arcatie E. Thompson;

H. R. 14990. An act granting an increase of pension to Lucius D. Whaley;

H. R. 14993. An act granting an increase of pension to Riley M. Smiley;

H. R. 15007. An act granting an increase of pension to Henry Hares;

H. R. 15011. An act granting an increase of pension to John Eldridge, jr.;

H. R. 15024. An act granting an increase of pension to Henry C. Keyser;

H. R. 15050. An act granting an increase of pension to William H. Near;

H. R. 15061. An act granting an increase of pension to Ethan Allen;

H. R. 15119. An act granting an increase of pension to Cornelius Westman;

H. R. 15216. An act granting an increase of pension to Truman C. Stevens;

H. R. 15240. An act granting an increase of pension to James W. Fowler;

H. R. 15256. An act granting an increase of pension to Benjamin F. Green;

H. R. 15277. An act granting an increase of pension to George W. Pierce;

H. R. 15380. An act granting an increase of pension to Valentine Gunselman;

H. R. 15396. An act granting an increase of pension to John T. Jacobs;

H. R. 15416. An act granting an increase of pension to Ann R. Nelson;

H. R. 15484. An act granting an increase of pension to Robert Dick;

H. R. 15487. An act granting an increase of pension to Truman Aldrich;

H. R. 15548. An act granting an increase of pension to Jacob Ferber;

H. R. 15616. An act granting an increase of pension to Pleasant Calor;

H. R. 15621. An act granting an increase of pension to Caleb M. Tartar;

H. R. 15670. An act granting an increase of pension to Daniel E. Durgin;

H. R. 15683. An act granting an increase of pension to Thomas Brown;

H. R. 15701. An act granting an increase of pension to William Brown;

H. R. 15717. An act granting an increase of pension to Ebenezer A. Rice;

H. R. 15780. An act granting an increase of pension to Peter Cole;

H. R. 15794. An act granting an increase of pension to Samuel Pepper;

H. R. 15835. An act granting an increase of pension to George M. Thompson;

H. R. 15840. An act granting an increase of pension to Edgar B. Hughson;

H. R. 15863. An act granting an increase of pension to William Louther;

H. R. 15894. An act granting an increase of pension to Alma L. Wells;

H. R. 15928. An act granting an increase of pension to Herbert D. Ingersoll;

H. R. 15982. An act granting an increase of pension to Henrietta W. Wilson;

H. R. 15956. An act granting an increase of pension to Walter F. Bean;

H. R. 16023. An act granting an increase of pension to Sheldon B. Fargo;

H. R. 16024. An act granting an increase of pension to Katie B. Meister;
H. R. 16179. An act granting an increase of pension to William N. J. Burns;
H. R. 16182. An act granting an increase of pension to Samuel F. Williams;
H. R. 16190. An act granting an increase of pension to James T. Caskey;
H. R. 16210. An act granting an increase of pension to Abraham G. Long;
H. R. 16250. An act granting an increase of pension to Augustus J. Morey;
H. R. 16266. An act granting an increase of pension to Margaret A. Rucker;
H. R. 16296. An act granting an increase of pension to Henry C. Coffin;
H. R. 16334. An act granting an increase of pension to Enos Day;
H. R. 16376. An act granting an increase of pension to Joseph Muncher;
H. R. 16428. An act granting an increase of pension to Edwin Hicks;
H. R.16433. An act granting an increase of pension to Marius S. Cooley;
H. R. 16437. An act granting an increase of pension to Samuel H. Frazier;
H. R. 16442. An act granting an increase of pension to John A. Powell;
H. R. 16445. An act granting an increase of pension to Henry H. Sibley;
H. R. 16454. An act granting an increase of pension to Samuel E. Carlton;
H. R. 16455. An act granting an increase of pension to John Long;
H. R. 16504. An act granting an increase of pension to Thomas W. Barnum;
H. R. 16514. An act granting an increase of pension to John W. Barton;
H. R. 16523. An act granting an increase of pension to Charles P. Hopkins;
H. R. 16578. An act granting an increase of pension to Edward Lilley;
H. R. 16583. An act granting an increase of pension to David R. Walden;
H. R. 16650. An act granting an increase of pension to Robert B. Williby;
H. R. 16985. An act granting an increase of pension to Gilson Lawrence;
H. R. 17028. An act granting an increase of pension to Lorenzo D. Hartwell;
H. R. 17194. An act granting an increase of pension to Jennie White;
H. R. 17235. An act granting an increase of pension to Martha Howard;
H. R. 17274. An act granting an increase of pension to Andrew J. Mosier;
H. R. 17589. An act granting an increase of pension to Sidney A. Lawrence;
H. R. 17608. An act granting an increase of pension to Sidney S. Brewerton;
H. R. 8997. An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes; and
H. R. 18709. An act making additional appropriations for the public service on account of earthquake and attending conflagration on the Pacific coast.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 5811. An act to amend section 3646 of the Revised Statutes of the United States as amended by act of February 16, 1885, as amended by act of March 23, 1906—to the Committee on Ways and Means.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering the bill (H. R. 18030) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1907, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. LACEY in the chair.

Mr. HULL. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

Mr. SULZER. Mr. Chairman, no requests have been made to me for time for general debate on this bill, and hence I have no objection to the bill being now read under the five-minute rule, with the understanding, however, that no objection shall be made if a Member wants an extension of time; and I understand that this plan is agreeable to the gentleman from Iowa who is in charge of the bill. This bill comes from our committee with a unanimous report. I do not think there is a single provision in it that can be objected to successfully.

Mr. HULL. There will be no trouble about that. I think there is no disposition, Mr. Chairman, for general debate at this time, and I ask that the reading of the bill be commenced under the five-minute rule.

Mr. CLARK of Missouri. Mr. Chairman, I do not see how the gentleman from Iowa can make that agreement, for any one of the 386 Members can knock it out.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa to dispense with the first reading of the bill and that the reading of the bill be commenced under the five-minute rule? The Chair hears no objection, and the Clerk will read.

The Clerk proceeded with the reading of the bill, and read as follows:

For completing the necessary improvements at the United States Military Academy at West Point, N. Y., in accordance with the general plan approved by the Secretary of War, the limit of the total expenditure for this work fixed in the act of Congress approved June 28, 1902, is extended $1,500,000, and the Secretary of War is authorized to proceed with the work under the conditions already prescribed for it by law: *Provided*, That all limitations and restrictions in the act approved June 28, 1902, shall apply to this increased authorization.

Mr. PALMER. Mr. Chairman, I reserve a point of order on this section. I observe that the limit of the amount appropriated under the act of Congress of June 28, 1902, is extended $1,500,000.

Mr. HULL. Yes; that is right.

Mr. PALMER. The amount appropriated by that act was $5,500,000.

Mr. HULL. That is right.

Mr. PALMER. As I understand, this $1,500,000 is in addition to the $5,500,000 appropriated by the other act.

Mr. HULL. Yes.

Mr. PALMER. I notice by the act that before any money could be expended under it the Secretary of War was required to "procure complete plans covering all the necessary buildings and improvements and for each and every purpose connected therewith, which plans shall involve a total expenditure of not more than $5,500,000."

Now, I suppose the Secretary of War, in compliance with that very just act of Congress procured complete plans covering all the necessary buildings and all the necessary improvements, and the inquiry I want to make is how it happened that since 1902 the cost of those buildings has been increased $1,500,000?

Mr. HULL. In reply to the gentleman from Pennsylvania I will state that the original act made a great many restrictions, and among others that no architects could be employed on a percentage basis, as was employed on the other academy in the United States. The Secretary of War called into consultation eminent architects, and after explaining the situation to them, finally succeeded in getting them to go into the business of submitting plans. The plans that were submitted all exceeded the original amount fixed in the act. No work would have been done if it had not been for the appropriation carried in this bill in different years, waiving original restriction. We had the right to let them go on with the work as far as the plans were perfected, and in order not to delay further this matter, if this authorization is not given I should say that they would go on with the work until they do conclude the amount fixed in the act. The act would be set aside whenever the Congress makes an appropriation going one step beyond the $5,500,000, and this Congress would have a right on this bill to-day to appropriate $8,000,000 absolutely for buildings at West Point, and no point of order would lie against it, because we have the same right in continuing these buildings that the Naval Committee has in the construction of ships. Of course, on its merits Congress could fix any amount a majority would favor. We can make the appropriation, or authorization, and I do not believe that it is subject to a point of order. Congress always has the discretion to say whether or not it will give a certain amount of money for a certain purpose. It may increase or diminish it from time to time, as the judgment of Congress may determine.

Now, I want for the information of the committee, and the information of my friend from Pennsylvania, to call his attention to a part of a document submitted to the Committee on Military Affairs—Document 648.

There has been diverted out of the original amount for buildings at West Point as provided for by Congress $546,000 for water rights and other purposes. In other words, the committee that visited West Point two years ago found a deplorable condition in respect to their water supply and made an exhaustive examination of the watershed that could be made available at West Point, and at a large expense, going off several miles, secured a supply that will be abundant for all time. Before that they had been using makeshifts to supply West Point. If they were a little short this year, they would take in another little stream that was liable to dry up in another season. It did not meet the demands, and finally Congress took hold of it and did appropriate enough money to supply a permanent water supply. That $546,000 was diverted by act of Congress on the Military Academy bill, not by the Secretary of War. The full list of buildings is set out in this document, after having been figured over by the War Department, by engineers, by the academic board, and all parties interested in the matter, and I want to say to the gentleman that in this matter the very greatest economy has been manifested by the authorities. They have opened a stone quarry and are running it with the labor from the posts, supplying the stone that enters into the construction of these buildings. They have saved in many ways more than the cost of several of these buildings by their economy.

Mr. HAY. Is it not true that the large increase in the cost of building materials is one reason for this?

Mr. HULL. Yes.

Mr. HAY. And is it not absolutely necessary to continue this plan to complete it to appropriate this sum of money?

Mr. HULL. They can not possibly complete the plan without it, and I thank the gentleman for calling attention to it.

Mr. OLMSTED. Mr. Chairman, will the gentleman yield to a question?

Mr. HULL. Yes.

Mr. OLMSTED. The Congressional Library over here, which is the pride of our country, cost about $6,000,000.

Mr. HULL. Yes.

Mr. OLMSTED. The State of Pennsylvania is just building and will dedicate in October a magnificent capitol, with offices for all of its State officers, at a cost of $4,000,000.

Mr. HULL. Yes.

Mr. OLMSTED. What kind of buildings are these to be that are to cost an aggregate of $7,000,000 at West Point?

Mr. HULL. If the gentleman will read this document he will find out. I will say that there is no parallel whatever in the cost of different buildings.

Mr. OLMSTED. I know there is enough parallel so as to make it possible to cover the ground with marble palaces up there at $7,000,000.

Mr. HULL. The State, War, and Navy building, as I understand it, cost $15,000,000. This Capitol, I think, cost more than $30,000,000, so that I can not see that that has anything to do with this. Here is the full list, providing for a large number of officers, enlisted men, and cadets.

Mr. HAY. What is this office building that is being put up over here to cost? Is it not $3,000,000?

Mr. HULL. That, I think, is to cost only two millions and a half.

Mr. PALMER. How many cadets are there at West Point?

Mr. HULL. There is one for every Congressional district, one for every Territory, ninety for the Senate, and forty for the President.

Mr. PALMER. Well, that is a few more than there are Congressmen.

Mr. HULL. And we have in addition to that some that we authorize by special resolution from other countries.

Mr. OLMSTED. About 500 in all.

Mr. HULL. Oh, there are more than 500, but West Point cares for more than cadets.

Mr. HAY. Then there is a population there of 3,500 people.

Mr. PALMER. Well, the committee is not providing buildings for the population?

Mr. HAY. Yes; of course—for the Army service. We have to provide that.

Mr. HULL. There is an artillery detachment there, a cavalry detachment, an infantry detachment, an engineer detachment, and there are other offices of the medical and every other corps of the Army. There is also a large corps of instructors, and we have the best equipped Military Academy in the world, and I am surprised that any gentleman from Pennsylvania would raise a question of this character, because Pennsylvania is supposed to be quite a progressive State.

Mr. OLMSTED. But we do things there at so much less expense proportionately.

Mr. HULL. Well, that has not heretofore been the State's reputation, judging from some testimony from Philadelphia.

Mr. PALMER. This act of 1902 was intended undoubtedly in its appropriation of $5,500,000 to cover the cost of these improvements.

Mr. HULL. Yes.

Mr. PALMER. It appropriated $100,000 for water supply.

Mr. HULL. Yes; and took it out of this. The next Congress took it out of this.

Mr. PALMER. The act reads as follows:

To increase the efficiency of the United States Military Academy at West Point, N. Y., and to provide for the enlargement of buildings and for other necessary works of improvement in connection therewith, and to provide for an increased water supply at a cost not to exceed $100,000, made necessary by the increased number of cadets now authorized by law, immediately available and to remain so until expended, $2,000,000: *Provided*, That before any part of this amount is expended, except so much as may be necessary to provide an immediate increased water supply; to install a heating and lighting plant, and to complete the improvements begun on the cadet mess building, complete plans shall be prepared and approved by the Secretary of War, covering all necessary buildings and improvements at West Point, and for each and every purpose connected therewith, which plans shall involve a total expenditure of not more than $5,500,000, including the sum herein appropriated: *Provided further*, That after the preparation and approval of the plans herein provided, the Secretary of War is authorized to enter into a contract or contracts for any part or all of the improvements herein authorized within the said limit of cost, to be paid for from the appropriations annually made for this purpose: *Provided further*, That no money shall be expended or obligation incurred for architects after the plans for improvements above provided for have been approved by the Secretary of War, except, that the Secretary of War is hereby authorized to employ, in his discretion, a consulting architect at a compensation not exceeding $5,000 per annum.

Now, there was authority for the Secretary of War to procure complete plans and enter into a contract, the total cost of which should be $5,500,000, which almost anybody would say was an adequate sum for that purpose. Now, it appears that somehow or other, by some method that has not been explained yet, this sum of $5,500,000 has been already exceeded by $1,500,000.

Mr. HULL. No; not at all. I will say to the gentleman that we have not appropriated yet near the amount of $5,500,000. This is simply an authorization to adopt a certain plan.

Mr. PALMER. At any rate, if you have not spent that yet you propose to expend, in addition to the $5,500,000, $1,500,000 more?

Mr. HULL. Yes; and it should be done.

Mr. PALMER. And you propose to put that expense on the United States on an appropriation bill. You have not laid before the House or any committee of Congress any facts which warrant or authorize this expenditure. It is one of those methods by which an improvement is begun and by which some officer of the United States—the Secretary of War or somebody—goes on and incurs obligation beyond that which Congress has authorized, set up his judgment against the judgment of the Congress of the United States, and then comes in and on an appropriation bill asks Congress to shut its eyes and swallow the whole job without any investigation. My point is this: That if this $1,500,000 is necessary for the construction of these buildings, it is also proper that the necessity should be judged of by this Congress, and not by the Secretary of War.

Mr. HAY. Mr. Chairman——

Mr. HULL. Just one word and I will yield.

Mr. HAY. I just wanted to ask a question.

Mr. HULL. All right.

Mr. HAY. Is it not a fact when those plans were originally proposed that the Committee on Military Affairs reported $6,500,000?

Mr. HULL. Yes.

Mr. HAY. And that a million of that was stricken out on the floor?

Mr. HULL. That is correct.

Mr. HAY. And $500,000 of this money has been diverted to some other purpose——

Mr. HULL. Five hundred and forty-six thousand dollars.

Mr. HAY. So we are really now asking what was contemplated in the original bill.

Mr. HULL. Now, Mr. Chairman, if the gentleman will allow me I will give this information. I do not wish to cut off any time for debate at all, but, Mr. Chairman, the gentleman raises the point that this ought to have been submitted to some committee of the House. Well, with all due respect to the gentle-

man, I have been laboring for some sixteen years under the impression that the Committee on Military Affairs was one of the committees of this House, and sometimes I have taken great pride in it.

Mr. PALMER. Mr. Chairman——

Mr. HULL. Just one moment further; and if he will read the report of the full hearings before the committee he will see it was gone into very exhaustively, and that we are, I believe, prepared to furnish him the proof that this authorization is necessary.

Mr. PALMER. In answer to the question of the gentleman from Virginia; it was stated the Committee on Military Affairs reported in favor of an appropriation of $6,500,000, and this House cut off a million.

Mr. HULL. Yes; it did.

Mr. PALMER. Very well.

Mr. HULL. If you will turn back to the old debates on that subject you will see it is said it is better to limit it as much as possible, because when the time came the House could grant the additional amount.

Mr. PALMER. Whether that time has come or not can only be ascertained when the facts in relation to this business have been laid before the Military Committee or some other committee of this House. The House judged that $5,500,000 was enough for this improvement, and I guess they were right, but now somebody or other—I do not know who—has increased this cost $1,500,000, and, I say, without any right or authority to do it. There was $100,000 appropriated for the waterworks, and that was supposed to be enough at the time, and if somebody has spent $550,000 on the waterworks that is another outrage.

Mr. HULL. Mr. Chairman, Document No. 648 sets out in full the whole list of buildings, the cost, the architect's estimate, and the total amount required by the working plans. Now, I want to say to the gentleman and to the committee that we had something of this same nature with the Naval Academy, and I do not refer to that now to criticise them at all, but the original limitation of that, as I understand, was $8,000,000. They found their plans were exceeded, and they came in for an additional $4,000,000, which was given on the appropriation bill, after a contest.

This is virtually putting back the amount, as the gentleman from Virginia [Mr. HAY] so well says—the total amount that was originally estimated by the committee after investigation, and after all the evidence that could be gotten was given. And it would be impossible for the Government of the United States to complete these buildings at what is now proposed if it were not for the fact that I have before alluded to, that they have opened up their own quarries and have the purchase and shipment of their building stone, and that has to some extent offset the great additional cost of building material. But it is a proposition that to my mind is in order on the bill and should commend itself to the good judgment of every member on the committee.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. HULL. Certainly.

Mr. FITZGERALD. In order that I may get this in my mind correctly, I desire to ask this question: Did the Secretary of War have plans prepared in accordance with this act of 1902?

Mr. HULL. Yes. Secretary Root commenced it.

Mr. FITZGERALD. Did he have plans prepared for the complete improvement at the academy?

Mr. HULL. He had the plans completed and adopted——

Mr. FITZGERALD. If the gentleman will answer my question I will get to the point I want to find out.

Mr. HULL. Let me get at it in my own way, though, please. I am not answering yes or no. I am not exactly on the witness stand, but I am ready to give testimony. He had prepared plans and they were adopted, but they were not all figured out as to the total cost at the time they were adopted. When they went over the architect's plans they found it to be necessary to drop out some of the buildings to bring them within the amount originally authorized by Congress.

Mr. FITZGERALD. What I want to find out is this, and if I am correct in my opinion of what has happened, it merely confirms my belief that the then Secretary of War, the present Secretary of State, has on many occasions shown an utter indifference to limitations placed upon his official acts by Congress. I understand, if I gather correctly, that Congress authorized the obtaining of plans for a complete new Military Academy. The buildings contemplated by these plans were to cost complete $5,500,000; that plans were prepared, and that when estimates were received it was ascertained that the buildings could not be completed within the limitations fixed by Congress, and that thereupon, without reporting that fact to Congress, the Secretary of War entered into contracts——

Mr. PRINCE. Oh, no.

Mr. FITZGERALD. Let me state it, and the gentleman can correct me if I am wrong. He started to do certain work.

Mr. HULL. He has not even done that.

Mr. FITZGERALD. What did he do?

Mr. HULL. He has only made contracts from year to year under the authorization, and not spent a dollar more than Congress authorized for this year.

Mr. FITZGERALD. Mr. Chairman, the law contemplated that this plan should be complete and cover buildings that would cost, complete, $5,500,000, with $2,000,000 to be available when the plans were approved; that would enable the completed new Military Academy to be built for $5,500,000. When those plans were approved the Secretary had the right to enter into certain contracts, but, with the information before him that the completed plans could not be carried out for $5,500,000, he entered into a contract to do a certain amount of the work up to the $2,000,000, utterly ignoring the limitation fixed by Congress.

Now, it may be that it is proper and necessary to increase the limit of cost; but it is utterly indefensible for this executive officer to flaunt the action of Congress in its face and proceed regardless of the law; and this is one of the things, if I remember correctly——

Mr. PARKER. Will the gentleman wait for the answer, that it was not done?

Mr. FITZGERALD. The gentleman from Iowa has not asked me to wait. This is one of the things that compelled Congress, if I recollect correctly, to make it a criminal offense to repeat just such a performance.

Mr. HULL. Well, the gentleman's speech would be fine, but is not based on any facts. I ask that the Clerk may read this letter from the Superintendent of the Academy.

Mr. FITZGERALD. I stated the facts, and I have been listening to the gentleman's explanation.

The Clerk read as follows:

WASHINGTON, D. C., *April 3, 1906.*

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
House of Representatives, U. S. A.

DEAR SIR: Having reference to my testimony at your recent hearing on the Military Academy bill for the next fiscal year. I have the honor to request that I be permitted to submit a short supplementary statement bringing out more clearly than I did at my hearing a matter having an important bearing on the recommendation that the limit of appropriation for the improvement at West Point as at present fixed be extended in order to permit the carrying out in full of the general plan the Secretary of War has approved.

I wish particularly to state that in all of the steps taken to formulate the complete plan required by the act of 1902 faithful and earnest endeavor was made by all the authorities concerned to create a plan giving the improvements, demonstrated to be necessary, which could be executed within the appropriation made, and as further evidence of this fact I ask attention to page 2 of the attached rules, which governed the architectural competition held for the preliminary general plan. An examination also of this latter plan will show that the amounts originally allotted for each of the necessary buildings and the other improvements were scaled down proportionally to accomplish the purpose named.

In the subsequent work of developing this preliminary plan into the prescribed general plan when detailed consideration of individual buildings, their necessary capacity, arrangements, and estimated cost was had, it became apparent that buildings satisfactory in capacity in each instance could not be built within the limit fixed, and this notwithstanding the fact that every possible and rightful economy was rigidly insisted upon at all times.

It was then at this time that the policy, clearly authorized in the statute, was adopted of planning buildings, each of a satisfactory capacity, and building as many of such as the appropriation would permit. The reverse of this procedure would have resulted in erecting buildings which could be shown beforehand would be of unsatisfactory capacity when completed.

Very respectfully,

A. L. MILLS,
Brigadier-General, United States Army.

Mr. FITZGERALD. Does not the gentleman think that that letter confirms my statement of what has been done in this case? I am confident it does.

Mr. HULL. I want to say to the gentleman that they have not bound the United States for a single contract beyond the $5,500,000; and they can not, nor will they. Before these plans were originally adopted they were submitted to the committee and looked over very fully before the original act was passed. But, naturally, we had not the information that the Engineer Corps had at the time. It is true that there were many who believed that the Engineer Corps, being purely Army officers, were not the ones to finally pass upon it; and we authorized the Secretary of War to employ architects, not on the same basis of 5 per cent at all, but on such basis as he could make with them. At first they refused to act, but eventually the architects, as a matter of pride in the academy, did submit their plans, changing somewhat the plans of the Army Board of Engineers; made it a better plan, according to all the statements at this time. Now, as to just how much that would cost, running over a period of eight or nine years, it was impossible to tell with anything like absolute accuracy. If they go on with

the plan agreed upon, it will increase the cost by authorizing it now; but unless Congress gives authority they have no power to do it, in my judgment. But after they have expended $5,500,000 the committee has the right and Congress has the power to act and appropriate $1,000,000 a year for as many years as it pleases for the additional buildings. They have got the plans, the architects' fees have been paid, and, if Congress wants an economical administration of affairs, it will authorize the continuance of the work without waiting four or five years from now to authorize additional expenditures.

Mr. PALMER. This bill appropriates $1,000,000 to be expended.

Mr. HULL. Under the present authorization.

Mr. PALMER. So that if this provision for expending the sum of $1,500,000 goes out of the bill it will not do any harm.

Mr. HULL. It does do harm not to authorize the adoption of completed plans. It makes no difference as to the appropriations carried for the ensuing fiscal year.

The CHAIRMAN. Does the gentleman from Pennsylvania simply reserve the point of order?

Mr. PALMER. I have reserved it, but when the proper time comes I expect to make it, after I have got the facts of the case. As I understand it, the chairman of the committee says that $500,000 of this money was diverted to the water supply. How could that be?

Mr. HULL. Not all for the water supply.

Mr. PALMER. I supposed that $500,000 was appropriated for the water supply by Congress if that amount was spent.

Mr. HULL. No; that was diverted out of the appropriation.

Mr. PALMER. Then this Secretary of War was authorized and required, after he made his complete plans, to make a contract for the entire building, which was not to cost more than $5,500,000. Now, if he had done his duty, if he had made his contract, then there would not have been any question about the cost of materials, and if he had obeyed the act of Congress, of course he would not have paid any attention to the pride of the architects, but he would have built the buildings for the $5,500,000, and I submit that for $5,500,000 he could build quite a shanty to cover the cadets at West Point or anywhere else.

Mr. CAPRON. Will the gentleman yield to me?

Mr. PALMER. Yes.

Mr. CAPRON. There seems to be an impression in the gentleman's mind that this is an appropriation to build another building.

Mr. PALMER. No; it is a series of buildings.

Mr. SULZER. In fact, it is an entire rebuilding of the West Point Military Academy.

Mr. CAPRON. The Secretary of War has submitted several classes of buildings. He may drop out one or two or five or ten in order to bring it within the specific amount of the appropriation. He closes his letter upon the subject by saying:

The work of the building—

That is, of carrying out the whole scheme which it has been the purpose of Congress to build—

The work of the building probably can not be completed before 1912, and it is to be hoped that within this period the additional necessary money may be made available for carrying out the entire approved plan.

The approved plan is a scheme for building a magnificent city, not a building, and, if the gentleman will permit me, that includes a considerable list of buildings—like cadet barracks, $275,000; sixteen sets of officers' quarters, $180,000; power house and distributing system, $600,000, which is being built as a part of the original scheme, and it is all here in the communication from the Secretary of War, and if the gentleman will spend his next ten minutes sitting down and reading it instead of standing up and talking he will agree with the proposition of the committee on this subject.

Mr. PALMER. I will say to the gentleman that my mind works when I am standing up. I do not at all doubt that the Secretary of War and the architects, who have pride in the business, are contemplating a magnificent series of structures. I have no doubt also that they do not care one continental cent how much it will cost, either. They have not paid the slightest attention to the act of Congress. That is what I am complaining about.

Mr. CAPRON. Does the gentleman understand that they have not paid every attention to the act of Congress providing for the reconstruction of the Military Academy?

Mr. PALMER. They have not paid the slightest attention to it.

Mr. CAPRON. They have not yet expended the money.

Mr. HULL. Do you not think they have done pretty well to save over $4,000,000 as compared with the other academy?

Mr. PALMER. That is a good deal like Micawber paying his notes, is it not?

Mr. HULL. There is not much extravagance in it.

Mr. SULZER. Mr. Chairman, it is not my purpose now to discuss the point of order that the gentleman from Pennsylvania has reserved, because, in my opinion, this appropriation is not subject to a point of order. It is a continuing appropriation for a public improvement, and under the rule is not subject to a point of order.

Now, let me say a few words in regard to the necessity for this appropriation. I desire to say to the gentleman from Pennsylvania and to the Members of this House that this appropriation is for a very important public work that must go on and must be finished, and the necessity for it must be apparent to every man who will give the matter the slightest investigation. This appropriation will conclude the work, and the West Point Military Academy will be complete in all its buildings and the finest institution of its kind in the world. I take a deep interest in this matter, a just pride in our splendid academy, and I believe it will be a sad mistake—a penny-wise and pound-foolish performance—if this necessary appropriation to finish the work now going on at West Point is stricken out of this bill. The work is being done, and sooner or later Congress must pay for it. This whole matter is strongly recommended by the Superintendent, a most efficient and reliable officer and a very excellent gentleman; in fact, one of the best superintendents the Military Academy has ever had—Gen. A. L. Mills. It is approved by the War Department, and that great Department of the Government is at present in charge of one of the best and one of the greatest Secretaries of War this country has ever had—William H. Taft—a careful, honest, and conservative official, who knows how very important it is to this institution that this appropriation be made.

Mr. Chairman, when the original appropriation was considered, the Committee on Military Affairs recommended and reported an appropriation of $6,500,000 for this entire work, and this amount, it was estimated then, would complete the new buildings and all the other improvements in accordance with the plan and scope of the Government, and if that appropriation had passed it would have been entirely sufficient for all purposes.

When, however, the matter came up in the House the appropriation was cut down $1,000,000, because all the money was not just then required, and it was stated at the time that if the additional million was required Congress could subsequently appropriate it. That was the understanding——

Mr. PALMER. Who made that understanding?

Mr. SULZER. It was stated here on the floor—the RECORD will show it.

Mr. JOHNSON. Does the gentleman argue, as a legislator, that Congress is bound by some sort of a promise made by some other Congress?

Mr. SULZER. These continuing appropriations are often made by Congress, especially in river and harbor work and other public improvements.

Now, Mr. Chairman, West Point is one of our great institutions—the greatest and best military school in the world. Every American takes a just pride in this enduring and efficient Army Academy.

These new buildings which are being erected there are absolutely necessary for the health and comfort and accommodation of the cadets and officers and soldiers and other employees. Up to the time of this work very little money had been spent on improvements in fifty years. The old buildings were dingy, cramped, crowded, and unhealthy. They had become wholly unfit and unsuitable. This work had to be done or the very object of the academy would fail. This whole matter has been carefully considered, and these improvements must be made in the interest of the general welfare and proper and economic administration of the academy at West Point. This money is necessary in order to carry out and complete the work authorized to be done and now going on. The money must be appropriated and that's all there is about it.

Mr. PALMER. Why have we got to appropriate it? Because the architects' plans demand it?

Mr. SULZER. Because the work is necessary—the improvements urgently demanded and authorized—the work going on, and must be finished sooner or later.

Mr. PALMER. What other reason is there?

Mr. SULZER. Good business reasons, sound common sense, and because the plan and scope have been approved and carried

out in part. We started and authorized these improvements. It is too late now to——

Mr. PALMER. Who approved it?

Mr. SULZER. Congress approved it, and——

Mr. PALMER. No; Congress never approved it; all they approved was a set of buildings, to cost $5,500,000. The architects and the Secretary of War have approved the scheme that is to cost $7,000,000.

Mr. SULZER. The gentleman is quite in error. The amount originally required was $6,500,000, and only about $5,000,000 of this amount has been available. This appropriation of $1,500,000 completes the original estimates. This entire matter has been carefully considered by the Committee on Military Affairs, and this appropriation is approved by every member of that committee. The report of the committee is unanimous, and if there was anything about it that was susceptible to any criticism whatever on account of unnecessary expense I would be the first man on the Committee on Military Affairs to get up and object.

Mr. Chairman, as a member of the Military Affairs Committee, I have been to West Point and have investigated these improvements, and know something about this matter. I believe that the work that is being done is being honestly done; that it is a most important and necessary work, and that it is being done in the most economical manner. These necessary improvements redound to the credit of the officials that have charge of the matter, and their early completion will reflect glory on our entire country and benefit every Congressional district, because every Congressional district has a representative at the Academy.

We should do justice to West Point. Before these improvements were commenced the academy was overcrowded, the buildings old, unsuitable, and unhealthy. These improvements had to be made, these new buildings had to be built, or the academy ultimately had to be abandoned. That is all there is to it.

Mr. BUTLER of Pennsylvania. Will the gentleman yield to me?

Mr. SULZER. I yield to the gentleman for a question.

Mr. BUTLER of Pennsylvania. What amount of money will be required to complete the buildings?

Mr. SULZER. The additional amount appropriated in this bill—a million and a half.

Mr. BUTLER of Pennsylvania. Will you be perfectly satisfied with that?

Mr. SULZER. That is the amount required to finish the work now being done.

Mr. PALMER. Will the gentleman from New York yield for a question?

Mr. SULZER. I will with pleasure in a few moments. I say to the gentleman that this amount of money will complete all the new buildings, and there are several new buildings. I say further that of the amount originally called for $1,000,000 was taken off in the House at the time the bill passed, and about $500,000 was used for a new water plant and reservoir. This whole matter is a business matter—a public necessity—if we intend to keep up the efficiency of the academy, and I am surprised that the distinguished gentleman from Pennsylvania, who, in my opinion, is inclined to be a broad-minded statesman, should quibble about it and make a point of order against it, because it is absolutely necessary, and we must make and pay for these improvements.

Mr. BUTLER of Pennsylvania. Will the gentleman yield?

Mr. SULZER. Yes.

Mr. BUTLER of Pennsylvania. When was the first appropriation made for these buildings?

Mr. SULZER. 1902.

Mr. BUTLER of Pennsylvania. And the plans were then made?

Mr. HULL. Yes; that was the time of the authorization.

Mr. PARKER. I will state that all in order; I have it here.

Mr. SULZER. The act was originally passed in 1902, authorizing these improvements. The work has been going on ever since, and it requires about $1,500,000 to complete everything—to make the academy the best in all the world. This sum of money is the balance to finish these authorized and partially completed improvements.

Mr. BUTLER of Pennsylvania. Appropriated for a general plan?

Mr. HULL. No, sir; there was nothing appropriated then.

Mr. PALMER. I beg the gentleman's pardon; there was $2,000,000.

Mr. BUTLER of Pennsylvania. Was it a general plan?

Mr. SULZER. That act authorized a general plan.

Mr. BUTLER of Pennsylvania. Then, as I understand it, this is to complete the general plan.

Mr. SULZER. Quite so; and we must, it seems to me, do so. I will now yield to my colleague on the committee, the gentleman from New Jersey [Mr. PARKER], and all I want to say in conclusion is that I am earnestly and sincerely in favor of this necessary appropriation, and I hope the House will approve it and stand by the committee, the Secretary of War, and General Mills, the praiseworthy Superintendent of the Military Academy.

Mr. PARKER. Mr. Chairman, after the words that came from the gentleman from New York [Mr. FITZGERALD] attacking the Secretary of War, it is due to that Secretary of War, now the Secretary of State, as well as to this committee, to state the law and what Congress has done. In the year 1902 the provision already read was passed. It did provide that no work should be done until complete plans had been made, prepared, and approved by the Secretary of War, covering all necessary buildings and improvements at West Point, and for each and every purpose connected therewith, which plans should involve a detailed expenditure of not more than $5,500,000, including the sum then appropriated.

That was in 1902. There is no one in this House who does not know that expense of building very largely increased after 1902. No one can consider this matter without seeing that ordinarily general plans would be prepared and approved, and then detailed plans would have to be gone into in order to get at the expense, but meanwhile Congress increased the number of cadets at West Point, and they were being crowded in their barracks, so that they were living three in a room. That fact was reported to the House, and in the year 1904, it being absolutely necessary for the accommodation of the boys at West Point, Congress modified that law and provided that in carrying out the provisions of the act of June 28, 1902, after general plans—not specific—have been prepared and approved by the Secretary of War "he may proceed with the necessary construction of cadet barracks and such buildings as shall be needed to replace barracks removed in such construction of cadet barracks upon detailed plans approved by him before the completion of detailed plans for the whole work, provided that the limit of cost is not increased thereby." That is to say, as to other buildings he must have detailed plans before he went ahead.

Mr. FITZGERALD. Mr. Chairman, will the gentleman yield there? The provision he has read authorized him to go ahead with the buildings for the barracks without detailed plans, provided the limit of cost was not increased. Is that right?

Mr. PARKER. I did not state that at all.

Mr. FITZGERALD. I am asking what the gentleman read.

Mr. PARKER. I read it once and I will read it again.

Mr. FITZGERALD. Just the last part of it.

The CHAIRMAN. From what does the gentleman from New Jersey read?

Mr. PARKER. The appropriation act of 1904. That act provided that, in carrying out the act of 1902 after general plans "have been prepared and approved by the Secretary of War, he may proceed with the necessary construction of cadet barracks and such buildings as shall be needed to replace the barracks removed in such construction of cadet barracks upon detailed plans approved by him before the completion of detailed plans for the whole work, provided that the limit of cost is not increased thereby." He did not go ahead without authority of Congress. That work was done by the authority of Congress.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. PARKER. I would rather get through with the statement first, unless it is on this particular point.

Mr. MADDEN. I just wanted to ask whether or not, if the authority granted to the Secretary of War limited him to the expenditure of $5,500,000, how he secured the authority that increased that cost to $7,000,000?

Mr. PARKER. He has not got it yet.

Mr. PALMER. That is what they are trying to get.

Mr. PARKER. The authority given to him, however, was that, while the limit remains the same, he could go ahead with the cadet barracks and necessary buildings, making the other buildings come within the $5,500,000.

Mr. HULL. Or else not build.

Mr. PARKER. But he could go ahead with the cadet barracks anyway, without any restriction, as long as he did not exceed that amount.

Mr. MADDEN. Always assuming that he could not exceed the authorization for the expenditure of $5,500,000.

Mr. PARKER. That is so as far as that act is concerned, but

I will bring the gentleman's attention to another act, if he will wait a moment.

Mr. SLAYDEN. Mr. Chairman, as I recall it, the Secretary of War was specifically authorized to undertake, first, such buildings as were urgently required to meet existing conditions at the academy.

Mr. PARKER. Although he had not completed his detailed plans.

Mr. SLAYDEN. Although the detailed plans for the whole scheme had not been completed—such buildings, for example, as barracks.

Mr. PARKER. Yes.

Mr. SLAYDEN. Where the young men were crowded in an unhealthy and insanitary way.

Mr. PARKER. Yes.

Mr. SLAYDEN. Now, did that permission, given him to undertake those buildings at that time and under those conditions, result in unavoidably increasing the cost of the construction of the whole to some extent—has it not done so?

Mr. PARKER. I am not inclined to think it has. I think the construction was of the very cheapest fashion that any such buildings could be put up, and although it is a large expense it is large only because they are large buildings. The increase in the cost comes from the rise in the price of building materials since the general plans were adopted.

Mr. FITZGERALD. Will the gentleman permit an interruption?

Mr. PARKER. I will not be interrupted at this present moment, because I want to get to another law, and I can not get things in order if I am interrupted now. In the year 1905 it was further found that other buildings than the cadet barracks were necessary, and that the work had to go ahead, and therefore another modification of this act was made on the appropriation bill of that year, which is much broader than it was before. It reads as follows:

> In carrying out the provisions of the act of June 28, 1902, after general plans have been prepared and approved by the Secretary of War, he may, within the limit of cost fixed, proceed with their execution in such order as the detailed plans may be approved by him and in such manner, by contract or otherwise, as he may see fit.

He was thereby authorized to construct such buildings as he could construct within $5,500,000, leaving other buildings to be considered by Congress. I will read that over again. It says this:

> In carrying out the provisions of the act of June 28, 1902, after general plans had been prepared and approved—

General plans never give you the cost, detailed plans are necessary to that—

> by the Secretary of War he may, within the limit of cost fixed, proceed with their execution in such order as the detailed plans may be approved by him, and in such manner, by contract or otherwise, as he may see fit.

That authorizes him to do what he said he did, get the cheapest and best plans he could, proceed with the necessary buildings, and if necessary leave out some because he could not construct them within that limit. It says he may proceed. Now he comes frankly to Congress and says this work is to be continued, and he tells Congress this: When this work was first estimated it was estimated to cost $6,500,000. Five million five hundred thousand dollars was all that was appropriated, and $500,000 of that sum, in round numbers, has been taken out and put to the purchase of the best improvement ever done for West Point, and which was not included in these plans at all, namely, the acquisition of 20 square miles of watershed for the obtaining of pure water for West Point, the best thing that was ever done for that place.

Mr. GAINES of Tennessee. Mr. Chairman, can I interrupt the gentleman at that point?

Mr. PARKER. In a moment; wait until I get through.

Mr. GAINES of Tennessee. But I want to ask a question at that particular point.

Mr. PARKER. And considering the rise in building material, they have found that in spite of that rise by making economies in various directions they can get through really for the same amount of money that was asked in the beginning, and they come to Congress and say the completion of these plans will cost so much and we have to enlarge that limit. Now, as to the point of order. That limit is not a limit upon us. It is a limit upon the man to whom the appropriation is given; but, nevertheless, it is a limit which can be removed, just as we can make any new legislation. It is fair that it should be removed and it is not exactly fair without reading or remembering these different provisions of Congress that Members of Congress should accuse the Secretary of War——

Mr. MADDEN. I would like to ask the gentleman a question——

Mr. PARKER. In one minute. Should accuse the Secretary of War of bad faith. Now, I will yield to the gentlemen who desired to ask me questions, and the first person who asked me to yield was the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Chairman, I simply wish to say to the gentleman I do not desire to ask a question, but to say I did not accuse the Secretary of War of bad faith; but I will state later what I do accuse the committee of, and will reiterate that statement in the light of the gentleman's own statement.

Mr. PARKER. I yield to the gentleman from Tennessee.

Mr. GAINES of Tennessee. Is it not a fact that when we were building the Annapolis Academy we first appropriated $8,000,000 for improvements, and the Secretary of the Navy, Mr. Moody, came up to Congress and called for $2,000,000 more, saying that the building-material fraternity had put the price of building material up to such an extent that he would not go ahead until we gave him $2,000,000 more, which we gave?

Mr. PARKER. I have no knowledge of that.

Mr. GAINES of Tennessee. That is a fact. This is the second offense the steel trust is putting on the Federal Government.

Mr. PARKER. I thank the gentleman for the suggestion.

Mr. MADDEN. I just wanted to ask the gentleman if he could tell the committee what increase there has been in building material since 1902, if he knows?

Mr. PARKER. I can not give the details. I know very well that in everything that I have tried to do since 1902 there has been an increase in price.

Mr. SULZER. Let me say to the gentleman from Illinois [Mr. MADDEN] and the gentleman from Tennessee [Mr. GAINES] that this is not a question of the increased price of material at all. It is simply appropriating the balance of money to carry out the original plan. Congress originally appropriated money for the purpose, but not enough.

Mr. GAINES of Tennessee. Are we still going to keep on feeding these steel robbers and rob the Treasury?

Mr. SULZER. That is not the question, or what we are doing at all.

Mr. GAINES of Tennessee. Put a lot of them into the penitentiary and then we can erect buildings cheaper.

Mr. MADDEN. The gentleman made a statement to the committee a moment ago that this additional appropriation is requested because of the advance in the price in building materials since 1902, and in response to a question as to what the increase in the price of building was, he says he does not know.

Mr. SULZER. Who says that?

Mr. MADDEN. The gentleman.

Mr. SULZER. What gentleman?

Mr. MADDEN. And I wish to say in reply to that, as an experienced handler of building materials, that there has been no increase in the price of those materials since 1902.

Mr. GAINES of Tennessee. I am not a builder of that sort, but I think I can show to-morrow that the gentleman is mistaken. We are being robbed every day, Mr. Chairman.

Mr. FITZGERALD. Mr. Chairman, it seems impossible to inquire about any great project under way by the Federal Government without being accused of charging some official with bad faith. Despite the very elaborate statement of the gentleman from New Jersey [Mr. PARKER], I am still convinced that the facts in this matter are practically as follows: That in 1902 Congress authorized the Secretary of War to have plans prepared for a complete scheme of improvement at West Point. At that time $2,000,000 were appropriated, to be utilized for that purpose, but with limitation upon the power of the Secretary of War not to expend a single dollar or to enter into a single contract until he had approved the plan for the complete scheme of improvement, at a cost not exceeding $5,500,000. In 1904 it appeared that, on account of the necessity of having certain buildings quickly, Congress authorized the Secretary of War to proceed with certain of the buildings required, without waiting for detailed plans for all the buildings, but that the Congress reiterated the limitation upon his power not to exceed the limit of $5,500,000 in completing the work.

Now, a letter was read here from some official—I forget who——

Mr. PALMER. The Superintendent of West Point.

Mr. FITZGERALD. The Superintendent of West Point, in which he stated that after the plans were prepared, after they were approved, if I recall correctly, it was ascertained that if the plans adopted were followed, there would have been insufficient and inadequate facilities, and therefore the plans were changed for certain buildings, and these changes necessitated an increase in cost, and necessarily would make the completed

scheme cost more than the amount authorized by Congress, although that was specifically prohibited by law. And, without getting the approval of Congress for a change or for an increase in the cost, without asking Congress to authorize the changes entailing additional expense, contracts were made to do as much as could be done with the amount available. That is practically the effect of the statements of the letter just read; while members of the committee may shake their heads, Members not on the committee, so far as I can find out, view this matter the same way that I do.

I stated that the then Secretary of War had manifested a disposition, which he has since manifested, to utterly ignore or be indifferent to limitations placed upon him by Congress, and I need only to recall the fact that he wrote a letter to the chairman of the Committee on Appropriations this year in which he blandly suggested that an act of Congress to prevent the creation of deficiencies should not apply to certain contingent funds of his Department, if it were ever intended that it should.

I do not care whether it is pleasant for any official or any official's friends to hear criticisms of their official conduct. I intend to criticise such actions as those mentioned whenever they are called to my attention or wherever I can find out about them. It seems, let me add, that the House reduced the limit of cost of these buildings, as recommended by the committee, by $1,000,000, yet because some gentlemen stated on the floor that if it were necessary afterwards the limit would be increased, it seems that some official undertook to believe that the statements—the irresponsible statements, if you please—of Members of the House, in the RECORD, were binding on him, and not the law as enacted by the Congress.

I believe that this work has been conducted in violation of law. I believe the attention of the country should be called to it. I suppose it is necessary now to change the limit of cost and eventually appropriate the additional money to complete the work, the same as it was for the Naval Academy. It is necessary to increase the limit of cost, but that does not deter me from criticising those whom I believe to be responsible for the situation. I have great pride in the Military Academy. I have spent many pleasant days in recreation in the waters about it and in the surrounding country.

I have spent considerable time at the academy. I should like to see continued there what is there now—the finest military school the world knows. I desire to see adequate and proper facilities for the young men who are to be educated; but even to accomplish these things I will not sit silent and not protest against the action of officials who appear to desire to accomplish their purposes regardless of what the law is, or what they are authorized to do under the law.

It seems to me, Mr. Chairman, that if Members were more free in calling attention to the action of officials of the executive department, and more careful to compel them to obey the law and come here for authority to act in all matters properly controlled by the Congress, there would be less necessity for criticism. I do not charge the Secretary of War with bad faith. I charge him with ignoring the limits put upon his power by Congress. I believe now that I stated the facts to be as they actually existed, and in doing what he did he must have ignored the law and ignored the limit placed upon his power. It is against such action on the part of officials that I protest.

Mr. SLAYDEN. Mr. Chairman, I think that no Member of this House will deny that the gentleman from New York does good public service when he directs the attention of Congress and the country to a violation of the law, either in the letter or spirit, by any executive official of the Government, however highly he may be placed. I entirely sympathize with him in the criticism. It is unfortunate that in the past we have had officers who disregarded limitations fixed by Congress upon the cost of public buildings and other public work. About a year ago I myself, as an illustration of this idea, conceived it to be my duty to call the attention of the House to a remarkable increase of cost upon one public building erected for the use of the Army under the supervision of the Corps of Engineers. It increased by 100 per cent before we completed it over the figures originally given to us as its ultimate probable cost. In this case, I am pleased to say, the increase has not been so large; and I occupy this position with reference to this particular improvement:

In the beginning, when the project for the enlargement and improvement of West Point was undertaken, I believed the proposed large cost fixed for it was unnecessary. I did not believe that the Naval Academy should have had as much money as Congress gave it; and I did not believe that the Military Academy should have had as much money as we agreed to give it. But we did agree to give it, as the bill emerged from the committee, $6,500,000. As it passed the House the amount was decreased to $5,500,000. Of that sum $546,000 was set apart for the development of the water supply or acquisition of its source.

Then, Mr. Chairman, the exigencies of the situation required that there should be immediately undertaken the construction of barracks and quarters for the accommodation of the increased number of cadets authorized by Congress. Every Member of this House who has ever been at the Military Academy knows that for years there has been crowded into practically every room of the barracks three cadets; and the common sense and experience of every Member of this House will tell him that that was not a wholesome or desirable condition; and because of that fact, the Secretary of War, notwithstanding the fact that the whole scheme of improvement had not been made and agreed upon, was authorized to undertake the immediate construction of these urgently needed buildings.

Now, Mr. Chairman, these buildings were built according to the design of the architect, honestly built I do not doubt; as economically built as any Government work is ever done. Superb structures are being made, in every way meeting the requirements of the Military Academy; but, sir, they are costing a considerable amount of money, and it is now evident that the entire scheme for the Academy can not be completed within the limit of cost fixed by Congress.

Mr. BUTLER of Pennsylvania. Mr. Chairman, will the gentleman allow me to ask him a question there? I see you have used the word "extend" in the paragraph. Does that mean an extension of the building or an extension of the appropriation?

Mr. SLAYDEN. If it is to extend the buildings, it involves extending the appropriations, I will say to the gentleman.

Mr. BUTLER of Pennsylvania. Another question is this, so that I may have it in mind. I think that the gentleman is very fully informed on the subject. If this money should be appropriated, it would carry out the general purpose or plan made by the War Department——

Mr. SLAYDEN. Oh, yes, Mr. Chairman.

Mr. BUTLER of Pennsylvania. And that plan as made by the War Department is in violation of the limitation put upon it by act of Congress?

Mr. SLAYDEN. That is a question of fact, as to whether or not they can erect buildings after the plan agreed upon, which they hoped could be built within the limitation. Whether it can be done or not I can not answer, and I do not suppose there is any man who can answer the question absolutely at this time. I believe they have shown that it can not be done within the original limit of cost, I will say to the gentleman.

Mr. MADDEN. Are they endeavoring to erect more buildings now than were contemplated in the general scheme?

Mr. SLAYDEN. I think not. I think, indeed, they are erecting less.

Mr. MADDEN. That would involve an expenditure of 25 per cent more than the original estimate.

Mr. SULZER. The estimate originally made was for this amount. That is where the gentleman is in error.

Mr. SLAYDEN. I will say to the gentleman that $500,000 of the appropriation has been used for the development of the water supply.

Mr. MADDEN. Then it would be an expenditure of about 20 per cent more than the original estimate?

Mr. SLAYDEN. Nineteen or 20 per cent more than the appropriation.

Mr. MADDEN. If the gentleman will allow me, it seems to me the man who made the plans and estimate of the cost ought to be able to make a closer estimate than what he has actually made.

Mr. SLAYDEN. Mr. Chairman, in reply to the gentleman from Illinois, I will say that I congratulate myself and the House upon the fact that we can get within 20 per cent. My observation of the tremendously had shot made by the Army officers who built the War College and the Engineer School convinced me that when we can build under the supervision of architects and the administration of an efficient and intelligent officer, such as we have at the Military Academy, we get very much nearer the estimates than we did under the old plan.

Mr. PALMER. Mr. Chairman, I make the point of order on the paragraph in line 9 to line 20, on page 29, that the extension of $1,500,000 beyond the act of June 28, 1902, is contrary to law and can not be carried on an appropriation bill.

The CHAIRMAN. The Chair is ready to rule.

Mr. HULL. I want to say a word on the point of order.

Mr. SULZER. I want to be heard on the point of order.

Mr. HULL. I want to ask the Chair if he has considered the

fact that the provision in the rule in regard to increased appropriations did not apply in this case. This limitation is on the appropriation bill which carries the appropriation for the building. The decision in the Digest referred to a different class of buildings. The Committee on Buildings and Grounds fixed the cost of a public building. Of course, the Committee on Appropriations could not increase the amount. In this case the Military Committee has exclusive jurisdiction.

The CHAIRMAN. It is law, notwithstanding.

Mr. HULL. It is law according to some Chairmen, and it is held by other Chairmen that no law is made by an appropriation act unless it includes the word "hereafter."

The CHAIRMAN. It is in the appropriation bill, it is true, but it is general law, and this bill provides that the limit of total expenditure for this work fixed in the act of Congress of June 28, 1902, is extended. The bill itself states that it is fixed—fixed by a previous law. It is also fixed by the act of 1904 and also by the act of 1905, so that there are three different bills fixing the cost not to exceed five and a half million dollars. If there is no existing law on the subject, then this bill creates a law, and if there is an existing law then this bill changes it. In either event it is new legislation.

Mr. SULZER. Mr. Chairman, I desire briefly to discuss the point of order. Let me read Rule XXI, section 2.

The CHAIRMAN. The Chair is familiar with the rule.

Mr. SULZER. It says:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any appropriation bill or in any amendment thereto.

Mr. Chairman, the matter under consideration is this appropriation for a public improvement, and this is a continuation of the original appropriation.

The CHAIRMAN. Congress has already fixed a limit to that improvement by specific law.

Mr. SULZER. It does not say so in the act of 1902.

The CHAIRMAN. This bill to which the point of order is made recites that limit.

Mr. SULZER. There is nothing in the original law that puts a limit on the cost. That act appropriated an amount of money, and this appropriation is a continuation of an appropriation for public works now in progress.

The CHAIRMAN. The Chair would call the attention of the gentleman from New York to the fact that this is not a continuation of the appropriation. This is a change of limit. It says that the limit is extended $1,500,000. It is not an appropriation for a million and a half of dollars, but it is a change from the limit of $5,500,000 to $7,000,000.

Mr. SULZER. It is an extension or continuation. They might have used the word "continuation" in the bill.

The CHAIRMAN. There is no appropriation in this paragraph. It only changes the previous limit fixed by Congress.

Mr. SULZER. There was no limitation in the original act fixed by Congress. That act does not say that the amount then appropriated should be limited to that amount of money for these improvements at West Point. All the law said was that such an amount was appropriated. This is a continuation of the original appropriation for public improvements now going on, and under this provision of the rule it seems to me the point of order is not well taken.

Mr. GAINES of Tennessee. This is clearly a change in existing law. The paragraph says that it is to "extend" or increase the limit of the appropriation made by existing law. To extend the existing law we must change it, and in this case by increasing the appropriation $1,500,000, making the total appropriation $7,000,000, I believe. This increase is needed, we are told, because building material has increased in price.

But, Mr. Chairman, I do not care particularly to discuss the question of the point of order. I simply want to call the attention of this honorable body to one fact and then I am done. As I said a few moments ago to the gentleman from New Jersey, this is the second time the steel trust and other trusts, singly or combined, have held up the Government and forced increased appropriations. I certainly hope the Attorney-General of the United States will at once investigate this matter, if not to save the people, to save the Treasury from being emptied by unlawful combinations.

The CHAIRMAN. The Chair is ready to rule on the point of order.

Mr. SULZER. Mr. Chairman, I desire to call the attention of the Chair to the words of the act of 1902, and if the Chair will read the provisions of that act the Chair will see that there is no limitation in it and that this appropriation is a continuation of the former appropriation and is for a public improvement. Hence it comes within the rule and is not subject to a point of order.

The CHAIRMAN. It is a sufficient answer to that to say that if the former act did not fix a limitation this act does; if there is no limitation this creates one, and that is a change of existing law. If there is a limitation, this enlarges it. The Chair sustains the point of order.

Mr. SULZER. Well, I am sorry; but I suppose there is nothing to do but gracefully submit to the ruling of the Chair.

Mr. HULL. Mr. Chairman, I move that the committee do now rise and report the bill to the House.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LACEY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18030—the Military Academy appropriation bill—and had directed him to report the same back without amendment with the recommendation that it do pass.

The SPEAKER. The gentleman from Iowa, Chairman of the Committee of the Whole House on the state of the Union, reports that that committee has had under consideration the bill H. R. 18030, the Military Academy bill, and has directed him to report the same back without amendment with the recommendation that it do pass.

Mr. UNDERWOOD. Mr. Speaker, did I not understand that a point of order was sustained to the last paragraph of the bill?

The SPEAKER. Paragraphs that go out on points of order are not reported. The question is on the engrossment and third reading of the bill.

The question was taken; and the bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HULL, a motion to reconsider the last vote was laid on the table.

JAMES D. VERNAY.

Mr. PARKER. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

Resolved, That the Senate bill (S. 2325) entitled "An act for the relief of James D. Vernay be returned to the Senate, pursuant to their request by Senate resolution of April 24, 1906.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, I object. I will state to the Speaker that I shall not have objections right after the statehood conference report comes in.

The SPEAKER. The gentleman from Mississippi objects.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following request, which the Clerk will report.

The Clerk read as follows:

Mr. HOUSTON, of Tennessee, requests leave of absence for ten days, on account of important business.

The SPEAKER. The question is on granting the leave of absence.

Mr. WILLIAMS. Mr. Speaker, is there any motion before the House? Did anybody make a motion?

The SPEAKER. Strictly speaking, no.

Mr. PAYNE. Mr. Speaker, I move that the request be granted.

Mr. WILLIAMS. Mr. Speaker, I move that the request be granted.

The SPEAKER. The Chair will state that the habit has been not to wait upon formal motion in respect to matters that are granted as matter of course.

Mr. WILLIAMS. Mr. Speaker, I move that the request be granted.

The SPEAKER. The question is on the motion of the gentleman from Mississippi, who is now recognized by the Chair, that the request be granted.

The question was taken; and the motion was agreed to.

ADJOURNMENT.

Then, on motion of Mr. HULL (at 4 o'clock and 56 minutes p. m.), the House adjourned until to-morrow, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, submitting an

estimate of deficiency appropriation for transportation of minor coins—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of War submitting an estimate of appropriation for the relief of Cornelio Alcantara—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of the Interior submitting an estimate of appropriation for reproducing official records of the land office at San Francisco—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of the Interior submitting an estimate of appropriation for survey of boundary line between Idaho and Montana—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. ROBINSON of Arkansas, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 5979) to grant the thirty-sixth section of public lands in each township to the State of Arkansas for school purposes, reported the same with amendment, accompanied by a report (No. 3707); which said bill and report were refered to the Committee of the Whole House on the state of the Union.

Mr. ALEXANDER, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 3436) to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal, reported the same, together with the minority views, without amendment, accompanied by a report (No. 3710); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GUDGER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18319) granting an increase of pension to Newton Kinnison, reported the same with amendment, accompanied by a report (No. 3706); which said bill and report were referred to the Private Calendar.

Mr. LACEY, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 1725) granting certain land to the Missionary Baptist Church, of Rock Sink, Fla., reported the same with amendment, accompanied by a report (No. 3708); which said bill and report were referred to the Private Calendar.

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 2325) for the relief of James D. Vernay, together with the request of the Senate for the return of said bill, reported the same, accompanied by a report (No. 3709); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. HIGGINS: A bill (H. R. 18891) to aid in the construction of a railroad and telegraph and telephone line in the district of Alaska—to the Committee on the Territories.

By Mr. MURPHY: A bill (H. R. 18892) to remove the restrictions on the alienation of land in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole nations, Ind. T.—to the Committee on Indian Affairs.

By Mr. KLEPPER: A bill (H. R. 18893) for the improvement of the Missouri River near Camden, Ray County, Mo.—to the Committee on Levees and Improvements of the Mississippi River.

By Mr. SAMUEL W. SMITH: A bill (H. R. 18894) to amend section 653 of the Code of Law for the District of Columbia, relative to assessment life insurance companies or associations—to the Committee on the Judiciary.

By Mr. PAYNE: A bill (H. R. 18895) to provide for the reimbursement of the United States for expenses incurred in inspecting and stamping distilled spirits contained in rectifiers' and wholesale liquor dealers' packages—to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAMS of Pennsylvania: A bill (H. R. 18896) granting an increase of pension to Samuel Smith—to the Committee on Invalid Pensions.

By Mr. BENNETT of Kentucky: A bill (H. R. 18897) granting an increase of pension to R. A. Hillman—to the Committee on Invalid Pensions.

By Mr. BONYNGE: A bill (H. R. 18898) granting an increase of pension to Sophia A. Brown—to the Committee on Invalid Pensions.

By Mr. COLE: A bill (H. R. 18899) granting an increase of pension to John Watters—to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 18900) correcting the military record of E. J. Kolb, alias E. J. Kulb—to the Committee on Military Affairs.

By Mr. GREGG: A bill (H. R. 18901) granting an increase of pension to John E. English—to the Committee on Pensions.

By Mr. HOPKINS: A bill (H. R. 18902) granting a pension to Cornelius Meek—to the Committee on Pensions.

By Mr. JOHNSON: A bill (H. R. 18903) granting an increase of pension to Julia A. Abney—to the Committee on Pensions.

By Mr. LEVER: A bill (H. R. 18904) granting an increase of pension to Henrietta G. Carter—to the Committee on Pensions.

By Mr. MANN: A bill (H. R. 18905) granting an increase of pension to Samuel H. Davis—to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 18906) for the relief of J. M. Rodgers—to the Committee on Claims.

By Mr. NEVIN: A bill (H. R. 18907) granting a pension to John Moore—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18908) granting an increase of pension to Ferdinand Schlegel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18909) granting an increase of pension to Peter Farley—to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 18910) granting an increase of pension to Philo E. Davis—to the Committee on Invalid Pensions.

By Mr. PEARRE: A bill (H. R. 18911) granting an increase of pension to Frances Becker—to the Committee on Invalid Pensions.

By Mr. POLLARD: A bill (H. R. 18912) granting a pension to John E. Latta—to the Committee on Invalid Pensions.

By Mr. SMITH of Iowa: A bill (H. R. 18913) granting an increase of pension to George W. Hilling—to the Committee on Invalid Pensions.

By Mr. SMITH of Maryland: A bill (H. R. 18914) for the relief of Joseph Flewheart—to the Committee on War Claims.

By Mr. WEBB: A bill (H. R. 18915) granting an increase of pension to William R. Watts—to the Committee on Invalid Pensions.

By Mr. WOOD of Missouri: A bill (H. R. 18916) granting a pension to Mary A. Laurient—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18917) granting an increase of pension to John Martin—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A joint resolution (H. J. Res. 57) extending the provisions of the act of June 27, 1890, to include the officers and privates of the Eighteenth and Nineteenth Regiments Kansas Volunteer Cavalry and the widows and minor children of all such persons—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 12330) granting an increase of pension to Hester A. Van Derslice—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17934) granting an increase of pension to Thomas J. Byrd—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 18677) granting a pension to Martin A. Luther—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER: Petition of the Buffalo (N. Y.) Foundrymen's Association, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

By Mr. ANDREWS: Petition of citizens of Raton and Las Vegas, N. Mex., against religious legislation in the District of Columbia—to the Committee on the Post-Office and Post-Roads.

By Mr. BATES: Petition of Grange No. 838, of Shadeland, Pa., for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Society on Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills) and S. 2962 (the children's bureau bill)—to the Committee on the District of Columbia.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Russell Savage—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of Elizabeth S. Mullins—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of Susan Hardin—to the Committee on Invalid Pensions.

Also, paper to accompany bills for relief of William H. Tritts, Lemuel Johnson, and William J. Meadows—to the Committee on Military Affairs.

By Mr. BURLEIGH: Petition of Lamoine (Me.) Grange, No. 64, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. COLE: Petition of citizens of the Eighth Congressional district of Ohio, against the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. DUNWELL: Petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (child labor in the District of Columbia) and for S. 2962 (children's bureau in the District of Columbia)—to the Committee on the District of Columbia.

Also, petition of the Associated Alumnæ of the Normal College of New York City, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Brooklyn League, Temple Bar, for the reconstruction of Fort Hamilton post on the lines recommended by Gen. F. D. Grant—to the Committee on Military Affairs.

By Mr. ESCH: Petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (child labor in the District of Columbia) and S. 2962 (children's bureau)—to the Committee on the District of Columbia.

By Mr. FLACK: Petition of Gouverneur (N. Y.) Grange, No. 303, against the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. FLOYD: Paper to accompany bill for relief of William C. Mahaffy—to the Committee on Pensions.

By Mr. FULLER: Petition of the Rockford (Ill.) Manufacturers and Shippers' Association, against anti-injunction legislation—to the Committee on the Judiciary.

By Mr. GOULDEN: Petition of James M. Ginn et al., of St. Luke's Council, No. 438, Knights of Columbus, for bill H. R. 13309, relative to a suitable memorial to the memory of Christopher Columbus—to the Committee on the Library.

By Mr. HOPKINS: Paper to accompany bill for relief of Cornelius Meek—to the Committee on Pensions.

By Mr. HOWELL of Utah: Petition of the Telluride Powder Company, of Utah and Colorado, for the Littauer bill (the metric system)—to the Committee on Coinage, Weights, and Measures.

Also, petition of the Y. L. M. I. A., of Salt Lake City, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. JOHNSON: Paper to accompany bill for relief of Julia A. Abney—to the Committee on Pensions.

By Mr. LACEY: Petition for an amendment to the pension laws, giving arrears back to the date of discharge at $8 per month for soldiers 70 years old and $4 additional pension after 70 years of age—to the Committee on Invalid Pensions.

By Mr. MAHON: Paper to accompany bill for relief of John D. Baker—to the Committee on Invalid Pensions.

Also, petition of citizens of Huntingdon, Pa., against sale of liquor in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. MANN: Paper to accompany bill for relief of Samuel H. Davis—to the Committee on Invalid Pensions.

By Mr. NEVIN: Petition of Thomas J. Littlejohn and 6 others, for legislation to pay $2 per day to ex-Union soldiers while confined in Confederate prisons—to the Committee on Invalid Pensions.

By Mr. NORRIS: Petition of the Lincoln (Nebr.) Credit Men's Association, against repeal of the bankruptcy law—to the Committee on Banking and Currency.

By Mr. PATTERSON of Tennessee: Petition of citizens of Lebanon, Ky., for an appropriation to acquire a right of way and to build a road from the town of Lebanon to the national cemetery—to the Committee on Military Affairs.

Also, petition of the National Business League of Chicago, Ill., against anti-injunction legislation—to the Committee on the Judiciary.

Also, petition of Russe & Burgess, of Memphis, Tenn., for the reclassification of mails and for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (child labor in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. PEARRE: Petition of John F. Reynolds Post, Grand Army of the Republic, to accompany bill for relief of Frances Becker, widow of Ferdinand Becker—to the Committee on Invalid Pensions.

By Mr. PUJO: Petition of the Deep-Water Convention held at Morgan City April 10, 1906, for an appropriation to procure and keep a depth of 20 feet of water through the channel of the Atchafalaya River—to the Committee on Rivers and Harbors.

Also, petition of the Southern Cypress Manufacturers' Association, against bills H. R. 4445 and 9328 (the anti-injunction bills; the Little and Gilbert bills)—to the Committee on the Judiciary.

Also, petition of the executive council of the American Federation of Labor, against bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Southern Cypress Manufacturers' Association, for an appropriation to obtain and maintain deep water in the Atchafalaya River—to the Committee on Rivers and Harbors.

By Mr. SCHNEEBELI: Petition of Washington Camp, No. 451, Patriotic Order Sons of America, of Weaversville, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the National Business League, of Chicago, Ill., against anti-injunction legislation—to the Committee on the Judiciary.

Also, petition of the National Board of Trade, of Philadelphia, Pa., for the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the T Square Club, of Philadelphia, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Trades League of Philadelphia, Pa., against the Little and Gilbert bills, relative to immunity to labor organizations in disputes—to the Committee on the Judiciary.

Also, petition of the Indian Association of Bethlehem, Pa., for legislation for the California Indians—to the Committee on Indian Affairs.

Also, petition of the Western Pennsylvania Branch of Consumers' League, for legislation to regulate child labor in the District of Columbia and for a children's bureau—to the Committee on the District of Columbia.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of John C. Vanfleet—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Clifford Haddoct—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of New York: Petition of 65 prominent women of Molly Pitcher Council, of New York City, for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. THOMAS of North Carolina: Paper to accompany bill for relief of heirs of Micajah Hardesty—to the Committee on War Claims.

By Mr. WOOD of Missouri: Petition of Limbante & Raffaele, for the Littauer bill (the metric system)—to the Committee on Coinage, Weights, and Measures.

SENATE.

THURSDAY, *May 3, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MILITIA ORGANIZATIONS IN CIVIL WAR.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 18th ultimo, a report from the Military Secretary of the Army, containing a list, arranged by States, showing which of the military organizations accepted into the service of the United States during the civil war were so accepted as militia organizations; which, with the accompanying papers, was referred to the Committee on Military Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 18030. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1907, and for other purposes; and

H. R. 18537. An act making apropriations for the Department of Agriculture for the fiscal year ending June 30, 1907.

PETITIONS AND MEMORIALS.

Mr. SCOTT presented a memorial of Bluestone Council, No. 110, United Commercial Travelers of America, of Bluefield, W. Va., remonstrating against the enactment of legislation to consolidate third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry pharmacists and physicians of Jefferson County, W. Va., praying for the adoption of certain amendments to the present patent law; which was referred to the Committee on Patents.

Mr. SMOOT presented a petition of sundry citizens of the State of Utah, praying for the enactment of legislation to consolidate third and fourth-class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. GALLINGER presented a petition of the Board of Wardens of the Village Improvement Society, of Franklin, N. H., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Wardens of the Village Improvement Society, of Franklin, N. H., praying for the enactment of legislation to establish national forest reserves in the Southern Appalachian and White Mountains; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Washington, D. C., and the petition of Donald MacPherson, of Washington, D. C., praying for the enactment of legislation to regulate the operation of street railways in the District of Columbia; which were referred to the Committee on the District of Columbia.

He also presented a petition of the North Capitol and Eckington Citizens' Association, of Washington, D. C., praying for the enactment of legislation to require street railway companies in the District of Columbia to sprinkle along their tracks; which was referred to the Committee on the District of Columbia.

He also presented sundry papers to accompany the bill (S. 5802) to correct the military record of Mirick R. Burgess; which were referred to the Committee on Military Affairs.

Mr. BURKETT presented sundry affidavits to accompany the bill (S. 5602) granting an increase of pension to Alexander Brady; which were referred to the Committee on Pensions.

Mr. STONE presented a petition of sundry citizens of St. Louis, Mo., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of Colonel Louis A. Craig Camp, Army of the Philippines, of Kansas City, Mo., praying for the enactment of legislation granting special medals to officers and enlisted men who served beyond their legal enlistment in the war with Spain; which was referred to the Committee on Military Affairs.

He also presented a petition of Frank P. Blair Post, No. 1, Department of Missouri, Grand Army of the Republic, of St. Louis, Mo., praying for the enactment of legislation providing for the purchase of the Wilsons Creek battlefield, in that State, for use as a national park; which was referred to the Committee on Military Affairs.

He also presented a petition of St. Louis Chapter, American Institute of Architects, of St. Louis, Mo., praying for the enactment of legislation to remove the duty on works of art; which was referred to the Committee on Finance.

He also presented a memorial of Local Division No. 338, Amalgamated Association of Street and Electric Railway Employees, of Springfield, Mo., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented sundry petitions of citizens of St. Louis, Mo., praying for an investigation into the existing conditions in the Kongo Free State; which were referred to the Committee on Foreign Relations.

He also presented a memorial of Ozark Council, No. 58, United Commercial Travelers of America, of Springfield, Mo., and a memorial of sundry citizens of St. Louis, Mo., remonstrating against the enactment of legislation to consolidate third and fourth class mail matter; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. DOLLIVER presented sundry papers to accompany the bill (S. 423) to recognize the military services of George R. Burnett, late first lieutenant, Ninth United States Cavalry; which were referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. LODGE, from the Committee on Military Affairs, to whom was referred the bill (S. 2241) granting an honorable discharge to Benjamin F. Helmick, reported adversely thereon, and the bill was postponed indefinitely.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3728) granting a pension to William H. Winans; and

A bill (S. 2179) granting an increase of pension to S. Annie Gregg.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3649) granting a pension to Sarah Agnes Sullivan; and

A bill (S. 3270) granting an increase of pension to William H. Richardson.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17586) granting a pension to Harriet A. Morton; and

A bill (H. R. 17085) granting an increase of pension to George W. Olis.

Mr. DOLLIVER, from the Committee on Education and Labor, to whom was referred the bill (S. 5665) to regulate the employment of child labor in the District of Columbia, reported it with an amendment, and submitted a report thereon.

Mr. HEMENWAY, from the Committee on Military Affairs, to whom was referred the bill (H. R. 11543) to correct the military record of Benjamin F. Graham, reported it with amendments, and submitted a report thereon.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 6005) granting an increase of pension to John G. Bridaham; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6006) granting an increase of pension to William H. Crouch; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALGER introduced a bill (S. 6007) to correct the military record of John J. Waters; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McCUMBER introduced a bill (S. 6008) granting an increase of pension to Joseph Lamont; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 6009) for the relief of St. John's Episcopal Church, of Charleston, W. Va.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 6010) for the relief of Hector Bell; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURKETT introduced a bill (S. 6011) granting an increase of pension to Isaiah De Puy; which was read twice by

its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MONEY introduced a bill (S. 6012) for the relief of James H. Shannon; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6013) for the relief of Julia D. Harris, administratrix of the estate of Stephen Daggett, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6014) for the relief of the estate of Emanuel M. Solari, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. MORGAN introduced a bill (S. 6015) to carry out the findings of the Court of Claims in the case of Mrs. Frances A. Moore; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 6016) for the relief of Le Vert & Masten; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. STONE introduced a bill (S. 6017) granting an increase of pension to Elizabeth F. Snyder; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6018) granting an increase of pension to Henry Pensinger; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6019) granting a pension to Harriet O'Donald; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6020) for the relief of Clay Taylor; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6021) for the relief of the estate of Charlotte A. Armstrong, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. ALDRICH introduced a bill (S. 6022) to amend section 6 of an act entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," approved March 14, 1900; which was read twice by its title, and referred to the Committee on Finance.

Mr. McCUMBER introduced a bill (S. 6021) to amend section 21 of chapter 252 of the act approved May 28, 1896, entitled, "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes;" which was read twice by its title, and, with the accompanying paper, referred to the Committee on Appropriations.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I submit an amendment to the rate bill. I ask that it be read.

The amendment was read, and ordered to lie on the table and to be printed, as follows:

In section 4, on page 11, at the end of line 9, add:

"If such court shall find that the order was beyond the authority of the Commission or was a violation of the constitutional rights of the carrier it shall issue an injunction against the enforcement thereof: *Provided, however,* That no such injunction shall be issued as a preliminary or interlocutory proceeding."

Mr. STONE submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ANKENY submitted an amendment proposing to appropriate $750 to reimburse John M. Hill, late register of the United States Land Office at Walla Walla, Wash., for clerk hire, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $9,000 for paving South Carolina avenue from Thirteenth street to Fifteenth street SE., intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

HEARINGS BEFORE COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.

Mr. SCOTT submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Public Buildings and Grounds hereby is authorized to employ a stenographer to take hearings upon such matters as may be referred to the committee for its consideration, the expense to be paid from the contingent fund of the Senate.

FOREIGN-BUILT DREDGES.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 395) concerning foreign-built dredges, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GALLINGER. I move that the Senate insist upon its amendments, agree to the conference asked by the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice-President appointed Mr. FRYE, Mr. GALLINGER, and Mr. BERRY as the conferees on the part of the Senate.

PROPOSED INVESTIGATION OF METROPOLITAN POLICE.

The VICE-PRESIDENT. The morning business is closed. The Chair lays before the Senate a resolution coming over from a previous day.

The SECRETARY. Senate resolution 126, by Mr. TILLMAN——

Mr. TILLMAN. I should like to have the resolution go over and lie on the table without losing its place or its rights until such time as I see fit to call it up.

The VICE-PRESIDENT. Without objection, it is so ordered.

HOUSE BILLS REFERRED.

H. R. 18030. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1907, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs.

H. R. 18537. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907, was read twice by its title, and referred to the Committee on Agriculture and Forestry.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. NELSON. Mr. President, in the remarks I made in the earlier stages of the consideration of the pending bill I expressed some doubts about the right of Congress to deprive the courts of the power of issuing preliminary or temporary or interlocutory injunction. Since then I have given the question more thought and consideration, and I propose briefly to state the reasons why I conceive Congress has not the right to deprive the courts of that power, and I shall do it in as brief and concise terms as possible.

Can courts of equity in a case in equity of which they have jurisdiction be divested of the power to grant relief by temporary injunction in a case justifying such relief according to the established principles of equity? This is, in substance, what is involved in the amendment and the contention of the Senator from Texas. And as he bases his claim and contention upon the power of Congress to withhold jurisdiction, in whole or in part, from the inferior courts, I shall briefly discuss the subject in a general way before coming down to the ultimate point in controversy.

Under the Constitution, "the judicial power of the United States is vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish." This paragraph vests the judicial power in two kinds of courts, to wit, a Supreme Court and inferior courts, but neither of these courts could well exist without the affirmative action of Congress. There could not well be a Supreme Court until Congress prescribed the constituent elements of the court—that is to say, the number of judges—for the Constitution is silent on that point. While the President can appoint the judges, the power is not committed to him to determine whether the court shall consist of one or more judges, or, if more than one, of how many. And hence we find the judiciary act of 1789 prescribing that the court "shall consist of a chief justice and five associate justices." The act of 1802 added another associate justice, and by the act of 1837 two additional associate justices were added, making eight in all—the present composition of the court. Without such legislation there could not well be a Supreme Court.

If Congress could allow the power to establish inferior courts to remain dormant, so it could also allow the power of prescribing and defining the composition of the Supreme Court to remain dormant, and thus through legislative inaction the whole judi-

cial power of the United States would be in abeyance, and one great department of the Government would not be put in operation. In a limited class of cases the original jurisdiction is with the Supreme Court; in all other cases it is in the inferior courts to be established by Congress. Congress has not only the power to create these inferior courts, but also the power to prescribe the cases over which they shall have jurisdiction.

After the Supreme Court has been established Congress can not deprive it of its original jurisdiction, but it can deprive it of all appellate jurisdiction by failing to establish inferior courts.

Congress can not only allow the judicial power to lapse and be dormant by failing to establish inferior courts, but it can also allow the larger share of this power to lapse and be dormant by failing to vest such inferior courts with jurisdiction in a large class of cases, and so a large portion of the judicial power would be in abeyance, and thus the judicial department would be to a large extent dismantled and to that extent the people of this country would be deprived of the inalienable right, which pertains to every free, civilized, and enlightened government, to have their controversies settled and adjusted by peaceful methods rather than by brute force and violence, as in the primitive state of our race.

The Constitution of the United States is not a self-executing instrument. It is only a people, able, willing, and ready to accept and act under its provisions, that can breathe life into it and make it a living reality. The people might refuse to elect Senators and Representatives in Congress, or Senators and Representatives might refuse to meet and act. In either case the legislative power would be in abeyance, and the legislative department would be entirely dormant. So the people might refuse to elect a President and Vice-President, or these officials or any of those in whom the Presidential succession would vest might refuse to serve. In either case the executive department would be vacant, and to that extent the Government would be dismantled.

While the mere physical power exists to do all these things that I have mentioned, it would be a most violent presumption to assume that such power would be exercised to the extent I have suggested, for it would amount to a dismantlement of our Government. It would involve a gross violation of legal and moral duty—such a violation of duty as is foreign to the people, the officials, and the institutions of this country.

"The judicial power of the United States *shall be vested in one Supreme Court and in such inferior courts* as the Congress may from time to time ordain and establish. * * * The judicial power *shall extend to all cases in law and equity* arising under this Constitution, the laws of the United States, and treaties made," etc. These are the mandates of the Constitution to us as legislators. "The judicial power shall extend to all cases in law and equity," etc. And this power can not be thus extended unless we create "such inferior courts" and vest in them the jurisdiction, minus the original jurisdiction of the Supreme Court, of "all cases in law and equity arising under this Constitution," etc.

For us as legislators to refuse or neglect to put this power of the Constitution into effective operation is to refuse and neglect to perform our moral and legal duty. When we enter upon our duties in this Chamber, we take an oath to support the Constitution of the United States and to faithfully discharge the duties of our office. We do not support the Constitution of the United States and we do not faithfully discharge our duties if we allow a material portion of the judicial power of the United States to remain dormant and in abeyance, and thus deprive the people of the United States of a part of the judicial remedies which the Constitution accords them.

We may have the physical power, but we have not the moral or legal right to deprive the people of this country of a tribunal in which "all cases in law and equity arising under the Constitution, etc.," can be tried and determined.

Mr. President, I do not make these observations because Congress has failed to provide the proper courts and to equip them with the requisite jurisdiction. Congress has, except in a class of minor cases, invested the circuit court with ample original jurisdiction. It has extended to this court the judicial power contemplated by the Constitution. I have made these remarks rather in response to the general contention and argument of the Senator from Texas.

But coming to the precise point and gist of the amendment of the Senator from Texas and his argument in support thereof, as I understand it, it is this:

He would confer upon the circuit court of the United States the right, by an original suit in equity, to review the action and order of the Commission, but he would withhold from the court the power to grant a temporary injunction in such a case.

To show where this contention would lead to we must recur to the Constitution. That instrument uses the terminology of the common law as it existed when the Constitution was framed. Thus, all criminal cases must be tried by a jury, and suits at common law, where the matter in dispute exceeds $20, must be tried by a jury. Now, the Constitution does not describe of what a jury consists, or what the term "verdict" implies. To ascertain these facts we recur to the common law, and there we find that a jury consists of twelve men and that the verdict must be unanimous instead of a mere majority. So the Constitution declares that "the judicial power shall extend to all cases in law and equity." Now, the Constitution does not define what a "case in law" is, or what a "case in equity" is, nor what the difference is between the two. To ascertain these facts we must recur to the common law and equity jurisprudence prevailing at the time the Constitution was framed. As all lawyers know, there was then, and still is, a deep and broad difference between the two classes of cases, and this difference is so pronounced that even in those States where both classes of cases are tried in the same court, upon the same form of pleading, and in the same action—which is not the case in the courts of the United States—the real distinction between the two classes of cases has not been obliterated, especially in the matter of relief sought and accorded. As to this, the distinction still remains.

A United States court trying a case in equity sits as a court of equity and administers equitable relief. A court of equity, from the very inception of equity jurisprudence, not only granted relief by a permanent injunction, but also by a temporary injunction. The latter was oftentimes necessary to make the former of any value. There were many cases where it was necessary, in order to give proper and effective final relief, that the property, or subject of litigation, should be preserved intact until the final disposition of the case, for without such temporary stay the final relief might prove abortive or incomplete, and it might be impossible to restore the parties to that condition in respect of the subject of litigation, which the court, by its final decree, might determine to be just and proper.

Judge Story in his commentaries on equity jurisprudence points out the distinction between cases in equity and at common law in the following language:

> In England and in the American States, which have derived their jurisprudence from that parental source, equity has a restrained and qualified meaning. The remedies for the redress of wrongs and for the enforcement of rights are distinguished into two classes. First, those which are administered in courts of common law; and secondly, those which are administered in courts of equity. Rights which are recognized and protected, and wrongs which are redressed by the former courts are called legal rights and legal injuries. Rights which are recognized and protected, and wrongs which are redressed by the latter courts only are called equitable rights and equitable injuries. The former are said to be rights and wrongs at common law, and the remedies therefor are remedies at common law; the latter are said to be rights and wrongs in equity, and the remedies therefor are remedies in equity. * * * The remedies in courts of equity are often very different in their nature, mode, and degree from those of courts of common law, even when each has a jurisdiction over the same subject-matter.

Relief by injunction is one of the remedies frequently invoked and accorded in cases in equity. Its object is to prevent rather than to redress a meditated or threatened wrong, and it is oftentimes of as much importance to grant the relief during the pendency of the suit as at the end of the final hearing, especially where the litigation may be prolonged. The object of an interlocutory injunction is to preserve the "status quo," to maintain the subject of litigation intact, so that the final relief may not prove abortive. Justice Miller, in the case of the United States *v.* Duluth (1 Dillon, 469), lays down the rule in such cases as follows:

> When the danger or injury threatened is of a character which can not be easily remedied if the injunction is refused, and there is no denial that the act charged is contemplated, the temporary injunction should be granted, unless the case made by the bill is satisfactorily refuted by the defendant.

In a case in equity the court has the power, where the facts warrant, to grant relief by interlocutory as well as by final injunction. Both forms of remedy may be essential and necessary in many cases in order to afford complete and adequate relief.

In its ultimate analysis, the Senator from Texas, while he proposes to give a court of equity jurisdiction of a case in equity, to wit, a case reviewing the action of the Commission, yet he also proposes that the court shall only have power to grant a part of the equitable relief that pertains to such a case. In other words, while he would give the court jurisdiction of the case, he would say to the court that, while you may try and determine this case, yet there is a part of the equitable relief which under the well-known principles of equity jurisprudence appertains to such a case I will not permit you to

grant. And this is nothing more than dictating to the court the amount of relief it shall be privileged to grant. And clearly this would be unconstitutional, for it would be a denial of "due process of law," prohibited by the fifth amendment to the Constitution. While it might be possible, by legislation, to withhold jurisdiction from the court of such a case, yet after jurisdiction has once been conferred, it is not in the power of Congress to limit the court in the relief which it may grant. Congress may confer or withhold jurisdiction of a given case or given class of cases, but when once jurisdiction of a case is conferred upon an appropriate court that court becomes possessed of the full judicial power of the United States over that case, be it an action at law or a suit in equity; and that power as to a case in equity includes the power to give not merely limited or partial relief, but to give every form of equitable relief which was in vogue and prevailed when the Constitution was adopted.

The judicial power over a case within the jurisdiction of the court can not be circumscribed or limited by any action of Congress.

There is, besides what I have already urged, another constitutional restraint upon us in this matter. It is conceded on all sides that we can not permanently deprive the carrier of his property without just compensation, and if we can not do it permanently, manifestly we have not the right, by legislation, to deprive the carrier of such compensation for a limited time; and to deprive the court of the power to grant a temporary or interlocutory injunction might, in such a case, deprive the carrier of his property without just compensation during the pendency of the case, be the time long or short.

To my mind it seems clear, and I have sought to reach a different conclusion, that the proposed amendment of the Senator from Texas, so far as it attempts to withhold from the court the power of granting a temporary or interlocutory injunction, is, both under Article III of the Constitution and the fifth amendment, manifestly unconstitutional, and therefore should not be ingrafted upon the bill. I can readily see how the carriers are likely to resort to this remedy in many cases, and how courts, through ignorance, indifference, or sympathy, may be swift and reckless in granting such relief, and therefore I should be very glad indeed if it were in our power to prevent such recourse to the courts, for I realize how many Commission rates may be thus temporarily hung up and placed in abeyance by the courts. Yet baneful and discouraging as all this may be, I can not see my way clear to do what I conceive the Constitution forbids me to do.

While there are many reforms in the matter of rate regulation that seem necessary and urgent to the public and to those who have their welfare at heart, that are not included in this bill, yet as the great system of "common law" was built up gradually and by piecemeal, so in this matter of statutory reform of rate regulation we can not expect or hope to effect complete reform at one bound. We shall have to accomplish the task gradually and by piecemeal.

This bill accomplishes two great reforms, two great results. First of all, it invests the Commission for the first time with the rate-making power—the vital and controlling principle of all rate regulation. Second, by the broad definition given of the term "transportation" it eliminates many schemes and methods by which extra and unreasonable rates and charges are imposed. These are great reforms. And if we can give the people these results we shall have accomplished much, although we may not have gone to the length that many honest reformers desire.

A meritorious measure may be sometimes loaded down with amendments that in themselves may not be bad—indeed, may be meritorious—and yet they may serve to embarrass and weigh down the measure so that its legislative journey may become harder and more difficult. I hope that this may not be done in this case, and that all those who favor vesting the Commission with the rate-making power will practice as much self-restraint and self-denial in the matter of amendments as possible.

Mr. TILLMAN. Mr. President, some time since, when the subject of judicial power and jurisdiction was under discussion, I announced it to be my belief that the trouble which the Senate has met with in coming to a friendly understanding or agreement in regard to the judicial-review feature of the pending bill was that the people of the country had lost faith in the Federal judiciary. It was a broad statement of my own personal opinion. I was taken to task about it. One Senator after another spoke of the difference existing in the territory from which he came and paid high compliments to the judges.

Among other things, I thought it would be a healthy and proper thing for the people of the country as well as the Senate to be made familiar with some of the actions of some of the judges who are occupying seats for life on the bench. I have had but little time to devote to it, but I have gathered together from one source and another half a dozen or more instances of various transactions in which the judges are involved, and I have felt that it would be justifiable under the circumstances to put these facts in the RECORD.

I want to say, before I do this, that I do not belong to the class, if there be one, which holds all of the judges, or even a majority of them, in contempt or distrust. I believe we have a Supreme Court composed of as high, honorable, and patriotic men as any other like tribunal in the world. They have changed front or reversed themselves and wobbled about a little on certain important questions, but I am willing to say that I think the judges of that court have always been actuated by pure and honest motives.

We have very many great and good judges on the circuit and district benches of the courts of the United States, and they are not confined to any particular section, because we have some of this high type of men in the South. We have unfortunately a larger percentage of those who by the records as I will produce them have been guilty of some very questionable and discreditable acts.

I am specially influenced in making this presentation of the misdeeds and mistakes, to say nothing worse, of some of the judges by reason of the fact that we have had very long and learned and eloquent speeches here day after day, hour after hour, in which the country is told and the Senate is pleaded with to stand by the court, to trust it, to believe in it, not to rob it of any of its powers or functions; and there have been pleas for the exercise of this power of injunction, based on the theory, and the contention that to rob these judges or to take from them by Congressional action the power to interfere in behalf of the railroad (for that is the subject we are discussing), one Senator said, would be Jacobinism and it would be to create anarchy. Other Senators have declared that it would be to jeopardize this bill and render it unconstitutional, and all that kind of thing.

When the Interstate Commerce Commission shall be filled out, as the bill provides, to the number of seven, and the salaries increased so as to command the very highest quality or type of talent that we can get in this country, it will be a body so high in dignity that it will compare favorably in the minds of every thoughtful person with any tribunal in the land.

But we are told that the body thus composed may make mistakes; that it may be led off to issue orders affecting the property of the railroads, which would jeopardize their very existence and would be confiscatory of their property, and that therefore we must leave untouched in the hands of the judges the powers in equity which they have hitherto exercised of granting these temporary restraining orders and temporary injunctions upon the flimsiest and slightest kind of a hearing, and then have the machinery of the Interstate Commerce Commission stopped, have its orders suspended, and let the courts take their own time to settle the issues.

Mr. President, I propose to show that some of the judges are not infallible; and I remind the Senate that, measured by the standard of money (the district and circuit judges receive, I believe, only $6,000), there is no justification for this dread and no good reason for the feeling that there would be any harm done if Congress should limit and restrain the judges from exercising an unbridled and ofttimes, I am afraid, prejudiced view in favor of the railroads. I believe it is good for the country to realize that some of the judges right now on the bench vested with this power, exercising it whenever opportunity offers, have shown themselves wholly disqualified and unfit to be trusted with such authority.

That being the case, the question for the Senate to determine is whether or not the damage which will come, the harm that will result to the country, will not be greater if we leave the court untrammeled than it would be if we put such limitations upon the action of the judges as will prevent them from lending their aid to interminable delays and to the denial of justice.

To illustrate how prone to error and how hard it is for men to agree, and courts as well, and to show the utter absurdity of the contention that the judges are higher creatures—purer, nobler, and more to be trusted than other men—I wish to read a brief extract from one of the New York papers—I think the Saturday Evening Post—published a little while ago. It is headed "When doctors disagree."

The census is silent as to the annual emoluments of the legal profession in the United States, but the sum total must rank somewhere between dairy products and the hay crop.

Either of which, as you all know, runs up into the hundreds of millions of dollars.

Nobody with an economic conscience would seek to lay rash hands upon so vast an industry; but its theoretic basis needs reorganization.

The fee is paid and accepted in the complimentary assumption that the lawyer knows what the law is; but every day brings its depressing evidence that, in fact, the lawyer does not know and can not possibly know.

To take only one day's evidence, the Supreme Court of the United States, four out of the nine justices dissenting, has declared unconstitutional a New York law limiting the hours of work in bakeries. The highest court of New York, three out of seven justices dissenting, had declared the same law constitutional. Thus sixteen of the most eminent judges in the land—nine of the Federal Supreme Bench and seven of the New York court of appeals—have passed upon this law, and seven of the sixteen were wrong about it. If that is the proportion of error among the highest judges, what chance has the poor, busy barrister to be right?

Almost at the same time the Federal tribunal handed down a decision in a railroad land-damage case, also from New York. On the same set of facts the New York court of appeals had once held against the railroad. In this particular case the lower court held against the railroad; then the court of appeals, by a divided bench, held in favor of the railroad. The Washington court, four of the nine justices dissenting, reversed the court of appeals which had previously reversed itself, and upheld the lower court. In the famous Northern Securities case four of the nine Supreme Court justices dissented, and a fifth, while casting the determining vote which settled what the law is, reached his conclusions on grounds different from those taken by his colleagues of the majority.

The law must and will be upheld. It means civilization. It is civilization. Whoever raises a hand to it save by way of kindness is a public enemy. But the assumption that any merely finite being can tell you what it is can not be tolerated. If you must pay somebody because you think he can tell you what the law is, go to a fortune teller or a spiritualistic medium. The knowledge you seek lies beyond the bounds of the tangible. Pay your lawyer, if you will, as your philosopher and friend, and the less he tells you of what he knows about the law the better friend he will be.

Mr. President, that is a very sarcastic and unpleasant arraignment of these high fellow-citizens of ours, the men whom we are all trained from childhood and have for the last one hundred and twenty-five years been taught to look up to as the persons in whose brains and hearts the determination of causes and cases as to their righteousness or injustice should be settled; yet in this instance we have seen how they differed and how impossible for them to agree on the same statement of facts. Then we had a strong illustration of this same trouble in the decision on the income tax. That taxation had been held to be perfectly legitimate and constitutional for a century or more, and yet here a few years ago a hearing was had on it by the Supreme Court. It was given out by the newspapers that the court was divided; that the majority upheld the constitutionality of the law; but the opinion was not handed down. A rehearing having been asked for, the rehearing was argued some months later than these newspapers gave out the statement, and one of the judges changed his mind, having in the first count, or ballot, agreed that the law was constitutional, but he had found some reason to change his opinion. Anyway, by a decision in which there was simply one in the majority, the decisions of all of their predecessors for a century were reversed and the law was declared to be unconstitutional. The country submitted, because the court of last resort had so decreed.

Yet when we simply ask here—some of us, at least—that there shall be a limitation on the minor courts, the subordinate courts, the courts we ourselves create, looking to the granting of immediate and practical relief to the business interests of the country when shippers go before the railroad commission compiaining about injustice and wrong from which they are suffering, Senators argue and plead here for a continuance in the hands of these judges of this great power and authority to exercise the functions of chancery and equity and to grant preliminary decrees suspending the order until the court—this infallible court spoken of, nothing about the other influences—shall determine whether the rate is right, just, reasonable, and lawful.

I can not myself, Mr. President, be converted to the idea that there is anything holy about a judge. He is entitled to great respect, and is always given it if he is at all worthy, but he is still nothing more nor less than a man; and when I see how easy it is for these great and high judges, against whose character and integrity of purpose not a whisper has ever been breathed that I know of—the court of appeals of New York and the Supreme Court of the United States—when I see how they differ and how they change sides, and yet the vote of one man, who, it may be, on that occasion had indigestion or something wrong with his stomach, which deranged his mind in the night, changed the whole law of the land—I say I can not subscribe to the doctrine that these men are infallible or that they are to be any more trusted than the railroad commission.

If it shall be contended that it is necessary for us to incorporate in this bill such a provision as that which I introduced this morning, and which has been introduced in other shape by others, in which it is forbidden for these courts to issue preliminary or interlocutory decrees—if, I say, it is argued that such a provision will make the law unconstitutional, why, I say, let us try it and give the people the benefit of the doubt as to whether or not the commission will be wrong—at least, until the judge has tried it. Let the judge meet it; give the railroad the opportunity to go into court and produce the facts; let the judge determine once for all, but let him hear before he determines. That is all we ask. Some Senators say we can not do that; other Senators say we do not want to do that; and so the people will watch to see how they vote, and determine for themselves whether or not they like it.

But some other things are said in connection with this which are not very pleasant, although what I have just read is not pleasant—this division of eight to eight of two supreme court benches, and the balance so evenly rocked up and down that no one can say which eight were right.

I will pass on to some other arraignments of the bench, whose transactions have shown that they are not only not infallible, but apparently not incorruptible. The first one I come on, however, will cause you to laugh a little, because it is not such a very serious case. It is from the New York World of March 30. It is headed:

IOWA AMAZED AT FEDERAL JUDGE—M'PHERSON CLUNG TO TABLE AT BANQUET AND MADE INCOHERENT SPEECH.

[Special to The World.]

DES MOINES, *March 29, 1906.*

Iowa Republicans are stirred by the publication of the circumstances that brought about the introduction of a resolution before the Council Bluffs Business Men's Federation demanding the removal from the Federal bench of Smith McPherson, who was appointed judge of the southern district of Iowa while representing the Ninth Iowa district in Congress.

The charge made concerns Judge McPherson's condition while addressing a banquet given by Council Bluffs merchants in honor of Governor Cummins. Judge McPherson is an extreme "stand-patter" and an implacable foe of Governor Cummins. He was scheduled to respond to one of the toasts, preceding the governor. He seemed to cling to the table for support while speaking and talked in what is declared to have been a rambling and incoherent manner.

He remarked that one was not allowable to choose the company he should keep. Could he have done so, he declared, he would have kept far away from Council Bluffs, for he always detested the town. So, too, in politics, he had no time for reforms or reformers. He thought it an outrage that so-called and self-styled Republicans should advocate reforms that really branded them as Democrats and were at variance with traditional Republican teachings. He ignored the topic that had been assigned to him, because unintelligible, and wound up by usurping the function of the toastmaster and introducing the governor himself. The governor ignored the circumstance, and in his speech made no attempt to reply to anything McPherson had said.

The Council Bluffs business men were indignant, and at a meeting next day a resolution was introduced demanding the impeachment or removal of McPherson. A subcommittee named to consider this resolution permitted it to die, taking the position that, McPherson's act having been outside his official duty, President Roosevelt could not be expected to take cognizance of it.

Of course it is very absurd to think that the President could do anything more than lecture him, as he did Judge Humphrey the other day, because, being appointed for life, he can only be removed by impeachment if this little peccadillo of being unable to stand up without clinging to a table warranted anything like that, and I do not see what the President has to do with it. This article goes on to state:

This matter has been published extensively in Iowa without, so far as known, enlisting a denial.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Montana?

Mr. TILLMAN. Certainly.

Mr. CARTER. One of the most appropriate rules I have ever known is that announced by the Gridiron Club at its dinners, to wit, "Ladies are always present; reporters never present." This report by a certain gentleman who invited Judge McPherson to a dinner in Council Bluffs certainly was ill timed, and the subcommittee referred to treated the matter with just and proper contempt. Smith McPherson, the judge referred to, I have known for many years. He is a man of great learning and unquestionable and unquestioned probity of character. That he behaved like a good fellow in the city of Council Bluffs at a dinner simply shows that he is human and was inclined to enter into the spirit of the occasion. I have never heard anyone intimate that Judge McPherson was given to excess in the matter of imbibing at banquets or elsewhere. I think the article suggested by the Senator from South Carolina was a joke to begin with, treated as a joke at Council Bluffs, and will be so treated everywhere where the people have knowledge of Smith McPherson and the good fellows who were at that banquet.

Mr. TILLMAN. Mr. President, I am entirely willing that it should go that way, but, as the Senator from Montana has volunteered, will he take it on himself to tell us what he knows about this?

Mr. CARTER. I know quite as much as the Senator from South Carolina knows, and he gets his information from the clipping he read, I suppose.

Mr. TILLMAN. That is all.

Mr. CARTER. That is all.

Mr. TILLMAN. I am content to leave it that way. I have nothing against Judge McPherson, nor against any of these judges, for that matter. But suppose that night after leaving the banquet Judge McPherson had been approached by a warm personal friend, like my colleague from Montana, who had a railroad case pending, and some adroit and well-worded plea made of danger to the corporation unless an injunction was granted then and there, does the Senator contend that Smith McPherson would have been a proper person to have signed such a decree that night?

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Iowa?

Mr. TILLMAN. With pleasure.

Mr. DOLLIVER. I regret that I was absent from the Chamber for a moment when the Senator from South Carolina made his observations in relation to Judge McPherson. In reply to what he has just said I will call his attention to the fact that not very many days ago Judge McPherson, dealing with a railway case, in one of the ablest opinions that has been recently rendered by a district court, declined to follow the famous ruling of Judge Humphrey in the meat-packing case. On the contrary, he rendered judgment requiring a great railroad corporation to meet its responsibilities in the suit pending against it, notwithstanding a specious plea of immunity.

I feel that I ought, in justice to a citizen of my own State, say that, whatever else has been charged against Judge McPherson, he has not been charged in any quarter with a want of judicial fairness or a want of good conscience in the discharge of his duties as a district judge of the United States.

Mr. TILLMAN. Mr. President, replying to the statement just made by the Senator from Iowa, I would say to that Senator that I have not reflected in the slightest degree upon Judge McPherson. I merely called attention to a statement coming from his own State, in a special dispatch to the New York World, giving an account of a banquet at which the judge had shown himself not altogether able to stand up without the help of a table, or something like that. But those of us who have attended banquets and know how the thing works are ready to make all due allowance for that. [Laughter.] I had no purpose, as I said in the beginning, other than to start this little recital of mine, which will grow more tragic as it goes on, with something that is light and airy to give the Senate an opportunity to smile. That the judge has since refused to lend himself to following Judge Humphrey's decree possibly ought to strengthen me in my estimation, because, without being a lawyer and without having taken the trouble to examine into the matter at all, I imagined that Judge Humphrey's decision was good law. But whether it be or not, the point I am trying to make is that these judges, vested with great power, having their offices for life, ought not to be trusted too far, when the Senate has an opportunity in this bill which we are considering to clip their claws just a little bit. As I go on I hope I shall show stronger reasons why the proposed amendment which I submitted should go into the bill and become a law rather than this mere joke, I might say, at Judge McPherson's expense.

Mr. PERKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from California?

Mr. TILLMAN. Certainly.

Mr. PERKINS. I want to say a word to my friend from South Carolina in reference to Judge McPherson, as the Senator has, by inference, at least, reflected upon his habits. It was my good fortune for four years, while I was a Member of the House of Representatives, to be associated with Judge McPherson and to board at the same hotel with him. He is a gentleman of culture and of education, and no one stands higher in the profession of the law than does the judge. As for his personal habits, he was a teetotaler, and he set an example which I wish I could have followed as closely as he did. If he has changed in that respect he has only departed from the line he laid down as a rule and guide to his conduct.

Mr. TILLMAN. Mr. President, whatever may be the outcome of this little excursion of mine into the field of judicial peccadillos, probably this publicity which has been given to Judge McPherson's first lapse will warn him to sin no more forever in that regard, especially at banquets. If it shall have that salutary effect, he will go on and probably from this time forward continue to give opinions that are lucid and powerful and strong in upholding the law as it is, not as the judges make it. That is all any judge ought to try to do, and it is all I want any of them to do.

The next batch of matter which I will present for the information of the Senate deals with another friend of the President, this time a real friend, whose opinions he quoted with unction and with great approval, thereby reversing his procedure in the Humphrey case. I read an extract, which I have had copied in typewritten form in order to condense it, from the Kansas City Times of January 29, 1906:

From the Kansas City Times of January 29, 1906, we are informed that the State game warden, J. H. Rodes, intercepted a basket containing "two geese, nine snipe, and half a dozen prairie chickens." The snipe and geese were returned to the party having them in charge, but the prairie chickens he confiscated, it being the close season for this game. J. H. Durkee, coal dealer, of Kansas City, was the party having this game in charge.

We quote from the newspaper's report on the above date (Kansas City Times):

"The game was not mine," said Mr. Durkee last night. "I had taken it to the train at the request of a friend of mine who wanted the party to have the birds. I have always been active in upholding game laws and went to Jefferson City last winter in the interest of this very measure. I regret very much that the matter should be given any notoriety."

The party left last night in Mr. Lathrop's private car, attached to the Santa Fe train leaving at 10.30 o'clock. The party consisted of:

Judge Smith McPherson, United States district judge for the southern district of Iowa.

Judge John F. Philips, United States district judge for the western district of Missouri.

Judge John C. Pollock, United States district judge for Kansas.

Samuel W. Moore, general solicitor for the Kansas City Southern Railroad, Kansas City.

Judge O. M. Spencer, general attorney for the Burlington, St. Joseph.

Gardiner Lathrop, general solicitor for the Santa Fe system, Chicago.

Dr. Jabez N. Jackson, Kansas City.

W. N. McLeod, one of Senator WARNER'S law partners.

The next day's issue of the Kansas City Journal gives the same list of persons as constituting the party. From the Kansas City Star of January 30 we find that the having of these prairie chickens in his possession cost Mr. Durkee $35.65.

For a number of days the matter seems to have been discussed, and finally, on February 18, at the regular weekly session of the municipal university, in the university building, Judge J. McD. Trimble, referring to the pleasure trip to Tampico, which three Federal judges took as the guests of Gardiner Lathrop and two other general solicitors for railroads, said (Kansas City Times, February 19):

"'I do not think there was anything like corruption intended or apprehended in the invitation and its acceptance,' said Judge Trimble. 'I do not believe that any one of the three judges who was thus entertained would consciously allow the recollection of social favors to influence him in the conduct of cases in which his hosts were interested. I believe if the thought had occurred to them that the public might put an adverse construction upon the affair not one of those judges would have dreamed of going off even on a pleasure jaunt with railroad attorneys. But the fact remains that no matter how disinterested were their motives the action begets distrust in the public mind, and that is enough to condemn it.'"

Judge Trimble dwelt upon the high standing of all the men in the Tampico party, and that by reason of their ascendency the affair gained greater significance. He said that but for a minor episode, the confiscation of a deputy game warden of six birds intended for the private car, the fact that three Federal judges were being entertained by the general solicitors of three railroads probably would never have become public knowledge.

"The distinguished guests were judges in the districts in which one or all of the three railroads represented by the hosts operate. I do not hesitate to say that I believe that those general solicitors would not have invited the men they did had not those men been judges. No doubt the invitation was fairly, innocently worded.

"But the men of the caliber of the three judges in question ought and must have known that there was dope in the middle of the sugar-coated bait that was held out to them. While the dope may and probably will not poison them, the people believe it will. Such an affair as the Tampico pleasure jaunt begets in the people a disregard for judges and a consequent disregard for laws. The courts are ours; the laws are ours; we made them both and can unmake them at will."

Judge Philips evidently noted this comment of Judge Trimble, and in the Kansas City Star the afternoon of February 19 writes an open letter over his signature, which was given the prominence it deserved by being placed in the third column on the front page. The entire letter follows:

"TO THE STAR:

"In view of the prominence given to 'that Tampico trip' in the Times of this morning I feel constrained to depart from my customary course of silence affecting my conduct as judge, or in any matter official, by begging sufficient space in your paper to make a plain statement of facts.

"Responsive to the intense spirit of demagoguery of the hour, a pleasure trip of personal friends is sought to be colored with a sinister purpose on the part of Gardiner Lathrop, as solicitor of the Santa Fe Railway Company, to place under obligation three Federal judges. In justice to him and the truth I state that the fishing excursion to Tampico was entirely of my invitation.

"For four years past I had heard of the rare sport of tarpon fishing at that place. I had enjoyed the recreation of like sport at Aransas Pass and desired to test Tampico. As both Mr. Lathrop and his law partner, Samuel W. Moore, had also fished at Aransas Pass, some months ago we discussed together our desire to go to Tampico whenever conditions made it practicable. We agreed that if we could get away this month, deemed most favorable for the sport, we would go provided a companionable party could be organized. As this month approached I renewed the suggestion, and obtained Mr. Lathrop's consent if he could get away from his work.

"As I was considered the originator of the excursion he left it largely to me to make up the personnel of the party. I had visited the Yellowstone Park in company with Judge McPherson.

It seems that these two judges especially love to roam around on private cars of railroad magnates.

"My personal knowledge of his rare character and *social* qualities brought him to view, and I urged him to become one of the party, and he did so. Judge Pollock was holding court in my district, while I was doing work on the court of appeals and circuit. As he is especially fond of the sports of the field and streams, I urged him to go, and he consented. Judge Spencer for a quarter of a century has been my

personal friend. A more delightful traveling companion, a more unselfish, big-hearted man does not live. I urged him to go, and he consented. I also invited Doctor Heddons, of St. Joseph, to go. I had traveled with him through Yellowstone Park and knew his worth. He could not go. I invited our fellow-townsman, Dr. Jabez Jackson, and he went, as our 'friend and physician.' Mr. McLeod, attorney of this city, my close personal friend, joined us.

"It is true that we rode in a special car, just as I would have gone fishing in a private wagon of a friend, standing my proportion of the 'grub and bait.' From its inception to its close the 'outing' was distinctly social in its makeup and character. Whenever I shall avoid my friends of long standing, and they me, because they are lawyers representing railroads, and because I am a judge, I shall despise myself and the office. If anyone thinks that such personal friendships and intercourse can not be indulged without judicial corruption, subserviency, or sinister design, I only beg to be allowed to indulge the opinion that such a person judges others by his own conscious lack of virile virtue and integrity. From a lifelong acquaintance with Gardiner Lathrop, I entertain such opinion of his character and his ideals that I believe him incapable of doing aught to unduly influence a judge or to pervert justice.

"Very respectfully, JOHN F. PHILIPS."

Mr. President, there are two editorials here from the two Kansas City papers. They deal with some questions of railroad litigation and other matters, and it would take too long to read them, but with the consent of the Senate I will ask to incorporate them in the RECORD.

The VICE-PRESIDENT. Is there objection? The Chair hears none.

The matter referred to is as follows:

[Editorial.]

PRAIRIE CHICKENS AND TARPON FISHING—HOW BY MERE CHANCE THE LIGHT WAS TURNED ON THE RAILWAY SPECIAL CAR JUNKET OF THREE FEDERAL JUDGES.

A luxurious, tarpon-fishing junket from Kansas City, Mo., to Tampico, Mexico, upon which three United States district judges, McPherson, Phillips, and Pollock, presiding, respectively, in Iowa, Missouri, and Kansas, were the guests in the special car of Mr. Lathrop, general solicitor of the Atchison, Topeka and Santa Fe, began with the departure from Kansas City on January 28 of Mr. Lathrop's palace on wheels, with its well-stocked larder and buffet and an unlimited supply of "transportation." General Solicitor Lathrop was assisted in entertaining the eminent jurists by Judge O. M. Spencer, general attorney of the Chicago, Burlington and Quincy Railroad Company, and by Judge Moore, general solicitor for the Kansas City Southern.

The peculiarly interesting features of this spectacular pleasure jaunt of these three Federal district judges as the guests of three leading railroad attorneys might never have been brought to public attention, and the subsequent close scrutiny and scorching criticism which have attached to it, but for the fact that a bunch of prairie chickens, which by Judge Spencer's direction were being conveyed to Mr. Lathrop's car to be presented to that gentleman to grace the Lucullan feasts of its dining tables, fell into the hands of the State game warden and were confiscated by him, it being the closed season for prairie chickens, and the person in whose possession they were found fined $35.65.

In these days, when the regulation of railroads and the relations of railroads to the courts are the subject of universal consideration, it is not strange that this fishing bee of railway attorneys and Federal jurists has created no little comment and distrust in the public mind, the more so in view of the fact that the railroad solicitor's three jurist guests were the presiding judges in the three districts in which one or all of the three railroads represented operated.

Such an affair as the Tampico expedition and the preliminary contemptuous violation of the game laws by Judge Spencer had the effect of exciting the people to disregard for judges and laws.

The people realize that three general solicitors of railways would not have invited the three men who were their guests had the latter not been judges. As was said by Judge Trimble, a distinguished jurist of Kansas City, "Men of the calling of the three judges in question ought to, and must have, known that there was dope in the middle of the sugar-coated bait which was held out to them. While the dope may, and probably will, not poison them, the people will believe it will."

Antipass legislation seems to be a farce, and the administration of justice between the people and the railways but a pipe dream, in view of such spectacles as this, of three Federal judges accepting from railroads which had but recently been before them charged with violation of the law not only free transportation, but free lodging, free drinks, free cigars, and all the rest that goes with the blow-outs of railway magnates. The acceptance and use of the ordinary everyday railway pass, paid for by the common people, who have to put up good money for transportation, when compared with such junketing as was participated in by Federal Judges Phillips, Pollock, and McPherson is but as petty larceny compared with breach of trust and burglary.

Doubtless the judges returned from the blue waters of the Gulf greatly refreshed in body and invigorated in mind by their close communion and association with the railway attorneys who were their *compagnons du voyage*, but they will need all their strength and vigor to explain some things to the people, who have conceived a most persistent interest in judicial tarpon-fishing junkets personally conducted by railroad attorneys.

The prairie-chicken incident by rare chance cast illumination upon the journeyings of the special car, and in the same light it may be interesting to look over the past as well as the future decisions of the three judges in connection with controversies in which certain railways are involved.

[Editorial.]

A flagrant case of accepting free transportation and other favors from railroads by United States judges has recently come to light. Judge Philips, of the western district of Missouri, was tendered by the Atchison, Topeka and Santa Fe Railroad Company, through Mr. Gardiner Lathrop, general solicitor, the use of a private car for a junket fishing trip to Mexico, and given carte blanche in choosing his companions on the trip. Acting upon this Judge Philips invited Judge McPherson, of the district of Iowa, and also Judge Pollock, of the district of Kansas—all district judges of the United States. In the same party were Judge Spencer, general attorney of the Burlington, and Judge Moore, general solicitor of the Kansas City Southern.

The peculiarly interesting feature of this spectacular pleasure jaunt of the three Federal district judges, as the guests of three leading railroad attorneys, might never have been brought to public attention, and the subsequent close scrutiny and scorching criticism which have attached to it might have been avoided, for the fact that a bunch of prairie chickens, which by Judge Spencer's direction were being conveyed to Mr. Lathrop's car to be presented to that gentleman to grace the Lucullan feasts of its dining tables, fell into the hands of the State game warden and were confiscated by him, it being the closed season for prairie chickens, and the person in whose possession they were found was fined $35.65.

Judge Philips was criticised in the papers, but so obtuse are his perceptions that he seeks to justify this on the ground that it was a mere matter of personal favor. In his public statement over his own signature in the Kansas City Star of February 19, 1906, he states that each paid for his own "proportion of the grub and bait," and scoffs at the idea that anybody could be influenced by any such courtesy.

A decent regard for the ermine which they wear should have prevented these judges from even incurring the risk of public criticism. That law which they violated might at any time come before them for interpretation and enforcement.

Judge Philips had this law before him for construction only a short time prior to his going on this junketing trip, and strangely enough it appears that one of the defendants at that time was E. H. Ripley, president of the railroad company whose hospitality the court was so soon to accept. Another one of the defendants was Paul Morton. It is unnecessary to add that to these defendants a clean bill of health was given.

Judge Philips's record for years shows that the majority of cases in which corporations were parties before him were decided favorably to the corporations. Judge McPherson held in a case where a railroad company was defendant that a tender—a car carrying fuel and water for a locomotive—was not a car within the meaning of the safety-appliance act. The Supreme Court says a tender is a car.

Is it any wonder that the people have a distrust of the Federal judiciary, when their rights as distinguished from the demands of the carriers are to be passed upon by such judges as those carried by the Santa Fe private car? Can it be doubted that Judge Philips is unfitted longer to sit upon the bench, when litigants have reason to fear his decision whenever one of the parties is a railway company and when that litigant has not a railroad and a private car to place at the disposal of his friends?

Mr. TILLMAN. As I said, Mr. President, Judge Philips was quoted with great unction and satisfaction by the President in that now famous case of the Santa Fe road, in which he went out of his way to declare that Mr. Paul Morton was absolutely free from any suspicion of wrongdoing in the way of rebates and all that kind of thing, and the President adopted that view, as I said, with great satisfaction, and sent a special message or gave out a report or something here which was printed; and as the Executive now seems to be indulging in a different policy from that of any of his predecessors, in lecturing a judge who happens to give an opinion that does not suit him, it is very well for lawyers who want to examine into the merits of the two cases to compare Judge Philips's opinion in the Santa Fe case with Judge Humphrey's in the meat packers' case, and see which one of them is the better lawyer. I do not know.

I will just remark that while Senators and others sometimes ride in private cars of railroad magnates—I have done it—and sometimes ride on free passes—I have done it—we are not to be supposed to be debauched by any little courtesy like that, and probably these judges are equally innocent. But as they hold such immense power, very much greater than any we hold, it might be just as well for them to keep themselves, like Cæsar's wife, above suspicion, and not run into temptation and things like that. I have put this record in the CONGRESSIONAL RECORD with a view of framing an admonishment. My friend on my left corrects me by saying, "Like Cæsar wanted his wife to be." I believe he did divorce her because he had some suspicion. I correct it very gladly, because I should like to have our judges not only upright, but to lead so clean and high a life and apart from temptation that a suspicion that they are wrong or are likely to go wrong will never be indulged in by any dirty newspaper reporter or editor. [Laughter.]

Now we get down to something a little more serious. Swinging on down the other side of the Mississippi River—I am running this thing geographically—I will come to a case in Texas. I have heard a great deal about "due process of law," and that if we take certain action here it will be a denial of due process of law, and that it will render this bill unconstitutional if we incorporate in it provisions of that character.

I am getting a little tired of reading, and I will ask the Secretary to read what is in the shape of a petition addressed to the two Senators from Texas now in this Chamber, and to the entire Texas delegation in the House, pleading for redress of a grievance in regard to the action of one Judge McCormick, circuit judge in Texas.

The VICE-PRESIDENT. Does the Senator wish to have it all read, or only the part that is marked?

Mr. TILLMAN. Read it all, from A to Z.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

To honorables C. A. CULBERSON, J. W. BAILEY, THOMAS H. BALL, SAMUEL B. COOPER, R. C. DE GRAFFENREID, JOHN L. SHEPPARD, C. B. RANDELL, DUDLEY G. WOOTEN, ROBERT L. HENRY, S. W. T. LANHAM, A. S. BURLESON, GEORGE F. BURGESS, RUDOLPH KLEBERG, JAMES L. SLAYDEN, and JOHN H. STEPHENS, Senators and Members of the House of Representatives from Texas in the Congress of the United States:

We, the undersigned petitioners, respectfully show that they filed suits in the district court of Grayson County, Tex., in September, 1888, against the St. Louis, Arkansas and Texas Railway Company for damages on account of a breach of a contract. One of these suits, to wit, that of C. W. Batsell, was, by consent of parties, made a test case, since the same questions were involved in all the cases. On a trial of said Batsell case in said district court a demurrer of the defendant having been sustained, the said case was appealed to the appellate court, and on October 11, 1895, said cause was reversed and remanded by the appellate court to the said district court for trial on its merits. Thereafter an amended petition was filed in said cause where all your petitioners were made parties to said cause, and also additional parties defendant were made, including the St. Louis and Southwestern Railway Company and the bondholders of said company; and your petitioners sought to foreclose a lien on certain real estate situated in the State of Texas. Thereupon some of the defendants filed an application and bond for the removal of said cause to the circuit court of the United States in and for the eastern district of Texas, sitting in the city of Paris. Said application was granted by said district court and an order made removing said cause to said United States court on the 7th day of December, 1897, and ever since that time said cause has been pending in said circuit court of the United States. The Hon. D. E. Bryant, one of the judges of the said circuit court by virtue of being the judge in and for said district, has continuously held himself to be disqualified to try said cause or to make any order therein by reason of his having been counsel in said cause. Your petitioners, through the said C. W. Batsell, have made repeated applications to the Hon. A. P. McCormick, circuit judge of the United States in and for the fifth circuit, of which this State forms a part, either that he, the said McCormick, should sit and try the said cause or designate some other district judge of the United States to sit in lieu of said Bryant, as we are informed the said circuit judge has power to do. But the said Hon. A. P. McCormick refuses to do either on the ground, as he states, that he does not deem that the public good requires such action on his part.

Your petitioners show that by reason of said McCormick's action they are deprived of an opportunity to be heard in the courts of their country in what they verily believe is a just cause, and they are thereby deprived of justice. Your petitioners would be loath to believe, and they do not claim that the said McCormick, in pursuing said course, is actuated by any other than a sense of duty as he sees it, but your petitioners respectfully represent that they believe that he is mistaken, and that the highest public good in a free government requires that every citizen, no matter how humble his condition, should have an opportunity to be heard in the courts of his country, and they believe that no judge, whether Federal or State, should have the power to prevent such a hearing.

They are informed that there are other causes pending in this State which are in the same condition as their cause, and that the said McCormick has pursued the same course in them.

Wherefore your petitioners pray that you, as their representatives, take such action as you may deem best to give your petitioners and others who may be in the same condition relief.

C. W. BATSELL.	R. WALSH.
W. H. LANKFORD.	JOT GUNTER.
H. L. HALL.	JOHN SUMMERFIELD.
J. IRA HALL.	ZAUK & KRUEGER.
L. F. ELY.	E. F. HALSELL.
M. H. ANDREWS.	J. W. ODNEAL.
A. R. ANDREWS.	D. FOWLER.
TURNER WILSON.	A. A. FIELDER.

Mr. TILLMAN. Mr. President, it will be observed that Judge McCormick has absolutely refused for the last six years, I think it is, and if not, the Senator from Texas will correct me, to order any other judge to hold court for the purpose of trying this case. The case was transferred to this court by a judge who was himself disqualified. There have been two instances in which judges have offered to swap, to change places, to get there in order to relieve this condition or paralysis in which the course of justice is involved there, but McCormick, for reasons known only to himself, will not permit the case of the complainants, which is against two railroads or three railroads, to be tried, and he has held it in that condition for six years.

Now, what would a judge like that do when a case involving the rate-making power over those roads or others in his jurisdiction is brought before him, and an effort made to get him to suspend the rate and let the Commission go out of business so far as that decree is concerned, and let the shippers whistle for a final settlement? This is a view I wish Senators to take and to consider. It is whether you propose to keep out of this bill such a provision as will stop judicial tyrants from such transactions as that—a denial of justice. I do not know why nothing has been done here in this Texas case. I understand from some other source that a bill passed the House, I think, but that it is sleeping in the Judiciary Committee of the Senate. The senior Senator from Texas [Mr. CULBERSON] can probably tell me, if he sees fit, what is its exact status.

Mr. CULBERSON. I did not hear the question of the Senator from South Carolina.

Mr. TILLMAN. I was merely trying to elucidate the situation in regard to this petition, which seems to deal with a very great wrong and grievance in regard to Judge McCormick's refusal or denial of an opportunity for these cases to be tried, and I have information, which I get in a private letter, that the House passed a bill which looked to giving relief in this case, but that the matter has never been acted on by the Senate.

Mr. CULBERSON. I do not remember, Mr. President, whether this particular question has ever been brought to the attention of the Committee on the Judiciary since I have had the honor to be a member of that committee. When a copy of the petition was read—it is manifestly, of course, an old one—I was trying——

Mr. TILLMAN. It is an old petition, dating back to the time when this thing first occurred, in 1897 or 1898.

Mr. CULBERSON. I say it is manifestly an old one, because some of the Members of the House named have long since ceased to be Members of the House, and some even have moved out of the State of Texas. I was trying to recall the circumstances of my having received a copy of it. I have not yet been able to recall it. I presume I did receive a copy, as my name appears as one of the persons to whom it is addressed. But so far as I now remember, I do not recall the circumstance of a bill having been presented to the Committee on the Judiciary since I have been a member of it.

Mr. TILLMAN. I may be in error. I heard that. It does not concern this matter anyhow. It is not a question whether these facts are true.

Returning back up the Mississippi—as I said, I am treating this matter geographically—I come to a rather famous case of extraordinary judicial action in the receivership of the Northern Pacific Railroad Company. I have here a report, prepared by Mr. Boatner, from the Committee on the Judiciary in the House, submitted to the House in 1893. I have condensed it for the purpose of presenting the facts, and I will ask the Secretary to read the statement of facts as set forth in the paper which I send to the desk.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

James G. Jenkins was commissioned a circuit judge of the United States for the seventh circuit (Illinois, Indiana, and Wisconsin) March 23, 1893.

August 15, 1893, Judge Jenkins, in the circuit court of the United States for the eastern district of Wisconsin, in the case of the Farmers Loan and Trust Company *v.* the Northern Pacific Railroad Company, made an order putting the railroad company into the hands of three receivers—Thomas F. Oakes, Henry C. Payne, and Henry C. Rouse.

August 17, 1893, the receivers ordered a reduction of from 10 to 20 per cent in the salaries of all employees of the road whose annual compensation amounted to $1,200 or more, the reduction to take effect from August 15.

August 25, 1893, the receivers made a further reduction of wages, as shown in the following order adopted by them:

"*Ordered*, That a further reduction be made in salaries and wages of employees of 5 per cent of all salaries aggregating $50 per month and under $75, and that a 10 per cent reduction be ordered to apply on all salaries from $75 to $100 per month. This order to take effect at once."

October 28, 1893, the receivers, abrogating and canceling all existing rates of pay, adopted an entirely new schedule of wages, which made still further reductions in the pay of all employees of the road. The receivers declared that the new schedule of wages should go into effect and be operative on and after January 1, 1894.

The receivers' order of October 28, 1893, having created great dissatisfaction among all classes of employees of the road—engineers, firemen, train men, train dispatchers, telegraphers, conductors, switchmen, etc.—the receivers, December 18, 1893, filed a petition in court asking authority to enforce their new schedule of wages and praying for an injunction to accompany the same, and the court forthwith (December 19, 1893), on the ex parte application of the receivers, made an order (p. 3 of House Rept. 1049, Fifty-third Cong., 2d sess.) adjudging and decreeing that the receivers "be, and they are hereby, authorized and instructed to put in operation and maintain upon the Northern Pacific Railroad the revised schedule and rates, more specifically in said petition described and ordered by said receivers to take effect January 1, A. D. 1894, and for that purpose and to that end their action in abrogating and revoking the schedules in force on said railroad at the time of their appointment as such receivers, August 15, A. D. 1893, is hereby confirmed."

And the court likewise, on December 19, 1893, further adjudged and decreed (p. 3 of H. Rept. 1049, 53d Cong., 2d sess.) "that the said receivers, Thomas F. Oakes, Henry C. Payne, and Henry C. Rouse, are entitled to a writ of injunction, as prayed for in their said petition, and the clerk of this court is hereby directed to issue the same in due form, under the seal of this court, and to deliver the same to the marshal for execution, who is hereby ordered to protect the receivers of the Northern Pacific Railroad Company in their possession of the property of the Northern Pacific Railroad and in their operation thereof."

The injunction as prayed for (which the court thus granted) is seen in the second prayer (pp. 4–5 of H. Rept. 1049, 53d Cong., 2d sess.) of the receivers' petition. It contains, among other things, a prohibition to the employees of the road "from combining and conspiring to quit, with or without notice, the service of the receivers, with the object and intent of crippling the property in their custody, or embarrassing the operation of said railroad, and from so quitting the service of said receivers, with or without notice, as to cripple the property, or to prevent or hinder the operation of said railroad."

December 22, 1893, the receivers presented a supplemental petition

to the court setting forth that their employees were contemplating a strike for the purpose of preventing the proposed reduction of wages, and averring the belief of the receivers that the employees of the road would obey the orders of the executive heads of their respective labor organizations rather than the order of the court already made, if such executive heads should order a strike, and praying the court to enjoin the officers and agents of the labor organizations and all other persons from ordering a strike, and the court forthwith (December 22, 1893) decreed as requested by the receivers. (For injunction, see pp. 8–9 of H. Rept. 1049, 53d Cong., 2d sess.)

For opinion of Circuit Judge Jenkins on motions to modify his preliminary injunctive orders as above made, see Farmers' Loan and Trust Company *v.* Northern Pacific Railroad Company (60 Fed. Rep., pp. 803–824.)

For opinion of the circuit court of appeals concerning said injunctive orders, see Arthur *v.* Oakes, 24 U. S. App., 239–270; 11 C. C. App., 209–228; 63 Fed. Rep., 310–329. The opinion of the circuit court of appeals was written by Circuit Justice Harlan, with whom sat Circuit Judge Woods and District Judge Bunn. The preliminary injunctive orders were purged of the offensive features above mentioned.

Mr. TILLMAN. Mr. President, it will be observed that in that case Judge Jenkins appointed three receivers of this railroad system, who under the rulings and law as it was interpreted by the Supreme Court were the servants of the court, and that every employee of the railroad—several thousands of them—became a part of the machinery of the court to run the railroad. So when these receivers reduced wages, and then reduced them a second time, and the men began to combine or to organize to resist this taking of bread out of the mouths of themselves and their families, fearing a general strike, which, I think, had been ordered, which certainly was threatened, the judge issued a decree enjoining every employee from quitting work.

This judge has recently retired. I think I have understood that he left the bench in January. Therefore he can do no more devilment like this. But there are other judges around. I shall not do more here than read the conclusion reached by the Judiciary Committee of the House, which was embodied in a resolution. I have not followed the case or the subject-matter of the case up to date, but I believe it is now considered good law for judges to enjoin people from quitting work. [To Mr. SPOONER.] Is it? The Senator from Wisconsin can enlighten me.

Mr. SPOONER. The Senator from South Carolina forgets what is proper, Mr. President, and decent among Senators to challenge me in any such way when he interrogates me——

Mr. TILLMAN. Mr. President——

Mr. SPOONER. He did that once before.

Mr. TILLMAN. I hope the Senator, before he goes any further—because he has already said two very mean words, and I have a little red blood in me sometimes——

Mr. SPOONER. No more than I.

Mr. TILLMAN. Now, let me disclaim the slightest purpose of in any way reflecting or doing anything but merely asking, as a friend, whose legal knowledge I could always rely upon except on this power of the courts, to set me right. I do not know the present status of the law as the courts have determined it in regard to the power of judges in issuing injunctions against quitting work, and I simply asked as a matter of information.

Mr. SPOONER. Mr. President, when I am engaged in debate I am quite ready, and always have been, to submit to interrogations.

Mr. TILLMAN. Very well. Then will the Senator allow me to withdraw my question and apologize for having intruded upon him?

Mr. SPOONER. I ask no apology from the Senator.

Mr. TILLMAN. Then sit down.

Mr. SPOONER. The Senator——

The VICE-PRESIDENT. The Chair will state to Senators——

Mr. SPOONER. The Senator forgets——

The VICE-PRESIDENT. Will the Senator from Wisconsin kindly suspend? The rules of the Senate forbid Senators from addressing the Senate without first having had recognition by the Chair.

Mr. TILLMAN. Mr. President, who has the floor?

The VICE-PRESIDENT. The Senator from Wisconsin had the floor and was interrupted by the Senator from South Carolina without the permission of the Senator or the recognition of the Chair.

Mr. TILLMAN. If the President will allow me, I had the floor and asked a question of the Senator. The Senator rose in answer to the question and did not address the Chair.

The VICE-PRESIDENT. The Senator from South Carolina invited the interruption by the Senator from Wisconsin.

Mr. TILLMAN. I will subside and quit for the time being.

The VICE-PRESIDENT. The Senator from Wisconsin has the floor by the courtesy of the Senator from South Carolina.

Mr. SPOONER. Mr. President, the Senator from South Carolina accentuates what I regard to be a very great piece of rudeness by ordering me in a mandatory way, after I had addressed the Chair, to sit down.

Mr. TILLMAN. I apologize for that. Does that satisfy you?

Mr. SPOONER. I always grant it.

Mr. TILLMAN. I simply want to get it clear, and I want no contention with the Senator to-day, because he told me he was ill.

Mr. SPOONER. Neither the Senator from South Carolina nor any other Senator, Mr. President, need be in the slightest degree complaisant to me. If he wants a controversy with me, he can have it. I think he wants it.

Mr. TILLMAN. I do not.

Mr. SPOONER. I have sat down, Mr. President, under no orders, but of my own volition.

Mr. TILLMAN. Mr. President, I want to repeat that in addressing the Senator from Wisconsin in asking for information I had no suspicion that he would take it ill, that he would feel hurt or in any wise evince temper.

Mr. SPOONER. I have not.

Mr. TILLMAN. Well, the Senator must have.

The VICE-PRESIDENT. The Senator from South Carolina can not be interrupted except by his consent.

Mr. SPOONER. Will the Senator allow me?

Mr. TILLMAN. Certainly.

Mr. SPOONER. Mr. President, I have not.

Mr. TILLMAN. Mr. President, if the Senator had not shown by the use of a word that he was angry, I would not have felt called on to so quickly try to set him straight. He said that something I did was hardly decent. He used the word "decent" in the negative in connection with my action or utterance—in other words, intimating, insinuating, or asserting that what I had done was indecent. Now, if that does not mean anger on his part—the Senator is the very pink of courtesy, as we all know——

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. Oh, certainly; always.

Mr. SPOONER. Probably the word "indecent" was too strong. I rather think it was. I will withdraw that word and substitute for it the word "rude."

Mr. TILLMAN. Well, being a rude man, and not caring about it, I take that.

Now, Mr. President, having stated the facts, or had them read, and supplementing them by a brief personal statement, I simply wanted to offer in connection with this action of Judge Jenkins the conclusion of the Judiciary Committee of the House in its report which I have quoted, Report 1049, Fifty-third Congress, second session:

Your committee therefore recommends the adoption of the following resolution:

"*Resolved*, That the action of Judge James G. Jenkins in issuing said order of December 19, 1893, being an order and writ of injunction, at the instance of the receivers of the Northern Pacific Railroad Company, directed against the employees of said railroad company, and in effect forbidding the employees of said Northern Pacific Railroad Company from quitting its service under the limitations therein stated, and in issuing a similar order of December 22, 1893, in effect forbidding the officers of labor organizations with which said employees were affiliated from exercising the lawful functions of their office and position, was an oppressive exercise of the process of his court, an abuse of judicial power, and a wrongful restraint upon said employees and the officers of said labor organizations; that said orders have no sanction in legal precedent, were an invasion of the rights of American citizens, and contrary to the genius and freedom of American institutions, and therefore deserving of the condemnation of the Representatives of the American people."

I simply want to repeat, because I should like to have the idea driven home, if by repetition it can be done, should this power be given to a judge who will so far forget the decencies of his profession and of his position as to ignore the law and the rights of his fellow-citizens and attempt, because of the fact of this receivership, to compel several thousand men to remain at work, making them in effect slaves? I want to know what a judge like that would do in this case; and we have had several other injunctions of one kind and another, so much so that the party to which I belong had as one of its platform planks a declaration that government by injunction in the United States should cease. I want to know what a judge like Judge Jenkins would do if a rate made by this railroad commission which we are discussing, displeased these railroads. Would he hesitate a minute to issue his decree ordering the suspension of the rate and declaring that the railroad should run on under its own rates? Would such a decree be a denial of justice if we suspended his power to issue it until after he had heard the case?

That is all we ask. We want to prohibit and prevent these preliminary and interlocutory decrees by a judge who has

heard nothing but takes the simple affidavit or complaint of the lawyer of the road who goes to the judge, and the railroad commissioner goes up into the air, and the shipper waits indefinitely, in some instances, as at Titusville, Pa., for an opportunity to get redress, waits like those people in Texas are waiting, seven long years, because one of these judicial high priests, these Brahmins of the inner temple, who are so sacred in the eye of some of our legal friends here, because one of this Sanhedrim or other sacred persons must not be interfered with by Congress, although Congress created the office, and under the Constitution, as we understand it, has the right to say, "You can go so far and no further." We want these judges to try the case and hear it all, and then if they decide that the Commission's act is unlawful, or an invasion of the constitutional rights, issue your injunctions, but do not do it until you have heard the case.

I come now to a different class of judicial tyranny; in other words, the railroad judge. Your railroad judge seems just as incapable of holding the scales evenly and deciding a cause upon its merits as though he had but one side to his head and could look only toward the railroad interests.

This is rather a long recital, but it is pertinent and interesting. In the next case I am informed by a most reliable gentleman, and I am not altogether willing to give his name, although he has not asked me not to do it, for the simple reason I expect this Jeffreys, this judicial tyrant, as I call him, would not hesitate to rule him for contempt, but I ask permission to have the Secretary read the famous contempt case of Josephus Daniels, of the Raleigh News and Observer, in the matter of the receivership of a railroad in North Carolina, in which the road was put under receivership by Judge Purnell, and this editor was cast into prison because he refused to pay a fine of $2,000 for having exercised his right in the editorial columns to comment on it.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

FAMOUS CONTEMPT CASE HAS BEEN FINALLY ENDED—EDITOR JOSEPHUS DANIELS, OF NORTH CAROLINA, HAS BEEN RELEASED FROM CUSTODY—FREEDOM GIVEN EDITOR BY JUDGE PRITCHARD—GRAPHIC REVIEW OF REMARKABLE CASE WHICH GREW OUT OF FEDERAL ATTEMPT TO PLACE THE ATLANTIC AND NORTH CAROLINA ROAD IN RECEIVER'S HANDS.

RALEIGH, N. C., *June 4, 1904.*

As told in the Constitution this morning, the famous contempt case which has torn North Carolina for the past week and which grew out of the editorial criticism of Federal Judge Purnell appearing in the Raleigh News and Observer, was ended yesterday by Judge Pritchard dismissing the proceedings and ordering Editor Josephus Daniels released from further custody.

Editor Daniels had severely criticised, in his paper of Sunday, May 29, the action of Judge Purnell in appointing receivers for the Atlantic and North Carolina Railroad, of which the State of North Carolina is three-fourths owner. Mr. Daniels, who is one of the most prominent citizens of the State and was for a number of years the North Carolina member of the national Democratic executive committee, was fined $2,000 by Judge Purnell for contempt, and on refusal to pay the amount was placed in custody.

The appointment of receivers for the Atlantic and North Carolina road was overruled by Chief Justice Fuller, of the United States Supreme Court, and Judge Pritchard, the new judge of the fourth district, came down from Washington to hear the case.

At 3 o'clock the Federal court room was filled to overflowing with people who were deeply interested in the outcome of the habeas corpus proceedings. The prisoner, Mr. Daniels, in custody of the marshal and accompanied by his attorneys and friends, filed into the court room and in a few moments Judge Pritchard opened court. Marshal Dockery read the writ of habeas corpus and his return thereto and announced to the court that in accordance with the said writ the body of Josephus Daniels was before the court. District Attorney Harry Skinner, at the suggestion of Judge Pritchard, represented Judge Purnell in the hearing.

Judge R. W. Winston, representing Mr. Daniels, made a clear, logical, forceful, and feeling speech, in presenting the reasons why the prisoner should be discharged. He reviewed the statute under which Mr. Daniels was held and the decision of the court on same, and showed with the utmost clearness that Judge Purnell had no jurisdiction and that there was no legal reason why the rule should have been issued or served.

District Attorney Skinner, in answer to Judge Pritchard, stated that Judge Purnell had made an order authorizing the prisoner to appeal and to be discharged upon his perfecting the appeal and giving bond. When this statement was made, Judge Pritchard asked if this order was made before or after the writ of habeas corpus was granted by him (Judge Pritchard). He was informed that the order was made by Judge Purnell, after the writ of habeas corpus had been granted. Judge Pritchard then stated that, in his judgment, the rule and order made by Judge Purnell were not warranted by the law, that the prisoner was entitled to be discharged, and directed the clerk to enter an order discharging him.

When this order was made the marshal found it impossible to keep order in the court room. The intense strain under which people had been laboring ever since the arrest and imprisonment of Mr. Daniels was relieved and pleasure and satisfaction were observed on every face. A stream of friends crowded around Mr. Daniels to shake his hand and to congratulate him on the fact that he had been vindicated in his manly stand for the freedom of the press in North Carolina.

This was Judge Pritchard's first case after he was sworn in as circuit court judge, and his fair and impartial action in discharging and releasing a man who was unjustly imprisoned has made a deep impression on the people of North Carolina.

M'BEE APPOINTED RECEIVER.

The facts leading up to these contempt proceedings form a page in the history of the State which will long be remembered by the people. Several months ago application was made at Norfolk, Va., to Judge T. R. Purnell, United States district judge for the eastern district of North Carolina, for a receiver for the Atlantic and North Carolina Railroad—a railroad in which the State owns nearly all of the stock. This application was made by one Finch. Judge Purnell issued an order at Norfolk appointing McBee receiver of the road, without notice to the State. On the next day Judge Purnell came to Raleigh, and recognizing the fact that he had no right to appoint a receiver when out of the State, made another order again appointing McBee receiver. McBee immediately took charge of the road, and the State at once applied to Judge Simonton to vacate Judge Purnell's order appointing McBee receiver.

Before this application was heard by Judge Simonton warrants were issued for McBee and Finch for criminal conspiracy. This was heard before Judge Walter Clark, chief justice of the supreme court of North Carolina, and it was proven that Finch did not own a dollar in stock of the road and that there was a conspiracy to throw the property into the hands of a receiver. The defendants were therefore bound over to court to answer the charge of conspiracy, which is a felony in North Carolina.

JUDGE SIMONTON DISCHARGES RECEIVER.

When Judge Simonton heard the application to discharge the receiver, the receiver was promptly discharged and the railroad returned to its owners, the State of North Carolina. Judge Purnell expressed himself as "highly indignant," and said that he had been imposed on, and the people of North Carolina thought that this ended the effort of those who were trying to secure possession of the road through the receivership. Such was not the case, however, for a short time since another application was made to Judge Purnell to appoint a receiver for this road. This application was made by one Cuyler, and Finch was made a party thereto. Notice, however, was served on the State when this application would be heard by Judge Purnell, and when the same was heard the State was represented. A bond in any amount to be fixed by the judge, to protect the applicant to the petitioner from any loss he might sustain by permitting the property to remain in the hands of the State, was tendered by the State, but rejected by Judge Purnell. Judge Purnell, however, appointed T. D. Meares and V. E. McBee as receivers of the road, McBee being at that time under indictment found by the grand jury of Wake County for a felony.

The Raleigh News and Observer, which is one of the leading daily papers in North Carolina, of which Josephus Daniels is editor, in commenting on this action of Judge Purnell, made severe editorial comment. The issue of Sunday, May 29, being especially vigorous, so much so that it aroused Judge Purnell very greatly. On Monday he issued an order on Daniels to appear before him Tuesday, May 31, at 10 o'clock and show cause why he should not be attached for contempt of court in writing and publishing the editorials which Judge Purnell complained of. The following are the editorials of Sunday, May 29, which aroused the judge and which he filed:

THE EDITORIAL WHICH GAVE OFFENSE—THE LATEST ACT IN THE ATLANTIC AND NORTH CAROLINA RAILROAD RECEIVERSHIP MATTER.

The fourth act of the Atlantic and North Carolina Railroad receivership play took place in the Federal court building in Raleigh yesterday afternoon, when Judge Purnell appointed T. D. Meares as receiver.

The first act took place in Norfolk, when Judge Purnell appointed V. E. McBee receiver upon the application of Finch, who did not own a share of stock in the road.

The second act took place in the Federal court building in Raleigh, when Judge Purnell, finding that his order in Norfolk was illegal because made outside of the jurisdiction of his court, ascended the bench and made the order over again.

The third act was pulled off with the same scenery some weeks later, when, after the conspiracy proceedings, the judge being "highly indignant," the receivership was vacated, the story of the McBee-Finch game of "bunco" having been exposed.

The fourth act in the same play drew a crowd to the Federal court building yesterday afternoon. It was at once apparent that the judge was determined to appoint a receiver, and after permitting the lawyers to talk a little he made the appointment.

Mr. Meares, who was named as receiver, is the man who was to assist McBee, who was first appointed receiver. Finch, who is now said to own his stock, was made a party. So we see that yesterday's appointment was but the finishing up of what was begun in Norfolk, for McBee and Meares are so close together that if one should be called Tweedledee the other would appropriately be called Tweedledum.

It is to be hoped that those newspapers—only a handful in number—which have been clamoring for Federal judge government of North Carolina affairs are satisfied. They seem to have lost sight of the fact that the State of North Carolina owns two-thirds of the stock in the Atlantic and North Carolina Railroad, and that under the law the board of internal improvements, of which the governor is chairman, is charged with the management of the property. Whether they manage it well or otherwise, they are responsible to the people, whose servants they are, and not to any Federal judge. The Federal court had no call to intervene. There is not an instance of a receivership of large property in this State that has not resulted disastrously. Can we expect any other result in this instance?

As evidence that Cuyler did not bring his suit to protect his $3,700 of stock (if, indeed, he has any stock at all) the State offered to put up a bond, in any sum, to guarantee him against loss. In the State courts a receiver will not be appointed for property if the owners in charge give bond to save a minority stockholder or creditor from any possible loss by reason of continuing in charge. The Federal court ought to, in matters relating to receiverships, in this follow the rules of State courts.

No stockholder up to this hour has ever complained to the board of internal improvements of any wrongful action. Cuyler has voted for every act criticised. Does he own and can he control the stock upon which this suit is predicated? Nobody believes this suit was brought for the correction of any evils, but for an ulterior purpose not now disclosed.

Judge Purnell graciously stated that a meeting of the stockholders to agree upon a lease would not be considered an act of contempt of his court, provided the lease they might agree upon were submitted to him! The day will never come when his permission will be asked by State officials as to how they shall perform the duty imposed upon them by the legislature. There is not a decent citizen of North Carolina who would ever forgive the governor of this Commonwealth if he humiliated it by submitting a lease to any Federal court. Some things

are higher than leases and rentals and dollars. One is whether the property of the people shall be governed by servants of their choice or by Federal judges in whose selection they have no voice. If their servants commit mistakes or wrongs, the people can correct them. If Federal court judges, appointed by hostile Presidents upon alien recommendations, commit wrongs, there is no immediate remedy. The legislature has full power to make a thorough investigation into all agreements and understandings which have been entered into, and if the governor should call a special session for that purpose the whole inception of this affair might be laid bare to the public gaze. It would have the power to examine everybody and will probably to so. The full disclosure of all the motives and ulterior purposes behind this application by Finch and Cuyler would be interesting and salutary.

Of course the State appealed. The appointment of a receiver was expected, and the State was ready last night with the papers and the bond. The matter will be heard before the circuit court of June 28. If the owners of three-fourths of a piece of property have rights superior to that of one $3,700 stockholder in a company of $1,800,000, the property will be restored to its owners.

Wrong may triumph for a time, but right will eventually be established. The men who are laughing now will be found weeping when the real truth is brought to light, as it will be as sure as God reigns in the heavens.

In addition to this direct and vigorous editorial drubbing, there appeared on the editorial page of the same issue a number of sharp paragraphic criticisms, among which were the following:

McBee had a job with the Seaboard and lost it. Purnell gave him a short job as receiver. Meares had a job with the Seaboard and lost it. Purnell has given him a job as receiver. Finch had a job with the Seaboard and lost it. Purnell heard his prayer and appointed his friend receiver.

One of the men sentenced to jail for contempt by Judge Peebles is a lawyer of thirty years' active practice. He will escape the penalty. It seems to be the unwritten law of North Carolina that no lawyer shall be convicted in the courts and that no judge shall be impeached. Is that long-standing record to be broken?

People ought to have respect for judicial officers, but judicial officers ought not to be "usurperious and pomperious."

It is a thousand pities that Congress did not impeach that Florida judge before it adjourned. The impeachment of an unworthy Federal judge in the South would be as wholesome as a refreshing rain after a long drought—"as vernal showers to warm flowers."

The next legislature should change the laws for contempt if a judge may fine or imprison a man for giving an affidavit against a judge. If he gives a false affidavit, the libel law is open to a judicial officer as to all others and the person making it can be convicted of perjury.

If every man in North Carolina who has at any time expressed contempt for some act of a Federal or State judge should be sent to jail, the jails would have more people in them than are outside of prison walls.

If any man swears to a falsehood about a judge, he should be punished for perjury, but he should be tried and convicted by a jury of his peers and not summarily punished by the judge interested.

Government by Federal judges was not contemplated by the founders of this Republic.

The State will be astonished to read that Judge Peebles has fined three affidavit makers $250 fine and sentenced them to jail in the contempt case. And now we may look for testimony pro and con as to those affidavits. If this affidavit business continues daily newspapers will have to be printed on a composition of asbestos and rubber. They are too hot for plain paper and too long for any sort that will not stretch.

In the same issue of that paper, in the news column, was an account of the action of Judge Purnell in appointing Meares and McBee receivers of the Atlantic and North Carolina Railroad. The article was headed "The thumb was turned down—In the Federal court arena death was decreed for the Atlantic and North Carolina gladiator." The article began with this comment:

"Once there was a judge sitting in trial of a case. He heard at length, with the utmost attention and patience, the complete argument of the plaintiff, and when the lawyers at last ceased and closed their case, he started to render his judgment, with the utmost confidence. Of course the lawyers on the other side, aghast at such snap judgment, arose as one man and protested that he should hear their side of the case. At last the judge, with some misgivings, however, agreed to hear the other side. He listened to a long argument then, with an air of long-suffering patience and a perplexed look on his face, which gradually grew into a look of dismay. Finally the last lawyer took his seat, and the judge slowly looked around the court room and said: 'Gentlemen, if you had permitted me to announce judgment some time ago, when I wished to, I could have done so, but now you've mixed me all up!'"

Judge Purnell was not like that judge. His mind was made up when he came into the court, apparently, and he appointed a receiver for the Atlantic and North Carolina Railroad Company, at least, temporarily, until the final judgment in this hearing, which he continued before S. C. Ryan, of this city, as special master, to hear the evidence and report before July 15.

In the meantime, Thomas D. Meares, of Wilmington, is appointed receiver to take charge at once, and the restraining order is continued. This, the judge said, will not prevent the stockholders from meeting and determining the question of accepting a lease proposition. Of course, he said, the court could not lease the road, but if the stockholders should decide to lease it, they could submit the proposition to the court, and if the court approves it, the receivership will be vacated. This was stated by the court, because yesterday morning Mrs. F. P. Tucker and Dempsey Wood, private stockholders, represented by Judge T. B. Womack, joined in the suit with the defendant railroad for the purpose of praying for a continuance of this hearing in order that the stockholders might meet and vote to lease the road. Judge Womack will now use every endeavor to bring about a stockholders' meeting as soon as possible.

Counsel for the Atlantic and North Carolina appealed the case to the United States circuit court of appeals at once. The hearing yesterday was over a little after 5 o'clock, and before 7 the appeal bond had been given, the citation by the other side completed, and the hearing of the appeal set for June 28 at Richmond. That is said to be the quickest appeal completed on record.

DANIELS FINED $2,000 FOR CONTEMPT.

The contempt order was served on Mr. Daniels on Monday, and Tuesday morning, in company with his attorneys, he appeared before Judge Purnell and asked for time in which to prepare an answer to the rule to show cause why he should not be attached for contempt. Judge Purnell declined to give time, but finally consented to permit the defendant long enough time for the stenographer to finish his answer, which was being typewritten at that time. Mr. Daniels filed an answer, in which he admitted the publication complained of, but denied that it was libelous, and said that, as editor of the News and Observer, he conceived it to be his duty to freely and fearlessly discuss all matters of a public nature which concerned the people of the State of North Carolina; that the said articles were conceived, prepared, and published by him in order that the people of the State might be informed concerning a matter in which they were vitally interested. He denied that the publication was in the presence of the court, or that the court had jurisdiction to try and punish him for contempt in making said publication. The judge, in an angry manner, announced that "the defendant is adjudged guilty of contempt of this court, and it is a sentence of the court that the defendant pay a fine of $2,000 and stand committed until the fine and costs be paid."

Judge Winston, representing Mr. Daniels, asked the court to hear hear Judge Winston or to look at his authorities, and declined to grant defendant had the right to appeal. The court peremptorily declined to hear Judge Winston or to look at his authorities, and declined to grant an appeal or to fix a bond, and committed Daniels to the custody of the marshal until the fine and costs were paid.

FRIENDS RUSH TO PAY FINE.

No sooner had the notice of a fine of $2,000 fallen from the lips of Judge Purnell than there was a rush of men who fought their way through the dense crowd to be the first to contribute toward the payment of the fine. In a moment men were thrusting big handfuls of bills and checks into Doctor Daniels's lap. For several minutes he was busy declining these well-meant and comforting offers of assistance. It was the crowd's substantial, impulsive method of expressing the opinion that became general on the streets that the fine was one arbitrarily imposed for the courageous performance of conscientious duty.

As soon as sentence was announced, Editor Daniels stated that he would not pay a cent. "I will rot in jail first," he said, and in this determination he was applauded by his friends. He was at once taken into custody by the United States marshal and was held in custody in room 28 at the Yarborough House. Steps were taken at once to secure a writ of habeas corpus.

Editor Daniels stated in his editorial published next morning, written while in the custody of the United States marshal: "I have done nothing to justify the order of the judge under the Constitution and laws of this country. I have written freely, fearlessly, and plainly in criticism of a wonderful act of a Federal judge. If I had written a line less, I would have lost my self-respect, been untrue to my convictions, and unworthy of the position I hold. An editor owes a duty to the public. He has no higher duty than to criticise, 'unawed by influence and unbribed by gain,' the unwise, arbitrary, or injurious public action of public officials. If he fails to criticise such action as that of Judge Purnell on last Saturday, he is not worthy to belong to a profession honored by Seaton Gales, Hale, Englehard, Saunders, Josiah Turner, and other men who have made the annals of North Carolina journalism the brightest page of North Carolina. My criticism of Judge Purnell was true, it was moderate, it was as plain as language could make it. Before I would retract a solitary sentence of that editorial or abuse myself I would rot in a dark dungeon all my days. If editors must crawl in dust before Federal judges and make obeisance to them and permit them to become censors, it must be so declared by the Supreme Court of the United States. Until that tribunal makes that decision I will continue to exercise my right and duty to freely criticise the public action of any official."

The people in every part of the State were aroused by the arrest and imprisonment of Daniels as they have not been since the days of reconstruction, and there is generally held the opinion that Judge Purnell made a very serious mistake in attaching Mr. Daniels for contempt. Letters and telegrams and offers of assistance, financial or otherwise, came to Mr. Daniels from every section of the State.

UNITED STATES SUPREME COURT INTERFERES.

On the next morning after Mr. Daniels had been placed in custody, Chief Justice Fuller, of the United States Supreme Court, made an order vacating Judge Purnell's order appointing Mears and McBee receivers of the Atlantic and North Carolina Railroad, and on giving the bond, the property was taken possession of by the State. The receivers at first refused to surrender the property, and Governor Aycock notified the officials of the railroad company to take possession; that the entire power of the State would be used, if necessary, to put the receivers out and the officers of the railroad in possession of the Atlantic and North Carolina Railroad property. On this sort of an intimation the receiver retired, and the Atlantic and North Carolina Railroad property is now in the hands of its owners.

Attorneys of Mr. Daniels applied to Judge Pritchard, who had just been sworn in as United States circuit court judge, for a writ of habeas corpus, which was issued by Judge Pritchard and set for hearing in Raleigh at 3 o'clock Friday, June 3.

After this writ of habeas corpus was granted by Judge Pritchard Judge Purnell made an order in which he said that he would grant Mr. Daniels an appeal, which right had been denied when he was before the court and his attorneys asked for the benefit of an appeal. The writ of habeas corpus was heard before Judge Pritchard in Raleigh Friday afternoon and the prisoner released (The Constitution, Atlanta, Ga., Sunday, June 5, 1904.)

Mr. TILLMAN. Mr. President, I wish to have read also an editorial from The State, of Columbia, S. C., and I do it because it does the fullest possible justice, and not only that, but speaks in the most complimentary way of our former colleague, Jeter C. Pritchard, who was once a Senator here from the State of

North Carolina, and is now a United States circuit judge in that State. I am the more gratified because of his action in this case, which shows that he is an ornament to the bench.

The VICE-PRESIDENT. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

THE RIGHTS OF THE PRESS.

There is no overestimating the importance of the decision of Judge Jeter C. Pritchard in the case of Editor Josephus Daniels.

The setting free of the editor, held by a district judge for contempt of court, has been followed, as promised, by a written opinion from the new circuit judge And that opinion justifies the selection of the ex-Senator as the successor of Simonton. It is a complete yet concise presentation of a most important question—the right of a judge to jail an editor who criticises his judicial acts after the case has been concluded.

The history of this case is familiar. The Raleigh News and Observer severely condemned Judge Purnell for his action in the matter of a receivership for the Atlantic and North Carolina Railroad Company, whereupon Judge Purnell had Editor Daniels arrested and adjudged him guilty of contempt of court, sentencing him to pay a fine of $2,000, and refusing an appeal. Upon a writ of habeas corpus the editor went before Circuit Judge Pritchard, and Mr. Daniels has secured not only his liberty but also a valuable definition of the right of the press to criticise officials, whether they be judges on the bench or what not.

In the synopsis of the opinion published in this paper yesterday, the following must have struck every reader's attention as a declaration sound in law and reason:

"That newspapers sometimes engage in unwarranted criticisms of the courts can not be denied. In some instances they construe the liberty of the press as a license to authorize them to engage in a wholesale abuse of the court, but those instances are rare and do not warrant a departure from the well-settled principles of the law as declared by Congress and construed by the courts. If judges charged with the administration of the law are not to be criticised on account of their official conduct the liberty of the press is abridged and the rights of individuals imperiled.

But Judge Pritchard went further than that. He had already quoted authorities to show that "mere libels on a judge, as a man and an officer, printed in a newspaper, are not contempts;" that a judge must seek recompense for personal criticism in the same way as any other public official or any other private citizen; that while the office is to be respected, the court as a court, yet the judge as a judge and as a man must not expect to be shielded from criticism by the fact that he is in office. Having gone to the law books to show that this has been the ruling wherever the question has come up, and having enunciated the doctrine of liberty of speech as it may affect the bench, as quoted above, Judge Pritchard went on to elaborate that doctrine and to apply it to all public officials, laying down not only the law but the safe policy for officials to pursue as well. He said:

"While all citizens should entertain due respect for the courts of the land, it does not follow that editors and public speakers are to refrain from legitimate criticism of the acts of any tribunal. Such criticism should be invited by public officials in order that the people may fully understand what is being done by those who are acting as their agents in the administration.

"Public questions are generally settled in the right way, and the fact that such is the case is due in a large measure to their free and untrammeled discussion by the press of the country. The courts are constituted for the purpose of protecting the rights and liberties of the individual, and the enactment of any law which gives a judge the power to prevent the free and unrestrained discussion of questions which may come before the court for adjudication would in many instances defeat the very object for which the courts were established."

This is good law, and it is sound political principle. In the Daniels case the liberty of the press was seriously and unreasonably threatened, and it is reassuring to have such a clear, unequivocal declaration of the rights of public journals as Judge Pritchard has given. The News and Observer, the paper directly interested, does not exaggerate when it says:

"The decision of Judge Pritchard will be quoted in every State of the Union, will be printed in the publications of all editorial associations, and will be regarded as the most notable decision affecting the liberty of the press rendered in more than half a century. No one need fear that a decision so essential to the freedom of the press and to individual liberty will lessen the respect of the people for the courts. It will increase their respect a hundredfold. Every editor knows that if he indulges in undeserved criticism of judicial officers his paper will lose power and usefulness. The decision will have the effect of adding to confidence in the judiciary, when men of learning and fitness are wearing the ermine. It will teach that the press has a right, which no judicial officer can summarily take from it, to freely and plainly criticise judges whose conduct demands criticism. It effectually ends petty judicial tyranny and assures to the people a free press—the only safeguard of their liberties."

That is undoubtedly a correct interpretation of the decision's effect. The conscientious editor is as careful not to abuse his privileges and powers as is the conscientious judge—and conscientious editors are about as numerous as conscientious judges. The press as a rule is quick to uphold the majesty of the law, quick to demand respect for the courts, but it is none the less zealous of its rights, which are the palladium of the people's liberties.

Mr. TILLMAN. Mr. President, as I said a moment ago, I take great pleasure in having that editorial inserted, because it does ample justice to, and also speaks in the most complimentary way of, former Senator Pritchard, who is now United States circuit judge in that circuit.

I now come to Florida. I could recite a story of some judicial transactions in my own State, that in outrage and tyranny, and everything almost that is indecent, surpass anything that I will put in the RECORD to-day; but the judge is dead, and therefore I have nothing more to say about it. He has settled his account somewhere else.

I have heard of some judicial transactions in Georgia, and one in Kentucky, which, if I had the time to get the facts, would be very interesting reading, as showing the unscrupulousness and criminality of these judges, who, once clothed with authority for life, exemplify the prophecy of Jefferson, that they would reach out and sneak over the fields of jurisdiction, here a little and there a little, like a thief in the night—I am not giving the exact words; I am giving merely the sense—and absorb and cover it all, leaving the States nothing.

I come now to Florida, as I said, and I want to incorporate in this catalogue a transaction of Circuit Judge Pardee in the case mentioned by the distinguished Senator from Texas [Mr. BAILEY] in his speech on the 20th of March, in which the facts are stated thus:

The Florida railroad commission enforces its orders by mandamus instituted originally in the supreme court of the State, and yet Judge Pardee has enjoined the Florida railroad commission and all of the State officials from instituting suit in the supreme court of the State by mandamus to compel the Louisville and Nashville Railroad Company to reduce its passenger fare from 4 cents to 3 cents per mile in Florida, and this injunction was granted upon the affidavit of the vice-president of the Louisville and Nashville Railroad to the effect that the Louisville and Nashville property in Florida is worth at least $5,200,000—this high valuation being essential to their case—and the State produced an affidavit made by the same man one month and twenty-eight days prior to his swearing to the bill, in which affidavit he had sworn that the identical property was not worth exceeding $1,700,000; and yet on this man's affidavit the State was temporarily restrained from instituting mandamus proceedings in the supreme court of Florida to enforce compliance with the rate.

The legislature changed the rate for passenger traffic from 4 cents to 3 cents per mile, and in this proceeding before Judge Pardee the transaction just as I have read it is of record, and that, too, in the face of this statute, Mr. President. I read from section 720 of the Revised Statutes:

SEC. 720. The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy.

But what does one of these railroad judges, as I have dubbed them, care for statutes? The Senate has given them a free rein in dealing with railroads, or with anything else, by its refusal to impeach one of them, it does not matter what transactions may be proved, what villainy, infamy, and outrage may be brought here and sworn to and rendered beyond controversy. This high court, which should protect the people against such judges, from partisanship or some cause—I am not prepared to say, because I was not here at the trial—refused to give the country any protection, and the judge was turned loose with absolute immunity, told to go on his way, to do his dirty work, and obey the railroads that own him apparently.

The country looks on, and when we try in this bill to provide that a railroad rate fixed by this high Commission of seven, getting high salaries, so as to command the best talent in the country, to determine what is a just and reasonable rate—instead of letting that rate hold good and go into effect, these sacred creatures must be left free to do their own will, to issue their decrees of injunction on any kind of hearing or on no hearing. This man Pardee ought to be impeached. He knew the statute was in the laws of the country. He had sworn to support the law and the Constitution, yet, in direct violation of both, he orders the authorities of the State of Florida to cease from interfering with this railroad and enjoins them from collecting taxes.

But what if the people of Florida through their Representatives in Congress were to bring him here for trial? Who imagines that there would be enough votes to turn him out? I imagine that when the votes on this issue as to whether or not these judges shall be limited in their power is had, we could get a pretty fair idea of how many votes would go against any impeachment proceedings against any one of them, because, if a Senator will not limit the power of these courts under the conditions which would obtain, will not even try to do it by voting for some provision in this bill which will give us protection, he certainly would not vote to impeach a man, even though we proved him directly violating his oath of office and invading the rights of the people and of a State.

I come now to the last and in some respects the worst of the lot. It is so fresh in the minds of Senators that I hardly think it worth while to read it. It is the Swayne case—the judge in Florida who acted in such an outrageous manner in his dealings with the lawyers and the interests and persons and liberties and rights of the people there that the House of Representatives impeached him, but the Senate could not see it in that way. Of course I must consider that Senators voted as their consciences dictated, and therefore will not say anything more about it. But when the people are left helpless in the hands of these judicial officers who have life tenures, and the only protection under the Constitution, which is impeachment, will not work, how can Senators expect the people of the country to have that faith, confidence, and respect in the judiciary

which we all know ought to obtain and which we should like to render unto them?

Mr. President, I ask permission, without reading, to insert in the RECORD the facts in relation to the Swayne case, sent to me by Representative LAMAR, of the Florida delegation.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from South Carolina?

Mr. SPOONER. I ask that the paper may be read.

The VICE-PRESIDENT. At the request of the Senator from Wisconsin, it will be read by the Secretary.

The Secretary read as follows:

JUDGE SWAYNE'S CASE.

In 1892 the Florida Central and Peninsular Railroad, in the State of Florida, filed its bill to enjoin the collection of $96,000 of back taxes upon its constituent lines of road, which had been levied upon on behalf of the State of Florida. The litigation lasted for quite a number of years. The supreme court of Florida finally settled every State question involved in the litigation in favor of the claim of the State for back taxes. The case was carried to the Supreme Court of the United States by the railroad company.

There, so eminent an attorney as the Hon. Wayne MacVeagh argued all the Federal questions involved on behalf of the railroad company. The Supreme Court of the United States decided all Federal questions raised adversely to the railroad company and affirmed the judgment of the supreme court of the State of Florida.

The whole proceeding was a direct proceeding between the State of Florida and the railroad company for the collection of a debt, viz, taxes, which, under the decision of the two courts, was the highest obligation resting on the property of the railroad company.

And yet, in the face of both of these court decisions, Judge Charles Swayne, United States district judge for the northern district of Florida, enjoined the State of Florida, through its comptroller, from selling under levy the property of this railroad company and collecting its just debt against it.

And the injunction he issued against the comptroller was issued without giving any notice to him and without requiring any bond from the railroad company before issuing it. The injunction was issued on behalf of the Central Trust Company of New York, which held the bonds of the railroad company.

The action of Judge Swayne was "government by injunction," about which we have heard considerable complaint in late years. The suit on behalf of the Central Trust Company was purely a dilatory proceeding and a mere constructive proceeding to hold the State off from its just rights in the matter, to save to the railroad company the interest which would accrue by nonpayment of the amount due.

The State of Florida, by its attorney-general, submitted a demurrer to the bill filed by the Central Trust Company, and also interposed a plea of res adjudicata, setting up the decisions of the courts in favor of the State of Florida. The demurrer and pleas were argued before Judge Swayne by an able lawyer, then attorney-general of Florida, Hon. J. B. Whitfield, who is now a member of the Florida supreme court.

Judge Swayne overruled the demurrer and plea. An answer and replication were filed, but before the case ever went to a hearing the railroad attorneys, who had no confidence in their case, paid the full amount of $96,000 to the State of Florida. The railroad company, under Judge Swayne's injunction, had obtained two years' delay and was "in pocket" at least $10,000 in interest saved.

The railroad attorneys, on behalf of their railroad client, paid the amount to the State, not because they doubted Judge Swayne's decision in the matter in their favor, but they must have felt that such decision would have been promptly reviewed in the Supreme Court of the United States, and their whole proceeding of delay and obstruction would be thrown unceremoniously out of court, and that Judge Swayne might possibly have gotten a stinging rebuke from that tribunal. When all the delay practically possible had been obtained, then, of course, payment was made.

Eleven counties in Florida were entitled to about $50,000 of these back taxes. Some of these counties issued bonds before the civil war to aid in the construction of a portion of the lines of this railroad. These back taxes belonged to the school funds of the counties, and a portion of it was to pay interest on the very bonds issued by the counties in aid of the construction of this railroad.

There was no excuse at all for Judge Swayne's action in this matter. It was a flagrant case of knowing, willful wrongdoing. I should have included his action in this matter in the charges laid against him in the House of Representatives for his impeachment but that I knew he and his defenders would fall back at once for justification upon "error of judgment."

Mr. TILLMAN. Mr. President, I have nothing more to say. I am sorry to have trespassed upon the patience of the Senate with this long recital of facts, but I thought it a good thing to do. There is need of some physic somewhere, and if the Senate can be made to understand that these judges ought not to be left to roam up and down the land and lend themselves to any and every dirty transaction that a railroad wants done, and obstruct every effort to relieve the country, to relieve the people, that is all I hope for; and if I can get anything——

Mr. BACON. Will the Senator from South Carolina permit me to ask him a question before he takes his seat?

Mr. TILLMAN. Certainly.

Mr. BACON. The Senator from South Carolina, I presume, knows the fact that in the equity practice of the United States there is no jury; in other words, the final decree is made by the judge. The point to which I wish to direct the Senator's attention is the fact that the judge who would pass upon the question of an interlocutory decree is the same judge who would finally pass upon the question whether or not there shall be a permanent injunction. The question I want to submit to the Senator is this: If among these judges, taken as a whole—not all of them—but if there are among them generally so many objectionable practices and characteristics, as they have to pass upon it finally, in what way does the Senator propose that as to final injunction the people can be protected from these "corrupt" and "dissolute" and "unworthy" judges?

Mr. TILLMAN. By decree of the Supreme Court. I want the judge to try the case according to the constitutional requirements, but I do not want him to half try it, or to pretend to try it, and take advantage of the opportunity offered by some lying complaint, like that of this railroad official in Florida, who goes in and swears to one thing when it comes to the value of the property for taxation and turns right around and swears to another when it comes to valuing the property in regard to constitutional rights. I do not want that sort of thing to be permitted by the Senate. The Supreme Court may declare the provision unconstitutional, but let us give the court a chance. I want to give the people the benefit of the doubt.

In regard to fixing rates by the Commission, let the rate go into effect; let the appeal of the railroad company go to the court; let the court try it, not issue any preliminary order, but try it all, and send it up to the Supreme Court. That is my contention.

Mr. BACON. If the Senator will permit me, I wish to ask him a question: What does the Senator propose to do between the time of final decree by the circuit court and the hearing by the Supreme Court?

Mr. TILLMAN. Do nothing except let the decree by the circuit court stand. If it is by injunction, let the injunction hold, but rush the case to the Supreme Court in the most expeditious way possible and get the decision of that tribunal, so that the matter will be settled once for all, either by reversing the circuit court or by indorsing its action.

Mr. BACON. I understand, then, that the Senator does not propose to interfere in any manner with the operation of the injunction, when that shall be ordered by the circuit court, between its issuance and the time it goes to the Supreme Court?

Mr. TILLMAN. I want a full hearing before the circuit court grants the injunction.

Mr. BACON. I understand, but I repeat the question. I understand the Senator does not desire to suspend in any way the operation of that injunction after the final decree by the circuit court and between that time and the final decision by the Supreme Court?

Mr. TILLMAN. Of course not.

Mr. BACON. Of course not. I simply wanted to know.

Mr. TILLMAN. No amendment like that has been offered by anybody here.

Mr. BACON. I understand, but I wanted to call the Senator's attention to the fact.

Then, as I understand, the objection of the Senator is not so much to the character of the judges, to their "unworthiness" and to their "disposition to do wrong," as it is to the fact that they might hear it and make an interlocutory decree without having sufficiently investigated the case.

Mr. BAILEY. Will the Senator from South Carolina permit me?

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. TILLMAN. Certainly.

Mr. BAILEY. I wish to suggest to him that if a preliminary injunction is issued by the judge, then the trial of the case may be postponed in the pleasure of the judge, and thus it might be three years before it reaches the Supreme Court of the United States. But if no such order can be issued until final judgment, then the trial is direct and prompt.

Mr. SPOONER. Will the Senator from Texas allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. I yield, with the permission of the Senator from South Carolina.

Mr. TILLMAN. Certainly. I yield the floor to you three lawyers. I have got you started again.

Mr. SPOONER. Is there not an appeal from the order of the circuit court of the United States granting or refusing a preliminary injunction?

Mr. BAILEY. There is not in the absence of a direct statute.

Mr. SPOONER. Is there not a direct statute providing for it?

Mr. BAILEY. I am not sure, and I would not say without an examination that there is a direct statute which would cover this case.

Mr. SPOONER. I think the Senator will find there is.

Mr. BAILEY. I would not be willing to say positively that the statute as it stands to-day covers this case.

Mr. SPOONER. I think we passed one within the last four weeks.

Mr. BAILEY. If we have passed an act within the last four weeks, I candidly say it had escaped my attention. Will the Senator from Wisconsin tell us if that bill has also passed the House of Representatives?

Mr. SPOONER. It passed the House first, did it not? I ask the Senator from Georgia.

Mr. BACON. It passed the House, and then was passed by the Senate with an immaterial amendment, a matter of form, and sent back to the House. But I will say to the Senator that that was simply an amendatory act as to one feature of the law. The general law which gives an appeal from an interlocutory decree of the circuit court of the United States to the circuit court of appeals has been upon the statute book some six or seven years.

Mr. BAILEY. My own impression is that there would be no appeal from an interlocutory decree in this case. The Senator from Wisconsin nods his dissent from that. He will note I said "my own impression is." I venture to go no further than that at this time. But the Senator from Wisconsin and I will agree that unless there is a statute which allows an appeal, no appeal can be taken from an interlocutory decree. The Senator from Wisconsin will agree to that?

Mr. SPOONER. Certainly. But as I understand the law to be, there has been, for I do not know how many years—the Senator from Georgia said six or seven——

Mr. CULBERSON. It is the act of 1891, creating the circuit court of appeals, which allows an appeal from the appointment of a receiver or the granting of any temporary restraining order in injunction cases by circuit courts or district courts.

Mr. BAILEY. But the proposition here is not to appeal from the circuit court to the circuit court of appeals, and that is why I say my impression now is that the general law would not reach this case. It is evident that the general law did not reach all the cases, because the statement here is that within four weeks Congress has been called upon to amend the law in a certain particular.

Mr. SPOONER. The amendment was proposed because as the law had been construed, as I understand, there had been an abuse under it, because in the pleadings they raised constitutional questions and took the cases to the Supreme Court.

Mr. NELSON. Will the Senator from Texas allow me to state the facts?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Minnesota?

Mr. BAILEY. I am always glad to hear a fact.

Mr. NELSON. The bill to which the Senator from Georgia and the Senator from Wisconsin refers has passed and become a law, I think, more than a week ago. I have seen it in print as a statute. Under that statute appeals will lie to the circuit court of appeals from a temporary or preliminary injunction.

Mr. BAILEY. But the proposition here is not to go to the circuit court of appeals from the circuit court that tries the case. The appeal here, as I understand, will go direct to the Supreme Court of the United States. Whatever else may be the final determination of the Senate, I sincerely hope the appeal will be allowed direct from the court that tries the case to the Supreme Court of the United States.

Mr. SPOONER. That is easy.

Mr. BAILEY. I know that is easy, and that is what I have proposed in the amendment which I had the honor to offer. So far as I know, there is in the Senate a general concurrence that there shall be only one appeal allowed, and that shall be direct to the Supreme Court of the United States.

Mr. SPOONER. Mr. President——

Mr. BAILEY. In a moment. Then, if that is true, I reiterate my impression that the general law would not cover an appeal from the circuit court which had granted an interlocutory decree or injunction, to the Supreme Court of the United States, and the circuit court of the United States would not, in my judgment, have jurisdiction in that case, because it would have no appellate jurisdiction at last over the decision of the circuit court which tried the case. Therefore it seems to me that either we must allow this appeal to go from the circuit court that tried it to the circuit court of appeals or else, passing the circuit court of appeals and allowing the appeal direct to the Supreme Court of the United States, we must make some provision——

Mr. SPOONER. Of course the Senator from Texas——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. If the Senator will pardon me for a moment, I understand that he assents to my proposition that there can be no appeal from a preliminary injunction order unless the statute specifically allows it. We agree on that, I believe?

Mr. SPOONER. Of course we agree to that, and the Senator has had no occasion to have any difference of opinion with me on that subject, because I have repeatedly said, and the Constitution so provides, that Federal jurisdiction is entirely under the control of Congress. The appeal to which the Senator alludes, speaking of the bill generally, is from the final decree direct to the Supreme Court. It is entirely within the constitutional competency of Congress to regulate that. It is no less within the constitutional competency of Congress to provide for an appeal direct to the Supreme Court of the United States from any order granting or refusing an injunction, and giving it preference in the Supreme Court of the United States.

Mr. BAILEY. The Senator and I have no difference about that. I think nobody questions that we can grant an appeal direct from the trial court to the Supreme Court of the United States, and that is precisely what I propose to do.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to his colleague?

Mr. BAILEY. Certainly.

Mr. CULBERSON. I desire to make a statement with reference to the statute now under consideration.

Mr. President, the act of 1891 creating the circuit court of appeals permits appeals from orders appointing receivers and granting temporary restraining orders in injunction cases directly to the circuit court of appeals. It also permits appeals in certain other cases to the circuit court of appeals. In the third place, in cases involving the construction of the Constitution of the United States, as this bill will certainly do, because the general proposition is to confine the interference of the courts to constitutional questions, that statute expressly authorizes an appeal from the circuit court direct to the Supreme Court of the United States.

But my colleague is entirely correct in saying that in that case there would be no direct appeal to the Supreme Court of the United States from an order granting a temporary writ or restraining order, but there would be from the final judgment on the question.

Mr. BAILEY. That is my understanding. I will be careful, and again say it is my impression.

But the purpose for which I rose was to explain why it is that it is deemed important to deny even to an inferior judge—and I use that adjective to describe the judge rather than his office; I will not say a corrupt judge; I will simply say an inferior one—the power to grant a preliminary injunction, though we recognize that at last he will have the power to grant a final injunction. If he sought to abuse his great office, he could grant a temporary injunction, and he could hold that matter in his court, from month to month and from year to year, because the granting of a continuance rests as a rule in the sound discretion of the court, and for one cause or another he could continue the case from term to term until two or three years might elapse before the case would be finally decided.

Now, if this judge is denied the power to grant a preliminary injunction, the railroad itself becomes intensely and immediately interested in a prompt and speedy trial; the case is tried without any unnecessary delay; and though a bad judge renders, as bad judges always will, except by accident, a bad judgment, there is a prompt appeal from his decision to a forum which is free from any suspicion of wrong or injustice. While we can not entirely take this case away from a judge whose partiality we may suspect, our purpose is to prevent him from deciding it at all until he decides it in a way and form that gives a prompt appeal to another and a better tribunal.

Mr. KNOX obtained the floor.

Mr. TILLMAN. Before the Senator——

The VICE-PRESIDENT. The Senator from Pennsylvania has been recognized.

Mr. TILLMAN. I should like to ask a question of the Senator from Georgia, who asked me some questions. I want a little light on one point.

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from South Carolina?

Mr. BACON. I think I have the floor. I never yielded it.

The VICE-PRESIDENT. It is possible, but the Chair first observed the Senator from Pennsylvania.

Mr. BACON. I am speaking of a time before this discussion commenced. I had the floor and did not yield it.

Mr. KNOX. I gladly yield to the Senator from Georgia.

Mr. TILLMAN. I want the Senator from Georgia to give me light on this point: Suppose an appeal is taken from the finding of the Commission, its order, and the judge is permitted——

Mr. BACON. The Senator means if a bill is filed. There is no provision in this bill for an appeal.

Mr. TILLMAN. You understand what I am driving at, so far as results go, without regard to technical language. I

mean suppose the Commission's order is attacked in court by the carrier.

Mr. BACON. Very well.

Mr. TILLMAN. Then the judge grants a preliminary suspension order or injunction, and the Senator pointed out, I believe, that this act which I hold in my hand gives the right of appeal from that to the circuit court of appeals.

Mr. BACON. No; not in this bill, but the general law.

Mr. TILLMAN. The new act to which allusion has been made.

Mr. BACON. Go on.

Mr. TILLMAN. What becomes of the rate? Does the rate go on while this appeal is going on to the Supreme Court; and then if the rate is suspended by a preliminary injunction, and the appeal to the circuit court or to the Supreme Court, either, is on a technicality, will the Supreme Court determine the whole case or will it merely determine the point before it and send it back for further action below, thereby playing battledore and shuttlecock, and thereby doing nothing to relieve the shipper? That is what I am trying to get at.

Mr. BACON. Is that the Senator's question?

Mr. TILLMAN. That is the question. I have made it clear, or I hope I have.

Mr. BACON. The Senator always does.

The suggestion of an appeal to the circuit court was not made by myself, but by the Senator from Wisconsin. Under the present law, if there were an appeal given, it would go to the circuit court of the United States, unless the matter involved a constitutional question, when upon final decree it would go direct to the Supreme Court and not go to the court of appeals at all. I do not think, however, that the question of the learned Senator from South Carolina is very practical in its nature, from the fact that, as has been suggested by another Senator, the general consensus of opinion in the Senate, so far as I have been able to learn it, is in favor of an appeal direct from the circuit court to the Supreme Court. I know of no one who favors a measure which will give an appeal in a case of this kind from the circuit court to the circuit court of appeals. There is, so far as I know, a determination on the part of the Senate that there shall be only one appeal. There is one amendment pending—possibly there are more—providing for a direct appeal in these cases from the circuit court to the Supreme Court. I myself would certainly favor that provision of law. I think it would be a very great mistake to do otherwise and to have an appeal from the circuit court to the circuit court of appeals.

Now, as to what would be the effect of an appeal, is the Senator speaking of an appeal from the final decree or an interlocutory decree?

Mr. TILLMAN. There comes my trouble. There is my whole trouble. If the circuit court is left with the opportunity to partially adjudge the cause, and the appeal is made on that, it may go up to the Supreme Court and take a year or something like that—I do not know how long—to get it back. And then it will take another year for the inferior court to finish its judgment, and that will go up. I want to prevent that kind of business.

Mr. BACON. I think the Senator is very correct in his desire in that regard, and I entirely sympathize with him.

Mr. President, it is recognized by us all, I think, that when the Commission makes an order the public should have the benefit of that order promptly so far as is practicable. Of course the law's delays have been proverbial, certainly from the time of Shakespeare, and long anterior to that date. They have continued to this date, not because of any desire on the part of the lawmakers that there should be delay in the administration of the law, but because in the natural imperfection of all human institutions this has been found to be one of the difficulties which could not be thoroughly cured, where the effort to prevent delay is met frequently by the necessity to have delay in order that justice may be done. That necessity is undoubtedly frequently taken advantage of improperly, and the law's delays constitute a serious evil now, as they have constituted a serious evil from the beginning of courts.

In this particular case, I repeat, we all feel that the rate of the Commission should give to the public the benefit of the order made by the Commission as soon as practicable. There are two propositions, as I understand them, for the purpose of meeting that requirement. One is to deny to the courts the right to issue an interlocutory order. The other is one which, while I can not claim that it was in its entirety original with me, is an amendment offered by myself, in which it is proposed that there shall be no stay of the operation of the rate of the Commission by an inerlocutory order unless there shall be a requirement by the court of the carrier making the complaint and seeking the stay that he shall pay into court the daily proceeds from freight shipped over and above the amount specified in the rate of the Commission. In other words, if the rate of the Commission, for illustration, permitted $1 and the carrier's rate was $2 and he sought to have the rate of the Commission arrested, before such order could go into effect there must be another order which will require him to pay that additional dollar into court, not only on that day, but on each succeeding day, and also the machinery is specified for a return by the carrier to the court giving in detail the statement of all shipments thus made affected by that rate and the names of the shippers, so that upon the conclusion of the case the court can distribute this money, if the carrier's complaint is overruled, to the people from whom the money had been improperly collected, and if, on the contrary, the carrier's complaint shall be held to be valid, the money may be returned to him, that that may not be taken from him to which he is justly entitled.

I can not go into that now, Mr. President. Possibly when we come to discuss amendments I will go into it a little more fully, but I state it merely for the purpose of showing that there is not a monopoly of a desire to protect the interests of the public in this regard; that there is not a monopoly in this desire and purpose enjoyed by those who seek to accomplish the purpose by a denial to the courts of the right to use the process of injunction.

The Senate will mark the fact, Mr. President, that whatever else may be said about that proposition, there can be no doubt about one result from it, that is that the carrier having to pay this amount of money into court of the daily proceeds of his business over and above the Commission rate, he will be as extremely anxious as he could be made by any other process to expedite the proceeding in the courts. There would be no possible inducement to him to delay; on the contrary, there would be every possible inducement to him to expedite.

Having said that much, Mr. President, I desire to say further in regard to the proceedings in the courts that the rules in equity are, under our law, made by the judges of the Supreme Court. The rules in equity in the United States courts are extremely simple and extremely efficacious. It is possible for a case to come to trial in three months after the first rule day. Of course it is unusual that that should occur, because the taking of testimony and other matters in the trial of a case will frequently delay it beyond that time. But it is perfectly competent for the Supreme Court to make special rules for the trial of cases of this class; and I think it would be a much wiser plan to require by some provision in this bill that the Supreme Court shall make rules which will expedite the trial of the case in the circuit court rather than to attempt to accomplish this end by other means.

We have now on the statute books a law by which such cases are expedited on the trial upon an appeal from the final decree of the circuit court to the Supreme Court, and there is an amendment pending here to apply that particular machinery to cases which will be decided in regard to the rates made by the Commission.

But I think we should go further, Mr. President. It is not sufficient to expedite the trial of a case after it has been finally determined by the circuit court and when there is an appeal taken to the Supreme Court. There ought to be something which would insure the expedition of the trial after the filing of a bill and until the time when it is finally heard by the circuit court. While I believe there is no amendment pending to that effect, one, I imagine, can be framed, and I trust it will be brought before the Senate.

It is a great injustice to suggest that those who may not favor any particular proposition are therefore opposed to the same end which the author of that particular proposition may have in view. For myself, I desire that there shall be here a most efficient bill. I desire that there shall be a bill which, while it will do no injustice to any of the carriers, shall at the same time put them under the most perfect control in the matter of the regulation of their rates by the Interstate Commerce Commission. I believe that the death of competition—because that is the mildest word which can be applied to it—the absolute necessity which is upon every man to employ the agencies of the common carrier whether he wishes to or not, the absolute impossibility that he can employ any other agency, the consequent putting in the power of the carrier the arbitrary fixing of the rate, the absolute denial to the patron of the carrier of the opportunity to agree with him on the rate, the absolute necessity on the part of the public to accept the rate, make it an absolute necessity also that there shall be some one who will stand in a position to see that so great and so arbitrary a power is in no manner abused.

Mr. President, I say I desire earnestly the accomplishment of

that end. I desire not only that, Mr. President, but I desire that the machinery of this bill shall be so arranged that there shall be the most speedy accomplishment of the determination of the Commission as to what shall be the rate. At the same time I am also desirous that the great safeguards which our Constitution has thrown around the enjoyment of property by all persons shall also be enjoyed by these interests which we now assume and undertake and intend hereafter to control.

For these reasons I desire, as much as those who favor the particular amendment which is now under discussion, that there shall be provisions in this bill which shall prevent undue delay. I am in favor of having provisions in the bill which shall give to the public, so far as it may be practicable, the benefit, from the beginning, of the orders of the Commission, so far as that may be done without destroying the rights of other parties.

I recognize the fact that in the suggestion which I have made as to requiring railroad companies to put up a deposit or to pay into court moneys which are to be received over and above the amount specified in the orders of the Commission, there are grave difficulties, and that there are serious imperfections in the plan. I will be very glad to have those difficulties and those imperfections removed, if it is practicable to do so. I will not stop to discuss it now, because these amendments are coming before us for discussion, and when they do come I shall endeavor to speak with a little more definiteness as to the particular provisions of them.

While this is very disjointed, Mr. President, still I want to refer, in order that I may not be misunderstood, to my inquiry of the Senator from South Carolina, in which I used certain adjectives in connection with judges. I suppose it will be understood, but to guard against possibility to the contrary, I will say that those adjectives were intended to be in quotation marks, because I do not sympathize with the wholesale criticism which has been made of the judges of the United States courts. I have no doubt there are unworthy members of that high body of functionaries. It would be very remarkable if it were not so. I have no doubt there are many cases where judges have acted with harshness and with cruelty and with injustice. I will go further and say, Mr. President, that there is no court in this land, Federal or State, as to which, if parties litigant, who had been before the court, were allowed to present to the Senate their one-sided statements of their cases where they had been losers, those courts would be made to appear in a very unfortunate and more than unfortunate light before the public.

But, Mr. President, while it is true, as I have no doubt, that there are unworthy members, I believe, in the first place, that it is not true of the great body of judges of the courts of the United States. I believe that, taken generally, they are men of ability and men of character, and I say further, Mr. President, that while unworthy members of that official body should be sought out if possible and held to public view, it is a great mistake to attempt to magnify the imperfections of the judiciary and thus to try to bring them into contempt and disrepute before the people of the United States.

Mr. President, the great sheet anchor of conservatism in the United States must be with the courts, and whenever it comes to be that the conservatism of the courts of the United States can no longer be depended upon, it matters very little whether there is conservatism in the other branches of the Government.

Mr. TILLMAN. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. BACON. With pleasure.

Mr. TILLMAN. When there are so many evidences of usurpation of authority and of willingness to strain themselves to do things they ought not to do, as a matter of justice, and there is no remedy except by impeachment, does the Senator object to the attention of the country being called to these facts, and let the judges be put on notice, so to speak, that this body is thinking about what they are doing and what they have done?

Mr. BACON. Mr. President, the Constitution of the United States has invested in this body a very high function with regard to the judiciary, but it has not invested this body with the function of originating charges against the judiciary. The Senator should not forget, it seems to me, that while, of course, there may be occasions when it is proper—I do not deny that, but I am speaking generally—the Senate should not act upon the general assumption of that which is now suggested by the Senator, that in such criticisms of the judiciary, in such reviewing of their general course, and in such animadversions upon their particular acts we should put them upon notice of the fact that we are watching them. I say, Mr. President, if that general plan is pursued by the Senate we will have invaded the functions of another branch of this Government, and we will have done what is worse—we will have, by prejudgment, in a measure disqualified ourselves for the proper performance of the high function with which the Constitution of the United States has clothed this body.

Mr. TILLMAN. Now, will the Senator allow me to ask him another question?

The VICE-PRESIDENT. Does the Senator from Georgia yield further to the Senator from South Carolina?

Mr. BACON. I do.

Mr. TILLMAN. Did the Senator vote to impeach Judge Swayne?

Mr. BACON. I certainly did, and I would do so again.

Mr. TILLMAN. The other——

Mr. BACON. The Senator will pardon me; I must answer his question; and then I will yield to another question. I voted, Mr. President, for the impeachment of Judge Swayne, and I did so in the direct exercise of the exact function that the Constitution of the United States had devolved upon me as a Senator. I not only voted for his impeachment, but I very deeply regretted that other Senators in this body did not agree with me, according them, however, fully the merit of conscientious judgment as I fully claim for myself. I thought that his impeachment was demanded, and therefore I voted for it.

But, Mr. President, before that impeachment trial came I was not here ventilating before the Senate what I now believe, and what I then believed—because I knew of many of the things—to be the improper conduct and acts of Judge Swayne. But it would not have become me then, before the House of Representatives presented at the bar of the Senate those articles of impeachment, to have brought before the Senate questions as to whether he had done right or wrong or had been corrupt or unworthy in his high office.

Mr. TILLMAN. If the Senator will permit me——

The VICE-PRESIDENT. Does the Senator from Georgia yield further to the Senator from South Carolina?

Mr. BACON. I do.

Mr. TILLMAN. I understand the Senator by his language intends to criticise unfavorably my action to-day, and while I recognize the nice sense of propriety and the keen, I might say the almost squeamish, regard of the Senator for doing things diplomatically and in a parliamentary way, I want to ask him whether these judges are any more above criticism or are they more absolved or drawn apart, as it were, from criticism of their acts by a Senator than the Supreme Court has been by others—Lincoln, for instance, in several of his speeches on the stump and probably in the halls of Congress, when he found fault with the Dred Scott decision? There have been numerous instances in which the judges have been criticised, and while the Supreme Court is a coordinate branch of the Government entirely independent of the Senate and Congress, does the Senator think that it is improper or an invasion of the rights of the courts for a Senator to express his opinion upon transactions which these men perform or acts which they do which are unworthy or unlawful? For instance, take Judge Pardee——

Mr. BACON. I hope the Senator will put his question in such a shape that I can answer it and that he will make it concise.

Mr. TILLMAN. Well, what does the Senator think about the criticism of Judge Humphrey by the President the other day? Was not that straining the Executive authority and going outside of the proprieties?

Mr. BACON. The Senator is wandering from the particular question we are investigating.

Mr. TILLMAN. I have been wandering around until I have got the Senator in a place where he does not want to answer, I am afraid.

Mr. BACON. The Senator wanders. He presents one question and then wanders to another, and at the end there is no particular question asked.

Mr. TILLMAN. I have asked half a dozen. Let the Senator answer them at once.

Mr. BACON. I have no hesitation in my mind as to what the President said with reference to Judge Humphrey, but this is not the place to say it—not under these circumstances at least. However, as the Senator, with his usual soft and gentle way, is suggesting that I am not answering his questions and that he is wandering around in a way that has lost me in a maze that I am not capable of replying——

Mr. TILLMAN. If the Senator will excuse me, I had not intimated——

The VICE-PRESIDENT. Does the Senator from Georgia yield further to the Senator from South Carolina?

Mr. BACON. Mr. President, I could not do otherwise.

The VICE-PRESIDENT. The Senator from South Carolina.

Mr. TILLMAN. The Senator is charging me with things that I never said because I have never thought of them. I am not accusing him of——

Mr. BACON. The Senator says I was accusing him of things that he has not been guilty of. I want to know if the Senator refers to the fact that I said that he had been saying soft and gentle things?

Mr. TILLMAN. No; I was never accused of saying many soft and gentle things in this body. I have been accused, and I suppose I have been guilty very frequently, of saying harsh and ungentle things, and sometimes unparliamentary things; but I at least always try to bring myself within the rule that ought to govern, and not criticise men unjustly. Everything I have produced this morning in animadverting or criticising the judges, which I have brought out here, was worthy of the attention of the country at this particular juncture, when the Senator from Georgia and others like him have been appealing to us with almost tears in their eyes to take care of this sacred judiciary. If these judges——

Mr. BACON. Does the Senator interrupt me for the purpose of asking me a question? If so, I hope he will propound it.

Mr. TILLMAN. If the Senator dislikes what I said I will sit down.

Mr. BACON. Mr. President, I think the Senator asked the question——

Mr. TILLMAN. I will ask this question, if the Senator will permit me: Will he tell me whether he thinks Mr. Lincoln and, I think, Sumner, and Seward, probably, were entirely wrong and out of their jurisdiction and rights when they criticised the Dred Scott decision?

Mr. BACON. Mr. President, before I answer that question I am going to answer the previous question the Senator asked me when he rather plumed himself upon having woven a sort of labyrinth and maze. The question, the Senate will remember, that the Senator propounded to me was whether I thought it was improper for him to call the attention of the Senate to specific acts of impropriety on the part of judges. I think Senators will remember the fact that while the Senator proceeded much further than that, that was the original question which he asked me in that particular bunch of questions.

Mr. President, I do not go to the extent of saying that a judge should never be criticised in the Senate of the United States. There are occasions when questions will arise when that may be not only proper, but necessary. I think I can recall that I have myself, if such was an impropriety, been guilty of that impropriety. I want to say, however, before I proceed more definitely to answer, that the Senator misconstrues me when he assumes that I am in what I am saying intending to personally criticise him. I do deprecate, within a certain degree, and with the utmost deference to the Senator, the particular line that he has seen proper to indulge in in this criticism. It is not the fact, Mr. President, that a particular impropriety on the part of a judge has been alleged by the Senator, but it is the fact that the Senator has endeavored to cast—I will not use the word "endeavored," but the effect of what the Senator has done has presented the appearance of an effort to cast discredit upon all, speaking generally, of the Federal judges, with the exception of the judges of the Supreme Court, whom he specially excepted.

Mr. TILLMAN rose.

Mr. BACON. Pardon me one moment. I will yield to the Senator directly, but not now.

Mr. President, the Senator in so doing absolutely took the country geographically. I was called out during the delivery of his speech, and do not know whether he entirely covered the geography of the United States, but the Senator took the country geographically, and with this instance and with that instance and with the other instance certainly produced upon my mind the impression that the effort was to show that the judges of the United States courts were so accustomed to doing things which ought not to be done, were so in the habit of stepping outside of the domain of proper personal conduct, so in the habit of tyrannically using their power, so in the habit of using their power for the defeat of the ends of justice, that they were not to be trusted with the exercise of the injunctive process in the pending bill. If that was not the purpose of the Senator and if that was not the impression made upon everyone else who listened to him, then I was unfortunate in being singular. Mr. President, that, I think, in a general way is an answer to the general questions of the Senator.

As to the questions propounded with reference to Mr. Lincoln, Mr. Seward, and others discussing the Dred Scott case, in the first place, I might answer that by saying those were not matters uttered in the Senate or even in the House of Representatives, where they have the origination of such matters, but were matters uttered on the stump. In the second place, I will say that that related to a period which was the incipiency of a great revolution, and that men were not to be judged as they are now as to nice questions of propriety, which questions are questions which should never be forgotten in the Senate of the United States.

I have no desire to continue this discussion, Mr. President. I felt it due to myself, in view of the fact that in the colloquy with the Senator I had used certain adjectives in reference to judges, to state that those adjectives were intended to be in quotation marks, and were not original with myself.

But I want to pursue the thought which I had in mind at the time the honorable Senator interrupted me with the questions which have been propounded by him and by the suggestions which he has made. I said substantially that, whenever it came to the point that the judges of the United States were no longer to be entitled to be regarded as the conservative element of this Government, it made little difference thereafter whether the executive and legislative branches of the Government were conservative.

Mr. President, we must not forget one fact, that while the legislative branch of the Government—and when I say "legislative branch" I mean the legislative power, which is made up of the Congress and, in certain instances, of the Executive, in his approval—that while it is ultimate in its authority in the enactment of law, the courts of this country, unlike those of any other country, are absolutely authoritative and ultimate in the decision as to those laws, not simply as to their construction, but as to their validity. So far as I know—I do not profess to be accurately informed, but I think it is true—that condition of affairs does not exist in any other civilized country in the world where the judiciary is authorized to set aside as invalid, null, and void the laws enacted by the legislative branch of the government. Whenever it comes to the point that the judges who have this supreme and stupendous power are no longer to be trusted either for conservatism or for honesty, where is the protection of the Government, however conservative the executive and legislative branches may be?

Mr. President, another thought. There are great forces of unrest working in the whole civilized world, and they are forces which need proper direction. They may be correct forces, but they need proper direction. They are forces which threaten the fabric of civilized government; they are forces which are not entirely quiet in this country; and, Mr. President, I consider it to be the highest duty of this highest body to so act and so speak not only as to avoid stirring up the passions of the people and destroying their faith in their Government and in those who are called to administer it, but that it is better to go to the other extreme, if need be, and inspire even more confidence than their individual merits may entitle them to.

Let us, Mr. President, make our people believe that we have a good Government; make them believe that, while there may be here and there an unworthy man, the great body of those who are called upon to administer this Government are honest men and patriotic men—executive, legislative, and judicial. Let us do away, so far as we can, with this disposition to decry the officials of the Government and to produce in the minds of the masses of these people, and especially of the unthinking people, the extreme idea that those who are called upon to administer the Government are corrupt and unworthy of their confidence. [Applause in the galleries.]

The VICE-PRESIDENT. The Chair will remind the galleries that manifestations of approbation or disapprobation are forbidden by the rules of the Senate.

Mr. TELLER obtained the floor.

Mr. TILLMAN. Will the Senator from Colorado yield to me for a moment?

Mr. TELLER. I yield to the Senator from South Carolina.

Mr. TILLMAN. I want to call the attention of the Senate to the fact that in my discussion of the judges and in my citation of unfortunate occurrences and transactions, I especially declared that all of the judiciary were not under criticism or deserving of it, that many of them were as pure, as high, and as good as we had any right to expect.

The Senator from Georgia [Mr. BACON] goes very far when he undertakes to say that I am endeavoring to break down respect for the judiciary as a whole. I paid the highest compliment I could to the Supreme Court of the United States, because I believe that great tribunal is worthy of our admiration and confidence. There are many circuit judges and many district judges who are equally worthy. But are we in this bill, because of the existence of these pure and upright judges in some places—are we to turn over to the tender mercies of the

unworthy ones the unfortunate people who have to live under their jurisdiction? Take the case, for instance, where two circuit judges have been shown here to-day by indubitable evidence to be tyrannical and outrageous—Pardee and McCormick—and the district judge whom the Senator from Georgia said he voted to impeach—what are we going to do if we can not protect that section of the country and those other places where there is an unfortunate community with a corrupt or an indecent judge in power? When the Senate refuses to impeach, if we can not criticise, what is left to us?

Mr. TELLER. Mr. President, a bill which has recently passed the House of Representatives, and subsequently passed this body, and I am told has become a law, has been presented as changing the attitude or condition. It does not seem to me that it changes it in the slightest degree. It is intended, undoubtedly, to provide for an appeal from the issue of an interlocutory order. It provides:

> That where, upon a hearing in equity in a district or in a circuit court, or by a judge thereof in vacation, an injunction shall be granted or continued, or a receiver appointed by an interlocutory order or decree, in any cause an appeal may be taken from such interlocutory order or decree granting or continuing such injunction, or appointing such receiver, to the circuit court of appeals.

It provides also, and this is what I want particularly to call the attention of the Senate to:

> That the appeal must be taken within thirty days from entry of such order or decree, and it shall take precedence in the appellate court; and the proceedings in other respects in the court below shall not be stayed unless otherwise ordered by that court or by the appellate court or a judge thereof during the pendency of such appeal.

Mr. President, the judge of a court having made an order that the rate shall not take effect, the appeal must be taken, if at all, by the Commission, because the carrier who has brought suit, and who solicits this injunction, certainly does not want the appeal. He has got a stay of proceedings. So the Commission must take the appeal, if it is taken; but it is absolutely within the power of the judge to grant the interlocutory order and to say what the effect of that decree shall be. The judge having made an order that this rate shall not go into effect, will surely continue his order to the extent that it shall not go into effect during the appeal; or, if he does not, the appellate court may or some judge thereof may. There is nothing in this provision of the law which changes the situation in the slightest degree.

Mr. President, there has been something said about the character of the Federal judges. I am in favor of that provision of the amendment offered by the junior Senator from Texas [Mr. BAILEY], which provides that there shall be granted no interlocutory order suspending the operations of the Commission's rate until the final conclusion of the case. I do not put my advocacy of that proposition on the ground that I suspect the courts; but I put it on the ground that the Commission, having been intrusted with a public duty, and having performed it, is fairly to be assumed to have performed it well. Therefore its order should stand and be in full effect until such time as the court shall, upon final investigation and final determination, decide otherwise. That is exactly what the President of the United States asked Congress to do in his message of a year ago last December and, if I mistake not the intention of it, that is what he asked Congress to do in the last annual message he sent to us.

I have not any question about our power to prohibit the granting of an interlocutory decree. There have been a large number of cases cited showing that Congress has repeatedly exercised that power and that the courts have upheld Congress and declared that power to be legally and properly exercised; and there are a great number of cases which have never yet been presented to this body, that could be presented in support of that contention. Both upon principle and precedent we can stand firm in the conviction that the exercise of such power by Congress is not such an invasion of the carrier's right as would enable him to say that due process of law is not afforded him.

The Senator from South Carolina [Mr. TILLMAN] has given as a reason why he thinks such a provision should be incorporated in the bill his fear that some of the judges may act improperly. Whether that be true or not, it is certain that the railroad company, having brought its action, has it absolutely within its power, if it can get an interlocutory injunction upon an ex parte hearing, to practically suspend the operations of the proposed law and nullify it entirely.

It is possible, Mr. President, that the railways will not do it. It is possible that they may not find a judge who will grant an interlocutory order. However, during fifty years acquaintance with the courts I have seen several hundred interlocutory orders issued in absolute violation of every principle of justice, issued without a hearing, issued upon ex parte affidavits, issued sometimes in chambers and sometimes in court.

That such things have been is a certain indication that such things will be. If there are in the United States a few judges who are incompetent and ought not to be on the bench, either because of their ignorance or their dishonesty, in my judgment it becomes our duty, in dealing with the subject in hand, to provide that they shall not have the opportunity of suspending the operations of this law. If there are such judges in the country, the litigant who wants an unfair advantage knows where they are and how to reach them.

Mr. President, my education and my life business have brought me in contact with the courts. I am a member of the bar and I am, by the theory of my profession, an officer of the court, and yet I know, not only from history, but I know from observation, that there are incompetent judges—nay, more, I know that in every hour of our history and every hour of the history of every other country where a system such as ours prevails, injustice has been done by men sitting on the bench, who have exercised the power that was given to them for the benefit of all simply for the benefit of a few. In my own State, when we were under a Territorial form of government, I have seen a judge appointed by the authority of the United States perform acts of such great injustice to the people there that they rose up practically in arms, and the unfaithful judge escaped out of the Territory and never returned.

The history of the world will sustain me in saying that the most disgraceful acts of tyranny that ever have been perpetrated have been perpetrated by judges, creatures of the king, under the color of law; and yet I do not sympathize with any general attack upon the courts. I know that courts are not infallible. I know that no system of selection, whether by appointment or by election, can always give either competent or honest or upright men for the bench. I agree somewhat with the Senator from Georgia [Mr. BACON] when he says that confidence in the judiciary is the sheet anchor of our very existence as a nation; but I reserve for myself the right here and everywhere, whenever a judge transcends the law or whenever, in his ignorance, he fails to observe it, the right to criticise him. There is no place so sacred but that an American citizen has a right to complain of injustice, whether it be perpetrated by a judge, by a member of this body, by the Executive, or by any organization whatever.

I want to say for the Federal judiciary—and I have been acquainted with it, as I have said, for fifty years—that when you find an unfaithful judge he is an exception, a wonderful exception. There has been nowhere in the history of the world a judiciary in whom the people of right could have greater confidence than the judiciary of the United States. If you will search the history of English courts—and you need not go back twelve hundred years, you need go back only one hundred and fifty years—you will find that a condition existed then in England that never has existed in American courts, and never could have existed, for the people would not have tolerated it. If there are here and there exceptions, where judges are either too ignorant to discharge their duties, or too corrupt to do so, the great mass of Federal judges have been not only learned in the law, but they have been honest and upright in the administration of the law.

Mr. President, I repeat that judges are not infallible. Take the decisions of the best Federal and State courts and you will find to-day that they have held the law to be one thing and to-morrow they have held it to be another. That does not mean corruption; that may not mean ignorance, because different men see the law in different lights. We have had an exhibition of that here. The best lawyers of this body have failed to agree as to what the law is. Is it strange, then, that men on the bench also should fail to agree? If the decisions of every court in this country were unanimous and one way we would soon believe that they were not the judgment of all but that there was some method of compelling an agreement.

It is unfortunate when, in the decision of a great question by the Supreme Court of the United States, five judges say the law is one way and four judges say it is another and different way; but you can not devise any system of judicature that will escape that if you have honest, upright men.

We disagree here in the Senate, Mr. President, and we ought to disagree if our judgment is not in accord with that of our fellows, but in this case I believe it to be our duty to protect the great shipping public, if we can, to the extent that they may have the full benefit of this bill when it shall have become a law.

Mr. President, I did not intend to make any remarks upon this bill at all. I have firmly satisfied myself what the character of this bill ought to be. I am prepared to vote on it. I am in favor of the bill as it came from the House of Representatives with a proper modification, which I find satisfactory in the amendment offered by the junior Senator from Texas who sits

by my side [Mr. BAILEY]. I believe that amendment will give to the carrier an opportunity to question everything that the Commission shall do which he may think interferes with his rights.

Mr. President, for one I should be ashamed to vote for a bill in which I did not have confidence enough to submit it to the final adjudication and determination of that great body to which has been transferred, not only questions of this kind, but the great question of our power to enact laws. When a court has been authorized to determine every grave question that we have presented to us, to determine whether the laws we enact are within our power, whether they come within the constitutional provisions, can we not trust that court with a question of dollars and cents? Dollars and cents are not comparable, after all, with the great questions of personal liberty and personal rights; and every man in this country holds those rights subject to the decision that court may make. I repeat, if you can trust the court in such matters, you can trust them with the questions involved in the pending bill.

I know that this bill will have to stand the criticism of the courts. I believe that every feature of it can be sustained, including the question of what some say is an interference with the functions of the courts by prohibiting an interlocutory injunction; but if the courts should say, in spite of the prohibition on the issuance of the writ of injunction, "We will grant the injunction," the remainder of the bill, in my judgment, will not be affected by that.

I believe that this bill might be benefited by amendments. I believe I can pick out half a dozen Senators here who can sit down and modify the bill to great advantage. I know that will not be done. I know the public expect that this bill will pass the Senate practically as it passed the House. Practically it will, in my judgment. I am in favor of making it certain that every carrier and every shipper shall have his day in court. I will trust the Federal court with that question. I believe it will see to it, as it ought to see to it, that every just and honest complaint can be redressed, if at all, at its hands.

Mr. BAILEY obtained the floor.

FOREIGN OFFERS OF AID TO CALIFORNIA SUFFERERS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

Immediately after the disaster at San Francisco many offers of assistance in the shape of contributions were tendered by foreign individuals, corporations, governments, and municipalities. The Canadian government, with an instant generosity peculiarly pleasant as a proof of the close and friendly ties which knit us to our neighbors of the North, offered to pass a resolution appropriating $100,000 for the relief of the sufferers by earthquake and fire. With a generosity equally marked and equally appreciated the Republic of Mexico, our nearest neighbor to the south, voted to appropriate $30,000, and the Republic of Guatemala voted to appropriate $10,000 for the same purpose. The Empress of China, in addition to sending money to be used for the Chinese who suffered in San Francisco, offered to send more than double as much to be used for the inhabitants generally. The Japanese Government immediately offered to send across the ocean one of their beautifully equipped hospital ships to be used in any way for the sufferers, and also offered 200,000 yen to the relief committee, in addition to more than 100,000 yen sent to Japanese subjects. The Government of far-distant New Zealand voted $25,000. The government of Martinique voted 1,000 francs. The municipality of Edmonton, Canada, $1,000. Many municipalities, corporations, and individuals in England, Germany, France, Japan, Cuba, and other countries immediately proffered aid. Where these offers of aid are made to the private relief committees organized to deal with the distress in San Francisco I have, of course, no official action to take concerning them. Where they were tendered to me in my official capacity I did not feel warranted in accepting them, but I am certain I give utterance to the feelings of all our countrymen when I express my very lively appreciation of the warm-hearted generosity and eagerness to help us in the time of our affliction shown by the governments, the municipalities, the corporations, and the individuals mentioned above. We are deeply grateful to them, and we are deeply grateful for the way in which they showed in such practical fashion the growth of the spirit of brotherhood among the nations.

Most kind and welcome messages of sympathy also were promptly sent to us by the Emperor of Austria, the King of Belgium, the President of Bolivia, the Prince of Bulgaria, the President of Brazil, the President of Chile, the President of Cuba, the King of Denmark, the President of the Dominican Republic, the Khedive of Egypt, the President of France, the German Emperor, the King of Great Britain, the King of Greece, the President of Guatemala, the King of Italy, the Emperor of Japan, the Emperor of Korea, the President of Mexico, the Prince of Monaco, the Queen of the Netherlands, the President of Nicaragua, the King of Norway, the President of Peru, the King of Portugal, the Czar of Russia, the King of Servia, the King of Spain, the President of the Swiss Confederation, the King of Sweden, the Sultan of Turkey, the President of Venezuela, the governments of Austria-Hungary, Bavaria, Belgium, Brazil, Chile, Costa Rica, Colombia, Cuba, Denmark, Ecuador, France, Great Britain, Guatemala, Greece, Haiti, Italy, Japan, Panama, Persia, Portugal, Paraguay, Peru, the Netherlands, Norway, Switzerland, Spain, Uruguay, Sweden, Russia, and Siam; by the ministers of foreign affairs of Chile, Greece, Nicaragua, Portugal, Paraguay, Guatemala, and Russia; by the Viceroy of India and the Governor-General of Australia; by the governors of Ontario, Hongkong, Ceylon, the Bermudas, Natal, the Azores, the Iwate Prefecture of Japan; by the premiers of New South Wales, Victoria, South Australia, and New Zealand; by the National Assembly of Salvador; by the Cuban House of Representatives; by the National Assembly of Guatemala; by the mayor, senate, and house of Bremen; the mayor, president, and the senate of Hamburg; the mayors of Adelaide, Queensland, Hobart, Madrid, Osaka; by the chambers of commerce of Nagoya, Japan, and Calcutta, Bengal; by the Tea Traders and the Silk Fabric Guild of Yokohama and the Asahi Shimbun of Osaka; by the Canadian Manufacturer's Association of Toronto and the Latin Union of Habana; by the prime minister of England; the lord mayors of London, Liverpool, Bristol, Leicester, and Shrewsbury; by workingmen's councils, religious associations, and by a multitude of other associations, organizations, and private individuals.

Appropriate expressions of gratitude to all these friends have been returned by the State Department or by myself, but it seems to me that the real depth of grateful feeling awakened in our people by all these evidences of genuine sympathy and friendship should be expressed also by formal action of the supreme legislative power of the nation.

I recommend the passage by the Congress of an appropriate resolution to that end.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 3, 1906.*

Mr. PERKINS. Mr. President, I suggest that the President's message be referred to the Committee on Foreign Relations, and that that committee be requested to formulate appropriate resolutions, conveying to the foreign governments and commercial and other bodies named in the President's message the grateful acknowledgment and appreciation of the people of our whole country, but especially of California, of their heartfelt sympathy for and kind offers of financial assistance to the afflicted people of San Francisco, who have suffered so much by the great calamity that has recently fallen upon that city.

The VICE-PRESIDENT. Without objection, the message will be printed and referred to the Committee on Foreign Relations, as requested.

Mr. NEWLANDS. I wish to say a few words regarding the message.

The VICE-PRESIDENT. The Senator from Texas has the floor. Does the Senator from Texas yield to the Senator from Nevada?

Mr. BAILEY. I wish to occupy but a few moments, and then the Senator from Nevada can proceed.

The VICE-PRESIDENT. The Senator from Texas declines to yield.

REGULATION OF RAILROAD RATES.

The Senate, as in the Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. BAILEY. Mr. President, the Senator from South Carolina [Mr. TILLMAN] does not need my assistance or the assistance of any of his political friends on this side of the Chamber in defending himself or his position against a misconstruction. But the evident satisfaction with which the rebuke to him was received by our friends on the other side of the Chamber leads me to fear that if it were left to pass unchallenged the country might assume that the only argument of those who support the proposition to prohibit preliminary injunctions against the orders of the Commission is based upon our suspicion against both the integrity and the intelligence of all Federal judges.

Speaking for myself—and I have no right to speak for anyone else—I have declared on a former occasion, and I now declare, that I hold an overwhelming majority of all the men who sit to construe the laws of Congress in the highest esteem. I believe in their intelligence; I believe in their integrity; I believe in their patriotism. But, sir, I am not so blind as not myself to see that there are unworthy men amongst them, nor am I so shortsighted as to think that, strive as I might, I could ever make the people of the United States forget the unworthy men who wear the judicial ermine of this Republic.

I do not mean that all of those against whose improvident issuance of a preliminary injunction I would guard would issue it under improper motives. When I look to the cases which have been decided, I find that in almost every instance when the railroads have appealed to the Federal judiciary against the railroad rates established by State commissions a preliminary injunction has been promptly granted. I do not say, indeed I do not believe, that these judges were dishonest. If I did believe it, I would say it, because, with all my respect for the courts, I have no reverence for them. I revere no living men except those who consecrate their lives to the unselfish service of God. They are the only people in this country for whom I cherish a reverence. For all the others I have only a respect. For the faithful and useful public servant I have a profound respect, but I have no awe of them or reverence for them. I am not one of those who believe that when we stand in the presence of a court we ought to take off our hat and shoes, as if it were holy ground. It is enough to stand with uncovered head, and standing thus we have the right to stand erect as

men made in the image of our Maker, without being required to fawn upon and cringe to a fellow-man simply because he happens to be a judge. If I believed these men were dishonest, I would say so here; I would say so in their courts if the occasion rose; but I do not believe that every time an injunction has been improperly issued it was dishonestly done.

In the case from my own State the Federal judge enjoined not only the schedule of rates which the commission had fixed—and that part of his decree was affirmed by the Supreme Court of the United States, the State introducing no testimony on that point or after having introduced some afterwards withdrew it and amended the plea—but he went further.

He enjoined the enforcement of any provision of that law, upon the ground that it was contrary to the Constitution of the United States. And yet when it was brought to the highest court in all this land that court unanimously reversed that part of his decree.

In the Kentucky case the Federal court in that State was so anxious to enjoin the Commission that actually the Supreme Court reversed their decree because it enjoined them too soon. So it is that in case after case these Federal judges have either issued injunctions dishonestly or unwisely; in most cases, I think, unwisely; in some cases, I think, dishonestly. So long as I know there sits on a Federal bench one man for whose conviction on impeachment I have voted, I will never agree to allow that judge—and if we allow it to all the others we must likewise allow it to him—the right to suspend, without due and full inquiry, a well-considered decision of a Government tribunal.

Not only did a large number of Senators in this body vote to convict the judge whom I now have in my mind, but I saw his attorneys stand at the bar of the Senate and object to the introduction of a part of his sworn statement made before the Judiciary Committee of the House. To my mind, a man who is fit to be a judge is not afraid to be confronted anywhere with his own words, made under oath or otherwise. We can not forget that that man still sits as a judge, and that he has the power to deny to the people whose misfortune it is to suffer under his administration the benefits which a wise enactment of this Congress might confer.

Mr. President, I am not willing to see the Democratic party, I am not willing to see even the single Democratic Senator to whose management and care the bill has been committed, arraigned before the country and charged with seeking to deny the preliminary injunction because we distrust the judiciary of this Republic. But, Mr. President, confiding, as I do, in the uprightness of our judges, I do not think the judge is any more essential to the security and the permanence of this Republic or to the welfare and happiness of these people than is a patriotic Congress or a wise and firm Executive. It is just as necessary to have a Congress which will make just and equal laws as it is to have a judiciary which will construe them correctly after we have made them.

I confess that I have not yet learned in what respect an upright, brave, and honest judge is better than a Senator who is equally brave, upright, and honest, and an Executive who fearlessly and impartially executes the law as Congress has made it and as the courts have construed it deserves as well of his countrymen as either. The safety of this Government depends on all and not on any one of its departments.

It is all well enough to cultivate a respect for the courts, but it is not more important than it is to cultivate a respect for the Congress and for the executive department.

Mr. President, if a Senator disgraces himself nobody thinks it is out of place to say so. It is true that some who write for a penny a line assail upright Senators because some are not upright; but in time that produces no mischief. The Senate and every Senator will at last be judged by what it or he does and says, and not by what others say about it or him. It is with the judge precisely as it is with a Senator. By his judgments the public are warranted in judging him, and if a judge, from his high place, shall misconstrue the law, shall trample upon the right, and defeat the ends of justice, he ought to be pilloried in full view of the American people, and every man can be taught to despise him without despising his great office. If I say that an unworthy Senator should be turned from that door with a brand on him, am I bringing the Senate into disrepute? Aye, sir, when I denounce the unworthy Senator I pay public tribute to the worthy ones. The fact that a Senator, forfeiting his right to the respect of his associates, is turned out, is itself a guaranty to the American people that honesty and correct behavior are still the rule in this great body, and that only those enjoy its respect who meet the requirements of that rule.

Let us have it so with respect to judges. If a judge borrows the private and palatial car of a railroad president, and from its luxurious appointments issues an injunction, shall I be forbidden, because I happen to be a Senator, to denounce it? No, Mr. President, the rule, the safe and the only rule, in this free land of ours is that whoever does a wrong and wherever he does it shall be denounced for the doing of it from every place where men are gathered, and from no forum should the denunciation come swifter and more pronounced than from this one, sir.

The great judge, the man of clean and open life—I walk by his side and I feel honored in his friendship. There is not in all the history of the world a nobler example of conscience and of courage than that set by the great English judge who when his King wanted him to decide a case in a certain way, sent this defiant message to his sovereign: "Tell your master that I will decide this case according to the very truth and justice of it." Such men have made our race the foremost in the civilization of all ages and of all countries. From him to this day no man in all our public life finds readier tribute from the people than the brave, the honest, and the upright judge, and no man respects him more than I do. But from every place I would denounce the man who soils the ermine, for it is my belief that a judge's robe should be as unsullied as a woman's name. Every judge who does injustice should be upbraided for it.

He should be driven from his great office and denied the respect of honest men, and in saying that I do not feel that I assail the foundations of this Republic.

Mr. President, I have heard men declare that whatever may be the imperfections of this law, the Supreme Court will not dare, out of a fear of public sentiment, to hold it void. The friends of this legislation ought not to lay that flattering unction to their souls. We must not suppose that if we lack the skill or the willingness to make a law free from constitutional defects and vices, it will safely pass the scrutiny of that great tribunal. I record it here as my deliberate opinion that they will hold it void unless we make it valid. I do not say that this bill is invalid in its present form, but I do say that we could free it from grave objections by some amendments which it would be easy to draw.

But that was not the purpose for which I rose. I simply rose to protest against an apparent effort to put the Democratic party in the attitude of wanting to abridge the power of these judges because we distrust the honesty of all courts.

Mr. FORAKER obtained the floor.

Mr. BACON. Will the Senator pardon me just a moment?

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. BACON. I will occupy but a minute.

Mr. FORAKER. I yield to the Senator.

Mr. BACON. So that it may go into the RECORD as a part of this debate, I desire now to read the amendment which I shall propose and of which I have already given notice, in order to guard against hasty or inconsiderate or even corrupt action on the part of any judge, if such a thing can be contemplated as possible. It also protects the public against loss from the time of filing the bill, and insures speedy action so far as the carrier can effect it. I read it:

No rate or charge, regulation or practice, prescribed by the Commission shall be restrained, set aside, suspended, or modified by any interlocutory or preliminary order or decree of the court unless upon the hearing, after such full notice to the Commission as herein prescribed, the same shall be considered and concurred in and ordered by at least two judges presiding in said hearing, at least one of whom shall be a judge of the circuit court of the United States or a circuit justice of the Supreme Court of the United States. In case any application, motion, or prayer for such interlocutory or preliminary order or decree shall be made by any party to such complaint, other than the carrier or carriers to be affected by the rate or charge, practice or regulation, in question prescribed by the Commission, then and in that case, said carrier or carriers shall, before the hearing of said application, motion, or prayer, by appropriate order and process, be made a party or parties to the said complaint in equity to abide such orders and decrees as may be made by the court pending said cause and the final judgment and decree in the same. Upon the granting of any interlocutory or preliminary order or decree restraining, setting aside, suspending, or modifying any rate or charge, regulation, or practice prescribed by the Commission, before said interlocutory or preliminary order or decree shall be operative or of any effect, the carrier, person, or corporation seeking such order or decree, shall deposit in the registry of the court and subject to the order thereof as hereinafter specified, such amount as the court may determine, either in lawful money of the United States or in lawful bonds of the United States at the par value thereof. It shall, in addition thereto, be the duty of the said carrier or carriers to be affected by the rate or charge, practice, or regulation in question, to pay into the registry of the court, subject to its order, the sums of money as herein specified, and to effectuate the same, at the time of granting such preliminary or interlocutory order or decree, the court shall by appropriate order require the said carrier or carriers affected by the rate or charge, practice, or regulation in question prescribed by the Commission, to pay into the registry of the court and subject to its order, on or before the 10th day of each month pending the said interlocutory or preliminary order or decree, in lawful money of the United States, all money received by such carrier or carriers during the calendar month next preceding said date

and subsequent to the date of filing said complaint from the collection made for all shipments upon the rates and charges in question in excess of the rates and charges as fixed and determined by the order of said Commission. On the said 10th day of each month there shall be filed in court by said carrier or carriers, through their duly authorized officer or officers, a statement under oath of the shipments on account of which said collections have been made, setting forth in detail the character and amounts of said shipments, the point of each shipment and of its destination, the names of the consignors and consignees, the amount collected from each for said shipment, and separately the excess collected as aforesaid, and the names of the persons from whom collected. The said court at the time of granting said temporary or interlocutory order or decree, and in its discretion thereafter from time to time, shall require the said carrier or carriers to give such bond and security as may be deemed sufficient to insure the filing of said reports and the payment of said amounts; and in addition thereto shall, by the orders and processes of a court of equity, enforce summarily the prompt payment of said amounts into the registry of the court, from which orders of the court there shall be no appeal. Any refusal or failure to comply with said orders and to pay into the court the said sum of money as herein provided shall constitute a contempt of the court. For the purpose of said orders the court shall be deemed to be always in session. From said orders or decrees for the payment into court of the said amounts no appeal shall lie.

If upon the final decree in said cause the rate or charge prescribed by the Commission shall be adjudged to be valid, the court shall, by proper orders and decrees out of the said deposit or the proceeds of the sale thereof and the additional payments made into the court by the said carrier or carriers, caused to be paid to each of the persons from whom collections have been made the several amounts paid by each of them to said carrier or carriers in excess of the said rate or charges prescribed by the Commission, with interest thereon from the date of each payment at the rate of 6 per cent per annum.

If upon the final decree in said cause the rate or charge prescribed by the Commission shall be adjudged to be invalid and the enforcement of the same shall be enjoined, the court shall, by proper orders and decrees, direct to be paid over to the said carrier or carriers the sum of money thus theretofore deposited and paid into the registry of the court, less such amounts for costs as the court, in its discretion, under the circumstances of any case, may in justice and equity deem to be reasonably chargeable to said carrier or carriers.

Pending said cause, it shall be within the power of the court, by appropriate proceedings, either in open court or through a master in chancery or commissioner, to examine into the correctness of the reports herein required to be made under oath by the said carrier or carriers, and to this end to examine, under oath, their officials and employees, and to require, by order, the production of the books and papers of said carrier or carriers.

If, upon the said examination, it shall be adjudged that the said carrier or carriers have not made complete returns of all of said shipments and the amounts collected thereon, as herein specified, the court shall, by order, require the said carrier or carriers to pay into the registry of the court, in lawful money of the United States, the amount received on account of said shipments in excess of the amounts theretofore reported to the court.

I will not say anything about the amendment now, because it will be more proper to do so when the amendment comes up for action. I desired that that much should be now mentioned and embraced as a part of this debate.

Mr. FORAKER. Mr. President, I do not rise to take issue with anything that has been said by the Senator from Texas [Mr. BAILEY] or by any other Senator as to the question of power on the part of Congress to prohibit the granting of temporary restraining orders by the courts, nor do I intend to discuss the question of the effect of providing for a court review of the orders that may be made by the Commission, if this bill becomes a law, or the effect of omitting to provide such court review; but I rise to call attention to the attitude heretofore sustained with respect to both these questions by the Interstate Commerce Commission. I do that feeling that there is greater propriety in it since the junior Senator from Wisconsin [Mr. LA FOLLETTE] addressed the Senate a few days ago and in terms of unmeasured praise told us of the experience of the Interstate Commerce Commissioners and their competency by reason of that experience to advise us as to the character of law that should be enacted.

I do it for another reason, Mr. President. Until within the last three or four months, according to my recollection, we never heard of a proposition from any source to confer upon the Interstate Commerce Commission power to make rates and to adopt and establish regulations governing the operations of the railroads of this country without making the exercise of that power subject to review by the courts. But suddenly, since the beginning of the present session of Congress, the proposition has been advanced and has been embodied in the Hepburn bill, which is now before the Senate, and in other bills that this great power should be conferred upon the Commission, and that it should be exercised without any review of it by the courts.

I call attention, in the first place, to the report of the Interstate Commerce Commission made in December, 1897, being the Eleventh Annual Report of the Interstate Commerce Commission. This is the first report that was made by the Commission after the decision in what is known as the "Maximum Rate case," in which case the court held that the Interstate Commerce Commission had no power to make rates under the original interstate-commerce act, which was under consideration in that case.

After having called attention to that case, and to the nature of the decision in that respect, and after having called attention to the fact that it was necessary, in the opinion of the Interstate Commerce Commission, for us to amend the law so as to give them this rate-making power, the Commission then took up for discussion what I now want to read, at page 34 of their report, under the subhead "To what extent should orders be subject to judicial review." The Commission said:

If this view should prevail, to what extent and in what manner ought the orders of the Commission be made the subject of judicial review? It is generally understood that under the Constitution of the United States an order for the payment of money can not be enforced without giving the defendant an opportunity for a trial by jury.

That general and common understanding continued until this particular bill was framed in the House and sent to the Senate as passed by the House. Continuing, the Interstate Commerce Commission said:

Such orders must therefore stand very much as they do at present. They are, however, a very insignificant part of the entire number and from their very nature will be such that ordinarily the carrier will comply with them without the necessity of any steps for their enforcement. The great bulk of our orders, as already stated, must pertain to the future. They will be orders fixing either a maximum or a minimum rate. The only power which courts can exercise over orders of this sort is to vacate them. They can not be invested with authority under the Federal Constitution to make and enforce a modified order.

For what reasons, then, should the court be allowed to vacate an order? The only appeal which lies from the decrees of the English railway commission is upon questions of law. There is no appeal upon questions of fact as to which the decision of the commission is final. This is analogous to the verdict of a jury or the findings of fact by a special master in chancery under the equity practice of some States.

Much might be said in favor of applying the same idea to the orders of this Commission. It can hardly be expected that ordinarily the case, upon proceedings in review, will come before a tribunal which is in theory better fitted to determine questions of fact than the one which passes upon them in the first instance.

Upon the other hand, the right of review is always a safeguard—

Now, I want the attention of Senators to this, because it is authority which surely at least the Senator having this bill in charge ought to give heed to:

Upon the other hand, the right of review is always a safeguard. It puts a certain restraint upon the judgments of any tribunal. It would not probably embarrass the practical operation of the law, and it might prevent the occasional miscarriage of justice if the whole case, both upon the law and the facts, were submitted to the court.

Mr. TILLMAN. Mr. President——

Mr. FORAKER (reading)—

The question of review would then be—

Now listen—

Is the order lawful, just, and reasonable? If so, the proceedings in review are dismissed. If not, the order is vacated. No new order can be made by the court. If the order is vacated, the case should be sent back to the Commission for further proceedings.

I ask the Senator to bear with me a minute until I read another paragraph.

Mr. TILLMAN. I was just trying to find what the Senator is reading from.

Mr. FORAKER. I am reading from the eleventh annual report of the Interstate Commerce Commission. I am reading the views of that Commission as to the propriety of conferring upon the court the power to review an order of the Commission making rates and establishing regulations, a power they were asking in that report to have conferred upon them by Congress.

Mr. TILLMAN. If the Senator will allow me, there can be no difference of opinion between us, I think, on that point. I have always said I am willing and anxious to get a review and to give both the shipper and the carrier an opportunity to have the court pass upon their rights.

Mr. FORAKER. That is true; but I want to call the Senator's attention to the extent to which the Commission recommend this review shall go. Now, further:

The right to apply for review should be exercised within a time limited or not at all. When application is made for review, the Commission should send to the court the testimony taken before it, which should constitute the record upon which the case is reviewed, unless the court is of the opinion that there is testimony which is material to a proper disposition of the case and which could not or under all circumstances ought not to have been given before the Commission. In that case the court should instruct the Commission to take and send up the additional testimony.

Now, one other paragraph as to whether or not the court should be authorized to grant temporary restraining orders pending this review:

The important question is, What effect should be given the order of the Commission pending the proceedings for review? If the carrier is obliged to obey an improper order, ordinarily it can obtain no redress. If the carrier is not obliged to obey a proper order, the public can ordinarily obtain no redress. When a question has been fairly and fully tried before the Commission, it appears to us that ordinarily the order of the Commission should be effective until the court has declared against it. There are manifestly, however, instances in which this ought not to be true. Probably the court should be invested with power, when application for review is made, to determine whether or not the order shall take effect pending such proceedings.

I might read further to the same effect, but I have read enough to show the views entertained by the Interstate Commerce Commission at that time. That was a time when they were giving exceptionally careful attention to the subject, and to what they said in regard to it, in their first official report after they had been, by the decision of the Supreme Court, stripped of that power which until then they had claimed to possess.

Now, in their reports from that time down to the present there has never appeared anything in conflict with what they said in their eleventh annual report. That they had not changed their views prior to November last—November, 1905—we have conclusive evidence in the form of a bill which at that time they sent to the Interstate Commerce Committee of the Senate for the consideration of that committee as a proper measure to recommend to the Senate for passage. After providing that they should be invested with power to make rates and regulations and put them into effect, they proceeded, at page 24 of the bill, as it was printed at the time, to say as follows:

Any carrier may, within thirty days from the service upon it of any order, other than an order for the payment of money, begin in the circuit court of the United States for the district in which its principal operating office is situated, proceedings to set aside and vacate such order; and in case such order affects two or more carriers, such proceedings may be brought by them jointly in the district in which the principal operating office of either of them is situated. Such proceedings shall be begun by filing on the equity side of the court a petition or bill in equity, which shall briefly state the matters embraced in such order and the particulars in which it is alleged to be unlawful, and in such proceedings the complainant and the Commission shall be made defendants.

Upon the filing of such a petition or bill the clerk of such circuit court shall forthwith mail a copy thereof to the Commission, with notice that the same has been filed; and the Commission shall thereupon, within twenty days from the receipt of such notice, cause to be filed in such court a complete certified copy of the record in the proceeding wherein the order complained of was made, including the pleadings, the testimony, and exhibits, the report and opinion of the Commission, and its order in the premises. If it is impracticable to send up a copy of any exhibit, the exhibit itself may be forwarded. The defendant may answer or demur to such petition or bill according to the usual practice in equity cases.

If upon hearing such petition the court shall be of opinion that the order of the Commission is not a lawful order, it shall set aside and vacate the same; otherwise it shall dismiss the petition. In either case the court shall file with its decision a statement of the reasons upon which the decision is based, a copy of which shall be certified forthwith to the Commission. If the order of the Commission is vacated, and if the defendant does not appeal to the Supreme Court of the United States, the Commission may reopen the case for further hearing and order, or it may make a new order without further hearing, not inconsistent with the decision and opinion of the circuit court. Any such subsequent order shall be subject to the same provisions as an original order.

Upon the filing of such a petition the circuit court may, upon such notice to the complainant and to the Commission as the court deems proper, extend the time within which such order shall take effect, not to exceed in all sixty days from the date of service of the order upon the carrier. The court may also, if it plainly appears that the order is unlawful, and not otherwise, suspend the operation of the order during the pendency of the proceeding or until the further order of the court.

Mr. NELSON. Will the Senator allow me? From what bill is he reading?

Mr. FORAKER. I am reading from the bill that was framed by the Interstate Commerce Commission and sent by that Commission to the Interstate Commerce Committee of the Senate as an embodiment of their ideas of what this legislation should be; and I am reading it to call attention to the fact that down until last November, at the beginning of the present session of Congress, the Interstate Commerce Commission continued to entertain precisely the views so elaborately and so ably expressed in their eleventh annual report in regard to the propriety of a full review by the court, including a review not only upon the evidence submitted to the Commission, but upon all other evidence that the courts might hold it was proper for them to hear in order that equity, justice, and right might prevail. I am reading it for the purpose of showing that they still continued down until last November to be of the opinion expressed by them in their eleventh annual report, that not only should there be this full, complete, broad view by the court, but that there should also be power conferred upon the court pending that review to restrain by interlocutory order the execution of the Commission's order until the court could finally determine its validity.

Now, Mr. President, not only was that the well-known view of the Interstate Commerce Commission, but it was the view of everybody else who discussed this subject, so far as I have any recollection or any knowledge. Not until after that time did we hear of anybody proposing a bill conferring this autocratic power upon the Interstate Commerce Commission such as the pending bill provides for without subjecting the orders it was to make to a review by the court. Suddenly there came a change. The Hepburn bill was introduced. It did not contain any such provision. A few other bills, I believe, about the same time were introduced that did not contain any such provision. Now, why was that change made?

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. My recollection of the review suggested by the bill sent to the Committee on Interstate Commerce by the Interstate Commerce Commission is that it submitted only one proposition to be considered by the court, and that is the lawfulness of the Commission's order. Am I correct about that?

Mr. FORAKER. That was the general proposition, but in determining whether or not it was lawful the courts were to have before them the complete record, including all the pleadings and all the testimony and all the exhibits and all the orders and all the steps taken.

Mr. DOLLIVER. If the Senator from Ohio will pardon the suggestion, he says that nobody ever suggested that the courts ought not to be clothed with authority to rehear and reconsider these findings. I call his attention to the fact that before the Interstate Commerce Committee, sitting as an investigating committee, there appeared three of the most famous and skillful railway lawyers in the United States—Mr. Morawetz, general solicitor of the Santa Fe; Robert Mather, now president of the Rock Island, and Mr. Hines, at that time, I think, connected in an official way, not in the office, however, of the general solicitor of the Louisville and Nashville Railroad.

I call the Senator's attention to the fact that these great students of railway law united in testifying before our committee that you can not, without violating the Constitution of the United States, give over to the courts any power to review the wisdom and discretion of the Interstate Commerce Commission, and upon that ground they based their protest that this power of making rates ought not to be conferred upon the Commission, because in the nature of our jurisprudence you can not, directly or indirectly, turn over the findings of the Commission to be reheard, reconsidered, and readjudicated by any court of justice.

Mr. FORAKER. Mr. President, the Senator wholly misapprehends what the witnesses named testified to before the Interstate Commerce Committee of the Senate. What they testified to in that connection was that we could not create an administrative board and have the character of hearing before it that we were contemplating and discussing at the time, and then when it made an order after such hearing, and as a result of it, take an appeal from that board to a court, because no court would entertain an appeal from an administrative authority. But they never said, neither did any other witnesses before that committee say, that we could not authorize an independent action complaining of an order that had been made and thus review it in an independent proceeding such as has been discussed, such as has been proposed by those who favor what we call a "court-review plan" in this debate here in the Senate. That is the distinction. They did unite in saying that. Nobody ever controverted that proposition; nobody ever insisted to the contrary.

But, Mr. President, suddenly there appeared one other idea that I am about to call attention to. What I was talking about particularly was the record made by the introduction of bills. I never heard of any bill omitting to provide for some kind of court review until some time after this bill of the Interstate Commerce Committee had been brought before our committee and had been considered there long enough to excite considerable discussion all over the country.

A little bit later a bill was introduced by the Senator from Iowa himself——

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. The bill to which the Senator from Ohio refers was introduced in the Senate.

Mr. FORAKER. I understand that. I say a little bit later it was introduced, but not until after the Senate convened. I believe the Senator omitted to provide for any court review in his bill.

Mr. DOLLIVER. I recognized the fact in the bill which I had the honor to introduce that it was not possible for Congress to take away from the courts their right to attack an order of the Commission on account of its being unlawful—that is to say, on the ground of its being a violation of constitutional right.

Mr. FORAKER. Whatever the reason may have been, I am

simply talking about the fact. I am not disposed to have any controversy with the Senator as to whether there is power in Congress to take away from the courts the right to review an order made by the Commission.

Mr. LONG. I was not present when the evidence to which the Senator refers was taken by the committee, but I have read that evidence, and if the Senator will refer to volume 2, page 801, of the hearings, he will find that Mr. Morawetz expressed the opinion that it was not within the power of Congress to confer upon the courts the performance of duties of an administrative or a quasi legislative character.

Mr. FORAKER. Mr. President, nobody takes issue with that statement. I have no doubt that Mr. Morawetz has so testified. I never heard of anybody testifying to the contrary. All are agreed that only judicial power can be conferred upon the courts, and Mr. Morawetz no doubt so testified.

The question raised by the Senator from Iowa [Mr. DOLLIVER] was whether or not the three witnesses named by him testified that it was not competent for Congress to confer upon the courts power to review the orders made by the Commission. My answer is that what they testified to was that it was not competent for us to authorize an appeal from an administrative board to the court direct, but they never pretended any such thing, nor did anybody else, so far as I have any recollection, as that you could not bring an independent action and that we could not give jurisdiction to the court to entertain an independent action to attack an order, or complain of an order and seek to have it enjoined, that the Commission had made and was seeking to enforce.

Mr. DOLLIVER. Mr. President, I have before me the testimony of the witness to whose testimony I alluded a moment ago, and I find that Mr. Morawetz said:

> Congress can require the courts to pass upon the question whether a rate fixed by a commission is confiscatory. It can also require the courts to determine whether a rate fixed by a commission or by a railway company is excessive—illegally high. But Congress can not require the courts to pass upon the mere business policy of fixing a rate anywhere between those two extremes.

I venture to say, without occupying too much of the Senator's time, that the other great railway lawyers to whom I have referred coincided in that opinion; and it is not a mere formal compliment to the honorable Senator from Ohio to say that his own speech, made here early in the session, seems to coincide with this view.

Mr. FORAKER. Mr. President, the Senator is mistaken about that. What the Senator reads raises a different question altogether from what I supposed he was raising by the interruption that he subjected me to a few minutes ago. In the speech I made here February 28 I pointed out, in agreement with what was said by these witnesses, that it was true that where rates on the one hand were confiscatory and on the other were extortionate, anywhere between that, rates may be considered, in a certain sense, to be reasonable.

Therefore, if fixed by legislative authority, they can not be reviewed by the court, unless we confer on the court express power to do so. That is what I contended for.

Now that I am on that point, I will say there is a difference of opinion betwen lawyers as to it, and I do not remember what this witness or that witness or another witness may have said on that particular phase of the subject; but I do remember, Mr. President, that no witness testified that we could not confer upon the courts jurisdiction to entertain an independent bill to review and set aside an order the Commission had made of which the carrier wanted to make complaint or of which the shipper or the community desired to make complaint on the ground that the order was not in conformity with the standard we create.

Mr. LONG. So far as I know, no one contends that we could not confer such jurisdiction on the courts. I believe that the courts have such authority now, without any special statutory provision.

Referring to Mr. Hines's statement before the committee, which, the Senator says, was only upon the question as to whether an appeal could be taken from the Commission to a court, I wish to call his attention to this statement of Mr. Hines in the hearings:

> If you get an order from a commission making a rate, no matter how you word the power of the judicial review—

Not the appeal—I call the attention of the Senator to this—but the judicial review—

> the court is not going into those facts any further than is necessary to protect the carrier from confiscation, in my judgment. So, no matter how much right you might have theoretically to do that, the matter is going to be left practically with the Commission, unless it palpably abuses its discretion.

Mr. FORAKER. Mr. President, as I have already said upon that phase of the general question, there was and is a difference of opinion among the lawyers, and I would not pretend to say what this lawyer said or that lawyer said who appeared and testified before the committee. I happen to know that some of the lawyers, and among them Mr. Hines, I think, have changed their opinion upon some of the points they discussed since they testified before the committee. That is only natural. Men are called before committees; they are cross-examined, questions are brought suddenly before them, which perhaps they have not carefully considered, and they make the best answers they can under the circumstances. It is not strange that now and then a lawyer who appears before a Senate committee should make statements there which, upon reflection and further investigation, he might wish to modify or change.

But, however that matter may be, Mr. President, I do not want to be diverted from the point I want to make. Down to the time I mentioned, nobody ever thought of such a thing as not providing in any bill presented to the Senate or to any committee of the Senate for a court review and full authority for the court to suspend by interlocutory injunction an order of the Commission pending the hearing of that review. I mean a review in an independent action. Suddenly, however, there came the bill of the Senator from Iowa, and I think that was the first one, that omitted the broad court review. I am not certain about that; but, if I am in error, the Senator is present and he can correct me.

Mr. DOLLIVER. If the Senator will permit me, I will say that there is no sense in which that bill omitted the court review. It provided that the orders should continue in effect unless they were vacated by the court. It provided a venue in the circuit court of the United States for the hearing of these independent proceedings in equity; and, while doubt has been thrown around the legal sufficiency of these provisions, I have never maintained, and no other friend of the bill has ever maintained, that there is absent from that bill, or from the House bill, an adequate facility for entering into the court to have determined any right which the carrier affected by the order has a right to have adjudicated.

Mr. FORAKER. Well, Mr. President, I will not have any controversy with the Senator about that concerning which we are talking. In the Senator's bill as it was originally introduced, if my recollection serves me correctly, it was provided in the restrictive review, if I may employ that term in a sense which is a correct one, that the question to be passed upon by the court was as to the lawfulness of the order made; but in this bill which we have under consideration, and in this bill for the first time, appears the provision that the question to be reviewed by the court is whether the order was regularly made—not lawfully made, but regularly made.

Mr. DOLLIVER. I dislike very much to interrupt the Senator's discourse, but the matters to which he has just referred have absolutely nothing to do with the independent action of the carrier going into courts for the purpose of denouncing an order of the Commission as unlawful or unconstitutional. The Senator is referring to the Hepburn section which authorizes the action on the part of the Commission to bring suit in equity to enforce its order.

Mr. FORAKER. If the Senator be right about that, Mr. President, then he has conclusively established what I was contending for, that there was omitted from his bill what was in the Interstate Commerce Commission's bill, which is the provision that the carrier, or anybody else interested, may go into court in an independent action as a complainant and have a review. There is no such thing as that in the Senator's bill; there is no such thing as that in this Hepburn bill, and until this Hepburn bill came before the House of Representatives, it never was in any bill—I mean the omission of a review of that kind—so far as I have any recollection.

Mr. DOLLIVER. Mr. President, one of my main troubles has been, as the Senator from Ohio knows, to get anybody to read my bill or the House bill.

If there is no provision made in the Hepburn bill for a review in the courts, what does the bill mean when it says that the orders of the Commission shall remain in effect unless the court suspends or vacates them? What does it mean when it deliberately provides for a venue and trial of suits brought by the carriers affected by those orders? That is a favorite method of conferring jurisdiction—to provide a venue.

Mr. FORAKER. Mr. President, the Senator does not misunderstand what I am talking about. I am talking about the fact that there is not in this bill any conferring of power upon any court to entertain any such independent review proceedings as I have been discussing. There is no such provision in the Senator's bill as is found in the Interstate Commerce Commission bill. That was left out. Why was it left out? The Senator knows why it was left out.

Mr. DOLLIVER. I know, and I think I ought to be permitted to state.

Mr. FORAKER. I should be glad to have the Senator do so.

Mr. DOLLIVER. It was left out for the reason that it was surplusage. The jurisdiction of the courts of the United States to attack the legal validity of an act of Congress does not depend upon any affirmative conferring of power in the act, but the jurisdiction of the court is independent of our action here. The provision was left out because it was obvious that that judisdiction could not be disturbed by an act of Congress. So far as I am personally concerned, I left it out because I wanted to preserve unimpaired the power which from time immemorial the courts have exercised in dealing with acts of Congress.

Mr. FORAKER. Mr. President, the Senator does not quite come to the real reason why it was left out. I will state the real reason, and the Senator knows when I state it that I am stating the exact truth. Although I was not at any of these conferences, I know what was done at some of them upon as good authority as I would have if the Senator himself should tell me. It was left out because it was pointed out when the Interstate Commerce Commissioners' bill was presented to the Interstate Commerce Committee, that by that bill, as by every other of the fifty bills, perhaps, that had been up to that time introduced, there would have to be, if it should be enacted into law, two trials to which the shipper would have to be subjected. He would have to have a trial before the Commission, and then he would have to go into court and have another trial.

Nobody ever before questioned but that that would be the right of the carrier or the right of the shipper or the right of the community, and everybody felt that to subject a shipper to two trials was wrong if there was any way to avoid it—to a trial before the Commission and a trial before the court—and that we should have only one, and it should be a full and fair trial and a final trial, except subject to appeal. But nobody up until that time ever thought of such a thing as shutting the court-house door against anybody. Everybody supposed, as a matter of course, that was a right inalienable, and there was no American citizen who could be deprived of it; and that, Mr. President, in all these proceedings, whether you commence them before a commission or not, they must sooner or later get into the court to have that hearing. So it was thought by some of us on the committee, who were just as anxious as the Senator from Iowa was, and as others of his colleagues are, to find a remedy for the evils complained of, that the duty was incumbent upon us to find a remedy that would not subject the shipper to more than one such hearing, and that if he was to have one anyhow, and one must be had in the courts anyhow, it ought to be there in the first instance.

That is why I brought in the bill I introduced here, Senate bill 285, providing that the Commission should be restricted in its powers to those which properly belong to an executive board—to executive powers; that it should discharge only administrative duties, and that when it came to a determination of these rights, to the end that there might be only one hearing, it should be, in the first instance, in that tribunal to which it must go in any event. So it provided that the Commission instead of acting in the first place as a prosecutor, then as a judge, and then as a legislator, should act simply as an executive board should act, and discharge only executive duties; it should hear complaints, and if a complaint when heard was of such a character that it could by the exercise of its powers of conciliation bring the parties together, it should exercise its powers of conciliation; but if it found on trial that the carrier would not desist from that of which the shipper complained, then it should be the duty of this Commission, not to sit for a full and final hearing running through a period of time ranging anywhere from one year to two, three, or four years before it could reach the point of making an order, but that it should immediately, if it thought there was probable ground for the complaint, send it to the court, where by necessity it must go anyhow, and where, having been sent, it was the duty of the court to proceed immediately, the district attorney having filed a complaint in the name of the United States Government, and give a full and final hearing, subject to appeal to the Supreme Court.

That seems simple. It was such a saving of expense to the shipper and such an advantage to the shipper over every other plan presented; it was such an advantage to all concerned to have but one hearing instead of two and to have it in the court, where of necessity he must have one anyhow, that at once there was a different topic taken up for consideration, and that was whether or not they could so frame it as to prevent any review by the courts of the work of the Commission. Then it was, when that matter was thus pressed upon our friends, that they omitted for the first time from the bills they introduced a provision for this broad and generous, and properly generous, court review, which the Interstate Commerce Commissioners placed in their bill.

Mr. SPOONER. And providing for due process.

Mr. FORAKER. And providing for due process, as the Senator from Wisconsin well suggests.

Mr. President, it is getting late. I did not expect to detain the Senate so long, but I did want to call attention at this stage of the discussion to the fact that, so far as a court review is concerned and so far as a restraining order is concerned, the Interstate Commerce Commission has stood uniformly down until this very last utterance, which is its most formal utterance—the bill it framed and sent to us—for both court review and interlocutory restraining order when the court thought it wise and just that such an order should issue.

Mr. WARREN obtained the floor.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from South Carolina?

Mr. WARREN. I ask the Senator from South Carolina if he will consent to the laying aside temporarily of the pending order, so that I may ask the Senate to bear with me a few moments until we finish the Army appropriation bill? I think it will take no more than five or ten minutes.

Mr. TILLMAN. I shall be very happy to accommodate the Senator; but before doing so I want to submit a couple of amendments of my own to the pending bill, and also to ask the privilege to submit, as coming from the Interstate Commerce Commission, some additional amendments, with explanations, not relating to the features we have been debating, and in one sense quarreling about, but to the administrative features. The amendments are to prevent contradictions and other phases of inconsistencies, to which the attention of the Commission has been directed. I asked them in my letter to point out anything of that sort which their experience would suggest. I ask that the batch of amendments and the explanations, together with the report of the Interstate Commerce Commission on one of the cases mentioned herein, just as I send it to the desk, be printed in document form, and that each of the amendments be printed in order.

Mr. CULLOM. How many are there?

Mr. TILLMAN. I do not know, but I think there are a dozen or two.

Mr. KEAN. Then I understand the Senator from South Carolina is not for the House bill unamended?

Mr. TILLMAN. I am for a good bill, Mr. President, an effective bill, and a just bill.

Mr. KEAN. Then that means the Senator from South Carolina is not for the House bill.

Mr. TILLMAN. I am not for it as it came from the House. I never have been, and have said so four or five times, I think.

Mr. KEAN. I am glad to know it.

The VICE-PRESIDENT. Is there objection to the request of the Senator from South Carolina [Mr. TILLMAN]? The Chair hears none, and that order is made.

Mr. BACON. I beg to present an amendment to the pending rate bill, which I ask may be read and also printed. I desire it read because it is immediately preceding the time when we shall be called upon to act upon it, and I should like to have it in the RECORD, so that Senators may examine it.

Mr. WARREN. Will the Senator be satisfied to have it printed in the RECORD without reading?

Mr. BACON. Very well, I will ask to have it printed in the RECORD.

The VICE-PRESIDENT. Without objection the amendment intended to be proposed by the Senator from Georgia will be printed and lie on the table. It will also be printed in the RECORD.

The amendment referred to is as follows:

On page 11, line 5, after the word "prescribed," strike out all of said line down to and including the word "jurisdiction" at the end of line 9.

On page 14 strike out all of line 18 down to and including the word "effect" in line 2, page 15, and in lieu of the words stricken out on page 14 insert the following:

"That all orders of the Commission, except orders for the payment of money, shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, and shall continue for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless sooner set aside by the Commission or suspended or set aside in a suit brought against the Commission in the circuit court of the United States sitting as a court of equity; and jurisdiction is hereby conferred on the circuit courts of the United States in any district where any carrier plaintiff has its principal office, to hear and determine in any such suit whether the order complained of was beyond the authority of the Commission conferred by this act or is in violation of the provisions of this act, or in violation of the rights of the carrier secured by the Constitution. And jurisdiction is further hereby conferred on the circuit courts of the United States, in any dis-

trict wherein the plaintiff or plaintiffs reside, to hear and determine in any such suit whether the order complained of is in violation of the provisions of this act, or whether the rate authorized by the Commission to be charged by the carrier is unjustly discriminatory, or unduly preferential or prejudicial to the shippers, or allows to the carrier more than just compensation for the services to be rendered."

Mr. TILLMAN. I now ask that the unfinished business may be temporarily laid aside.

The VICE-PRESIDENT. In the absence of objection, it is so ordered.

ARMY APPROPRIATION BILL.

Mr. WARREN. I now ask unanimous consent that the Senate proceed to the consideration of the Army appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14397) making appropriation for the support of the Army for the fiscal year ending June 30, 1907.

The VICE-PRESIDENT. The first amendment which was passed over will be stated.

The SECRETARY. On page 15, line 6, after the word "rank," the Committee on Military Affairs reported an amendment, to insert the following proviso:

Provided further, That officers who served creditably during the civil war and who now hold the rank of brigadier-general on the active list of the Army, having previously held that rank for two years or more, shall, when retired from active service, have the rank and retired pay of major-general.

Mr. WARREN. I understand that the Senator from New Jersey [Mr. KEAN], who asked that that amendment lie over, does not now object to it.

Mr. KEAN. That is correct. Let it be agreed to.

The VICE-PRESIDENT. The Senator from New Jersey withdraws his objection to the amendment. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment which was passed over will be stated.

The SECRETARY. The next amendment passed over was that proposed by Mr. BULKELEY on page 17, line 19, after the word "deposits," to insert:

As may not be repaid on June 30, 1906, as shown by the books of the Paymaster-General's Office, said sum to be transferred in the Treasury Department from pay of the Army to the credit of the deposit fund created by section 1305 of the Revised Statutes, as herein amended.

That sections 1305 and 1308 of the Revised Statutes of the United States are hereby amended, to take effect July 1, 1906, and to read as follows:

"SEC. 1305. Any enlisted man of the Army may deposit his savings, in sums not less than $5, with any Army paymaster, who shall furnish him a deposit book, in which shall be entered the name of the paymaster and of the soldier, and the amount, date, and place of such deposit. The amount so deposited shall be accounted for in the same manner as other public funds, and shall be deposited in the Treasury of the United States and kept as a separate fund, known as 'Pay of the Army deposit fund,' repayment of which to the enlisted man on discharge from the service shall be made out of the fund created by said deposits, and shall not be subject to forfeiture by sentence of court-martial, but shall be forfeited by desertion, and shall not be permitted to be paid until final payment on discharge, or to the heirs or representatives of a deceased soldier, and that such deposits be exempt from liability for such soldier's debts: *Provided*, That the Government shall be liable for the amount deposited to the person so depositing the same.

"SEC. 1308. Clothing balances accumulating to the soldier's credit under section 1302 shall, when payable to him upon his discharge, be paid out of the appropriation for pay of the Army for the then current fiscal year."

Mr. WARREN. Mr. President, that amendment was laid over at the request of the Senator from Texas [Mr. CULBERSON], who informed me to-day, before leaving the Chamber, that he withdrew his objection, and was in favor of the amendment.

The VICE-PRESIDENT. The question is on the amendment submitted by the Senator from Connecticut [Mr. BULKELEY].

The amendment was agreed to.

Mr. WARREN. I desire to call attention, on page 36, to the amendment regarding Fort Sam Houston, Tex. I want to strike out one or two words from the amendment. There is tautology there which crept in during hurried consideration of this particular amendment yesterday. After the words "San Antonio, Tex.," I move to strike out the words "for use."

The amendment was agreed to.

The SECRETARY. The next passed-over amendment is one submitted by the Senator from Montana [Mr. CARTER], on page 84, after line 21, to insert the following:

The Secretary of War is authorized, in his discretion, to permit the Department of Agriculture to use, for the purpose of an experimental horse-breeding station, such portion of the Fort Keogh Military Reservation, in Montana, as may not, in his opinion, be required for military purposes.

Mr. WARREN. The committee have considered the amendment, and accept it.

The amendment was agreed to.

The SECRETARY. The next passed-over amendment is one proposed by the Senator from Montana [Mr. CARTER], on page 41, after line 18, to insert:

To erect a guardhouse at Fort Keogh, Mont., $11,000; to erect two double barracks at Fort Keogh, Mont., at $55,000 each, $110,000; in all, $121,000.

Mr. WARREN. I will ask the Senator from Montana if he will not withdraw that amendment? It properly belongs to another bill and ought not to be considered in connection with this bill.

Mr. CARTER. After conference with the chairman of the committee, the Senator from Wyoming, realizing that this amendment may with propriety be offered to the sundry civil appropriation bill, I withdraw it.

The VICE-PRESIDENT. The Senator from Montana withdraws the amendment.

The SECRETARY. The next passed-over amendment is one offered by the Senator from Virginia [Mr. MARTIN] to add at the end of the bill the following:

To be expended under the supervision and direction of the Secretary of War in the improvement of the national boulevard owned by the United States, between Princess Anne street and the gate to the national cemetery, at Fredericksburg, Va., the sum of $30,000.

Mr. WARREN. The committee have considered the amendment and will accept it.

The amendment was agreed to.

The SECRETARY. The next passed-over amendment is one proposed by the Senator from Minnesota [Mr. NELSON], to insert, on page 15, after line 11, the following:

That upon written application to the Secretary of War, and subject to the conditions and requirements hereinafter contained, the name of each surviving major-general and brigadier-general of volunteers in the United States Volunteer Army of the civil war, and each surviving field officer of a volunteer regiment therein, who was at any time appointed and commissioned by the President, by and with the advice and consent of the Senate, as brigadier-general or major-general of volunteers, by brevet, on account of services rendered in said Army, shall be entered on a roll, to be known as the volunteer retired list. Each person so entered shall have served as an officer or an enlisted man not less than two and a half years in said Volunteer Army between April 15, 1861, and July 15, 1865, at least one year of which service shall have been in the field with troops; he shall have been honorably discharged from said service and shall have reached the age of 70 years; he shall not belong to the Regular Army and shall not have been retired; said application to be accompanied with proof of the identity of the applicant, and both the application and proof to be under oath: *Provided*, That an officer who lost an arm, leg, or both eyes by wounds in battle, if otherwise qualified, shall be entitled to retirement without reference to the length of his services in said Volunteer Army.

That each applicant whose name shall be entered upon said list shall be entered as of the highest rank held by him while serving in said Volunteer Army, and when so entered on said list he shall be paid, out of any money in the Treasury not otherwise appropriated, one-half pay, according to his actual rank, which pay shall be the same as that now received by retired officers of like rank in the Regular Army, and shall be paid in like manner; such pay to begin on the date of filing his said application with the Secretary of War and to continue during his natural life.

That each person who shall receive pay under this act shall thereby relinquish all his right and claim to pension from the United States after the date of filing said application, and any payment of such pension made to him covering a period subsequent to the filing of his said application shall be deducted from the amount due him on the first payment or payments under this act; and pay allowed by this act shall not be subject or liable to any attachment, levy, lien, or detention under any process whatever; and persons whose names are placed upon said list shall not constitute any part of the United States Army.

Mr. KEAN. I thought the Senator from Wyoming made the point of order on the amendment.

Mr. WARREN. I made the point of order, but withheld it so that the Senator from Minnesota [Mr. NELSON] could address the Senate upon the amendment if he desired. I understand he does not so desire, and I make the point of order.

Mr. NELSON. Mr. President——

Mr. WARREN. Pardon me. I did not observe that the Senator was in the Chamber.

Mr. NELSON. Mr. President, while I am very much interested in the amendment, and should be very glad to see it adopted, I concede the fact that the point of order is well taken, and that being the case, I do not feel warranted in taking up the time of the Senate to discuss the merits of the measure. It would be love's labor lost.

Mr. FORAKER. Mr. President, I wish to say that I am sorry the point of order does lie against the amendment, because I think the men who would receive the benefit of the amendment are men worthy of grateful recognition at the hands of the Government in the declining years of their life.

I merely wish to say, further, to the Senator from Minnesota that I would gladly sustain and help him in every way I could if the situation were different.

Mr. NELSON. I will add just one word more, and will not take up the time of the Senate further. There is a bill before

the Committee on Military Affairs relating to the same matter. I sincerely trust that the committee will give it careful and favorable consideration. I think the old veterans are entitled to consideration. I trust the committee, although this amendment may go out on the point of order, will not regard the subject-matter as outlawed.

Mr. WARREN. Just a word, Mr. President. The subject is one that will have the friendly and sincere consideration of the committee. There is one feature of it I do not wish to go into to-night, and that is that the amendment includes only the higher grade of officers. A question comes up, in fact has been made by several with the committee, as to those who did not hold as high rank and who are equally deserving. However, the whole matter will be considered in due time by the committee, so I will not discuss it further now.

The VICE-PRESIDENT. Does the Chair understand the Senator from Minnesota to withdraw the amendment?

Mr. NELSON. Yes; I withdraw the amendment.

Mr. TELLER. I desire to submit an amendment to come in anywhere as an independent proposition.

The VICE-PRESIDENT. The Senator from Colorado submits an amendment, which will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

That the President be, and he is hereby, authorized to include within the provisions of the act of April 23, 1904, providing for increased grade on the retired list to certain officers of the Army with civil-war records, and as of the date of said act such officers with such civil-war records below the grade of brigadier-general as have heretofore been retired by reason of disability contracted in the line of duty under the provisions of the act of October 1, 1890, and also such officers with civil-war records below the grade of brigadier-general as have heretofore been retired under the provisions of section 1243 of the Revised Statutes.

Mr. WARREN. Mr. President, I regret very much that this matter is yet before the Military Affairs Committee in such shape that the committee does not feel that the amendment ought to go on the pending bill. I am therefore compelled to make the point of order, but I will withhold it until the Senator from Colorado has had time to state the case.

Mr. TELLER. Mr. President, this is substantially an amendment offered at the last session of Congress, and it is to amend a bill passed at the former session of Congress. The Department construed it in a way so as to leave out some eighteen or twenty men who thought they were entitled to partake of the benefits of that act. At the last session of Congress, when I offered the amendment and made some few remarks on it, the acting chairman, the Senator from Vermont [Mr. PROCTOR], said:

Mr. President, I sympathize with the amendment, but I hope the Senator from Colorado will not press it to a vote. He knows very well that I have worked in harmony with him to get the most liberal law passed for the benefit of these retired officers.

The act we got at the last session involved a great deal of labor in construction. For that reason the nominations did not come to us until the present session. The officers were seven months behind, the Comptroller ruling that they could not be paid until they had been confirmed.

The Committee on Military Affairs, immediately after the session began, hurried the Department to send in the list, and used all possible haste to get them confirmed.

I think there are imperfections in the law. I think there are certain classes of officers, not great in number, who ought to be included. I earnestly worked when that bill was before Congress to insert in it the most liberal terms, but it did not include all that I think ought to be included, and I do not think the Senator's amendment does.

Early in the session I called on the Judge-Advocate-General for a construction of that act, and he has submitted a very extensive report, which I will admit I have not had time to read, as I saw it was impossible to act on it. I should think there are 20 or 30 pages, perhaps more. I am sure the committee at the next session will take up this matter and consider the views of the Judge-Advocate-General, and try, as far as in their power lies, to bring in a measure that will correct a few odd cases.

I suppose the amendment is amenable to a point of order. I desire to say, however, that in my judgment there would be no necessity for the adoption of the amendment if the Department would construe the existing law as it ought to be construed and as some of the best lawyers in this country declare it should be construed. If the Senate was in a condition where I could present this matter properly and have a vote on it without embarrassing the Senate, I would certainly insist upon it. I wish to say to the Senator that I am going to watch out, and whenever an opportunity is presented in the future I propose to endeavor, if possible, to secure for these few officers what I think they are certainly entitled to.

Mr. WARREN. Mr. President, there is merit in some of these cases, and they are being very carefully considered. A majority of the Committee on Military Affairs of the Senate as now constituted are new members, who were not members of that committee one year ago when the Senator from Colorado presented this matter—that is, seven new men have gone on to the committee at the present session. I can assure the Senator, without stating with exactness, what will be done next year; that the subject will surely be considered, and thoroughly, by the committee. One trouble is that Senators seem to differ as to the number that are entitled to the benefit of the proposed legislation and the number affected by the construction of the present law by the Department. We hope, however, by further inquiry at the Department, to find what its basis and opinion is, and to get further information as to individual cases, and we hope to be able eventually to prepare a measure that will please the Senator and others interested in the subject.

Mr. TELLER. I have no special interest in this matter. I happen to know a number of ex-soldiers who are cut out under the construction put upon the act by the Department. I do not believe the number can exceed eighteen or twenty, and that is the number the Senator from Vermont estimated last year. I do not believe it will exceed that number. But of course it does not make any particular difference how many there are. If it is an act of justice it ought to be done, even though it is a pretty late day to do it.

Mr. WARREN. I feel that I must make the point of order, Mr. President.

The VICE-PRESIDENT. The Chair sustains the point of order, as the proposed amendment is clearly against the rule.

Mr. WARREN. That completes the committee amendments and all others so far offered, Mr. President.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

HEARINGS BEFORE COMMITTEE ON INTERSTATE COMMERCE.

Mr. PENROSE. I move that the Senate adjourn.

Mr. KEAN. Will the Senator from Pennsylvania yield to me for a moment?

Mr. PENROSE. I yield to the Senator from New Jersey.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by myself on yesterday, to report it with amendments, and I ask for its present consideration.

The Senate proceeded to consider the resolution.

The amendments of the committee were, in line 5, after the word "committee," to insert "or its subcommittees;" in the same line, before the word "hearings," to strike out "the" and insert "such;" in the same line, before the word "printed," to strike out "and bills;" in line 6, before the word "and," to strike out "for the use of the committee" and insert "for its use;" and in line 7, after the word "paid," to strike out "out of" and insert "from;" so as to make the resolution read:

Resolved, That the Committee on Interstate Commerce be, and the same is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee or its subcommittees and to have such hearings printed for its use, and that such stenographer be paid from the contingent fund of the Senate.

The amendments were agreed to.

The resolution as amended was agreed to.

LANDS IN MINNEAPOLIS, MINN.

Mr. HEMENWAY. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. 15435) to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands to be used for flowage purposes, to report it favorably without amendment.

Mr. NELSON. I ask that the bill may be considered at the present time. It is a local bill relating to a dam in the Mississippi River at Minneapolis.

There being no objection, the Senate, as in Committee of the whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AGRICULTURAL LANDS WITHIN FOREST RESERVES.

Mr. CARTER. I ask the Senator from Pennsylvania to yield to me for a moment.

Mr. PENROSE. I yield to the Senator from Montana.

Mr. CARTER. I ask unanimous consent for the present consideration of the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves.

The VICE-PRESIDENT. The Senator from Montana asks unanimous consent for the present consideration of a bill, which will be read for the information of the Senate.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. TILLMAN. It seems to me that this is rather an important bill and needs some explanation. It is so late that I hope the Senator from Montana will not press it.

Mr. WARREN. I hope the Senator from South Carolina will let the bill go through. It has been carefully considered in the House. It merely provides that if within a forest reserve there has been included some agricultural ground the Department can open it to entry. It is entirely with the Department.

Mr. CARTER. A similar bill has twice been reported by the committee.

Mr. TILLMAN. All right.

Mr. FULTON. This is a bill, I am sorry to say, to which the Senator from Idaho [Mr. HEYBURN] especially requested me to call attention in case it came up, as he wishes to be heard on it. Personally I do not wish to make an objection.

Mr. CARTER. The particular part of the Senate bill to which the Senator from Idaho objected was comprised in the words "in his discretion" as applied to the Secretary. In the House bill those words do not occur.

Mr. FULTON. I simply make the statement to the Senator. If he is satisfied that this bill will not be objectionable to the Senator from Idaho, of course I will not insist upon objecting.

Mr. CARTER. The feature of the bill to which he called special attention has been eliminated from this bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with an amendment, in line 6, page 1, after the words "forest reserves," to strike out "except in the State of California."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

TOWING OF LOG RAFTS.

Mr. PILES. Mr. President——

Mr. TILLMAN. I shall have to move that the Senate adjourn. It is very late.

The VICE-PRESIDENT. Such a motion was made by the Senator from Pennsylvania [Mr. PENROSE], but was withheld.

Mr. PENROSE. I made the motion, and I am willing to yield to the Senator from Washington, unless there be objection.

Mr. PILES. I ask unanimous consent for the present consideration of the bill (S. 5372) to prevent dangers to navigation from rafts of logs or timbers on coast waters of the United States. It can not affect anyone seriously. The Senator from California asked for an opportunity to look into the bill, and he has looked into it and has withdrawn all objection.

Mr. TILLMAN. I withdraw my objection.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of Commerce and Labor to prescribe rules and regulations governing the dimensions, the methods of binding together, and the floating or towing by steam or other power of any raft or rafts composed of logs, piles, timber, or lumber on the coast waters and connecting waters under the jurisdiction of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROE REISINGER.

Mr. FORAKER. I ask for the present consideration of the joint resolution (S. R. 13) authorizing the Secretary of War to award the Congressional medal of honor to Roe Reisinger.

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Ohio?

Mr. PENROSE. Certainly.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. WARREN. From what committee was the joint resolution reported?

The VICE-PRESIDENT. The Committee on Military Affairs.

Mr. KEAN. The Committee on Military Affairs, by the Senator from Ohio [Mr. FORAKER].

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PENROSE. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 53 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 4, 1906, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May 3, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday was read and approved.

EXPENDITURES IN AGRICULTURAL DEPARTMENT.

Mr. LITTLEFIELD. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the desk and ask to have read.

The Clerk read as follows:

Whereas no examination of the expenditures in the Department of Agriculture has been made by the Committee on Expenditures in the Department of Agriculture for a number of years and such an examination is now necessary in the interest of the public service; and

Whereas said examination can not be had by said committee unless authority therefor is conferred upon said committee: Therefore, be it

Resolved, That the Committee on Expenditures in the Department of Agriculture is hereby authorized to examine, so far as the Department of Agriculture is concerned, all of the matters referred to in paragraph 42 of Rule XI of the House of Representatives, and for that purpose it may send for persons, papers, and said committee is authorized to employ a competent stenographer while conducting said examination, and to sit during the sessions of the House, and to report the result of its examination with any recommendations to the House.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, reserving the right to object, I desire to say that this is a very important matter——

The SPEAKER. Does the gentleman from Maine yield to the gentleman from Mississippi?

Mr. LITTLEFIELD. Yes; I yield to the gentleman if he rises for the purpose of making an inquiry. Does the gentleman rise for the purpose of inquiring the purpose of the resolution?

Mr. WILLIAMS. I rise for the purpose of reserving the right to object, and in the interim making a statement. Does the gentleman yield to me or not?

Mr. LITTLEFIELD. Oh, yes; I yield to the gentleman.

Mr. WILLIAMS. Very well; I want to say that this is a very important matter, but it is not half so important as giving school facilities and school rights to the people of the Indian Territory by the admission of the State of Oklahoma.

Mr. PAYNE. Mr. Speaker, I object to any such statement.

Mr. WILLIAMS. And I therefore object.

The SPEAKER. Objection is heard, and the statement is made.

Mr. WILLIAMS. But the gentleman yielded to me to make the statement.

The SPEAKER. The Chair is not criticising the gentleman. He is merely announcing the facts.

Mr. LITTLEFIELD. Do I understand the gentleman objects?

The SPEAKER. Objection is made.

Mr. WILLIAMS. And for the reasons stated by the gentleman.

Mr. LITTLEFIELD. I do not care what the reasons are. If the gentleman wants to stop this investigation, he can.

Mr. WILLIAMS. And the gentleman from Mississippi does not care whether the gentleman from Maine cares or not.

Mr. LITTLEFIELD. So the honors are even.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill, and, Mr. Speaker, pending that motion, I desire to ask my colleague on the committee [Mr. MEYER] if he has any suggestion to make as to limiting time for general debate?

Mr. MEYER. Mr. Speaker, I would suggest, if agreeable to my colleague, that we let general debate run on during the day without limiting the time for general debate beyond that. I think after to-morrow morning, if it is deemed expedient, we can then fix a limit for general debate. I would further suggest that the debate to-day should be apportioned, one-half to the gentleman from Illinois and the other half to myself.

Mr. FOSS. Then, Mr. Speaker, I ask unanimous consent that general debate go on to-day without fixing any limit.

Mr. WILLIAMS. No unanimous consent is necessary for that, Mr. Speaker.

The SPEAKER. That is correct.

Mr. FOSS. And that the time be divided equally between the two sides, one-half to be controlled by the gentleman from Louisiana and the other half by myself.

Mr. WILLIAMS. No unanimous consent is necessary for that.

The SPEAKER. The Chair will state that the time to be controlled by the gentleman from Illinois and the gentleman from Louisiana would require unanimous consent; otherwise the Chairman presiding over the Committee of the Whole would give recognition and also an equal division. Is there objection?

Mr. WILLIAMS. That being the usual course, I have no objection to that.

The SPEAKER. The Chair hears no objection to the request for the division of time to be controlled by the gentleman from Illinois and the gentleman from Louisiana, half and half. The question is on agreeing to the motion of the gentleman from Illinois.

The question was taken; and the Speaker announced that the ayes seemed to have it.

On a division (demanded by Mr. WILLIAMS) there were—ayes 98, noes 27.

Mr. WILLIAMS. Mr. Speaker, I suggest that there is no quorum present.

The SPEAKER. The gentleman makes the point that there is no quorum present. Evidently there is not a quorum present. The doors will be closed, the Sergeant-at-Arms will bring in the absentees, and the yeas and nays will be called. Those in favor of the motion of the gentleman from Illinois will vote "aye," those opposed will vote "no," and those present and not voting will vote "present." The Clerk will call the roll.

Mr. BUTLER of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BUTLER of Pennsylvania. Is there any way by which this roll call will show the gentlemen who are present at this time?

Mr. CLARK of Missouri. Regular order!

The SPEAKER. The Chair will state to the gentleman from Pennsylvania that that is hardly a parliamentary inquiry.

Mr. BUTLER of Pennsylvania. I wanted it to appear in the RECORD; that is all.

The question was taken; and there were—yeas 217, nays 0, answered "present" 10, not voting 154, as follows:

YEAS—217.

Adams, Pa.	Fassett	Lamb	Richardson, Ala.
Adamson	Field	Landis, Chas. B.	Richardson, Ky.
Aiken	Finley	Landis, Frederick	Rives
Allen, Me.	Fitzgerald	Lawrence	Rixey
Bartlett	Flack	Lester	Roberts
Bates	Fletcher	Lever	Robinson, Ark.
Beall, Tex.	Flood	Lewis	Rodenberg
Bell, Ga.	Floyd	Lilley, Conn.	Rucker
Bennett, Ky.	Foss	Lindsay	Russell
Birdsall	Foster, Vt.	Littauer	Samuel
Bishop	Fulkerson	Little	Schneebell
Blackburn	Gaines, Tenn.	Littlefield	Shackleford
Bonynge	Gaines, W. Va.	Livingston	Shartel
Boutell	Garner	Lloyd	Sims
Bowersock	Garrett	McCall	Slayden
Brick	Gilbert, Ind.	McCarthy	Smith, Cal.
Broocks, Tex.	Gillespie	McCreary, Pa.	Smith, Iowa
Brooks, Colo.	Gillett, Cal.	McGavin	Smith, Md.
Brown	Glass	McKinney	Smith, Samuel W.
Brownlow	Goldfogle	McLachlan	Smith, Pa.
Burgess	Graff	McLain	Smith, Tex.
Burke, Pa.	Graham	McMorran	Smyser
Burnett	Granger	McNary	Snapp
Burton, Del.	Greene	Macon	Southall
Burton, Ohio	Gregg	Madden	Southwick
Butler, Pa.	Gronna	Mahon	Sperry
Byrd	Hamilton	Mann	Spight
Calder	Hardwick	Marshall	Stafford
Calderhead	Hay	Maynard	Stephens, Tex.
Candler	Hayes	Meyer	Sullivan, Mass.
Capron	Heflin	Minor	Sulloway
Cassel	Henry, Conn.	Mondell	Sulzer
Chaney	Henry, Tex.	Moon, Pa.	Tawney
Chapman	Hepburn	Moon, Tenn.	Taylor, Ala.
Clark, Fla.	Hermann	Mouser	Taylor, Ohio
Clark, Mo.	Hinshaw	Mudd	Thomas, N. C.
Cocks	Holliday	Murdock	Tirrell
Cole	Howell, N. J.	Murphy	Townsend
Cooper, Pa.	Howell, Utah	Needham	Underwood
Cousins	Hubbard	Norris	Volstead
Currier	Hull	Olcott	Vreeland
Curtis	Humphrey, Wash.	Olmsted	Wachter
Cushman	Humphreys, Miss.	Overstreet	Waldo
Davis, Minn.	James	Page	Wanger
Dawes	Johnson	Palmer	Webb
Dawson	Jones, Wash.	Parker	Weems
De Armond	Keifer	Payne	Welborn
Dickson, Ill.	Kelliher	Perkins	Williams
Dixon, Ind.	Kennedy, Nebr.	Pollard	Wilson
Dixon, Mont.	Kitchin, Claude	Prince	Wood, N. J.
Draper	Kitchin, Wm. W.	Pujo	Woodyard
Dresser	Klepper	Randell, Tex.	Young
Driscoll	Kline	Reeder	
Dunwell	Knowland	Reid	
Esch	Lacey	Rhinock	

ANSWERED "PRESENT"—10.

Ames	Crumpacker	Goulden	Hopkins
Beidler	Davidson	Hill, Miss.	
Cooper, Wis.	Gardner, Mich.	Hoar	

NOT VOTING—154.

Acheson	Edwards	Knopf	Scott
Adams, Wis.	Ellerbe	Lafean	Scroggy
Alexander	Ellis	Lamar	Sheppard
Allen, N. J.	Fordney	Law	Sherley
Andrus	Foster, Ind.	Lee	Sherman
Babcock	Fowler	Le Fevre	Sibley
Bankhead	French	Legare	Slemp
Bannon	Fuller	Lilley, Pa.	Small
Barchfeld	Garber	Longworth	Smith, Ill.
Bartholdt	Gardner, Mass.	Lorimer	Smith, Ky.
Bede	Gardner, N. J.	Loud	Smith, Wm. Alden
Bennet, N. Y.	Gilbert, Ky.	Loudenslager	Southard
Bingham	Gill	Lovering	Sparkman
Bowers	Gillett, Mass.	McCleary, Minn.	Stanley
Bowie	Goebel	McDermott	Steenerson
Bradley	Griggs	McKinlay, Cal.	Sterling
Brantley	Grosvenor	McKinley, Ill.	Stevens, Minn.
Broussard	Gudger	Martin	Sullivan, N. Y.
Brundidge	Hale	Michalek	Talbott
Buckman	Haskins	Miller	Thomas, Ohio
Burke, S. Dak.	Haugen	Moore	Towne
Burleigh	Hearst	Morrell	Trimble
Burleson	Hedge	Nevin	Tyndall
Butler, Tenn.	Higgins	Otjen	Van Duzer
Campbell, Kans.	Hill, Conn.	Padgett	Van Winkle
Campbell, Ohio	Hitt	Parsons	Wadsworth
Clayton	Hogg	Patterson, N. C.	Wallace
Cockran	Houston	Patterson, S. C.	Watkins
Conner	Howard	Patterson, Tenn.	Watson
Cromer	Huff	Pearre	Webber
Dale	Hughes	Pou	Weeks
Dalzell	Hunt	Powers	Weisse
Darragh	Jenkins	Rainey	Wharton
Davey, La.	Jones, Va.	Ransdell, La.	Wiley, Ala.
Davis, W. Va.	Kahn	Reynolds	Wiley, N. J.
Deemer	Kennedy, Ohio	Rhodes	Wood, Mo.
Denby	Ketcham	Robertson, La.	Zenor
Dovener	Kinkaid	Ruppert	
Dwight	Knapp	Ryan	

A quorum present.

So the motion was agreed to.

The Chair announced the following pairs:

For the session:

Mr. SHERMAN with Mr. RUPPERT.

Mr. BRADLEY with Mr. GOULDEN.

Until further notice:

Mr. KENNEDY of Ohio with Mr. HOUSTON.

Mr. DOVENER with Mr. SPARKMAN.

Mr. HITT with Mr. LEGARE.

Mr. CROMER with Mr. VAN DUZER.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. OTJEN with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. WATSON with Mr. SHERLEY.

Mr. MORRELL with Mr. SULLIVAN of New York.

Mr. CRUMPACKER with Mr. ZENOR.

Mr. NEVIN with Mr. FIELD.

Mr. LILLEY of Pennsylvania with Mr. GILBERT of Kentucky.

Mr. DALE with Mr. BOWIE.

Mr. DAVIDSON with Mr. LEE.

Mr. SOUTHARD with Mr. PATTERSON of South Carolina.

For the vote:

Mr. GILLETT of Massachusetts with Mr. GUDGER.

Mr. HEDGE with Mr. HUNT.

Mr. DALZELL with Mr. GRIGGS.

Mr. ALEXANDER with Mr. CLAYTON.

For the day:

Mr. WEEKS with Mr. STANLEY.

Mr. KETCHAM with Mr. BURLESON.

Mr. HUFF with Mr. GILL.

Mr. HALE with Mr. ELLERBE.

Mr. FRENCH with Mr. BUTLER of Tennessee.

Mr. DWIGHT with Mr. BRUNDIDGE.

Mr. BURLEIGH with Mr. BROUSSARD.

Mr. BURKE of South Dakota with Mr. BRANTLEY.

Mr. BUCKMAN with Mr. BOWERS.

Mr. BENNET of New York with Mr. WOOD of Missouri.

Mr. BARTHOLDT with Mr. BANKHEAD.

Mr. BARCHFELD with Mr. WILEY of Alabama.

Mr. BANNON with Mr. WEISSE.

Mr. ANDRUS with Mr. WATKINS.

Mr. WILEY of New Jersey with Mr. WALLACE.

Mr. VAN WINKLE with Mr. TRIMBLE.

Mr. STEVENS of Minnesota with Mr. TOWNE.

Mr. STERLING with Mr. SMALL.

Mr. SIBLEY with Mr. RYAN.

Mr. MILLER with Mr. RAINEY.

Mr. MCKINLEY of Illinois with Mr. POU.

Mr. LOUDENSLAGER with Mr. PATTERSON of Tennessee.

Mr. LONGWORTH with Mr. ROBERTSON of Louisiana.

Mr. LE FEVRE with Mr. MOORE.

Mr. KNAPP with Mr. LAMAR.

Mr. MCCLEARY of Minnesota with Mr. DAVIS of West Virginia.

Mr. BEDE with Mr. RANSDELL of Louisiana.
Mr. ADAMS of Wisconsin with Mr. PATTERSON of North Carolina.
Mr. BINGHAM with Mr. HEARST.
Mr. BABCOCK with Mr. COCKRAN.
Mr. BUCKMAN with Mr. BUTLER of Tennessee.
Mr. DENBY with Mr. MCDERMOTT.
Mr. CAMPBELL of Kansas with Mr. DAVEY of Louisiana.
Mr. WM. ALDEN SMITH with Mr. SHEPPARD.
Mr. PEARRE with Mr. JONES of Virginia.
Mr. KAHN with Mr. GARBER.

Mr. CRUMPACKER. Mr. Speaker, I inadvertently voted "aye," and I am paired. I desire to vote "present."

Thereupon the clerk called Mr. CRUMPACKER's name, and he voted "present," as above recorded.

The result of the vote was announced as above recorded.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 18750) making appropriations for the naval service for the fiscal year ending June 30, 1907, and for other purposes, with Mr. CRUMPACKER in the chair.

Mr. FOSS. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. If there be no objection, the request of the gentleman from Illinois will be granted.

There was no objection.

Mr. FOSS. Mr. Chairman, I have tried to make an exhaustive report on the different items in this bill, but there are a few corrections which I desire to make in that report, and which in the reprint of it will be made. For instance, in the first table, "Pay of the Navy," the appropriation for last year reads "twenty millions of dollars." The appropriation was "seventeen million five hundred thousand dollars," and a reappropriation of two and a half million dollars, making in all the twenty millions.

Then under the appropriation for public works, "Bureau of Medicine and Surgery," for 1906, it should read "twenty thousand" instead of "forty thousand." The appropriation for equipment should read $845,000 instead of $945,000; so that the amount which the appropriation bill of last year carried was $100,336,679.94, and the reappropriation in addition thereto of $2,500,000. Now, Mr. Chairman, this bill which is now before the committee carries $99,734,215.77, a very material reduction from the naval appropriation bill of last year. I wish to say that the Committee on Naval Affairs had very exhaustive hearings this year. We went into the subject more carefully than ever before; and I desire here and now to express my appreciation of the hearty cooperation I received from members of the committee in getting up this appropriation bill.

The estimates submitted to us by the Department amounted, in all, to $121,569,718. This bill makes a deduction from that amount of $21,831,000. If it be a virtue for the legislative branch of the Government to reduce estimates furnished by an executive branch, then I am sure that the Committee on Naval Affairs is entitled to some credit, because, probably, taking all the appropriation bills together, there will not be shown a greater reduction from all estimates than has been made by the Committee on Naval Affairs upon this one bill during this session of Congress.

Mr. Chairman, I said a few minutes ago that we cut the estimates to the amount of $22,000,000; and that being so, we do not feel that we have sacrificed in any way the efficiency of our service during the coming fiscal year. These reductions from the estimate have been made from a comparatively few items.

First is the pay of the Navy. There was a reduction of $3,000,000. The Department recommended that we allow 3,000 additional men this year. Our present quota is 37,000; but in our hearings it developed that the Department had not been able to enlist to the full number, but were in fact 5,500 short on the 8th of January; and judging from past experience they would not be able to get more than the full quota during the coming year, the committee came to the conclusion that the present quota should stand for the coming year; and also that the appropriation for the pay for the Navy should be the same as that of last year. This made a reduction, as I have said, from the estimate of nearly $3,000,000.

Mr. LITTLEFIELD. I would like to inquire right there if the gentleman is advised of the practical difficulties that have been met with in not being able to secure the recruits in accordance with the requirements of the service?

Mr. FOSS. I will speak of that a little later, if the gentleman will excuse me. I will reach that in a few moments.

Now, the next important item from which we made a great reduction from the estimates is that of yards and docks. The estimate submitted by the Department amounts to $9,000,000; and we reduced this by $6,200,000, leaving an appropriation of about $3,000,000 for yards, stations, and docks for the coming year. We went carefully over the whole subject during our hearings, and we came to the conclusion that that would be a sufficient amount to appropriate to keep our yards in their present state of efficiency this coming year.

Then the next item was that of reserves. The Department was anxious for large appropriations for reserve guns, ammunition, and powder. The committee, however, after carefully considering that, made a reduction from their estimates of $9,000,000. The subject of reserves is a matter of policy largely—whether we shall pile up our reserves in large amounts during a single year or two or whether we shall extend them over a number of years. The committee thought it would be unwise to make this large appropriation for reserves this year, but have given the substantial appropriation of a million and a half for reserve ammunition, guns, etc., which is as much as we believe the Department can economically expend and use during the coming year.

Then the Marine Corps asked for an increase in the number of officers. The committee did not see fit to allow that this year.

From these items that I have mentioned have come the reductions from the estimates down to the amount which we recommend to appropriate this year—$99,724,000.

Upon all the items of general maintenance, such as maintenance of the different bureaus of the Department, the committee have been liberal and have granted practically what the Department has asked for, so that there need be no deficiency, in the judgment of the committee, for the general maintenance of our Navy up to its high standard of efficiency.

Now, just a word upon the personnel of the Navy. The present quota allowed by law to-day is 34,000 men and 2,500 apprentices; in all 37,000 men. On the 8th of January last the number in the service was 31,457, showing a shortage from the quota allowed of 5,443. We could enlist enough men to fill up that quota to-day if we wanted to. Last year there were 41,000 applications for enlistment, but the Navy Department is trying to secure the very best men, and therefore they have gradually raised the standard of enlistment or entrance to the Navy higher than ever before. They are seeking to secure the best men, and, for instance, rejected last year nearly 15,000 for physical disability and 13,600 for other causes.

That is to say, of the 41,000 men who applied for enlistment in the American Navy, 28,000 of them were rejected. The total number enlisted last year was 11,719.

Now, there is another thing which the Navy Department is seeking to do, and that is, as far as possible, to weed out the foreigners in the Navy. A number of years ago our Navy was composed in large part of a foreign element.

Mr. LITTLEFIELD. Unnaturalized?

Mr. FOSS. Yes; unnaturalized. But we are now Americanizing the Navy, so to speak. Ninety-five per cent of the petty officers of our Navy to-day are citizens of the United States and 90 per cent of the enlisted men are citizens of the United States. So that of the total enlisted force, nearly 92 per cent, or, to be accurate, 91.8 per cent, are citizens of the United States. Practically the only foreigners that we now have in the Navy are the Japanese and Chinese servants and the bandsmen.

Now, the gentleman from Maine [Mr. LITTLEFIELD] spoke a moment ago about desertions. Last year we had 3,227 desertions.

Mr. LITTLEFIELD. Will the gentleman explain the difficulties which are met with in enlisting the men?

Mr. FOSS. The real difficulty in the matter of enlistment to-day, I think, is due to the fact that the times are prosperous and the demand for labor is great, and the rewards of labor are greater in civil life than they are in military life.

Mr. KEIFER. I should like to ask the gentleman whether there is not another reason, which exists in the severity of the rule in the Department in accepting men? Formerly they took people who were not always sober men, and all that, but under the present rule men must have a good character and good habits.

Mr. FOSS. I think that is undoubtedly true. They have raised the standard, as I mentioned a moment ago. Really the best men that we are getting to-day are coming from the Middle West, from the farms of the West, and in my conversation with our naval authorities they say that they are getting bright, intelligent farmer boys, who are coming into the Navy full of a spirit of energy and vitality, and they are really making better seamen than any men whom they have secured heretofore.

Mr. LITTLEFIELD. Will the gentleman state the standard required by the Department?

Mr. FOSS. I haven't it here, but I can get it for the gentleman.

Now, as I say, we had 3,227 desertions from the Navy last year. That is a better record than the year before, when our desertions were 4,488.

Desertions are due to a number of causes. They are due to the restless spirit of American youth—that is one reason—and, second, they are due to the hardships of life at sea. A great many men enter the Navy thinking it is largely a life of romance, but when they get in there and find there is hard work to be done, then they want to get out. Then desertions are due largely, too, to the fact that men do not distinguish beween an oath they take to serve the Government and a contract which they make in civil life, and when men get tired of the naval service they simply quit and go home, or go somewhere else, the same as they do, for instance, when they have entered into a contract of employment with any civilian.

Now, upon this subject of the enlisted men I desire to read from the report of the Chief of the Bureau of Navigation, Admiral Converse, who, in my judgment, is one of the brainiest officers we have to-day in the service of the United States Navy. In speaking of this subject he says:

> In no other military or naval organization in the world are the interests and welfare of the enlisted personnel so closely guarded, their remuneration so great, their conditions of life on board ship so closely studied with a view to lessening the natural hardships of life as in our Navy; and until public sentiment is set right and a larger percentage of men enlisted who have a true sense of their obligation to their oath no appreciable decrease in the percentage of desertions may be looked for.

Now, so much for the personnel.

Mr. FITZGERALD. Will the gentleman yield?

Mr. FOSS. Yes.

Mr. FITZGERALD. The gentleman in discussing this question of desertions has not referred to one other cause that for some reason is always omitted in the discussion of this matter. And I call his attention to the fact that the Secretary of the Navy in his report says:

> Desertion is, in my opinion, due substantially to two causes—either bad men or bad officers.

Now, I would like to have the chairman of the committee state the action on the part of the officers of the Navy that caused large desertions from these ships and why no attempt has ever been made to correct the abuses that occur in that connection.

Mr. FOSS. I will say to the gentleman that I do not care to enter on that line of thought at this time. Later on in the discussion of the bill, if the gentleman desires, I will answer his question.

Mr. FITZGERALD. I wish to call the gentleman's attention to the fact that there is no time when this will be more pertinent, because the gentleman has just given a statement of the reasons of desertion from the Navy, and it is a notorious fact among people who are in close touch with the conduct of the Navy that in some instances large desertions are caused from certain ships, because of the intolerable conduct of some officers on those ships, and in my opinion we should consider that question just as fearlessly as we should consider other questions.

Mr. FOSS. There may be a few instances of that character, but I think, as a general rule, it is not prevalent throughout the American Navy.

Now, I want to say a word about the matériel of the Navy. As you will see from the report I have prepared, we are building a large number of ships at the present time. Most of those ships will be put in commission during the coming year. For a number of years there has been considerable congestion in the construction of our ships due, primarily, to delays in securing material and also to delays resulting from strikes.

Take, for instance, the *Nebraska*. There is a ship that was authorized some six years ago, and yet she has barely reached the final stages of completion on account of the labor occurrences which happened out in Seattle.

So, also, with some of our ships at other yards; and so, while it may appear in this report that we are building a large number of ships at the present time, we want to take into consideration the fact that many of these ships are at least two years behind the contract time. During the coming year most of our construction will be wiped out, and there will be comparatively few ships on the stocks.

Now, very often I have been asked questions with reference to the maintenance of the Navy, How much does it cost to maintain the Navy? Last year in my report I put in a table showing how much the maintenance of each type of ship cost. For instance, a battle ship costs about $500,000 a year to maintain. Then the armored cruiser and the other different types of ships I also mentioned in that statement. If you take, for instance, our naval appropriation bill of last year, which carried money appropriation appropriated and reappropriated of $103,000,000, you will find that about forty-three millions of that went to new construction, and that that left $60,000,000 which went to the maintenance of the Navy last year.

In that $60,000,000 it should be taken into consideration also that the development and improvement of the navy-yards was included, as well as the maintenance of the Marine Corps. But of the bill last year, $60,000,000, and no more, could be considered as the cost of maintenance of our Navy.

Mr. LITTLEFIELD. Will the gentleman yield?

Mr. FOSS. With pleasure.

Mr. LITTLEFIELD. While the gentleman is on this point, I would inquire whether the committee has made any estimate as to what the expense will be annually when the naval programme now indicated is completed and the ships are all finished? What will be the annual charge, approximately, at that time?

Mr. FOSS. I have a statement which was made by the Secretary of the Navy last year—which I think went into the RECORD, but I am not sure about it—which shows the estimated annual cost of maintaining the naval establishment upon completion of the vessels now under consideration at $76,591,000.

Mr. LITTLEFIELD. That would not include the ships authorized by this bill, which would make some addition thereto.

Mr. FOSS. It would make some addition thereto.

Mr. LITTLEFIELD. The ships authorized in the pending bill?

Mr. FOSS. Yes.

Mr. BURTON of Ohio. Will the gentleman yield for a question?

Mr. FOSS. Certainly.

Mr. BURTON of Ohio. In the $60,000,000 which the gentleman mentioned for maintenance is there included construction in navy-yards? In other words, does the $43,000,000 for new construction refer exclusively to ships of war and colliers?

Mr. FOSS. It refers exclusively to new ships and to payments on contracts already entered into.

Mr. LITTLEFIELD. The gentleman's question was, Does it include the ships now being constructed in the navy-yards as well, or are those included in the sixty millions? There are some under construction in the navy-yards, are there not?

Mr. FOSS. Yes; it includes those.

Mr. BUTLER of Pennsylvania. I understand the estimate which the gentleman has, which he furnished in answer to the inquiry of the gentleman from Maine [Mr. LITTLEFIELD], includes all the ships provided for in all the bills immediately preceding this bill?

Mr. LITTLEFIELD. Yes.

Mr. BUTLER of Pennsylvania. About seventy-five millions of dollars a year will maintain our Navy, personnel and matériel in the navy-yards.

Mr. LITTLEFIELD. The whole Department?

Mr. BUTLER of Pennsylvania. Yes.

Mr. LITTLEFIELD. And this will add about a million dollars?

Mr. BUTLER of Pennsylvania. I was so informed; about a million dollars a year.

Mr. GAINES of West Virginia. Does that include new construction from year to year to keep up the Navy?

Mr. BUTLER of Pennsylvania. I would refer the gentleman to the chairman of the committee, the gentleman from Illinois [Mr. Foss].

Mr. FOSS. Mr. Chairman, I will put this in my remarks to-day, so that everyone can see it and see what it covers.

Mr. LITTLEFIELD. While the gentleman is on the element of construction of naval vessels in the navy-yards, I notice in the report an item relating to the battle ship *Connecticut* where there is recommended an increased limit of cost, up to $4,600,000, being an increase of $380,000 over the limit of cost provided, made necessary by the increase of cost of construction in the navy-yards.

Mr. FOSS. Yes.

Mr. LITTLEFIELD. Has there been such experience so that we can now tell whether the Government can build in its navy-yards as cheaply as it can by outside construction, and if not, what the difference is?

Mr. FOSS. We have to-day a test which is going on between two battle ships. For instance, the *Connecticut* is being built in the navy-yard in New York, and the *Louisiana* is being built at Newport News. The chief constructor tells us that he will be unable to furnish us accurate figures until both ships are completed, but he states that the cost of the *Connecticut* will be greater than that of the *Louisiana*. That is, the Government ship will cost more than that constructed by private parties.

Mr. LITTLEFIELD. But is not able now to give the percentage.

Mr. FOSS. No; and he recommends this year that there be an increase in the limit of cost of nearly $400,000 on the *Connecticut*, and the committee recommends that, and has inserted a provision to that end in this bill. I may say in that connection, that upon all the ships which are to-day being built by the Government the battle ship *Connecticut* and the two training vessels and the colliers which have not yet been started we recommend an increase in the limit of cost.

Mr. LITTLEFIELD. What is the occasion of that?

Mr. FOSS. Due to the increased cost of Government construction.

Mr. LITTLEFIELD. Does that involve increased cost of material largely or increased cost of general operation of the yards other than was anticipated when the original estimates were made?

Mr. FOSS. No; we expected—the constructor expected—that it would cost more to build originally.

Mr. LITTLEFIELD. And it is partly on account of the fact that experience has demonstrated the accuracy of the expectations.

Mr. FOSS. Yes.

Mr. KNOWLAND. Mr. Chairman, is it not a fact that in the case of the two colliers for which an additional amount is asked that the increased cost has been largely due to the fact that since the original estimates were made the plans have been changed?

Mr. FOSS. That may be true to some extent, but I don't think entirely.

Mr. KNOWLAND. At the proper time, Mr. Chairman, I shall go into this entire question and show that the additional cost has not been due in the case of the battle ship and also the two colliers to the fact of their being built in the navy-yards.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. FOSS. Yes; for a question.

Mr. FITZGERALD. I wish to inquire whether the chief constructor, when he asked for additional money for the *Connecticut*, made a detailed statement of the objects for which it was necessary?

Mr. FOSS. He did not.

Mr. FITZGERALD. Is there any way that the gentleman knows of by which any Member of the House can obtain such information?

Mr. FOSS. Only by calling upon the constructor.

Mr. FITZGERALD. I understand that a Member of this House has done so and he has been unable to obtain that information; and the constructor has asked for an increase in cost of about 10 per cent at a time when the ship was more than 97 per cent completed. Some Members of the House would like to know why, with only 2½ per cent of the ship to be finished, more than 10 per cent of the original cost is asked.

Mr. FOSS. He can get that information, I think, from the chief constructor.

Now, Mr. Chairman, there is one thing I overlooked. I want to speak about the target practice in our Navy. It is important to have ships and, of course, it is important to have men, but it is still more important that the men in the Navy should be able to shoot straight, and I shall put in my remarks a statement as to the great improvement which we have been making during the last few years in target practice. I shall not read it, but I may say that we are indebted to Commander Sims for this improvement as much as to any one officer in the American Navy.

An examination of the records which have been made in great-gun shooting during the past three years shows a continuous and rapid improvement in the scores; and that this improvement has been genuine is indicated by the fact that the regulations under which all vessels have fired were practically uniform throughout this period, except for this year when, though the requirements were even more stringent, the scores made were higher than ever before.

The criterion in target practice is the number of actual hits made by a gun in a minute. The target is a canvass screen 12 feet high by 21 feet long, and no shot is counted a hit unless it pierces the canvas.

Each year it has been thought that certain guns had attained the limit in hits per minute that were possible with that type, but each year we have been gratified to see new records established with nearly every type of gun. This increase in hitting ability is due to the assiduous training and the target practices which have been carried out under the new system during this period, and also to improvements in ordnance.

Going back to 1898, when the Navy was using black powder, and when sights and other parts of the mechanism were poorly developed, our firing was both slow and inaccurate. At that time it was considered satisfactory if a 12-inch gun fired once in five minutes, a 6-inch gun in from 1½ minutes to 40 seconds, depending on the type, and other guns in proportion. In those days the target was 100 feet long by 25 feet high, and the percentage of hits was very small. With each subsequent improvement in ordnance the rapidity of hitting was somewhat increased, but it was only by carrying out systematic training and target practices that the present efficiency has been attained. For example, the heavy turret guns that were but a few years ago allowed 5 minutes in which to fire a shot have recently fired 3 shots and made 3 hits in one minute, while the 6-inch guns that were formerly allowed 40 seconds per shot have recently fired at the rate of 13 shots and 11.5 hits per minute. Eight-inch guns that were formerly allowed two minutes per shot have since attained a rapidity of 3.6 shots and 3.6 hits per minute. Five-inch guns which formerly fired two or three shots per minute have made 13 hits in that time, and 3-inch guns recently attained a record of 15 shots and 14 hits per minute. Six-pounders, which formerly were expected to fire five shots per minute have recently fired 25 shots and made 22 hits in a minute, firing at a target 8 feet high by 21 feet long. While it is thus shown that the most important guns—12-inch and 13-inch—now fire 15 times as rapidly as they formerly did, it must be remembered that at the same time the accuracy has improved to about an equal degree, for a high score in hits per minute can be made only when practically all shots that are fired make hits. Many ships now average between 75 and 90 per cent of hits with all their main-battery guns, whereas in former days the percentage of hits was rarely over 40, even though firing slowly at a target more than seven times as large as the present one.

Though the scores which are given above are the best that have been made with the respective calibers, they indicate the possibilities of these guns in the hands of men and officers who have been trained under the present system, and also what we may expect any man to accomplish who has had this training and has had the indispensable experience afforded by a number of target practices. It follows that with a changing enlisted personnel, which necessitates the continuous training of new pointers and new crews, these target practices must be continued if we are to maintain our present efficiency, not to mention increasing it.

The great increase in accuracy and rapidity means not only that we will be able to hit the enemy much more frequently in a given time, but that we will waste vastly less ammunition in action, for it has been found that under the present system increase of rapidity and increase of accuracy go hand in hand, and with the limited number of rounds which can be carried on a modern man-of-war this is of great importance. All of the advantages incident to this improvement have resulted from the systematic target practices (two practices each year), the improvements in ordnance, and the conscientious efforts which have been devoted to the training of the enlisted personnel, said training being based both on subcaliber firing and upon actual full-charge firing, the latter having been increased by a small percentage only.

Though it may be suggested that target practice could be held with reduced charges, it must be remembered that inasmuch as full charges must be fired in action, and inasmuch as the behavior and resistance of the gun, the gun mechanism, etc., is greatly affected by the force of recoil, it has been found that firing reduced charges creates a false sense of security and confidence in the weapons, and actually trains men under different conditions from those which will exist in battle. For this reason the Navy has for the past three years definitely abandoned the use of reduced charges. It is interesting to note that the leading foreign navies, though they have heretofore used reduced charges, have recently followed the custom of this Navy in using full charges for all target practice.

So various are the methods of target practice in different navies that it is difficult accurately to compare our results with those attained abroad; but it may be confidently stated, however, that the new methods of gunnery training which have been applied during the past three years have increased the hitting ability of our ships at least twentyfold, or 2,000 per cent, taking the average of all large guns, and it is believed that under target-practice conditions both our average scores and our best scores exceed those of any other nation.

In preparing the gunnery personnel of a ship for battle, experience has shown that two distinct stages of training are necessary. The first stage in gunnery training demands great skill on the part of gun crews to load rapidly and on the part of pointers to aim accurately and quickly, and this can not be achieved without firing the guns at target practice. The next stage demands skill on the part of those officers whose duty it will be to control the fire of the guns in battle, and similarly this can be accomplished only by holding special target practices under conditions resembling as nearly as possible those of battle. Each of these stages involve the expenditure of two separate amounts of ammunition, one for training the gun crews and one for training the all-important fire-control officers; and in order that at the critical time when our ships go into battle we may have both officers and gun crews who are thoroughly trained in their duties this expenditure is absolutely necessary.

Much can be and is done by the use of mechanical targets, loading machines, and subcaliber apparatus. In fact, the training of gun pointers and gun crews is accomplished almost exclusively by these means, but it is only by shooting the guns rapidly with full charges that we are able to train and classify our gun pointers, give our gun crews the experience of actual firing, learn and remedy the defects of our ordnance, and, most of all, give our officers the necessary experience in controlling fire at long and unmeasured ranges.

For the above purposes we require a certain minimum number of rounds per pointer per year. This number is very small. For example, the total number of rounds now required for the pointer of a heavy turret gun (from 13-inch to 8-inch caliber) is, on an average, 5 shots on record practice (for the training of the pointer and gun crew), 4 shots for the second practice of the year (for training fire-control officers), or 9 shots in all for each pointer. Similarly, for a 6-inch gun, the total number of rounds required is between 11 and 12. In order to attain the present accuracy and rapidity, experience has shown that each gun requires two pointers, one of whom gives his attention exclusively to pointing in direction and one in elevation; and as both of these men must be equally trained, the expenditure of ammunition *per gun* is double that given above per pointer.

It will therefore be seen that the number of rounds now expended is the minimum that could be fired with benefit to the training of the gun crew and the officer, and that to diminish this allowance would be to diminish at once the battle efficiency of our ships. It is popularly supposed that we now expend much more ammunition per pointer than during former years, but this is not the case, as the amount now required under the new system of training does not average more than 20 per cent greater than that formerly allowed. The increase in the total amount of money required for target-practice ammunition is therefore due almost entirely to the increase in the number of ships and the increase in the number of guns now carried by modern ships.

In this connection it may be well to state that our present expenditure *per gun* averages less than that of any of the principal navies of the world.

Now, Mr. Chairman, there is one question further that I desire to speak upon and that is upon the subject of the naval

programme authorized in this bill. Of course the committee realizes that there are many Members of this House who are in favor of building up the Navy much faster than other Members of the House. Some say we can not build the Navy too fast, while others, on the contrary, are of an opposite opinion. Now, the committee has sought this year to bring in here a proposition or to recommend a naval programme that would meet the fair judgment of the Members of this House, and in considering that question they have studied somewhat the lessons of the Japanese and Russian war. The highest naval opinion which we have upon that great naval war is that the battle ship is the real fighting ship of navies. Lord Selbourne, who was at one time the first lord of the English Admiralty, made this statement:

The lessons from the war in the Far East are the importance of the personnel, the necessity for having a margin of strength, and the fact that without battle ships no power can hold or win command of the sea.

The French naval authorities to-day are in favor of increasing their force of battle ships. For a great many years they ran to cruisers, torpedo boats, and all sorts of small craft, but to-day they are coming back to the battle ship. And so it is with the German naval authorities. They have recommended in their programme this year an increase in the tonnage of battle ships. Our own great Admiral Dewey, in an interview, in speaking of the lessons for the American Navy to learn from the Japanese and Russian war, said:

More big ships, more big guns, and good shooting. The American Navy needs more than anything else battle ships of 18,000 tons, carrying 12-inch guns, with a few, like 3-inch, for defense against torpedo-boat attacks.

The Admiral further stated:

I have changed my mind on this subject. When that programme came out I agreed with a great many other naval officers that we had ideal craft, ready to meet the enemy at each and every range, but I now realize that the modern battle is fought at a range of 3 or 4 miles, but at that range your 8-inch guns are nothing but so much dead weight on the ship. You might as well be firing with a pistol. No; it is the big ships such as the English are building and the big guns that decide the battle.

Now, Admiral Converse, as I stated a moment ago, one of the ablest officers in the American Navy, speaking of the lessons of the Japanese and Russian war, says:

A lesson of greatest importance taught by this war—the importance of the personnel—is likely, lest we be on our guard, to unduly magnify or minimize in our mind the value of various types of ships as exemplified by certain instances of the campaign. Upon the insecure conclusions derived from these an edifice of theory is erected, in the construction of which the principles which have governed for all past time, and which will always govern, are recklessly abandoned or shaped to meet the architect's plans.

As in the history of other great wars upon the seas, battle ships have in this war turned the scale of national success. Land battles, in which nearly three-fourths of a million of men have been engaged at once, have not settled as much as two fleet engagements.

The determining factor of war is sea power, and the determining factor of sea power is battle ships.

Now, what are foreign nations doing in this matter? I want to state briefly some of the recent building programmes. For instance, England has just launched the *Dreadnought*, a ship of 18,500 tons, carrying ten 12-inch guns. Germany's naval programme this year will be two battle ships of about 19,000 tons and one armored cruiser of 15,000 tons; France, six battle ships of about 18,000 tons, and some smaller craft. But this gives you an idea that the naval authorities of the leading naval powers are recommending large ships and large guns.

Mr. UNDERWOOD. Will the gentleman from Illinois allow me to ask him a question now?

The CHAIRMAN. Will the gentleman from Illinois yield to the gentleman from Alabama?

Mr. FOSS. Yes.

Mr. UNDERWOOD. I would like to ask the gentleman, if we build a ship or ships of the *Dreadnought* type, how many harbors in this country could that ship enter?

Mr. FOSS. Well, it would not be necessary to enter but a few. It could enter New York harbor, if I remember correctly. The harbor will have a depth of 40 feet. Now, the *Dreadnought* draws 28 feet.

Mr. UNDERWOOD. What is the number of feet that this ship that it is proposed to build will draw?

Mr. FOSS. About the same.

Mr. UNDERWOOD. Then, so far as the southern coast and the Southern Atlantic and Gulf coasts are concerned that ship could not go there at all; it could not protect that coast, because it would have no harbor that it could go in for supplies.

Mr. FOSS. That ship would never go into a harbor to protect the coast. That ship would meet the enemy out on the sea and give battle.

Mr. UNDERWOOD. It has to have a harbor to go back to in order to obtain supplies. It has to have a base of supplies.

Mr. FOSS. Our ships draw nearly 27 feet to-day.

Mr. UNDERWOOD. Well, I know, and for a large portion of our coast these ships that draw that much will have no harbor of refuge at all.

Mr. FOSS. There would be a few harbors in which the ship——

Mr. UNDERWOOD. And on account of the water they draw they could not defend a large portion of our coast line. But does the gentleman think it wise——

Mr. FOSS. They would defend outside; they would not defend inside.

Mr. UNDERWOOD. Does the gentleman think it wise to enter upon a naval programme to build ships that can not possibly defend at least three-fourths of the coast line of the United States?

Mr. FOSS. Well, I do not agree with the gentleman that it is necessary for a ship to be in the harbor to defend the coast line. I hope if we ever enter into a war with any nation that our ships will not remain in the harbor, but that they will go out and meet the enemy.

Mr. UNDERWOOD. Unquestionably; but we have got to have a harbor of supply—a harbor to start from.

Mr. FOSS. There will be plenty of harbors which this ship can enter.

Mr. UNDERWOOD. If I am correctly informed, I do not think there are any in the southern waters.

Mr. MEYER. I would state to the gentleman from Alabama [Mr. UNDERWOOD] that New Orleans is one of the harbors which that vessel will be able to enter, although there are now about 28 feet only, and in less than two years, long before this battle ship can be completed, she will have from 33 to 35 feet.

Mr. UNDERWOOD. I hope that in the course of time we will have much deeper harbors than we have now.

Mr. MEYER. But this work, I will say, is in the course of construction and will assuredly be completed within two years.

Mr. UNDERWOOD. Is it not a fact that the commanders of big naval vessels do not like to carry them to New Orleans to-day, even where they have a sufficient draft of water?

Mr. MEYER. They do not now, because they regard the channel at South Pass as somewhat narrow, but this new channel, the Southwest Pass, will be of ample width for any ship in the world. It is not something that is in doubt or in contemplation. It is something that is in the course of construction and will assuredly be completed within the next two years, probably in a year and a half, long before this battle ship which is proposed can be completed.

Mr. UNDERWOOD. That is only one harbor, and a dangerous harbor for battle ships.

Mr. MEYER. Pensacola has about 30 feet, I am told.

Mr. FOSS. Now, Mr. Chairman, in making up this programme and coming to a determination thereon, we considered the recommendations of the Secretary of the Navy and the different Navy boards. The General Board recommended that we build three battle ships this year, three scout cruisers, and some destroyers and torpedo boats—a programme which would have cost $35,960,000. Then the Board of Construction made a recommendation this year that we build three battle ships and some smaller boats, at a total cost of $28,700,000. Then the Secretary of the Navy made a recommendation this year that we build two battle ships, some scout cruisers and destroyers, at a total cost of $23,300,000. The Committee on Naval Affairs recommends this year one battle ship, and we believe that it ought to be a great battle ship, as powerful as any ship afloat, if not more so; and we recommend, in addition, three torpedo destroyers, and that $1,000,000 be put in the discretion of the Secretary to expend on subsurface or submarine boats after he shall have made a test as to the comparative merits of the different boats which may be presented.

Mr. SULZER. Will the gentleman yield to me for a question?

Mr. FOSS. I will yield to my friend from New York.

Mr. SULZER. I am a friend of the Navy, and favor an intelligent, up-to-date naval policy. I am in favor of building this new battle ship—the best, the fastest, and the most formidable battle ship in the world. Now, I wish to ask the gentleman from Illinois, the chairman of the Committee on Naval Affairs, if there is a provision in the bill directing where this battle ship is to be built—whether in a Government shipyard or a private shipyard?

Mr. FOSS. No; there is no such provision.

Mr. SULZER. Then will the gentleman advise us if there is any objection in having this battle ship built in a Government navy-yard, the New York Navy-Yard, for instance? I would like to see this done. I believe it will be greatly to the advantage of the Government in the long run.

Mr. FOSS. In the bill is a provision putting it into the discretion of the Secretary of the Navy to build it by private contract or in the navy-yards, and that is the recommendation which the committee make in the bill.

Mr. SULZER. Do you not think it would be wiser and better for the Government to build it in the New York Navy-Yard, because the Government has spent a great deal of money fixing up the navy-yard in New York, so that it could build a great battle ship, and in order to give it an opportunity to build the *Connecticut*, which it did build quicker and, I believe, better and cheaper in the New York Navy-Yard than it could be built in any private yard?

Mr. FOSS. I do not think cheaper. I believe that when we get the full facts that they will show, outside of the cost of fitting the yard up, that the cost of the *Connecticut* will be considerably more than that of the *Louisiana*.

Mr. LITTLEFIELD. Can the gentleman give me an approximate estimate of the difference in the cost?

Mr. FOSS. Well, it would probably be in the neighborhood of 8 or 10 per cent.

Mr. NORRIS. Which way?

Mr. FOSS. More than in the private yards.

Mr. NORRIS. That is, that the ship being built in the private yards costs less by 10 per cent than a ship of the same type precisely built in the Government navy-yard?

Mr. FOSS. Yes.

Mr. LITTLEFIELD. Which approximately makes about $600,000.

Mr. SULZER. Not at all. I differ from the gentleman in that respect. My information is that it costs the Government in the construction of the battle ship *Connecticut* about $305,000 more than it cost the Government for the construction of a sister battle ship identically the same, called the *Louisiana*, built at a private shipyard; but in that connection I desire to say that when the Government began the construction of this battle ship, the *Connecticut*, in the Government yard at New York the Government had to make many improvements, and the Government now has a great and efficient plant there, as good as any shipbuilding plant in any private yard in the country.

Mr. LITTLEFIELD. But were the improvements charged to the construction?

Mr. SULZER. I believe they are. Take it all in all, the difference in cost was very little.

Mr. FOSS. They were not charged to the construction of the ship.

Mr. SULZER. Then another thing in this connection. The Government at the New York Navy-Yard works the men only eight hours a day, whereas in private shipyards they work the men ten hours a day. Another thing, the Government pays a little higher wages to the skilled men in the New York Navy-Yard than they do in the private shipyards. These men who are employed in the Government navy-yard are skilled, competent mechanics, and we need these men in this country to build ships, not alone ships of war, but merchant ships; and it seems to me it ought to be the policy of the Government, whenever it is possible to do so, to build the Government's naval ships in the Government's own yards, especially where the Government can do it as well and as quick and as cheap as it can be done in private yards. I hope at the proper time the bill will be amended so that it shall provide that if this great new battle ship is authorized to be built she shall be built in the New York Navy-Yard and that she shall be called *New York*.

Mr. COOPER of Wisconsin. What does the gentleman think of this proposition, that without the Government yards it would be easy for the private yards to effect a combination and raise the prices above what they are to-day?

Mr. SULZER. I agree with the gentleman from Wisconsin. There is no doubt about the question. I want to say that if it had not been for the fact that the Government was building the *Connecticut* in its own shipyard, in competition with the private shipyard which was building the *Louisiana*, the price for the construction of the *Louisiana* would have been over $500,000 more. The Government yard should be maintained. It is a salutary check on the greed of the private shipyards and prevents combinations among them.

Mr. FOSS. Mr. Chairman, I should like to go on.

Mr. GOULDEN. Can the gentleman give the committee the contract price of the *Louisiana*, being built by the Newport News Shipbuilding Company?

Mr. WILLIAMS. Mr. Chairman, I rise for the purpose of suggesting that there is no quorum present in the Committee of the Whole.

Mr. KEIFER. Mr. Chairman, I make the point of order that the gentleman from Illinois in charge of the bill has the floor, making a speech, and the distinguished gentleman from Mississippi is not entitled to take him off the floor.

Mr. WILLIAMS. In reply to the gentleman from Ohio I wish to say that this House can not do business, even mere talking business, without a quorum.

Mr. KEIFER. I submit, Mr. Chairman, that the gentleman from Mississippi has not the floor for the purpose of taking the gentleman in charge of the bill from his feet.

Mr. WILLIAMS. I did not hear the gentleman from Ohio.

Mr. KEIFER. My point is that the gentleman from Mississippi has not the floor for the purpose of taking the gentleman from Illinois from his feet for any purpose.

Mr. WILLIAMS. It is a matter of privilege to make the point of no quorum at any time. The Constitution itself requires a quorum to do business, and the rules prescribe what a quorum is in Committee of the Whole.

Mr. KEIFER. Oh, well, it is a matter of right to make a motion to adjourn and to do various things, if a gentleman can get the floor; but he can not make a motion to adjourn every minute, and take a man off the floor simply because the motion to adjourn is privileged.

Mr. WILLIAMS. I have not made a motion to adjourn at all.

Mr. KEIFER. That is a matter of higher privilege.

Mr. WILLIAMS. I could make the motion to adjourn, but I can suggest the absence of a quorum at any time.

Mr. KEIFER. I submit that the gentleman was not recognized for that purpose.

Mr. WILLIAMS. I do not have to be recognized for it.

The CHAIRMAN. The Chair is of opinion that a question of order involving the presence of a quorum may be raised, and the Chair will count to ascertain whether a quorum is present.

After counting the committee, the Chairman announced 122 Members present.

Mr. KEIFER. That constitutes a quorum in the Committee of the Whole.

The CHAIRMAN. A quorum is present. The gentleman from Illinois will proceed.

Mr. GOULDEN. I should like to ask the gentleman a question, if he will yield.

Mr. FOSS. I will yield for a question.

Mr. GOULDEN. I wish to repeat my question, now that the committee has a quorum. What is the contract price of the *Louisiana*, built in a private shipyard, if you have the information convenient?

Mr. FOSS. I haven't it right here, but I will furnish it to the gentleman. It is $3,990,000.

Mr. GOULDEN. Are they asking for any additional sum by way of an increase over and above the contract price of the *Louisiana*, as they are doing for the *Connecticut* in the New York Navy-Yard?

Mr. FOSS. They are not.

Now, Mr. Chairman, I have but one word more to say. The committee has submitted what they regard as a modest programme. In view of the recommendations which were made by different boards of our Navy and by the Secretary of the Navy, we have submitted a most moderate programme. In fact, the Naval Committee is surprised at its own moderation. Not in a dozen years, whenever Congress has authorized a naval programme, has there been submitted a programme the tonnage of which is so small as the tonnage of this naval programme recommended this year. They believe this programme will satisfy the naval economists, and at the same time we believe that it will inspire the naval enthusiasts, because we recommend here a ship that shall be the largest battle ship in all the world if the Secretary chooses to make it so.

Mr. JOHNSON. Will the gentleman yield for a question?

Mr. FOSS. Certainly.

Mr. JOHNSON. I notice in your report that you say that $252,000,000 have been expended in the new Navy. What does the gentleman refer to as the "new Navy?" When did it begin?

Mr. FOSS. It began on the 4th of March, 1883. The authorization of the four battle ships, *Atlanta*, *Boston*, *Chicago*, and *Dolphin*, sometimes called the "A, B, C, and D of the new Navy," was made by an act of Congress at that time.

Mr. JOHNSON. We have now expended already $252,000,000?

Mr. FOSS. Two hundred and fifty-two million dollars has been expended.

Mr. JOHNSON. And those authorized and not completed will cost $52,000,000 more?

Mr. FOSS. Yes; making over $300,000,000 for the construction of the new Navy.

Mr. JOHNSON. Now, if it will not disturb the gentleman, I want to ask a further question. I notice that you have cut the estimate $21,000,000 from what the Department asked for. I

want to know if those cuts were made in departments where they will count, or are they in departments where the charges are fixed and later there will be a deficiency?

Mr. FOSS. No; we do not anticipate anything of that sort. We have cut only in those places where we could reasonably cut, and I explained in the early part of my speech just what particular items were reduced.

Mr. BURTON of Ohio. Mr. Chairman, I would like to ask the gentleman a question.

Mr. FOSS. I will yield to the gentleman.

Mr. BURTON of Ohio. I would like to ask the gentleman from Illinois this question: Is the shortage of men most noticeable in the ranks of the ordinary seamen or in the gunners or engineers and other branches of the service?

Mr. FOSS. I do not know that I can state accurately at the present time. As given here, the shortage is among the enlisted men. I should say probably the greatest shortage is not among the special classes, but among the seamen generally.

Mr. BURTON of Ohio. On page 15 there is a list of twelve battle ships under construction: At what date will those twelve battle ships be completed—that is, all of them?

Mr. FOSS. Of the twelve battle ships under construction mentioned on page 15, the *Virginia* is already in commission. The *Nebraska*, the *Georgia*, the *New Jersey*, and the *Connecticut* and the *Louisiana*——

Mr. LITTLEFIELD. They have all taken their trial trips, have they not?

Mr. FOSS (continuing). Ought to go into commission during the next few months. The *Connecticut* and the *Louisiana* will be ready in two or three months, and the *Vermont*, the *Kansas*, and the *Minnesota* will probably be completed during the next fiscal year. So that we will have comparatively few battle ships on the stocks at the close of the coming fiscal year.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BURTON of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended until he completes his remarks.

Mr. FITZGERALD. Mr. Chairman, does not the gentleman from Illinois control one-half of the time?

The CHAIRMAN. He does.

Mr. FITZGERALD. Then why has he not a right to occupy one-half of the time himself?

The CHAIRMAN. Because the rules of the House provide that no Member of the House shall speak more than one hour without unanimous consent. Is there objection to the request of the gentleman from Ohio? [After a pause.] The Chair hears none.

Mr. BURTON of Ohio. Mr. Chairman, I wish to call the gentleman's attention to the fact that two battle ships, the *South Carolina* and the *Michigan*, appearing on page 3 of the report, are to be completed in 1910. So that it appears that the present programme for authorized battle ships will not be completed until January 1, 1910.

Mr. FOSS. That is true. Those two ships were authorized last year, and they have just finished the plans for them.

Mr. BURTON of Ohio. Nothing has been done in the way of actual construction?

Mr. FOSS. No; the keel of neither one of them has yet been laid.

Mr. BURTON of Ohio. On pages 15 and 16 there is a list of vessels under construction. Are there armored cruisers authorized, in addition to this list, under construction?

Mr. FOSS. None. Two colliers and two battle ships.

Mr. BURTON of Ohio. No other boats authorized not under construction in addition to these?

Mr. FOSS. None others.

Mr. SPERRY. Mr. Chairman, I would like to ask the gentleman a question.

Mr. FOSS. I will yield to the gentleman from Connecticut.

Mr. SPERRY. I would like to ask the gentleman two questions. Are liquor rations served now on board of our vessels?

Mr. FOSS. I do not understand that they are. Grog has been abolished from the Navy for years.

Mr. BURTON of Ohio. Mr. Chairman, one further question. On page 15 there is a list of six armored cruisers under construction—the *California*, *South Dakota*, *Tennessee*, *Washington*, *North Carolina*, and *Montana*. At what date is it anticipated that the last of these armored cruisers will be completed?

Mr. FOSS. The date of construction of the *Montana*, the last ship, was January 3, 1905. The contract price was $3,575,000. The completion of the machinery plant is stated as January, 1908. The contract time is thirty-six months. It is the same for the *North Carolina*. The *Washington* and the *Tennessee* are August 9 and 10, 1906. The *California* and *South Dakota*, January 10, 1904. They were nearly two years over their contract time. In regard to the battle ships, I can give the exact time as far as they are concerned, if the gentleman wishes it.

Mr. BURTON of Ohio. If the gentleman would kindly state that, I would be obliged.

Mr. FOSS. The *Virginia*, already in commission, was two years beyond her contract time. The *Nebraska*, the *Georgia*, the *New Jersey*, and the *Rhode Island* should have been completed in February, 1904. They are over two years behind. The *Louisiana*, March 15, 1906. The *Connecticut* is not given here. The *Vermont*, the *Kansas*, the *Minnesota* should be completed in December, 1906; the *Mississippi* in March, 1907; the *Idaho* in May, 1907, and the *New Hampshire* in February, 1908.

Mr. LITTLEFIELD. Are those the contract times?

Mr. FOSS. Yes; these are the contract times.

Mr. LITTLEFIELD. So that it really does not necessarily show what the actual fact may be?

Mr. FOSS. No; but the gentleman was asking for the contract time.

Mr. BURTON of Ohio. Is it not true that in nearly all cases the dates of actual completion has been one to two years later than the contract time?

Mr. FOSS. Well, that has been due in a large number of cases, I would say to the gentleman, to the strikes and labor troubles, and also the delays in the furnishing of material.

Mr. BURTON of Ohio. Whatever the cause may be, is not that the fact?

Mr. FOSS. I think that has been largely true, that the ships have seldom been finished within the contract time.

Mr. BURTON of Ohio. When the date is given for completion, that includes the armor and armament?

Mr. FOSS. That includes the completed ship, as I understand it.

Mr. BURTON of Ohio. The equipment, as it is called, the putting in of the plant, such as coaling and provisions for living on board—is that included in this contract time?

Mr. FOSS. I am not sure. I think that is the time when the shipbuilder turns the ship over to the Government, and then so far as putting the supplies in and things of that sort is concerned, it is a matter of course for the Navy Department to regulate.

Mr. BUTLER of Pennsylvania. That only occupies a few days, I would suggest.

Mr. FOSS. Mr. Chairman, I think I have now covered the subject. I was going to speak further on some matters in connection with this bill, but I do not think I will take up further time.

Mr. LITTLEFIELD. Mr. Chairman, I desire to make an inquiry or two of the gentleman before he takes his seat. Are there any naval vessels that are now out of commission for any reason, especially because of the fact that they are not able to get sufficient officers and men to man them? I do not know what the fact may be.

Mr. FOSS. Well, I don't know that there are any from that fact. Of course there are a number of vessels out of commission undergoing repairs and things of that sort.

Mr. LITTLEFIELD. Oh, yes; but there are none so far as the gentleman knows out for any other reason.

Mr. FOSS. No.

Mr. LITTLEFIELD. I notice one or two small increases in salary and one or two increases in the number of offices in the bill. Can the gentleman give us, without too much trouble, about the time of the beginning of the reading of the bill, an estimate of how much the increase in salary is that is carried in the bill and how many offices are added?

Mr. FOSS. I do not think there is a single increase in salary in the bill. I would state that there is comparatively little new legislation in the bill.

Mr. LITTLEFIELD. There is at least one office created. That is where provision is made that the Secretary of the Navy shall expend $5,000 for legal services. That practically involves an attorney for the Department.

Mr. FOSS. That may not necessarily be an office.

Mr. LITTLEFIELD. I think it would be well if the gentleman could have his clerk prepare for us a little summary of the bill in that respect, showing the increased charge upon the Treasury by reason of any new offices that are created, and any increased charge upon the Treasury by reason of increase in salaries.

Mr. FOSS. I will have that done.

Mr. BUTLER of Pennsylvania. It was our purpose, was it not, that there should be no increase in salaries in this bill?

Mr. FOSS. I stated to the gentleman there has been no increase in salaries.

Mr. LITTLEFIELD. I think that is entirely probable, but I would like to get it in detail.

Mr. GOULDEN. Mr. Chairman, I understood the chairman of the committee to say that many of these ships were one or two or more years in being completed beyond the contract time.

Mr. FOSS. Yes.

Mr. GOULDEN. The question I desire to ask is this: Is there a penalty clause for failure to live up to the contract as to time in the building of these ships at outside yards?

Mr. FOSS. I think there is a penalty clause.

Mr. GOULDEN. One more question. Has the penalty clause ever been enforced?

Mr. FOSS. I could not inform the gentleman.

Mr. GOULDEN. I think it should be, of course.

Mr. FOSS. Mr. Chairman, just one word in conclusion. The committee felt this year that this is a very moderate programme and ought to receive the support of every Member of this House. Our interests on this hemisphere are great, and they are also great upon the other hemisphere, and it behooves our country to see to it that we are in a position always to protect those interests, and the authorization of this programme—not a large programme, but carrying, as it does, the construction of the great battle ship—will be a notice to all the world that we do not propose to forsake our interests on either hemisphere.

Now, that is all I have to say at this time on this subject. During a consideration of the bill under the five-minute rule, I shall be glad to answer any questions or to explain any parts of this bill which I may be able to do. [Applause.]

APPENDIX.

NAVY DEPARTMENT,
Washington, February 14, 1905.

MY DEAR MR. FOSS: I take pleasure in sending you herewith a copy of the report of the Board on Construction relative to the estimated cost of maintaining the Navy when all ships now under construction have been completed. I have sent a copy of this report also to Mr. J. E. WATSON, Member of Congress from Indiana, in response to his request for this information.

Very truly, yours, PAUL MORTON, *Secretary.*

HON. GEORGE E. FOSS, M. C.,
Chairman Committee on Naval Affairs,
House of Representatives.

NAVY DEPARTMENT,
BOARD ON CONSTRUCTION,
Washington, January 25, 1905.

[Subject: Cost, per annum, of maintaining Navy when all ships now under construction have been completed.]

SIR: Referring to the Department's memorandum of January 18, 1905, requesting estimates from the Board on Construction as to "what it would cost us per annum to maintain our Navy when all the ships now under construction shall have been completed," the Board begs to report as follows:

In attempting to prepare the estimates in the detail desired, great difficulty was experienced in arriving at the cost of supplies, repairs, etc., under each bureau, since the summary statements of expenditures submitted by the Bureau of Supplies and Accounts did not permit such a separation to be readily undertaken, and to arrive at approximately accurate results as to detailed expenditures under each bureau would have delayed the preparation of this report far beyond the time fixed by the Department.

The Board has therefore proceeded upon the following assumptions:

(1) That the increase of personnel will be such as to permit the placing and keeping in commission of all vessels now under construction, in addition to the three battle ships of the *Missouri* class, all cruisers of the *Chattanooga* class, four protected cruisers of 3,500 to 4,500 tons, fourteen gunboats and cruisers of from 1,000 to 2,000 tons, and about half the total number of small gunboats, torpedo-boat destroyers, and torpedo boats now on the Navy Register, with the same proportion of colliers, special-service vessels, tugs, etc., as now obtains.

(2) All battle ships now in commission, except those of the *Maine* class, will be regarded as in reserve or under general repair.

(3) The double and single turreted monitors now in commission will also be regarded as in reserve or under general repair.

The active fleet, therefore, for offensive purposes will be as follows:
Six battle ships of the *Connecticut* class.
Five battle ships of the *Virginia* class.
Two battle ships of the *Idaho* class.
Three battle ships of the *Missouri* class.
Six armored cruisers of the *Pennsylvania* class.
Four armored cruisers of the *Tennessee* class.
Three protected cruisers of the *Charleston* class.
Four protected cruisers of from 3,500 to 4,500 tons.
Six cruisers of the *Chattanooga* class.
Three scout cruisers of the *Chester* class.
Sixteen gunboats and cruisers of from 1,000 to 2,000 tons.
Eight torpedo-boat destroyers.
Twenty torpedo boats.
Two fleet colliers.

Of the above list, the following are now under construction:
Six battle ships of the *Connecticut* class.
Two battle ships of the *Idaho* class.
Five battle ships of the *Virginia* class.
Six armored cruisers of the *Pennsylvania* class.
Four armored cruisers of the *Tennessee* class.
Three protected cruisers of the *Charleston* class.
One cruiser of the *Chattanooga* class.
Three scout cruisers of the *Chester* class.
Two gunboats of about 1,100 tons.
Two training sailing vessels of 1,800 tons.
Two torpedo boats of the *Stringham* class.

In order therefore to arrive at some definite estimate of the total cost of maintaining the fleet, including the charges for maintaining all shore stations in connection therewith, the board has assumed that the current annual appropriations will suffice for maintaining the fleet as it now exists and under normal conditions, and in order to determine the total cost of maintaining the fleet when vessels now under construction have been completed, has made a separate estimate of the cost of maintaining in commission the vessels now under construction.

In making this assumption the board desires to make it clearly understood that the current annual appropriation for repairs and maintenance of the fleet must necessarily be increased by a definite amount in order to provide for the larger repairs to hull and machinery, armament and equipment, as the vessels now in commission deteriorate and are subjected to general overhauling. The amount of this increase can not be determined at this time, being necessarily contingent upon the character of the service, the number of vessels in commission, and the general wear and tear of the fleet during the next three and a half years.

Subject to these comments, the estimates submitted are believed to cover the actual cost of maintaining the Navy when all the vessels now under construction have been completed. The actual cost of maintaining in commission the vessels now under construction, including the pay of officers and men, and all charges of maintenance afloat, is submitted as a separate item, the basis of this estimate being the actual cost of maintaining in commission vessels of similar character now in service, allowing a proper percentage for increase in displacement and personnel for the ships now under construction, the total cost of maintaining the fleet as at present existing being the total of all appropriations of every character for the naval service, except those for "Increase of the Navy" and "Public works."

Cost of maintaining the naval establishment, as per appropriations 1904–5 and deficiency estimates	$54,004,000
Increase of estimates for maintenance, etc., submitted by the Bureau of Yards and Docks to cover extra cost of maintenance when public works now under construction are completed	301,000
Increase of estimates submitted by the Bureau of Medicine and Surgery to provide for increase in number of vessels in commission and hospital accommodations on shore	81,300
Increase of estimates necessary under the Bureau of Navigation and all working bureaus to cover incidental increase of expenses due to increase of work consequent upon enlarged fleet and personnel	4,595,000
Cost of maintaining in commission all vessels now under construction, including pay of personnel, coal for steaming purposes, etc	20,610,000
Total cost of maintaining fleet upon completion of vessels now under construction	79,591,300
Estimated decreased cost of maintenance of vessels now in commission which will ultimately be in reserve upon the completion of vessels now under construction	3,000,000
Estimated annual cost of maintaining the naval establishment upon the completion of vessels now under construction	76,591,300

With respect to that part of the Department's query requesting what proportion of the above charges will be for repairs, supplies, pay of officers and men, etc., the board begs to state that the consolidated statements of accounts are such as to render it extremely difficult to make a subdivision in the detail required by the Department, but so far as can be determined from the figures at hand, the approximate proportion of the above total estimate, for the various items enumerated, would be as follows:

Pay of officers and men	$32,000,000
Supplies of all kinds, both afloat and ashore, including coal for steaming purposes, provisions for the crew, etc.; also, repairs to the fleet, in all departments, and maintenance of shops and machinery plants on shore in connection with repairs to the fleet, and all incidental expenses in connection with the naval establishment	38,400,000
Ordnance	2,700,000
Target practice	1,300,000
Yards and docks, for maintenance and preservation	1,750,000
Medicine and surgery	441,300
Total	76,591,300

Very respectfully,

G. A. CONVERSE,
Chief of Bureau of Navigation, President of Board.
C. W. RAE,
Engineer in Chief United States Navy,
Chief of Bureau of Steam Engineering, Member.
W. L. CAPPS,
Chief Constructor United States Navy,
Chief of Bureau of Construction and Repair, Member.
H. N. MANNEY,
Chief of Bureau of Equipment, Member.
N. E. MASON,
Chief of Bureau of Ordnance, Member.

THE SECRETARY OF THE NAVY.

[Mr. MEYER addressed the committee. See Appendix.]

The CHAIRMAN. The gentleman from Virginia is recognized for one hour.

Mr. RIXEY. Mr. Chairman, it is not my purpose at this time to speak upon the naval bill. Later on I shall submit some remarks on the appropriation bill for the support of the Navy. I might add here, however, in passing, that since I have been a member of the Naval Committee I know of no time when the Naval Committee has given more careful consideration to the appropriation bill, and, so far as I am advised, the points of difference between the members of the committee are fewer than

usual and will, perhaps, provoke less discussion. Some amendments will be offered when these matters of difference are reached, but I do not apprehend they will take a great deal of time. At present, Mr. Chairman, I wish to take advantage of the indulgence allowed in general debate to submit some remarks upon several subjects of general interest—the tariff, rate legislation, and the necessity for Congressional investigation.

Mr. Chairman, in a speech delivered by me in this House on the 14th day of February, 1905, I said, speaking of the election of November, 1904, and of the attitude of the President and Congress in regard to the tariff:

Evidently there were those in the Republican party and high in its councils who did not construe the November victory as necessarily an indorsement of the existing tariff—fostering, sheltering, and protecting monopolies, trusts, and combines; or the present license to great railroad corporations by freight discriminations to make one man and break another; to build up one city and crush another, or to go on with the world-power idea, piling up expenses for the military, until not only the foundations of the Republic should be endangered by its military tendencies, but the very energies of the people would be exhausted in an effort to produce sufficient revenue to keep afloat the great war machines, support the land armies, and pay pensions.

Among the foremost of these Republicans who balked at the interpretation placed upon the result of the election by the "stand-patters" was the President himself, who, elected by an unprecedented popular majority, might well have construed it as not only a personal triumph, but an indorsement of all the Republican policies; but the President is known on some economic questions to be to some extent in accord with Democratic principles and tendencies.

No sooner was the result of the election announced than the President declared in effect that the contention that the tariff should be revised was well founded, and it was semiofficially given out that he would call an extra session of Congress in March to consider changes in the tariff schedules.

Consternation at once seized the "stand-patters." Their runners were sent in every direction. Conferences were held, and for a while it seemed as if the President had the upper hand; but he was prevailed upon to consult them, with the result that the project for an extra session of Congress in the spring of 1905 was abandoned, with the further announcement that it might be held later in the year—say in October.

So in this first tilt the stand-patters win out. We will see later on whether there is an October session of Congress, and, if there is, whether it is effective.

There can be no question but that the sincere advocates of tariff revision regretted the abandonment by the President of his intention to call an extra session of Congress in the spring of 1905.

They realize that delay is dangerous for the friends of tariff revision. Time gives opportunity for all the protected interests to get together to oppose all changes beneficial to the people and in many ways to disparage, lessen, or neutralize the influence of the President with the members of his own party. It does not require half an eye of prophecy to see that the President is stronger and more powerful and potent with his own party and with Congress now than he will ever be again during the remainder of his Administration. Backed by a tremendous popular majority, with many Republican Members indebted for their unexpected election to his popularity, it would be difficult, if not impossible, for the stand-patters to resist the demand of the President at this stage for a revision of the tariff. But twelve months hence how will it be?

Procrastination is not only the thief of time, but, I fear, is the thief of opportunity.

Mr. Chairman, the twelve months have come and gone, and apparently tariff revision by the Republican party is a mere "will-o'-the-wisp," vanishing as it is approached.

The "stand-patters," emboldened at their success in preventing revision of the tariff and in quieting the President on the subject, now boldly declare that they intend to prevent tariff revision prior to the Congressional elections, and whether it is had after that date will depend upon the result of the elections. The chairman of the Ways and Means Committee, and the Republican leader on this floor, in an open letter, dated March 24, 1906, to a leading Republican revisionist, which letter, given to the press and prepared presumably after consultation with the Speaker of the House, declared that—

Congress is not prepared to revise the tariff schedules in that calm, judicial frame of mind so necessary to the proper preparation of a tariff act at a time so near the coming Congressional elections.

He well knows that the next session—the last of the Fifty-ninth Congress—will be the short session, of only three months duration, and that Congress during that session will have all it can do to prepare and pass the appropriation bills. Whether there shall be a tariff revision after that date will depend largely upon the Congressional elections in November.

This is evidently the opinion of the Speaker of this House, for in a letter addressed to Col. John N. Taylor, of the Knowles, Taylor & Knowles Pottery Company, at East Liverpool, Ohio—an extract from which was published in the Washington Post under date of April 6, 1906—he said:

I am satisfied there will be no tariff revision this Congress, but it goes without saying that the desire for a change which exists in the common mind will drive the Republican party, if continued in power, to a tariff revision. I do not want it, but it will come in the not distant future.

If the gentleman from Illinois should be the Speaker of the Sixtieth Congress, and the same rules which now govern the House be adopted, he can prevent it, just as he has prevented the consideration of this subject by this Congress. He can do again what he did at this Congress—place upon the Ways and Means Committee, in the place of gentlemen known to favor revision, gentlemen whose only idea of revising the tariff is to revise it upward.

The only hope for tariff revision was bluntly and fairly stated by the Speaker in another statement given out April 6, 1906, and as many believed, because of the able speech by the gentleman from Illinois [Mr. RAINEY], which showed conclusively the necessity for reform.

In this statement the Speaker says, "If a majority of the people demand revision they will elect a majority of the Members of this House in favor of immediate general revision." And so say we all.

This position and determination not to revise the tariff is further emphasized by the fact that during the past week the Republicans put forward as their champions of the present high-tariff policy the gentleman from Illinois [Mr. BOUTELL], the gentleman from Iowa [Colonel HEPBURN], and the gentleman from Washington [Mr. CUSHMAN], all of whom declared in effect that the Republican party had no idea of making any concessions to the popular demand for a revision of the tariff. They one and all defended the schedules, especially on watches and steel, which had been shown to result in the selling of these articles abroad at considerable less prices than in the home market.

In giving protected interests the home market the people never contemplated that foreigners should be treated better in the matter of prices than the home consumers.

The responsibility is up to the people—placed there by the recognized leaders of the Republican party. The election of a Republican majority in the Sixtieth Congress means the same Republican leader on this floor [Mr. PAYNE] and the same Republican Speaker [Mr. CANNON] and a continuance of the Republican programme fairly and frankly announced by these gentlemen in the three statements referred to and given out for publication in ample time to give notice to all the voters before the elections.

The only hope for tariff revision is the election of a Democratic House, which means a Democratic floor leader, a Democratic majority on the Ways and Means Committee, and a majority pledged for tariff reform.

All hope for tariff revision or reciprocity by the Republican party may as well be abandoned. The last annual message of the President barely referred to the subject, showing that even he no longer expects his party to do otherwise than "stand pat" on the tariff. The people have no right to expect tariff reform if they elect as Representatives in Congress Republicans upon a high protective tariff platform.

It is more apparent now than ever that the only hope of the country for tariff revision lies with the Democratic party. Divided upon other questions, it is thoroughly united upon this subject, and is perfectly willing to accept the issue thus made for a revision of the tariff and for a reciprocity which will open to the United States the markets of the world, not only for the manufactured articles, but for the farm products of wheat, cotton, tobacco, corn, and cattle. The necessity for action in this direction is well set forth in the following paper prepared by a committee of twenty-seven prominent men appointed for that purpose by the national reciprocity conference held at Chicago August 16 and 17, 1905:

The farmers and stockmen of the corn belt and the range are not sharing in any fair degree in the undoubted prosperity that has come to the chief beneficiaries of the law as mutilated by a Senatorial minority. They are being robbed of markets for their surplus products which could be opened to them through the medium of reciprocal tariff concessions. For example:

Germany is the second largest buyer of food products in the world. She would probably take from $50,000,000 to $75,000,000 worth of American farm products annually under any fair scheme of reciprocity. France would buy perhaps one-half as much under reasonable trading arrangements. The American farmer has a $4,500,000,000 crop of cereals this year. The application of scientific methods is vastly enlarging our soil production. There is ordinarily an enormous surplus of farm products in excess of domestic wants. Heavy buying by Germany in anticipation of the closing of the ports of the Empire against us March 1, 1906, is helping our grain markets some just now, but what of the future? Let us quote from the Department of Commerce and Labor on the conditions to be met after the date mentioned:

"A series of notable increases affects agricultural products. Thus rye, the duty of which until now constituted the highest ad valorem rate, viz, 35 per cent, is advanced 100 per cent (i. e., to about 70 per cent ad valorem) under the new general tariff, and 43 per cent under the conventional. The specific duty on wheat, equivalent to 27 per cent ad valorem in 1903, is advanced 114 per cent under the new general and 57 per cent under the new conventional tariffs. The specific rate on wheat flour, which amounted to 35 per cent ad valorem in 1903, is raised 157 per cent in the new general (i. e., to about 89 per cent ad valorem) and 40 per cent in the conventional tariff (i. e., to about 48 per cent ad valorem). The duty of 1.60 marks on corn, which constituted 17 per cent ad valorem in 1903, is raised 212 per cent in the general tariff and 87 per cent in the conventional. The duty on dried fruit, which formed 9 per cent ad valorem in 1903, has been raised 150 per

cent under the new general and left unchanged under the conventional tariff.

"The rates on provisions have also been greatly advanced. Bacon, which hitherto paid the highest ad valorem in the list of provisions coming from the United States, viz, 23 per cent, is advanced 80 per cent in the new general tariff, while no rate is provided for in the conventional tariff. The duty on pork, which amounted to 21 per cent ad valorem in 1903, is advanced 176 per cent.

"The duty on beef, amounting to 15 per cent ad valorem in 1903, is raised 200 per cent under the new general and 80 per cent under the conventional tariff. Lard, with a duty of 11 per cent ad valorem in 1903, will be subject to a rate 25 per cent higher in the new general tariff, while in the new conventional the rate remains unchanged. Agricultural machinery, which pays on the average about 4 per cent ad valorem, will be subject to rates from 20 per cent to 88 per cent higher, according to the weight."

The conventional tariff referred to in this report applies only to those countries having reciprocal relations with Germany. The higher rate would apply to the United States. This conference goes on to state:

Indian corn is king in the agriculture of the Middle West. It can be best marketed in the form of meats, in the production of which we lead the world. It is all well enough to point to the enormous dividends and surplus of the iron masters and sugar refiners and to cite that as a good and sufficient reason for "letting well enough alone;" but the prospects of thousands of hard-working farmers in the great feeding and grazing States are not so alluring. Receipts of cattle at Chicago this fall have run from 10,000 to 30,000 head weekly in excess of the known home requirements, the result being heavy losses to growers. A market that can care for, say, 60,000 cattle per week at prices profitable to the producer can not digest 100,000. While this glut is seen at home, a meat famine exists in Europe. With train loads of bullocks selling as low as $3.50 per hundredweight in Chicago and with dressed beef wholesaled there at 6 cents per pound, live cattle and swine are worth in Germany 15 cents per pound. Surely there is something out of joint economically when such a state of affairs exists.

The country has been lavish in its protection to industries now gigantic, some of them world-dominating in their power. It is probably idle to appeal to them to be fair enough to concede that they no longer need so much protection. It will probably do no good to remind them that the farmers of the Middle West have stood steadfastly for all this protection all these years and that these same farmers could annually sell $100,000,000 worth more of breadstuffs and provisions in continental Europe alone if these same well-fattened industries would now consent to a "square deal."

McKinley in the last speech delivered by him said:

Our capacity to produce has developed so enormously and our products have so multiplied, that the problem of more markets requires our urgent and immediate attention. Only a broad and enlightened policy will keep what we have. No other policy will get more. In these times of marvelous business energy and gain we ought to be looking to the future, strengthening the weak places in our industrial and commercial systems, that we may be ready for any storm or strain.

By sensible trade arrangements which will not interrupt our home production, we shall extend the outlets for our increasing surplus. A system which provides a mutual exchange of commodities is manifestly essential to the continued and healthful growth of our export trade. We must not repose in fancied security that we can forever sell everything and buy little or nothing. If such a thing were possible, it would not be best for us or for those with whom we deal. We should take from our customers such of their products as we can use without harm to our industries and labor. Reciprocity is the natural outgrowth of our wonderful industrial development, under the domestic policy now firmly established. What we produce beyond our domestic consumption must have a vent abroad. The excess must be relieved through a foreign outlet, and we should sell everywhere we can and buy wherever the buying will enlarge our sales and productions, and thereby make a greater demand for home labor.

The period of exclusiveness is past. The expansion of our trade and commerce is the pressing problem. Commercial wars are unprofitable. A policy of good will and friendly trade relations will prevent reprisals. Reciprocity treaties are in harmony with the spirit of the times; measures of retaliation are not. If perchance some of our tariffs are no longer needed for revenue or to encourage and protect our industries at home, why should they not be employed to extend and promote our markets abroad?

Mr. WILLIAMS. Mr. Chairman, what the gentleman from Virginia is saying is said with a great deal of force, because he knows whereof he speaks. I am of the opinion that it ought to be listened to by a quorum of the committee. Therefore I suggest the absence of a quorum, Mr. Chairman.

Mr. RIXEY. Mr. Chairman, shall I proceed or wait?

The CHAIRMAN. The gentleman from Mississippi [Mr. WILLIAMS] makes the point that there is no quorum present.

Mr. RIXEY. I suppose it is not competent for me to waive the point of order——

The CHAIRMAN. The Chair will count. [After counting.] There are 103 Members present, a quorum. The gentleman from Virginia [Mr. RIXEY] will proceed.

Mr. RIXEY. In 1904 we exported over $37,000,000 worth of live meat animals to Great Britain and $94,000,000 worth of packing-house products—a total of over $130,000,000. In 1905 we exported to Great Britain 414,906 head of cattle. Since 1902 our exports to Germany of cattle on the hoof have stopped, due chiefly to the rigid inspection intended to exclude our cattle. The opening of this market would immensely help the price of cattle.

Our largest buyer is Great Britain and our next best is Germany. Our exports of bacon to Germany have decreased 50 per cent since 1898, though we exported in 1904 to that country over $25,000,000 worth of packing-house products, $6,000,000 of wheat, $2,200,000 of flour, and $72,000,000 of corn.

The report, referred to above, of the Department of Commerce and Labor shows the pressing and absolute necessity for immediate action in providing some reciprocal arrangement with Germany if we are to keep her as a customer. It is useless to say that she can not do without our products. She can look to the Argentine Republic, which is able of itself to furnish what cattle and pork Germany requires. That country already exceeds us in supplying beef to our principal market in Great Britain, and in a few years we must reckon with Canada. We should not sit supinely "upon the lid" and see the market of our second best customer in the world go to others, and that, too, as the result of our own stubborn and foolish pig-headedness. If we are to retain our friends we must show ourselves friendly. Our policy of exclusion should be relegated to the rear. We must regain and hold Germany, and should expand and extend our exports of farm products to other markets. Wise legislation, opening for our agriculture the markets of the world, will insure to the farmers unbounded prosperity.

I do not plead for the manufacturer. He already enjoys the markets of the world, and exploits the home consumer by exorbitant profits. The profits of the farmers are regulated and controlled largely by the foreign demand for his products. Some concession should be made, and that without protest by the manufacturing interests, in the matter of a reduction of the tariff rates in order that the foreign markets may be kept wide open for the unprotected farmer. This can be done by proper reciprocal relations.

It has long been contended by the Republican party that the tariff should be revised, if at all, by the "friends of protection." When will the protected interests voluntarily consent to lessen their profits, lower the tariff wall, and invite reasonable competition? Human nature is, as a general rule, the same everywhere under like conditions. The answer can well be that these things will be done in this way when the "leopard changes his spots and the Ethiopian his skin." It is useless to expect the beneficiaries of protection to "revise" their own protection. If I read the signs of the times aright, however, the time is fast approaching when the tariff will be revised by the friends of the people.

It is now late in the first session of the Fifty-ninth Congress, and the Republican party, through its chosen leaders in Congress, has stated in unequivocal terms that it intends to make no move in this matter for the protection of the farmer. Nothing will evidently be done until after the next Congressional election, and not then unless the people relegate some of the "stand-patters" to the rear and return, to the next Congress, Representatives pledged to reform of the tariff.

II.

Mr. Chairman, railroad rate legislation of some kind is, I think, reasonably well assured. The danger is that the bill which will become a law may not give the full relief it should, but be made so complicated and safeguarded and satisfactory to the corporate interests and so expensive to the shippers that it will be of little practical relief to them.

If an appeal is to be allowed in every case of a rate fixed by the Commission and, pending the appeal, the rate suspended, it will encourage railroads to appeal cases and prolong the appeals with the idea of making demands for reform so expensive that it will discourage the individual and shipper from complaining to the Commission of the railroad rate. Equipped with an army of legal retainers, costs in appeals, so far as the railroad is concerned, would be reduced to a minimum, while the expense of attorneys and the time and attention required would be too much for the individual. The fair thing is for the rate to go into effect after a reasonable time from the decision of the Commission and remain in effect unless and until reversed by the proper court. Under such a provision, which I trust will be adopted by the Senate, the inducement for useless appeals and applications for review would be largely removed.

The rate bill as passed by the House is more satisfactory than might have been anticipated, but there is still room for vast improvement, and the great debate in the Senate has shown the necessity for many amendments. The necessity for rate legislation was tersely stated by the Secretary of War, Judge Taft, in his speech at Cincinnati in November, 1905, when he said:

Men have been ruined; men have been made rich, *settlements have been destroyed; settlements have been enlarged to prosperous towns*, through the unjust favor of the managers of railroads.

Unjust discriminations are abhorrent, whether such discriminations are applied as between individual shippers or different

localities. All rates should be reasonable and so adjusted as to yield a fair remuneration to the carrier upon the actual, but not fictitious, value of his property. Competitive points rarely need protection, but it is unfair to build up the man or the city at the terminus at the expense and cost of the equally deserving man or city which has no competitive rate.

The shippers and passengers want no advantage of the railroads. They want fair treatment. Power by the bill will be lodged with the Interstate Commerce Commission (supposed to be an impartial tribunal of able men) to stand between the railroad and the people and do justice and enforce equity for each.

It is useless, however, Mr. Chairman, to shut our eyes and close our understanding to self-evident conditions and facts. The great corporate interests wield an immense power throughout the country. While it is proper that due regard should be had for these great interests, I have long since found out that these interests represented by the railroads, the trusts, and the combinations of capital will take care of themselves, and the representatives of the people need lose no sleep for fear injustice may be done combined capital. Justice is all the people want and frequently more than they get.

Mr. Chairman, a Representative who demands fair treatment and protection for the producer and the shipper is frequently denounced as a demagogue who would confiscate so-called "vested interests," especially in railroad property.

While it is true that the railroads are private property, it is only half the truth. The people who constitute the State are also interested in this kind of property. The railroads could not be built or operated without a grant called "franchise" from the State, which has the sovereign right to control and regulate them. The theory is that the franchise is granted for the benefit of the public, and it is the duty of the State or Government to see that it is not used for their oppression.

III.

Mr. Chairman, another menace to the welfare and prosperity of the country is the unbridled license to the great trusts. By combination competition is stifled and the purchasers placed at the mercy of the trust magnate. In this way enormous fortunes are accumulated and the masses are made that much poorer. We have no fight to make against the millionaire, except as he has taken unfair and unconscionable profits from his innocent victims, who, in giving him the home market by the high-tariff wall, have unwittingly placed themselves at his mercy and made themselves his easy prey.

We condemn the trusts and pass penal laws for their punishment, but penal legislation will not cure the evil.

Commissioner of Corporations James R. Garfield well says:

> It is impossible to prevent such abuses by purely penal legislation. This does not mean that the enforcement of the antitrust law has not been beneficial, for it has. Its enforcement has compelled some respect for the law, which, until recently, was wholly lacking. But so far as effecting a permanent change of the conditions which that law denounces, but little has been done. The imposition of a penalty upon a combination simply drives the men in that combination to the formation of another device for accomplishing the same purpose, and this for the reason that combination is an industrial necessity, and hence will be engaged in despite penal legislation.

The true remedy is a provision removing the tariff from any article controlled by a trust, and providing that the sale in foreign countries of articles, manufactured in the United States, at less price than sold to consumers here shall be taken as prima facie evidence that the commodity is controlled by a trust.

This would give us competition from abroad if we failed to get it at home. Enact such a law, and it will be respected. It will probably not be necessary to invoke or put it into operation.

The Republican party, however, owes perhaps too much to the great trusts and corporations to expect relief in that quarter. It doubtless owes to them its continued lease of power from 1896. The insurance investigation recently conducted in New York shows that one insurance company (the New York Life), without authority from its policy holders or directors, gave $50,000 to the Republican campaign fund in 1896, $50,000 in 1900, and $48,000 in 1904, and Agent Judge Hamilton says, and produces the receipt, that $75,000 was paid by him for this insurance company in 1896, thus making a total of $125,000 in the one campaign of 1896 by this one insurance company to defeat the Democratic candidate, Mr. Bryan. Another insurance company (the Mutual Life) gave $15,000 in 1896, $35,000 in 1900, and $40,000 in 1904. It does not yet appear what the Equitable and the Home Life contributed.

Altogether, I suppose, it is fair to say these four insurance companies of one city contributed in three campaigns half a million dollars. Who can tell what is the total of contributions by the insurance companies throughout the country? And this without Federal control! With Federal control, how much would not the Republican party have been able to extort for campaign purposes? Probably many more millions. It seems to me, after this evidence of greed and extortion, it is an exhibition of gall for the Republican party to ask for a law to provide Federal control of insurance.

It is stated that the national banks were assessed one-fourth of 1 per cent upon their combined capital and surplus, and in this way $2,000,000 was collected by the Republican party.

How much did the steel trust, the oil trust, the beef trust, the coal trust, and the great railroads of the country contribute in 1896, in 1900, and in 1904 to the Republican campaign fund? So many millions that even the Republican party, corrupt as it is, could not spend it, and common rumor, not denied that I have ever heard, has it that many thousands of dollars were left in the Republican national committee's treasury. What a commentary on the political party which preaches fair and honest elections!

In many of the States of the Union there are pure election laws, denouncing under severe penalties the use of money in elections, but the national Republican party has enacted no such law. There are signs, I am glad to say, of an awakening, however, and I trust the time will soon be passed when any political party can revel in its corruption and glory in the infamy of elections bought by money.

Wayne MacVeagh, a prominent Republican, and at one time Attorney-General of the United States, said in regard to the corrupt conditions in Philadelphia what is equally applicable to corrupt conditions in national affairs:

> Whoever helps to destroy the only basis in a republic for respect for law—a pure ballot and honest suffrage—by buying votes with money or office or any other form of corruption, is a traitor to the free institutions that our fathers founded, and his proper garb is striped clothing, and his proper place is the penitentiary; and whoever, in view of the appalling revelations of these days, continues to furnish political managers with the means of such corruption ought to be clothed in the same garb and occupy a cell in the same prison.

It is little wonder that a party which has perpetuated its lease of power by such methods should be responsible in its conduct of the public affairs for the corruption, pillage, and graft which seem ingrained into many of the great Departments of the Government. Instead of "public office being a public trust" it seems to be, under some conditions, that public office is an opportunity for private graft.

The analysis by ex-Attorney-General MacVeagh is correct, and it is refreshing to note that graft and misrule were so generally defeated and condemned in the elections of November, 1905.

When Philadelphia defeats the "gang," condemns graft, enforces an honest election and a fair count, we have the best evidence that "the vilest sinner may return." It is renewed evidence of the ability of the people to rule.

I would not make indiscriminate charges of corruption against the Government, its Departments, or its officials; but where there is sufficient evidence of corruption it should be exposed by a proper investigation made for that purpose. Why is it that the Republican party blocks every effort and demand for a Congressional investigation? There can be but one answer: The result might be damaging disclosures which would injure the political party now in power. Love of power seems to be stronger than a desire to punish the guilty.

How is it with the people? Will they be content to continue in power the political party under which this corruption and graft have flourished? Will they indorse the refusal of the Republican party for Congressional investigations?

The Post-Office Department was shown to be a web of graft and corruption, and men in high places made gains upon contracts for the Government; and yet a Congressional investigation was denied.

The Agricultural Department dismissed many of its important officials because they too had been making use of their position for personal gain; and yet a Congressional investigation was denied.

The Interior Department, more energetic perhaps than the others, not only has had to dismiss some of its officials, but has flushed bigger game, and several United States Senators and two Members of the House of Representatives have been indicted for dealings with the Departments contrary to law; and yet a Congressional investigation was denied.

The Government Printing Office has had its scandals so recently aired, that it seems useless to refer to them at length. Quiet was only restored by the resignation of the Public Printer, brought about, it is stated, upon the request of the President himself; and yet a Congressional investigation was denied.

There may not be graft and corruption in the other great Departments of the Government, and then there may be.

If there is not, investigation under authority of Congress should disclose it, and no one would be hurt. But if there is wrongdoing, and the Government has been and is still being robbed by its agents, such an investigation should show it and secure the conviction and punishment of the guilty.

The results of the elections in November, 1905, especially in the States of Ohio and Pennsylvania and in the city of Philadelphia, afford ground to hope that there is still a healthy, honest, and vigorous requirement for clean politics and honest officials. What has been done in the rock-ribbed Republican stronghold of Pennsylvania can be done in the country at large. Let the people demand not only honest politics and honest Government, but prompt investigation. Within the past few days there have been evidences of an awakening; resolutions directed against the railroads in their monopoly of the coal and the fixing of prices for this prime article of necessity have passed both Houses of Congress. Perhaps an awakened public opinion will force Congressional investigations where peculation and graft have been shown to exist. Hew to the line in this and other cases, and let the chips fall where they may. The Government is the people's and its officials their servants. They have a right to know whether their agents measure up to the standard of the faithful steward not only in their personal integrity, but in the earnest protection of the interests of the public. [Loud applause.]

Mr. FOSS. Mr. Chairman, I yield to the gentleman from Ohio [Mr. GOEBEL].

Mr. GOEBEL. Mr. Chairman, immigration and naturalization necessarily go hand in hand and are subjects of vital importance to the welfare of our common country. I am a firm believer in stringent immigration laws and in the strict enforcement of them. Several bills are now pending in this House on that subject, and I hope that in the near future some legislation will be enacted which will have a tendency to check the influx of an undesirable class of aliens. It is indeed unfortunate that, notwithstanding our present laws, we have received such a large and very undesirable class of foreigners. They are necessarily a menace to good government; and there is evidently a defect somewhere in our present system which has enabled this class of aliens to land in our midst.

But, Mr. Chairman, that subject is not before us at this time. We are now considering the bill introduced by the gentleman from New Jersey [Mr. HOWELL], as reported by the Committee on Immigration and Naturalization, which provides, in part, for a uniform rule of naturalization of aliens throughout the United States. I shall address myself especially to section 9 of the bill, which provides, among other things, "that no alien shall hereafter be naturalized or admitted as a citizen of the United States who can not write in his own language or in the English language, and who can not read, speak, and understand the English language." The reason urged for this provision is found in the report of the committee, which reads as follows:

> It has seemed to your committee that any alien of ordinary intelligence who desires to take advantage of these opportunities and to fit himself for citizenship in our country could, in five years' residence, which is required in the country before he can apply for naturalization, acquire sufficient education to comply with the requirements that he shall be able to either read in his own language or in the English language and speak, read, and understand the English language. If an alien be so deficient in mental capacity as to be unable to meet that requirement or so careless of the opportunities afforded him, it is the opinion of your committee that he would not make a desirable citizen and should be refused naturalization.

Mr. Chairman, no one will contend, as an abstract proposition, that it would not be better for the individual that he speak, read, and understand the English language; not because, in my judgment, it would make him a better citizen of the United States, but because it is the language of our country, and with it he ought to be familiar. But I resent the imputation that the absence of that requirement makes him an undesirable citizen and, therefore, naturalization should be refused him. You will observe that by this bill, although an alien may be of good moral character, a firm believer in our form of government, and willing to support and defend the Constitution and laws, and who may possess all the other qualifications of good citizenship, yet, lacking this one qualification, namely, to be able to read, speak, and understand the English language, is absolutely disqualified. Again, has it occurred to the gentlemen advocating this measure that this is discriminating in favor of the English-speaking as against the German and every other non-English-speaking alien? Why this discrimination? Why discriminate, for instance, against the Germans? Have they now become so undesirable for lacking the qualification required in this bill; and why were they not so at any other time? Read the history of the United States and you will acknowledge that the Germans have taken an honorable part in the development of our nation; in the tendency toward government for the people and by the people and in the development of national and individual prosperity the German influence has made itself felt.

The German thought tends to strengthen the feeling that implies not only right, but duty. They have never wavered in their loyalty, and in that respect never gave blind obedience to any creed, party, or class, but ever marching on to a higher aim of the moral and intellectual growth of this nation. The share of the German in the wars of the United States is by no means limited to the rebellion. From the very beginning of their settlement in this country they have always stood ready to take their place in its defense. They took a full share in the war of 1812 and in the Mexican war, and at all times gave freely of their men and their means to the cause of liberty in the war of the rebellion, and wherever they were strongest in numbers they gave more than the proportionate strength to the forces raised for the defense of the Union. In those days the question was not raised whether he could read, speak, and understand the English language. I point with pride to my German fellow-citizens and to their history, that in war and in peace they have always done their duty.

But, Mr. Chairman, it is here urged that if an alien is so careless of the opportunities afforded him as not to be able to read, speak, and understand the English language naturalization ought to be refused to him. The fact is lost sight of that he may not have the opportunities; or that he may not be able to avail himself of such opportunities. It is no answer to say that if he does not understand our language, how can he understand our form of government and its requirements of him as a citizen?

Let me say to you that newspapers and other publications printed in his own language give him the desired information. By assimilating and coming in contact with our own people he is soon informed of the requirements of a citizen under our form of government. But, Mr. Chairman, we are dealing here with naturalization affecting Federal citizenship, as distinguished from State citizenship, and there is a wide distincton between the two. One carries obligations of a different nature than that of the other. But before discussing that proposition let me say that this bill does not provide for an examination or test. It would therefore depend entirely upon the judge before whom the applicant appeared whether he can, at least to his satisfaction, read, speak, and understand the English language. In no instances, therefore, it will be observed, would such an examination or test be uniform. One judge may fix a high standard, while another may be more lax in the requirements. Again, an applicant may be able to speak and understand the English language, but not be able to read it; for, mark you, he must be able to read, speak, and understand the English language. How accurate shall he be in his reading, speaking, and understanding? Suppose the judge shall require as a test that the applicant speak correctly the name of the gentleman from Colorado [Mr. BONYNGE], or speak correctly the name of the gentleman from Hawaii [Mr. JONAH KUHIO KALANIANAOLE], would the gentleman from Colorado insist that that individual would not make a good citizen, possessing all the other qualifications, and that naturalization ought to be refused him? It can be readily seen to what absurdities this provision may lead, and the only way to obviate that condition is to establish a board of examiners, nonpartisan in its character, who shall be governed by uniform rules, so that in the examination there may not enter the whims and prejudice of a partisan or the hatred of one against a class.

Now, Mr. Chairman, coming to the proposition to which I have already alluded, I contend that as Congress can only deal with Federal citizenship the educational qualification prescribed in this bill is not essential to Federal citizenship and that it was never contemplated by the Congress. In the first place, what is citizenship? It has been defined as "the status of a citizen, with its rights and privileges." "He is a member of a nation or a sovereign state, especially a republic, and one who owes allegiance to a government and is entitled to protection from it." (See Standard Dictionary (1898); Webster's Dictionary; Century Dictionary; 6 Am. and Eng. Ency. of Law, 2d ed.)

It does not necessarily follow from this definition that the grade or quality or privilege of citizenship must be identical in all citizens, even in a republican government. In many cases arising under our system it has been repeatedly decided that the bestowal of political privileges upon an individual is not essential to constitute him a citizen. (*See Wise on Citizenship, p. 3, and authorities there cited.*) There are two kinds of citizenship in this country, *national* and *State*, each distinct from the other. A person may be a citizen of the United States without enjoying State citizenship and the special rights

and privileges which State citizenship confers. For prior to the adoption of the fourteenth amendment to the Constitution of the United States no mode existed of obtaining citizenship of the United States except by first becoming a citizen of some State; but after the adoption of the fourteenth amendment that controversy was set at rest, for that provision defines and declares who shall be citizens of the United States, namely, "all persons born or naturalized in the United States and subject to the jurisdiction thereof."

Congress is empowered by the amendment to enforce, with appropriate legislation, its provisions, and it did so by enacting "that all persons born in the United States and not subject to any foreign power, exclusive of Indians not taxed, shall be citizens of the United States." Whatever special rights and privileges it may be within the power of a State to confer upon its citizens, there are certain constitutional rights which all "Federal citizens" enjoy in common, whether they are citizens of a State or not. As to all common rights, the Federal Constitution establishes an equality between all persons, although it may be unable to confer equality as to other privileges. These rights in common are known as privileges and immunities and are fundamental in character. Federal citizenship may be acquired by inheritance, by marital relations, by the union or transfer of foreign territory, by naturalization, by treaty, by special act of Congress, by the admission of a Territory to statehood. Such a citizen owes to the Government allegiance, service, and money by way of taxes. The Government in turn grants and guarantees him liberty of his person and conscience, the right of acquiring and possessing property, security in person, estate, and reputation. Anyone may be a citizen of the United States and yet not of any particular State, but not vice versa. The Supreme Court of the United States, in what is known as the "Slaughterhouse case" (16 Wallace, 36), held that "not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within a State to make him a citizen of it; it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union." Federal citizenship is totally unconnected with the right of suffrage or the elective franchise. It does not confer the right to vote. Federal citizenship confers no political rights whatever. Civil and political rights have been definitely disassociated by the fourteenth amendment. This view was strongly maintained long before the adoption of the fourteenth amendment by the minority in the Dred Scott case, who held that a slave's lack of political rights did not prevent his being a citizen with a right to sue in the courts. This, however, is no longer disputed.

A Federal citizen owes only a duty to the General Government, and that is limited in its extent. It must be remembered that the Federal Government has no greater power than that which the States have expressly granted and that all other powers have been reserved by the States. We must, therefore, conclude that the powers so granted are never exclusive of similar powers existing in the States, except when exclusive powers have been given, or the exercise of like powers is prohibited to the States, or when there is a direct repugnancy or incompatibility in the exercise of it by the States.

A closer sudy of the question will reveal how little has been conferred upon the Federal Government as to the right of creating Federal citizenship and how much has been retained by the States; for let me repeat that Federal citizenship requires only fidelity and obedience by the individual to his Government; he must bear his burden necessary to sustain the Government by the payment of taxes, and he must be ready to bear arms or render other personal service for the common defense and for the security of the liberties and general welfare of the Government. In return for this he receives the protection of his Government in the manner that I have already indicated.

I pause now to ask whether in conferring Federal citizenship, or whether in the enjoyment of the rights which such citizenship confers, it is essential that the beneficiary be able to read, speak, and understand the English language, and whether such qualifications (if you may so term it) are essentially prerequisite to conferring citizenship and in the enjoyment of it. I contend that it never was contemplated by the States that any greater power be conferred upon the Federal Government in that regard than was absolutely necessary to safeguard the Government against an alien of bad character and not disposed to the good order and happiness of our Government; and that it was left to the State to enact all further restrictions, and this must be apparent.

The present acts of Congress relating to naturalization of aliens, except as to the amendments relating to the thirteenth and fourteenth amendments, has been in force for more than one hundred years. It has stood the test of time and expediency. What necessity is there for engrafting upon the Federal statutes such a qualification? Why not leave it, as it has been left, to the States to regulate, though Congress has the power to so prescribe? It might with some force be said that the educational qualification is essential in the exercise of political rights. Its wisdom, however, I question. These political rights, however, are conferred by State citizenship, as I have stated, and not by Federal citizenship. These rights were reserved by the States. Although the Federal authority within its scope is supreme and beyond the States, it can not prevent nor secure to its citizens rights and privileges which are not expressly or by implication placed under its jurisdiction. Therefore one of the greatest privileges of a State citizen is the right of suffrage, or the elective franchise. This, I have shown, is not conferred upon a Federal citizen. The privilege of voting arises under the constitutions of the States and not under the Constitution of the United States.

It is within the power of the State to prescribe the qualifications of a voter, and the power is almost without limitation. In some States the right to vote has been granted to persons not citizens. It can restrict the right to either sex or give it to both. The State may go to any length in determining the qualifications of voters. The United States circuit court, in the case of The United States against Anthony (11 Blatchford, 205), held that a State may, without violating a right derived from the Federal Constitution, provide that no person having gray hair or who has not the use of all his limbs shall be entitled to vote. The only restriction upon the States is that they can not exclude a citizen from the enjoyment of the franchise on account of race, color, or previous condition of servitude. It is true that a citizen of a State owes a dual allegiance, but the nature of the obligation is different.

I have tried to draw a distinction between a Federal citizen and a State citizen, and that the former has only civil rights while the latter has both civil and political rights. The qualifications prescribed by section 9 of this bill can have only a bearing or relate to the exercise of political rights, and hence are not essential or prerequisite to Federal citizenship.

Entertaining these views, I shall, at the proper time, move to strike out the objectionable feature. [Loud applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. DICKSON of Illinois having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 395) concerning foreign-built dredges, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. FRYE, Mr. GALLINGER, and Mr. BERRY as the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 4983. An act granting an increase of pension to John M. Farquhar;

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River in the States of Virginia and Tennessee; and

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River in the States of Virginia and Tennessee.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

Mr. FOSS. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. BATES].

Mr. BATES. Mr. Chairman, the American people desire a strong navy. The present bill carries items for maintenance and increase, and in all an expenditure of about $100,000,000. This desire on the part of our people for an efficient and constantly increasing naval establishment is not for the purpose of aggressive warfare, but in order that peace and tranquillity may obtain and our rights as a nation be observed. An inefficient navy will not answer this purpose.

An efficient army and navy or State militia is of value, not for the purpose of making war but for the sake of preserving peace. We are at present appropriating nearly $100,000,000 annually for the Navy; about seventy-one million for the Army; about twelve million net for the postal service, including free rural delivery. We are paying out for pensions about one hundred and forty million; for encouragement of agriculture about seven

million; for civil establishment about sixty-seven million; we also make fair appropriations for public buildings and rivers and harbors. We have advanced a large sum in behalf of the isthmian canal. It costs something to administer the affairs of the Government of the United States. The annual appropriations are about seven hundred million. We can congratulate ourselves on having sufficient revenues to make these vast expenditures. Never before have we had sufficient money to carry on such great operations. And yet almost daily attacks are made on our system of revenues which makes these things possible.

It is in the nature of things that individual citizens as well as particular interests should object to paying what others may consider their full share of the public revenue. Town councils and boards of revision and appeal are continually hearing protests of citizens who think that their property is assessed or charged unduly. Legislatures meet in the several States and consider long and earnestly whether this or that species of property shall bear a greater or less burden of taxation. We have heard in this session the words "the damnable principle of protection," followed by cheers on the Democratic side. There have been specific protests. Gentlemen plead strongly for a reduction of internal revenue on tobacco, "a mere matter of a million or so," and others would welcome more moderate charges on distilled or other liquors. Those interested in manufacture of goods would have the tariff taken off raw materials; while some consumers claim that a reduction on manufactured goods would lessen the cost of the product. The gentleman from Mississippi [Mr. BYRD] made the unique argument that the farmers are being robbed because of a tariff on agricultural machinery and implements, as if these articles were ever cheaper to the consumer than now or could be under any circumstances. The fact is that the American farmer never obtained such uniformly good prices for all that he sells as he does to-day, and never would his products purchase so much by way of tools, machinery, and in fact all he has to buy, than now. If there is one class of people at present satisfied with the conditions brought about by Republican policies and Republican control, it is the American farmer.

It seems to be a popular position to oppose and attack every form of tax and impost and to vote for every apropriation bill. Rural free delivery is a splendid thing. The country demands a greater Navy. Governmental aid for expositions finds much favor, and we all will hail the day when the waters of the great oceans shall mingle across that narrow Isthmus. But if all the voices of argument and pleading that have been heard in this House, even in this session, protesting against specific burdens whereby the public moneys are raised should prevail, we would suddenly find ourselves without sufficient ways and means to continue our present scheme of government and awake to find a bankrupt Treasury. This all shows that the scheme of raising revenue is composite; that it is the product of many men of many minds, a yielding of individual judgments and opinions for the good of society and the State.

Great importance is sought to be attached at present to the oft-repeated statements that some American producers are selling abroad cheaper than at home. No denial or apology needs to be offered in this respect. It has been pursued by other nations for hundreds of years, in fact, by all the manufacturing nations of the earth, and without any reference to whether they operated under a protective tariff, a revenue tariff, or absolute free trade. England pursued this course in former days. In 1816 Lord Brougham, in a speech in Parliament advocating the increased exportation of British goods to the United States, declared that "it was well worth while to incur a loss upon the first exportation in order by the glut to stifle in the cradle those rising manufactures in the United States, which the war had forced into existence." In 1854 a British parliamentary commission reported as follows: "The laboring classes generally in the manufacturing districts of this country, and especially in the iron and coal districts, are very little aware of the extent to which they are often indebted for their being employed at all to the immense losses which their employers voluntarily incur in bad times in order to destroy foreign competition and to gain and keep possession of foreign markets."

The matter has been investigated in this country, and four years ago a nonpartisan commission was appointed to investigate the subject. In April, 1904, Senator GALLINGER, in a speech in the Senate, placed the value of exports sold at a lower price abroad than at home at $4,000,000. The correctness of this estimate has never been questioned. Our aggregate manufactures were placed by the census of 1900 at $13,000,000,000; they are doubtless larger now. On the figures given, however, the amount sold abroad cheaper than at home would amount to one-thirtieth of 1 per cent; that is, for every $1,000 worth of manufactured products about 30 cents worth is sold abroad cheaper than to our own people. The amount is so small compared with the aggregate output of our factories as to be unworthy of consideration.

The report of the Industrial Commission shows that some of these articles are protected in this country by patents and are not so protected in the foreign market. The fact is that in this country many manufacturers, such as those of harvesters, mowers, and reapers, employ their own salesmen, and therefore quite a considerable percentage of the cost to the consumer goes to the salaried general agents, the well-paid selling agents, and the cost of collections of notes and occasional losses. When a manufacturer sells 1,000 or 10,000 machines abroad, all this vast item of expense is saved, and the distribution in foreign lands is effected on a much more reasonable scale.

Nearly every class of goods brought into this country can be bought for export to this country at a lower price than the regular foreign market. This is true in tariff-for-revenue England as in France and Germany.

During the fiscal year 1904 $35,000,000 worth of merchandise was imported at New York below the foreign market value, and the importer voluntarily added $1,500,000 to the invoice to make market value as to confessed difference between the price actually paid and the regular foreign market value, and the Treasury officials added thereto an additional $400,000 and imposed and collected a penalty of $400,000.

These goods thus sold by foreign manufacturers cheaper for export to our country than for the home consumption included cotton goods, woolen goods, silk goods, linen, trimmings, velvets, hosiery, rugs, furs, cutlery, glassware, jewelry, furniture, wool, hides, chemicals, machinery, iron, and steel, and in fact almost every class of articles from all countries.

This special commission to which I have referred seem to have made a most careful investigation. They obtained testimony concerning a large number of manufacturing establishments in all parts of the country. From the hundreds of answers received from the different manufacturers most careful compilations were made.

In discussing the testimony adduced the Commission says: "A great majority of the answers indicate that prices are no lower abroad than they are for domestic consumers, and a considerable number indicate that foreign prices are higher."

The argument that the tariff should be taken off those goods which are sold abroad cheaper than at home is fallacious and unwarranted. Such a course would destroy our home manufacturing industry, which employs about 6,000,000 wage-earners, and pays to them about $3,000,000,000 per annum, merely because the manufacturers are willing to forego their profit on a very small percentage of the value of their products in order that they may keep labor employed, and also by increasing the employment of labor through the additional markets which they naturally obtain by such foreign sales.

The president of the great exporting firm of Flint, Eddy & Co., New York, Mr. C. R. Flint, said in his testimony before the Industrial Commission:

> There are times when there is a surplus, when manufacturers will seek a foreign market at a concession. This is true in all manufacturing countries. It does not apply especially in the United States, but it is true in all countries. It is true in England, where there is free trade.

Being asked if there was any difference in that particular between trust-made goods and goods made independently of trusts, he replied that—

> There was far more of a disposition to make concessions before these combinations from the fact that individual manufacturers were under more pressure of necessity to realize on their investments. The great industrial combinations, by reason of the great advantage they have in regulating production, avoid excessive production, and therefore are less likely to be under financial pressure.

United States Consul-General Richard Guenther, in a report to the State Department a few months ago from Frankfort-on-the-Main, Germany, said:

> The manager of a large carbon works writes to the Daily Mail in reference to a proposition of a German firm to establish in England large works for the manufacture of carbons for electric arc lamps that the English factory at Whiton, near Birmingham, has for the past two years turned out carbons for the Government, municipalities, and other users of a quality and prices which compete with German manufacturers.

He adds:

> The amount of "dumping," with a view to killing the carbon industry in this country would astonish the most inveterate importer. Foreign manufacturers sell at something like 40 per cent cheaper than in their own country.

The statement is made that steel rails are sold cheaper in Canada and Mexico than on our own soil. The reason for this is that steel rails at those two points are sold under the sharpest competition. It is the competition with cheap labor. It

is not a question with the American manufacturer of selling even at a fair profit in such a market, but rather the question whether he will yield the market at such points and allow foreign competitors to gain a foothold. An additional fact is that the Canadian government is now paying bounty, or bonus, to their own manufacturers—$3 per ton on pig iron, and $3 per ton on steel ingots.

Under these conditions, in the face of a bounty and cheap labor, the American manufacturer considers it business policy to hold such a market rather than yield it to his competitors.

The testimony before the Merchant Marine and Fisheries Committee during the month of April, 1906, brought out the fact that the price of steel rails in England and Great Britain is $31.50, and the export price in Great Britain is $25; in Germany the home price is $30, the export price, $24; in France the home price is $31, the export price $25.50; in Austria the home price is $31, the export price $25.50; in Belgium the home price is $30, the export price $25; in the United States the home price is $28, the export price $26.60.

These figures are from authorized publications which give the price from time to time. It was further shown that the United States Steel Corporation only manufactures about 60 per cent of the entire output in this country, the rest of the field being occupied by rival independent concerns. This commission further reports:

EFFECTS OF TARIFF REMOVAL.

Removal of the tariff, even in any single industry, should not be lightly considered. When the tariff is essential to any industry its removal would doubtless kill not only the combination, but the industry itself, bringing upon the country attendant evils. Even if the industry is not killed, if severe pressure is brought to bear the industrial combination will not be the first victim, but rather its domestic competitors possessed of less advantages in manufacturing or less financial strength to withstand competition.

The removal of the tariff, then, will not abolish combinations unless it abolishes the industry. The domestic competitors of combinations might be largely cut off by tariff reductions or removal, and the combination survive with moderate profits, and yet be forced to sell its products to domestic customers at much lower prices. But this sharpening of foreign competition by the removal of the tariff would, beyond any doubt, lead American combinations in some cases to enter into international combinations. Already we have the thread industry of England and of the United States, indeed the thread industry of the world, largely in the hands of an international combination.

The borax trade is also organized internationally, and there have been efforts to bring about an international iron and steel combination. In Europe many combinations have crossed national boundaries. The advocates of lowering or removing the tariff in any line of industry should inquire carefully whether its effect might be to produce an international combination, and if so, whether such an international trust would be desirable.

The possible effects upon wages of a reduction or removal of duties must also be considered, and the further possibility of admitting to this country the surplus stocks of European manufacturers at rates so low as to seriously cripple our home manufactures. If our manufacturers extend their foreign markets by selling at low rates abroad, they but follow the example of European manufacturers, who for years have disposed of surplus stocks in this country so as to keep their factories going to their full capacity. What can be gained by helping foreign trusts in order to hurt domestic trusts is not apparent.

Under our present tariff laws our foreign trade has grown enormously in the last eight years. It is still rapidly increasing. This is true alike of exports and imports. We are better customers of other countries than ever before, and at the same time the outside world is buying even more liberally of us. Our exports in 1905 were greater than those of any preceding year. The exports so far reported of 1906 are one hundred and ninety millions in excess of those of the corresponding months of 1905. The imports for the eight months ending February, 1906, are $71,000,000 greater than those of the corresponding period of the previous year. In exports of manufactures there has been an increase of $45,000,000.

The American farmer will be pleased to know that in the eight months ending February, 1906, according to the Bureau of Statistics of the United States, there has been an increase of $133,000,000 in exports of farmers' products. During that same time there has been a decrease of $13,000,000 in importation of food products. The increase in exports is chiefly in wheat, flour, corn, oats, and provisions. This does not look as if protection obstructs the finding of outlets for our industrial production, nor does it indicate that the American farmer is being shut out of foreign markets. The indications are that our foreign trade for 1906 will reach the astounding figure of $3,000,000,000. Our foreign trade has more than doubled in the last ten years. There is no better barometer of industrial activity than the sale of iron and steel. In 1893 we produced 6,000,000 tons of pig iron; in 1895, 8,000,000 tons; in 1898, 11,000,000 tons; in 1901, 15,000,000 tons; in 1903, 18,000,000 tons; in 1905, 23,000,000 tons.

The sale of steel has steadily increased from 1898, when it was 8,000,000 tons, to 14,000,000 tons in 1904. Our exports of iron and steel have increased prodigiously. In 1890 their value was $25,000,000, in 1898 it was $70,000,000, in 1902 it was $98,000,000, in 1905 it was $135,000,000.

The value of our exports of cotton have increased from $17,000,000 in 1898 to $50,000,000 in 1905.

Mr. CLARK of Missouri. Will it interrupt the gentleman to ask him a question right there?

Mr. BATES. No; I think not.

Mr. CLARK of Missouri. Now, if it should turn out that the exports and imports of all the countries have increased for the last ten years, would it not indicate that there was a general era of prosperity all over the world rather than our tariff had made an extraordinary year of prosperity here?

Mr. BATES. Why, Mr. Chairman, it might indicate that, and it would indicate more; that the daily cry from the gentleman's side of this Chamber that the American people are being oppressed; that they are poverty stricken; that our laboring people are ground down in hunger and penury is not borne out by the facts, and that there is a rising tide of prosperity shown in this country. There is, however, no such increase in prosperity in other countries as in our own.

Mr. CLARK of Missouri. Is it not that there is a rising tide of prosperity all over the world? Another question. Of course I do not want to inject my speech into yours. If it is true, as you stated a while ago, that steel rails sell in all the rest of the foreign countries above what they do in the United States, then what sense is there in making this tariff on steel rails and keeping rails out of the United States?

Mr. BATES. I did not give the price of steel rails in the United States. Besides that, we do not want to let down the tariff and allow this country to be made the dumping ground of the cheap labor of other lands. This would surely happen unless we reduced our labor to the starvation rate paid abroad.

Mr. CLARK of Missouri. Well, the price here is $28 a ton, as a rule, and you said $31 and something in England.

Mr. BATES. I will say to my friend from Missouri that it is because in England, while they sell to their own home consumers at $31.50, they sell abroad at $25 a ton.

Mr. CLARK of Missouri. Now, take that statement. Where does the gentleman get the evidence from to support that statement?

Mr. BATES. I get it from testimony adduced before a committee of this House.

Mr. CLARK of Missouri. Now, if our steel-rail manufacturers can afford to sell our steel rails abroad for $20 or $21 a ton, then how can their market be in danger by taking this tariff off when you say the cheapest rails sold in Europe are $24 a ton?

Mr. BATES. I do not think the statistics show that there is any profit in steel manufacturers selling rails at such a price as the gentleman has named, and I do not think he can show that any sales have been made at those figures.

Mr. CLARK of Missouri. Do you not know that the second largest manufacturer of steel rails in this country, when sitting on the floor of this House, as a Member of it, said that steel rails could be made at $12 a ton, if you take off the tariff, and make plenty of profit to sell them at $16?

Mr. BATES. I think that was one of the extravagant statements that the gentleman, formerly from Ohio, on this floor, loved to indulge in.

Mr. CLARK of Missouri. But he did make that statement, and he was one of the largest manufacturers of steel rails at that time.

Mr. BATES. I do not know how much he was interested in manufacture of steel rails. He was interested in many, many other matters. I do not think he had any special knowledge of the matter.

Mr. PAYNE. I will ask the gentleman from Pennsylvania if it is not a fact that that manufacturer of steel rails was manufacturing patent street-railway rails, and that he was, of course, without competition from any place in the world, tariff or no tariff? He had patents, hundreds of patents, that absolutely cut off all competition.

Mr. CLARK of Missouri. Is it not true that in the manufacture of steel rails he had such success as to have made about $7,000,000?

Mr. BATES. I think the man got rich, but I think the gentleman will recognize a difference in the price of iron that produced steel rails at the time Mr. Johnson made his speech in the House and the price of iron to-day.

Mr. BUTLER of Pennsylvania. When did he make that speech?

Mr. CLARK of Missouri. In 1894.

Mr. PAYNE. Back in 1893 or 1894.

Mr. BATES. That was not a good year.

Mr. CLARK of Missouri. Suppose you add to it the extraordinary cost?

Mr. PAYNE. In 1894 he was here and voted for the Wilson tariff bill, and voted for it notwithstanding the fact that there was a large protective duty on rails at that time——

Mr. CLARK of Missouri. Let me ask the gentleman from New York a question——

Mr. PAYNE (continuing). And it passed this House.

Mr. CLARK of Missouri. Let me ask the gentleman who he said it was voted for the Wilson tariff bill?

Mr. PAYNE. This man Johnson. Tom Johnson, of Ohio.

Mr. CLARK of Missouri. He voted against it, and begged me on the floor of this House to vote against it, and I wish to Heaven I had. [Laughter and applause on the Republican side.]

Mr. PAYNE. It was the best that the great Democratic party could do.

Mr. CLARK of Missouri. No; it was not the best that the Democratic party could do.

Mr. PAYNE. And a good deal better than they will ever try to do again.

Mr. CLARK of Missouri. No; the bill that the great Democratic party passed through this House was a good tariff bill.

Mr. PAYNE. Oh, but that bill passed through this House with a protective duty on steel rails, and Mr. Johnson voted for it when it passed the House.

Mr. CLARK of Missouri. No, sir. Mr. Johnson never voted for the Wilson bill.

Mr. PAYNE. He voted against the Senate amendments. That is what he voted against. He voted for the bill as it passed the House.

Mr. CLARK of Missouri. Of course he voted against the Senate amendments, and he voted against the bill on its final passage in this House.

Mr. PAYNE. No; he did not. He voted against concurring in the Senate amendments.

Mr. WILLIAMS. In answer to a question from the gentleman from Missouri, the gentleman from Pennsylvania [Mr. BATES] replied that his statement that steel-rail makers in Great Britain sold rails at one price there and at another price for export was founded upon testimony before a committee of this House.

Mr. BATES. The uncontradicted testimony.

Mr. WILLIAMS. Will he please give the House now the name of the witness or witnesses who so testified.

Mr. BATES. I have no objection. The testimony was uncontradicted testimony before the Committee on the Merchant Marine and Fisheries.

Mr. WILLIAMS. Who were the witnesses? It was contradicted, by the way. The gentleman said it was uncontradicted. Now, yesterday I quoted——

Mr. BATES. I object to having the gentleman inject his speech into the body of mine.

Mr. WILLIAMS. I am not injecting a speech. I am asking the gentleman a question, and instead of answering it he proceeds to make a statement, and that statement is unwarranted, because I yesterday showed four witnesses who contradicted it.

Mr. BATES. I object to the gentleman making a speech in my time.

Mr. WILLIAMS. Now, I ask the gentleman for the names of the witnesses. My question was the names of the witnesses.

Mr. BATES. I will give you one. I remember the name of one, and that was the president of the board of directors of the United States Steel Corporation, Mr. E. H. Gary.

Mr. WILLIAMS. Who else?

Mr. BATES. I do not remember the names.

Mr. WILLIAMS. Will the gentleman, if he can find anybody else, put his name in the RECORD with his speech?

Mr. BATES. Possibly. I do not think the gentleman ought to dictate to me what I shall put in my speech.

Mr. PAYNE. The gentleman had better make his own speech.

Mr. HULL. I would make my own speech in my own way.

Mr. BATES. Do you deny that statement of Mr. Gary?

Mr. WILLIAMS. I absolutely deny it, and defy any corroboration or support of it from any authoritative source.

Mr. BATES. Where is your authority for denying it?

Mr. WILLIAMS. My authority is that there is no corroboration of it from any other source. [Laughter on Republican side.]

Mr. BATES. Mr. Chairman——

Mr. WILLIAMS. The gentleman has asked me a question. Now, will the gentleman let me answer it?

Mr. BATES. I asked the gentleman his authority for denying that statement.

Mr. WILLIAMS. It will only take me a minute to answer the question.

Mr. BATES. Is it possible that the gentleman, out of his own inner consciousness, can evolve information that will contradict the testimony of Mr. Gary, who knows all about the business?

Mr. WILLIAMS. Now, Mr. Chairman, if the gentleman will indulge me just a moment——

Mr. BATES. Certainly.

Mr. WILLIAMS. I will not disturb him long. I asked the gentleman for the name of the witness or witnesses. He has given me the name of one of the officers of the United States steel trust, the very people who were charged with this offense against the public. Now I ask him, if there are any other witnesses except this interested witness, please to put the names of the other witnesses and their testimony in the RECORD with his speech.

Mr. PAYNE. I will ask the gentleman if there is any witness on the other side except the interested witness from Mississippi, who knows nothing about the business practically.

Mr. WILLIAMS. The gentleman can not make that statement uncontradicted upon this floor. I yesterday produced the names of four witnesses, and they will be in the RECORD tomorrow, and the gentleman's ipse dixit can not do away with them, and you knew that I would produce them when you made that statement, if you listened to what I said.

Mr. PAYNE. The gentleman from New York did not know it, and the gentleman from Mississippi had no reason to suppose that the gentleman from New York knew it.

Mr. WILLIAMS. I said the gentleman knew it if he had listened to what I said before.

Mr. PAYNE. The gentleman from New York did not hear any such statement.

Mr. BATES. I desire to say, Mr. Chairman, that the gentleman from Mississippi called the chairman of the board of directors of the United States Steel Corporation an interested witness. I do not believe that the gentleman [Mr. Gary] is half as much interested in the item of the price of steel for domestic and foreign output in Great Britain as is the gentleman from Mississippi. I do not believe that item would affect the financial or any other interest of Mr. Gary half as much as it affects the political future of the gentleman from Mississippi, because that one fact tumbles the card house that he and his colleague from Mississippi [Mr. BYRD] and the watch detective, the gentleman from Illinois [Mr. RAINEY], have been trying to build up in this House for the last week—to wit, the fact that the foreign price of manufactured goods is cheaper than the domestic price, and therefore warrants an assault on the protective-tariff laws of this country. And when we show this same state of facts exists in free-trade England the whole card house falls, and the gentleman from Mississippi must know it. [Applause on the Republican side.]

Mr. GAINES of Tennessee rose.

Mr. BATES. Now, Mr. Chairman, I decline to yield further.

The speech delivered in this House a few weeks ago by the gentleman from Mississippi [Mr. BYRD] would lead us to believe that the working people of this country were at the present time in dire distress. I wish to call attention to the increase in the amount of money on deposit in the savings banks of the United States, and, what is more significant, the increase in the number of the depositors. In 1890 there were about 4,000,000 depositors in the savings banks of this country; in 1896 there were 5,000,000; in 1900 there were 6,000,000; in 1905 there were 7,700,000.

The amounts of money they have deposited have increased $1,250,000,000 in the last ten years, or from $1,700,000,000 in 1894 to $2,000,000,000 in 1898, and $3,100,000,000 in 1905.

The value of the farm animals of the United States has more than doubled in the last ten years. In 1896 it was $1,700,000,000; in 1906 it was $3,600,000,000.

And now a word as to the cost of living to the people of the United States. It is not disputed that the wage-earners of the United States receive far higher wages than is paid in any other country on the globe.

Mr. OLMSTED. Will the gentleman allow me a question right there?

Mr. BATES. I will yield for a question.

Mr. OLMSTED. The gentleman from Mississippi stated that Tom Johnson had stated that if the tariff was removed he could make rails at $12 a ton and sell at $16 a ton at a profit. I would like to ask my colleague if he knows any way in which the removal of the tariff would enable a manufacturer to make rails at a less cost unless he paid less for the manufacture?

Mr. BATES. It would be absolutely impossible, because from the moment the ore is raised from the ground up in Minnesota

until the time it is sold as a finished product labor is the large ingredient of its cost.

Mr. CLARK of Missouri. Well, now, Mr. Chairman, since the gentleman is called back to the question of steel rails, I would like to ask him a leading question and get him to answer it if he can.

Mr. BATES. I am glad the gentleman put in any qualification.

Mr. CLARK of Missouri. I put it in because I am not certain that the gentleman has the information or anybody else. The question is this: Do our steel-rail manufacturers sell at a loss or a profit when they sell American steel rails at $21 a ton?

Mr. OLMSTED. They don't sell any at that price.

Mr. BATES. Sometimes at a loss. If there is any profit, it is so small that it could not be considered a profit, considering the cost of production and the wear and tear of machinery and all that.

Mr. CLARK of Missouri. The gentleman's colleague [Mr. OLMSTED] says that they don't sell any. I think the gentleman must be a lineal descendant of Doubting Thomas.

Mr. BATES. I do not know where the gentleman from Missouri gets authority to say that they do sell them.

Mr. CLARK of Missouri. James J. Hill ought to be pretty fair evidence on the sale of steel rails.

Mr. GAINES of Tennessee rose.

Mr. BATES. Now, Mr. Chairman, I can not yield further; I have only fifteen minutes remaining.

Mr. CLARK of Missouri. Very well.

Mr. GAINES of Tennessee. The gentleman stated a while ago that a few years ago we exported $29,000,000 worth of steel and this year $135,000,000 worth. I want to ask him if that $135,000,000 was sold in Europe at a loss?

Mr. BATES. I do not suppose that it was.

Mr. GAINES of Tennessee. They claim that the exports were sold at a loss. I was wondering how you could increase the exports so much and sell at a loss and still keep the concerns running.

Mr. BATES. They have sold these exports in competition with the whole world. There is sharp competition in this country as well as abroad. At present the demand for steel products is great, and by making large sales we have in most cases still sold at a fair profit.

We have in this country a higher order of civilization than elsewhere. If, then, the consumers of the United States pay more for the necessaries and comforts of life than they would under a low wage scale, they are simply contributing to the maintenance of that civilization, intelligence, comfort, happiness which makes the people of this country conspicuous among the nations of the world. Whether we pay more for the necessities of life than those in other countries who work for a lower wage, is wholly immaterial. That is not the question. The real question is, Does it pay them to do it?

Tariff laws encourage men with money to open mines, build factories, establish industries, which could not exist were it not for the tariff laws which shield them from foreign competition. This creates a demand for labor. A protective tariff, then, becomes a protection to opportunity. If the people are given opportunity for employment, they will fix their own wage rate. If these opportunities are destroyed, it is impossible to satisfy them. The wants of men are satisfied through the efforts of labor. The main arguments on the other side of this Chamber seem to be based upon the narrow demands of man as an individual, with no reference whatever to his relation to society. It is the doctrine of individualism; the cold, cruel doctrine of the survival of the fittest. It is the doctrine of Cobden, of John Stuart Mill, of David Ricardo, and the gentleman from Mississippi [Mr. WILLIAMS].

John Bright conceded a vital point in the controversy in 1886 when he admitted that the one way by which free competition can be met and home factories preserved is by a reduction of wages. This, then, is the only alternative. Reduce the tariff on competing products, admit freer importations, and then only by reducing wages and degrading labor are our industries to be defended and carried on. The American market is worth more than twice as much to us as all the foreign markets combined even if we could possess those foreign markets exclusively. What would it profit us to tear down our home market and gain the whole world of markets?

The tariff bill that would enable foreign goods to compete freely with our own products ought to be labeled, "A bill to promote the welfare of the people of Leeds, Bristol, and other cities of England and the Continent at the expense of the laboring people of the United States."

The idea that we might sell everything for a good price and buy everything cheap is most fascinating. What does it mean to buy in the cheapest market? It simply means that the American people are to buy their glass, earthen and china ware, cottons, woolens, silks, linens, tools, machinery, hardware, cutlery, iron, steel, and in fact every manufactured article in Europe; that they shall cease entirely buying of home producers, unless our manufacturers will sell these articles cheaper than they can be purchased from any other people of the earth.

It means that we will buy our food and farm products in Canada, the Argentine Republic, or wherever they can be bought at the lowest prices. It means that the purchasers of other countries shall buy where they can get goods the cheapest, hence the purchasers of the world would not come to the United States to buy their manufactured goods or farm products, unless they can buy them cheaper here than in any other country. Instead, then, of selling there we would be reduced to the necessity of selling cheap or not at all, excepting, of course, as we might produce a superior article or something that can not be obtained elsewhere. We could only become sellers by selling for a lower price than anyone else. It means that the cost of production below the rest of the world must necessarily follow. It means the invoking of the law of the "survival of the fittest." It means that those industries that could not stand the struggle should perish. It means that capital, if there is any left from the ruin that would be wrought, must seek other investment or go into hiding and be unprofitable. It means that laborers thrown out of work must find employment in some other industries, but it means also that the other industries must always be those in which the commodities can be produced cheaper than elsewhere. It means that to enable us to sell in the best markets we must undersell all competitors. There would thus ensue an entire revolution in the methods and conduct of business here, and leveling down through every channel to the very lowest line of our competitors. Our habits of life would have to change, our wages cut down 50 per cent or more, our mansions exchanged for hovels. This is what would necessarily flow in the wake of free trade. All goods would be cheap, but how costly when measured by the degredation that would ensue.

It is a principle as old as the hills and everlasting as the unchanging law that when goods are cheapest men are poorest; and the most distressing experiences in this country or in all human history have been when everything was lowest and cheapest when measured in money, but highest and dearest when measured by labor. The best unit of value is what a day's labor will produce. It seems to me we have had full experience of cheap times in this country. Goods were cheap in this country from 1855 to 1860. Yet the farmer could hardly raise enough money to pay his taxes. The wail of President Buchanan, in his message to Congress in 1857, states the case. He said:

> With unsurpassed plenty in all the production and all the elements of natural wealth our manufacturers have suspended, our public works are retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers are thrown out of employment and reduced to want. We have possessed all the elements of material wealth in rich abundance, and yet, notwithstanding all these advantages, our country, in its monetary interests, is in a deplorable condition.

Such a condition of affairs continued until the Morrill protection law of 1861 was enacted. When again the Democracy was intrusted with power, in 1892, 1893, 1894, and 1895, and struck down protective tariff laws, we had cheap goods again in this country. We had 3,000,000 laboring people out of employment, and had hunger and desolation everywhere all over this land. How like the words of his Democratic predecessor were the words of President Cleveland in his annual message to Congress in 1893, after a free-trade Administration had been voted in. He said:

> With plenteous crops, with abundant promise of remunerative production and manufacture, with unusual invitation to safe investment, and with satisfactory assurance of business enterprise, suddenly financial fear and distrust have sprung up on every side, numerous moneyed institutions have suspended, surviving corporations and individuals are content to keep in hand all money they are usually anxious to loan. Loss and failure have involved every branch of business.

This was a little over a year after the people had elected an entire Administration pledged to what the world knows as "free trade."

When did we ever lower the duties in this country that hard times and a depleted Treasury and gold flowing out of the country did not ensue? When were the higher duties ever restored that general prosperity did not follow? When did the Democratic party ever assume power that they did not at once make an assault upon the protective features of the tariff laws? If there is one thing that the school of Bryan, and the school of Cleveland, and in fact all the schools of modern Democracy do agree upon, it is to assail the protective features of the tariff

laws of this country whenever possible. I quote as high Democratic authority as Senator GORMAN when I state that "the last and only complete Democratic victory gained in recent years was won because the candidate stated, 'We will not destroy any industry.'" And on that declaration the campaign of 1892 was waged in the East and Middle West, rather than upon the dangerously worded Chicago platform, in which protective tariff was assailed as unconstitutional, and which platform was soon evoked and, as far as possible, formulated into organic law. Were industries destroyed? Ninety-two articles were transferred from the dutiable to the free list by the Wilson bill, as it came from the Democratic Ways and Means Committee or as it passed the House, among them wool, sugar, coal, iron, and lumber. The farmers were stripped of the protection afforded in the McKinley law. Railroads went into the hands of receivers. Banks closed their doors. The smoke of industry ceased to cloud the sky. Three million laboring people were thrown out of employment. Gold left our shores with every ship. The looms and reels and spindles of Bradford and other English cities worked double forces night and day to supply our people with textile fabrics, while the workingmen of America languished, were being fed at soup houses, and begging for bread.

Our steadily increasing foreign trade for the past nine years has been remarkable. It is desirable that it be extended further to dispose of our increase in surplus products. It can be extended by sensible trade arrangements with other countries, by keeping our manufacturers accurately informed of trade conditions of the world, the state of foreign markets, by fostering and upbuilding the American merchant marine, by building an isthmian canal; but we must not endeavor to build up our foreign trade by sacrificing our home markets, because in seeking markets we want the best markets—the best markets are where the people can sell the most products at good prices and have the money paid for them after they have sold them, and that place is here in America, after practically forty years of protective tariff ascendency. [Loud applause.]

Mr. FOSS. Mr. Chairman, I understand the gentleman in charge of the time on the other side desires us to proceed, and I will yield thirty minutes to the gentleman from California [Mr. KNOWLAND].

Mr. KNOWLAND. Mr. Chairman, in the consideration of the pending naval appropriation bill—which bill I shall support, believing it has received the careful and intelligent consideration of an experienced and well-informed committee—it would seem to be an opportune time to briefly discuss the general policy of shipbuilding at the navy-yards of the Government. I will very frankly declare at the outset that I do not class myself with those who take the extreme view and contend that all Government vessels should be constructed at navy-yards. Such a policy, to my mind, would be as unwise as I deem the present policy to be which assigns to the private shipyards the construction of practically every vessel authorized from year to year by Congress.

I assume the position, which position I shall endeavor to uphold during the course of my remarks, that it is in the line of sound business policy for this Government to thoroughly equip its largest and most important navy-yards for shipbuilding, and for Congress to provide from time to time that a certain number of the new vessels authorized be constructed at Government yards. The result of such a policy would be the retention at these yards of an efficient, skilled, and permanent force of mechanics, and a practical demonstration on the part of the Government that its yards were prepared to satisfactorily construct any vessel authorized by act of Congress. The effect on private contractors would be somewhat analogous to the effect that canals affording facilities for competition by water exercise on railroads in determining rates in certain localities.

I have not a word to say in disparagement of the private shipbuilding plants, which are of importance to our national defense. These vast concerns have been built up as a result of the energy and enterprise of American citizens and have been an important factor in the development of our new Navy, the ships constituting which are equal to those of any nation of the world. But the private shipyards are not, and never have been, without able champions in and out of Congress, and it is safe to conclude that these shipbuilding concerns have received at least fair compensation for all Government work.

We maintain to-day ten navy-yards, located at the following points: Brooklyn, N. Y.; Boston, Mass.; League Island, Pa.; Norfolk, Va.; Portsmouth, N. H.; Pensacola, Fla.; Mare Island, Cal.; Bremerton, Wash.; Charleston, S. C., and Washington, D. C. The Government yards are all advantageously located and several are thoroughly equipped for building the largest vessels, but notwithstanding these favorable conditions let me present some very significant figures demonstrating that the private yards are favored in the building programme and the navy-yards discriminated against. On January 1 of this year there were under construction, in various stages of completion, at the numerous private shipyards the following vessels designed for the Navy: Twelve battle ships, six armored cruisers, three protected cruisers, three scout cruisers, one gunboat, two torpedo boats, and four submarine torpedo boats, the total amount represented in Government contracts held by these private firms aggregating over $80,000,000. In the Government navy-yards there were in course of construction at the same period one battle ship and two training ships, the total amount involved being less than $5,000,000. Let us compare these figures: Thirty-one ships for our new Navy under construction at private yards, and but three ships at navy-yards—over $80,000,000 for private yards and less than five million for the navy-yards of the Government!

Why has the Government adhered to this policy? Prior to 1861 practically all the ships for the Navy were constructed, and satisfactorily, at the Government yards. With the outbreak of the Civil War the exigencies of the times made it impossible for the navy-yards, limited in number and equipment, to meet the tremendous demands suddenly made upon them, the result being that the contract system was created. So strong was the hold gradually obtained by these private contractors, so great an influence have they since wielded, that until very recently it has been impossible to bring about any change of policy. The so-called "political spoils system" was for many years strongly intrenched at the navy-yards, rendering it impossible for the best results to be obtained. These yards furnished employment for innumerable political workers, who were selected irrespective of their fitness for the work to which they were assigned. In many instances foremen totally inexperienced and unqualified were placed over subordinates equally as useless, with the invariable result that the most unsatisfactory work was in many instances turned out, rendering economical construction impossible. The result of this system did much to arouse prejudice against the yards.

Secretary Tracy, of the Navy, declared that the conditions in the yards were "Destructive to the Government service—an ulcer on the naval administration system." In 1891 he issued an order placing all the employees at navy-yards under a system of civil service. Since the issuance of this order the rules have been made more stringent at the yards, and the merit system is gradually being perfected. For skilled and unskilled labor there is a system of registration in charge of a board of labor employment, the most stringent regulations governing the acts of this board. Every applicant must take his turn in the order of his registration, preference being given only to honorably discharged men of the Army and Navy. Political influence absolutely does not avail, as I have found from experience. Every applicant who registers must be a citizen of the United States. He must have a character certificate, signed by a reputable citizen of the applicant's locality, testifying to his character and habits of industry and sobriety. He must also have a trade certificate, signed by the firm or individual for whom he has worked, certifying as to his capacity in said trade. In the employment of foremen, whenever a vacancy occurs, a special board of officers is convened, and a competitive examination held under proper regulations. The result has naturally followed, that the efficiency of the yards has steadily increased. No incapable man is long tolerated. The highest skilled employees are demanded, but to retain such a class of workingmen at the navy-yards the Government must adopt a policy that will insure steady employment.

Whenever an attempt has been made to inaugurate a policy of even limited shipbuilding at Government yards, most formidable opposition has been encountered, some of the arguments advanced against the contemplated policy being most ingenious. Let us consider a few of these objections. It was contended in all seriousness that if an attempt were made to construct one of the modern vessels of warfare at a Government yard the result would be a humiliating failure. Others maintained that, while it might be within the range of possibility that a battle ship could be constructed at a navy-yard, it would consume years of time, and when the ship was finally completed that the particular type of vessel would have become obsolete. A prominent Member of Congress, reputed to be one of the best authorities in all matters pertaining to the Navy, declared with all seriousness that he never expected to live long enough to see a battle ship completed at a navy-yard. I trust that the gentleman has recently visited the New York Navy-Yard where the battle ship *Connecticut* is nearing completion.

In some quarters it was argued that the cost would be fully 50 per cent greater for every vessel constructed at a Government yard. It was declared by a prominent naval constructor, in a hearing before the House Committee on Naval Affairs, that the cost of material purchased by the Government would be at least 10 per cent higher than if purchased by private contractors; that we could not go into the open market and buy material, which would place us at a great disadvantage. This very constructor, in his annual report for 1902, page 573, makes the following significant admission as to the cost of material purchased by the Government for the *Connecticut*, refuting absolutely his former contention that the Government could not buy as advantageously as private contractors:

The provisions of specifications—

states the constructor—

and the terms of the contract for the material (steel) have been made in such a manner as to absolutely insure the obtaining of this material at as low a price as that at which it will be supplied to private shipbuilders for the same class of vessels.

The general subject of shipbuilding in Government yards has received particular attention throughout the United States during the past two years owing to the so-called "race" between the battle ships *Connecticut* and *Louisiana*. These vessels are exact duplicates. The *Connecticut* is building at the New York Navy-Yard, while the *Louisiana* is under construction at the plant of the Newport News Shipbuilding Company. The records of the Navy Department lead the Chief Constructor to estimate that the *Connecticut* will cost approximately 10 or 15 per cent more than the *Louisiana*.

These figures I will not attempt to dispute, but throw out the suggestion that an accurate and fair comparison can not be made until both battle ships are in commission. I want the House to bear in mind that in many instances private contractors have realized their chief profit in the building of Government vessels from allowances for "extras," in which category are included changes in plans, bonuses, trial trips, etc. Bonuses, however, are no longer allowed. I wish to call attention to the Department's published statement, issued on February 9 of this year, showing that the cost of alterations in the plans and specifications of the *Louisiana* at that time had exceeded those on the *Connecticut* by $21,000. The result of the contest up to this time, in my opinion, vindicates the policy of limited shipbuilding at Government yards, and I will enumerate my reasons for this deduction.

I maintain that the Government is to be congratulated upon the outcome of the construction of this modern battle ship at a navy-yard when we consider the first experience of many of the private shipbuilding plants. Let us cite the case of the Newport News Shipbuilding Company, now building the *Louisiana*, which firm lost heavily on the first two battle ships contracted for—the *Kearsarge* and *Kentucky*—but the experience gained later proved of great value. The cruiser *Charleston* was the first Government vessel constructed by the Union Iron Works, of San Francisco, and their entire profit consisted of experience. In the construction of the first four vessels of the new Navy—the cruisers *Chicago*, *Boston*, *Atlanta*, and *Dolphin*—John Roach & Sons, of Chester, Pa., were forced into bankruptcy, and their *experience* proved of little value in meeting the demands of creditors. The Richmond Locomotive Works tried its hand at shipbuilding, contracting for the cruiser *Galveston* and two torpedo-boat destroyers, resulting in the failure of that firm. These are but a few instances. There are many others.

The result of the contest is even more remarkable when we recall several facts that must not be lost sight of in the building of these two battle ships. First, eight hours constitute a day's labor in all Government yards, and in addition a certain number of holidays are allowed. In practically all of the private yards, the Union Iron Works, of San Francisco, being excepted, the men work nine and ten hours, with practically no holidays. Is there a Member of this House who would repeal the eight-hour law now applicable to all Government employees? While on this subject I will predict that the time is not far distant when eight hours will constitute a day's labor throughout the United States. The drift is irresistibly in that direction, combat the sentiment as you may. Opposition will not avail, and the eight-hour day will eventually triumph. Secondly, in the case of the Newport News Shipbuilding Company, that plant was thoroughly equipped. Admiral Capps, in his testimony before the House Committee on Naval Affairs during the Fifty-eighth Congress, second session, in this very connection said:

It must be borne in mind that the Newport News yard had the advantage of a completely equipped plant. The building slip was already prepared and overhead crane facilities and other appliances were at hand, and their mechanics had had greater experience in doing this class of work.

The consideration of time is fully as important as the question of cost. Since the construction of the new Navy began, twenty-three years ago, no Government vessel has been constructed as rapidly as the *Connecticut*. In this connection I will quote from the last annual report (1905) of Admiral Capps, Chief of the Bureau of Construction and Repair. He says:

Work on the *Connecticut* is progressing very satisfactorily, and but for the delays in the delivery of armor it is more than probable that this vessel would have been the first battle ship to have been completed within contract time since the construction of the Navy began, in 1883.

While the Newport News Shipbuilding Company was rushing work on the *Louisiana* to keep pace with the *Connecticut*, the battle ship *Virginia*, building in this yard, was two years overdue, and has only been turned over within the past few weeks. Private yards have been exasperatingly slow in the completion of Government work. The delays have been scandalous, and while a penalty of $300 per day attached to the contracts, it is universally admitted by naval officials that these penalties were never enforced. So serious did the matter become that Secretary of the Navy Moody, in his annual report for 1902, page 5, called the matter to the attention of the country in the following words:

The general progress of work upon these vessels, particularly those of the larger class, has not been found to be satisfactory. The battle ships were, on the 30th of June, 1902, from ten to twenty-nine months behind contract time, the armored cruisers from four to thirteen months, the protected cruisers from six to eighteen months, while the monitors were from sixteen to nineteen months in arrears.

Speaking of the causes for delay, it has been repeatedly charged that some of the private contractors would temporarily neglect Government contracts for more profitable repair work brought into the yards, the Government work being reserved for slack times.

Secretary Moody, however, was more charitable toward the private contractors, advancing the following reasons for delay:

Delays are due to a lack of training and experience in the technical staff of contractors undertaking for the first time to build naval vessels. This difficulty—

Mark carefully his words—

is naturally disappearing as the several shipbuilding firms successfully entering the field equip themselves with a trained force. A trained force must be developed.

What stronger argument than this could be advanced for the thorough equipment of the navy-yards for shipbuilding? The cost of construction naturally decreases with the increase of efficiency of the force. In his report submitted in 1904, Admiral Capps spoke of the condition of the New York yard as follows:

It should be borne in mind that the facilities for doing such work (shipbuilding) at the navy-yard, New York, although now greater than those obtaining at any other navy-yard, were in the beginning quite inadequate.

It is universally admitted by all well-informed naval constructors that the amounts expended for repairs would be materially decreased with an even limited policy of shipbuilding at the navy-yards. A full equipment, such as necessary for shipbuilding, increases the productive value of unskilled labor. Many of the running expenses of a yard would not be materially increased if construction were carried on in conjunction with repair work. Maintenance of plant, clerk hire, and other items might be cited. Both new and repair work can proceed in an economical and rapid manner. Even admitting that the *Connecticut* cost 10 or 15 per cent more by reason of being constructed in a Government yard, is not the training received by officers and men worth the difference to the nation, particularly in case of war? I maintain that the Government will secure better ships and that the cost for future repairs will be less. The extra 15 per cent goes into the pockets of the workingman and not into the coffers of the trust.

Before touching upon the policy of other nations in dealing with this question I desire to quote briefly from some high naval authorities. Rear-Admiral Philip Hichborn, retired, has always been a strong advocate of limited shipbuilding in navy-yards. No individual has been more intimately associated with the development of the new Navy. His experience has extended over a period of fifty years, having served as apprentice, master shipwright, assistant naval constructor, naval constructor, and Chief of the Bureau of Construction and Repair. While serving in the latter capacity Admiral Hichborn, in 1900, in his annual report, treated the subject as follows:

Much has been said both in favor of and against the building of vessels in the navy-yards. The progress made in the improvement of yard plants and the ever-increasing need for a permanent skilled force ready for and capable of at all times taking up repairs of any character which the growth in "matériel" of the Navy entails, makes it desirable that the question should be given careful consideration. There is at the present time, in view of the prosperous condition of the shipbuilding industry and the number of naval vessels building and appropriated for, sufficient work to permit the assignment of a portion of the

building work to the Government yards without there being a question of the withdrawal or withholding of necessary support and assistance, through work given out, to a private industry, the maintenance of which in a high state of efficiency is unquestionably of national importance.

These conditions make it possible to eliminate from the discussion any questions of policy except such as affect economy and efficiency. It has been the history of all the iron and steel navies in existence to-day that the building of the vessels was at first entirely confided to private industry, and that the existence of the nucleus of a steel fleet made it necessary that the governments who were their owners should themselves provide for repairing these vessels; and that, having provided the necessary plant for this purpose, the provision for maintenance of the equally necessary though vastly more difficult thing to attain, viz, efficient working organization and adequate efficient personnel, forced them to undertake in their navy-yards a portion of the new building work. The execution of a certain amount of building work at the chief Government yards is necessary to the maintenance of such navy-yard staffs as a complete and efficient naval organization requires; and that, whatever disadvantages such a course entails, they are more than compensated for in the end. It is believed that we have reached that stage in a naval development—still considerably behind our national development—which forces upon us serious consideration of this step which other naval powers have found necessary and expedient. At the outset the disadvantages to be labored under will be considerable. Time and experience will do much toward the alleviation or possibly the entire removal of many of these. While, under existing conditions, in the case of the first vessels built in our navy-yards it may be expected that the cost will not be greatly different from—may even be somewhat greater than for—the same work executed by contract in the private shipyards, the Bureau believes that such a course once entered upon would demonstrate its desirability and practicability in an increased efficiency and economy in naval administration, regarded as a whole, without interference with a judicious policy of such Government encouragement of the shipbuilding industry as will keep the greatest number of establishments in a position to undertake and execute promptly any naval work which may be required.

Admiral Capps, chief of the Bureau of Construction and Repair, in his annual report for 1904, says upon this subject:

One of the principal objects to be obtained in the building of vessels in Government yards is the maintenance of the organization of the yard and the provision of suitable work for experienced mechanics during the absence of the fleet.

To this I will add the testimony of Secretary of the Navy Morton, contained in his annual report for 1904, in which he speaks of the advantages of thoroughly equipped yards:

Doubtless the fact that there is at command at navy-yards the necessary plant and a force of men trained in such work will have a tendency to keep down prices, and the equipment of Government yards for building war ships will have its advantage in time of national emergency.

Nearly all the great nations of the world have given the subject of shipbuilding in Government yards most careful consideration. And what has been the result? Practically all the great naval powers are building to-day a portion of their ships in Government yards. Let us first cite the case of England. Of the six battle ships now building four are under construction in Government yards, including the *Dreadnaught*.

My figures are from the Office of Naval Intelligence, and were obtained last week. Of the ten armored cruisers under construction, Government yards are building four and private contractors six. The question naturally suggests itself as to the comparative cost, and I am able to answer this query by quoting the highest possible authority. In the parliamentary debates of last year (1905), volume 148, page 597, when the naval budget was under discussion, the question was asked of the secretary of the Admiralty, Hon. E. G. Pretyman, as to whether private yards could build as economically as Government yards. I might explain that in England the Admiralty board has the general management of maritime affairs and of all matters relating to the royal navy. In reply to the question, Mr. Pretyman said that in his opinion, after considering the question of cost very carefully, there was little difference between private and Government yards. "A good private yard," he declared, "would build at about the same cost as Government dock yards," it being inferred from this statement that the advantage, if any, was with the Government yards. A further inquiry elicited the information from him that as high a wage was paid at the Government dock yards as by private builders. And right here I want to quote from a work entitled the "British Navy," by a highly competent critic, A. Stenzel, captain of the imperial German navy, retired. On page 92 he says, speaking of England's policy of building in Government dock yards:

Previously it was thought that the royal yards worked slowly and expensively; the numerous and to some extent serious shortcomings in their organization and workings may have justified this opinion; but of late years the contrary has been proved by actual experience. For example, the mighty battle ship the *Royal Sovereign*, of more than 14,000 tons displacement, was built in Portsmouth with remarkable speed; she was finished, stood all the necessary trials satisfactorily, and was put in commission as fully prepared for war and added to the channel squadron within two years and eight months from the date when the first keel-plate was laid down. The still larger battle ship, the *Magnificent*, of 14,900 tons displacement, was constructed at Chatham with such speed that she was floated out of the dry dock exactly in one year, and put in commission twenty months after the first keel-plate was laid down, and it is intended to produce the newest battleships of equal size in similarly short periods of time. These achievements stand unmatched, and the large private yards, that have been intrusted with the building of sister ships can not keep pace with the work of the royal dock yards. Moreover, the cost of production in the royal yards is somewhat less than in the private yards. The battle ship *Empress of India*, of 14,150 tons displacement, built in a royal yard, cost a trifle over £861,000; the *Resolution*, also of 14,150 tons displacement, built in a private yard, cost nearly £883,120, a difference of upward of £22,000 in favor of the royal yard.

In Germany the Government is building in its yards one of the six battle ships under construction. Of the six small cruisers, the Government is building four and private contractors but two. France has under construction nine battle ships, three of which are being built in Government yards. Of the armored cruisers, the Government is building four and private contractors one. Thirty-two submarines are under construction in Government yards.

Now we come to the new great naval power in the Orient, awakened Japan. This nation is quick to take advantage of the experience gained by other great powers. Her naval officers have given the subject of shipbuilding the most careful study, visiting every great nation. What has been the result? Japan has to-day under construction four battle ships. Two are being built at Government yards. She has under way five armored cruisers, and the entire five at Government yards. Fourteen of the twenty-four torpedo-boat destroyers the Government is building.

I shall insert in the RECORD the full statement as furnished me through the courtesy of the efficient Office of Naval Intelligence, under charge of Captain Rodgers:

OFFICE OF NAVAL INTELLIGENCE,
April 28, 1906.

List of ships building at Government and private shipbuilding yards.

ENGLAND.

Name.	Class.	Port.	Government or private.
Dreadnaught	Battle ship	Portsmouth	Government.
Lord Nelson	do	Barrow (Palmer)	Private.
Agamemnon	do	Glasgow (Beardmore).	Do.
Africa	do	Chatham	Government.
Britannia	do	Portsmouth	Do.
Hibernia	do	Devonport	Do.
Minotaur	Armored cruiser	do	Do.
Shannon	do	Chatham	Do.
Defence	do	Pembroke	Do.
Warrior	do	do	Do.
Cochrane	do	Glasgow	Private.
Natal	do	Barrow	Do.
Achilles	do	Newcastle	Do.
Invincible	do	do	Do.
"A"	do	Clydebank	Do.
"B"	do	Glasgow	Do.

Torpedo-boats destroyers building at private yards: Six at Thornycroft & Co., two at Yarrow & Co., six at White & Co., two at Armstrong & Co., one at Connell, Laird & Co., one at Hawthorne-Leslie Company. Ten submarines at Barrow.

GERMANY.

Name.	Class.	Port.	Government or private.
Lothringen	Battle ship	Dantzic	Private.
Deutschland	do	Kiel	Do.
Pommern	do	Stettin	Do.
Hanover	do	Dantzic	Government.
Q	do	Kiel	Private.
R	do	Dantzic	Do.
Ersatz Bayern	do		
Ersatz Aachsen			
C	Armored cruiser	Bremen	Do.
Scharnhorst	do	Hamburg	Do.
E	do		
Leipzig	Small cruiser	Bremen	Do.
Danzig	do	Dantzic	Government.
Konigsberg	do	Kiel	Do.
Ersatz Wacht	do	Stettin	Private.
Ersatz Blitz	do	Kiel	Government.
O	do	Dantzic	Do.

Six torpedo-boat destroyers and one submarine building at private yards at Kiel.

FRANCE.

Name.	Class.	Port.	Government or private.
République	Battle ship	Brest	Government.
Démocratie	do	do	Do.
Patrie	do	La Seyne	Private.
Justice	do	do	Do.
Verité	do	Bordeaux	Do.
Liberte	do	St. Nozaire	Do.
A 15 and A 18	do	Brest	Government.
A 16 and A 19	do	La Seyne	Private.
A 17 and A 20	do	do	Do.
Ernest Rénan	Armored cruiser	St. Nozaire	Do.
Jules Michelet	do	Lorient	Government.
Victor Hugo	do	do	Do.
Edgar Quinet	do	Brest	Do.
Waldeck Rousseau	do	Lorient	Do.

Twenty-three torpedo-boat destroyers building; 16 in private yards and 7 in Government yards. Seventy-five torpedo boats building at private yards and 32 submarines at Government yards.

List of ships building at Government and private shipbuilding yards—Continued.

JAPAN.

Name.	Class.	Port.	Government or private.
Kashima	Battle ship	Elswick, England	Private.
Katori	do	Vickers, England	Do.
Satsuma	do	Yokosuka, Japan	Government.
Aki	do	Kure, Japan	Do.
Ikoma	Armored cruiser	do	Do.
Tsukuba	do	do	Do.
Ibuki	do	do	Do.
Kurama	do	Yokosuka, Japan	Do.
Tone	Protected cruiser	Sasebo	Do.

Twenty-four torpedo-boat destroyers building, fourteen in Government yards and ten in private yards.

In the matter of the two-fleet colliers mentioned in the pending bill, I wish to congratulate the members of the Committee on Naval Affairs for providing an amount sufficient to allow the will of Congress as twice expressed, to be carried out.

The naval appropriation bill for 1904, as it passed the House of Representatives, provided for the building of two colliers with a speed of sixteen knots. When the bill reached the Senate, Senator Perkins, of California, ranking member of the Committee on Naval Affairs, amended the particular section of the bill, stipulating that these colliers should be constructed at navy-yards, one on the Pacific and the other on the Atlantic coast, the New York and Mare Island, California, navy-yards being designated. The Senate amendment was concurred in by the House after a spirited contest, the conferees having failed to agree. A year passed and work was not begun. When Congres convened, the then Secretary of the Navy requested that he be given authority to construct these colliers at private shipyards, claiming that the Mare Island Navy-Yard was not equipped. Acting on the suggestion of the Secretary, the Committee on Naval Affairs attempted, in the naval appropriation bill, to rescind the former action of Congress, but the paragraph in question was ruled out on a point of order made by Representative Bell, of California, it being rightfully held that an attempt was being made to change existing law. I then offered an amendment on the floor of the House appropriating $175,000 to provide the requisite equipment for the Mare Island Navy-Yard, which amendment was adopted by a vote of nearly two to one.

Another year rolled around and still work did not commence. When the present Congress convened, we were told that the delay had been caused owing to the fact that it was mandatory that these colliers be constructed at navy-yards, and as a consequence would cost more than the amount originally appropriated. An investigation brought out the following facts: It was found that since the original estimates were submitted additions and changes were made in the plans, adding greatly to the original cost. As an instance, a double bottom was added for protection, the theory being that the colliers would be subject to attack. One bureau wanted provision made for an emergency repair shop, and this was granted. Another bureau wanted the colliers fitted to carry stores, oils, and other supplies, while still another demand was made that these vessels be serviceable as transports, and provisions were made for the accommodation of two commanding officers and for eighteen state rooms and accessories, these requests all being granted and all adding to the original cost, this additional cost being charged to navy-yard construction.

These facts are practically admitted by the Chief of the Bureau of Construction and Repair, Admiral Capps, in his testimony before the House Committee on Naval Affairs, Fifty-eighth Congress, third session. In explanation of the additional amount asked for he said it was necessary, "since the requirements of the various departments have made it necessary to make provision for carrying ammunition and stores and a very large crew." During the same hearing he again said:

Since the original estimate was submitted it has been necessary to make provision for the carrying of ammunition, stores, and a very much larger number of men *than was first contemplated.*

I recognize that the additions made were necessary and will add much to the serviceability of the colliers, but I do take exception to the statement that the additional cost can be wholly charged to the fact that Congress made it mandatory that these colliers be built at navy-yards. The price of material used in ship construction has increased since the original estimates were made over two years ago, as I can prove by documentary evidence.

Mr. FITZGERALD. Mr. Chairman, I would ask the gentleman if it is not a fact that either in the report of the Secretary of the Navy or in the report of the Chief Constructor for the last fiscal year it is admitted that by reason of the changes in the plans it would be impossible to build these colliers even by contract at the original price?

Mr. KNOWLAND. Mr. Chairman, I don't recall having seen such a statement in the report of either official, but the Secretary of the Navy admitted to me and to Senators Perkins and Flint of my State, when we called upon him to inquire why work had not commenced on these colliers, that he did not think private contractors would now build them for the amount originally appropriated.

Mr. FITZGERALD. The gentleman will find it in one of the reports, and I will put it in the RECORD.

Mr. KNOWLAND. Mr. Chairman, I am in favor of a great navy, and have always maintained that this mighty nation can not afford to be parsimonious in providing the best and most modern ships. For my part, I would willingly cast my vote for two great battle ships instead of one, as the bill provides. Let us not economize on the Navy, for such economy is false and might prove disastrous.

In conclusion, I wish to remind this House that the American people, actuated by the highest patriotic motives, have voted millions, through their Representatives in Congress, for a great navy—a navy that has never failed to "make good" when put to the test. But the people have a right to demand that the navy-yards, owned and maintained by the Government, be accorded a "square deal" in the building programme. [Prolonged applause.]

Mr. MEYER. Mr. Chairman, I yield thirty minutes to the gentleman from Mississippi [Mr. HUMPHREYS].

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I want to call the attention of this House to some things that the President of the United States said in a message he sent to this House a few days ago in reference to the decision of Judge Humphrey in the packing-house cases at Chicago, not because there is anything new in what the President said, not because he announced any principles that are strange or any doctrine not heretofore announced, but rather for the contrary reason, because he repeated in that message some things that he has said on several notable occasions in the past. I will read the language that I wish to refer to, language which I think every lawyer in this House will indorse:

Our system of criminal jurisprudence has descended to us from a period when the danger was lest the accused should not have his rights adequately preserved, and it is admirably framed to meet this danger, but at present the danger is just the reverse; that is, the danger nowadays is not that the innocent man will be convicted of crime, but that the guilty man will go scot-free.

Mr. Chairman, I want to call the attention of the House to that language and some other language similar to it that the President has used to call the attention of the country and of the Members of the Republican side of this Chamber to the fact that the Republican party not only ignores what the President says, but fails and refuses utterly to follow in his good lead. He made similar statements to this in his speech in Little Rock last fall, but I will not stop to read that now. When we met last December he called the attention of Congress to this same situation, and in his annual message used these words:

In my last message I asked the attention of Congress to the urgent need of action to make our criminal law more effective, and I most earnestly request that you pay heed to the report of the Attorney-General on this subject.

I desire now to suggest that the Republican majority of this House did not pay heed to the suggestions of either the Attorney-General or of the President of the United States. He continues:

Centuries ago it was especially needful to throw every safeguard around the accused. The danger then was lest he should be wronged by the State. The danger is now exactly the reverse. Our laws and customs tell immensely in favor of the criminal and against the interests of the public he has wronged. Some antiquated and outworn rules which once safeguarded the threatened rights of private citizens now merely work harm to the general body politic. The criminal law of the United States stands in urgent need of revision.

The President did not stop there, Mr. Chairman. He went further. He did not stop with merely this general charge, but he specified and filed a bill of particulars, and further on in his message he says this:

It is gratifying to note that the States and municipalities of the West, which have most at stake in the welfare of the Indians, are taking up this subject and are trying to supply, in a measure, at least, the abdication of its trusteeship forced upon the Government. Nevertheless, I would urgently press upon the attention of the Congress the question whether some amendment of the internal-revenue laws might not be of aid in prosecuting those malefactors known in the Indian country as "bootleggers," who are engaged at once in defrauding the United States Treasury of taxes and, what is far more important, in debauching the Indians by carrying liquors illicitly into Territories still completely under Federal jurisdiction.

I wish to call the attention of gentlemen on the other side of this Chamber particularly to those last two or three lines—

those gentlemen who believe that because we get revenue from the issuance of these internal-revenue licenses nothing ought to interfere, even the good of the citizens or the good of the States or the due administration of the criminal law. I desire to show in that particular how far the Republican party has fallen short. You passed an Indian appropriation bill a few weeks ago, as you did in the last two Congresses since the President first sent this message, each bill carrying an appropriation of $10,000 to assist in enforcing the law in the Indian Territory against the illicit sale of liquors, and during all this time the internal-revenue collector had in his possession evidence that would have convicted the men who are engaged in this illicit sale, and he refused to go into court and give that testimony and refused to permit the courts of the Territory or of the States to have the information which he has; and yet this bill, pending here, as it has now for three winters in the Republican House, can not get a vote, can not get consideration on this floor.

You have voted, since the President sent this message in, $30,000 to support the law which the internal-revenue collector refuses to permit you to enforce, and then sends in his annual report to this House stating that 160 men have what we loosely call internal-revenue licenses in the Indian Territory. In other words, 160 men have paid taxes in the Indian Territory to sell as retail liquor dealers and as retail dealers in malt liquors, and when the effort is made to prosecute and bring them to justice, when the internal-revenue collector is summoned to testify that they have paid these taxes, he declines to testify, and declines to let the officers have a copy of his books. I introduced a bill in the first session of the Fifty-eighth Congress requiring him to do that, and I have been urging it on this floor and off this floor ever since, but I have utterly failed so far to get it considered here. Now, gentlemen, you have come in here, a great majority of you have been dragged into this House of Representatives, holding on to Theodore Roosevelt's coat tail. That is the way you got the majority you have over there now [applause on the Democratic side], and yet you utterly decline to accept his good advice when every Democrat on this side is ready to go with you and put that law on the books. After two years I finally got the matter before the Committee on Ways and Means.

Mr. PAYNE. Does the gentleman think he can get his colleague from Mississippi to consent to unanimous consent to take up the bill in which the gentleman is so much interested?

Mr. HUMPHREYS of Mississippi. Yes, sir; my colleague did not object when I asked unanimous consent, but it was a Republican on that side of the House who objected. [Applause on the Democratic side.]

Mr. PAYNE. Do you believe you can get him to do it now?

Mr. HUMPHREYS of Mississippi. After the Republicans objected to unanimous consent to consider the bill I offered it as an amendment to the legislative bill when the appropriation was made to pay these internal-revenue collectors, and a Republican made the point of order against it there and declined to let us vote on it. After that I offered it as an amendment again. Now, think of it. I offered it as an amendment the other day to the bill providing for the collection of internal revenue in Porto Rico, and the gentleman from Connecticut [Mr. HILL] was guilty of the exquisite cruelty of making the point of order against it when the gentleman from Maine [Mr. LITTLEFIELD] was in the chair, and thereby made him its unwilling executioner. [Laughter and applause.]

The Ways and Means Committee finally, at my urgent request, instructed the gentleman from Pennsylvania [Mr. DALZELL] to call this bill up under suspension of the rules, and so let us have a vote upon it. I ask the distinguished chairman of the Committee on Ways and Means if he knows why that has not been done?

Mr. PAYNE. I did not hear the gentleman.

Mr. HUMPHREYS of Mississippi. Why has not the gentleman from Pennsylvania asked to suspend the rules of this House and pass this bill in pursuance of the instructions of your committee?

Mr. PAYNE. I do not remember whether they instructed him or not.

Mr. HUMPHREYS of Mississippi. They did. I will refresh your memory.

Mr. PAYNE. I do not know whether they did or not.

Mr. HUMPHREYS of Mississippi. I will tell you why he did not; it was because he could not get the consent of the Speaker of this Republican House. He asked the Speaker for recognition to move to suspend, in accordance with your instructions, but he refused to recognize him for that purpose.

Mr. PAYNE. I am inclined to think they did instruct him.

Mr. HUMPHREYS of Mississippi. Well, I will state this: The gentleman from Pennsylvania [Mr. DALZELL] told me that they did, and a number of other gentlemen told me, and my friend from Alabama [Mr. UNDERWOOD], a member of the committee by my side, says it is a fact, and the reason I have just given is why we can not get the matter before the House. The gentleman from Pennsylvania did ask consent. He asked the Speaker to let us take it up under suspension of the rules, where it would take a two-thirds majority of this House to pass it, but even under these hard conditions we can not get it considered. You would rather spend $30,000 even in a vain and fruitless effort to enforce the law than to pass this bill, that will not only apply to the Indian Territory, but will apply to all the other States and all the other territory of these United States.

Mr. PALMER. Mr. Chairman—

The CHAIRMAN. Does the gentleman yield to the gentleman from Pennsylvania?

Mr. HUMPHREYS of Mississippi. Certainly.

Mr. PALMER. Why did not the courts make these people testify and put them in jail if they did not testify?

Mr. HUMPHREYS of Mississippi. The courts did that very thing, and a writ of habeas corpus was sued out and carried to the Supreme Court of the United States and there they released the man and said the order of the Secretary of the Treasury, issued through the Commissioner of Internal Revenue, was a reasonable regulation, and that the collector could not be made to testify as long as this regulation stood on the books. The case is reported in 124 Federal Reports and 177 United States.

Mr. UNDERWOOD. They held that unless there was additional legislation by Congress.

Mr. HUMPHREYS of Mississippi. Unless there was additional legislation by Congress; and that is what we are trying to get. The Democrats passed a revenue law once. That was a long time ago, but they did it.

Mr. PALMER. And it will be a long time before they pass another.

Mr. HUMPHREYS of Mississippi. I do not know how long it will be before they pass another, but when they pass another I will tell you what it is going to be like. It is going to have this proviso in the internal-revenue law. These receipts are called "taxes" now, and not "licenses," but they used to be called "licenses." They were called "licenses" under the first revenue act of 1794 and until the act of 1864. Then they changed the reading so as to make it "special-tax receipt" instead of "license." Now, in 1813 the law read, when it imposed this tax of $25 on the retail liquor dealers and retail dealers in malt liquors:

Provided always, That no license shall be granted to any person to sell wines, distilled spirituous liquors, or merchandise as aforesaid who is prohibited to sell the same by any State.

Now, that is good States-rights doctrine—it is good common, honest, law-loving doctrine.

Now, Mr. Chairman, I asked this concession of time simply for the purpose of calling the attention of the country to the fact that this side of the House is willing now, as it always has been willing, to follow the President whenever he wanted better laws enacted or when he wanted laws already enacted executed better; and the reason that this rule of the Secretary of the Treasury has not been abrogated and set aside by legislation is because this House can not get an opportunity to vote on it.

Mr. NORRIS. Will the gentleman permit a question?

Mr. HUMPHREYS of Mississippi. Certainly.

Mr. NORRIS. I want to say before I ask the question that I am heartily in favor of the gentleman's bill, as I understand it, but I want to ask when that law which he said was passed by the Democratic party was in force?

Mr. HUMPHREYS of Mississippi. In 1813.

Mr. NORRIS. Is that the last Democratic measure on the subject?

Mr. HUMPHREYS of Mississippi. Yes, sir; that is the last one on the subject up to date.

Mr. NORRIS. You were in power and full strength at one time since that; why did you not reenact it?

Mr. JONES of Washington. The gentleman was not in Congress then.

Mr. HUMPHREYS of Mississippi. I was going to make the reply that my friend from Washington [Mr. JONES] suggests. Unfortunately for the country, I was not in Congress at that time.

Mr. NORRIS. I hope, then, that the gentleman will remain in Congress when the next Democratic machine gets into control, even if it is a hundred years from now.

Mr. HUMPHREYS of Mississippi. I thank my friend and assure him that I am willing to make any further sacrifice that my people may demand of me. [Laughter.] The gentleman is

in favor of this bill. All that side of the House that I have heard express themselves say that they are in favor of it. There are two gentlemen on the Committee on Ways and Means that reported this bill, Republicans, who are members of the Committee on Rules. Now, if those two gentlemen will vote with either one of the Democratic members of the Committee on Rules, we can get this bill considered. The trouble is——

Mr. NORRIS. Will the gentleman favor the bringing in of a rule?

Mr. HUMPHREYS of Mississippi. I will—to consider this bill.

Mr. NORRIS. From a Democratic standpoint?

Mr. HUMPHREYS of Mississippi. From any standpoint.

Mr. NORRIS. Would the gentleman want to be subjected to that?

Mr. HUMPHREYS of Mississippi. Yes, sir; I am in favor of bringing in a rule that would permit us to consider this bill, because it is a bill in the interest of decent and orderly government.

Mr. NORRIS. I think so, too, but then, as a Democrat, I should not think the gentleman would want to be forced.

Mr. HUMPHREYS of Mississippi. That side of the House thinks so. It favors this bill exactly as the little girl's mother favored her going in swimming, provided she would hang her clothes on a hickory limb and not go near the water. Your side of the House has hung this bill up on a hickory limb and I am trying my best to get you to let us take it near the water, and you will not consent.

Mr. NORRIS. The first thing you had to do was to get it through the Republican Ways and Means Committee.

Mr. HUMPHREYS of Mississippi. I got the mother's consent.

Mr. NORRIS. You have got the mother's consent?

Mr. HUMPHREYS of Mississippi. I got the mother's consent and also the injunction not to go near the water. Now put me near the water. [Laughter.]

Mr. NORRIS. But the injunction did not come from the mother.

Mr. HUMPHREYS of Mississippi. Now, Mr. Chairman, I do not believe I care to say anything further on this subject. But I want to call the attention of the country to the fact that here is a bill that all the law-loving people of this country want enacted into law and you will not enact it.

This side of the House is practically unanimous—95 per cent will vote for it if you give us an opportunity to vote, and you will not do it; and you will force the advocates of this bill in this branch of the legislature, the popular branch, the branch that is forced to go to the people every two years, because we are supposed to represent the people more closely than any other branch of the Government; you are forcing us to go to the other end of this Capitol and have this legislation tacked on some bill there as an amendment in order to get a vote here; and I say that is humiliating and it ought not to be done, and your side of the House, mind you—and do not let that get out of your minds, because I do not intend to let it get out of the mind of the country if I can help it—your side of the House is responsible for it.

Mr. WILLIAMS. Will my colleague allow me to ask him a question before he takes his seat?

Mr. HUMPHREYS of Mississippi. Certainly.

Mr. WILLIAMS. Is it not true, and has the gentleman stated to the House the regulation of the Treasury which prevents the use of these certificates of receipt——

Mr. HUMPHREYS of Mississippi. Yes.

Mr. WILLIAMS (continuing). Of those who want to sell whisky from being used as evidence of the fact before the State courts. Has the gentleman stated that?

Mr. HUMPHREYS of Mississippi. I have. They absolutely forbid it. They have issued a regulation here not only that the collector shall not testify, but he can not give a copy of the record; and there is no reason on the face of the earth that can be given for that being the law. The President of the United States is not exempt from the process of the courts, and no other man except the collector of internal revenue, who is hedged about by this sort of divinity that relieves him from duties that are imposed on every other citizen.

Mr. WILLIAMS. In other words, this is the only place where the Federal Government undertakes to suppress testimony required in a State court.

Mr. HUMPHREYS of Mississippi. It is the only place I know of.

Mr. FOSTER of Vermont. This evidence is not really suppressed, is it?

Mr. HUMPHREYS of Mississippi. It is absolutely suppressed.

Mr. FOSTER of Vermont. Are not these internal-revenue collectors required to keep a public list of the persons who pay this internal-revenue-tax——

Mr. HUMPHREYS of Mississippi. The gentleman's question——

Mr. FOSTER of Vermont. I have not got through with my question. Is it not true that this list of these taxpayers is open to inspection by the public, and is it not a fact that therefore any person who is interested in the prosecution of any case in the district may go and inspect this list and make a verified copy which is absolute evidence of the facts set forth in the list?

Mr. HUMPHREYS of Mississippi. No. All the facts the gentleman suggests are facts, but the law he suggests is not the law. This officer is required to make a list, an alphabetical list, of all who pay taxes, and post it up where it can be seen, but it is not the law, and it can not be the law, that any man can go there and see John Smith's name is on there, and then go into court and testify against John Smith, because even if the State constitution did not prevent that the Constitution of the United States says that a man charged with crime shall be confronted with the witnesses against him, and it is not a confrontation that any court will allow for any man to say "I saw the list posted on the wall and on it I saw John Smith's name."

Mr. WILLIAMS. The only evidence is a certified official copy.

Mr. HUMPHREYS of Mississippi. If you will have an officially certified copy of this list made, and have the official custodian of the original put his official signature to it, then it becomes evidence in any court, and that is what this bill requires.

Mr. FOSTER of Vermont. Mr. Chairman, I can not quite believe that the gentleman means to state that a person can not go and make what is known as a verified copy, and can not take that into court and swear to it.

Mr. JOHNSON. Who would verify it?

Mr. FOSTER of Vermont. Of course the courts in my State may not be up-to-date, but I know it is done there, and persons are convicted upon that kind of testimony. The gentleman probably knows what a verified statement is.

Mr. HUMPREYS of Mississippi. Yes.

Mr. FOSTER of Vermont. We have a sworn copy—that is, a copy made and sworn to by the officer who has the document in charge. In addition to that we have what is known as a "verified" copy—that is, a man goes and inspects the document, makes a copy of it, verifies it as a copy, and then he can go into court and swear that that is a verified copy of the original, and then that document is evidence in court.

Mr. BURTON of Delaware. Evidence of what?

Mr. FOSTER of Vermont. Evidence of the facts contained in the original document. We do that in my State.

Mr. WALDO. Not in a criminal case.

Mr. FOSTER of Vermont. In criminal cases, under our provision of law.

Mr. WILLIAMS. What is the difference, if I may ask the gentleman, between that and somebody's hearing you make a statement, and taking it down and verifying it by his affidavit, and coming into court and saying that is a verified statement of your statement, and having it accepted as evidence? It seems to me that the reply is that you must introduce the best evidence.

Mr. FOSTER of Vermont. This is the best evidence. You can not get the original. The law prohibits that. Under the regulations of the Treasury Department you can not get that original copy, that original list of these taxpayers. So, then, the law permits you to do the next best thing, and get the best evidence to be had; and the best evidence under the existing circumstances is a verified copy. Every lawyer knows that there is such a thing as a verified copy.

Mr. WILLIAMS. To be used against a man on trial for his life or his liberty in a criminal proceeding?

Mr. FOSTER of Vermont. Yes.

Mr. HUMPHREYS of Mississippi. Of course that would be evidence of the fact that the officer had performed the duty that the statute required of him. I did not know until now that it had been held in his State that this evidence was competent, but I am advised that it has been held in one or two States that the evidence the gentleman mentions is competent. But in at least nine States out of ten the courts have held that it is not competent, and, in my opinion, the courts held correctly when they held that it was not competent. Now, under the bill as I introduced it, if it becomes a law, it will simply require that when the internal-revenue collector issues a license, he shall make a duplicate and preserve that duplicate, and issue a certified copy of that, so that it can be used in the State courts; and no

court under heaven will ever say that that is not competent evidence.

Then we arrive at it without taking the officer away from his duty and without disturbing the records of his office by requiring him to take them with him when he leaves his office to go and testify in court. He simply gives a certified copy of the record, which can be carried into court, and that puts him on an equality with every other officer in this Government. As was decided in Aaron Burr's trial at Richmond, when John Marshall was sitting as a trial judge, there is no officer, from the President of the United States down to the lowest officer in the land, who is exempt from the process of the court. But now the collector of internal revenue is excused from this duty when he is called on to testify against a man who has violated the law against retail liquor selling, and as a rule the men who violate this law are the most contemptible and despicable characters in the community.

Mr. PALMER. I am in favor of the gentleman's bill, and I am going to vote for it when he gets it up, and I don't see why he can not get it up some day under a suspension of the rules; but the gentleman from Vermont [Mr. FOSTER] is right in regard to the common-law rule. You must have a certified copy from the officer who has it in charge or a verified copy by one who goes and sees it.

Mr. GAINES of Tennessee. But the officer in charge won't give it.

Mr. WILLIAMS. There is no duplicate copy in the internal-revenue office of this tax receipt which is issued; there is this list posted up. Even if your position were correct, you couldn't get a verified copy of the receipt; all you could get would be a verified copy of the fact that the man's name was on the list.

Mr. FOSTER of Vermont. The gentleman from Mississippi is wrong. The Treasury Department requires this collector to keep in his office not only a list of the taxpayers, but a list of the taxpayers with the amount of tax that is paid, and the purposes for which he paid it.

Mr. WILLIAMS. Not a copy of the receipt?

Mr. FOSTER of Vermont. No.

Mr. WILLIAMS. Well, that is the evidence that you have got to have, the receipt itself, to show that this man paid it. It is possible that the list is a misprint.

Mr. HUMPHREYS of Mississippi. Let me ask the gentleman from Vermont this question: What objection can there be to requiring the internal-revenue collector to give a copy of a receipt that he issues to John Smith or Richard Roe?

Mr. FOSTER of Vermont. I was not raising that question.

Mr. HUMPHREYS of Mississippi. Can you conceive any objection?

Mr. FOSTER of Vermont. The only objection is this, and it is the reason for this regulation of the Treasury Department: The Treasury Department, under Republican rule as under Democratic rule, and it has been in force under Democratic rule as well as Republican rule, has no desire to interfere with the criminal laws of any State.

Mr. HUMPHREYS of Mississippi. But it does do it.

Mr. FOSTER of Vermont. If the gentleman will let me finish. The Treasury Department has no desire to interfere with the criminal law of any State. But it says that this is a revenue provision entirely and the Treasury Department insists that the revenue laws of the National Government should not be used in executing the criminal laws of the several States.

Mr. WILLIAMS. The law is not used; it is only a copy of what took place under the law.

Mr. HUMPHREYS of Mississippi. The proper regulation of the liquor traffic, Mr. Chairman, is one of the most troublesome questions that ever vexed the mind of a legislator. It has been the subject of the most thoughtful, the most zealous, the most prayerful, and frequently the most fruitless efforts of the statesmen in our State legislatures. The traffic is one of the most fruitful sources of crime in this broad land, and the attempts to regulate it so as to minimize the danger to society have been almost infinite in their variety. We have in the different States high license and no license, prohibition and dispensary, local option and constitutional prohibition; but wherever we have the traffic, and however we have it, it furnishes the principal business for the police judge. It is none of our business, Mr. Chairman, which of these methods the several States may adopt; it is for them to determine in the exercise of what little police power they have left. It is our business, however, to see that no officer or agent of the United States Government interferes with or in any way obstructs the due administration of the State law, whatever that law may be.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I thank the House very much for the attention I have received. [Loud applause.]

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the naval appropriation bill and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. FORSTER, one of his secretaries.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 4983. An act granting an increase of pension to John M. Farquhar—to the Committee on Invalid Pensions.

S. 5891. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee—to the Committee on Interstate and Foreign Commerce.

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee—to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4739. An act granting an increase of pension to Benjamin F. Burgess;

S. 4688. An act granting an increase of pension to Noel J. Burgess;

S. 4582. An act granting an increase of pension to Seth H. Cooper;

S. 4576. An act granting an increase of pension to William Monks;

S. 4511. An act granting an increase of pension to William Hoaglin;

S. 4392. An act granting an increase of pension to Cornelia A. Mobley;

S. 4359. An act granting an increase of pension to Mary E. Lincoln;

S. 4231. An act granting an increase of pension to Owen Martin;

S. 4193. An act granting an increase of pension to Calvin D. Wilber;

S. 3883. An act granting an increase of pension to Ferdinand Hercher;

S. 4126. An act granting an increase of pension to Williard Farrington;

S. 4112. An act granting an increase of pension to Henry Swigart;

S. 4010. An act granting an increase of pension to Bridget Egan;

S. 3759. An act granting an increase of pension to Harry D. Miller;

S. 3765. An act granting an increase of pension to Charles R. Frost;

S. 3720. An act granting an increase of pension to Smith Vaughan;

S. 3655. An act granting an increase of pension to Mary A. Good;

S. 3555. An act granting a pension to Alice A. Fray;

S. 3551. An act granting an increase of pension to Solomon Jackson;

S. 3549. An act granting an increase of pension to Martha H. Ten Eyck;

S. 3468. An act granting an increase of pension to Myra R. Daniels;

S. 3454. An act granting an increase of pension to William Wilson;

S. 3415. An act granting an increase of pension to William Triplett;

S. 3308. An act granting a pension to Sarah Lovell;

S. 3273. An act granting an increase of pension to Abisha Risk;

S. 3272. An act granting an increase of pension to John Hirth;

S. 3230. An act granting an increase of pension to William C. Bourke;

S. 3178. An act granting an increase of pension to Daniel Shelly;
S. 4018. An act granting an increase of pension to Ebenezer Lusk;
S. 3130. An act granting an increase of pension to George B. Vallandigham;
S. 3119. An act granting an increase of pension to Francis A. Beranek;
S. 2985. An act granting an increase of pension to George W. Bodenhamer;
S. 5342. An act granting an increase of pension to May E. Johnson;
S. 5095. An act granting a pension to Jeremiah McKenzie;
S. 5192. An act granting a pension to John H. Stacy;
S. 5189. An act granting an increase of pension to Margaret F. Joyce;
S. 5186. An act granting an increase of pension to Robert Staplins;
S. 5173. An act granting an increase of pension to William S. Garrett;
S. 5146. An act granting a pension to Mary J. McLeod;
S. 5114. An act granting an increase of pension to Lizzie B. Cusick;
S. 5094. An act granting an increase of pension to Samuel F. Baublitz;
S. 5093. An act granting an increase of pension to Josiah F. Staubs;
S. 5091. An act granting an increase of pension to Sallie Tyrrell;
S. 5092. An act granting an increase of pension to Mary C. Feigley;
S. 5077. An act granting an increase of pension to Gabriel Cody;
S. 5055. An act granting an increase of pension to Melvin Grandy;
S. 4901. An act granting an increase of pension to Joshua M. Lounsberry;
S. 4763. An act granting an increase of pension to Harrison Randolph;
S. 4759. An act granting an increase of pension to Oliver M. Stone;
S. 4745. An act granting an increase of pension to Susan J. F. Joslyn;
S. 2959. An act granting an increase of pension to William R. Gallion;
S. 2886. An act granting an increase of pension to Martha Hoffman;
S. 2799. An act granting an increase of pension to Willis H. Watson;
S. 2767. An act granting a pension to Sarah S. Etue;
S. 2759. An act granting an increase of pension to William B. Mitchell;
S. 2021. An act granting a pension to Juliet K. Phillips;
S. 1818. An act granting a pension to Edward T. White;
S. 1913. An act granting a pension to Clara F. Leslie;
S. 1728. An act granting an increase of pension to Joseph H. Allen;
S. 1692. An act granting a pension to Ellen H. Swayne;
S. 4760. An act granting a pension to John B. Lee;
S. 5375. An act granting an increase of pension to Francis L. Porter;
S. 5366. An act granting an increase of pension to John Beatty;
S. 5355. An act granting an increase of pension to Annie M. Walker;
S. 5291. An act granting an increase of pension to Elijah A. Smith;
S. 5344. An act granting an increase of pension to Sophronia Roberts;
S. 5255. An act granting an increase of pension to John D. Culler;
S. 5219. An act granting an increase of pension to David N. Morland;
S. 5205. An act granting an increase of pension to John F. Alsup;
S. 1691. An act granting an increase of pension to Alice S. Shepard;
S. 1628. An act granting an increase of pension to Christian H. Goebel;
S. 1605. An act granting an increase of pension to Richard H. Lee;
S. 5455. An act granting a pension to Emily J. Alden;
S. 5517. An act granting an increase of pension to William H. H. Shaffer;
S. 1564. An act granting an increase of pension to Leander C. Reeve;
S. 5514. An act to amend section 4472 of the Revised Statutes, relating to carrying of dangerous articles on passenger steamers;
S. 5515. An act granting an increase of pension to Matilda C. Frizell;
S. 2977. An act granting an increase of pension to David B. Neafus;
S. 556. An act granting an increase of pension to William H. Egolf;
S. 591. An act granting a pension to William C. Banks;
S. 13. An act granting an increase of pension to Hautville A. Johnson;
S. 5453. An act granting an increase of pension to Jacob M. Peckle;
S. 5338. An act granting an increase of pension to David Buckner;
S. 5439. An act granting an increase of pension to George W. Dunlap;
S. 971. An act granting an increase of pension to William H. Hackney;
S. 918. An act granting an increase of pension to Edwin N. Baker;
S. 5337. An act granting an increase of pension to Samuel M. Tow;
S. 1514. An act granting an increase of pension to George W. Wicks;
S. 1260. An act granting an increase of pension to Frank Pugsley;
S. 1013. An act granting an increase of pension to William H. Odear; and
S. 834. An act granting an increase of pension to Lucien W. French.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:
H. R. 1565. An act for the relief of Theodore H. Bishop;
H. R. 1340. An act granting a pension to Robert Kennish;
H. R. 2796. An act granting a pension to Benjamin T. Odiorne;
H. R. 3333. An act granting a pension to William Simmons;
H. R. 4264. An act granting a pension to Frances E. Maloon;
H. R. 4669. An act granting a pension to Joseph E. Green;
H. R. 6949. An act granting a pension to Alice W. Powers;
H. R. 6985. An act granting a pension to Susan C. Smith;
H. R. 7232. An act granting a pension to Alba B. Bean;
H. R. 7737. An act granting a pension to William H. Winters;
H. R. 7844. An act granting a pension to Phoebe Keith;
H. R. 8475. An act granting a pension to John F. Tathem;
H. R. 8687. An act granting a pension to William I. Lusch;
H. R. 8820. An act granting a pension to Inez Talkington;
H. R. 9046. An act granting a pension to William Berry;
H. R. 9287. An act granting a pension to Eliza Byron;
H. R. 9441. An act granting a pension to Clara N. Scranton;
H. R. 9442. An act granting a pension to Dora C. Walter;
H. R. 9606. An act granting a pension to Martha Jewell;
H. R. 9993. An act granting a pension to George W. Warren;
H. R. 10408. An act granting a pension to Anna E. Middleton;
H. R. 10424. An act granting a pension to Emanuel S. Thompson;
H. R. 10775. An act granting a pension to Ellen S. Cushman;
H. R. 11565. An act granting a pension to Sarah A. Brinker;
H. R. 11654. An act granting a pension to Emma A. Smith;
H. R. 11703. An act granting a pension to Laura McNulta;
H. R. 11898. An act granting a pension to Lars F. Wadsten, alias Frederick Wadsten.
H. R. 11918. An act granting a pension to Mary A. Weigand;
H. R. 12099. An act granting a pension to Charlotte A. McCormick;
H. R. 12715. An act granting a pension to George B. Kirk;
H. R. 12803. An act granting a pension to Emma C. Waldron;
H. R. 13217. An act granting a pension to Joshua Barnes;
H. R. 13726. An act granting a pension to Sarah J. Manson;
H. R. 14677. An act granting a pension to Reuben R. Ballenger;
H. R. 15321. An act granting a pension to Charles Skaden, jr.;
H. R. 15431. An act granting a pension to Theresa Creiss;
H. R. 15569. An act granting a pension to Harriet A. Duvall;
H. R. 15895. An act granting a pension to Harry D. McFarland;
H. R. 16520. An act granting a pension to Edward Farrell;
H. R. 16582. An act granting a pension to Ellen T. Sivels;

H. R. 16930. An act granting a pension to Virginia A. Hilburn;
H. R. 16972. An act granting a pension to Harriet L. Morrison;
H. R. 17151. An act granting a pension to William T. Morgan;
H. R. 17273. An act granting a pension to Mary B. Watson;
H. R. 517. An act granting an increase of pension to Luke Waldron;
H. R. 531. An act granting an increase of pension to Ebenezer Rickett;
H. R. 601. An act granting an increase of pension to Isreal E. Munger;
H. R. 667. An act granting an increase of pension to George H. Gaskill;
H. R. 1018. An act granting an increase of pension to Silas Flournoy;
H. R. 1138. An act granting an increase of pension to Joseph S. Rice;
H. R. 1151. An act granting an increase of pension to Valentine Bartley;
H. R. 1245. An act granting an increase of pension to David Rankin;
H. R. 1375. An act granting an increase of pension to Silas Mosher;
H. R. 1567. An act granting an increase of pension to Edward Duffy;
H. R. 1734. An act granting an increase of pension to William H. Lee;
H. R. 1858. An act granting an increase of pension to James Jacobs;
H. R. 1893. An act granting an increase of pension to Henry C. Maxwell;
H. R. 1910. An act granting an increase of pension to Andrew H. Nichols;
H. R. 1953. An act granting an increase of pension to Susan S. Theall;
H. R. 2102. An act granting an increase of pension to Eugenie Tilburn;
H. R. 2173. An act granting an increase of pension to Thomas H. Padgett;
H. R. 2721. An act granting an increase of pension to Ashford R. Matheny;
H. R. 2731. An act granting an increase of pension to James M. Eddy;
H. R. 2778. An act granting an increase of pension to Patrick Mahoney;
H. R. 2794. An act granting an increase of pension to Richard E. Davis;
H. R. 2801. An act granting an increase of pension to Alexander M. Lowry;
H. R. 2852. An act granting an increase of pension to James Dayton;
H. R. 3347. An act granting an increase of pension to Orestes B. Wright;
H. R. 3419. An act granting an increase of pension to John Biddle;
H. R. 3430. An act granting an increase of pension to Peter M. Culins;
H. R. 3456. An act granting an increase of pension to David B. Ott;
H. R. 3689. An act granting an increase of pension to Charles W. Lyons;
H. R. 3738. An act granting an increase of pension to Daniel Boughman;
H. R. 3979. An act granting an increase of pension to Paul Stang;
H. R. 4230. An act granting an increase of pension to William H. Miles;
H. R. 4242. An act granting an increase of pension to Mary A. Foster;
H. R. 4294. An act granting an increase of pension to Annie R. E. Nesbitt;
H. R. 4350. An act granting an increase of pension to Joseph W. Vance;
H. R. 4679. An act granting an increase of pension to Franklin D. Clark;
H. R. 4763. An act granting an increase of pension to John C. Matheny;
H. R. 5044. An act granting an increase of pension to Hiram G. Hoke;
H. R. 5178. An act granting an increase of pension to Elijah Pantall;
H. R. 5274. An act granting an increase of pension to William T. Branam;
H. R. 5822. An act granting an increase of pension to Miner L. Braden;
H. R. 5853. An act granting an increase of pension to Quincy Corwin;
H. R. 5956. An act granting an increase of pension to Joseph H. Wagoner;
H. R. 6213. An act granting an increase of pension to Hiram Linn;
H. R. 6238. An act granting an increase of pension to Jesse Woods;
H. R. 6256. An act granting an increase of pension to Solomon Riddell;
H. R. 6450. An act granting an increase of pension to Nannie L. Schmitt;
H. R. 6452. An act granting an increase of pension to William H. Doherty;
H. R. 6864. An act granting an increase of pension to Henry Good;
H. R. 6919. An act granting an increase of pension to Joseph A. C. Curtis;
H. R. 7540. An act granting an increase of pension to William F. Griffith;
H. R. 7687. An act granting an increase of pension to Charles Hammond, alias Hiram W. Kirkpatrick;
H. R. 7720. An act granting an increase of pension to Stephen M. Sexton;
H. R. 7745. An act granting an increase of pension to Wheeler Lindenbower;
H. R. 7821. An act granting an increase of pension to Mathias Brady;
H. R. 7837. An act granting an increase of pension to Mary J. McKim;
H. R. 7902. An act granting an increase of pension to Eugene Orr, alias Charles Southard;
H. R. 7968. An act granting an increase of pension to Palmetto Dodson;
H. R. 8046. An act granting an increase of pension to James Thompson Brown;
H. R. 8157. An act granting an increase of pension to Milton H. Wayne;
H. R. 8277. An act granting an increase of pension to Samuel S. Garst;
H. R. 8290. An act granting an increase of pension to Lloyd D. Bennett;
H. R. 8518. An act granting an increase of pension to Samuel Meadows;
H. R. 8711. An act granting an increase of pension to James F. Howard;
H. R. 8778. An act granting an increase of pension to George Henderson;
H. R. 8780. An act granting an increase of pension to Abraham M. Barr;
H. R. 8948. An act granting an increase of pension to John W. Hammond;
H. R. 9257. An act granting an increase of pension to Nathaniel M. Stukes;
H. R. 9261. An act granting an increase of pension to William C. Herridge;
H. R. 9288. An act granting an increase of pension to Catherine E. Bragg;
H. R. 9415. An act granting an increase of pension to John E. Murphy;
H. R. 9417. An act granting an increase of pension to George A. Havel;
H. R. 9556. An act granting an increase of pension to Thomas C. Jackson;
H. R. 9578. An act granting an increase of pension to Alfred B. Menard;
H. R. 9601. An act granting an increase of pension to John B. Page;
H. R. 9627. An act granting an increase of pension to Daniel Craig;
H. R. 9791. An act granting an increase of pension to Amelia E. Grimsley;
H. R. 9829. An act granting an increase of pension to William J. Thompson;
H. R. 9833. An act granting an increase of pension to James C. Miller;
H. R. 10030. An act granting an increase of pension to Arby Frier;
H. R. 10161. An act granting an increase of pension to Benjamin R. South;
H. R. 10173. An act granting an increase of pension to John H. Lockhart;
H. R. 10250. An act granting an increase of pension to Ephraim Marble;
H. R. 10358. An act granting an increase of pension to Charles Dorin;

H. R. 10456. An act granting an increase of pension to William T. Edgemon;
H. R. 10473. An act granting an increase of pension to John B. Gerard;
H. R. 10494. An act granting an increase of pension to Hannah C. Reese;
H. R. 10580. An act granting an increase of pension to Samuel Fish;
H. R. 10591. An act granting an increase of pension to Sarah A. Scott;
H. R. 10686. An act granting an increase of pension to George W. Adams;
H. R. 10727. An act granting an increase of pension to Aquilla M. Hizar;
H. R. 10881. An act granting an increase of pension to Jerry Edwards;
H. R. 10924. An act granting an increase of pension to Thomas J. Sizer;
H. R. 11143. An act granting an increase of pension to Levi B. Noulton;
H. R. 11306. An act granting an increase of pension to John C. Parkinson;
H. R. 11348. An act granting an increase of pension to Cynthia Cordial, now Vernon;
H. R. 11361. An act granting an increase of pension to Thomas Hughes;
H. R. 11367. An act granting an increase of pension to Manning Abbott;
H. R. 11374. An act granting an increase of pension to Fanny L. Conine;
H. R. 11532. An act granting an increase of pension to Andrew J. Speed;
H. R. 11538. An act granting an increase of pension to Eli Duvall;
H. R. 11591. An act granting an increase of pension to John B. Hall;
H. R. 11593. An act granting an increase of pension to Evans Blake;
H. R. 11606. An act granting an increase of pension to Edmund W. Bixby;
H. R. 11692. An act granting an increase of pension to John P. Wishart;
H. R. 11824. An act granting an increase of pension to Jennie P. Starkins;
H. R. 11907. An act granting an increase of pension to August Danieldson;
H. R. 12017. An act granting an increase of pension to James B. Simkins;
H. R. 12019. An act granting an increase of pension to Henry Jacob Fox;
H. R. 12059. An act granting an increase of pension to Mildred W. Mitchell;
H. R. 12389. An act granting an increase of pension to Isaiah B. McDonald;
H. R. 12390. An act granting an increase of pension to John W. Raynor;
H. R. 12407. An act granting an increase of pension to Robert Bivans;
H. R. 12415. An act granting an increase of pension to Elizabeth Bodkin;
H. R. 12521. An act granting an increase of pension to Alice Eddy Potter;
H. R. 12526. An act granting an increase of pension to Solomon Johnson;
H. R. 12534. An act granting an increase of pension to Richard Reynolds;
H. R. 12556. An act granting an increase of pension to Joseph W. Coppage;
H. R. 12663. An act granting an increase of pension to Frederick Friebele;
H. R. 12755. An act granting an increase of pension to Nathaniel W. Plymate;
H. R. 12888. An act granting an increase of pension to Jacob Sannar;
H. R. 12996. An act granting an increase of pension to Eugene B. McDonald;
H. R. 13139. An act granting an increase of pension to William Walrod;
H. R. 13171. An act granting an increase of pension to Jonathan K. Porter;
H. R. 13345. An act granting an increase of pension to Frank Clendenin;
H. R. 13437. An act granting an increase of pension to Samuel R. Lowry;
H. R. 13445. An act granting an increase of pension to Thomas T. Blanchard;
H. R. 13504. An act granting an increase of pension to Elizabeth Thompson;
H. R. 13730. An act granting an increase of pension to Joseph Shroyer;
H. R. 13738. An act granting an increase of pension to Henry Hahn;
H. R. 13741. An act granting an increase of pension to George R. Scott;
H. R. 13823. An act granting an increase of pension to William Van Keuren;
H. R. 13840. An act granting an increase of pension to Absalom Shell;
H. R. 13862. An act granting an increase of pension to Luther S. Holly;
H. R. 13871. An act granting an increase of pension to William Delany;
H. R. 13881. An act granting an increase of pension to Amos Dyke;
H. R. 13928. An act granting an increase of pension to Harvey Foster;
H. R. 13961. An act granting an increase of pension to Julius Buxbaum;
H. R. 14001. An act granting an increase of pension to Nathan S. Ruddock;
H. R. 14116. An act granting an increase of pension to John P. Rains;
H. R. 14117. An act granting an increase of pension to William H. H. Fellows;
H. R. 14227. An act granting an increase of pension to Anna C. Bassford;
H. R. 14299. An act granting an increase of pension to Rose V. Mullin;
H. R. 14374. An act granting an increase of pension to Benjamin B. Cahoon;
H. R. 14442. An act granting an increase of pension to Esther M. Lowe;
H. R. 14498. An act granting an increase of pension to Eliza Davidson;
H. R. 14534. An act granting an increase of pension to Jasper N. Harrelson;
H. R. 14552. An act granting an increase of pension to Henry Davey;
H. R. 14553. An act granting an increase of pension to Jesse Lienallen;
H. R. 14566. An act granting an increase of pension to Robert E. McKiernan;
H. R. 14657. An act granting an increase of pension to David W. West;
H. R. 14688. An act granting an increase of pension to Robert Timmons;
H. R. 14698. An act granting an increase of pension to William F. Drake;
H. R. 14780. An act granting an increase of pension to John A. Royer;
H. R. 14782. An act granting an increase of pension to Michael Manahan;
H. R. 14853. An act granting an increase of pension to Helen C. Sanderson;
H. R. 14915. An act granting an increase of pension to Andrew W. Tracy;
H. R. 14989. An act granting an increase of pension to Arcatie E. Thompson;
H. R. 14990. An act granting an increase of pension to Lucius D. Whaley;
H. R. 14993. An act granting an increase of pension to Riley M. Smiley;
H. R. 15007. An act granting an increase of pension to Henry Hares;
H. R. 15011. An act granting an increase of pension to John Eldridge, jr.;
H. R. 15024. An act granting an increase of pension to Henry C. Keyser;
H. R. 15050. An act granting an increase of pension to William H. Near;
H. R. 15061. An act granting an increase of pension to Ethan Allen;
H. R. 15119. An act granting an increase of pension to Cornelius Westman;
H. R. 15216. An act granting an increase of pension to Truman C. Stevens;
H. R. 15240. An act granting an increase of pension to James W. Fowler;

H. R. 15256. An act granting an increase of pension to Benjamin F. Greer;
H. R. 15277. An act granting an increase of pension to George W. Pierce;
H. R. 15380. An act granting an increase of pension to Valentine Gunselman;
H. R. 15396. An act granting an increase of pension to John T. Jacobs;
H. R. 15415. An act granting an increase of pension to Ann R. Nelson;
H. R. 15484. An act granting an increase of pension to Robert Dick;
H. R. 15487. An act granting an increase of pension to Truman Aldrich;
H. R. 15548. An act granting an increase of pension to Jacob Ferber;
H. R. 15616. An act granting an increase of pension to Pleasant Calor;
H. R. 15621. An act granting an increase of pension to Caleb M. Tarter;
H. R. 15670. An act granting an increase of pension to Daniel E. Durgin;
H. R. 15683. An act granting an increase of pension to Thomas Brown;
H. R. 15701. An act granting an increase of pension to William Brown;
H. R. 15717. An act granting an increase of pension to Ebenezer A. Rice;
H. R. 15780. An act granting an increase of pension to Peter Cole;
H. R. 15794. An act granting an increase of pension to Samuel Pepper;
H. R. 15835. An act granting an increase of pension to George M. Thompson;
H. R. 15840. An act granting an increase of pension to Edgar B. Hughson;
H. R. 15863. An act granting an increase of pension to William Louther;
H. R. 15894. An act granting an increase of pension to Alma L. Wells;
H. R. 15928. An act granting an increase of pension to Herbert D. Ingersoll;
H. R. 15956. An act granting an increase of pension to Walter F. Bean;
H. R. 15982. An act granting an increase of pension to Henrietta W. Wilson;
H. R. 16023. An act granting an increase of pension to Sheldon B. Fargo;
H. R. 16024. An act granting an increase of pension to Katie B. Meister;
H. R. 16179. An act granting an increase of pension to William N. J. Burns;
H. R. 16182. An act granting an increase of pension to Samuel F. Williams;
H. R. 16190. An act granting an increase of pension to James T. Caskey;
H. R. 16210. An act granting an increase of pension to Abraham G. Long;
H. R. 16250. An act granting an increase of pension to Augustus J. Morey;
H. R. 16266. An act granting an increase of pension to Margaret A. Rucker;
H. R. 16296. An act granting an increase of pension to Henry C. Coffin;
H. R. 16334. An act granting an increase of pension to Enos Day;
H. R. 16376. An act granting an increase of pension to Joseph Muncher;
H. R. 16428. An act granting an increase of pension to Edwin Hicks;
H. R. 16433. An act granting an increase of pension to Marius S. Cooley;
H. R. 16437. An act granting an increase of pension to Samuel H. Frazier;
H. R. 16442. An act granting an increase of pension to John A. Powell;
H. R. 16445. An act granting an increase of pension to Henry H. Sibley;
H. R. 16454. An act granting an increase of pension to Samuel E. Carlton;
H. R. 16455. An act granting an increase of pension to John Long;
H. R. 16504. An act granting an increase of pension to Thomas W. Barnum;
H. R. 16514. An act granting an increase of pension to John W. Barton;
H. R. 16523. An act granting an increase of pension to Charles P. Hopkins;
H. R. 16578. An act granting an increase of pension to Edward Lilley;
H. R. 16583. An act granting an increase of pension to David R. Walden;
H. R. 16650. An act granting an increase of pension to Robert B. Williby;
H. R. 16985. An act granting an increase of pension to Gilson Lawrence;
H. R. 17028. An act granting an increase of pension to Lorenzo D. Hartwell;
H. R. 17194. An act granting an increase of pension to Jennie White;
H. R. 17235. An act granting an increase of pension to Martha Howard;
H. R. 17274. An act granting an increase of pension to Andrew J. Mosier;
H. R. 17589. An act granting an increase of pension to Sidney A. Lawrence;
H. R. 17608. An act granting an increase of pension to Sidney S. Brewerton;
H. R. 18709. An act making additional appropriations for the public service on account of earthquake and attending conflagration on the Pacific coast;
H. R. 8997. An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes; and
H. R. 11796. An act for the diversion of water from the Sacramento River, in the State of California, for irrigation purposes.

ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolutions of the following titles; when the Speaker signed the same:

H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter;
H. J. Res. 145. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers; and
H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River at Lock 2, Alabama.

THE SAN FRANCISCO EARTHQUAKE.

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed.

[For message, see Senate proceedings of this day.]

Mr. FOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 15 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Postmaster-General submitting an estimate of appropriation for file boxes and cases for appointment division—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. McGUIRE, from the Committee on Territories, to which was referred the bill of the House (H. R. 11787) ratifying and approving an act to appropriate money for the purpose of building additional buildings for the Northwestern Normal School at Alva, in Oklahoma Territory, passed by the legislative assembly of Oklahoma Territory, and approved the 15th day of March, 1905, reported the same without amendment, accompanied by a report (No. 3711); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the

bill of the House (H. R. 17186) granting to the Territory of Oklahoma, for the use and benefit of the University Preparatory School of the Territory of Oklahoma, section 33, in township No. 26 north of range No. 1 west of the Indian meridian, in Kay County, Oklahoma Territory, reported the same without amendment, accompanied by a report (No. 3712); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. REEDER, from the Committee on Irrigation of Arid Lands, to which was referred the bill of the House (H. R. 18536) providing for the subdivision of lands entered under the reclamation act, and for other purposes, reported the same with amendment, accompanied by a report (No. 3717); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 14892) making an appropriation for completing the construction of the road to the Barrancas military post, by way of the national cemetery and the navy-yard on the naval reservation near Pensacola, Fla., reported the same with amendment, accompanied by a report (No. 3718); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. McGUIRE, from the Committee on the Territories, to which was referred the bill of the House (H. R. 17431) granting to the regents of the University of Oklahoma section No. 36, in township No. 9 north of range No. 3 west of the Indian meridian, in Cleveland County, Oklahoma Territory, reported the same without amendment, accompanied by a report (No. 3713); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18850) donating lands in Oklahoma Territory for educational purposes, reported the same without amendment, accompanied by a report (No. 3714); which said bill and report were referred to the Private Calendar.

Mr. HOWELL of Utah, from the Committee on Claims, to which was referred the bill of the House (H. R. 18134) for the relief of the Compañia de los Ferrocarriles de Puerto Rico, reported the same with amendment, accompanied by a report (No. 3715); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and laid on the table as follows:

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 1690) for the relief of Theodore A. Northop, reported the same adversely, accompanied by a report (No. 3716); which said bill and report were ordered laid on the table.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 3156) to grant an honorable discharge from the military service to Robert C. Gregg, reported the same adversely, accompanied by a report (No. 3719); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GARDNER of New Jersey: A bill (H. R. 18918) to provide for the completion of the public building in Atlantic City, N. J.—to the Committee on Public Buildings and Grounds.

By Mr. LEWIS: A bill (H. R. 18919) to increase salaries of rural free-delivery carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. McGUIRE: A bill (H. R. 18920) to authorize the Wichita Mountain and Orient Railway Company to construct and operate a railway through the Fort Sill Military Reservation, and for other purposes—to the Committee on Military Affairs.

By Mr. ESCH: A resolution (H. Res. 417) instructing the Committee on the Judiciary to report to the House a bill concerning insurance legislation—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANDRUS: A bill (H. R. 18921) granting a pension to Mary Elizabeth McCann—to the Committee on Invalid Pensions.

By Mr. BATES: A bill (H. R. 18922) granting an increase of pension to Henry H. Niles—to the Committee on Invalid Pensions.

By Mr. BRANTLEY: A bill (H. R. 18923) granting an increase of pension to Edward Shnell—to the Committe on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 18924) for the relief of George M. Esterly—to the Committee on Claims.

By Mr. CURTIS: A bill (H. R. 18925) for the relief of John H. Davison, alias Henry Bingham—to the Committee on Military Affairs.

Also, a bill (H. R. 18926) granting an increase of pension to William Irelan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18927) granting an increase of pension to Mrs. J. Frank Wyman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18928) granting an increase of pension to Mary J. F. Day—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18929) to correct the record of James Clingen—to the Committee on Military Affairs.

By Mr. GILLESPIE: A bill (H. R. 18930) granting an increase of pension to Eliza J. Mays—to the Committee on Pensions.

By Mr. GUDGER: A bill (H. R. 18931) granting an increase of pension to Malinda Wike—to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 18932) for the relief of the St. Paul Reformed Church, of Woodstock, Va.—to the Committee on War Claims.

By Mr. HUFF: A bill (H. R. 18933) granting an increase of pension to Andrew C. Gibson—to the Committee on Invalid Pensions.

By Mr. JONES of Washington: A bill (H. R. 18934) for the relief of George Anderson, of Conconully, State of Washington—to the Committee on the Public Lands.

By Mr. LEVER: A bill (H. R. 18935) granting an increase of pension to Mima A. Boswell—to the Committee on Pensions.

By Mr. LITTLE: A bill (H. R. 18936) granting a pension to J. O. Grant—to the Committee on Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 18937) granting an increase of pension to William K. Turner—to the Committee on Invalid Pensions.

By Mr. McGUIRE: A bill (H. R. 18938) for the relief of Joseph B. Tucker, late private, Company H, Second Arkansas United States Cavalry, for depredations committed by Indians while he was in the United States Army—to the Committee on War Claims.

Also, a bill (H. R. 18939) for the relief of Sallie E. Barnes, widow of Joseph Barnes, late of Gilmore, Choctaw Nation, Ind. T.—to the Committee on War Claims.

Also, a bill (H. R. 18940) granting a pension to Rice S. McCubbin—to the Committee on Pensions.

Also, a bill (H. R. 18941) granting a pension to Benjamin S. Musser—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18942) granting a pension to William Pouder—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18943) granting an increase of pension to Samuel Emrick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18944) granting an increase of pension to William Cameron—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18945) granting an increase of pension to William J. P. De Lesdernier—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18946) granting an increase of pension to Frank Marshall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18947) granting an increase of pension to Roger A. Sprague—to the Committee on Invalid Pensions.

By Mr. MAHON: A bill (H. R. 18948) granting a pension to John D. Baker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18949) granting an increase of pension to William Gilbert—to the Committee on Invalid Pensions.

By Mr. MUDD: A bill (H. R. 18950) granting a pension to Andrea P. Caldwell—to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 18951) to correct the military record of Charles Koester—to the Committee on Military Affairs.

By Mr. REEDER: A bill (H. R. 18952) granting a pension to Lydia A. Graham—to the Committee on Invalid Pensions.

By Mr. SHARTEL: A bill (H. R. 18953) for the relief of Joseph Kercher, sr., and others—to the Committee on War Claims.

By Mr. TAYLOR of Ohio: A bill (H. R. 18954) granting an increase of pension to John E. Minnick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18955) granting an increase of pension to Jasper Smith—to the Committee on Invalid Pensions.

By Mr. WANGER: A bill (H. R. 18956) granting an increase of pension to Joseph Scattergood—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 18957) for the relief of George W. Sedwick—to the Committee on War Claims.

Also, a bill (H. R. 18958) granting an increase of pension to Robertson S. Maberry—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 18959) granting an increase of pension to Albert G. Packer—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 4292) granting a pension to George W. Kelly—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18601) granting an increase of pension to Edward A. Barnes—Committee on Invalid Pensions discharged, and referred to Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of 200 citizens of New Brighton, Pa., against liquor selling in Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of the Presbyterian Church of Ellwood City, Pa., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of 200 citizens of New Brighton, Pa., for Sunday closing of the Jamestown exposition—to the Committee on Industrial Arts and Expositions.

By Mr. BARCHFELD: Resolution of American Federation of Labor, submitting a list of grievances of labor organizations—to the Committee on Labor.

Also, petition of E. B. Spaulding, for the adoption by Government of steel mail cars—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills)—to the Committee on the District of Columbia.

Also, resolution of the Tenth Pennsylvania Infantry, relative and favorable to House bill by Hon. ROBERT W. BONYNGE, granting medals to soldiers and officers of the Spanish war who served in the Philippines after time of enlistment had expired—to the Committee on Military Affairs.

Also, petition of A. O. Fording, for the Burton bill for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Western Pennsylvania Branch of the Consumers' League, for bills S. 50 and H. R. 4462 (child labor in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Andra C. Pool—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of Capt. W. S. Adams—to the Committee on Claims.

By Mr. BRANTLEY: Paper to accompany bill for relief of Edward Shuell—to the Committee on Invalid Pensions.

By Mr. BUCKMAN: Paper to accompany bill for relief of Martin A. Luther—to the Committee on Pensions.

By Mr. BURKE of Pennsylvania: Petition of the American Federation of Labor, submitting a list of grievances of labor organizations—to the Committee on Labor.

Also, paper to accompany bill for relief of Col. John Ewing—to the Committee on Invalid Pensions.

Also, petition of A. O. Fording, for the Burton bill for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. BUTLER of Pennsylvania: Petition of the First Presbyterian Church of Westchester, Pa., representing 400 persons, for an amendment to the Constitution prohibiting polygamy—to the Committee on the Judiciary.

By Mr. COOPER of Pennsylvania: Petition of the Woman's Presbyterian Home and Foreign Mission Society, for a constitutional amendment abolishing polygamy—to the Committee on the Judiciary.

By Mr. COUSINS: Petition of the Twentieth Century Club of Marshalltown, Iowa, for forest reservations in the White Mountains—to the Committee on Agriculture.

Also, petition of the Central Park Presbyterian Church and the First Presbyterian Church, of State Center, Iowa, for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. DARRAGH: Petition of citizens of Clare County, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Ashley, Mich., against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of citizens of Torch Lake Township, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Detroit, Mich., for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Big Rapids, Mich., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. DICKSON of Illinois: Petition of the General Federation of Women's Clubs, and Mrs. Julia G. Remann, president of Home Study Club, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. DUNWELL: Petition of the United Commercial Travelers of America, against bill H. R. 4549, for a consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Advisory Committee of One Hundred of the Borough of Brooklyn, for battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. ELLIS: Paper to accompany bill for relief of Joseph Clark—to the Committee on Military Affairs.

By Mr. FITZGERALD: Petition of the Broadway Board of Trade, of Brooklyn, N. Y., favoring battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. GILLETT of Massachusetts: Petition of the president of the Chicopee Fall (Mass.) Woman's Club, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. GOULDEN: Petition of members of St. Luke's Council, No. 438, Knights of Columbus, for a memorial of Christopher Columbus (bill H. R. 13304)—to the Committee on the Library.

By Mr. GRAHAM: Petition of K. Nerdlin, for the Benton bill (H. R. 18024) for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of A. O. Fording, for the Burton bill for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills)—to the Committee on the District of Columbia.

Also, resolution of the American Federation of Labor, submitting a list of grievances of labor organizations—to the Committee on Labor.

By Mr. HENRY of Connecticut: Petition of citizens of East Hartford, Conn., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. HUFF: Paper to accompany bills for relief of Jacob Lybarger and Andrew C. Gibson—to the Committee on Invalid Pensions.

By Mr. JONES of Washington: Petition of citizens of Cowlitz County, Wash., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LEVER: Paper to accompany bill for relief of Henrietta G. Carter—to the Committee on Pensions.

By Mr. LINDSAY: Petition of J. H. Lane & Co., for the Burton bill (H. R. 18024) for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Advisory Committee of One Hundred of the Borough of Brooklyn, for construction of more battle ships at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of the United Commercial Travelers of America, against bill H. R. 4549, relative to the consolidation of third and fourth-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. MAHON: Paper to accompany bill for relief of William Gilbert—to the Committee on Invalid Pensions.

By Mr. RYAN: Petition of Buffalo Council, No. 50, Junior Order United American Mechanics, for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SMITH of Maryland: Petition of A. Hallie Creighton and 47 other citizens, of Fishing Creek, Md.; Washington Camp, No. 4, of Templeville, Md.; Washington Camp, No. 34, of Chestertown, Md., and Washington Camp, No. 31, of Delmar, Del., Patriotic Sons of America, and Chestertown Council, No. 177, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SPARKMAN: Petition of citizens of St. Petersburg and Plant City, Fla., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. STERLING: Paper to accompany bill for relief of John H. Sprouse—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of New York: Petition of the Delaware Society, of New York, for naming a battle ship *Delaware*—to the Committee on Naval Affairs.

By Mr. WANGER: Petition of the Huntingdon Valley Presbyterian Church, 160 members, for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. WILLIAMS: Paper to accompany bill for relief of the estate of Tillman Loggin—to the Committee on War Claims.

By Mr. WOOD of New Jersey: Petition of the Society for Political Study, of New York City, for the child-labor law—to the Committee on the District of Columbia.

SENATE.

FRIDAY, *May 4, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 8226. An act granting an increase of pension to Laura B. Ihrie;

H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;

H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;

H. R. 15397. An act granting an increase of pension to Edward Gillespie;

H. R. 15687. An act granting an increase of pension to William F. M. Rice;

H. R. 15907. An act granting an increase of pension to Lewis De Laittre;

H. R. 16215. An act granting an increase of pension to Mary Dagenfield; and

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the Vice-President:

S. 13. An act granting an increase of pension to Hautville A. Johnson;

S. 556. An act granting an increase of pension to William H. Egolf;

S. 591. An act granting a pension to William C. Banks;

S. 834. An act granting an increase of pension to Lucian W. French;

S. 918. An act granting an increase of pension to Edwin N. Baker;

S. 971. An act granting an increase of pension to William H. Hackney;

S. 1013. An act granting an increase of pension to William H. Odear;

S. 1260. An act granting an increase of pension to Frank Pugsley;

S. 1514. An act granting an increase of pension to George W. Wicks;

S. 1564. An act granting an increase of pension to Leander C. Reeve;

S. 1605. An act granting an increase of pension to Richard H. Lee;

S. 1628. An act granting an increase of pension to Christian H. Goebel;

S. 1691. An act granting an increase of pension to Alice S. Shepard;

S. 1692. An act granting a pension to Ellen H. Swayne;

S. 1728. An act granting an increase of pension to Joseph H. Allen;

S. 1818. An act granting a pension to Edward T. White;

S. 1913. An act granting a pension to Clara F. Leslie;

S. 2021. An act granting a pension to Juliet K. Phillips;

S. 2759. An act granting an increase of pension to William B. Mitchell;

S. 2767. An act granting a pension to Sarah S. Etue;

S. 2799. An act granting an increase of pension to Willis H. Watson;

S. 2886. An act granting an increase of pension to Martha Hoffman;

S. 2959. An act granting an increase of pension to William R. Galion;

S. 2977. An act granting an increase of pension to David B. Neafus;

S. 2985. An act granting an increase of pension to George W. Bodenhamer;

S. 3119. An act granting an increase of pension to Francis A. Beranek;

S. 3130. An act granting an increase of pension to George B. Vallandigham;

S. 3178. An act granting an increase of pension to Daniel Shelly;

S. 3230. An act granting an increase of pension to William C. Bourke;

S. 3272. An act granting an increase of pension to John Hirth;

S. 3273. An act granting an increase of pension to Abisha Rick;

S. 3308. An act granting a pension to Sarah Lovell;

S. 3415. An act granting an increase of pension to William Triplett;

S. 3454. An act granting an increase of pension to William Wilson;

S. 3468. An act granting an increase of pension to Myra R. Daniels;

S. 3549. An act granting an increase of pension to Martha H. Ten Eyck;

S. 3551. An act granting an increase of pension to Solomon Jackson;

S. 3555. An act granting a pension to Alice A. Fray;

S. 3655. An act granting an increase of pension to Mary A. Good;

S. 3720. An act granting an increase of pension to Smith Vaughan;

S. 3759. An act granting an increase of pension to Henry D. Miller;

S. 3765. An act granting an increase of pension to Charles R. Frost;

S. 3883. An act granting an increase of pension to Ferdinand Hercher;

S. 4010. An act granting an increase of pension to Bridget Egan;

S. 4018. An act granting an increase of pension to Ebenezer Lusk;

S. 4112. An act granting an increase of pension to Henry Swigart;

S. 4126. An act granting an increase of pension to Willard Farington;

S. 4193. An act granting an increase of pension to Calvin D. Wilber;

S. 4231. An act granting an increase of pension to Owen Martin;

S. 4359. An act granting an increase of pension to Mary E. Lincoln;

S. 4392. An act granting an increase of pension to Cornelia A. Mobley;

S. 4511. An act granting an increase of pension to William Hoaglin;

S. 4576. An act granting an increase of pension to William Monks;

S. 4582. An act granting an increase of pension to Seth H. Cooper;

S. 4688. An act granting an increase of pension to Noel J. Burgess;

S. 4739. An act granting an increase of pension to Benjamin F. Burgess;

S. 4745. An act granting an increase of pension to Susan J. F. Joslyn;

S. 4759. An act granting an increase of pension to Oliver M. Stone;
S. 4760. An act granting an increase of pension to John B. Lee;
S. 4763. An act granting an increase of pension to Harrison Randolph;
S. 4901. An act granting an increase of pension to Joshua M. Lounsberry;
S. 5055. An act granting an increase of pension to Melvin Grandy;
S. 5077. An act granting an increase of pension to Gabriel Cody;
S. 5091. An act granting an increase of pension to Sallie Tyrrell;
S. 5092. An act granting an increase of pension to Mary C. Feigley;
S. 5093. An act granting an increase of pension to Josiah F. Staubs;
S. 5094. An act granting an increase of pension to Samuel F. Baublitz;
S. 5095. An act granting a pension to Jeremiah McKenzie;
S. 5114. An act granting an increase of pension to Lizzie B. Cusick;
S. 5146. An act granting a pension to Mary J. McLeod;
S. 5173. An act granting an increase of pension to William S. Garrett;
S. 5186. An act granting an increase of pension to Robert Staplins;
S. 5189. An act granting an increase of pension to Margaret F. Joyce;
S. 5192. An act granting a pension to John H. Stacey;
S. 5205. An act granting an increase of pension to John F. Alsup;
S. 5219. An act granting an increase of pension to David N. Norland;
S. 5255. An act granting an increase of pension to John D. Cutler;
S. 5291. An act granting an increase of pension to Elijah A. Smith;
S. 5337. An act granting an increase of pension to Samuel M. Tow;
S. 5338. An act granting an increase of pension to David Buckner;
S. 5342. An act granting an increase of pension to Mary E. Johnson;
S. 5344. An act granting an increase of pension to Sophronia Roberts;
S. 5355. An act granting an increase of pension to Annie M. Walker;
S. 5366. An act granting an increase of pension to John Beatty;
S. 5375. An act granting an increase of pension to Frances L. Porter;
S. 5439. An act granting an increase of pension to George W. Dunlap;
S. 5453. An act granting an increase of pension to Jacob M. Pickle;
S. 5455. An act granting a pension to Emily J. Alden;
S. 5514. An act to amend section 4472 of the Revised Statutes, relating to carrying of dangerous articles on passenger steamers;
S. 5515. An act granting an increase of pension to Matilda C. Frizelle;
S. 5517. An act granting an increase of pension to William H. H. Shaffer;
H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River at Lock 2, Alabama;
H. J. Res. 145. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer soldiers; and
H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter.

VISITOR TO WEST POINT.

Mr. SCOTT. Mr. President, I was designated as one of the visitors on the part of the Senate to attend the commencement exercises at West Point, which take place from June 1 to June 12. I find that it will be impossible for me to be present at the exercises, and I ask to be excused from service upon the committee on the part of the Senate.

The VICE-PRESIDENT. Without objection, the Senator from West Virginia is excused, and the Chair appoints in his place the Senator from Indiana [Mr. HEMENWAY].

PETITIONS AND MEMORIALS.

Mr. KEAN. I present a memorial of the Woman's Home Missionary Society of the Methodist Episcopal Church, Newark Conference, New Jersey, remonstrating against the enactment of legislation to take all of the Alaska native schools out of the United States Bureau of Education and place them in the hands of the governor of Alaska. The memorial is brief, and I ask that it be read, and referred to the Committee on Territories.

There being no objection, the memorial was read, and referred to the Committee on Territories, as follows:

WOMAN'S HOME MISSIONARY SOCIETY OF THE METHODIST EPISCOPAL CHURCH—NEWARK CONFERENCE.

On April 5 a bill was introduced into the United States Senate the purpose of which is to take all of the Alaska native schools out of the United States Bureau of Education and place them in the hands of the governor of Alaska.

We believe that if this bill should pass it can not fail to result in failure to the cause of education in Alaska.

It is also rumored that the management of the reindeer in Alaska will be taken from the Bureau of Education and placed under the newly appointed governor.

We protest against such a change being made, as we believe that the mission schools will be greatly hindered in their work of elevating and Christianizing the natives in Alaska.

It seems to be the purpose of the bill above referred to to cut off the communication between the Bureau of Education and the various missions in that country, and we therefore most strenuously protest against its passage.

Mr. KEAN presented the memorial of R. B. Moore, of Vineland, N. J., remonstrating against the enactment of legislation extending the time for the interstate transportation of live stock; which was ordered to lie on the table.

He also presented petitions of sundry citizens of Jersey City and Montclair, in the State of New Jersey, and of the Woman's Home Missionary Societies of the Methodist Episcopal Church, of Newark; of the Market Street Methodist Episcopal Church, of Paterson; of Dunellen, and of Jersey City, and of the Wesley Methodist Episcopal Church, of Paterson, all in the State of New Jersey, praying that the direction of the schools of Alaska be left with the Bureau of Education; which were referred to the Committee on Territories.

He also presented a petition of Jersey City Lodge, No. 119, Brotherhood of Railroad Trainmen, of Jersey City, N. J., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented the petition of Rev. John E. Parmly, pastor of the Presbyterian Church of Atlantic Highlands, N. J., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of Local Union No. 59, Brotherhood of Painters, Decorators, and Paper Hangers, of Elizabeth, N. J., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. PLATT presented a petition of Local Union No. 261, Brotherhood of Painters, Decorators, and Paper Hangers of America, of New York City, N. Y., and a petition of sundry citizens of Rochester, N. Y., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. CULLOM presented a petition of sundry citizens of the State of Illinois, praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Woman's Club of Chicago, Ill., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

Mr. FRYE presented the petition of William Low and 190 other citizens of the State of Maine, praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. GALLINGER presented a petition of the Drysalters Club, of Boston, Mass., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. HOPKINS presented petitions of sundry citizens of Chicago, Philo, Hoopeston, Sidney, Mendota, Rockford, Joliet, Wheaton, Moline, and Dekalb, all in the State of Illinois, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. BERRY presented sundry affidavits to accompany the bill (S. 1482) for the relief of the heirs of John McAnulty, deceased; which were referred to the Committee on Claims.

He also presented sundry affidavits to accompany the bill (S. 1480) for the relief of Mrs. Sarah Winter; which were referred to the Committee on Claims.

Mr. PENROSE presented petitions of West Branch Grange, No. 1149, of Germania; of Local Grange No. 875, of Columbus;

of Mitchells Mills Grange, No. 912, of Somers Lane; of Columbia Grange, No. 83, of Columbia Crossroads; of Local Grange No. 1285, of Penfield, and of Center Grange, No. 56, of Limeridge, all of the Patrons of Husbandry; of Local Union No. 288, of Pittston; of Local Union No. 347, of Warren, and of Local Union No. 809, of Westchester, all of the Brotherhood of Painters, Decorators, and Paper Hangers of America, in the State of Pennsylvania, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. KNOX presented petitions of sundry citizens of Scranton; sundry citizens of Tower City; Camp No. 415, Patriotic Order Sons of America, of Mount Pleasant Mills; Camp No. 46, Patriotic Order Sons of America, of Minersville; Camp No. 210, Patriotic Order Sons of America, of Ickesburg; Camp No. 494, Patriotic Order Sons of America, of Port Royal; Camp No. 106, Patriotic Order Sons of America, of Centralia; Camp No. 485, Patriotic Order Sons of America, of Philadelphia; Camp No. 3, Patriotic Order Sons of America, of Philadelphia; Camp No. 512, Patriotic Order Sons of America, of Three Springs; Camp No. 602, Patriotic Order Sons of America, of Rathmel; Camp No. 591, Patriotic Order Sons of America, of Clearfield; 11 citizens of Scranton; Oliver Travitz, of Tower City; William H. Dietrich, of Tower City; Robert Sterling, of Tower City; F. S. Hawk, of Tower City; Washington Camp, No. 591, Patriotic Order Sons of America, of Clearfield, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of the Presbyterian congregation of Freeport; Woman's Home and Foreign Missionary Society of Dunbar; Sinking Valley Presbyterian Church, of Arch Spring; Young Woman's Christian Association of Wilkes-Barre; First Presbyterian Church of Milton; Woman's Christian Temperance Union of Allegheny County, all in the State of Pennsylvania, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented petitions of Rev. H. G. Hall, of Oil City; W. Berry Smith, of Erie; Woman's Christian Temperance Union of Oil City; Rev. M. H. Calkins, of Mifflinburg; K. G. Kennedy, of Pittsburg; Rev. J. L. Williams, of Susquehanna, all in the State of Pennsylvania, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented petitions of the Civic Club, of Philadelphia; State Federation of Pennsylvania Women; Honesdale Improvement Association, of Honesdale; Parents and Teachers' Club of the Fifth Ward School, of Allegheny; the Reading Circle, of Newcastle; the Century Club, of Pottstown; Woman's Club, of New Brighton, all in the State of Pennsylvania, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of Canonsburg, the Presbyterian Ministerial Association of Philadelphia, of 600 citizens of Washington, 300 citizens of Greensburg, sundry citizens of Ben Avon and Emsworth, all in the State of Pennsylvania, praying for the enactment of legislation conditioning the appropriation to the Jamestown Exposition on the closing of the gates of the exposition on Sunday; which were referred to the Select Committee on Industrial Expositions.

REPORTS OF COMMITTEES.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (H. R. 4867) granting a pension to Louisa Gregg, reported it without amendment, and submitted a report thereon.

Mr. ALGER, from the Committee on Military Affairs, to whom was referred the bill (S. 1209) for the relief of B. J. D. Irwin, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. 4855) to correct the military record of Malachi Mannion, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. 1215) to correct the military record of William Fleming, reported it without amendment, and submitted a report thereon.

Mr. BULKELEY, from the Committee on Military Affairs, to whom was referred the bill (S. 4964) for the relief of Thomas F. Walter, reported it with an amendment, and submitted a report thereon.

MISSOURI RIVER BRIDGE.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5943) to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River, to report it favorably with an amendment, and I submit a report thereon.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill just reported by the Senator from Arkansas.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment of the Committee on Commerce was, on page 1, line 12, after the word "six," to strike out the proviso in the following words:

Provided, That said corporation shall commence said construction within two years and complete the same within four years from the passage of this act.

So as to make the bill read:

Be it enacted, etc., That the Minnesota, Dakota and Pacific Railway Company, a corporation organized under the laws of the State of South Dakota, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a railway bridge and approaches thereto, across the Missouri River between the mouth of the Moreau River and the south line of Walworth County in the State of South Dakota, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HEARINGS BEFORE COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted yesterday by the Senator from West Virginia [Mr. SCOTT] relative to hearings before the Committee on Public Buildings and Grounds, to report a substitute therefor, and I ask for its present consideration.

There being no objection, the substitute resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Public Buildings and Grounds be, and is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had by said committee or its subcommittees in connection with bills and other matters before said committee, and to have such hearings printed for its use, and that said stenographer be paid from the contingent fund of the Senate.

BILLS INTRODUCED.

Mr. PILES introduced a bill (S. 6024) granting an increase of pension to Franklin B. Beach; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLATT introduced a bill (S. 6025) for the relief of the Holly Manufacturing Company, of Buffalo, N. Y.; which was read twice by its title, and referred to the Committee on the District or Columbia.

Mr. TELLER introduced a bill (S. 6026) to provide for the purchase of a site and the erection of a public building thereon at Grand Junction, in the State of Colorado; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. MALLORY (for Mr. TALIAFERRO) introduced a bill (S. 6027) granting a pension to Hattie S. Carruth; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FULTON introduced a bill (S. 6028) granting a pension to Kate F. Hoffman; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. WARNER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 6029) granting an increase of pension to William H. Isenberg;

A bill (S. 6030) granting an increase of pension to James N. Hamilton; and

A bill (S. 6031) granting an increase of pension to Elizabeth F. Snyder.

Mr. WETMORE introduced a bill (S. 6032) granting an increase of pension to William Leonard; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. HALE introduced a bill (S. 6033) authorizing the reappointment of midshipmen recently dismissed from the Naval Academy for hazing; which was read twice by its title, with the accompanying paper, which was ordered to be printed, was referred to the Committee on Naval Affairs.

Mr. SIMMONS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6034) granting an increase of pension to William A. Hopper;

A bill (S. 6035) granting an increase of pension to John Fox (with an accompanying paper); and

A bill (S. 6036) granting a pension to Mary Ann Gatlin (with accompanying papers).

AMENDMENT TO POST-OFFICE APPROPRIATION BILL.

Mr. BURNHAM submitted an amendment relative to the pay of rural carriers on water routes who are employed only during the summer months, intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

IMPROVEMENT OF PUBLIC ROADS.

Mr. LATIMER submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate 10,000 copies of the hearings before the Committee on Agriculture and Forestry of the Senate on Senate bills 3477 and 2539, Fifty-eighth Congress, relating to public roads.

REGULATION OF RAILROAD RATES.

Mr. SCOTT. I send to the desk an amendment to the rate bill.

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

Mr. SCOTT. I should like to have it read.

The VICE-PRESIDENT. The proposed amendment will be read at the request of the Senator from West Virginia.

The SECRETARY. On page 3, line 19, after the word "unlawful," change the period to a colon and insert:

Provided, however, That no rate or set of rates shall be based on a mileage tariff.

TRANSPORTATION OF PETROLEUM.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read:

The Senate and House of Representatives:

I transmit herewith a report by the Commissioner of the Bureau of Corporations in the Department of Commerce and Labor on the subject of transportation and freight rates in connection with the oil industry. The investigation, the results of part of which are summarized in this report, was undertaken in accordance with House resolution 499, passed February 15, 1905, but for the reasons given in the report it has been more general and extensive than was called for in the resolution itself.

I call your especial attention to the letter of transmittal accompanying and summarizing the report; for the report is of capital importance in view of the effort now being made to secure such enlargement of the powers of the Interstate Commerce Commission as will confer upon the Commission power in some measure adequately to meet the clearly demonstrated needs of the situation. The facts set forth in this report are for the most part not disputed. It is only the inferences from them that are disputed, and even in this respect the dispute is practically limited to the question as to whether the transactions are or are not technically legal. The report shows that the Standard Oil Company has benefited enormously up almost to the present moment by secret rates, many of these secret rates being clearly unlawful. This benefit amounts to at least three-quarters of a million a year. This three-quarters of a million represents the profit that the Standard Oil Company obtains at the expense of the railroads; but of course the ultimate result is that it obtains a much larger profit at the expense of the public. A very striking result of the investigation has been that shortly after the discovery of these secret rates by the Commissioner of Corporations, the major portion of them were promptly corrected by the railroads, so that most of them have now been done away with. This immediate correction, partial or complete, of the evil of the secret rates is of course on the one hand an acknowledgment that they were wrong, and yet were persevered in until exposed; and on the other hand a proof of the efficiency of the work that has been done by the Bureau of Corporations. The Department of Justice will take up the question of instituting prosecutions in at least certain of the cases. But it is most desirable to enact into law the bill introduced by Senator KNOX to correct the interpretation of the immunity provisions rendered in Judge Humphrey's decision. The hands of the Government have been greatly strengthened in securing an effective remedy by the recent decision of the Supreme Court in the case instituted by the Government against the tobacco trust, which decision permits the Government to examine the books and records of any corporation engaged in interstate commerce; and by the recent conviction and punishment of the Chicago, Burlington and Quincy Railroad and certain of its officers.

But in addition to these secret rates the Standard Oil profits immensely by open rates, which are so arranged as to give it an overwhelming advantage over its independent competitors. The refusal of the railroads in certain cases to prorate produces analogous effects. Thus in New England the refusal of certain railway systems to prorate has resulted in keeping the Standard Oil in absolute monopolistic control of the field, enabling it to charge from three to four hundred thousand dollars a year more to the consumers of oil in New England than they would have had to pay had the price paid been that obtaining in the competitive fields. This is a characteristic example of the numerous evils which are inevitable under a system in which the big shipper and the railroad are left free to crush out all individual initiative and all power of independent action because of the absence of adequate and thorough-going governmental control. Exactly similar conditions obtain in a large part of the West and Southwest. This particular instance exemplifies the fact that the granting to the Government the power to substitute a proper for an improper rate is in very many instances the only effective way in which to prevent improper discrimination in rates.

It is not possible to put into figures the exact amount by which the Standard profits through the gross favoritism shown it by the railroads in connection with the open rates. The profit, of course, comes not merely by the saving in the rate itself as compared with its competitors, but by the higher prices it is able to charge, and (even without reference to these higher prices) by the complete control of the market which it secures, thereby getting the profit on the whole consumption. Here again the only way by which the discriminations can be cured is by conferring upon the Interstate Commerce Commission the power to take quick and effective action in regulating the rates.

One feature of the report which is especially worthy of attention is the showing made as to the way in which the law is evaded by treating as State commerce what is in reality merely a part of interstate commerce. It is clearly shown, for instance, that this device is employed on the New York Central Railroad as well as on many other railroads, in such fashion as to amount to thwarting the purpose of the law, although the forms of the law may be complied with.

It is, unfortunately, not true that the Standard Oil Company is the only great corporation which in the immediate past has benefited, and is at this moment benefiting, in wholly improper fashion by an elaborate series of rate discriminations which permit it to profit both at the expense of its rivals and of the general public. The Attorney-General reports to me that the investigation now going on as to the shipments by the sugar trust over the trunk lines running out of New York City tends to show that the sugar trust rarely, of ever, pays the lawful rate for transportation, and is thus improperly, and probably unlawfully, favored at the expense of its competitors and of the general public.

The argument is sometimes advanced against conferring upon some governmental body the power of supervision and control over interstate commerce, that to do so tends to weaken individual initiative. Investigations such as this conclusively disprove any such allegation. On the contrary, the proper play for individual initiative can only be secured by such governmental supervision as will curb those monopolies which crush out all individual initiative. The railroad itself can not without such Government aid protect the interests of its own stockholders as against one of these great corporations loosely known as "trusts."

In the effort to prevent the railroads from uniting for improper purposes we have very unwisely prohibited them from uniting for proper purposes; that is, for purposes of protection to themselves and to the general public as against the power of the great corporations. They should certainly be given power thus to unite on conditions laid down by Congress, such conditions to include the specific approval of the Interstate Commerce Commission of any agreement to which the railroads may come. In addition to this the Government must interfere through its agents to deprive the railroad of the ability to make to the big corporations the concessions which otherwise it is powerless to refuse.

The Government should have power by its agents to examine into the conduct of the railways—that is, the examiners under the direction of the Interstate Commerce Commission should be able to examine as thoroughly into the affairs of the railroad as bank examiners now examine into the affairs of banks.

It is impossible to work a material improvement in conditions such as above described merely through the instrumentality of a lawsuit. A lawsuit is often a necessary method; but by itself it is an utterly inadequate method. What is needed is the conferring upon the Commission of ample affirmative power, so conferred as to make its decisions take effect at once, subject only to such action by the court as is demanded by the Constitution. The courts have the power to, and will undoubtedly, interfere if the action of the Commission should become in effect confiscatory of the property of an individual or corporation, or if the Commission should undertake to do anything beyond the authority conferred upon it by the law under which it is acting. I am well aware that within the limits thus set the Commission may at times be guilty of injustice; but far grosser and far more frequent injustice, and injustice of a much more injurious kind, now results and must always result from the failure to give the Commission ample power to act promptly and effectively within these broad limits.

Though not bearing upon the question of railroad rates, there are two measures consideration of which is imperatively suggested by the submission of this report. The Standard Oil Company has, largely by unfair or unlawful methods, crushed out home competition. It is highly desirable that an element of competition should be introduced by the passage of some such law as that which has already passed the House, putting alcohol used in the arts and manufactures upon the free list. Furthermore, the time has come when no oil or coal lands held by the Government, either upon the public domain proper or in territory owned by the Indian tribes, should be alienated. The fee to such lands should be kept in the United States Government whether or not the profits arising from it are to be given to any Indian tribe, and the lands should be leased only on such terms and for such periods as will enable the Government to keep entire control thereof.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 4, 1906.*

Mr. FORAKER. I move that the message which has just been read be printed and that it lie on the table, at least until we get through with the discussion which is now in progress, for it seems to hit almost every proposition involved in the general debate.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. CULBERSON. Is it in order to offer a resolution?

The VICE-PRESIDENT. The introduction of resolutions is the order before the Senate.

Mr. CULBERSON. I submit a resolution, and ask for its present consideration.

The resolution was read, as follows:

Resolved, That the Secretary of Commerce and Labor be, and he is hereby, directed to send to the Senate a copy of the full report of the Commissioner of Corporations on the oil industry in the United States, a part and summary of which report was submitted to the Senate today by the President.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. FORAKER. Let the resolution be read again.

The Secretary again read the resolution; and it was considered by unanimous consent and agreed to.

HEARING BEFORE COMMITTEE ON WOMAN SUFFRAGE.

Mr. BACON submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the stenographer employed to report the hearing before the Select Committee on Woman Suffrage given to a delegation of the National Woman Suffrage Association, February 15, 1906, be paid from the contingent fund of the Senate.

COINAGE OF GOLD BULLION.

Mr. HALE. Mr. President, I ask that the regular order of business be laid before the Senate in pursuance of the agreement by unanimous consent for the taking up and debating of the rate bill.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. The unfinished business will be in order as soon as the morning business is closed.

Mr. ALDRICH. Before the morning business is closed I should like to submit a report from the Committee on Finance.

I am directed by the Committee on Finance, to whom was referred the bill (S. 6022) to amend section 6 of an act entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," approved March 14, 1900, to report it favorably with amendments, and I submit a report thereon. This is a matter which it is important should have the immediate action of the Senate, and I request the consideration of the bill. I ask that the accompanying letter of the Secretary of the Treasury, which is made a part of the report, may be read.

Mr. HALE. I will withhold my call for the regular order until this is completed.

The VICE-PRESIDENT. The letter of the Secretary of the Treasury will be read.

The Secretary read as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, May 3, 1906.

SIR: I submit herewith a draft amending section 6 of the act of March 14, 1900, which I recommend be enacted with all reasonable promptness. The occasion for this amendment is as follows:

There has recently been an unprecedented influx of foreign gold. Somewhat in excess of $30,000,000 has arrived or is en route since April 12, 1906. It is impossible to coin this with sufficient promptness to meet the demands of business. The amendment, you will observe, provides against emergencies of this character. There is frequently a demand upon the Treasury for gold for export, and the demand is always for bars and never for coin. It is therefore desirable to keep a sufficient amount of gold bars in the Treasury to meet this oft-recurring demand, and the limit now allowed by law is not excessive. It follows that an unusual influx of gold like the present results in embarrassment. The amendment, I think, will meet the requirements of the situation and affords the necessary elasticity. Under the discretion of the Secretary there will probably be kept under normal conditions fifty millions in gold bars, which will occasionally be exhausted as in the past by unusual exportations, and occasionally will be increased by unusual importations to the maximum of one hundred millions.

The last clause of the amendment protects against a settled policy of maintaining one hundred millions in gold bars, which might result in another emergency should importations suddenly increase.

Respectfully,

L. M. SHAW, *Secretary.*

Hon. NELSON W. ALDRICH,
Chairman Committee on Finance, United States Senate.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. NELSON. The bill has not been read yet. I should like to hear the bill read.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Finance with amendments, on page 1, line 7, after the word "the," to strike out "fifteenth and sixteenth lines" and to insert "first proviso;" in line 11, after the word "coin," to strike out "with" and insert "within;" in line 12, before the word "any," to strike out "promptness" and insert "time;" on page 2, line 1, after the word "the," to strike out "provision" and insert "first proviso;" in line 8, before the word "reasonable," to strike out "with" and insert "within;" and in the same line, after the word "reasonable," to strike out "promptness" and insert "time;" so as to make the bill read:

Be it enacted, etc., That section 6 of an act approved March 14, 1900, entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," be amended by striking from the first proviso of said section 6 the words "one hundred" and inserting in lieu thereof the word "fifty," and by adding, after the words "shall be suspended," the following: "but the Secretary of the Treasury is directed to coin, within reasonable time, any and all gold bullion held in said reserve fund in excess of $50,000,000," making the first proviso of said section 6 read as follows: "*Provided*, That whenever and so long as the gold coin held in the reserve fund in the Treasury for the redemption of United States notes and Treasury notes shall fall and remain below $50,000,000 the authority to issue certificates as herein provided shall be suspended, but the Secretary of the Treasury is directed to coin, within reasonable time, any and all gold bullion held in said reserve fund in excess of $50,000,000."

The amendments were agreed to.

Mr. ALDRICH. Mr. President, some Senators here have asked me to explain the practical effect of this legislation. The gold-standard act of 1900 provided for a reserve fund of $150,000,000 to redeem the outstanding United States notes. This fund was required to be held in gold coin or gold bullion, with a provision that $100,000,000 at least should be held in gold coin and $50,000,000 could be held in gold bullion.

The bill changes the provisions of existing law so that $100,000,000 can be held in gold bars or gold bullion and $50,000,000 in gold coin, at the discretion of the Secretary, with a provision, however, that the bars shall be coined within a reasonable time.

It is necessary to have the bill passed promptly, as the amount of gold bars we have recently imported has created embarrassment at the Treasury Department, and now the money in the Treasury is largely being held in gold bars. Of course for the purposes of the redemption fund gold bars are equally as good as coin.

Mr. BACON. Will the Senator speak louder? I want to hear him, but he speaks in rather a low tone, and I could not hear him. I want to understand the reason for the bill. I have no doubt there is one, but I want to know what it is. I refer to the latter part of the Senator's statement.

Mr. ALDRICH. The reason was stated fully in the letter of the Secretary of the Treasury, which has just been read. It is that at the present time there is an excess of gold bars held by the Government, and that it is necessary that that should be changed into gold coin as rapidly as possible. It can not be done, because the San Francisco mint is not in a condition for work, the Philadelphia mint is now coining dollars for the Republic of Mexico under an agreement with them, and the Denver mint is the only one which is now engaged in coining gold dollars.

The proposition is to permit the exchange from the reserve fund of not exceeding $50,000,000 in gold coin into gold bars. As the bars can be held by the reserve fund no harm can come to anyone.

Mr. BACON. Is it to be a permanent arrangement or temporary?

Mr. ALDRICH. It is a permanent arrangement in the sense that it leaves it within the discretion of the Secretary. Gold certificates can not be issued as against gold bars, but they can be issued as against gold coin.

Mr. BACON. The Senator, I presume, recognizes that the present necessity grows out of the conditions which he has just narrated.

Mr. ALDRICH. Yes.

Mr. BACON. I should like to ask the Senator whether he thinks that the original provision which required $100,000,000 to be in gold coin was an unnecessary provision, and that experience has proven it may as well be $100,000,000 in bullion?

Mr. ALDRICH. I think it was unnecessary except, perhaps, as an excess of caution. I can see no harm that can come to the holders of United States notes or to anyone else in holding a larger proportion of that fund in gold bars.

Mr. BACON. The Senator then thinks it will do as a permanent provision of law?

Mr. ALDRICH. It does become a permanent provision except that it is within the discretion of the Secretary, and it is further provided that the coinage shall take place within a reasonable time.

Mr. TELLER. Mr. President, practically I do not think it makes much difference whether there is $50,000,000 in coin or $100,000,000 in coin. This $150,000,000 put into the Treasury as a reserve by the act of March 14, 1900, has been there steadily. Every month, I suppose, and perhaps every day in the year there has been some money taken out of it. There is a provision in the act that whenever any money is taken out of that reserve it shall be immediately taken from the funds in the Treasury and replaced; so there has practically been all the time $150,000,000 either in gold coin or in gold bars in the Treasury for a particular, specific purpose, the purpose being to redeem the greenbacks; that is, that any person holding greenbacks and wanting gold—and it includes Treasury notes also, which are very limited in amount—any person having greenbacks and wanting gold for export, that being practically what it is wanted for, not much being wanted for anything else, can go to the Treasury and get it. If anyone wants gold for export he would much prefer to

have the bars to having the coin. That is the experience of everybody. It is so stated in the letter of the Secretary, and everybody knows that is the fact.

Just now the Secretary of the Treasury seems to think that we ought to coin more of gold. I do not myself see any particular advantage in coining it. This $150,000,000 is not represented, and can not be represented, by certificates. I will ask the Senator from Rhode Island is not that a fact?

Mr. ALDRICH. Yes; it must be either in gold coin or gold bullion.

Mr. TELLER. It must be either in gold coin or in gold bars, and it is limited, as stated, to $150,000,000—$50,000,000 in bars. I repeat, I do not myself see very much necessity for a change of the law; but it can not possibly do any harm, I think. I merely wish to call the attention of the Senate to the fact that at all times we have constantly in the Treasury $150,000,000 for the purpose of the redemption of greenbacks. I do not trouble myself to take into account the notes, because only about $7,000,000 of Treasury notes have been redeemed during the whole time. Since the passage of the act we have redeemed $105,000,000 worth of Treasury notes and greenbacks. I venture to say, Mr. President, that practically all of that was for the purpose of export. Occasionally a man may want gold, but he does not need go to the Treasury to get it. If he has the greenbacks, he can walk into any ordinary bank and get gold for them. If he wishes to exchange silver certificates for gold, he can do that, if he desires such an accommodation, in any bank doing an exchange business. All our money is practically on a gold basis. It is on a gold basis, not particularly because the silver certificates are redeemable in gold, but those certificates are performing the same function as is gold, and they are as good for every practical money purpose, except for export, as is gold. I know, as a matter of fact, that every bank in the country will, for its customers, exchange gold for silver certificates, just as it will exchange gold for greenbacks, in either way which may be desired. So the purpose of the bill is only, I think, for the convenience of exporters.

I only wanted to call the attention of the chairman of the committee to the fact that I think there is no necessity for an additional provision here for the coining of this bullion. I believe if you had $10,000,000—or, I will say, $20,000,000—in coin the balance might just as well be in bars, for I think I can say, without having looked up the matter very carefully or critically, that in no one year have we ever redeemed $20,000,000 since the act passed. The average is about $17,000,000 a year.

I repeat that I do not know that any particular harm will come, because if an exporter really wants the gold he will go and get the coin, while he would prefer the bars, and we save money by not coining the bars, by keeping the bars instead of coining them.

I do not care to interfere with the passage of the bill, because I understand it has been drawn at the Treasury Department and sent down here with a statement that there was some reason why it ought to be promptly passed.

Mr. ALDRICH. The Senator from Colorado will notice that the provision for the coining is a very elastic provision. As amended by the committee, the bill provides for leaving the matter practically discretionary with the Secretary of the Treasury as to the amount of bullion to be coined, it being limited between fifty and one hundred million dollars.

Mr. TELLER. I think it would be a little more shipshape and a little better if the bill should simply provide that the Secretary of the Treasury should coin the balance, in his discretion, as might be necessary.

Mr. NEWLANDS. Mr. President, I should like to ascertain the parliamentary status of this bill.

The VICE-PRESIDENT. The bill is before the Senate as in Committee of the Whole, and open to amendment.

Mr. NEWLANDS. Is it in such condition that an objection to its present consideration would prevail?

The VICE-PRESIDENT. The Chair thinks it has passed beyond that stage. Its consideration was proceeded to by a unanimous consent of the Senate.

Mr. NEWLANDS. It is a very important bill and amends one of the most important laws ever passed within the last ten years. Whilst I am not prepared to consider the bill or to make any objection to it, and possibly may have no objection to it after I have fully considered it, still I should like it to go over until to-morrow, so that I may have an opportunity of examining it. I ask the Senator from Rhode Island [Mr. ALDRICH] whether he has any objection to the bill going over until to-morrow?

Mr. ALDRICH. While I might have no objection to it, I have already stated—perhaps when the Senator from Nevada was absent from the Chamber—that there is an exigency arising by reason of the fact of the unusually large demands for gold during the last few weeks in the form of bullion for export, which has brought the amount of available money in the Treasury to a dangerously low sum. This is simply a proposition that not exceeding fifty millions of gold coin now held as a part of this surplus shall be available for the issue of gold certificates against it in the current money of the country. The emergency is such that the Secretary of the Treasury has called the attention of the Finance Committee of the Senate to the necessity or the desirability of immediate action.

If the Senator from Nevada chooses to object to the consideration of the bill, or thinks he may discover some serious objection to it within the next twenty-four hours, I see no reason for asking the Senate to proceed to its immediate consideration. I think there can be no objection made to the bill—certainly none was suggested by any member of the Finance Committee, who considered it—and I think the Senator from Nevada will not discover any objection on investigation.

Mr. NEWLANDS. Mr. President, I should like the bill to go over for at least twenty-four hours, so that I may have an opportunity to examine it. I am certainly not prepared, for one, to take action upon the bill now.

Mr. ALDRICH. If the Senator will permit the bill to pass the Senate, he will have forty-eight hours in which to consider the matter further, and then he can enter a motion to reconsider the vote by which the bill was passed, if it shall be passed. There will be no objection to that.

I think if there was any serious objection to the bill the Senator from Nevada, with his acute mind, would have discovered it in the first reading of the bill, but I hardly think it is possible that he will or can discover any particular objection to it. So I suggest to him that he allow the bill to pass and that he can then move to reconsider the vote on its passage if, after investigation, he finds any objection to it.

Mr. NEWLANDS. I fear I would not be in the same position on a motion to reconsider.

Mr. ALDRICH. The Senator would be precisely in the same position he is in now, because I should not object to a motion to reconsider.

Mr. NEWLANDS. Very well, then, I have no objection.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REGULATION OF RAILROAD RATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The VICE-PRESIDENT. The Secretary will proceed to read the bill by sections under the unanimous-consent agreement heretofore made by the Senate.

Mr. HALE. Mr. President, let us have the unanimous-consent agreement read.

The VICE-PRESIDENT. The Secretary will read the unanimous-consent agreement at the request of the Senator from Maine.

The Secretary read the unanimous-consent agreement of April 30, 1906, as follows:

It is agreed by unanimous consent that on Friday, May 4, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill H. R. 12987, "'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission;" the bill to be read by sections for the purpose of amendment, the discussion upon amendments offered to proceed under a fifteen-minute rule, the amendments to be disposed of when the discussion thereon is concluded.

The VICE-PRESIDENT. The Secretary will now read the first section of the bill.

The Secretary read section 1, as follows:

That section 1 of an act entitled "An act to regulate commerce," approved February 4, 1887, be amended so as to read as follows:

"SEC. 1. That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment) from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or

property or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

"The term 'railroad' as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease, and shall also include all switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards, and grounds used or necessary in the transportation or delivery of any of said property; and the term 'transportation' shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported; and it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation upon reasonable request therefor and to establish through routes and just and reasonable rates applicable thereto.

"All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful."

Mr. BAILEY. Mr. President, I believe this section is now subject to amendment.

The VICE-PRESIDENT. Under the rule, it is now subject to amendment.

Mr. BAILEY. I have myself an amendment proposing to include express companies and sleeping-car companies in this, but there are other amendments on the same subject, and as I care more for another particular amendment than I do for this, I shall not propose any to this section and will support that offered by other Senators. But I wish to call the attention of the Senate to the language on page 3:

And the term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof.

The Senate will see that this bill includes under the definition of "transportation," which is an act, the facilities with which that act is performed. To me it seems plain that the words beginning with "cars," in line 3, down to and including the word "thereof," in line 6, ought to be taken out of their position there and placed under the definition of "a railroad." The cars and other vehicles are as much a part of the railway as the engine or the depot or the yard, and I think plainly ought to be included in that part of the definition. They ought certainly not to be included under the definition of transportation, which is an act. If we can do nothing else with this bill, we ought, at least, free it from the schoolmaster's criticism. I hardly think that kind of a definition would enable any schoolboy to pass his examination. I am not going to insist on it, but if those in charge of the bill think it is worth their while, I believe the amendment ought to be adopted.

Mr. LODGE. I desire to offer an amendment to this section, which I think is——

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly.

Mr. FORAKER. I only wish to interrupt the Senator a moment. Did I understand the Senator from Texas [Mr. BAILEY] to offer an amendment?

The VICE-PRESIDENT. The Senator from Texas did not offer an amendment.

Mr. BAILEY. No; I merely suggested to those in charge of the bill that an amendment in this respect would greatly improve the bill, though I do not think it would improve the efficiency of it. It would simply improve it from the standpoint of the scholar or critic.

Mr. FORAKER. I agree with the Senator about that. I only wanted to know whether he offered an amendment, as I understand we are to dispose of the amendments as we proceed.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Pennsylvania?

Mr. LODGE. I yield to the Senator.

Mr. KNOX. I only wish a moment. I entirely agree with what the Senator from Texas has said in respect to the place where the definition which was cut out on the third page of this bill should go—namely, under the definition of railroads, and for an additional reason. There is a manifest absurdity here, in my mind. It says:

And the term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership,

Then in the concluding portion of this paragraph, beginning on line 10, page 3, it is made the duty of a carrier to furnish such transportation—that is, to furnish facilities, whether the carrier owns them or not, without any regard to the question of ownership and without any regard to contract. In other words, it seems to me, imposing an absolute impossibility upon the carrier. If the transposition is made, as the Senator from Texas has suggested, the bill would be free from that objection.

Mr. LODGE. I desire to offer an amendment to the first line of the first section, at the end of the line. I desire to offer the draft which appears on page 5, not the one which appears on page 1 of the bound amendments. I do not know why the one on page 5 was misplaced, because it should come immediately after the first one. I desire to make two slight modifications in that amendment, which I send to the desk and ask to have read.

The VICE-PRESIDENT. The Secretary will read the proposed amendment as modified by the Senator from Massachusetts.

The SECRETARY. In section 1, line 1, after the word "to," at the end of the line, it is proposed to insert:

Any corporation or any person or persons engaged in the transportation of oil or other commodity, except natural gas or water for municipal purposes, by means of pipe lines, or partly by pipe lines and partly by railroad, or partly by pipe lines and partly by water, who shall be considered and held to be common carriers within the meaning and purpose of this act, and to.

Mr. FORAKER. Mr. President, I do not want to make any opposition to the Senator's amendment, but it occurs to me that the amendment ought to be further amended, so as to provide that it shall apply only to pipe lines operated for the public. I do not understand how you would compel a man who has a private pipe line of his own to become a common carrier. We have a right to regulate common carriers who are engaged in interstate commerce, because they are instrumentalities of commerce; but if a man living on one side of a boundary line of a State sees fit to have a private line of his own, which passes into another State, it does not seem to me that we could compel him to throw that open to the public use. I want to illustrate what I mean. The Senator from Massachusetts [Mr. LODGE], upon my suggestion, has inserted some words in his amendment in regard to natural gas. I live in the city of Cincinnati——

Mr. LODGE. If the Senator will allow me, the exception applies to natural gas or water for municipal purposes.

Mr. FORAKER. I know; but I wanted to call the Senator's attention to how it would operate if the amendment were not so amended. At Cincinnati the gas company—not the city, but the gas company—has secured, under the laws of Ohio, an amendment to its charter authorizing it to acquire and distribute natural gas as a substitute for artificial gas, and authorizing it in that behalf, under the statute of Ohio, to lay, maintain, and operate the necessary pipes to transport that natural gas from a point outside the State of Ohio to the point where the natural gas is to be distributed. They are about to spend, I think, nearly $5,000,000 in that behalf to build a pipe line 274 miles long, from Cincinnati into West Virginia, where they will find a sufficient quantity, as they understand, of natural gas. They are taking upon themselves the burden of that investment; they are spending a large amount of money, or will be when they once commence to expend it; they have to raise that sum, and they have increased the capital stock so as to enable them to do it, and are laboring right now to raise that amount of money for that purpose, so that the people of Cincinnati can have natural gas. It is not to be brought there for the municipality, except in the sense that the corporation which has a right to supply gas to that city is acquiring it in order that it may supply it at a price agreed upon between the company and the consumers of gas.

That is not all. I did not think to tell the Senator when I was in consultation with him yesterday that for years the gas company located in the city of Cincinnati has been supplying gas to the cities opposite Cincinnati, on the Kentucky side of the river—Newport, Covington, Ludlow, Dayton, and Bellevue, five cities in all. They pipe that gas across the river and turn it into the pipes of the five cities on the other side, in that way supplying that people. Just at this time it is my impression that that contract is not in operation, because of some arrangement they have made, but it illustrates what is involved here. That is a purely private matter; they are not piping gas for the public, and it seems to me that they ought not to be put under this proposed law. We have no right to put them under it. I think such a limitation ought to be put in the Senator's amendment by an amendment to the amendment that it shall apply to all pipe lines that are carrying for the public, and not to private pipe lines that an individual or a single corporation may have laid down and put into operation for its own benefit. I do not want to press it, but I desire to call attention to it.

Mr. MALLORY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Florida?

Mr. FORAKER. Certainly.

Mr. MALLORY. I should like to inquire of the Senator from Ohio if he can say whether the pipe lines to which he refers act on the theory of being public servants, to condemn property under the right of eminent domain?

Mr. FORAKER. As I stated, the company is proposing to put in this natural-gas pipe line to Cincinnati from up in West Virginia, passing through a portion of Kentucky, as well as Ohio and West Virginia. It is authorized under its charter, by an amendment to the charter, and authorized by the laws of Ohio to construct, maintain, and operate a pipe line for the transportation of oil, natural gas, or water, as the case may be. They are not interested in oil in any way, but they are interested in natural gas. I think it is all right to make any pipe line that is a common carrier subject to the law. I believe every common carrier engaged in carriage for interstate commerce should be subject to this law.

Mr. MALLORY. I did not understand the Senator to answer the question exactly as I put it, which is, Do they exercise a right of eminent domain on the theory of being public servants?

Mr. FORAKER. They do. They are allowed to exercise the power of eminent domain, and they are, by the terms of the statute, called "common carriers" for that reason. They are supposed to be wholly within the State of Ohio, I suppose, so far as the statute contemplates, but a pipe line of that kind is not contemplated to be used as a common carrier, but simply for a specific private individual purpose in the sense that it belongs only to one company.

Mr. SCOTT. Will the Senator allow me to interrupt him a moment?

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FORAKER. Certainly.

Mr. SCOTT. The Senator probably is aware that they are carrying gas now from West Virginia to the cities of Cleveland and Toledo, Ohio.

Mr. FORAKER. Yes.

Mr. SCOTT. They have a pipe line under the Ohio River, and with that same pipe line they are supplying my city and the factory of which I am president. I should like this amendment of the Senator from Massachusetts to go over until we get it in proper shape, so that we will not find we are tied up by something that we do not want.

Mr. FORAKER. I do not want it to go over if we can agree upon it now. I do not understand why the Senator should object to putting in the words "carrying for the public," if a party be not engaged in carrying for the public, but only in carrying his own.

I want to say further, in answer to the Senator from Florida, if he will give me his attention, that it is not necessary in Ohio under the Ohio statute to become an incorporated company under the statute in order to put down, maintain, and operate a pipe line for the transportation of oil or gas or water. If you see fit to incorporate under that statute and have the power of eminent domain conferred upon you, you are called a "common carrier;" but any person—and this amendment applies to persons as well as corporations—may put down, and corporations so authorized may put down, pipe, and maintain and operate it for transportation of oil or gas or water.

Mr. MALLORY. Well, Mr. President, it occurs to me that the true test is whether they have the right to exercise the power of eminent domain. If they have, it is because they are performing a public service. If they have not, they ought not to have the right. Now, if they do exercise that right, it seems to me it is a proper subject for us to deal with.

Mr. FORAKER. I do not know whether they will get the right of way by the exercise of the power of eminent domain or by private contract. They will, perhaps, get it by exercising the right of eminent domain in some instances and in others by agreement.

Mr. McCUMBER. I should like to ask the Senator from Ohio whether any of these companies are carrying gas or oil other than that which they themselves manufacture—whether they are common carriers in any respect?

Mr. FORAKER. I do not think they are. But I do not regard myself as good authority on that subject. I know but little about it except in a general way. I know some years ago there were discovered natural-gas fields in Ohio, and we have been piping the gas around to various cities in the State; and I know that recently, within the past four or five months, the gas and electric company of Cincinnati had its charter amended so as to authorize it to go to the natural-gas fields in West Virginia, by putting in a pipe line of this kind, and bring the gas to Cincinnati, and substitute it for the artificial gas which they are now supplying.

Mr. McCUMBER. I hope the Senator will explain the necessity of making a public matter out of these concerns, which are purely for private use. I do not understand the necessity of bringing them under the provisions of this proposed law. If they are carrying for the public, of course there would be some necessity of making them subject to it.

Mr. FULTON. I ask the Senator from North Dakota whether a pipe line has the right to exercise the power of eminent domain, and if it does exercise that right, why should it not be held to be exercising the right of a public carrier?

Mr. McCUMBER. Whatever right it gets to exercise the power of eminent domain is a right obtained from the State and not from Federal authority in any respect. But even if it be granted that you may consider that the law gives them the right to condemn land for their particular purpose, that of itself does not make them a public carrier unless in the law or in their articles of incorporation there is something authorizing them to carry for the public.

Mr. FULTON. Can they obtain the right to exercise the power of eminent domain unless they are engaged in a public purpose?

Mr. McCUMBER. That will be determined by the laws of the State. That is not the real question. The question is whether any of them are engaged as public carriers of particular commodities. If they are, I concede that they ought to be brought under the provisions of this particular law. If they are not, I can not see the necessity of bringing them under the provisions of the law. I do not understand that under the rule we can lay this amendment over. Under the general consent it must be voted upon at the close of the argument. I am therefore doubly desirous that the Senator from Massachusetts should make that matter clear.

Mr. TILLMAN. I should like to ask the Senator from North Dakota a question.

Mr. McCUMBER. Certainly.

Mr. TILLMAN. I understood him to ask a moment ago whether the charters of these corporations made them public carriers. I do not imagine that any public carrier in the United States has a Federal charter except the transcontinental railroads. They all get their charters from the States, and they all get the right to exercise the power of eminent domain in that way. I think the test is whether they are engaged in interstate commerce—whether the commodity they are transporting would come under the rule of interstate commerce, which we are allowed to regulate. That is my idea of the test of this whole question.

Mr. McCUMBER. If they are carrying their own goods and no goods of the public, how is the public interested one way or the other in the matter of their carrying their own goods through their own pipe line from one State to another?

Mr. TILLMAN. Let me answer the Senator from North Dakota in this way: Take West Virginia, whence, I believe, comes the gas in the case mentioned by the Senator from Ohio. Of course that gas is not going down yonder three or four hundred miles without pressure, and therefore it comes from the surrounding country where originally tapped, and the gas company which has bored its wells may be robbing the landowners around it of their gas, because it has great capital and the facilities for sending it off and selling it, while the landowner, who is not able to pipe it to the market, is not allowed to pipe it through the established pipe line, because Congress will not help him. That is my conception of a just and proper reason——

Mr. McCUMBER. I can not understand how Congress can either help him or can interfere with him in any way.

Mr. TILLMAN. Mr. President, let us have order, please.

The VICE-PRESIDENT. The Senate will be in order.

Mr. McCUMBER. All the rights the Senator has spoken of and all the remedies he might seek under that condition of affairs would be in the State in which the wells are located.

Mr. TILLMAN. But this man is stealing my gas, because he has a hole in the ground connected with a pipe which carries it to market, and I can not get any connection with this same pipe because you do not put it under the control of the interstate-commerce clause.

Mr. McCUMBER. The Senator does not contend that we can punish a man for stealing gas in West Virginia or any other State?

Mr. TILLMAN. I am not talking about punishment. But why should not this other fellow be permitted to get some of the benefits of the blessings which God Almighty has furnished him under the ground by connecting with the pipe line, an

interstate line, and be able to sell his gas, by paying for the privilege?

Mr. McCUMBER. He can. The courts of the particular State, acting in conformity with the rules of God Almighty that the Senator speaks of, can grant an injunction to prevent anyone from stealing the gas.

Mr. TILLMAN. You can not prove that he is stealing the gas. Yet you know it. He might get out of a given field all the gas the pressure has driven to the opening. The Senator is arguing for a monopoly, probably, without knowing it, though I know.

Mr. McCUMBER. If I am, it is certainly without knowing it.

Mr. TILLMAN. I do not accuse him of that, for he is too acute minded, but he does not realize and understand that this gas line, going from West Virginia into Ohio, is transporting an article of interstate commerce, to be sold there to the general public and to the municipalities and others. I am willing and want to vote for this amendment, because I contend that a neighboring landowner, who has gas under his land and can bore a well to it, but is not able to build a pipe line three or five hundred miles, ought to be allowed to tap the established line, paying for the privilege of selling his gas.

Mr. FORAKER. Allow me to say to the Senator from South Carolina that he suggests there a very important principle. I do not think anything has come up in the course of this debate which demands our attention more imperatively than the abuse which has resulted from the railroads being engaged in acquiring and owning coal mines and operating them and engaging in the business of handling coal. I think it is a matter of common agreement, something that we all agree to here, that that abuse should be remedied, and the common carrier should be a common carrier and nothing else. That is true not only as to railroads with respect to coal, but with respect to everything else, and it is equally important, so far as principle is concerned, with respect to pipe lines.

Mr. McCUMBER. Provided they are common carriers.

Mr. FORAKER. The point I want to make is this: According to the Senator's suggestion we would make them common carriers by compelling the company that owns the trunk line which has been built, we will say, from Cincinnati to the natural gas fields of West Virginia, to buy all the gas brought to it in West Virginia and transport it, in order that the men there should have the benefit that the Almighty has provided, without expending the $5,000,000 necessary to make the Almighty's benefaction available. That is to drive us into the very thing that the Senator has with great effectiveness urged against, as an abuse of railroads engaging in business.

Mr. TILLMAN. I do not see——

Mr. LODGE. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. LODGE. I simply desire to obtain from the Chair an interpretation of the unanimous-consent agreement, so that we may all know how we are proceeding. The unanimous-consent agreement, of course, limits the time of each Senator to fifteen minutes. Are we proceeding under what is known as the five or ten or fifteen minute rule, or can a Senator speak as often as he desires upon the same amendment?

The VICE-PRESIDENT. The Chair understands that a Senator may speak but once and for not exceeding fifteen minutes.

Mr. FRYE. Before the——

Mr. FORAKER. I want to say that I spoke once briefly—that is, time was not called upon me; and then I interrupted a Senator to ask a question. I suppose I have a right to interrupt a Senator to ask a question.

Mr. LODGE. I only wanted to know what was the rule under which we were proceeding.

Mr. FRYE. Has the Senator from Maine been recognized?

The VICE-PRESIDENT. The Senator from Maine has been recognized.

Mr. FRYE. Before the Senator from Massachusetts advocates his amendment in his fifteen-minute speech it will be a great deal better probably for him that any objection interposed to the amendment should be before the Senate. A prominent business man has sent me certain objections, which I ask the Secretary to read. Possibly the Senator from Massachusetts may be able to answer satisfactorily the objections raised in this paper.

The VICE-PRESIDENT. The Secretary, in the absence of objection, will read as requested.

The Secretary read as follows:

> The amendment to the rate bill before the United States Senate requiring that the transportation of oil through pipe lines be put upon the same basis as railroads will work to great disadvantage to the small producers of Pennsylvania, and I dare say of other States where oil is produced in small quantities.
>
> In the first place there is a large investment in pipe lines. These pipe lines have to be operated by telegraph and telephone lines, and numerous persons are engaged in gathering up the oil from the small wells, gauging the tanks, and transporting the oils to the receiving tanks of the pipe line. Take the county in which we live. We have a very large production of oil in small quantities, from a quarter of a barrel to two barrels per day per well. The number of miles of pipe that are necessary to gather in this oil is great, and as most of the wells are only pumped once or twice a day the accumulation of oil is so small that the pipe line will, perhaps, gather all of the oil once a month, therefore the pipe lines are not paying much more than operating expenses.
>
> In other fields where the production is large the price for transportation charged is just the same as it is in the small districts, but on account of transporting more oil out of a prolific field the pipe line no doubt is making a fair average of profit; therefore the rates, if changed as a whole, would naturally result to the detriment of the small producing territory, and if the same rate were paid per barrel as in a prolific field the pipe line would be forced to take up all the oils; consequently the oil would have to be transported in wagons as it was years ago, at a cost of about $1 per barrel. As oil is selling for only about $1.56 per barrel it would be ruinous to this country if the amendment is passed.
>
> The transportation of oil through pipes is a different proposition from carrying passengers and freight on a railroad, and if I had the time to send a remonstrance to Washington I am sure that I could get every small producer in Pennsylvania to join me in the request that this amendment should never be put into the bill.

Mr. CULBERSON. Before the Senator from Massachusetts proceeds, I wish to direct his attention to a point to which my attention has been called by reading the amendment—that is, whether his amendment is limited to the interstate shipment of oil. Of course, unless it is, Congress has no power to pass the amendment. If the oil lines are wholly within the limits of a single State, for instance, the legislation of Congress can not apply.

Mr. LODGE. I think I understand that.

Mr. CULBERSON. It does not occur to me that the amendment is so drafted as to be confined to interstate shipments of oil, as it ought to be.

Mr. LODGE. Mr. President, in reply to the Senator from Texas, I will say that this simply adds to the interstate-commerce act the persons described in the amendment; that is all. It can not apply to anything but interstate commerce, of course.

Mr. CULBERSON. I understand that, and I am in favor of the amendment applicable to interstate shipments as far as we may go, but I suggest to the Senator from Massachusetts that probably the language he uses does not confine it strictly to that.

Mr. CLAY. Will the Senator allow me to call his attention to the fact that the amendment comes in afer the word "to," and if he looks at line 12 he will find that this entire section applies to traffic—

> from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country.

Is it not true that if the amendment is adopted the entire provisions of section 1 would apply to it and absolutely make it an article of interstate commerce?

Mr. LODGE. Absolutely.

Mr. CULBERSON. That is the question I suggested. I am not sure it will, but I understand that is the purpose of the Senator from Massachusetts, because we can do nothing else.

Mr. LODGE. If my amendment is not limited to interstate commerce, then the clause there does not limit the railroads to interstate commerce.

Mr. CULBERSON. Very well; if the Senator is satisfied.

Mr. LODGE. I am sure that is the case.

Mr. SCOTT. Mr. President, in regard to the communication just read at the desk from an operator in Pennsylvania, I wish to say that the same statements will hold good in West Virginia. In the development of a new pool of oil, oftentimes the wells start off with a very large production. Then, in the course of time, with numerous drillings and the very near location of one well to another, the wells drop off in their production very rapidly, and in the course of six months or a year, as the case may be, a company or a combination of two or three men will buy up a large number of wells and connect up with one central pumping station on a limited number of wells, in order to make the wells pay at all for operating. Of course, the pipe line is owned by the Pennsylvania Oil Company or the Standard Oil Company, or whatever you may call it. They lay a pipe line to every well. Now, as this communication says, it will certainly be a very great hardship to the small operator.

But getting back to my friend the Senator from South Caro-

lina, in regard to the gas territory, in all my experience—and I have lived in West Virginia since the discovery of natural gas—I never have known of a lawsuit where one man claimed that another man was stealing his gas. Of course, in drilling oil wells or gas wells the owners of a tract of land will get as near to the dividing line of the property as they possibly can, in order to protect their lines. The gas territory is usually held in large tracts, because it does not pay, as the Senator from Ohio said, to put four or five million dollars into pipe lines to go into a territory unless there is a vast amount of territory under control. The same people control the wells who own the plant which carries it to market. Of course, it does not interfere with my business as a manufacturer. We get the gas, and we carry it 36 miles to the factory of which I am president, because it is within the State. But this certainly would interfere with the man who carries it across the Ohio River and carries it to Cleveland, Toledo, Sandusky, and to the town of my friend the junior Senator from Ohio [Mr. DICK]—Akron; and if it would work a hardship upon them and a hardship upon my people, because the territory would not be so valuable, the inducements would not be so great to these people to come there and take up leases on gas territory, and it certainly would hurt us very much. I wanted to offer these suggestions, because I live right in the midst of this gas-drilling and oil-drilling territory. But West Virginia is not anxious to pipe its gas out of the State, and has been trying to enact laws to prevent it; but if the gas does go out of the State, I want the owners of gas territory and gas wells protected to the greatest extent.

Mr. HALE. I rise to a point of order. When did the operation of the rule under which the Senate is acting begin?

The VICE-PRESIDENT. It began at the conclusion of the routine morning business.

Mr. HALE. What Senators have already spoken on this subject?

The VICE-PRESIDENT. Senators FORAKER, FULTON, FRYE, CLAY, HALE, MCCUMBER, TILLMAN, CULBERSON, and SCOTT.

Mr. HALE. I simply wish to call the attention of the Chair to the rule that no Senator can, on an amendment, speak more than once.

The VICE-PRESIDENT. The Chair has heretofore so announced, and he has been observing the rule in that regard.

Mr. TILLMAN. I desire to find out——

Mr. BAILEY. I rise to a point of order. I hardly think it a fair construction of the unanimous-consent agreement to hold that if one Senator asks a question of another Senator who has the floor the Senator merely asking a question shall be deemed to have addressed the Senate on that question. It comes out of the time of the Senator who occupies the floor.

Mr. HALE. I understand the Senator from Massachusetts who offered this amendment has not yet begun his fifteen-minute speech. If what is called a "question," which, in the practice of the Senate, is amplified into a short speech, is not to be recognized as a speech under the fifteen-minute rule, we may as well have no rule at all.

Mr. BAILEY. Will the Senator permit me to suggest to him that no difficulty could arise in that respect, because, if, for illustration, the Senator from Massachusetts, having the floor and being entitled to fifteen minutes, allows me to consume ten minutes of his time, he has only five minutes left.

Mr. HALE. Undoubtedly.

Mr. BAILEY. And therefore I have occupied the floor, not in my time, but in his time. A Senator can easily prevent that by declining to yield. It might happen that whether a Senator would desire to talk on a given amendment would depend upon some answer which might be made to a question. I can easily conceive that if I should ask the Senator proposing an amendment for an explanation he might make it in two sentences, and that might end my interest in the matter.

Mr. LODGE. I think the Senators who have been speaking have not been speaking in anybody's time but their own.

Mr. BAILEY. I only wanted to protest against the intimation of the Chair that a mere interruption by the courtesy and permission of the Senator occupying the floor should be deemed to be a speech on the part of the Senator interrupting.

Mr. HALE. The Senator is undoubtedly right about that. But that is within the control of the Senator who is speaking his fifteen minutes. If he allows an interruption, it does not add to his fifteen minutes. The Chair must take it out of his time. So it is incumbent upon every Senator, under this rule, to bear in mind if questions are asked, and I have no doubt the Chair will so rule, the time taken up in those questions is to be counted against the Senator who is occupying his fifteen minutes.

But what I rose to say was that the Senator from Massachusetts had not yet begun, and Senators in their own time have spoken on this amendment, not in anybody else's time. However, I do not care to take any more of the time of the Senate.

Mr. TILLMAN. I rise to a point of order, lest I should be judged to have made a speech, and I have not made any.

Mr. HALE. The Senator can make one.

Mr. TILLMAN. I have been put down in that list as having spoken, because I asked a question of the Senator from North Dakota. I want this thing clarified and understood perfectly, else we will be gagged and there will be no discussion, no interchange of thought, such as there ought to be in order to get the benefit of all the minds in the Senate to elucidate a given point.

Mr. HALE. The Senate understood this agreement when it made it. Every Senator is entitled upon any amendment to fifteen minutes, and he is not entitled to any more than that.

Mr. GALLINGER. And he can not divide it.

Mr. HALE. He can not divide it. If the Senator lets an interruption come in——

Mr. TILLMAN. It is not against the man who interrupts.

Mr. HALE. It is not against the man who interrupts. Therefore there is no gagging. We can not have this agreement put in force and amount to one penny's worth unless the Chair holds to its ruling.

Mr. FORAKER. I have not made any speech, either.

Mr. TILLMAN. You have made four.

Mr. FORAKER. I have simply interrupted the Senator from Massachusetts to try to induce——

Mr. LODGE. I have not yet spoken.

Mr. FORAKER. To try to induce the Senator——

Mr. LODGE. I rise to a point of order. The Senator from Ohio has not interrupted me, for I have not spoken until this moment.

Mr. BLACKBURN. Nobody has started yet.

Mr. FORAKER. We will have no trouble about this. I wanted the Senator to make a change in the amendment which he added to the printed amendment, to accommodate my people. I now propose to offer the amendment myself.

Mr. BACON. Mr. President, I want to say something on the point of order. I understand, according to the universal practice of the Senate under similar circumstances, that no Senator can yield his time to any other Senator and thus give to another Senator more than the time contemplated by the rule. I simply desire to suggest, and if necessary to ask a ruling of the Chair on the subject, that while interruptions will have the effect suggested by the Senator from South Carolina and agreed to by the Senator from Maine, simply to take out of the time of the Senator who has the floor so much time as may be thus consumed, certainly that rule ought not to be extended to the point where it may be so construed and may so operate as for one Senator to take the floor and practically yield it to another Senator, in that way giving an undue advantage. We all know that the number of interruptions here, as intimated by the Senator from Maine, frequently results in what purports to be a question being in reality a very considerable speech, and the liberty which the Senator from South Carolina suggests that he would enjoy of not having interruptions charged against him would certainly be an encouragement to exercise all degree of latitude.

Mr. HALE. Mr. President, I call for the regular order.

The VICE-PRESIDENT. The question is on agreeing——

Mr. TILLMAN. Mr. President, I should like to know who has the floor.

Mr. HALE. I can only say that an hour has passed and more——

The VICE-PRESIDENT. The Chair, if the Senator from Maine will permit, will have the Secretary read the names of Senators who have occupied the floor and the length of time they have occupied it.

Mr. LODGE. In their own right.

Mr. HALE. I do not think the question as to how much time they occupied is of importance. The rule is that a Senator can speak but once.

Mr. LODGE. In his own right.

Mr. HALE. In his own right. If he chooses to speak only five minutes, he can not at another time speak ten minutes. I do not want to interfere with the convenience of Senators, but I think everyone sees that unless the rule is strictly administered it amounts to nothing, and we will make no progress whatever. If the Senator from Massachusetts, who has this amendment in hand, is ready to go on, I hope he will proceed, and that after that the rule will be enforced.

The VICE-PRESIDENT. The Chair will state to the Senator from Maine that no Senator has exceeded fifteen minutes. One or two Senators who felt that they were not properly included in the list of speakers by the Secretary's report spoke for full five minutes.

Mr. FORAKER. Mr. President, I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Ohio will state his parliamentary inquiry.

Mr. FORAKER. When this amendment was offered I was simply trying to get it in shape to have it acceptable, as something I thought the Senate would be perfectly willing to agree to. If not, I have a right, I suppose, to offer an amendment to the amendment of the Senator from Massachusetts, and I suppose I could make a speech on that.

Mr. NELSON. In reference to the amendment suggested by the Senator from Ohio to the amendment of the Senator from Massachusetts, I desire to state that if that amendment is adopted it will practically nullify the provision, because every one of these pipe lines can say "we refuse to do business for the public." Practically the amendment would be of no use at all.

Mr. LODGE. Mr. President——

Mr. SPOONER. Now, Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. SPOONER. I wanted to know whether the Senator took the floor to make a fifteen-minute speech or a part of it.

The VICE-PRESIDENT. The Chair assumes that the Senator from Massachusetts rose in order.

Mr. TILLMAN. Will the Senator let me get this thing straight? I should like to have the Chair——

The VICE-PRESIDENT. The Senator from Massachusetts has the floor.

Mr. LODGE. I hope the Senator will allow me to go on. My time is limited to fifteen minutes, and I shall decline to yield.

Mr. TILLMAN. Then I rise to a parliamentary question. I want to know where we are. In the first place, who has spoken and who is barred from any more speeches on the amendment?

Mr. SPOONER. Nobody has made a speech on it.

Mr. TILLMAN. Then let us begin all over.

The VICE-PRESIDENT. There is no difficulty if Senators will observe the rule. The Senator from Massachusetts asked recognition of the Chair, and he was recognized to proceed. If any other Senator desires the floor following him, the Chair will determine whether he is entitled to the floor under the rule or not. The Senator from Massachusetts will proceed.

Mr. LODGE. Mr. President, the purpose of this amendment is to bring the transportation of oil and other commodities within the interstate-commerce law. Oil is one of the greatest articles of interstate commerce carried in this country, and it is now absolutely outside and beyond any Government regulation whatsoever.

I am very glad indeed to omit, as I propose in my modified amendment, natural gas or water which is to be used for municipal purposes. But the amendment suggested by the Senator from Ohio to my amendment, to the effect that no pipe line, unless it carries for the public, shall come under this rule, will, as the Senator from Minnesota [Mr. NELSON] says, absolutely destroy the value of my amendment.

The small well owner, to whom there have been pathetic references this morning, has not as yet made his objections known to me. I heard within twenty-four hours after the introduction of my first amendment, on May 28, from the Standard Oil Company. A representative of that company came to see me on the following day, and represented the uselessness and the injustice of this amendment. I have had a great many letters from small oil owners and I have had a great many letters from independent refiners in support of the amendment, and the objections suggested by the Senator from Maine and the Senator from West Virginia really do not touch the case.

There is no intention in this amendment of reducing the charges of pipe lines. It is simply to put the pipe lines where if there is complaint against their rate that complaint can be brought before some jurisdiction. Now, it can not be brought before any jurisdiction that I am aware of.

I do not see and I have yet to hear a single valid argument why this great company, doing this enormous interstate business in one of the greatest articles of interstate commerce and of export and import, should alone be excluded from the supervision of the Interstate Commerce Commission.

There are twenty-eight principal pipe lines in the United States, for the most part trunk lines. There are fourteen local or gathering lines. Twelve of the principal lines are combined in one system under one control, extending from Indian Territory and from Tennessee to the Atlantic seaboard. Five other principal lines form a system under one control, extending from West Virginia and Ohio through the Pennsylvania oil fields to Philadelphia. Of the lines and trunk lines referred to nine are known to extend across State lines, and there are two about which there is some doubt, although it is probable they do.

Mr. President, it is not necessary for me to consume time in reading the definitions from the Supreme Court as to what constitutes interstate commerce. I do not think myself, from reading the definitions of those decisions, that the fact of being common carriers or exercising eminent domain is necessary to the definition of interstate commerce.

I will read simply the leading definition before I go on, which is in the County of Mobile *v.* Kimball:

> The buying and selling, and the transportation incidental thereto, constitute commerce, and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation.

There has been legislation in regard to pipe lines in twenty-one States. Eminent domain is granted to these lines in California, Colorado, Indiana, Kentucky, New York, Ohio, Pennsylvania, Texas, West Virginia, and Wyoming. They are made common carriers under the laws of New York and Ohio, and in Pennsylvania were held so in the absence of statute in Griffin *v.* The Pipe Lines, and by the Code of West Virginia. In these codes and in these laws regulations are made by the States for regulating the method of transporting petroleum, and the prices that should be charged. They are not only made common carriers, but they are treated as common carriers under the statutes of these States. A letter which was forwarded to me from one of the counsel of the Standard Oil Company to show me the futility of this legislation stated that they were common carriers east of the Mississippi.

I have here a list of the authorities, State and United States, simply showing that corporations engaged in the transportation of gas, oil, water, or supplied power, from a point in one State into or through another State, are engaged in interstate commerce. I will ask to have it printed with my remarks, as I have no time to go into it further.

> Corporations engaged in the transportation of gas, oil, water, or supplied power, from a point in one State into or through another State, are engaged in interstate commerce.
>
> State ex rel. Cornelius Corwin *v.* Indiana and Ohio Oil, Gas, and Mining Company, 120 Ind., 575.
>
> Same case, II, I. C. R., 758.
>
> Avery *v.* Indiana and Ohio Oil, Gas, and Mining Company, 120 Ind., 600.
>
> Benedict *v.* Columbus Construction Company, 49 N. J. Eq., 23.
>
> People's Gas Company *v.* Tyner, 131 Ind., 277.
>
> Columbia Conduit Company *v.* Commonwealth, 90 Pa. St., 307.
>
> West Virginia Transportation Company *v.* Volcanic Oil and Coal Company, 5 W. Va., 382.
>
> Ohio Oil Company *v.* Indiana, 177 U. S., 190, 205.
>
> In State ex rel. *v.* Indiana and Ohio Oil, Gas, and Mining Company (120 Ind., 575) the court held a statute of that State forbidding the transportation of natural gas beyond the limits of the State to be void as an interference with interstate commerce. In the opinion of the court, at page 578, it is said:
>
> "The gas in the earth may not be a commercial commodity, but when brought to the surface and placed in pipes for transportation it must assume that character as completely as coal on the cars or petroleum in the tanks. We suppose it clear that Pennsylvania could not prohibit the transportation of coal or petroleum to another State, and there is no difference in principle between cases where coal is the commodity affected and those in which it is natural gas. * * * For the purpose of taxation an article of property may not be regarded as a commodity until it has started on its way from one State to another, but property that may be called an article of commerce can not be kept in the State where it is produced by a State law forbidding its transportation."
>
> Avery *v.* Indiana and Ohio Oil, Gas, and Mining Company (120 Ind., 600) was decided on the authority of State *v.* Same (120 Ind., 575). No opinion is given in the latter case, but Chief Justice Elliott, in speaking for the court, simply stated that "the judgment in this case is affirmed on the authority of State ex rel. *v.* Indiana and Ohio, etc., Mining Company (ante, p. 575)."
>
> In Benedict *v.* Columbus Construction Company (49 N. J. Eq., 23) it was held that a statute of Indiana which attempted in an indirect way to prevent the transportation of natural gas from Indiana to Chicago was invalid as an interference with interstate commerce.
>
> In People's Gas Company *v.* Tyner (131 Ind., 277, 280) the court said:
>
> "It has been settled in this State that natural gas, when brought to the surface of the earth and placed in pipes for transportation, is property and may be the subject of interstate commerce. * * * Water, petroleum, oil, and gas are generally classed by themselves as minerals, possessing in some degree a kindred nature."
>
> In Columbia Conduit Company *v.* Commonwealth (90 Pa. St., 307) it was held that a corporation engaged in the removal of petroleum from place to place by means of pipes is a transportation company.
>
> In West Virginia Transportation Company *v.* Volcanic Oil and Coal Company (5 W. Va., 382) the court held that a corporation organized for the purpose of constructing and maintaining a line or lines of tubing for the transportation of petroleum or other oil, through pipes of iron or other material, etc., was incorporated for the purpose of "internal improvements," as such pipe lines are, in effect, highways for the transportation contemplated.
>
> In Ohio Oil Company *v.* Indiana (177 U. S., 190) the case of State *v.* Indiana and Ohio Oil, Gas, and Mining Company (120 Ind., 575) was cited with aproval, as was also People's Gas Company *v.* Tyner (131 Ind., 277).

Now, Mr. President, the oil is brought to the trunk lines through small local feeding and gathering lines, as a rule. There are practically two great companies that control pipe lines engaged in interstate commerce. One is the Standard Oil, which

is said, roughly, to control 90 per cent. I do not know whether that is correct or not. The other is the Pure Oil. They do not own the wells, and they buy the oil of the well owner, and the charge for the transportation is taken out of the price, as appears in the copies of the certificates and receipts which I have here.

Those well owners are absolutely at the mercy of the pipe lines. I have had cases brought to me, which in this fifteen-minute debate I can not enlarge upon, where an independent refinery has been deprived of its supply of oil because it would not agree to the prices of the pipe lines. A small well owner is compelled to take the price that is offered by the controller of the trunk line.

This is not a case of a transportation company owning the property, like a railroad owning a coal mine. It is exactly like a railroad buying the coal of the coal miner and transporting it, which it would have an undoubted right to do. We have an amendment to come in this bill to prevent railroads from owning the properties the products of which they transport, but nobody proposes to say that the railroads shall not transport iron or lumber or coal which they have bought for their own use. The pipe-line companies buy the oil they use in their own refineries and owing to the fact that they buy the oil, if you put in the words "carry for the public," the pipe lines go right out from under this amendment, in my judgment.

Further than that, we have here in this first clause a statement that the rule shall apply where the carriage is partly by rail and partly by water. Why should it not apply where it is partly by pipe line and partly by rail and partly by water?

There was allusion made in the message which was read here to-day to the New England case which has been before the Interstate Commerce Commission, where the oil is brought in pipe lines to the seaboard in New Jersey, carried by water to Bridgeport, and placed there in the great reservoirs of the Standard Oil. There is a uniform rate over the roads there. There is an arrangement of prorating, which I do not profess to understand, but the net result is that no oil can come into the territory of New England, practically, except the Standard Oil, and that, I understand, happens also in regions of the South and the Southwest.

It seems to me that when we are putting under the control of the Interstate Commerce Commission transportation that is partly by rail and partly by water we ought not to omit transportation of one of the greatest and most useful commodities that enter into daily life because it is partly by pipe line and partly by rail and partly by water.

I have no desire to pursue this or any other corporation. It appears to me that it is a plain injustice to the railroads of this country to put them all under the Interstate Commerce Commission, to make the most drastic regulations to control and supervise them, and leave out one of the greatest articles of interstate commerce in which there are dealings in this country.

No small oil-well owner is going to be hurt. There is no proposition, as the letter read by the Senator from Maine [Mr. HALE] indicates, to push up the prices or push down the prices and make it impossible for a pipe line to operate. It is simply to give relief, if relief is sought, to those who find that they are not fairly treated, or think they are not fairly treated by the pipe lines, through which alone practically they can get their commodity to market.

Mr. MORGAN. Mr. President, I wish first, before offering an amendment, to make a parliamentary inquiry, and that is whether an amendment to the amendment offered by the Senator from Massachusetts would be in order?

The VICE-PRESIDENT. An amendment to the amendment proposed by the Senator from Massachusetts is in order.

Mr. MORGAN. I offer an amendment to that amendment.

The VICE-PRESIDENT. The proposed amendment to the amendment will be stated.

Mr. MORGAN. In line 5 of the amendment, after the word "water," I move to insert the following words:

At any place within the jurisdiction or within the governmental authority of the United States.

Mr. LODGE. If the Senator will permit me, the amendment I offered is the second draft, which is on the fifth page.

Mr. MORGAN. I have the amendment printed here.

Mr. LODGE. I offered a second draft, which is on the fifth page of the pamphlet the Senator has in his hand. If he will turn over two pages he will find it. That is it.

Mr. KEAN. It is the third amendment.

Mr. LODGE. It is the third amendment.

Mr. MORGAN. Yes; in the fifth line the amendment I suggest is exactly correct there. After the word "water," in the fifth line, I move to amend by inserting the words which I have read. I offer this amendment to meet——

Mr. GALLINGER. Let the amendment be stated at the desk.

The VICE-PRESIDENT. The Senator from Alabama will allow the Secretary first to state the proposed amendment.

Mr. MORGAN. Very well.

The SECRETARY. In line 5 of the proposed amendment, after the word "water," insert:

At any place within the jurisdiction or within the governmental authority of the United States.

Mr. MORGAN. I am now trying to provide so that the amendment of the Senator from Massachusetts, which I think is a correct amendment to this bill, shall apply to the Isthmian Canal Zone, and my reason for it is that Congress having conferred absolute and unqualified and unlimited legislative power upon the President, he has made a contract in regard to the pipe line across the Canal Zone in favor of the Union Oil Company, of California. That is a large, powerful company which is seeking to get into direct competition with all the oil producers who find a market on the Atlantic coast. The President has granted a pipe-line privilege, a charter—that is to say, a concession, as it is called in Panama—to a certain company to establish a pipe line across the Isthmus. The Government of Panama furnishes the charter for the pumping stations at either end, one at Panama and the other at Colon, and the United States furnishes the privilege of crossing the Isthmus upon certain terms and conditions.

I hold the contract in my hand and will ask that it be printed in the RECORD as a part of my remarks. I have not time to read it.

The paper referred to is as follows:

The President of the United States, upon the recommendation of the Secretary of War, hereby grants to the Union Oil Company, of California, a revocable license to construct, operate, and maintain a pipe line and appurtenances for the transmission and delivery of oil over and across the lands owned by the United States or by the Panama Railroad Company—a company in which the United States is the owner of all the shares of capital stock—and across the territory now controlled by the Government of the United States known as the Canal Zone, in the Isthmus of Panama.

The meaning of this revocable license is that, with respect to the lands which are owned either by the Government of the United States or the railroad company, authority for such pipe line across such lands is hereby given. With respect to lands owned by private persons in the Canal Zone said Union Oil Company must also obtain permission from the owners thereof before constructing the pipe line through their lands. This license is intended only to give the revocable right to occupy lands which are the property of the United States and the railroad company with such a pipe, and to extend to the Union Oil Company the revocable right to apply to private owners of the other lands necessary to construct the pipe line, and after having secured their permission, to maintain a continuous pipe line across the Canal Zone during the continuance of this license.

But said revocable license is granted on the following express conditions:

First. That at any time the chief engineer of the Canal Commission may by notice require the removal of the pipe line, not only from the lands owned by the United States and the railroad company, but from the Canal Zone entirely.

Second. That the pipe line is to be constructed by the said company in a suitable location to be designated by said chief engineer.

Third. That any change or changes in the location of said pipe line that may from time to time be thought necessary by said chief engineer shall be made by said company promptly at its own expense.

Fourth. That the said pipe line shall be constructed and in operation on or before the 1st of August, 1906.

Fifth. That after the pipe line is constructed and ready for the flowing of oil the Union Oil Company shall pay into the treasury of the Canal Zone the sum of $500 a month, in money of the United States, for the support of the public schools of the Canal Zone, on the first of each and every month in advance. Should the line be constructed before the 1st of August, then the monthly payments are to be made from the time that oil begins to flow in the pipe, at the monthly rate before stated. Should this license be revoked, the revocation to take effect at any time after the 1st of the month, there shall be a payment to the Union Oil Company of the rental for the part of the month remaining after the revocation of the license.

This revocable license is granted on the further condition that oil shall be furnished, at any convenient point to be selected by the chief engineer of the Canal Commission along the line of the pipe line in the Zone, to the railroad company or the Canal Commission at the rate of 90 cents ($0.90) a barrel for the crude oil, if either the Canal Commission or the railroad company desires it.

It is distinctly understood that this is not an exclusive privilege granted to the Union Oil Company, and that the President reserves the right to grant other such revocable licenses as it may seem proper and in the public interest.

As the railroad company exists under a charter as a New York corporation, and is under the technical control of the President and board of directors, this revocable license should be accompanied by a revocable license from the railroad company concurring in the grant of this revocable license upon the terms and conditions herein stated, in order that the revocable right to enter upon the lands of the railroad company for the construction and maintenance of the pipe line may be made technically complete.

THEODORE ROOSEVELT.

By the President:

WM. H. TAFT, *Secretary of War.*

JANUARY 10, 1906.

Mr. MORGAN. The other oil producers on the Pacific coast

made complaint against the company making this contract that it was not a common carrier, that it was carrying oil on private account, but created for the purpose of competition with all the oil wells on the Atlantic coast.

The subject was presented to the Secretary of War and argued before him, and he declined to declare that this pipe line was a common carrier. If there is a common carrier in the world it is a pipe line, for the reason that its only purpose, at least its main purpose, is to bring its oil from the Pacific coast, or wherever its wells are, into competition with all the oil producers that find markets on the Atlantic coast, and to cut them off from the privilege of going through their pipe lines in the other direction and competing with its wells.

So this contract made by the President of the United States, which I assume, for the sake of argument, is the highest exercise of legislative power that is possible in the Government of the United States, and is to all intents and purposes an act of Congress, accentuates the necessity of the amendment of the Senator from Massachusetts, and makes it the duty of Congress under these conditions to declare that this law, when it is passed, shall extend to all places within the jurisdiction of the United States Government or within the authority of the Government of the United States. I therefore offer the amendment to the amendment of the Senator from Massachusetts. I hope the Senator will accept it.

Mr. FORAKER. Mr. President, I offer an amendment to amend——

Mr. MORGAN. I believe my amendment has not been acted upon.

The VICE-PRESIDENT. Will the Senator from Ohio suspend a moment? Is there objection to the amendment proposed by the Senator from Alabama?

Mr. BEVERIDGE. Let it be read.

The VICE-PRESIDENT. The amendment to the amendment will be again read.

The SECRETARY. In line 5 of the proposed amendment, after the word "water," insert:

At any place within the jurisdiction or within the governmental authority of the United States.

The VICE-PRESIDENT. Without objection, the amendment to the amendment is agreed to.

Mr. LODGE. My attention was distracted and I should like to have the amendment read again.

The VICE-PRESIDENT. The amendment to the amendment will be again read.

The Secretary again read the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. FORAKER. I would like to have the attention of the Senator from Massachusetts. I offer an amendment to his amendment, and I want to briefly explain it.

Mr. CARTER. Will the Senator from Ohio withhold his amendment for a moment? I should like to address myself to the pending amendment.

Mr. FORAKER. Very well; I withhold my amendment, if the Senator from Montana desires, for the present.

Mr. CARTER. Mr. President, the situation presented this morning is very instructive. I anticipated just about such a parliamentary condition as that in which the Senate now finds itself; and I think every other Senator anticipated the difficulty.

For some ten years after the interstate-commerce act became a law it was the belief that Congress had vested in the Interstate Commerce Commisson the right to substitute a just and reasonable rate for one found to be unreasonable. The Supreme Court of the United States finally held that that power had not been vested according to the intent of Congress, and so holding that the Interstate Commerce Commission was an impotent board of inquiry merely. It has so remained from the date that the decision was rendered up to this hour. It finds rates unreasonable, extortionate, or excessive, as the case may be, whatever the language was employed to cover, but it is utterly without power save to find that a wrong is being inflicted upon the public by the interstate carrier.

From the rendition of that decision up to this hour the people in all parts of this country and engaged in all kinds of business have without ceasing importuned the Congress of the United States to vest in the Commission the power which it originally thought it was vested with. In response to that long-continued and persistent demand, the Interstate Commerce Commission, with the advice of the chief law officer of the Government, the Attorney-General, prepared and submitted to another branch of Congress a bill. The House of Representatives, through its committee, after careful deliberation reported that bill, and it was passed by a majority rarely given to any public measure presented in either House of Congress.

The pith and point and substance of that bill is to vest in the Interstate Commerce Commission the right to fix a reasonable rate for a common carrier engaged in the transaction of business where a rate is found to be unreasonable. The lodgment of this power in the Commission is the only response that Congress can make to the widespread demand of the country.

That bill came to this body. I am one of those who believed when it reached the Senate, and I believe to-day, that the wise policy for this body to pursue was and is to pass this bill without amendment. If, however, amendment is necessary, consistency as well as my own deliberate judgment requires that the amendments be circumscribed to the narrowest possible limit. I would not see interjected into this measure any proposition calculated unnecessarily to raise a constitutional question, nor can I vote for any proposition submitted by an opponent of the bill, opposing the bill upon principle, unless that amendment shall first have been given very careful consideration. Such consideration, I submit, can not be given to the amendment before us. The Senator himself amended it upon its presentation this morning. He had twice before drawn it. It has been amended by the Senator from the State of Alabama [Mr. MORGAN], and now we are called upon to vote upon it.

What will be the effect of that amendment upon this bill if it is incorporated in it? I observe that the bill itself relates to common carriers. This amendment proposes to make the interstate-commerce law applicable to all persons. The Senator very wisely seeks to remedy an evil from which the people of New England suffer and from which the people in all other sections of the country suffer, but will he, pray, tell us why, after dealing with the subject-matter which he seeks to remedy, does he use the broad and comprehensive term "or other commodity by means of pipe lines, or partly by pipe lines and partly by railroad, or partly by pipe lines and partly by water?"

I am not prepared to say that that will not inject the Interstate Commerce Commission as a ruling factor in the management of the two large irrigation schemes partly in the State of Montana. One of them passes out of the jurisdiction of the United States into Canada, and the other crosses the line of the State of North Dakota from our State. Is the Senator from Massachusetts prepared to say, without further consideration, that this water, not for municipal purposes, because the Senator has guarded that——

Mr. LODGE. Will the Senator allow me to interrupt him?

Mr. CARTER. Yes.

Mr. LODGE. If the Senator from Montana is disturbed about the Interstate Commerce Commission carrying water by pipe lines, I will say that I am perfectly willing to except water.

Mr. CARTER. I should think the Senator would be, and I should think the Senator should specify the commodities, to the end that we may know what commodities are intended to be included in the bill. The commodities probably will be oil and gas. Why not so state, if that be true?

Mr. President, I do not wish to be understood as opposing the probably meritorious amendment of the Senator from Massachusetts if applicable to the common carrier, but I do oppose the injection of amendments into this bill, which amendments have not been printed, when the Senate can not determine as to the constitutionality or the general effect upon the proposition of the amendment proposed. I submit to the Senator from Massachusetts that it would be wise, amended as this proposition has been on the floor, amended by the Senator himself upon its presentation, nowhere in print for inspection, should be printed and laid upon the desks of Senators before it is voted upon.

Mr. FORAKER. I now offer the amendment which I send to the desk, to the amendment heretofore proposed by the Senator from Massachusetts [Mr. LODGE].

The VICE-PRESIDENT. The Senator from Ohio proposes an amendment to the amendment of the Senator from Massachusetts [Mr. LODGE], which will be stated.

Mr. NELSON. What was done with the amendment proposed by the Senator from Alabama [Mr. MORGAN]?

The VICE-PRESIDENT. It was agreed to. The Senator from Ohio proposes an amendment, which will now be stated.

The SECRETARY. In line 2 of the amendment of Mr. LODGE, after the word "any," it is proposed to insert the words "corporation or any;" and in line 3, after the word "commodity," it is proposed to insert the words "except natural gas."

Mr. FORAKER. Now, I presume I have a right to speak to my amendment.

Mr. GALLINGER. Let the amendment be once more stated.

Mr. FORAKER. I will explain the amendment.

Mr. GALLINGER. Let it be again stated.

Mr. FORAKER. The Senator from Massachusetts has offered an amendment which as I propose to amend it would read as follows:

Any corporation or any person or persons engaged in the transportation of oil or other commodity, except natural gas or water for municipal purposes, etc.

The amendment I have offered differs from that only in this, that after the word "commodity" I insert simply "and except natural gas;" stopping there, leaving out the words "water for municipal purposes."

Now, I want to say that I do not care anything about the oil part of this amendment; I do not care anything about the water part of it. I am not going to take any time or any trouble to answer what the Senator has said about oil and water; but as to natural gas, that is a matter of very great importance to us. It is one thing to furnish gas for municipal purposes and it is a very different thing to furnish gas for manufacturing purposes. The people who are spending their money to take natural gas into the city of Cincinnati not only want to light the streets of the city with it, which will be a municipal purpose, but they want to furnish it to the manufacturers of Cincinnati in the mills, foundries, machine shops, and wherever natural gas can be used. I do not understand why the Senator should so tenaciously insist that the words "municipal purposes" should be added. If he will strike those words out, I shall be perfectly satisfied with that amendment with the amendment I have offered to it.

Mr. LODGE. I have not meant to be tenacious about the use of the words "municipal purposes." I thought they covered a point which was made with great force. So far as I am concerned, I am perfectly willing to except natural gas and water. All I want to get at is the transportation of oil, for that is where the great abuse is.

Mr. CARTER. Then why not strike out the words "or other commodity," and make the amendment specific?

Mr. LODGE. Make it apply to oil alone?

Mr. CARTER. I should think that it would be better to have it apply to oil alone. I do not know, nor does anyone know, what the term "other commodity" in that connection would include beyond gas and water.

Mr. LODGE. I am perfectly willing to leave those words out. All I want to get at is the transportation of oil.

Mr. CARTER. Then I move to strike out the words "or other commodity."

Mr. HOPKINS. I suggest that that amendment will not be in order until we take a vote on the amendment of the Senator from Ohio [Mr. FORAKER] to the amendment of the Senator from Massachusetts [Mr. LODGE].

The VICE-PRESIDENT. The Senator from Illinois is correct. The Senator from Ohio has proposed an amendment to the amendment, which will be stated.

The SECRETARY. It is proposed to amend the amendment of Mr. LODGE in line 2, after the word "any," by inserting "corporation or any;" and in line 3, after the word "commodity," by inserting the words "except natural gas."

Mr. NELSON. I should like to hear the amendment read as it would stand if the amendment to it should be adopted.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read the amendment as proposed to be amended, as follows:

Any corporation or any person or persons engaged in the transportation of oil or other commodity, except natural gas, by means of pipe lines, or partly by pipe lines and partly by railroad, or partly by pipe lines and partly by water, who shall be considered and held to be common carriers within the meaning and purpose of this act, and to, etc.

Mr. GALLINGER. The words "at any place within the jurisdiction," etc., were inserted.

The SECRETARY. After the word "water," in line 5, there were inserted the words "at any place within the jurisdiction or within the governmental authority of the United States."

Mr. LODGE. If it is in order for me to say a word or two, I wish to speak on that amendment. I wish to reply to questions that have been asked me, not on the floor, but otherwise, as to the carrying of oil.

These pipe-line companies carry oil not only from the well to their own refineries, but they buy it at the well, and carry it from the well to other places and other refineries. By their own admission they can run different grades and different lots perfectly well.

I do not care to detain the Senate, but I ask leave to put into the RECORD a letter, which I have here, from which I will read but a few sentences. The president of the Columbia Oil Company, of New York, says in the letter:

I am a producer of petroleum in West Virginia and a refiner of petroleum in New York Harbor, and have considerable trouble in procuring a quantity of crude oil sufficient to run our works.

* * * * * * *

I have made application to the Standard Oil Company for transportation of my oil, and offered to pay them the usual gathering and transportation charges. They refuse to deliver me my own oil, and I have to sell it to them at their price, although I am ready to pay a premium of 10 or 20 cents a barrel over the market price and the current transportation rates.

That demonstrates from his experience that the pipe line companies have carried oil from his well to his refinery, and yet he is absolutely at their mercy.

I think, Mr. President, that I should like to have the entire letter printed in the RECORD.

The VICE-PRESIDENT. Without objection, it will be so ordered.

The letter referred to is as follows:

COLUMBIA OIL COMPANY OF NEW YORK,
New York, March 29, 1906.

Senator LODGE,
Washington, D. C.

DEAR SIR: I noticed by the papers that you have proposed an amendment to the railroad rate bill making pipe lines common carriers. Pipe lines should be common carriers whether they are private lines or public lines where they connect with public lines that are common carriers under the law. For your information I give you a short personal sketch of my connection with them. It is as follows:

I am a producer of petroleum in West Virginia and *a refiner of petroleum in New York Harbor*, and have considerable trouble in procuring a quantity of crude oil sufficient to run our works.

I feel aggrieved at the treatment by the Standard Oil Company, owner of the pipe lines, and the Pure Oil Company, controller of other pipe lines that run in that field. Both companies refuse to deliver to me the oil I produce, and I have to sell it to both at the prices they make.

I understand you are now trying to frame some bill that will put the people on an equality; it would be well for you to know the condition of the business and how both companies have created and keep a monopoly in the business.

Eureka Pipe Line.—This company is owned by the Standard Oil Company. It passes through Ohio and West Virginia. It receives into its line oil that is produced on a lease I own in Wetzel County, W. Va. It takes this oil to United Pipe or National Transit Lines and is pumped through that system to Jersey City.

I have made application to the Standard Oil Company for transportation of my oil and offered to pay them the usual gathering and transportation charges. *They refuse to deliver me* my own oil and I have to sell it to them at *their price*, although I am ready to pay a premium of 10 or 20 cents a barrel over the market price and the current transportation rates.

They claim that the "Eureka Pipe Lines" is not a public carrier, that it is a private concern, and is not subject to the laws that regulate public carriers. The National Transit Line is a public carrier, but on account of the receiving or initial lines being a private concern, they need not take the oil and are not amenable to the law as public carriers are.

Pure Oil Company.—The Pure Oil Company has been organized under the New Jersey law as an independent corporation to aid producers and refiners and marketers of petroleum in opposition to the Standard Oil Company. It controls the United States Pipe Line.

United States Pipe Line.—The United States Pipe Line is a trunk line and common carrier. It commences at Marcus Hook, on the Delaware River, and runs through to Oil City, Pa.

The Producers and Refiners' Line is also owneed by the Pure Oil Company. It is a limited copartnership under the Pennsylvania law. It commences at Oil City, Pa. (where the United States Pipe Line ends), and runs down through Butler County, Pa., to West Virginia. It gathers the oil in West Virginia and southern Ohio and pumps it through to Oil City, where it connects with the United States Pipe Line Company.

I have petroleum production in Wetzel County, W. Va., that goes into that line. The Pure Oil Company also refuses to deliver me the oil I produce and own, and claim that they are a limited copartnership and not a common carrier. I have to sell it to them *at their price*, although I need it in my business.

The object of this letter is to show the condition of pipe lines that are owned by private parties or copartnerships and not common carriers that work in connection with other lines that are common carriers.

In my opinion all pipe lines should be common carriers, and any producer of oil *anywhere* should be at liberty to sell the certificates of their oil to anyone wishing to purchase them, and the oil should be received and delivered to all on equal conditions. This would create an open market and the producers could get all that their product was worth.

Common carriers.—They refuse to deliver the oil to refiners where they want it, and generally deliver it in some out-of-the-way place that will cost more to take it from the point of delivery than it can be brought by rail from the point of production.

Difference in cost between rail and pipe-line rates.—Oil can be handled by pipe lines at about one-tenth what it will cost by rail.

The oil monopolies owning pipe lines generally make the outside public do their business by rail, they, through influence making rail rates while they do their business by pipe lines.

Marketing crude petroleum.—On account of the interest controlling pipe lines, viz: *Standard Oil Company* and *Pure Oil Company* refusing to receive oil for transportation and deliver it to the owners of the oil, it prohibits an open market for crude petroleum. The producer has to sell it to the Standard Oil Company or its agents at the *Standard Oil Company's price*, and to the Pure Oil Company or the Producers and Refiners' Line (which is owned by the Pure Oil Company) *at their price*, although the owners of the oil stand ready, and in my case *I have offered a premium of 10 cents per barrel* plus all transportation and charges for my oil.

This should be looked into by the lawmakers and laws enacted that would put producers and refiners of oil on an equal footing to buy and sell their products.

For your information I inclose a blotter issued by the Pure Oil Company. I have drawn a pen line through it at Oil City. From Oil City to Philadelphia or Marcus Hook the two lines are owned by the United States Pipe Line Company. One line transports refined oil; it is five inches in diameter; the other transports crude oil and is four inches in diameter.

The Producers and Refiners' Line commences at Oil City and runs through to West Virginia. The little red marks show gathering or field lines.

This crude oil line is from two to six inches in diameter and it transports oil from West Virginia to the United States Pipe Line. It is distributed to the refiners in Oil City, Titusville, Warren, and Bradford.

I have been very active in the organization of the United States Pipe Line Company (in which I am now a director), and also I have been very active in the organization and management of the Pure Oil Company. This concern is entirely independent and in competition with the Standard Oil Company. It, however, is run on lines that make it as close a corporation if *not closer* than the Standard Oil Company.

Any further information will be cheerfully given by,

Yours, respectfully,

HUGH KING.

Mr. BEVERIDGE. I should like to ask the Senator from Massachusetts a question.

Mr. CARTER. If the Senator from Indiana [Mr. BEVERIDGE] will excuse me for a moment, I wish to say to the Senator from Ohio [Mr. FORAKER] that if he will withdraw his amendment and permit the one I have suggested to be adopted I think it will obviate the necessity of adopting his amendment.

Mr. FORAKER. If I understand, the Senator from Montana has offered an amendment striking out the words "or other commodity." If that should be adopted, of course my amendment inserting the words "except natural gas" would not be necessary. Therefore I am willing to withdraw my amendment for the present, if I may do so.

The VICE-PRESIDENT. The Senator from Ohio withdraws his amendment, and the Senator from Montana [Mr. CARTER] proposes an amendment to the amendment of the Senator from Massachusetts [Mr. LODGE], which will be stated.

Mr. BEVERIDGE. Mr. President, before that is done I wish to say that the Senator from Massachusetts [Mr. LODGE] had the floor and had not concluded his address, and I desired to ask him a question on a matter which has not been made clear to me as to what the Senator from Ohio has said, and that is, that if oil transported by means of pipe lines shall be considered interstate commerce and be within the provisions of this bill, why should not gas carried through pipes be also considered interstate commerce and be within the provisions of this proposed act?

Mr. LODGE. Let me say, in reply, that the carrying of natural gas in pipes has been held by the courts to be interstate commerce.

Mr. BEVERIDGE. Why, then, should it not be included in the amendment?

Mr. LODGE. I have not the references to the decisions by me, but I think it ought to be included, as I think in the same way the control of the water supply should be; but I do not wish to endanger in any way or complicate the issue and defeat the correction of the evil which I am seeking to meet. I desire to put this in because I think it is an act of justice, and I think this great article of interstate commerce, as to which there have been great abuses, ought to be included.

The Senator from Montana [Mr. CARTER] referred to me as an enemy of the bill. I am not an enemy of the bill; I propose to vote for it, but I prefer to have a broad court review. Does the Senator from Montana mean that because of that I am an enemy of the bill? I think the bill can be greatly improved by amendment. I think as it stands it is crude and incoherent legislation and that it will not meet the evils we are trying to cure. Therefore I want to amend the bill in the interest of the law itself. It does not follow that a Senator is hostile to a bill because he seeks to amend it.

Mr. President, I will say to the Senator from Indiana [Mr. BEVERIDGE] that I agree with him entirely as to the soundness of his proposition, but I do not desire to hamper this amendment with any unimportant points.

Mr. BEVERIDGE. Before the Senator takes his seat I wish to follow the question which I asked and which he answered by this: Since the carrying of gas through pipes is interstate commerce as much as is the carrying of oil through pipes, why would the including of gas within the bill complicate the carrying of oil? It is complicated by the other just the same.

Mr. LODGE. Mr. President, I have heard of no abuses in the carrying of natural gas from one State to another, but there may have been abuses.

Mr. BEVERIDGE. It is subject to great abuse.

Mr. LODGE. If the Senator prefers that there should be a vote on that amendment, I am perfectly willing to have a vote upon it.

Mr. BEVERIDGE. I think there undoubtedly ought to be a vote, unless some Senator will explain why gas should be excluded and oil included, since they are both substantially the same. Both are considered as minerals, and the carrying of them in pipe lines has been decided in both cases to be interstate commerce. I do not see and have not yet heard why one should be excepted and the other included.

Mr. CARTER. I will now renew my amendment to the amendment of the Senator from Massachusetts [Mr. LODGE] by striking out the words "or other commodity" in line 3.

Mr. PETTUS. Mr. President, I ask for a vote by yeas and nays on the amendment of the Senator from Montana [Mr. CARTER] to the amendment of the Senator from Massachusetts [Mr. LODGE].

The VICE-PRESIDENT. The amendment to the amendment proposed by the Senator from Montana will be stated.

The SECRETARY. On line 3 of the proposed amendment of Mr. LODGE, after the word "oil," it is proposed to strike out the words "or other commodity."

The VICE-PRESIDENT. Without objection, the amendment to the amendment will be regarded as agreed to.

Mr. CULBERSON. Oh, no, Mr. President; there is opposition to it. I move to lay the amendment of the Senator from Montana to the amendment of the Senator from Massachusetts on the table.

Mr. GALLINGER. I rise to a point of order, Mr. President.

The VICE-PRESIDENT. The Senator from New Hampshire will state his point of order.

Mr. GALLINGER. My point of order is that, under the agreement, that motion is not in order.

The VICE-PRESIDENT. The Chair feels uncertain as to the precise interpretation of the agreement made on April 30 of the right to move to lay an amendment on the table, which, under the rules, is not a debatable motion and might be a violation of the agreement. The agreement provides that the discussion upon amendments shall proceed under a fifteen-minute rule, and that the amendments shall be disposed of when the discussion thereon is concluded. A motion to lay an amendment on the table is one method of disposing of it. The Chair therefore feels some hesitation about entertaining the Senator's motion without some expression of the understanding and wish of the Senate in the matter, as the Chair has no power to enforce the terms of an agreement which might conflict with the rules. Therefore the Chair will inquire whether it is the understanding of the Senate that such a motion should be entertained before the debate on the amendment has been concluded, and will request that the motion be withheld until the Chair understands the wish of the Senate.

Mr. CULBERSON. In view of the statement of the Chair, I withdraw the motion to lay on the table and insist on a vote on the amendment to the amendment.

Mr. ALDRICH. I hope the Chair will not decide adversely to the suggestion of the Senator from Texas [Mr. CULBERSON], at least not without a hearing.

The VICE-PRESIDENT. The Senator from Texas withdraws his motion to lay the amendment to the amendment on the table.

Mr. CULBERSON. I understand the Chair did not rule on the point, and I have no occasion to press it.

Mr. TELLER. I rise to a question of order. The unanimous-consent agreement does not deprive a Senator of his right to move to lay a motion on the table. I referred to that fact the other day when we were fixing the rule, when I said that in case there was any attempt to evade the rule in coming to a fair vote it would be in the power of the Senate to lay the amendment on the table, and thus maintain the integrity of the rule.

The VICE-PRESIDENT. The purpose of the Chair is as to the question raised to ascertain the sense of the Senate with respect to its own agreement.

Mr. GALLINGER. I should be very glad, Mr. President, if the unanimous-consent agreement did permit of a motion to lay an amendment on the table; but I submit to the Chair and to the Senate that a reading of the rule must lead to the conclusion that that motion is not in order when debate is proceeding. If it were in order, then debate could be absolutely cut off on every amendment.

Mr. ALDRICH. Mr. President, the motion to lay upon the table is one of the motions of highest privilege in any legislative body, and it can not be cut off by an agreement of this kind any more than a motion to adjourn can be cut off. An amend-

ment can be disposed of as well by laying upon the table as it can be by voting it down or postponing it indefinitely. A motion to lay an amendment on the table is a disposition by the Senate of that amendment, and clearly is within the terms of the agreement.

Mr. CULBERSON. I rise to a point of order, Mr. President.

The VICE-PRESIDENT. The Senator will state the point of order.

Mr. CULBERSON. The point of order is that there is nothing before the Senate.

The VICE-PRESIDENT. There is pending the amendment proposed by the Senator from Montana to the amendment of the Senator from Massachusetts.

Mr. BEVERIDGE. I rise to a point of order, Mr. President.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. BEVERIDGE. My point of order, Mr. President, is that it is of the highest importance that it should be determined at this time, as Senators have addressed the Senate on this question, whether the agreement may be destroyed by a motion to lay an amendment upon the table, since the agreement itself provides for debate under the fifteen-minute rule. If, then, we may make a motion to lay upon the table, debate may be cut off entirely and thus the agreement be destroyed.

Mr. TILLMAN. I rise to a point of order.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. TILLMAN. If there is any man here more anxious to effect this legislation than I am, I want to find him and shake him by the hand. But the agreement declares that an amendment shall be discussed under the fifteen-minute rule, and at the end of the discussion we shall vote on it. It does not say anything about amendments to amendments. This is an amendment to an amendment, and unless we have the power to lay an amendment to an amendment on the table we will be here until December.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Montana [Mr. CARTER] to the amendment of the Senator from Massachusetts [Mr. LODGE]. It will be stated by the Secretary.

The SECRETARY. In line 3 of the proposed amendment, after the word "oil," it is proposed to strike out the words "or other commodity."

Mr. CULBERSON. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. FRYE (when his name was called). The senior Senator from Louisiana [Mr. MCENERY] is paired with the junior Senator from New York [Mr. DEPEW]. I am paired with the senior Senator from Maryland [Mr. GORMAN]. Those pairs have been transferred, leaving the Senator from Louisiana and the Senator from Maine at liberty to vote. I shall not make this announcement again during the pendency of the bill. I vote "nay."

Mr. MCENERY (when his name was called). Under the announcement made by the Senator from Maine I am at liberty to vote, and I vote "nay."

Mr. MORGAN (when his name was called). I am paired with the senior Senator from Iowa [Mr. ALLISON], who is absent from the Senate because he is not well. I therefore withhold my vote.

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK]. I am advised that, notwithstanding that fact, I may vote on this question. I therefore vote "nay."

The roll call was concluded.

Mr. KITTREDGE. I have a general pair with the junior Senator from Colorado [Mr. PATTERSON], who is absent. In his absence, I withhold my vote.

Mr. TALIAFERRO (after having voted in the negative). I ask if the junior Senator from West Virginia [Mr. SCOTT] has voted?

The VICE-PRESIDENT. The Chair is informed that the junior Senator from West Virginia has not voted.

Mr. TALIAFERRO. I have a general pair with that Senator, and therefore ask leave to withdraw my vote.

Mr. DUBOIS. I desire to announce that my colleague [Mr. HEYBURN] is confined to his home by sickness.

The result was announced—yeas 22, nays 53, as follows:

YEAS—22.

Bulkeley	Dryden	Hopkins	Smoot
Carter	Flint	Kean	Sutherland
Clark, Wyo.	Foraker	Long	Warren
Dick	Gallinger	McCumber	Wetmore
Dillingham	Hale	Platt	
Dolliver	Hansbrough	Proctor	

NAYS—53.

Aldrich	Clarke, Ark.	Knox	Penrose
Alger	Clay	La Follette	Perkins
Allee	Culberson	Latimer	Pettus
Bacon	Cullom	Lodge	Piles
Bailey	Daniel	McCreary	Rayner
Berry	Dubois	McEnery	Simmons
Beveridge	Elkins	McLaurin	Spooner
Blackburn	Foster	Mallory	Stone
Brandegee	Frazier	Martin	Teller
Burkett	Frye	Millard	Tillman
Burnham	Fulton	Money	Warner
Burrows	Gamble	Nelson	
Clapp	Gearin	Newlands	
Clark, Mont.	Hemenway	Overman	

NOT VOTING—14.

Allison	Crane	Kittredge	Scott
Ankeny	Depew	Morgan	Taliaferro
Burton	Gorman	Nixon	
Carmack	Heyburn	Patterson	

So Mr. CARTER'S amendment to the amendment of Mr. LODGE was rejected.

Mr. CARTER. I move to insert after the word "commodity," in line 3 of the amendment of the Senator from Massachusetts [Mr. LODGE], the words "except water."

Mr. FORAKER. I rise to inquire what is the status of the amendment I offered?

The VICE-PRESIDENT. The Chair understood the Senator from Ohio to withdraw his amendment.

Mr. FORAKER. Mr. President, what the Senator from Ohio said, if the RECORD be consulted, was, that if the amendment of the Senator of Montana should be adopted, I, of course, would withdraw my amendment, because it would then be unnecessary.

Mr. LODGE. The Senator from Montana could not have presented his amendment and had a vote on it unless that of the Senator from Ohio had been withdrawn, because otherwise it would have been an amendment in the third degree.

Mr. FORAKER. My amendment had been adopted before the Senator from Montana offered his amendment.

The VICE-PRESIDENT. It was the amendment offered by the Senator from Alabama [Mr. MORGAN] which was adopted.

Mr. PETTUS. I call the attention of the Presiding Officer to the fact that the amendment has not been reported.

The VICE-PRESIDENT. It has not yet been read. Does the Senator from Ohio——

Mr. FORAKER. Then I renew my amendment, if it be in order to do that.

Mr. LODGE. The amendment is, after the words "or other commodity," to insert the words "except natural gas."

Mr. FORAKER. To insert the words "except natural gas."

Mr. BEVERIDGE. Let the amendment be reported from the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. In line 3 of the proposed amendment, after the word "commodity," insert the words "except natural gas."

Mr. KEAN. Will not the Senator also add "water?"

Mr. LODGE. The amendment as I offered it read "or other commodity except natural gas or water for municipal purposes." That is the way the amendment now reads, and the amendment must be to strike out the words "or water for municipal purposes." That is the proper form for the Senator's amendment.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. LODGE. Certainly.

Mr. ALDRICH. What does he mean by "water for municipal purposes?"

Mr. LODGE. I thought "for municipal purposes" was generally understood. A city's supply of water is what I meant. If my language is not clear, I shall be very happy to modify it.

Mr. ALDRICH. It may be my lack of comprehension.

The VICE-PRESIDENT. The Secretary will again report the amendment as proposed by the Senator from Massachusetts.

The SECRETARY. It is proposed to amend the amendment proposed by the Senator from Massachusetts to his original amendment by striking out the words "or water for municipal purposes."

Mr. ALDRICH. I am still not quite satisfied with the explanation of the Senator from Massachusetts. I want to know whether this would include water for drinking purposes.

Mr. LODGE. Of course.

Mr. ALDRICH. Or for bathing purposes.

Mr. LODGE. Of course.

Mr. ALDRICH. It is not perfectly plain.

Mr. LODGE. Water for municipal purposes, as I understand it, is water furnished to a city for the use of its inhabitants. At least I should so suppose.

Mr. FORAKER. Let me ask the Senator a question. What about natural gas? Natural gas furnished to a city, with which

to light its streets, would be for a municipal purpose, but natural gas furnished to a manufacturer in his plant in the city would not be for municipal purposes, as I understand. So I hope the words "or water for municipal purposes" may go out.

Mr. KEAN. Strike out the word "municipal."

Mr. BEVERIDGE. Let the amendment as it will read if amended be reported.

The VICE-PRESIDENT. The Secretary will again state the amendment of the Senator from Massachusetts as it will read if the amendment proposed by the Senator from Ohio is agreed to.

The SECRETARY. In section 1, line 1, after the word "to" at the end of the line, insert the words:

Any corporation or any person or persons engaged in the transportation of oil or other commodity, except natural gas, by means of pipe lines, or partly by pipe lines and partly by railroad, or partly by pipe lines and partly by water, at any place within the jurisdiction or within the governmental authority of the United States, who shall be considered and be held to be common carriers within the meaning and purpose of this act, and to.

Mr. BEVERIDGE. If the Senator from Ohio, who offers this amendment, will, after "gas," include the words "for municipal purposes," for one I should be very glad indeed to vote for it.

Mr. LODGE. That is the way it stood.

Mr. BEVERIDGE. I know that is the way it originally stood, but is not the way it stands as the Senate is going to vote on it.

Mr. LODGE. His very purpose is to get rid of those words.

Mr. FORAKER. I do not want it restricted to municipal purposes.

Mr. BEVERIDGE. Then, unless the Senator from Massachusetts or some other Senator can show me why natural gas should not be included under the provisions of this bill as well as oil, when both are carried in pipe lines and are interstate commerce, I shall have to vote against it.

Mr. FORAKER. I do not know that I am in order, but it is my amendment. I have just offered it. I suppose I am. I have already explained to the Senate that it so happens that just at this time they are building or getting ready to build—the ordinances have already been passed—a pipe line from Cincinnati to the natural gas fields of West Virginia, a distance of almost 300 miles. It will cost about $5,000,000. The purpose is to bring natural gas to the city of Cincinnati and substitute it there for artificial gas. It is to be distributed throughout the city. It is to be used not only for illuminating the streets, which would be a municipal purpose, but it is also to be furnished to manufacturers, and that is one of its principal purposes.

Now, nobody is interested in that enterprise, except only the people who are building the line with the idea of bringing the gas to Cincinnati, to do a great public service, and they have had trouble enough to set the enterprise on foot. They are just now in the midst of their trouble, trying to raise the money. They have not yet been able to raise it all. If it should go out, after they have raised the money to build the line, that any man can take possession of it to bring gas there for his own purposes, and that the line is to be under the charge of the Interstate Commerce Commission, I think it will be the end of the enterprise. That is my notion of it.

I should like to have natural gas excepted. I have no other interest in the matter. I do not care what you do about oil or water, although perhaps I ought to object to the provision about transporting water from one State to another, because the truth is we, at Cincinnati, get our water, under the new waterworks arrangement, from the Kentucky side of the river, over, as the Senator from Kentucky well knows, on the sand bar opposite Dayton, on the Kentucky side. We go across there by permission of Kentucky, and we take our water from there, it being purer water than we can get on the other side. Now we are to be put under the Interstate Commerce Commission. It is simply carrying this thing to a ridiculous extreme. I do not know of anybody complaining about the transportation of water from Kentucky to Cincinnati or the transportation of natural gas from West Virginia to Ohio to light our cities. I have never heard any complaint. I hope the amendment will be adopted.

Mr. TILLMAN. I should like to ask the Senator why the courts would not be open to the pipe line to compel a fair remuneration or a reasonable and just rate or a justly compensatory rate, or something like that, in the event that the Interstate Commerce Commission should undertake to oppress this corporation?

Mr. FORAKER. I do not know how the Interstate Commerce Commission can make us become a common carrier if we do not want to be. We are not building this pipe line with the idea of accommodating the people who have natural gas to sell, except only as we buy it from them ourselves. Our people are going there; they are acquiring natural-gas territory; they are opening up their own wells; they are supplying themselves therefrom; and it may be they will want to buy some gas, but they will buy it as their own. There is no other customer there except only this one company, which will own the pipe line. It is not our purpose to engage in the business of a common carrier, and I do not think we ought to be treated as a common carrier when we are not.

Mr. TILLMAN. I wish to call the attention of the Senate to a contention made by the Senator from Ohio in the beginning of this discussion. My idea is that if this monopoly of the gas fields of West Virginia is not put under some governmental instrumentality, this first concern which will bore in the gas field and get to the gas supply will have at its mercy the landowners around within the area of pressure. This first possessor of gas will have a monopoly and will exact tribute from every man who has gas under his land and who bores a well. You would create a monopoly similar to the oil monopoly, the Standard Oil, and I can see no reason under the sun why, if we want to put the Standard Oil under the control of the Interstate Commerce Commission, and compel it to transport oil of other producers at a reasonable rate, we should not compel gas lines to do the same thing.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. TILLMAN. Certainly.

Mr. ALDRICH. I should like to ask somebody a question. I am not satisfied as to what the Senator from Massachusetts means by the term "municipal purposes." In my State we have certain water companies that are owned by the cities and certain other waterworks that are owned by private corporations. Now, are one or both of those to be subject to the provisions of this act?

Mr. LODGE. Both, I understand. It is not the purpose to determine it by the character of the ownership, because the language of the amendment is "municipal purposes." I think it is desirable to enlarge it, as has been suggested, by adding the words "domestic and irrigation purposes." If the Senator thinks it is defective——

Mr. ALDRICH. I do not know what the purpose of the Senator is. I am trying to find out what he means. I do not know whether he means to cover water used for irrigation.

Mr. LODGE. If there is any doubt about it I think it ought to be enlarged.

Mr. FLINT. I ask that the words "domestic and irrigation" be inserted after the word "municipal."

Mr. ALDRICH. Would that include a manufacturing purpose?

Mr. FLINT. I do not think so.

Mr. ALDRICH. The use of water for manufacturing purposes in my part of the country is the most important of any.

Mr. LODGE. I think the best way would be to omit water altogether.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio, which will again be stated by the Secretary.

The SECRETARY. In the modified amendment of the Senator from Massachusetts strike out the words "or water for municipal purposes;" so that it will read:

In the transportation of oil or other commodity, except natural gas, by means of pipe lines.

The VICE-PRESIDENT. Without objection, the amendment is agreed to.

Mr. LODGE. Oh, Mr. President, I oppose that. I desire a division on that question. I think that is the most unjust amendment that has been offered.

Mr. CULBERSON. Mr. President, I desire a vote on the pending proposition.

The VICE-PRESIDENT. The Senator from Texas demands a vote.

Mr. TILLMAN. Let us divide.

Mr. SPOONER. I ask that it be re-reported.

The VICE-PRESIDENT. The Senator from Wisconsin requests that the amendment be again stated.

The SECRETARY. In the modified amendment of the Senator from Massachusetts, the Senator from Massachusetts proposes, after the word "commodity," to strike out——

Mr. LODGE. Excuse me. That is the form of my amendment, which I had the right to modify. I did not offer it as an amendment. The amendment now reads——

The SECRETARY. The amendment now reads:

In the transportation of oil or other commodity, except natural gas or water for municipal purposes, by means of pipe lines.

It is proposed by the Senator from Ohio to strike out the words "or water for municipal purposes."

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio.

Mr. SCOTT. I should like to ask the Senator from Massachusetts what effect that has on the pipe lines through which they carry water for mining purposes in the West, and where they carry it for irrigation purposes?

Mr. LODGE. The proposition now is to strike out "water."

The VICE-PRESIDENT. The question is on agreeing to the amendment, which has been stated. [Putting the question.] In the opinion of the Chair, the noes have it.

Mr. FORAKER. I demand a call of the roll.

The VICE-PRESIDENT. The yeas and nays are called for. Is there a second? In the opinion of the Chair, there is not. The amendment is disagreed to.

Mr. CARTER. I propose to amend by inserting, in line 3, after the word "commodity," the words "except water."

Mr. LODGE. The Senator will pardon me for once more calling his attention to the language of the amendment. The amendment now reads, "or other commodity, except natural gas or water for municipal purposes."

Mr. CARTER. I object to the qualification "municipal purposes."

Mr. LODGE. The Senator wants to strike out the words "municipal purposes" and leave the exception natural gas and water.

Mr. TILLMAN. That would leave the gas to apply to the other.

Mr. LODGE. No, that has been voted down. The Senator desires to strike out the word "water."

Mr. CARTER. I do not desire the qualification "municipal purposes," as applied to water.

Mr. LODGE. I see.

The VICE-PRESIDENT. The Senator from Montana proposes an amendment, which will be stated.

The SECRETARY. It is proposed to modify the amendment by striking out, before the word "water," the word "or" and insert "and;" and to strike out the words "for municipal purposes."

The VICE-PRESIDENT. Is there objection to the amendment proposed by the Senator from Montana?

Mr. CARTER. I understand the fact to be that the Senator from Massachusetts has an amendment coming in after the word "commodity." Let that amendment be stated.

The VICE-PRESIDENT. The Secretary will again state the modification.

Mr. LODGE. It is a part of the original amendment.

The VICE-PRESIDENT. The Secretary will state it.

The SECRETARY. After the word "commodity," it is proposed to insert "natural gas or water for municipal purposes."

Mr. LODGE. The Senate has just disagreed to an amendment excepting natural gas alone and withdrawing the qualification "for municipal purposes." What the Senator wishes to attain is to except water altogether?

Mr. CARTER. Without qualification.

Mr. LODGE. "Except water." Then the amendment ought to read "except water or natural gas for municipal purposes."

The VICE-PRESIDENT. The Secretary will state the proposed amendment.

Mr. LODGE. "Except water or except natural gas for municipal purposes;" so as to separate them.

The SECRETARY. "Except water or except natural gas for municipal purposes."

The VICE-PRESIDENT. Without objection, the amendment is agreed to.

Mr. CULBERSON. I should like to have the amendment stated again.

The VICE-PRESIDENT. At the request of the Senator from Texas the amendment will again be stated.

Mr. CULBERSON. Mr. President, while I have the floor, I will state that votes should be taken on amendments, and they should not be submitted by way of unanimous consent. I respectfully submit that the proper way is to put the question whether an amendment is agreed to or not, rather than to say "without objection, agreed to."

The VICE-PRESIDENT. The Chair will be glad to accommodate the Senator from Texas.

Mr. FULTON. I should like to have the amendment read again.

The VICE-PRESIDENT. The Senator from Oregon requests a restatement of the proposed amendment.

The SECRETARY. After the word "commodity," in line 3, it is proposed to insert "except water or natural gas for municipal purposes."

Mr. CARTER. And the word "and"——

Mr. FULTON. I submit that it should be "and" instead of "or."

Mr. GALLINGER. No.

Mr. FULTON. That is why I asked to have it read.

Mr. LODGE. I think it is necessary to divide them, as I stated—"and except gas for municipal purposes."

Mr. DANIEL. I have not heard any assignment of reasons for making any exception on this proposition. I will be glad if the Senator from Massachusetts will state the reason why he wishes the exception made.

The VICE-PRESIDENT. The Senator from Virginia will suspend until the Senate is in order.

Mr. DANIEL. I merely wish to inquire for what reason this exception should be made. I have heard it stated what the exception is, but what public service is to be subserved by making these interests exceptional to the balance of the bill?

Mr. LODGE. There are a great many cases where the municipalities own the water supply and the lighting supply, and it seems to me absolutely unnecessary that they should be put under the Interstate Commerce Commission.

Mr. BEVERIDGE. Except water altogether.

Mr. LODGE. It does not seem to be necessary to put them in.

Mr. DANIEL. It does not do any harm to do it; it merely prevents any wrong being done.

Mr. LODGE. I had no better reason than that I thought it was needless.

Mr. ALDRICH. I think I will——

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Montana?

Mr. ALDRICH. Not at present. I think I will have to make the same inquiry. What does the Senator from Massachusetts mean by "natural gas for municipal purposes?"

Mr. TELLER. We do not hear the Senator over here.

Mr. ALDRICH. I want to ask the Senator from Massachusetts what he means by "natural gas for municipal purposes?"

Mr. LODGE. Lighting a city.

Mr. ALDRICH. There may not be half a dozen cities in the United States lighted by natural gas.

Mr. LODGE. Quite so.

Mr. ALDRICH. You do not pretend to exempt the city that is lighted by artificial gas?

Mr. LODGE. I had no intention of excepting that. I did not suppose there was much artificial gas in interstate commerce. Here and there there may be a case.

Mr. ALDRICH. There are many communities in the United States near a State line where gas is carried across the State line for lighting purposes by private corporations.

Mr. LODGE. If the Senator does not think it goes far enough, all he has to do is to move to strike out the word "natural."

Mr. ALDRICH. I am trying to find out what is the purpose of the Senator. I am not making any suggestion.

Mr. LODGE. I did not suppose there was any considerable interstate commerce in artificial gas. It was my ignorance, which I freely confess; and if it is necessary—I am glad to see the Senator from Rhode Island is anxious to make it drastic—I will move at the proper time to strike out the word "natural."

Mr. ALDRICH. The Senator from Ohio this morning stated that cities outside of the city of Cincinnati were lighted by the gas companies of Cincinnati.

Mr. FORAKER. Until recently. They are not at this time.

Mr. ALDRICH. Not at the moment. But I have in mind a half a dozen cases. I suppose it is the intention of the Senator to except those?

Mr. LODGE. Certainly. That is met by leaving out the word "natural."

Mr. CARTER. In reply to the inquiry of the Senator from Virginia, so far as it applies to the transportation of water, I desire to say that my special solicitude in that behalf is to leave our irrigation canals subject to the local jurisprudence which is especially applicable thereto. For instance, one large system of canals conducting water from Idaho into Utah utilizes pipe lines to the extent of several miles. Therefore it would be unquestionably true, if this exception were not made, that the pipe lines and the canals thus constructed would be subject to the the regulations of the Interstate Commerce Commission. The same would be true with reference to a general scheme of irrigation involving flumes, pipes, canals extending across the line of North Dakota from the State of Montana.

Mr. BEVERIDGE. Will the Senator permit a question?

Mr. CARTER. Yes, sir.

Mr. BEVERIDGE. Would not the Senator's entire purpose be subserved by adding the words "for irrigation purposes," because water is transported from State to State for a large number of other purposes than irrigation and municipal purposes? I do not think anybody would have any objection to excepting water for irrigation purposes. I suggest that modification.

Mr. LODGE. Water is excepted altogether.

Mr. CARTER. I think the general exception will——

Mr. NELSON. It may be a little ungracious to make the suggestion, but this amendment has been adopted, and it seems to me we are discussing it after it has been adopted.

Mr. LODGE. I suggest that in order to make the purport of the amendment clear, it be made to read "except natural or artificial gas."

The VICE-PRESIDENT. Without objection, the modification will be made.

The SECRETARY. After the word "commodity," insert the following:

Except water and except natural or artificial gas for municipal purposes.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio.

The amendment was agreed to.

Mr. ALDRICH. I move to strike out "for municipal purposes," because gas is used all over the United States for a thousand purposes by gas companies engaged in interstate commerce. I move to strike out "except for municipal purposes."

Mr. GALLINGER. I make the point of order that the amendment having been agreed to in Committee of the Whole it is not competent to amend it.

Mr. ALDRICH. What amendment has been agreed to?

Mr. GALLINGER. The one you are trying to amend.

Mr. ALDRICH. It is a part of the Senator's original amendment that I am trying to amend.

Mr. GALLINGER. You are seeking to amend the Senator's amendment——

Mr. ALDRICH. I am seeking to amend a part of the Senator's original amendment, which, I submit to the Chair, I am entitled to do.

The VICE-PRESIDENT. The Chair is inclined to agree that the amendment is in order. The question is on agreeing to the amendment proposed by the Senator from Rhode Island.

Mr. GALLINGER. I ask that the amendment proposed by the Senator from Rhode Island be stated.

The VICE-PRESIDENT. It will again be stated.

Mr. GALLINGER. Let us understand it.

The SECRETARY. In the amendment just agreed to strike out the words "for municipal purposes."

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Rhode Island.

The amendment was agreed to.

The VICE-PRESIDENT. The question is on agreeing to the amendment as amended.

Mr. MALLORY. On that I ask for the yeas and nays.

Mr. PETTUS. I ask for a vote by yeas and nays.

The VICE-PRESIDENT. The Senator from Alabama demands the yeas and nays. Is there a second? In the opinion of the Chair there is not.

Mr. HOPKINS. Before we vote on the amendment I should like to have it read.

The VICE-PRESIDENT. The Secretary will report the amendment as it is amended, at the request of the Senator from Illinois.

The SECRETARY. In section 1, line 1, after the word "to" at the end of the line, insert:

Any corporation or any person or persons engaged in the transportation of oil or other commodity except water and except natural or artificial gas by means of pipe lines or partly by pipe lines and partly by railroad or partly by pipe lines and partly by water at any place within the jurisdiction or within the governmental authority of the United States, who shall be considered and held to be common carriers within the meaning and purpose of this act and to.

Mr. SCOTT. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. KITTREDGE (when his name was called). I have a general pair with the junior Senator from Colorado [Mr. PATTERSON], as I previously stated. Since the former vote was taken, I have arranged to transfer the pair to the junior Senator from Idaho [Mr. HEYBURN], permitting me to vote. I shall not make further announcement of this arrangement. I vote "yea."

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON].

The roll call having been concluded, the result was announced—yeas 75, nays 0, as follows:

YEAS—75.

Aldrich	Culberson	Hemenway	Perkins
Alger	Cullom	Hopkins	Pettus
Allee	Dick	Kean	Piles
Bacon	Dillingham	Kittredge	Platt
Bailey	Dolliver	Knox	Proctor
Berry	Dryden	La Follette	Rayner
Beveridge	Dubois	Latimer	Scott
Blackburn	Elkins	Lodge	Simmons
Brandegee	Flint	Long	Smoot
Bulkeley	Foraker	McCreary	Spooner
Burkett	Foster	McCumber	Stone
Burnham	Frazier	McEnery	Sutherland
Burrows	Frye	McLaurin	Taliaferro
Carter	Fulton	Mallory	Teller
Clapp	Gallinger	Martin	Tillman
Clark, Mont.	Gamble	Millard	Warner
Clark, Wyo.	Gearin	Money	Warren
Clay	Hale	Nelson	Wetmore
Crane	Hansbrough	Overman	

NOT VOTING—14.

Allison	Clarke, Ark.	Heyburn	Patterson
Ankeny	Daniel	Newlands	Penrose
Burton	Depew	Morgan	
Carmack	Gorman	Nixon	

So Mr. LODGE's amendment as amended was agreed to.

Mr. FORAKER. I move to amend by striking out the words "receipt, delivery, elevation, and," on page 3, line 7. I call attention to the fact that on page 3 the term "transportation" is defined, and the term "transportation" is defined to include the receipt, delivery, and elevation of goods transported in interstate commerce. The conclusion of that paragraph is that common carriers are required to furnish such transportation. In other words, common carriers are required to provide for the receipt of goods to be transported and for the delivery of goods after they have been transported, which, if it means anything at all, means delivery to the consignee at the place of consignment. They are required also to provide for the elevation of goods, which means, I suppose, to provide an elevator service. It seems to me those words are not necessary to the accomplishment of the purposes we have in view, and that they are only included to bring confusion, and it ought all to go out. I do not want to discuss it. I submit the amendment.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 3, line 7, strike out the words "receipt, delivery, elevation, and."

Mr. DOLLIVER. Mr. President, I regret that I am not quite able to agree with the Senator from Ohio in respect to this matter. One of the common abuses of interstate transportation is extortionate charges and discriminations in connection with the receipt and delivery and especially with the elevation of grain and such merchandise.

The theory of this definition of transportation is that whoever buys it buys all that there is connected with it. If a man desires grain sent from the interior to Chicago or New York, which requires special expenses for transfer and elevation and delivery at an intermediate point, such as Omaha, the object of this bill is that all the expenses incident to the interstate transit of the merchandise shall be included in the transportation, and the total price of it computed in the rate.

If these words are omitted, room is left for some of the most flagrant extortions and the most flagrant discriminations, especially in relation to the elevation of merchandise in transit. I should therefore hope that that amendment would not prevail.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio.

Mr. BAILEY. Let the amendment be read.

The VICE-PRESIDENT. The amendment will be again read at the request of the Senator from Texas.

The SECRETARY. On page 3, line 7, strike out the words "receipt, delivery, elevation, and."

The amendment was rejected.

Mr. FORAKER. I understand that we are working in accordance with the printed amendments in their order at the Secretary's desk.

The VICE-PRESIDENT. The amendments are considered only as they are offered from the floor.

Mr. FORAKER. Then I offer another amendment to section 1. I move to amend on page 3, line 8, by striking out the words "ventilation, refrigeration, or icing;" and I send to the desk to be read as the only remarks I care to make about it, for I do not suppose anybody's remarks will do any good, a letter addressed to a Member of the House of Representatives from the State of Michigan, furnished me by the Senator from Michigan [Mr. ALGER]. It expresses the whole case, except that I want to say I have a great number of such letters from growers of peaches in Michigan, and a great number of letters from my own constituents in Ohio who are interested in the growing of

peaches in northern Georgia, all writng to me to the same effect; but I ask that that letter may be read as a sample of all.

The VICE-PRESIDENT. The amendment submitted by the Senator from Ohio will be stated.

The SECRETARY. On page 3, line 8, it is proposed to strike out "ventilation, refrigeration, or icing."

The VICE-PRESIDENT. The letter sent to the desk by the Senator from Ohio will be read.

The Secretary read as follows:

HART, MICH., *December 15, 1905.*

Hon. ROSWELL P. BISHOP, M. C.,
Washington, D. C.

DEAR SIR: We, the undersigned fruit growers and shippers of Oceana County, Mich., desire to call your attention to a phase of the proposed legislation relating to railroad rates, etc., now before Congress at Washington, which keenly affects our interests.

As we understand the situation, practically all the bills now pending at Washington contain provisions that will put the so-called "private car lines" out of business. Such legislation, we believe, would be a serious blow to the fruit-growing interests of this county and State.

Our experience proves that car service, refrigeration service, and inspection service, like we have had in the past from the Armour car lines, is essential to the development and prosperity of Michigan fruit growing. Since we have had the Armour service our business has prospered. If we are deprived of that service, we have nothing to expect but a return to old conditions. Every progressive fruit grower hates to think of that. Briefly stated, the situation that confronts us is this:

In the days before we had Armour service in this district our market was confined almost exclusively to Chicago and Milwaukee. Those markets were and still are to the grower low-priced markets. We had to ship our fruit to those markets on consignment to commission men, and we were at their mercy. We had to take for our fruit whatever the commission man in his generosity might allow us. He could and often did report our consignments as arriving in bad condition and selling for barely enough, sometimes not enough, to cover freight charges. We had no redress.

Since we have had the Armour service we have become independent of the Chicago and Milwaukee commission men. We have the whole country for a market. We can send our peaches to the best markets. If we ship on consignment, the Armour service is a guaranty that our fruit will arrive at destination in good condition, and no commission man can cheat us with a report of bad condition.

But, still more important to us, with the Armour service we do not have to ship on consignment. The advantages and guaranties of that service operate to bring into our districts buyers from far distant markets—such as New York, Boston, Philadelphia, Baltimore, and so on—and we sell to those buyers for cash on track at our shipping point. This, as you will appreciate, is a great advantage to us. It relieves us of risk, and the competitive buying brings us better prices; or, to state the case in another way, the Armour service has compelled the commission man to become a merchant instead of a broker and has made him do business on his own money instead of ours. It has also made fruit growing a stable business instead of a gamble.

As we understand it, practically all of the opposition to the private car lines comes from commission men. From what we have stated you will readily appreciate and understand why a certain stripe of commission men are sure to be arrayed against the private car lines.

As to the complaint against rates for refrigeration and service on these private fruit cars, our position is simply this: We are willing to pay for service when the service enables us, as it does, to get enough more for our fruit to cover that charge and make an additional profit larger than we could get without the private car line service.

As to the proposition that the railroads should be required to furnish this refrigerator service, we must say we doubt the practicability of that plan. Leaving out of consideration the millions of money that fruit-belt roads would have to spend for fruit cars and also leaving out of consideration the disposition of those roads to provide enough cars for the fruit season and have them idle the rest of the year, our experience suggests these points:

The private car lines have an organization of picked men, trained to the business of looking after perishable fruit business, both at the shipping point and en route. It guarantees condition. It permits the shipper to ship to any point and over any road, and no matter whose road or how many roads the shipment goes over, the private car taking care of it all the way and responsible for it.

If the railroads undertake this refrigeration service, it will require a long time for them to perfect any sort of an organization. But even if a fruit-belt road should perfect such an organization we do not see how that road can guarantee us perfect service and care of our fruit after it leaves that road and goes over a road that handles coal or lumber principally, and probably never handles a car of fruit except what comes to it in transit from some other road. "Everybody's business is nobody's business." The Armour car lines give us a highly organized, specialized service and is expert in handling highly perishable commodities. We can not look for such service from ordinary train or yard crews.

This whole question and its sharp bearing upon us is illustrated by our local railroad situation. At the end of the past season the Armour car line service on the Pere Marquette Railway ceased, and that road agreed to provide the refrigerator service heretofore performed by the Armour car lines. Our experience with the Pere Marquette Railway has not made us enthusiastic believers in its ability to furnish service equally as good as that of the Armour car lines, as we are reliably informed the initial cost to the Pere Marquette Railway for car equipment would be at least two and a quarter millions of dollars.

But the Pere Marquette Railway is now in the hands of a receiver. Therefore its ability to fill the place of the Armour service before the next peach crop is gathered would seem to be out of the question.

You certainly appreciate where all this leaves us. With the Pere Marquette Railway tied up in a receivership, and legislation at Washington knocking out private car lines, will set us back ten years in our fruit industry; it will leave us without refrigerator cars for the coming season, except what the Pere Marquette Railway can borrow, will leave us without the help of an organized service, and will inflict serious damage to every peach or fruit grower in the Michigan district.

We have taken the liberty of thus addressing you at length on this question not only because our interests are affected, but because our interests can be regarded in this matter without injury to any other interests. There is no industry worth mentioning in Oceana County, in this Congressional district, or in this State that will be benefited by knocking out private fruit-car lines, but such legislation will irreparably damage the fruit industry.

We earnestly hope you will be able to give our interests in this matter your careful consideration, and hope you can conveniently call it to the attention of your colleagues.

If you desire information more in detail on the questions involved, any one of the undersigned will cheerfully furnish it.

Yours, respectfully,

E. R. Hubbard, F. L. Cerbin, D. Burns Hutchins, W. E. Snyder, A. A. Husted, J. K. Flood, Benton Gebhardt, T. S. Gurney, L. L. Shigley, Geo. A. Hawley, F. W. Van Wickle, of Hart, Mich.; F. E. Llewellyn and C. A. Sessions, of Shelby, Mich.; John Hanover and J. B. Conger, of New Era, Mich.; C. W. Tollant, I. W. Loomis, C. F. Hale, A. G. Saunders, C. E. Ellis, Wylie Bros., of Shelby, Mich.

Mr. DOLLIVER. Mr. President, as the amendment of the honorable Senator from Ohio goes to the very heart of what is regarded by the shipping community as a very important, if not the most important, feature of the pending bill, I desire to submit a few words in reply to the statements made in the letter which has just been read. It recites an argument made very familiar to the Interstate Commerce Committee in the hearings which were held last summer, and it echoes arguments that have filled the public press during the last winter under the authority of the Armour car lines and other private car companies.

The trouble about the statements made in the letter is that they are not founded upon anything that is contained in this bill. The committee was strongly urged by fruit growers and fruit shippers and fruit commission merchant to totally abolish the private car system. This bill does not do that, and it does not go in the direction of that. The bill leaves every railway in the country enjoying the exact freedom which it now has to contract with the Armour car lines or other private car lines for any service which they may have for sale. It lays no limitation whatever upon the use of the private car equipment of the United States.

What does it do? It simply subjects the charges made against the shipper to the jurisdiction of the Interstate Commerce Commission, by requiring the charges agreed upon between the private car line and the railroad company to be computed as a part of the cost of transportation and to be published as a part of the railroad rate.

Therefore the bill does not disturb any rental agreement or other contract by which the railways are enabled to avail themselves of the private car equipment of the country. It simply seeks to prevent extortion and discrimination arising out of the charges of these private car companies.

I have had in my possession a bale nearly of freight bills indicating not only extortion, but discrimination. I have seen freight bills in which the railway charged $26 for hauling a carload of berries, and the car company cheerfully charged up a very much larger sum for icing it on a twelve-hours' journey. I have seen freight bills of about the same date and about the same place with icing charges varying in amounts, indicating very curious discriminations among shippers.

The whole fruit industry of the United States has been bombarding Congress upon this subject; but the private cars and their icing and refrigerating charges do not attach only to the fruit industry. They attach to some of our greatest agricultural industries outside of fruit shipments. The people who are shipping poultry products are especially interested in them. The people who are shipping meat products and perishable vegetable products of a variety of kinds are interested in them.

The only effect of this definition of transportation is that a man who has fruit for sale and desires to ship it may go to the railroad company and find out what it will cost to take it to Chicago, including the icing and refrigerating charges, and when he finds out what it costs from the published railway schedules, if he regards it as extortionate or if in any other way it violates the interstate-commerce law, he goes with the railway rate to the jurisdiction of the Interstate Commerce Commission for adjustment, disturbing in no way the use of private cars and disturbing in no way the long-time relation between the railway companies and the private car service of the country.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio [Mr. FORAKER].

The amendment was rejected.

Mr. McCUMBER. I offer the amendment which is printed on page 9 of the amendments.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 2, line 12, after the word "country," insert:

That all refrigerator cars, cold-storage cars, or other freight cars, whether owned by any common carrier or by any other person or cor-

poration, used in interstate commerce shall be covered by the provisions of this act; that all charges paid by any railroad company for use or rental of any such cars shall be just and reasonable, to the end that the owner of such cars using the same for shipment of his own goods shall secure no unfair or unjust benefit or advantage over any other shipper of like goods, and all unjust and unreasonable charges by the owners of such cars for the use or rental thereof by any other shippers or for icing or other service in connection with the use thereof is hereby prohibited.

Mr. McCUMBER. It is almost impossible, Mr. President, to offer any amendment which will be complete in itself, which will not to some extent possibly duplicate or repeat some other word or some other phrase in the bill as it now stands. The bill itself is full of repetitions, and I presume if any amendment inadvertently repeats a single word or a sentence it can be remedied by the committee of conference.

The principal contention seems to crystallize around the one object of a court review. I anticipate, however, that there are many here who, either with the court review or without it, are desirous of perfecting the bill to such an extent that it will be more effective in its operation than the Elkins law, which is now upon the statute books. The amendment which I offer here is for that purpose, and for that purpose only.

If it is true that the bill as it now reads clearly brings all refrigerator cars or cars manufactured for special purposes under its provisions, then that portion of the amendment may not be wholly necessary. Is it true that it does? I want to call the Senator's attention to the provision which has already to some extent been discussed on page 3 of the bill, the definition of the word "transportation." That reads as follows:

And the term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported.

You will see, Mr. President, that this word "transportation" is sought to be so enlarged that it will cover and include material objects. While that broad definition is given to it, that definition is not adopted anywhere else in the bill. It is manifestly, therefore, useless to attempt to make a word mean something that is entirely opposite to its natural or grammatical use.

For instance, if the word "transportation" by this definition is intended to include not only the vehicle by which the thing is transported, but the thing itself, then "transportation" means a barrel of salt; and, conversely, a barrel of salt means transportation. Certainly the person who drafted this bill has been somewhat unhappy in the use of his terms. I can get no real meaning out of that section of the bill other than that it is intended that the word "transportation" shall include the means by which the thing is moved from one place to another, whether it is stored or otherwise. But, still, its meaning must be limited to the active part of handling the goods or of transporting them. The amendment which I desire to introduce here is to make that clear. I provide in this amendment:

That all refrigerator cars, cold-storage cars, or other freight cars, whether owned by any common carrier or by any other person or corporation, used in interstate commerce shall be covered by the provisions of this act.

That, Mr. President, is a simple proposition. We know exactly what it means, and if we will amend the other sections in conformity with the suggestion of the Senator from Texas [Mr. BAILEY], and then insert this provision, we shall have a bill which will clearly mean what we intend it shall mean, that all refrigerator cars or cars used and constructed for special purposes, whether owned by the company or otherwise, shall be under the provisions of this act.

I wish to suggest, in connection with this, to the Senator from Texas that instead of transferring that portion of the amendment on page 3, which reads "shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership," over to the definition of railroads—if, instead of that, we shall add after the word "terminal," in line 23, on page 2, the words "and transportation;" so that it will read:

Spurs, tracks, and terminal and transportation facilities of every kind.

Then, by adding after the word "thereof," on page 3, line 6, these words, "and the term 'transportation' shall include the elevation and transfer in transit, ventilation, refrigeration," etc., we would then have a clear meaning, not only in the words that will, in their definition, bring within them words of like character in the proper place, but we will have a further definition of the word "transportation" and a further definition of the words "transportation facilities."

If we amend it in that way, then we can amend it by inserting what I have provided in this amendment, making it clear, on page 2, line 12, after the word "country;" so that it will read:

That all refrigerator cars, cold-storage cars, or other freight cars, etc., shall be brought under the provisions of this act.

Mr. President, I have examined this proposed law and the old law to see whether or not the real thing intended to be obtained by this character of legislation is either in the old law or in the present bill.

Let us take a condition of this kind: We have had before us this morning the message of the President of the United States defining the method by which the Standard Oil Company has been enabled to secure a monopoly of the oil business of the country. I can make that clear in a few words. Let us take, instead of the oil company, the Armour Packing Company. They have, say, 500 cars all ready in their yards at Chicago. They have those cars ready to transfer to any one of the roads. They can say to any road desiring to secure business, "Here we have cars, 500 of them, ready to-day. The shipment at, say, $50 a car would be $25,000 in freight. We can turn this over in five minutes to one road or to another road. It is a matter of great importance to you; your trains are ready to move now, and you can take them without any extra labor whatever. We want the lowest possible charge—so low that we will be able to compete with our smaller competitors." The road, desirous to keep up its amount of traffic, will necessarily cut down to the very lowest for this great sum in order to hold that business. Now, what we want to strike at is the ability of those great trusts to so control the roads and drive them into giving such rebates as will enable them to drive other concerns out of the market. We can do it in two ways. The first method is by bringing them under the Interstate Commerce Commission, and the second in such a manner that the Interstate Commerce Commission will be able to determine what is a fair rental for the use of those particular cars.

Suppose this same company is shipping through cars to San Francisco. The amount is, say, $20 per car, which they charge to the railway company for the use of their private car. They have more cars than they wish for their own purposes, and they rent another car to their competitor—that is, to the railroad for the use of their competitor. That competitor must also pay $20 for the use of that car, or, rather, the principal company will get $20 back not only for the car for its own goods, but also for the other car.

Now, suppose that the real value will be only about $10 in a fair rental value, instead of $20, you will see, then, on each car that the owner of the private car conducting his own business will have an advantage of $10 per car, which, on 500 cars in a single day would be $5,000, or equivalent to $5,000 rebate over and above what would be just and proper. This enables him to more than compete with his smaller adversary.

I want to put it within the power of the Commission to say that the rental which will be paid on a railway to the owner of a private car shall also be just and reasonable, to the end that the owner will secure no unjust and unfair advantage over his competitor. This amendment is intended for that purpose, and that purpose alone.

Mr. DOLLIVER. Mr. President, the complaints are pretty numerous that the House bill is crude and awkward in its construction, and therefore unpalatable to the Senate. I watched with a good deal of interest the efforts of the Senate to get into shape the amendment which has already been adopted, though I doubt very much if anybody would take a great deal of pride in it, either in the form in which it was introduced the first or the second time or as amended on the floor by the author and by other Senators or as it finally passed the Senate. So we ought to incline to drop any controversy about the crudeness and awkwardness of expression which has entered into the framework of the bill.

I think my honorable friend from North Dakota [Mr. McCUMBER] will not deny that the first part of his amendment is rather effectually covered by the provision which the bill makes as to private cars.

I do not understand the reason for these complaints about our definition of the word "transportation." If the instrumentalities of shipment are not a part of the meaning of the word "transportation," the fault lies not altogether in this bill, but in the crudeness and awkwardness with which the original interstate-commerce bill was constructed twenty years ago.

If I understand the meaning of the word "transportation," it covers the thing which a man buys when he approaches a railroad freight office to have goods shipped. The most famous railway manager in the world appeared before the Interstate Commerce Committee last summer and testified that he was engaged in the business of selling transportation at so much

per ton-mile. That was his whole pholosophy of the railroads' transactions with the public.

The bill sufficiently provides that jurisdiction over the railroad rate. It is not certain that we have any jurisdiction over this car company. They have denied our jurisdiction in the courts and before the Interstate Commerce Commission, and, I am inclined to think, correctly.

They were assailed by these Michigan fruit growers on account of their extortionate charges, and they replied with becoming humility that they were not engaged in interstate commerce; that they were not common carriers, but that they were engaged in the business—the thoroughly profitable business, indeed—of renting cars in the city of Chicago, and of icing them at various points; and we made up our minds, after a rather close investigation, that it was not well to encounter this doubt whether we had jurisdiction over a man renting cars in Chicago or renting an icehouse somewhere else. So we adopted the broad scheme of including the charges incident to transportation in the published railway rate. We know that we have jurisdiction over that.

There is some force in what my friend from North Dakota says about the regulation of a man's business who owns the car and the merchandise which the car carries. I think it will not be disappointing, however, to the Senator from North Dakota if I call his attention to the fact that this bill seems to have been drawn after some possibly crude meditation on that subject. If he will examine section 15, which is the great remedial section of this proposed statute, he will find, on page 12 of the printed bill, this provision:

> If the owner of property transported under this act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and the Commission may, after hearing on a complaint, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for in this section.

I am not prepared to say that that provision is a perfect protection in the matter to which the honorable Senator refers, but, if it is to be made more perfect, I think it is not out of the way for me to suggest to him that an amendment offered to section 15 covering that point would be appropriate. For my own part, it appears to me that the Commission is given power there to deal with just such an abuse as he has so correctly described by requiring the owners of merchandise who transport it in their own cars to render an account, upon complaint before the Interstate Commerce Commission, of the contract between them and the railway company. If that is not effectually done in section 15, I, for one, would welcome a suggestion that would make the provision more effective.

Mr. BAILEY. Mr. President, the Senator from Iowa [Mr. DOLLIVER] is not entirely happy in defending the precise form of this bill with his quotation from "the greatest railroad manager in the world." The Senator quotes that great railroad manager as declaring that he was engaged in the business of selling transportation, which was a very sensible declaration from his point of view, and, indeed, from every point of view; but if that is to be accepted in the light of this bill, then that great railroad manager is selling cars and other vehicles and instrumentalities, which I think it is not the purpose of the railroad to do.

Mr. DOLLIVER. He is selling the use of them to the public.

Mr. BAILEY. If the Senator wants to sell the "use of them," very well, but it must be remembered that the act of transportation is performed in the use of them. However, I care nothing about that. I should like to see the bill pass the Congress in such a way that the school-teachers of the country would not have an opportunity of teaching their pupils that Congress did not know how to make a difference between an act and the instrumentality with which that act is performed.

I repeat for the second time that that is not especially important, because I do not think it seriously impairs the efficiency of the bill.

What I desire to call the attention of the Senate to—and it seems to have escaped several of the Senators—is that this bill requires the railroad to do in respect to these special services what it is every railroad's duty to do, and that is to equip itself for the purpose of transporting any property offered to it for transportation in a proper manner.

When the Michigan fruit growers say that under the old system their fruit rotted on the journey to Chicago and was reported by the commission merchants as unfit for use and sale, they stated a good cause of action against the railroads, because it is a common carrier's duty to provide for the citizen proper facilities to conduct its business. Any citizen of this country has a right to offer at the station of any common carrier any commodity in fit condition for transportation, and it is the duty of the railroad to be so equipped that it can transport that commodity to market in suitable condition.

This bill recognizes, as I believe it ought to do, that a condition has grown up in which certain individuals or corporations have been supplying the facilities which the railroad itself ought to supply. This bill does not interfere with that. This bill still permits, as I read it, any man engaged in any business to load his own cars, ice them in his own way, and tender them to the railroad for carriage; and when the cars are so tendered, the railroad carries them, its only charge being for the naked act of transportation. But, for my part, I rejoice that the Congress in this bill has recognized the duty and has sought to enforce upon the carrier the duty of properly equipping itself for the public service. It seems to have been overlooked that the very last part of the sentence under consideration provides:

> And it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto.

That is simply giving the Commission a jurisdiction to enforce the obligation of the carrier as it exists at the common law.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from North Dakota [Mr. MCCUMBER].

The amendment was rejected.

Mr. KITTREDGE. Mr. President, I present the amendment which I send to the desk and ask to have read.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of section 1 the following:

> Companies or persons owning, leasing, managing, or operating cars used in the business of carrying any kind of property, including live stock, though such cars run upon railroads not owned, leased, managed, or operated by such companies or persons, shall be deemed to be carriers engaged in the transportation of property by railroad within the meaning of this act.

Mr. BEVERIDGE. Mr. President, may I ask the Senator from South Dakota to tell us upon what page of the collected print of the amendments his amendment may be found?

Mr. KITTREDGE. On page 17.

Mr. President, the Senator from Iowa [Mr. DOLLIVER], in his speech upon the pending bill delivered March 1, said:

> First of all, section 1 of the law was incomplete on account of a defective, or, I think rather I ought to say, an inadequate definition of the word "transportation." As defined in the bill, it has in practical operation this effect: It left the shippers, and especially shippers dealing in perishable products like fruit and vegetables and meats and others of a similar character, doing business not only with the carrier, but with an outside corporation, often entirely independent of the carrier, who charged, in addition to the charge made by the carrier, practically what it pleased for certain incidental services rendered in connection with the shipment; and if the shipper complains to the railroad about these charges he is informed that the charges are made by a car company with which the railroad has nothing to do; and when his complaint is presented to the car company, he is advised that the interstate-commerce law, or what has now come to be known as the legislative power of Congress, does not reach a car company renting cars in Chicago or running an ice house in New Jersey. So the shipper has been left in the hands of the Philistines. I have a job lot of these freight bills here, showing exactly how this additional charge which the railway does not make at all is made, the like of which have become painfully familiar to shippers of fruit and vegetables and other perishable products all over the United States. So flagrant have these abuses grown that even our greatest railways have not been able to protect themselves, much less their patrons, against these extortions and wrongs. Last summer a great national organization of producers and shippers and merchants met together and demanded that Congress entirely abolish private freight cars by making it unlawful for a railroad transacting interstate business to carry one of them. I do not agree with that position.
>
> I think it would injuriously limit the facilities of commerce, and I have lived here in the last few months in such an atmosphere of constitutional doubts that I begin to suspect that perhaps such a proposition might not pass the scrutiny of the courts. At any rate, it is obvious to nearly everybody that the ordinary railroad, having use for refrigerator cars only for a few days each year on its line, could not economically own them. Therefore, in framing this bill, we have left the railroads free to do exactly as they do now, in renting on any terms which they find satisfactory these cars, so that they can be kept in use the year round and sent where they are needed. This measure, therefore, does not make their use illegal; it leaves this $100,000,000 worth of equipment within reach of the railways of the country, but it requires the carrier to deal with the car company and the shipper to deal only with the carrier. It compels the railway company to make itself the sole beneficiary of the moneys paid for the shipment of merchandise. It follows that if this measure becomes a law all these extra charges must be computed in the transportation rate, subject to all the provisions of the interstate-commerce act; so that if they are unreasonable, or unjustly discriminatory, they can be dealt with as the statute provides. This is the first reform which this bill introduces into the existing law.

Most conservative are the statements of the Senator regarding the wrongs practiced by the private car line companies. The most flagrant abuses have flourished throughout the coun-

try. Rebates, discriminations, and unjust charges of every kind have thrived through such companies and have become intolerable.

Two remedies are presented:

(*a*) The elimination of such companies; or

(*b*) The regulation of them, as suggested by the Senator.

It is claimed that, for commercial reasons, their elimination can not be immediately accomplished, but should be effected in the course of a few years. Meanwhile, in any event, they should be regulated. If the rates and practices of these companies are left uncontrolled by law or by supervision of the Interstate Commerce Commission the result inevitably and speedily will be that the great advantages enjoyed by such companies in dealing with shippers will be a greatly increased number of car companies of all sorts and will enhance indefinitely the business transacted by them. Such expansion of the number and work of car companies may be expected to be indefinitely great in such a situation, and the railroads in that event would become little more than a mere instrument of such companies, as under such circumstances they would be the great carriers of the country in direct relation with the shippers. Unless the charges and other dealings of the car companies with their patrons—the shippers of the country—are regulated the whole plan of the proposed legislation respecting railroads becomes largely futile, for it is immaterial whether rebates are given or excessive charges made by the railroads themselves or by independent car companies. If the car companies are not embraced in it a statute relating only to the railroads and not to such car companies will leave many of the evils existing under present conditions in full operation. The Senator contends that the regulation of car companies is attained by section 1 of the pending measure. To this proposition I can not assent.

The section begins with the statement that "the provisions of this act shall apply to *any common carrier or common carriers engaged in the transportation of passengers or property* wholly by railroad," etc.

This limits and defines the application of the act, and consequently must be read into all its provisions. Indeed, the same language occurs in nearly all the sections of the bill. Nothing therein contained will apply to anyone not a common carrier by railroad.

Who, then, is within the act? A railroad company certainly, and, quite as certainly, no one else. The question is of importance chiefly as affecting "private car lines," as they are called, which own cars of peculiar construction and intended for special kinds of transportation.

These lines certainly are not common carriers. They run on no regular routes. They do not hold themselves open to carry any goods offered them. No one would think of indicting them for refusal to perform transportation service. They are merely persons with a plant fitted for certain particular kinds of transportation, who seek employment from those who need their service. Carriers they are, for their business is solely the transportation of goods; but common carriers they are not. Their business is quite like that of the owners of furniture vans, common in all cities, which transport goods to all parts of the country, always by railroad in case of long distances, but are under no public duty to do so.

It may therefore be taken as undeniable that the act as framed does not and can not act directly upon these private car lines in their relations to those who ship goods by them. No direct regulation of their business is attempted or intended by the act.

But it has been argued that this business is indirectly brought under the act by the amendment of the definition of "transportation" in this section. That definition is as follows:

> The term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported.

In my opinion the definition is awkwardly expressed. "Transportation" can not be a railway car or other vehicle. If the definition can be construed it must be taken to mean that transportation includes all services rendered in the carriage of goods in cars or other vehicles and all services rendered through the use of any instrumentality or facility of shipment or carriage irrespective of ownership or of any contract, express or implied, for the use thereof, etc. That is to say, whatever services a common carrier renders to those who employ him in any way in connection with the carriage of goods shall be "transportation" within the act.

How does this affect the private car lines? They are not, as has been shown, common carriers. Therefore it is not important to those who employ them what "transportation" means. Whatever it means it does not affect them. Nor does the definition lay any foundation for charging the railroad companies with any responsibility for the dealings of the private car lines with their customers. All services which the railroad company performs in such cases it performs for the private car lines, not for the shippers by those lines. With them it has no relations and to them it owes no duties. It does not know them. The private car line presents to the railroad certain cars, with their contents, for transportation, and may require other services in connection therewith, and it is between the private car line and the railroad that any contract for transportation or other services exists, such as would be within the provisions of this bill. The shipper of the goods contained in the car has no agreement, express or implied, with the railroad company.

The provisions in question, therefore, while they bring within the act—what was probably there before—the relations between the car lines and the railroads, leave the relations between the shippers and the car lines unregulated, as they were before. The only case in which they appear to extend at all the scope of the law is in making it apply to the use by the railroads of cars not their own property in the performance of contracts of carriage which they may make directly with individual shippers. But this was also probably within the existing law.

The Senator from Iowa has construed the amendment as having the effect of making the carrier deal with the car line and the shipper deal only with the carrier. It is impossible to see how anything in the bill can effect such result.

Suppose the shipper makes the usual agreement with the car line, and the latter presents its loaded cars to the railroad for transportation. The railroad can not refuse to transport them. It must, as a common carrier, transport whatever is offered for transportation.

Again, the provisions of the bill, all the way through, provide that no "common carrier" shall demand or receive from any person more than certain rates or shall give any person an advantage in transportation. The only persons with whom the railroads deal in these cases are the car lines. They never demand nor receive anything from shippers. The present business may, therefore, go on as at present without any violation of law, so long as the railroads and the car lines are satisfied. The car line does not violate the law, because it is not a common carrier; if the railroad violates it the shipper has no remedy, because the only charge is made to the car line and to this charge no objection may be made. Nothing in the act will compel the shipper to deal with the railroad directly; nothing will compel the car line to give the railroad the use of its cars. Only the relations between the railroads and the car lines would be within the law. Only the car lines could take advantage of it.

If it be supposed that the railroad is to be held responsible for the charges for transportation and other services made by the private car lines to the shipper, there are two conclusive objections:

First. The bill is not, in other respects, so framed, for it only makes the *common carrier*, i. e., the railroad, responsible for what *it* receives or grants, and from the shipper the railroad never receives nor to him does it grant anything. What he pays or suffers, therefore, in such transportation is not within the act.

Second. If it were within the act it would clearly be unconstitutional thus to make one person answerable for the acts of another. To impose upon a railroad a penalty because of transactions of a car line, of which it knows nothing and which it is powerless to prevent, would plainly be to deprive it of its property without due process of law. Such a proposition is not debatable.

Perhaps it may have been thought that the railroad, being responsible for the car-line rates, would insist on regulating them; but it would have no power to do so. It can not refuse to transport the loaded cars at rates reasonable as to the car lines. There is no way in which it could compel the car lines to submit to a control which they would certainly refuse to recognize. Indeed, the bill itself could be invoked to compel the railroad to transport these cars at reasonable rates.

The act, however, after defining "transportation," declares:

> And it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto.

This provision is almost unintelligible. What is the railroad to furnish? Must it provide special cars for special kinds of traffic such as the car lines provide? The Senator from Iowa expressly says that to require this is not intended, and it would be, he says, a most unreasonable burden. Does the provision mean merely that the railroad must furnish such transportation and other service as its facilities will allow? That every

railroad does and, without special law, must do. As to requiring an individual railroad to furnish through routes and just through rates, that is impossible. No one road could do so alone, and to require it absolutely to come to an agreement with other roads would be, of course, indefensible, and a provision incapable of enforcement, for this again would make the railroad responsible for the conduct of others over whom it has no control.

I refer to this provision because it may have been in the mind of the Senator from Iowa in stating his view of the effect of this law. If the railroads are responsible for rates and must furnish all sorts of cars and service and establish through routes, then it might possibly be argued that the railroads will do the work directly, will themselves pay the car lines for the use of their cars, and, having thus direct control of the cars, will deal directly with the shippers.

Of course this is a perfectly untenable view. The railroad can not refuse to transport the car-line cars nor can it compel the car lines to permit it to use the cars. Neither can it compel the shippers to deal with it directly. If any of these choose still to deal with the car lines, the railroad will be helpless. Even if both shippers and railroad desire to establish the system hoped for by the Senator from Iowa, they will be unable to bring it about. The car lines have simply to decline to permit the railroads to use their cars and the whole plan will be frustrated. Of course they will so decline, and there is no power to compel them to consent.

Therefore it seems to me that the act as framed will not affect transportation by private car lines. As to the railroads, the car lines and not the owners of the goods in their cars are the shippers, and so whatever rights or remedies are conferred upon shippers inure to the benefit of the car lines. On the other hand, the car lines may deal with their customers as they please, may charge such rates and grant such rebates as they choose, and there will be no means of control.

Section 15 of the bill presents a persuasive argument in support of my contentions. It provides that—

SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, shall publish and file joint rates, fares, or charges, and fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

This section contains most important new legislation. It provides the remedies for the violations of the law and confers upon the Interstate Commerce Commission important powers relating to rates, regulations, charges, practices, etc. A mere inspection of this provision discloses the fact that the private car line companies are well beyond the reach of the extraordinary powers of the Commission. By no possible construction can private car line companies be held to be within the curative provisions of this section.

It must be conceded that the bill as reported at best will require judicial construction to determine whether or not private car line companies are included within its provisions. A measure of such importance should not contain an element of doubt. It should be perfectly clear and plain, especially as to the agencies of transportation to which it is to apply. A simple provision making the bill apply to private car lines, as proposed in the amendment offered, will accomplish this purpose without the possibility of impairing the structure of the measure.

Mr. FRAZIER. On behalf of my colleague [Mr. CARMACK], who is unavoidably detained from the Senate, I desire to submit an amendment to perfect an amendment heretofore offered by him to the pending bill. I ask that it be printed and lie on the table.

The VICE-PRESIDENT. Without objection, it is so ordered.

ADJOURNMENT TILL MONDAY.

Mr. ALDRICH. I move that when the Senate adjourn to-day, it be to meet on Monday next.

Mr. TILLMAN. Mr. President——

Mr. ALDRICH. If the Senator from South Carolina wishes to make a statement, I will withdraw the motion for that purpose.

Mr. TILLMAN. I should like to have the Senator make the statement that he made to me privately in regard to this matter, because I am very anxious to press this work. We have made very little progress to-day, and unless it should be obvious that we will make more progress by discussing things out of the Senate than we are making in it, I want to go on.

Mr. ALDRICH. What I stated to the Senator privately, I will state publicly. The senior Senator from Iowa [Mr. ALLISON] has some amendments to offer to the bill, but he is detained from the Senate by illness. I feel quite certain he will be out by Monday. I do not know how it is with other Senators, but my duty upon committees has absolutely taken all my time. There are several important matters before the Committee on Finance which we are going into at considerable length, and I should be very glad indeed to have a vacation until Monday. I feel sure the progress of this bill will be more certain and more rapid by an adjournment than by being in session to-morrow.

Mr. BAILEY. Will the Senator from Rhode Island permit me?

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. ALDRICH. I yield.

Mr. BAILEY. I wish to say to the Senator from South Carolina that it is my opinion that more progress will be made by allowing Senators on the other side a day for their conference than can be made in three days of argument to the open Senate. I think the Senator will expedite his measure by agreeing to the suggestion.

Mr. TILLMAN. Getting it from both directions, from two such distinguished counselors, that we will get there quicker by stopping for a day, I withdraw my objection.

Mr. BAILEY. I venture that merely as a suggestion. I am not in the confidence of the other side. But I have always found that as the time approaches for a vote they find some way to get together, and I am more than half of the opinion that, as radical as their differences have appeared, they are now about to disappear. I think we will not get a vote on these amendments anyway until they are ready, and I think they can get ready quicker by using to-morrow for a conference than by using it in debate.

Mr. TILLMAN. In view——

Mr. BAILEY. The Senator will pardon me. I very much regret they are going to get together, because out of their divisions I saw some opportunity for the Democratic minority to render to the country a very valuable service.

Mr. GALLINGER. The Democratic minority being united. [Laughter.]

Mr. BAILEY. The Senator from New Hampshire reminds me of our own differences. Perhaps it does not come with good grace from this side to upbraid the other about its divisions. I think it possible that upon a call of the roll the division on the one side would be probably as serious as on the other, with this important difference, however, that the majority over here is for the protection of the people, while the majority on that side are not for the people.

Mr. ALDRICH. Both sides are for the people on this side of the aisle. I suggest to the Senator——

Mr. BAILEY. It is a pity that the people do not so understand it.

Mr. ALDRICH. That is their misfortune.

The VICE-PRESIDENT. The Chair will state that this debate is proceeding by unanimous consent.

Mr. TILLMAN. I wish to say to the Senator from Rhode Island that most of this has been in a spirit of badinage, because when he appeals to me to give consideration and respect to our comrade and colleague, the distinguished senior Senator from Iowa [Mr. ALLISON], I am ready to do anything to accommodate that Senator, because I think we will derive great benefit—at least I hope we will—from the amendments he wishes to propose.

Mr. ALDRICH. I ask for a vote on my motion.

The VICE-PRESIDENT. The Senator from Rhode Island moves that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to.

AGRICULTURAL LANDS WITHIN FOREST RESERVES.

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

Mr. FULTON. Will the Senator from Montana yield to me for a moment?

Mr. CARTER. Certainly.

Mr. FULTON. I wish to lodge a motion to reconsider the vote by which the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves was passed yesterday.

The VICE-PRESIDENT. The Senator from Oregon enters a motion to reconsider the vote by which the bill indicated by him was passed, and asks that the House of Representatives be requested to return the bill, it having been transmitted to the House.

Mr. FULTON. I do not wish to ask to have the motion acted on at this time.

The VICE-PRESIDENT. No. The motion to reconsider is entered, and the request will be made of the House of Representatives to return the bill.

EXECUTIVE SESSION.

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty minutes spent in executive session the doors were reopened, and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until Monday, May 7, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 4, 1906.

RECEIVER OF PUBLIC MONEYS.

Walter H. Sales, of Bozeman, Mont., to be receiver of public moneys at Bozeman, Mont., vice James M. Kelly, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 4, 1906.

SURVEYOR-GENERAL OF FLORIDA.

Charles H. Parlin, of Apalachicola, Fla., to be surveyor-general of Florida.

RECEIVER OF PUBLIC MONEYS.

Walter H. Sales, of Bozeman, Mont., to be receiver of public moneys at Bozeman, Mont.

APPOINTMENT IN THE NAVY.

Paul J. Bean, a citizen of Texas, to be an assistant civil engineer in the Navy from the 27th day of April, 1906.

SURVEYOR OF CUSTOMS.

Robert A. Ravenscroft, of Maryland, to be surveyor of customs in the district of Baltimore, in the State of Maryland.

POSTMASTERS.

ARKANSAS.

William C. Roberts to be postmaster at Rogers, in the county of Benton and State of Arkansas.

CALIFORNIA.

T. W. Henry to be postmaster at Paso Robles, in the county of San Luis Obispo and State of California.

D. F. Hunt to be postmaster at Santa Barbara, in the county of Santa Barbara and State of California.

CONNECTICUT.

Isaac L. Trowbridge to be postmaster at Naugatuck, in the county of New Haven and State of Connecticut.

ILLINOIS.

John A. Leu to be postmaster at Highland, in the county of Madison and State of Illinois.

W. W. Lowis to be postmaster at Greenville, in the county of Bond and State of Illinois.

INDIANA.

Charles Carter to be postmaster at Converse, in the county of Miami and State of Indiana.

William C. Nichols to be postmaster at Lowell, in the county of Lake and State of Indiana.

IOWA.

Gordon R. Badgerow to be postmaster at Sioux City, in the county of Woodbury and State of Iowa.

KANSAS.

John McPherson to be postmaster at Blue Rapids, in the county of Marshall and State of Kansas.

P. Moore to be postmaster at Weir, in the county of Cherokee and State of Kansas.

Thomas A. Sawhill to be postmaster at Concordia, in the county of Cloud and State of Kansas.

KENTUCKY.

William A. Waters to be postmaster at Springfield, in the county of Washington and State of Kentucky.

MASSACHUSETTS.

Frederick B. Horne, to be postmaster at Framingham, in the county of Middlesex and State of Massachusetts.

Reuben K. Sawyer to be postmaster at Wellesley, in the county of Norfolk and State of Massachusetts.

MISSOURI.

Henry A. Ayre to be postmaster at Oronogo, in the county of Jasper and State of Missouri.

NEBRASKA.

John Cusack to be postmaster at North Bend, in the county of Dodge and State of Nebraska.

Frank W. Wake to be postmaster at Genoa, in the county of Nance and State of Nebraska.

NEW HAMPSHIRE.

Fred H. Ackerman to be postmaster at Bristol, in the county of Grafton and State of New Hampshire.

OHIO.

Joseph A. Shriver to be postmaster at Manchester, in the county of Adams and State of Ohio.

TEXAS.

John A. Gray to be postmaster at Laredo, in the county of Webb and State of Texas.

TRADE-MARK TREATY WITH ROUMANIA.

The injunction of secrecy was removed May 4, 1906, from a convention between the United States and Roumania for the reciprocal protection of trade-marks, signed at Bucharest on March 31, 1906.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May 4, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill; and, pending that, I ask unanimous consent that the time for general debate be controlled by the gentleman from Louisiana [Mr. MEYER] and myself, the same as yesterday, without attempting to limit the time of general debate.

The SPEAKER. The Chair is under the impression that that order was made on yesterday.

Mr. FOSS. I think that order applied only to yesterday, and I would like to have it apply generally.

The SPEAKER. The gentleman from Illinois asks unanimous consent that all time consumed in general debate on the naval appropriation bill shall be divided equally between the majority and the minority, the time to be controlled, half and half, by himself and by the gentleman from Louisiana [Mr. MEYER]. Is there objection?

Mr. WILLIAMS. Mr. Speaker, that exact request was made and consented to yesterday.

The SPEAKER. The Chair was under that impression, but the gentleman from Illinois thinks it covered only yesterday.

Mr. WILLIAMS. The request was not made for yesterday; it was made for general debate on this bill.

The SPEAKER. The Chair is informed that the Journal so shows, and the gentleman from Illinois is mistaken.

MARY DAGENFIELD.

The SPEAKER laid before the House the bill (H. R. 16215) granting an increase of pension to Mary Dagenfield, with a Senate amendment thereto.

The Senate amendment was read.

Mr. LOUDENSLAGER. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from New Jersey that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

On motion of Mr. LOUDENSLAGER, a motion to reconsider the last vote was laid on the table.

WILLIAM F. M. RICE.

The SPEAKER laid before the House the bill (H. R. 15687) granting an increase of pension to William F. M. Rice, with a Senate amendment thereto.

The Senate amendment was read.

Mr. LOUDENSLAGER. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from New Jersey that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

On motion of Mr. LOUDENSLAGER, a motion to reconsider the last vote was laid on the table.

LEWIS DE LAITTRE.

The SPEAKER laid before the House the bill (H. R. 15907) granting an increase of pension to Lewis De Laittre, with a Senate amendment thereto.

The Senate amendment was read.

Mr. LOUDENSLAGER. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from New Jersey that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

On motion of Mr. LOUDENSLAGER, a motion to reconsider the last vote was laid on the table.

JEREMIAH LUNSFORD.

The SPEAKER laid before the House the bill (H. R. 11635) granting an increase of pension to Jeremiah Lunsford, with a Senate amendment thereto.

The Senate amendment was read.

Mr. SULLOWAY. I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from New Hampshire that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

On motion of Mr. SULLOWAY, a motion to reconsider the last vote was laid on the table.

SARAH M. D. HINMAN.

The SPEAKER laid before the House the bill (H. R. 10251) granting an increase of pension to Sarah D. M. Hinman with a Senate amendment thereto.

The Senate amendment was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from New Hampshire that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

On motion of Mr. SULLOWAY, a motion to reconsider the last vote was laid on the table.

LAURA B. IHRIE.

The SPEAKER laid before the House the bill (H. R. 8226) granting an increase of pension to Laura B. Ihrie, with a Senate amendment thereto.

The Senate amendment was read.

Mr. SULLOWAY. Mr. Speaker, I move that the Senate amendment be concurred in.

The SPEAKER. The question is on the motion of the gentleman from New Hampshire that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States, was communicated to the House of Representatives, by Mr. BARNES, one of his secretaries.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 14397. An act making appropriations for the support of the Army for the fiscal year ending June 30, 1907; and

H. R. 17576. An act to provide for the entry of agricultural lands within forest reserves.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 15435. An act to empower the Secretary of War to convey to the city of Minneapolis certain lands to exchange for other lands to be used for flowage purposes.

The message also announced that the Senate had passed bill and joint resolution of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5372. An act to prevent dangers to navigation from rafts of logs or timbers on coast waters of the United States; and

S. R. 13. Joint resolution authorizing the Secretary of War to award the Congressional medal of honor to Roe Reisinger.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5372. An act to prevent dangers to navigation from rafts of logs or timbers on coast waters of the United States—to the Committee on Interstate and Foreign Commerce.

S. 13. Joint resolution authorizing the Secretary of War to award the Congressional medal of honor to Roe Reisinger—to the Committee on Military Affairs.

Also bill of the following title, with Senate amendments:

H. R. 14397. An act making appropriations for the support of the Army for the fiscal year ending June 30, 1907—to the Committee on Military Affairs.

EDWARD GILLESPIE.

The SPEAKER laid before the House the bill (H. R. 15397) granting an increase of pension to Edward Gillespie, with a Senate amendment thereto.

The Senate amendment was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from New Hampshire that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

JOHNSON COUNTY, WYO.

The SPEAKER laid before the House the bill (H. R. 16521) directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo., with a Senate amendment thereto.

The Senate amendment was read.

Mr. MONDELL. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from Wyoming that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President; which was read, ordered to be printed, and referred to the Committee on Interstate and Foreign Commerce.

[At the conclusion of the reading of the message there was loud general applause.]

[For message, see Senate proceedings of this date.]

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole on the state of the Union for the further consideration of the bill H. R. 18750—the naval appropriation bill—Mr. CRUMPACKER in the chair.

Mr. FOSS. Mr. Chairman, I would ask how the time has been consumed up to the present time?

The CHAIRMAN. The gentleman from Illinois has used three hours and one minute and the gentleman from Louisiana has used one hour and eight minutes.

Mr. FOSS. I suggest the gentleman from Louisiana use some of his time now.

Mr. MEYER. Mr. Chairman, I yield twenty minutes to the gentleman from Virginia [Mr. FLOOD].

Mr. FLOOD. Mr. Chairman, while the remarks which I will submit will not be upon the pending bill, they will be upon a subject most appropriate while the naval bill is under consideration. I desire to ask the attention of the House to a bill which has been reported from the Committee on Industrial Arts and Expositions, to authorize the United States Government to participate in the Jamestown Tercentennial Exposition, to be held on the shores of the Hampton Roads, in Norfolk County, Va., in the year 1907, and to appropriate money in aid thereof.

This bill carries an appropriation aggregating $1,480,000, only $250,000 of which is a direct appropriation to the exposition company, the residue of the appropriation being for the Government exhibit, transportation of troops, entertainments, and other features in which the Government is directly interested.

While it is an assured fact that the Jamestown Exposition will be held, its magnitude and the impression produced by it upon foreign nations will depend largely upon this appropriation.

This exposition is to commemorate the first permanent English settlement upon this hemisphere. Such an event should be observed in a manner befitting the dignity of our great nation, and especially so since this nation has invited the participation of the naval powers of the world.

Mr. Chairman, the distinguishing feature of this exposition, above any the world has ever seen, will be the gathering of war ships of every naval power on the globe. In the ample waters of Hampton Roads will be such a naval demonstration as has occurred nowhere in all the realms of history, and such as has not been possible anywhere in the expositions of the past. There will likewise be a magnificent military encampment.

An industrial display will also be a feature of the exposition; but in the main it will be commemorative and historical. It is a common remark that the most momentous events in history have taken their rise from small beginnings. The Reformation that spread the illumination of Protestant Christianity over the Old World and over the New had its origin in a sudden pang of conscience and questioning of the soul by a monk as, upon his knees for penance, he climbed the steps of St. Peter's. So this land of political and religious freedom had, so to speak, a like elemental initiative. This mighty Republic, now spanning the continent with a continuous stretch of sovereign States, each in itself an empire, had its beginning in a colony of 105 half famished, unfriended souls, who, on the 13th of May, 1607, landed at Jamestown.

It would be hard to describe adequately the effect upon the history of mankind of the planting of that colony. It was not only the commencement of the English system of colonization, a system which has made Great Britain one of the foremost powers of the globe, but it resulted in the almost exclusive possession of the American Continent by the Anglo-Saxon race. Like unto this beginning of the greatest republic of modern times was the origin of the greatest republic of antiquity. Away back in the faint twilight of history a band of fugitives from the flames of Troy settled upon the shores of Latium and laid the foundation of mighty Rome, a republic that grew to be the mistress of the world. But majestic as was that republic, it is not to be compared in any of the essentials of greatness, in the attributes of mental and moral grandeur, in the attainments of the highest fruition of civilization, nor in that military prowess which was its supreme boast—in none of these constituents of greatness is it to be compared with the unique and wonderful Republic which originated in that settlement of English colonists within the domain of the Indian kind Powhatan and upon the banks of the river which at that time bore his name.

In this practical utilitarian age, when the spirit of commercial greed so largely predominates and the great object of life seems to many to be to put money in the purse, we occasionally meet with men who are disposed to ridicule and deride what they call "mere sentiment." Such men forget, however, that it is sentiment that rules the world. Many years ago Andrew Fletcher, a Scotchman, wrote to the Marquis of Montrose a letter in which he said:

I know a very wise man who believes that if a man were permitted to write all the songs of the people, he did not care who wrote their laws.

From time immemorial mankind has evinced an inalienable disposition to recall the traditions of the past, to preserve their ancient landmarks, and to cherish their sacred memories, and there can be surely no higher incentive to honor, to virtue, and to patriotism.

Mr. Chairman, a more appropriate, nay, an equally appropriate spot could not be found upon this continent than Jamestown in which to recall the august and romantic history of the past by a memorial exhibit, for it will be upon soil and amid scenes abounding in interesting and sacred memories alike of the colonial period and of the Revolutionary era.

As for a naval and marine display, there can not be found in all the harbors of America, or in the harbors of any continent on either hemisphere, so appropriate an expanse of water as the Chesapeake Bay and the ample and noble harbor of Hampton Roads, which forms the southern extremity of that bay. This harbor is more capacious than that which is entered by the Golden Gate, now consecrated to undying memory by the wreck of the splendid city to which it gave access and by the peerless and unshaken fortitude of its people. The harbor of Hampton Roads is more capacious than any other upon the Pacific coast, nor is it equaled in capacity or safety, in extent and depth, by any other upon the Atlantic coast, not excepting even the harbor of New York. It is sheltered from the ocean's storms by the two Virginia capes, the open gateway to the Atlantic, and the gateway through which civilization and freedom entered this continent. Upon its banks the two Virginia ports of Norfolk and Newport News sit like imperial queens of commerce, looking with proud gaze upon an expanse of water limited only by the sweep of the human eye, and upon whose bosom the naval armaments of all nations and the combined merchant marine of the entire world may ride at anchor with affluent berth.

Mr. Chairman, in historical interest, memorials of the colonial period and of the Revolutionary era, there is no environment upon this continent comparable to that in which the Jamestown Exposition is to be held.

At Jamestown Capt. John Smith was tried and acquitted by a jury, the first jury trial in America. When Lord De La Warr, the first governor of Virginia, came thither in 1610 he found at Jamestown a church, the first permanent religious edifice erected by Englishmen upon this continent. The ruined tower of this church is still standing. When Governor Yeardley began his administration he brought from the London council to the founders of the Jamestown colony an order to convene a general assembly, the name by which the Virginia legislature is called to this day. The members of this general assembly were to consist of burgesses, or borough representatives, of the plantations, towns, and hundreds. In pursuance of this order, on July 30, 1619, more than a year before the landing on Plymouth Rock, the first legislative body that ever sat in America assembled at Jamestown. The event was propitious; the old world had passed away and the new was born.

In 1710 Alexander Spottswood came as governor of the colony, bringing with him the great writ of habeas corpus, and thus Magna Charta was established in America.

When the Jamestown settlement was destroyed by fire during Bacon's rebellion, in 1676, the colony removed to a locality seven miles distant and there established the town of Williamsburg, the first colonial capital. The foundations of the capitol buildings are still to be seen where the house of burgesses met, and where Washington was received on his return from Braddock's disastrous campaign and was voted a sword as a tribute to his military skill and valor. It was the building, too, in which, in 1765, Patrick Henry wrote, upon a blank leaf torn from an old law book, his resolutions against the stamp act, and amid cries of "Treason!" advocated them with an eloquence which had never before in the new world fallen from mortal tongue.

This was the alarm bell, the signal gun, of the Revolution. Standing at the open door, and spellbound by the burning words of the orator, and the stupendous scene enacting before his eyes, was a youth of 22, a law student, who, eleven years afterward, was to write the Declaration of Independence, and later become the third President of the United States.

There at Williamsburg may also be seen the site of the old Raleigh Tavern, in which the burgesses convened when driven from the capital by Lord Dunmore for treasonable denunciation of the oppressive measures of the English King and Parliament. In the "Apollo room" of that historical tavern the committee of safety was organized and held those meetings which started the ball of the Revolution. And there, too, still stands the powder horn, or magazine, from which Lord Dunmore carried off the gunpowder which Patrick Henry, at the head of the Hanover Militia, compelled him to account for.

There, too, sat the memorable convention of 1776 that adopted the Virginia bill, or declaration of rights, written by George Mason, the most luminous epitome of political and personal rights and principles ever formulated by the pen of man, and upon which have been modeled all of the similar bills successively adopted by the States of the Union.

The same convention adopted the Virginia constitution of 1776, also from the pen of George Mason. This was the first written constitution of government ever adopted by a free people. The preamble of this constitution was written by Thomas Jefferson and was sent from Philadelphia, where he was in attendance upon the Continental Congress. It contained a declaration of the severance of Virginia from allegiance to the British Crown, and along with the constitution to which it was appended was adopted on the 29th day of June, 1776, five days before the adoption, on July 4, of the Declaration of Independence by the Continental Congress.

Not far distant from the old capital of Virginia is Yorktown, where now stands a lofty monument erected by the American Congress to commemorate the surrender of Cornwallis and the triumph of the Revolutionary armies on the 19th day of October, 1781. The old Moore house, in which Cornwallis signed the articles of capitulation, is still standing, as is the Nelson house, the home of Thomas Nelson, the war governor of Virginia during the later Revolutionary period, he who sacrificed his large fortune in the cause of independence, and who, at the siege of Yorktown, offered a reward of 5 guineas to any can-

noneer who would throw a ball into his own dwelling house, which was supposed to be occupied by the British general and his staff.

I have alluded, Mr. Chairman, to a circumstance which associates by historical suggestion the beginning of our Republic with the foundation of the mightiest republic of antiquity. Let me refer for a moment to a coincidence in the early history of another ancient republic suggested by the momentous event in our history to which I have just alluded. Yorktown, the scene of the triumph of our armies over our British foes, is 12 miles from Williamsburg, the colonial capital of Virginia. About the same distance from Athens, the capital of Greece, is the field of Marathon, where 10,000 Athenians defeated the mighty hosts of Persia and delivered their country from the thraldom and dread of that haughty Empire, and opened the way to the freedom, the supremacy, and the splendor of Greece. The mound still stands in which were buried the dead of that memorable field. There nightly the ear of superstition may still hear the clangor of arms, the neighing of horses, and the echoes of their feet as they frantically rush across the plains. At Yorktown no audible sounds reach the ear, but the soul of patriotism is there stirred by memories of the mighty spirits and great achievement which secured our independence.

The celebration of these noble events, beginning with the first settlement of our race upon this continent, and coming down to the independence of our country, will take place on Virginia soil near the scenes of the historical events I have described. The people of the entire State of Virginia feel a deep interest in this event and naturally desire to see it a glorious success; and desire to see the bill as reported amended in a few particulars and passed.

They feel that Virginia's call for aid will be heeded by the Representatives of every State upon this floor, but especially by the Representatives of those States with whose founding she was so essentially identified. There are some, perchance, with whom her appeal should have greater weight than with others, but it is an appeal that should not be disregarded by the Representatives of any State in the entire Union.

Mr. Chairman, if there is one State Virginia should be able to appeal to with confidence that State is Massachusetts. Virginia and Massachusetts are linked together in a common destiny of sacred memories and of inextinguishable glory. When Virginia organized her committee of safety and correspondence, it was Massachusetts that, under the lead of Samuel Adams, responded to the signal and formed her similar committee, and through these committees the colonies kept in touch with each other throughout the exciting events that led up to the Revolution until what time the reverberation of the guns of Concord and Lexington summoned the Virginia troops to the assistance of their countrymen in the beseiged city of Boston.

The late venerable Senator Hoar, in an address before the Virginia Bar Association a few years since, made a beautiful reference to the historical and patriotic reminiscences that bind these two Commonwealths together:

When—

Said he—

a Virginian penned the Declaration of Independence Massachusetts furnished the greatest advocate on the floor of Congress. When Virginia produced Washington Massachusetts called him to the head of the Army. When Virginia gave Marshall to jurisprudence it was John Adams, of Massachusetts, who summoned him to his exalted seat.

But, Mr. Chairman, Massachusetts is not the only State to which Virginia can appeal with confidence. We can surely depend upon Kentucky, cut as she was from Botetourt County, an ancient Virginia county extending in 1792 to the Mississippi River, from which in that year the beautiful State of Kentucky was taken and presented by Virginia as her fairest daughter to the Union.

And there are the elder daughters of Virginia—Ohio, Illinois, Indiana, Wisconsin, and Michigan. The first four and half of the fifth were formed out of the northwestern territory which Virginia, with a lavish and patriotic prodigality, by the ordinance of 1787, gave to the Union to heal the discords that threatened to prevent the adoption of the measures by which a "more perfect union" was to be formed. And then there are those great Commonwealths that lie between the Mississippi and Oregon rivers, formed from that vast territory which the foresight and patriotism of Virginia's son, Thomas Jefferson, secured to our country. And Florida, which was acquired for the American Union by the wisdom of James Monroe, of Virginia, and finally the great Lone Star State, which was brought into the Union by the action of John Tyler, another Virginian.

Nor, Mr. Chairman, should the appeal of Virginia be disregarded by the Representatives upon this floor of any State in the Union. As was said by Hon. John Goode, in an address delivered before the committee from which this bill was reported:

The American Union is in great part the creation of Virginia. * * * It was her son who penned that immortal document which declares that whenever government becomes destructive of the ends for which it is created it is the right of the people to alter or abolish it and institute a new government. * * * It was her son who was confessedly the father of the American Constitution. * * * It was her son who presided over the Supreme Court from 1801 to 1835, and blazed the way for his successors in the interpretation of the Constitution. It was her son who stood by the helm of the ship of state on its perilous voyage, and is now by universal acclaim of all mankind recognized as the greatest of good men and the best of great men, that illustrious son of whom the poet has beautifully sung:

All discord ceases at his name,
All ranks contend to swell his fame.

But, Mr. Chairman, this is not a matter in which Virginia is solely interested, nor in which one particular State is solely interested. It is a commemoration of the planting of the first English colony upon this continent; the beginning of the settlement and occupation of this country by our ancestors, and the introduction of Anglo-Saxon civilization into a wilderness. It is intended to commemorate the birth of the American nation in order that the great events which have resulted therefrom may be accentuated to the present and future generations of American citizens.

Is it not fitting that we shall hand down the beginning of such great events to future generations, and can we look with unconcern upon the endeavor to commemorate this beginning?

If so, we shall be unmindful of the truth uttered by Edmund Burke, that—

Those who are indifferent to the past will never do anything worthy of the future.

If so, we shall have degenerated from the generous spirit of our illustrious countryman, James G. Blaine, who, in his "Thirty Years in Congress" urging for a sufficient allowance to be made Virginia by the General Government to compensate, at least, for that part of her public debt which might be presumptively presented by the territory taken from her in the creation of West Virginia, uses these words:

Nor should it be forgotten that the State of Virginia before the war might well be regarded as the creditor and not the debtor of the National Government. One of her earliest acts of patriotism as an independent State was the cession to the General Government of her superb domain on the north side of the Ohio River, from the sale of which more than $100,000,000 have been paid into the Treasury.

He concludes his interesting chapter with this beautiful tribute to the old mother of States and statesmen:

In the formal and necessarily austere administration of public affairs there is little room for the interposition of sentiment. Yet sentiment has its place. We stimulate the ardor of patriotism by the mere display of a flag, which has no material force, but which is emblematic of all material force and typical of the glory of the nation. We stir the ambition of the living by rearing costly monuments to the heroic dead. It may surely be pardoned if Americans should feel a deep personal interest in the good name and good fortune of a State so closely identified with the early renown of the Republic—a State with whose soil is mingled the dust of those to whom all States and all generations are debtors—the Father of his Country, the author of the Declaration of Independence, the chief projector of the National Constitution.

Mr. Chairman, as her humblest son, I am not afraid of being esteemed arrogant when I avow the belief that whilst this nation may becomingly commemorate the fame of that ancient Commonwealth it can not amplify her renown.

I am confident that those in this body who have ingenuously studied her annals will not look with disfavor upon this appropriation.

Our governmental organism pulsates with her life. Our enduring institutions are the lengthened shadows of her sons. She has vivified our history with a spirit which is immortal.

Nor strong tower, nor walls of beaten brass,
Nor airless dungeons, nor strong links of iron,
Can be retentive to the strength of spirit.

[Loud applause.]

Mr. MEYER. Mr. Chairman, I yield forty minutes to the gentleman from Florida [Mr. CLARK].

The CHAIRMAN. The gentleman from Florida is recognzed for forty minutes.

Mr. CLARK of Florida. Mr. Chairman, unwillingly I find myself in a position where I am forced to attempt to say something about the tariff. I have been chary of undertaking to make tariff speeches since I heard a story some years ago, Mr. Chairman. It is said that a certain man was arraigned in court upan an indictment charging him with murder. He had no counsel, and said that he desired none, but simply asked permission to make a statement to the court in extenuation of his offense, which was accorded him. He said to the court:

It is true, Judge, that I killed the man. I admit that I killed him; but I want to tell you why I did it and how I did it. I am a farmer, and on the day that the offense was committed I was sitting on my veranda, at my own home, quietly reading my county newspaper, late in the afternoon. I was at peace with all the world. I had naught against any living man, but this man finally came into my gate, came

up to where I was, and proceeded without the slightest provocation to curse and abuse me. I did not resent it. I allowed him to continue until he was tired, and finally becoming tired he left me, went back to the rear of the house where my wife was engaged in her household duties, proceeded to curse and abuse her, and still I did not resent it. When he had tired of that he went out into the yard where my children were at play, abused them in my presence, and I permitted that. When he left off that he went out and kicked and cuffed my dog; and I even took that. When he had finished with the dog he came back to where I was, and when he reached in his pocket and pulled a manuscript therefrom and proceeded to deliver to me a speech on the tariff I rose up in my might and I slew him.

[Applause and laughter.]

That has deterred me, Mr. Chairman, from ever attempting to say anything about the tariff, but I find myself now where it appears to be imperative that I say something upon that subject, and I want to say, Mr. Chairman, and I shall detain the committee but a few minutes, that the Democratic party, to which I belong, has never at any period in its long and eventful history been a free-trade party. That persons of prominence who were free traders have been members of the Democratic party; that men of great prominence who are to-day advocates of free trade are supporters of the Democratic party is undoubtedly true, but the injustice of attempting to bind a great political party to support of a particular doctrine merely because individual members of that party are its supporters is apparent. The only just rule by which the position of a political party on a given question can be and should be determined is by an investigation of its platform declarations upon that subject and by an investigation of its legislative enactments when in full control of the law-making power of the Government. This is the only just rule, this is the only fair test, and I contend that the Democratic party in no convention has ever declared for free trade or has ever declared for anything approaching free trade. I contend further, Mr. Chairman, when in control of this Government, and it was in control for a great many years, in control of all of its branches, the Democratic party has never written into the law of this land a single statute that smacks of free trade. So, I say, it is unjust to the Democratic party to charge it with being a free-trade party because some of its members are free traders, or very nearly so. It matters not, Mr. Chairman, what individual newspapers or statesmen, however prominent, claiming allegiance to the Democratic party, may have said about the tariff, that party has never in any platform declared for free trade or for a tariff schedule approaching free trade. The Democratic party, when in control of Congress, has never committed nor attempted to commit this Government to the policy of free trade. If free trade were a Democratic doctrine, why did not the representatives of the party write it into the laws of the land during its long lease of power? It is a presumption of law, I believe, that when it is shown that a man has it in his power to do a certain thing and does not do it, he does not want to do it. Therefore the conclusion here is irresistible that the Democratic party was not in favor of free trade, because it had the absolute power to declare for free trade, to enact free-trade legislation, yet during all its long years of power, in the control of the executive and legislative branches of the Government, both in their entirety, it has never declared for any such principle. So I am justified, Mr. Chairman, in contending that the Democratic party is not a free-trade party.

I want to call attention for just a moment to the declaration of the party on that subject in 1896. And this, Mr. Chairman, is but a specimen declaration in all of the platforms of the party. It is true here and there in Democratic national conventions words have been at times loosely used in setting forth a declaration of principles, but any fair-minded man who will examine the platform of any year in its entirety will find that it has steadfastly adherred to the doctrine that a tariff for the purposes of this Government was absolutely necessary, and they have never, as I said, broached free trade.

In 1896 they said this:

We hold that the tariff duties should be levied for purposes of revenue, such duties to be so adjusted as to operate equally throughout the country and not discriminate between class or section, and that taxation should be limited by the needs of the Government honestly and economically administered.

And in 1892, four years before, they said this——

Mr. CHARLES B. LANDIS. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Florida [Mr. CLARK] yield to the gentleman from Indiana?

Mr. CLARK of Florida. Certainly.

Mr. CHARLES B. LANDIS. Did the gentleman from Florida read all of the plank on the tariff in the platform of 1896?

Mr. CLARK of Florida. No, sir.

Mr. CHARLES B. LANDIS. Will he kindly do so?

Mr. CLARK of Florida. I will do it if the gentleman wants me to.

Mr. CHARLES B. LANDIS. It was the platform of 1896?

Mr. CLARK of Florida. I was saving time. I will read the balance of it, as follows:

We denounce, as disturbing to business, the Republican threat to restore the McKinley law, which has been twice condemned by the people in national elections, and which, enacted under the false plea of protection to home industry, proved a prolific breeder of trusts and monopolies, enriched the few at the expense of the many, restricted trade, and deprived the producers of the great American staples of access to their natural markets. Until the money question is settled, we are opposed to any agitation for further changes in our tariff laws, except such as are necessary to keep the deficit in revenue caused by the adverse decision of the Supreme Court on the income tax.

But for this decision by the Supreme Court there would be no deficit in the revenue under the law passed by the Democratic Congress in strict pursuance of the uniform decisions of that court for nearly one hundred years, that court having sustained constitutional objections to its enactment which had been overruled by the ablest judges who have ever sat on that bench. We declare that it is the duty of Congress to use all the constitutional power which remains after that decision, or which may come by the reversal of the court as it may hereafter be constituted, so that the burdens of taxation may be equally and impartially laid, to the end that wealth may bear its due proportion of the expenses of the Government.

That, I think, is all of it.

I am very much obliged to the gentleman for calling my attention to it. I did not care to take up the time to read it, but, Mr. Chairman, it fully explains the Democratic principles on the tariff.

Mr. CHARLES B. LANDIS. Will the gentleman now read the platform declaration in 1892?

Mr. CLARK of Florida. I am going to read that now.

We denounce Republican protection as a fraud—

[Applause on the Democratic side.]

a robbery of the great majority of the American people for the benefit of the few.

[Renewed applause.]

We declare it to be a fundamental principle of the Democratic party that the Federal Government has no constitutional power to impose and collect tariff duties, except for the purposes of revenue only, and we demand that the collection of such taxes shall be limited to the necessities of the Government when honestly and economically administered.

[Renewed applause.]

Mr. CHARLES B. LANDIS. I would like to ask the gentleman now——

Mr. CLARK of Florida. I will read the balance of it; better let me read it all.

The CHAIRMAN. The gentleman from Florida declines to yield.

Mr. CLARK of Florida. I will read it all, and then I will yield to the gentleman.

We denounce the McKinley tariff law enacted by the Fifty-first Congress as the culminating atrocity of class legislation; we indorse the efforts made by the Democrats of the present Congress to modify its most oppressive features in the direction of free raw materials and cheaper manufactured goods that enter into general consumption, and we promise its repeal as one of the beneficent results that will follow the action of the people in intrusting power to the Democratic party. Since the McKinley tariff went into operation there have been ten reductions of the wages of the laboring men to one increase.

[Applause on the Democratic side.]

We deny that there has been any increase of prosperity to the country since that tariff went into operation, and we point to the dullness and distress, to the wage reductions and strikes in the iron trade as the best possible evidence that no such prosperity has resulted from the McKinley Act.

We call the attention of thoughtful Americans to the fact that after thirty years of restrictive taxes against the importation of foreign wealth in exchange for our agricultural surplus the homes and farms of the country have become burdened with a real estate mortgage debt of over two thousand five hundred million dollars, exclusive of all other forms of indebtedness; that in one of the chief agricultural States of the West there appears a real estate mortgage debt averaging $165 per capita of the total population, and that similar conditions and tendencies are shown to exist in the other agricultural exporting States. We denounce a policy which fosters no industry so much as it does that of sheriff.

[Loud applause on the Democratic side.]

Now I will yield to the gentleman.

Mr. CHARLES B. LANDIS. I will ask the gentleman if it is not practically the same platform upon which the English Government raises revenue to carry on the affairs of that nation?

Mr. CLARK of Florida. I think not; but I am not so thoroughly informed as to the English taxing system.

Mr. CHARLES B. LANDIS. In other words, is that not the form of political declaration that is known as "free trade" among nations?

Mr. CLARK of Florida. Not at all. I think not, sir. Now, Mr. Chairman, the position of the Democratic party upon this question——

Mr. NEEDHAM. Will the gentleman allow me to ask him a question.

Mr. CLARK of Florida. Certainly.

Mr. NEEDHAM. Is the gentleman in favor of the present tariff on citrus fruit?

Mr. CLARK of Florida. I am, absolutely.

Mr. NEEDHAM. Upon what theory does the Democratic party base that?

Mr. CLARK of Florida. I am right with the gentleman from California on that proposition.

Mr. Chairman, it will be seen that the position of the Democratic party, then, is this, as I understand it—and I do not want the Democratic party held responsible for what I say. I am not a leader of the Democratic party. My declarations do not make Democratic law. My opinions would not be accepted as Democratic authority; but as an humble Democrat, as an humble member of the party, I have the right to my opinions as to what the party stands for; and my opinion is that the Democratic party on this question stands for a tariff for revenue sufficient to support the Government when its affairs are administered economically, but not niggardly; not in favor of a tariff levied solely for the purpose of protection. I am not in favor of the levy of a duty which in its practical operation will be prohibitive. I am in favor of the levy of a duty which will produce the necessary revenue for the purposes of the Government; and whenever the taxing power goes further than is necessary to raise the money to pay the expenses of the Government, economically and honestly administered, it goes, in my judgment, beyond the constitutional power to tax. [Applause.] We should levy a duty with a view to raising revenue for the purposes of the Government economically administered and not solely for the purpose of protection. Whenever a duty is levied upon an article imported into this country for sale to the American people it must undoubtedly increase the cost of that article to the American purchaser, and to that extent it is a burden on such purchaser——

Mr. CHARLES B. LANDIS. Mr. Chairman——

Mr. CLARK of Florida. Let me finish this sentence, please. And to the same extent is a benefit to the American citizen who has articles of the same kind for sale, grown or manufactured in this country. Now I will yield to the gentleman from Indiana.

Mr. CHARLES B. LANDIS. The gentleman states that the effect of a protective tariff is to increase the price of the article.

Mr. CLARK of Florida. The effect of any tariff.

Mr. CHARLES B. LANDIS. That the effect of any tariff is to increase the price of the article protected by the amount of the tariff.

Mr. CLARK of Florida. Approximately.

Mr. CHARLES B. LANDIS. I will ask the gentleman if he can cite a single article manufactured in this country the price of which is higher to-day than it was the day the tariff was placed upon the article?

Mr. WILLIAMS. No; nor higher anywhere else.

Mr. CLARK of Florida. I do not know that I can at this moment, because I have not investigated that.

Mr. CHARLES B. LANDIS. I will say to the gentleman from Florida that that challenge has been made, in answer to that assertion, time and time again, and I have never yet had cited a single manufactured article that is higher to-day than it was the day the tariff was placed upon it; and if the gentleman can cite any such article I should like to have him do it.

Mr. WILLIAMS. Now, if the gentleman from Florida will permit a further interruption——

Mr. CLARK of Florida. I yield to the gentleman from Mississippi.

Mr. WILLIAMS. I would suggest that he might challenge the gentleman from Indiana to name a single article upon which there is an American import duty levied, and which is lower now than it was at the time the import duty was levied, the price of which is not also lower in Great Britain, Cape Colony, Australia, the Argentine, all over Europe, and everywhere else—especially where there is no protectionism. [Applause on the Democratic side.]

Mr. CHARLES B. LANDIS. If the gentleman will permit me——

The CHAIRMAN. Does the gentleman from Florida yield to the colloquy between the gentleman from Indiana and the gentleman from Mississippi?

Mr. CLARK of Florida. Yes; I yield.

Mr. CHARLES B. LANDIS. With the kindness of the gentleman I will say that along about 1883 we placed a tariff of $4 a hundred upon wire nails. At that time, if the year is correct, there were no wire nails manufactured in this country. According to the theory of the gentleman from Florida, the price of wire nails should have been increased by the amount of the tariff. The price was somewhat increased for some months, but a wire-nail factory was started in the United States, and soon the price fell from $6 to $5. More wire-nail factories started, and the price dropped to $4. In the course of a year or two it dropped to $3, then to $2.50, to $2, and finally to $1.85——

Mr. WILLIAMS. But the price has gone up since.

Mr. CHARLES B. LANDIS. The duty still remained at $4 a hundred. Now, according to the theory of the gentleman from Florida, the price of wire nails should have been continued as long as that tariff existed at the original price plus $4, when, as a matter of fact, the price fell as low as $1.85.

Mr. WILLIAMS. Now, if the gentleman will pardon me, the gentleman has not quite stated all of it. After he got his wire nails down to $1.85 he neglected to state the point to which they have risen since.

Mr. CHARLES B. LANDIS. I think the price of wire nails at the present time is about $2.20 or $2.30.

Mr. WILLIAMS. And that rise began to take place immediately upon the formation of the wire-nail trust?

Mr. CHARLES B. LANDIS. Well, I would not be surprised if that were true.

Mr. WILLIAMS. Now, in further answer to what the gentleman has said, this is also true: While wire nails have gone down here, upon the whole, in price—and he has substantially stated the history of their going down, with the omission which he has just corrected—it is also true that wire nails made in Belgium and in Great Britain have gone down exactly in the same proportion, and it is also true (which the gentleman has failed to mention) that while wire nails are being sold now in the United States at the price which he has given American wire nails are being sold in Cape Colony, a British possession, transported by the back door of Great Britain, and are, or were a year ago, sold there at a price far below what they are sold for in the American market.

The answer proves two things: First, the American tariff has had nothing to do with the reduction of the price of wire nails, except to impede the process, as is demonstrated by the fact that they have gone down where no tariff existed, and, secondly, the tariff has had something to do with enabling the American producer of wire nails to fix a higher price than was necessary to the American consumer in a sheltered market while he sells at reasonable profit to the subjects of Great Britain in Cape Colony.

Mr. CHARLES B. LANDIS. I will say to the gentleman from Mississippi that the position he assumes is entirely untenable, and I place before the gentleman now the challenge that has been made time and time and time again, that no Democrat living has yet cited a single manufactured article upon which there is a protective tariff that is not lower in price to-day than it was the day the tariff was placed on the article. [Applause on the Republican side.]

Mr. WILLIAMS. That is true, and the answer to it is true.

Mr. CLARK of Florida. Mr. Chairman, I am very glad to hear these gentlemen. [Laughter.]

Mr. CHARLES B. LANDIS. I ask the pardon of the gentleman from Florida, and will simply say that I was led to rise and interrupt him because of his statement that the effect of levying a protective tariff was to increase the price of the article by the amount of the tariff.

Mr. CLARK of Florida. I understand, and I yielded to both gentlemen with great pleasure, because I have time enough to get through with the few remarks that I want to make, and I am always very glad to hear both of them. But I do not care to discuss particular items, and I have not prepared a tariff speech. I stated in the beginning the reason why I never attempted to make one, and I simply want to call attention to one or two general propositions.

Mr. WILLIAMS. Now, Mr. Chairman, if the gentleman from Florida will pardon me, this is pertinent and it will not take long. I read from a list given in the Exporters and Importers' Journal of June 18, 1904, published by Henry W. Peabody, 17 State street, New York City, and I find on that list that the export price of barbed wire per hundred pounds was at that time $2.20 and the home price $2.70, with a difference of 23 cents per hundred, and upon black fence wire, per hundred pounds, the export price was $1.25 and the home price $2, with a difference of 60 cents per hundred. I will ask the gentleman to answer that.

Mr. CHARLES B. LANDIS. What does that prove?

Mr. WILLIAMS. It proves enough for you, unless you can deny it, or get around it, or evade it, to defeat you in the next election. [Applause on the Democratic side.]

Mr. CHARLES B. LANDIS. I can not see how it is relevant at all.

Mr. CLARK of Florida. Mr. Chairman, I want to submit a few general propositions. I have not investigated these isolated items, but, Mr. Chairman, I am undertaking to argue from reason and a common-sense view of these propositions, and I

can not for the life of me understand how it is that a duty can be levied upon an article imported into this country, where it will come into competition in the open market with other articles of like character grown in this country, and not increase the price of the article to the consumer. If it does not do that, then the American business man is not the shrewd, calculating individual that we have always given him credit for being, and the Republican party's boast of protecting American industries and American labor vanishes into thin air.

Why, Mr. Chairman, in the very nature of things, when goods are imported into the United States upon which duties are paid and which compete in the American market with domestic goods it must inevitably have the effect of increasing the cost to the purchaser and benefit the person who has goods of that character for sale. I think, Mr. Chairman, there can be no escape from it. There may be an isolated case here and there where the price of the article has not increased, due to combinations of one kind or another—due to some kind of trade relation or agreement—but the effect is, the logical effect is, and the inevitable effect is, to increase the price of the article approximately to the extent of the duty collected.

Now, Mr. Chairman, recognizing this to be true, recognizing the undeniable fact, as I take it, that in the collection of tariff on imports some of our people must be burdened with the tax and some of our people must be benefited on account of its levy and collection, it seems to me that the true policy of statesmanship would demand a system by which and in the operation of which the burdens and the benefits should be so distributed as to affect all classes of the people as nearly alike as possible and not to enrich a few favored manufacturers at the expense of the great masses of the people.

That is my position in this House, Mr. Chairman, on this question, and I am going to get to my own bill now in a few moments. The farmer, the producer of the raw material, should share in the benefits of this system of taxation along with the manufacturer.

If benefits are to be derived, and you can not prevent it, it is idle to talk about levying a tariff and benefiting nobody. It is folly to talk about levying import duties upon various articles and benefiting nobody in America having those articles for sale. You must benefit them. They will be benefited. So I say that the system ought to be so framed, the tariff schedule ought to be so drawn, as to give the farmer, the producer, who earns his bread in the sweat of his face beneath a June and July sun, some of the benefits while the protected manufacturer is being made richer and richer as the years go by.

Mr. HILL of Connecticut. Then, I take it, Mr. Chairman, that the gentleman does not agree with the last declaration of the Democratic party, of 1904.

Mr. CLARK of Florida. I would like to quote that declaration, if the gentleman will let me have it. I looked for it this morning, but could not find it.

Mr. HILL of Connecticut. If the gentleman will pardon me just a moment, I would like to ask the gentleman from Mississippi [Mr. WILLIAMS] a question in the interest of the truth of history.

The CHAIRMAN. Does the gentleman yield?

Mr. CLARK of Florida. I yield for just a moment.

Mr. HILL of Connecticut. In making this platform I think the gentleman from Mississippi [Mr. WILLIAMS] was a member of the committee, which was out for sixteen hours in the convention at St. Louis, and as the platform went in to the committee it was a different document from that which came out. They were two different propositions entirely. As published in the public press when it went into the committee we find that it was as follows:

> We favor a wise, conservative, and businesslike revision of the tariff made with due regard to existing conditions.

That is the way it went in, according to the public press, and when it came out the words "we favor a wise, conservative, and businesslike revision made with due regard to existing conditions" were stricken out. So that it now reads, "We favor a revision and a gradual reduction of the tariff." Which is the correct form, I would like to ask the gentleman from Mississippi?

Mr. WILLIAMS. Mr. Chairman, it is rather unprecedented to ask a Member who is sitting down a question, but since the gentleman has asked it, and the gentleman from Florida [Mr. CLARK] kindly yields, will the gentleman from Connecticut please make his question intelligible? He has asked which was the true expression.

Mr. HILL of Connecticut. Which is the platform of the Democratic party—that the revision should be made on a wise and intelligent basis with due regard to existing conditions, or was it to be a straight revision?

Mr. WILLIAMS. Surely it does not need one-twentieth of the intelligence which is possessed by the gentleman from Connecticut [Mr. HILL] to know that the real Democratic platform as adopted was the platform as it came out of the committee.

Mr. HILL of Connecticut. I understood it was reported to the convention the other way.

Mr. CLARK of Florida. Now, if these gentlemen will permit me, I will read what the gentleman from Connecticut furnishes me and what I think was the Democratic platform on this question in 1904:

> We denounce protection as a robbery of the many to enrich the few, and we favor a tariff limited to the needs of the Government economically administered and so levied as not to discriminate against any industry, class, or section to the end that the burdens of taxation shall be distributed as equally as possible.

[Applause on the Democratic side.]

Mr. HILL of Connecticut. I would like to ask the gentleman squarely if he thinks a tax of 10 cents a pound on cotton is not purely a protective tariff.

Mr. CLARK of Florida. I am coming to that in a moment. Now, Mr. Chairman, the Democratic convention, in that platform, said, "We denounce protection as a robbery," and that is what these gentlemen harp on continually. What protection were they denouncing as a robbery? There can not be a single levy of a tariff without some kind of protection. That is true. It must benefit somebody, and when it benefits somebody it protects somebody. They were denouncing the protection of the Republican party, not protection pure and simple, but protection as practiced by that party; protection as levied by them to build up the great trusts that are now absolutely threatening the stability of this Government. That is the kind of protection they were denouncing as robbery, and it can not be anything else. [Applause on the Democratic side.]

I want now to come to my cotton proposition—the little infant that my friend from Illinois [Mr. BOUTELL] talked about the other day and that the gentleman from Connecticut [Mr. HILL] asked me about.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MEYER of Louisiana. Mr. Chairman, I yield ten more minutes to the gentleman.

Mr. CLARK of Florida. Mr. Chairman, I introduced that bill with no idea of being wedded to the particular amount named in the bill. I introduced it very much upon the idea that a lawyer in drafting a declaration in a damage suit fixes the amount of his damages. He alleges $25,000 when he perhaps expects to recover $3,000. So I put that amount in the bill——

Mr. BOUTELL rose.

The CHAIRMAN. Does the gentleman yield?

Mr. CLARK of Florida. In a moment—in the bill, expecting that when it went to the Ways and Means Committee and when they undertook to frame a schedule that if they saw fit to put a tax upon Egyptian cotton at all they would put an amount that would be reasonable and just and produce a revenue for the Government. [Applause on the Democratic side.] That, Mr. Chairman, was——

Mr. LITTLEFIELD. That was subject to a percentage of reduction——

Mr. CLARK of Florida. Yes.

Mr. LITTLEFIELD. Characteristic of all arguments made upon your side on this proposition, equally ad damnum in their character.

Mr. WILLIAMS rose.

Mr. CLARK of Florida. I yield to the gentleman from Mississippi.

Mr. WILLIAMS. There was some confusion in the Hall, but as I understood the gentleman he said he expected that committee to reduce this rate or to make this rate whatever would be a revenue rate and not prohibitive in its character; and that he himself would not favor a prohibitive or a rate for protection?

Mr. CLARK of Florida. Surely. Now, Mr. Chairman, I want to call attention just a moment to these figures. In 1901 there were 34,735,682 pounds of Egyptian cotton imported into this country. In the year 1902, 81,325,158 pounds were imported; in 1903, 63,554,773 pounds were imported; in 1904, 39,249,878 pounds were imported; in 1905, 52,436,073 pounds were imported.

Now, Mr. Chairman, if a duty of 5 cents per pound were levied upon that cotton, it would have produced in 1901 a revenue of $1,736,784.10. At 2 cents a pound it would have produced a revenue of $694,713.64. In 1902 a duty of 5 cents per pound would have produced a revenue of $4,066,257.90, and at 2 cents per pound would have produced a revenue of $1,626,503.16. In 1903 a duty of 5 cents per pound would have produced a revenue of $3,177,738.65, and at 2 cents per pound would have

produced a revenue of $1,271,095.46. In 1904 a duty of 5 cents per pound would have produced a revenue of $1,962,493.90, or at 2 cents per pound would have produced a revenue of $784,997.16. In 1905 at 5 cents a pound it would have produced a revenue of $2,621,833.65, or at 2 cents a pound it would have produced a revenue of $1,048,733.46.

Mr. HILL of Connecticut. And according to the gentleman's own theory it would have raised the price of every pound of cotton grown in the United States precisely according to the amount of duty.

Mr. CLARK of Florida. Not at all.

Mr. HILL of Connecticut. I understood you to make that claim.

Mr. CLARK of Florida. No; because, Mr. Chairman, this bill seeks to put the duty upon what we know as "long staple cotton." There is not any of it grown, so far as the Agricultural Department shows, anywhere in this country except in South Carolina, Georgia, and Florida.

Mr. HILL of Connecticut. Well, it would have raised the price of all that is grown.

Mr. CLARK of Florida. Certainly. It would have raised the price, in my judgment, of all the sea-island or long-staple cotton that is grown in this country. It would have given the long-staple grower the benefit of that raise, Mr. Chairman; but I have just been contending that when his New England brother in Connecticut gets the benefit of the tariff upon the manufactured cotton goods, he in Florida ought to get some of that same benefit of Government, if benefit there must be. [Applause on the Democratic side.] That is all I am asking for, Mr. Chairman. I now yield to the gentleman from Illinois.

Mr. BOUTELL. I would like to ask two or three questions in reference to this cotton.

Mr. CLARK of Florida. Well, I have only about three minutes remaining.

Mr. BOUTELL. First, the gentleman from Florida is absolutely sure that none of this long-staple cotton is grown in the State of Mississippi?

Mr. CLARK of Florida. The Government reports show it is only grown in the three States I have named.

Mr. BOUTELL. According to the Government reports, there is no long-staple cotton grown anywhere in the State of Mississippi?

Mr. CLARK of Florida. No sea-island cotton; I think there is none grown except in those three States.

Mr. BOUTELL. I will ask further whether a tax of 5 cents a pound or even 10 cents a pound would in any way effect the price of the short cotton?

Mr. CLARK of Florida. I do not think it will. I do not think that the millions of bales of short cotton would be effected in the slightest degree.

Mr. BOUTELL. I could not see how they would be, even to the fraction of a mill.

Mr. WILLIAMS. Will the gentleman yield to me for a moment?

Mr. CLARK of Florida. I have only about a minute.

Mr. WILLIAMS. I think we can get more time. I think anything like a large duty upon Egyptian cotton would effect the price of short cotton, and would effect it by reducing pro tanto the price of short cotton.

Egyptian cottons are imported into this country solely for the purpose of being mixed with short cotton in the production of certain lines of goods. Their importation, therefore, creates a market here to a certain extent for the short cotton itself for the manufacture of those peculiar lines of goods. The Egyptian is a cream-colored cotton, and it goes into nankeen goods of various sorts and into other goods which my friend from Connecticut [Mr. HILL] will recall. So if it had any effect upon short cotton at all it would be a very slight effect, and it would be an effect to restrict its market, and therefore to the same extent decrease its price.

Mr. CLARK of Florida. Now, Mr. Chairman, I want to state another fact as I understand it. The great bulk of this cotton is grown in Florida and South Carolina and in Georgia, and is manufactured—a great deal of it, at least—into the finer laces. I am told, further, that there are no factories, even in New England, that manufacture these fine laces, and that the great body of this product is sent to France and manufactured there and sent back here and sold to us at enormous prices.

Now, Mr. Chairman, I have undertaken to make my position plain. I am not a free trader. I do not hesitate to say that if the Democratic party should declare for free trade to-morrow I would quit it on the spot. [Applause.] I look upon it as being absolute folly to talk about running the Government with a direct tax upon the people. It can not be done. So we are in favor of a tariff to run the expenses of the Government, economically, but not niggardly, administered. And I am in favor of so levying that tariff, Mr. Chairman, as that the farmer, the producer, will be benefited along with the manufacturer. Somebody has got to get the benefit of the tariff. When my friend from Connecticut [Mr. HILL] is getting the benefit of it, or his people are getting the benefit of it in these protected industries, when they who are manufacturing the cotton grown in our fields are getting the benefit, at least a portion of the blessing should come to the farmer who raises it. I say give the farmer a little whack at it, give him a little of the benefit. Now, Mr. Chairman, that is my position, and I think it is the Democratic position. Equalize the burdens, distribute the favors, help the farmer while you help the manufacturer. I am not wedded to a 10-cent duty, I am wedded to no particular duty; but I am wedded to that duty which will produce a revenue, which shall not be prohibitive, but which at the same time will give my people some of the benefits of government to which they are entitled under this system of taxation while forced to bear its burdens.

I thank the committee. [Applause.]

Mr. MEYER. Mr. Chairman, I yield to the gentleman from Missouri [Mr. SHACKLEFORD].

Mr. SHACKLEFORD. Mr. Chairman, on several occasions during this session I have spoken in criticism of the methods and practices by which the Speaker represses the membership of the House. I have undertaken to show that ours is no longer a representative Government; that in defiance of the Constitution and the rules the Speaker exercises an absolute veto power over all legislation proposed here; that instead of being, as the Constitution contemplates he should, the servant of the House, the Speaker has constituted himself its master. I have laid out for my task to make it an issue before the country whether he shall not be required to give back to the people their free representative Government. I am gratified to find a hearty response to this call to arms. I will read a few extracts from the press from various sections of the country to show that the people are coming into a realization of the fact that Members of this House are no longer allowed to represent the people who sent them here, but must bend to the will of the Speaker. The following is from the Pasadena News:

THE AMERICAN CZAR.

Representative DORSEY W. SHACKLEFORD, of Missouri, made complaint yesterday against the absolutism of the Speaker on what must be recognized as well-taken grounds. Authority to prevent Members from blocking business—even so arbitrary authority as the counting of a quorum not present—is less repugnant than the exercise of a Speaker's authority to unduly influence the course of business and the action of the House. The specific complaint of Representative SHACKLEFORD was that the Speaker had packed the Ways and Means Committee with "ten men who would stand pat as men of stone against any and every attempt to amend the tariff." He went on to declare that if the standpatters would come out into the open they would not stand the ghost of a show, but that is neither here nor there. Neither does it matter whether the committee was packed not to amend or to amend the tariff. The objectionable principle is that one man, entitled to one vote, attempts indirectly to say what the House shall and what it shall not consider.

There is too much such arbitrary action by committees not specially selected. Only last week there was refusal to report, even adversely, the Philippine tariff bill. So it is that our legislation is not by Congress, but by the Speaker of the Congress and his committees. Why should the country not be entitled to the benefit of action by the whole Congress after full consideration and debate, as contemplated by the Constitution?

Uncle JOE CANNON is a mighty clever old man and the most popular personality in the House, but that does not satisfy the country at large for the exercise of extra and unusual powers. In personal appeals for support of measures the Speaker wields an immense influence, and this influence was exerted to the utmost in behalf of the joint statehood bill. Herein is another illustration of the pernicious extraneous growths that spring up in practice to destroy the purity of the Government as it was planned. Representative SHACKLEFORD'S assertion that no man in monarchical Europe exercises such absolute jurisdiction as the Speaker of the House of Representatives of the democratic United States has plenty of corroborative testimony to support it. The question is, why are these admitted evils which have crept into our system not corrected when they are so clearly seen?

Here is from an editorial in the Kansas City Journal, a stanch Republican organ:

Representative SHACKLEFORD may have lost prestige in the House by his plain talk to CANNON, but he has earned respect and admiration of the country. He told the truth, and did it bravely.

I read from the Columbia (Mo.) Daily Tribune:

Not only the statehood bill, but no measure is allowed to come before Congress unless it has the approval of the Speaker, and no Representative can secure recognition unless his bill is satisfactory and he has previously made his peace with Speaker CANNON.

Such tactics have been pursued before, always by Republicans, but not to the insolent extent to which Speaker CANNON has carried his methods. That it is a menace to representative government, if continued, is plain without argument. Congressman SHACKLEFORD has repeatedly called attention to the unprecedented action of the Speaker and the results of his methods.

The following is from the Ohio State Journal, a stanch Republican paper of extensive influence:

Representative SHACKLEFORD made a bitter attack on Speaker CANNON on the floor of the House the other day. Nothing in the palmy

days of Speaker Reed's occupancy of the chair exceeded Mr. SHACKLEFORD'S speech in sharp, personal attack. "Unbridled will," "an enthroned despot," "crack your whip," "cowers at your feet," are some of the phrases that stuck out like bayonets from the speech.

Such an arraignment was expected sooner or later. As wise as Speaker CANNON is, as patriotic, he must not think he can escape assault for his arbitrary rule. Our theory of government does not provide anywhere for a censor over legislation. Really, it is a challenge to a republican form of government to hold that it is necessary.

Mr. SHACKLEFORD charged that "you have packed every committee so that no bill can be reported without your consent." This accusation seems to be true; at least that is the popular belief. This is not righteous legislative theory. The Speaker should not be the sole judge, and it does show some sycophancy on the part of his party adherents when they permit it. Why, isn't that bossism in its unadulterated form?

The occasion for this outburst of indignation was the dictatorial manner that Mr. CANNON assumed with reference to the statehood bill. He didn't like the change the Senate made in the House bill. Now, it is not possible that the Senate will always injure a House bill, and in this particular case there is an extended public opinion that it did not, but that, on the other hand, it improved it. And so, in this case of Mr. SHACKLEFORD'S attack, while there may not be an extended indorsement of its violence and ascerbity, there is considerable sympathy in its purpose, and we have no doubt that many Congressmen who are saying nothing and sawing wood smile fondly when they sit alone before their own firesides and think of that speech.

I read now from the Locomotive Firemen's Magazine:

DESPOTISM IN CONGRESS.

The employers' liability bill has passed the National House of Representatives. Should it become a law as it now stands, damages can not be recovered by a railroad employee's parents unless it can be proven that they were dependent on him. This feature is embodied in the words "dependent upon him," appearing in the first section. This is, of course, a gross and crying injustice to a railroad man's parents. It classes as of no consequence and altogether unworthy of consideration or attempted compensation the harrowing grief and heartrending sorrow in which the poor old mother of a slaughtered railroad man bends over his mangled form, and provides that unless she was "dependent on him" at the time of his death she shall be entitled to no indemnity, as though the loss of his association, of his sympathy, or of his support and protection in case that want should overtake her ought not to entitle her to damages.

The friends of the measure, in their attempt to secure the elimination of this outrageous provision, brought to light a condition of affairs which clearly demonstrates the tyrannical despotism with which corporation tools rule the national legislative body of the United States. The National House of Representatives is supposed to be, and under the Constitution should be, a deliberative body, but the procedure in this case clearly demonstrates that it is an oligarchy of the most pronounced type. It was sought by those desiring to improve the measure after it left the committee's hands to have it amended on the floor of the House when it came up for passage so that the parents would not have to prove dependency. The report of the incident is to the effect that to this "the Speaker would not consent," giving as his reason that Mr. LITTLEFIELD came to him a few days ago, saying that he was going away, and that he hoped the Speaker "would not permit the bill to be amended on the floor." This man LITTLEFIELD is a Member of Congress from Maine, and since his advent into Congress has, save a few bluffs at trust "busting," persistently opposed all legislation in the interest of labor and the people generally. He has doggedly and strenuously opposed this just measure both in committee and out, and would not, could he prevent it, have the bill to pass even in its present form.

CANNON, the Speaker, true to his compact with LITTLEFIELD, would not permit the offering of the desired amendment. It may be asked, how could he prevent the amendment from being offered? How could he tell what a Member was going to say when he recognized him on the floor? The answer to this is that no Member is recognized to call up a bill without first "fixing" it with the Speaker. He must first go to the Speaker and advise him as to the nature of the bill he desires to call up, including the amendments, if any, which he wishes to offer. If agreeable to the latter gentleman the Member is promised recognition on a certain day and at a certain time.

If the bill is objectionable to the Speaker he will not agree to recognize him for the purpose of moving its passage. And should any of the proposed amendments meet with the disapproval of this "lord" of the House, as was the case in this instance, he will not agree to recognize the Member having charge of the bill unless he agrees to not offer such amendment, and to oppose it on the floor should any other Member propose it. If he will not agree to this "star chamber" proposition all the howling he can do on the floor of the House will avail him nothing in securing recognition.

So it can, therefore, be seen how Mr. CANNON carried out his compact with LITTLEFIELD to crucify the interests of the parents of employees in this particular while LITTLEFIELD was absent from his public duties.

What is America drifting to when a corporation dishwasher can by his mere request prevent the enactment of legislation that involves the interests of some millions of its citizens? What is America drifting to when a tool of monopoly can by the intimation of a desire block the wheels of our legislative machinery in the interest of wealth, and have arbitrarily denied to the people's representatives in Congress the right to seek the enactment or amendment of laws in their behalf? Think of the thousands of railroad men's poor parents who may suffer gross injustice as a result of the diabolical conspiracy whereby they are thus discriminated against because his occupation classes him as a "railroad employee." The parents of a passenger (who does not wear the tag of railroad employee) can recover if he is killed, but Speaker CANNON and Member LITTLEFIELD, by virtue of the authority they have assumed and which they enjoy as a result of the prostitution of their sacred trust and the past indifference of the people, have decreed that railroad employees shall not enjoy the protection of the law as other citizens do, thus establishing rank discrimination against a particular class because—because what? Because the influence of corporations and wealth generally is greater than theirs—that is the only reason.

One JOE CANNON, of Danville, Ill., representing the Eighteenth district of that State, and one CHARLES E. LITTLEFIELD, from the Second district of Maine, accomplished this in one brief conversation. Could the Czar of Russia do more? Is it necessary to warn these gentlemen who, in their zeal to serve the money power, seem to have become oblivious of that fact, that they are not dealing with ignorant hordes of Russian peasantry who possess nothing but clubs or old flintlock guns wherewith to resist the power of autocracy?

Is it necessary to call their attention to the fact that they are conspiring against and trampling on the rights of hundreds of thousands of enlightened American citizens, each one of whom is armed, not with a club or flintlock gun, but with a ballot, by the proper use of which he can relegate to eternal oblivion the whole tribe of plutocratic usurpers who are bartering that birthright of constitutional liberty and equal rights guaranteed him by the blood of Revolutionary warfare? Do they know that the people are awakening? Do they realize that the people are free? Do they appreciate that railroad men are part of the people? If not, they soon will. What has the party of which these men are members got to say to the railroad men of this country in extenuation of this outrage on their constitutional rights? Does it propose to offer LITTLEFIELD and CANNON again for the suffrages of railroad employees? Will it seek the reelection of such enemies of our interests, and thereby demonstrate that it regards President Roosevelt—to whose every principle of reform this element in Congress is diametrically opposed—as being too much of a people's man and not just suitable for "political" purposes? If it retain control of the next House, does it propose to reenthrone CANNON and at his dictation readopt the present arbitrary rules of the House which make him the sole dictator of legislation? Political parties are but a means to an end. That the people are getting to realize this fact the immense independent vote in recent elections clearly demonstrates. Patriotism, love of good, clean government, and honesty in public office are fast superseding party "loyalty" and party "fidelity." America is awakening to such an extent that the officeholder and office seeker must stand on their merits. The day is fast passing when they can successfully hide their misdeeds behind party identity and hypnotize their constituents by crying for fealty to the "dear" party, "the party that has made our country what it is"—whatever that party may be—and return to office that they may continue to betray the people. The people will stand by the man in office who represents them honestly. They are demanding a square deal. Railroad men and their relatives are a part of the "people."

The employers' liability bill is now before the Senate, and, of course, every effort will be made to kill it in committee through the process of interminable, protracted, and oft-continued hearings. If the committee finally reports it for passage, attempts will be made to destroy its efficacy by amending it in the interests of railroad companies—in fact, every expedient known to legislative trickery will be resorted to to prevent its passage or render it useless if it does pass. Consequently every lodge should correspond with the Senators from its State and our members should write personal letters urging those gentlemen to support it, and giving them to understand that the railroad wage-earners of the country are very much in earnest in seeking its enactment.

I will not take the time of the House to read more, but I might cite hundreds of others from leading papers of all parties condemning in unmeasured terms the methods by which this House is controlled and the voice of the people suppressed. It is useless to talk of measures for the relief of the people as long as one man sits here exercising unlimited control over the people's representatives. The people must first recover their Government before they can hope to have it conducted in their behalf. [Loud applause on the Democratic side.]

Mr. CLARK of Missouri. Mr. Chairman, I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. CLARK of Missouri. That no quorum is present.

The CHAIRMAN. The Chair will proceed to count. [After counting.] There are 111 Members present. Therefore the point of order is overruled.

Mr. FOSS. I yield one hour to the gentleman from Ohio.

Mr. BURTON of Ohio. Mr. Chairman, in opposing our naval policy, it is not my desire to criticise the members of the Committee on Naval Affairs for their action in reporting the pending bill. They have labored long and successfully for a reduction of expenses. They have brought in a measure which promises a check upon the ambitious and extravagant naval programme which has found so many advocates during the last four or five years. If they have been at fault in recommending an excessive amount for the construction of battle ships, a principal reason has been their opinion that in doing so they were responding to the will of the majority of the American people. There are many of us who have at some time yielded to the jingo spirit, when, if we had relied upon our own judgment, we should have favored a more conservative policy. President McKinley waited long before recommending action which led to the war with Spain. It was his desire to avert a conflict, but 70,000,000 of people demanded that we take up the sword.

It is with a hope to promote the cause of peace and to diminish the careless disregard of the calamities of war that I desire to address the House to-day. I shall give but passing notice to several valid objections to the present naval programme. One is its great expense, which has so increased that in the last four years it has exceeded by $50,000,000 that of the four years of the civil war. In the year 1905 there was expended upon the Navy $117,000,000, an amount four times as great as in 1896 and seven times as great as in 1888, and once and three-fourths as much as the total of all our national expenses in 1860. Although we are said not to be a military people, the cost of the naval and military establishments, with that of the pension list, a legacy of war, now approximates two-thirds of all the expenses of the United States Government. Other objections are that the construction of war ships is far outstripping the supply of men to equip them; also there is reason for apprehension that the

Navy will not have either the homogeneity or that proportion of different kinds of ships which will best subserve the demands of the future should any unfortunate contest arise.

Under the five-minute rule I may address the committee with reference to the proposed additional battle ship. There is grave danger that if one of such a model is constructed, larger than any of those in the existing Navy, an almost overwhelming pressure will be brought to bear to replace the present battle ships, of which twenty-nine have been provided, with those of this larger model. We already have a Navy so formidable that it is far in advance of any reasonable present or prospective needs, and it is probable that nearly all of them will rust away without having fired a shot except for target practice. In saying this I do not take the position of the idealist who believes that wars are past. There will no doubt be occasional collisions between nations. There will exist a necessity for quelling disorders in foreign countries and for the protection of American citizens against injustice or violence. The world has not reached the golden age of peace, and yet every tendency is in that direction. It must be so in the very nature of the case. A potent factor in the abatement of war is the increasing attention of civilized nations to the pursuits of industry and commerce. Those who are engaged in these pursuits seek to prevent war, just as sanitary science guards against pestilence. Then, again, with the growth of the human intellect, with the absorption of men in intellectual pursuits, and with the increased influence of moral forces, war seems more and more appalling. Nations no longer exist for the sovereign; sovereigns must exist for the nation. The State may be supreme, but the individual is more and more year by year and generation by generation. "Nations," it has been said, "are now conquered not by armies, but by ideas."

But for the inertia which pertains to great political reforms war would have already disappeared. It is a striking fact that the political movements do not show the same orderly development or the same rational and uniform progress as the triumphs of science and of industry. Peoples are often kept back from wholesome advancement by the influence of favored classes, who are strongly intrenched in the possession of privileges, which they strive to retain. There is frequently a conservative element which stands by the traditions of the old régime, however objectionable they may be. So when the cobwebs which time has gathered are brushed away, the greatest achievement of a popular government will be to uproot some evil or remove some obstacle which stands athwart the onward march of progress. If we were to study our own political history, probably we all would agree that the most notable feature in the whole record was the destruction of the institution of human slavery rather than any affirmative achievement.

But governments, in their relations with their citizens and in their relations with other countries, must follow the march of public opinion. They can not linger long behind. On this subject a great historical writer has said, in words which are as applicable to war as to any abuse:

> Every system must fall if it opposes the march of opinions and gives shelter to maxims and institutions repugnant to the spirit of the age. In this sort of contest the result is never doubtful.

Then, after speaking of the dependence of certain systems on human life:

> * * * But the vigor of public opinion is not exposed to these casualties. It is unaffected by the laws of mortality; it does not flourish to-day and decline to-morrow; and so far from depending on the lives of individual men it is governed by large general causes which from their very comprehensiveness are in short periods scarcely seen, but on a comparison of long periods are found to outweigh all other considerations.

The manifest tendency in long periods toward a decrease of war is illustrated by the facts of history. In the first place, the attacks of barbarians upon civilized peoples, which caused such devastation in the olden time, have ceased. There are no longer any such incursions as those of the Goths and the Vandals, the Scythians and the Huns. With the invention of gunpowder and the progress of modern invention, science is made the handmaid of war. The barbarian must discover, if he attacks a civilized people, that he is confronted by superior implements of destruction and by the advantages which belong to discipline and to accumulated resources. Thus no uncivilized people will attack a civilized one unless actuated by the temerity of ignorance or the recklessness of despair. The uncivilized tribe or the barbarian may find refuge in inaccessible fastnesses or be protected by a pestilential climate, but the great invasions by them which brought such calamity, in which cities were sacked and nations overturned, can never again occur.

Then, too, religious wars, at least between different branches of the Christian church, have ceased. Practically they came to an end with the peace of Westphalia, in the year 1648, after the Thirty Years' war. This does not mean that at all times and in all countries since then religious toleration has existed or that religious differences have not aggravated the bitterness of conflicts, but nations have ceased to war with each other on account of religion. The struggles in which the religious issue is involved are now confined to contests with Mohammedan or with Pagan, whose warlike spirit is fostered by the bitter fanaticism which actuates the one or the other.

Wars for the aggrandizement of rulers have ceased. If a king or emperor should not find a barrier against his personal ambition in the attitude of his own country, he would surely find it in that of others. The contests which changed the map of Europe and caused the greatest calamities were largely due to the personal ambitions of sovereigns, as in the case of Louis XIV. The latest wars of this nature may be said to have been those in which Napoleon was engaged; but even he, in an important sense, was merely the embodiment or the beneficiary of an uprising by the French people. The French nation, notwithstanding frightful excesses, gained a new birth of liberty, and the other nations of Europe sought to interfere and to impose a king upon them. With that impetus for freedom which gives the greatest strength to a people, they overcame their foes, and then the glamor of Napoleon's victories led them still further on. Had it not been for the French revolution he might have entered the service of the Turk, as it is said he intended to do in his early years, and not have achieved the great career of conquest which he attained.

Another class of conflicts, those wars which are caused by uprisings of a people against the existing order and for freer government or greater privilege, are becoming less and less frequent. When men are seeking for a freer constitution, in spite of unrest and tumult it is found that the more rational way is by education and the forces of public opinion, by the establishment of legislative bodies; and thus this source of irritation and war, while not entirely disappearing from the earth, is diminishing year by year.

If we look for any date when this tendency took definite form and gained its greatest impetus, we may point to the year 1815, after the battle of Waterloo and the Napoleonic wars. Prior to that date the predominant condition in Europe was one of constant struggle between contending nations. Since then the predominant condition has been one of peace. The nations of Europe had found by bitter experience, by bloodshed, and by woe that war was a suicidal policy. The Holy Alliance, which has been criticised as having been formed for unholy purposes, nevertheless recognized that it was best for the nations represented to preserve the peace. What has been the result? In the ninety-one years succeeding that year of 1815 the growth of invention and the increase of the comforts and luxuries of life have been greater than in all the centuries preceding. It was quickly followed by the development of steam and the steamboat and by the beginnings of the railway, followed later by the marvels of electricity and by all those improvements of civilization which bring practical benefit to each man's home. It was the beginning of a triumphant progress which would have been utterly impossible had war continued.

The ideas and pursuits of men have radically changed since that year, and we may rank its advent as constituting an era in the world's progress worthy to be compared with the fifteenth century, with its twin events, the invention of printing and the discovery of America; for as they made a landmark in the progress of the race, so did the disposition toward peace after the fall of Napoleon mark another advance in the same direction.

There has been a great difference in the haste with which nations go to war since then. No country can take up the sword without grave occasion or it will have the condemnation of all the rest. There have been wars in Europe within the last sixty or eighty years in which one nation has engaged in combat under a serious handicap because of the potent condemnation of the public opinion of all other countries resting upon it, because it was thought that the war was unjustifiable. Annexations of conquered territory have been limited; no civilized nation is now allowed to overrun and annex another. A balance of power is preserved. When the defeated nation is at the feet of its foe congresses gather, as at Berlin in 1878, or the result of the victory is limited, as by the concert of action of three nations after Japan had defeated China in 1894. In the former case the acquisitions of territory by Russia from Turkey were restricted to a very small amount of land. In the latter case, in 1895, after China agreed upon a treaty giving territory on the mainland of Asia to Japan, three nations intervened and denied the right to take it. Acquisitions have often been limited to territory to which the victorious nation had some claim lasting, perhaps, for centuries, as was the case in 1866, when Prussia acquired Schleswig-Holstein; in 1859 and

1866, when Italy acquired, respectively, Lombardy and Venice, and in 1870, after the overwhelming victory of Prussia over France, when only Alsace and Lorraine were ceded.

It is an undisputed fact that the greatest growth in the strength of nations in the last forty years has not been the result of war, but has been illustrated in cases such as those of Italy and Germany, in which separate peoples of kindred blood have united in one great nation. True the sword had something to do with the uniting of each of these countries, but it had more to do in keeping them in a dismembered state, for the arms of Austria for a long time prevented a united Italy, and the severed states of Germany were largely the result of thirty years of war more than two hundred years ago. This shows that wars stood in the way of national unity, and the people themselves, by their patriotic impulse to be one, gained that power and prestige which come from a united empire.

We should ever keep in mind the analogy between the settlement of disputes between individuals and the settlement of controversies between nations. The feudal barons of the old time did not say that they must have war ships to protect their interests, because there were no war ships in that time. They did not say that they must have a strong navy, but they did require vassals, who must keep constantly under arms, and strongly fortified castles, so every hill was crowned with a fortress, every passageway over a river was defended by some baron, partly for military purposes and partly so that he might levy tribute. These feudal lords would not admit that the maintenance of armed dependents and fortresses was for the sake of aggression. The argument of the modern day that a large navy is required to preserve peace and for defense was used by them hundreds of years ago. Nevertheless they were frequently engaged in contests. They did not yield to the authority of the magistrate who sought to preserve order or give respect to the priest who sought to preserve peace, but this system was compelled to yield to a civilization in which there is a rule of law and in which brute force must give way. So the castles were dismantled or abandoned and there was substituted for force and lawlessness a rule of justice and order, under which the strong and the weak alike submitted their controversies to a tribunal which was to decide what was justice between them. No one now is in favor of going back to the old system where each man by his sword sought to enforce his rights and in which the duel was the common means for seeking personal redress.

All recognize the establishment of courts of justice to decide controversies between individuals as a great landmark in the progress of civilization. Another step just as inevitable is the establishment of similar courts as between nations. The world can not afford to maintain these military armaments. Their decrease and abandonment will not come in a year, but it will come. I would say nothing to-day against a Navy which, man for man and gun for gun, is one of the best in the world, or as I hope it may be the best in the world. I would say nothing against a state of preparedness. What I do say is that to maintain this great Navy is not in accordance with our best ideals, nor is it in accordance with our best interests, material or otherwise, [Applause.] And that instead of spending $100,000,000 a year this country of ours should take the lead in the cause of peace among the nations, a leadership which should belong to us, and which we ought to maintain. [Applause.] We are not lacking in strength for peace or for war. We possess that great abundance of resources which belongs to a people occupying a land yielding a great variety of products. In case of war between other nations the warring countries would seek to protect our commerce rather than to prey upon it, because they would need the products of our fields and of our mines. Thus we do not need a great Navy for our protection.

As regards leadership in the cause of peace and arbitration, I can not avoid the conclusion that with a republican form of government, with the stress laid upon free institutions, with the absence of those ambitions for conquest that more naturally attach themselves to a monarchy, we have a far better opportunity to avoid disputes ourselves and to aid in securing the settlement of the world's disputes by peaceful methods than any other nation on the globe could have.

Mr. Chairman, the chiefest glory of the Administration of Theodore Roosevelt, when it becomes a part of history, and his chiefest glory as an individual, will not be his part in San Juan Hill or in the many great events in which he has shown such splendid leadership; his greatest distinction will not be that he was elected by such an overwhelming plurality to the Presidential chair, the highest office on the globe, but that by his offices bloodshed was stayed and the war between the two countries of Japan and Russia was brought to an end. [Applause.] This is enough to make nations of all climes and of all continents rise up and call him blessed. His efforts were made the more efficient by the fact that he spoke for a free Republic, a Republic which had no ambition to subserve in the threater of that frightful war except those of a peaceful nature.

Just as there has been very great progress in doing away with war, so there has been equal progress in the peaceful settlement of disputes, especially in the last ninety years. From 1815 to 1900 more than 200 controversies between nations were settled by arbitration. Since 1900 there have been 40 more, and each successive bulletin adds to the list. In these the United States was a party in a very considerable share. These arbitrations have settled the most irritating questions, not only questions of boundary, of indignities to citizens, of property and personal rights, but all the great range of questions which in the olden times were incitements to war.

Among the countries which have resorted to arbitration there are not merely those of Europe and of North and South America, but also those of Asia, such as Persia and Afghanistan, and of Africa, such as the Transvaal Republic and Egypt. We are just at the beginning, as it would seem, of this manner of settlement of controversies in a peaceful way, especially since beginning in 1902 or 1903, as with a beam of light there has been a great movement for arbitration treaties in Europe and in America. These treaties not only provide for the settlement of existing controversies, but look to the avoidance of future collisions. England has entered into a treaty of arbitration with France, and both England and France with Italy and Spain. Numerous others have been framed in which it is true there is the reservation that the disputes submitted for decision shall not include questions of honor or independence or of vital interest, but in pursuance of these treaties long-standing controversies of wide-reaching importance have been submitted to courts of arbitration. In 1899 The Hague conference was called, and while it adjourned without accomplishing as satisfactory results as was hoped, it did provide for a general court of arbitration between nations, to which our own country has submitted a controversy with Mexico, which was amicably settled in a way which, if it did not give absolute satisfaction to both countries, at least has met with the cordial acquiescence of each, and this gives promise of the submission of further questions. Denmark and Holland have ratified a treaty agreeing to submit to arbitration any and all grounds of controversy without limitation, thereby assuring pepetual peace between these two countries. Neither of them can be regarded as lacking in martial spirit.

More than a thousand years ago the Danes held possession of the city of London and overran England. Holland came very near to capturing London as late as 1667, by sending her fleet up the Thames. This treaty was not an act of weakness on the part of these two peoples. They were rather keeping step with the progress of the age. On the South American continent, Chile and the Argentine Republic have agreed upon an arbitration treaty in the same terms and of the same scope, and as a memorial of it they have erected on the highest ridge of the Andes, on the boundary between the two countries, a statue of the Prince of Peace to commemorate the day when the two countries vowed that for all time peace and good will should prevail between them. Those opposing any abatement of the naval programme tell us, "Why, you can not say that wars have ceased; look at the terrible conflict between Japan and Russia that is so fresh in all our minds." But this is readily explained. There have been numerous conflicts between nations for the acquisition of the territory of less advanced countries. In times past these conflicts have been a fruitful source of war. Military operations have still continued for overrunning the waste places of the earth or the land of the less civilized tribes of Africa and other continents. Spheres of influence have been agreed upon—Germany with England, and both with France—and this gradual subjection of the uncivilized peoples of the earth by nations desiring to extend the area of their colonies has been going on for many years. But Russia was in a position altogether different from any of the rest. The expansion of France, of England, and of Germany must be over the sea, but the field of expansion for Russia was overland. Asia lay at her feet, and she might very naturally say, "Asia is mine." A great Russian railway traversed the northern part of Asia; another ran east from the Caspian Sea, and it seemed but a question of time when all this territory belonging to the inferior peoples would come under her control. But as Herodotus said of the balance of power between Europe and Asia more than two thousand years ago, "The pendulum swings backward and forward between the two," and a power arose in Japan which challenged the expansion of Russia. If Asia should gradually come under the control of the great Muscovite empire, Japan saw that its independence must be lost; so

Russia must not be allowed to go on unchecked. The people of Japan, after making marvelous strides in civilization, arose actuated with one idea—defense against a probable invader—and the result was the war. But it is not likely that further contests will occur between the two.

It is proposed that The Hague conference shall reconvene. I trust when it does meet the influence of this country will be in favor of the settlement of all national controversies by arbitration. [Applause.]

It sometimes seems that there is a readier excitation of the martial spirit in this country than in others. We have not the vivid realization which comes from the constant maintenance of a burdensome military and naval establishment, from the quartering of soldiers in our neighborhood. We have not the recent memories of thousands slain in war. And the absence of these sobering influences leads many to think lightly of armaments and of war. Had the fleet of a foreign country with which our relations were strained fired upon the fishermen of Gloucester off the New England coast as the Russian fleet fired upon the fishermen on Dogger Bank it is to be feared that the popular outcry for war would have been almost irresistible. But we can not close our eyes to the increased burden of expense which is resting heavily upon us or to the fact that, instead of looking forward to the rising sun, so long as we talk for war we are looking backward.

It has been said in this discussion that by this naval programme we were showing to the nations of the earth that we are going to protect our interests. Who is threatening our interests in the wide world? Where is there a sentiment in any nation that has one warlike note against the United States? The more we abstain from military armaments, the more we abstain from everything that looks toward aggression or the preparation for aggression, the more our interests will be respected in the rest of the world, the more we will be trusted and the greater will be our progress and the friendship for us among all the nations of the earth. [Applause.]

And then again, it is said that we need a navy to protect our trade. Where is there a country in Asia or Africa, or Europe or South America, where our products or manufactures are purchased because of the existence of any battle ship or cruiser of the United States?

There may be some place where somebody has seen the hull of a cruiser of the United States and then has made up his mind that he would buy a reaper from the country from which that cruiser came. If there is any such instance, however remote the place may be, I really should like to hear from it, and I trust we may learn of it in this discussion.

In this connection I wish to say a word of the work of the interparliamentary union in which there is considerable membership from this House, and which was recently presided over by our esteemed colleague [Mr. BARTHOLDT]. It has met twice in the last two years, and made up, as it is, of members and ex-members of legislative bodies all over the world, it has exerted a potent influence in bringing men of many nations together and devising means to promote peace and good will among the nations. It will meet again next year, at which time Russia, now having a legislative body, may be represented, and it is to be hoped that still further results may be accomplished. It is true there is one feature of the situation which is not a hopeful one, namely, the enormous preparation of all the civilized nations for war, and its ever-increasing expense, each one saying, "We do not intend to go to war, but we want to be prepared against our neighbor." Mr. Bloch, a very practical writer, after portraying in vivid language the evils of the present situation, concludes by saying:

> Such are the consequences of the so-called "armed peace of Europe"—slow destruction in consequence of expenditures on preparations for war, or swift destruction in the event of war—in both events, convulsions in the social order.

But the very fact that the tension has become so great affords the strongest hope that a change is near.

An argument is very frequently made that it is necessary to have the warlike spirit and an occasional war in order to promote courage and assure bravery. Some say, "In these piping times of peace people become effeminate; the stronger and more masculine virtues can not be maintained unless there is once in a while a fight."

If that is true, we are mistaken about civilization. The barbarous tribes which are constantly at war and live on what they obtain by force rather than by industry are fortunate, indeed, for they are constantly habituated by their surroundings to deeds of daring and to trials of their strength. If the argument referred to is valid, the old feudal times of which I have spoken were better than the present, for then every home was fortified and the thought of morning and of evening was of conflict. Is it not true that life has enough of emergencies and of tragedies to develop the heroism of a people without compelling the flower of its youth to stand in line to be shot at and to shoot?

Last January, in addressing a convention which had under consideration the improvement of the waterways of the country, I called attention to an act of heroism on the preceding day in the rescue of the crew and passengers from the stranded steamer *Cherokee*, off Absecon Inlet, in New Jersey. This passenger steamer had grounded some miles out at sea and a fearful storm arose. No tug could pull it off, and no lifeboat could be floated. The life-saving crew could not take off the passengers. Meanwhile the billows were rising higher and higher, and it seemed to those on board on that Sunday that each would sink into a watery grave with no Sabbath bell to toll a requiem. But the officers and men of a little sailing craft went out from the shore, braving the tempest and the storm, came to the side of the boat, and by a life line conveyed the passengers and crew of the stranded steamer to their boat and sailed triumphantly into Absecon Inlet with the hurricane behind them and still waters and safety before them. The people give enthusiastic applause to a conquering general on his return from the field of conquest. The crowds shout aloud when the marching host passes by with its waving banners, but was there ever louder acclaim due to soldier or general than to these sailors who, notwithstanding their lowly lot and their limited opportunities, showed in this perilous rescue that they could be heroes in saving life rather than in destroying it? [Loud applause.]

So there is heroism outside of carnage. If people are looking for opportunities for the display of courage they will find them, and it will not be necessary to go to the tented field to develop manly qualities.

Lord Brougham in treating of the law as between individuals said:

> It was the boast of Augustus that he found Rome of brick and left it of marble. But—

He added—

> now much nobler will be the sovereign's boast when he shall have it to say that he found law dear and left it cheap, found it a sealed book and left it a living letter; found it the patrimony of the rich, left it the inheritance of the poor; found it the two-edged sword of craft and oppression, and left it the staff of honesty and the shield of innocence.

And now that the world is coming nearer and nearer to one common brotherhood, may I not say how much nobler yet will be that nation's distinction that found liberty the birthright of the strong alone and gave it to the weak; that found international justice a neglected principle and made it a controlling force; a nation which sought no conquest, but freely offered refuge; one which, not unmindful of national strength or honor, gained its chiefest glory in the happiness and increased opportunity of the individual citizen; a nation which found its competitors limiting their horizon to the mountains and rivers which bound them and taught them to look forth beyond all barriers and learn that all men are made of one blood and have one common destiny.

One hundred and eighty years ago Bishop Berkeley, distressed at the failure of many of the reforms which he had advocated and wearied by constant civil strife, turned his eyes toward the New World, hoping that here there would be found, if not a Utopia, at least a land of nobler traditions and ideals, and he wrote a poem prophetic in its forecast of the future America, closing with the words:

> Westward the course of empire takes its way;
> The four first acts already past,
> A fifth shall close the drama with the day:
> Time's noblest offspring is the last.

In material progress, in the general diffusion of knowledge, in the privileges and opportunities which belong to an American citizen, we have no doubt reached a plane more lofty than the good old bishop could have even hoped, but if he undertook to sing to us to-day a new song or speak to us another word, I believe it would be in this line: Enjoy, children of the New World, the luxuries, the comforts, and the privileges which I dreamed not of, but still further there remains a golden opportunity, which I trust that you may grasp. It is that mankind in this later day may look to your country, to the United States, to take the lead in the paths that lead to the world's peace. [Loud and long-continued applause.]

Mr. FOSS. Mr. Chairman, I yield one hour or so much of it as he may need to the gentleman from Pennsylvania [Mr. BUTLER.]

The CHAIRMAN. The gentleman from Pennsylvania [Mr. BUTLER] is recognized for one hour.

Mr. BUTLER of Pennsylvania. Mr. Chairman, in this public place, and in the most public way, I desire to congratulate my friend from Ohio [Mr. BURTON] upon his effort. It is the best that he has made, in my judgment, since I have been a Member

of this House. [Applause.] I have not joined the Members who have shaken his hand, but I wish the RECORD to show that in my humble way I commend him for speaking in behalf of peace. At the same time I commend him for having, when the occasion demanded, voted with me for war. [Laughter.] Mr. Chairman, without reflection upon our records, and without criticism of each other for what we have done or praise each other for what we propose to do, I shall strive to reach the same conclusion as that reached by the gentleman from Ohio, but through other channels. I shall make no attempt at declamation nor deal in fine phrases; first, because of my inability, and secondly, because of my disinclination. I shall speak by the record and endeavor to prove that while we are progressing along peaceful lines and are approaching the day when all nations will reduce their armaments, yet when that day comes the result will be reached not by reason of persuasion used in the effort for peace, but because we have the means which we can employ for its enforcement.

The gentleman from Ohio pleads for settlement of international disputes by arbitration. In this appeal he is not alone. The well disposed for more than two thousand years have urged the same policy. While it is old, no one will deny its advantages to the races if it could be enforced. The gentleman speaks for the ideal life and advocates greatly to be desired conditions, but fails to prescribe a remedy for existing ones. I shall speak of man and his government as they have been, as they now are, and as they promise to be. I shall advocate means to save man from his own fury until civilized methods have tempted him to enter the ideal state.

Before I approach my subject, I venture a word for this great bill, prepared with care, and which, as you know, treats of both persons and things. It provides for the needs of the former and the care of the latter. Its purpose is not to increase, but to maintain; not to expand in size, but to promote in efficiency. While in its constant preparation the American Navy is intended to be the active, though silent, advocate of peace, its engines are designed for the destruction of human life and the infliction of terrible damage upon the property of persons and nations who may engage us in war. The sailors who sail these ships in defense of Americans and American honor are to be paid their salaries already provided for by existing law. No attempt has been made to increase the pay of any of them, nor has any addition been made to their number fixed by legislative action. All efforts in either direction have been successfully resisted; not for the reason that merit is wanting or additions unnecessary, but it was believed by the committee having the duty imposed upon it that the Treasury ought not to be taxed at this time beyond the limit herein reported and for the purposes named.

The attempt has been faithfully made to supply the personnel of our Navy with every reenforcement that will add to its comfort, secure its safety, and endow it with strength to overcome any enemy which the Congress may direct it to engage. The improvements already begun in the navy-yards have been directed to continue, but further development, except in a few imperative instances, has been denied. Stations established where our ships may stop for coal and temporary repairs have not been overlooked, but provision for them has been modest and in keeping with the retrenchment which the committee has sought to maintain.

Places where the sailor man may acquire his art have received attention and marksmanship has been encouraged. Allowances are made for ships that give notice of threatened disaster, others that will avert it. A new magazine for ammunition has been provided for, where its presence will not endanger the lives of its neighbors, but sufficiently accessible to avoid unnecessary expense of transportation. The ammunition has been increased, so that a large reserve will be immediately at hand, and an addition of guns of modern make has also been provided. Three battle ships need the attention of the builder and have been ordered to the yards. They are to be modernized under the direction of the architects, so that their complete usefulness may be again assured.

Further detail on the bill at this time will be tiresome. Its many provisions are commended by the committee that made them. Large reductions have been made on the estimates furnished, but confidence is expressed that our Navy (its personnel and its matériel) is to receive all that is absolutely necessary to maintain the efficiency which our splendid sailors have attained and to preserve its stability in both form and reputation.

Is the man with the gun an evil? If so, is he a necessary one? Whether the maintenance of great military establishments insure peace is a question no longer in dispute. It has been resolved in the negative. Does the presence of a great body of fighting men, armed with guns and swords, trained in their use, bend the natural inclinations of men toward peace? The world has resolved this problem in the negative. But does the armed power of a nation well equipped tend to prevent war? This well-explored question the races seem to have concluded in the affirmative. If this conclusion is wrong, then, in my judgment, these enormous expenditures of public money are wrong.

The history of the old and middle ages shows that peace was usually secured upon the mountain tops of fire and in the valleys of death, and the nation with the strongest arm and thickest armor always went home with the fullest bag. In those days men armed to fight, not to prevent it. Our nation is known the world over as slow to wrath and only to arouse under great provocation. Every American is a volunteer counsellor of peace, but most of them clinch their fists in their pockets while they advocate the adjustment of differences by persuasion.

Since Miltiades overcame the Asians at Marathon and the Germans threw their legions against the hosts of Cæsar, no nation has presented the fighting man equal in valor and intelligence to that of the North American soldier. [Applause.] His record shows that he has overcome his adversary in 82 per cent of the battles in which he drew the trigger or crossed the sword. The glory of his own country is the consideration that leads him to arms, while the milk of the American mother has furnished him all the stimulation required. His own performance is his just biographer. The American people have pronounced their benedictions. His fame is fixed.

Have the nations honestly endeavored at any time to maintain peace except through the application of force? They have not. When man agrees to submit all his differences to an adjustment to be made by others he sinks in good part his identity. When a nation agrees that all its rights and all its wrongs shall be surrendered to the arbitrament of other nations, it loses its sovereignty, and what nation stands ready to confess its own impotency? Does not complete submission involve largely relinquishment of physical, intellectual, and moral strength? Is man ready for the sacrifice? If not, how can you expect more from the nation he creates and whose will is his will and subject to his subversion? Go to the history of all the nations and learn of their unsuccessful efforts to find the paths which lead to peace. They have hunted for them for three thousand years, while they blazed their course with the dagger and nailed their pointer boards to the end of their guns.

I believe universal peace can be secured without the use of shot and shell, but it can not be maintained unless it is followed by immediate and complete disarmament by every nation capable of bearing arms. When this hour arrives we will go to court for our redress and, waiting for the arrival of the aggressor until patience succumbs to old age, bequeath our grievance to our successor.

International arbitration is the only tribunal to which we can turn, and at its doors all nations should be persuaded to enter. While we parley, we will not fight; in the delay the races will benefit even although they may spend their time in rest and preparation. It is insisted by some opposed to international peace that pacification by persuasion is expensive; that men who won't fight become corrupt and only comply with decrees while standing on the auction block. Why should the cost of the trial influence the undertaking? It is said that it cost Cæsar two millions when he risked the experiment of a generalship in Gaul. If Cæsar had not crossed the Rubicon bearing the recollection of his many obligations in mind, what would his creditors have said of his disposition to do them justice?

While it is true that but few attempts have been made to bring about universal peace during the past century, history places to the credit of those who prefer conciliation to battle 434 instances wherein pacific adjustment of international disputes were secured. It is true that these settlements only involved principles applicable to international arbitration. Let the pacifier adopt such name as he may please, he is aiming in the right direction and has the approval of mankind.

Mr. Chairman, if all the nations agree to disarmament—and I hope my friend from Missouri [Mr. BARTHOLDT], who is so largely interested in the subject of international arbitration, will answer me this question, for I have hunted long to find a solution—when can they in safety to themselves disarm?

Mr. BARTHOLDT. Mr. Chairman, will the gentleman permit an interruption?

Mr. BUTLER of Pennsylvania. Yes.

Mr. BARTHOLDT. What I have to say in reply to the question of the gentleman from Pennsylvania [Mr. BUTLER] can not be crowded into simply an answer to a question, but I will answer the question in this way as briefly as possible. I will say that nations can disarm and can have peace as soon as they agree to do so.

Mr. BUTLER of Pennsylvania. I am much obliged to my

friend for his answer; and for a reply to the gentleman, who is a man of sense, he knows as well as he knows the road from here to St. Louis, as well as he knows the valor of the people from whom he comes, that what he says is impossible. Where will be the force to execute the agreement to keep peace? Man does not always keep his agreements. Why should you expect more of his government? If a man can be relied upon to obey decrees and discharge his obligations, why not remove the disobedient and blow up the houses of detention? Why not abolish the time-honored sheriff and constable and forget the writs they serve and the processes they carry to enforce the judgments rendered against the unwilling? I will hope to show the gentleman his error before I have concluded.

Mr. BARTHOLDT. Will the gentleman permit another interruption?

Mr. BUTLER of Pennsylvania. Yes.

Mr. BARTHOLDT. We believe that the affairs of nations can be adjusted in exactly the same manner as the affairs of individuals. When the gentleman and myself have a difficulty, the law does not permit us to take the law into our own hands, but we are told to go to court.

Mr. BUTLER of Pennsylvania. That is right.

Mr. BARTHOLDT. And we claim that nations can do exactly the same thing, and in fact should be held and compelled to do the same thing. In other words, what is law for the individuals should be law for the nation. That is our position, and we hold that when a nation compels a man to go to court that the government itself should first obey that mandate and should be controlled by the same law that it imposes upon its citizens.

Mr. BUTLER of Pennsylvania. Mr. Chairman, if I owe the gentleman, does he not think that I will respond? But suppose that I decline, how is he to obtain that which is his own? Would the gentleman appeal to a court for redress when it had not the power to enforce its decrees? Think it over and answer me. What kind of a civilization would we have if we should abolish the power to compel submission?

Mr. BARTHOLDT. Would it be civilization to knock the gentleman's front teeth out?

Mr. BUTLER of Pennsylvania. Oh, my friend and I are 50 years old, and why do we parley in such dispute? While civilization recognizes the application of force and struggles to minimize it, nevertheless there are times when our teeth might have been knocked out if we had not had sufficient force to resist the attempt. My friend is dealing with man's wicked side, and to restrain him I am advocating what seems to me proper methods entirely within the rules of civilization.

Mr. BARTHOLDT. The first rule of civilization is self-restraint.

Mr. BUTLER of Pennsylvania. The first international attempt to secure and maintain peace through the means of an international tribunal was made by the Amphictyonies more than five hundred years before Christ appeared with the consoling declaration in favor of peace upon earth with good will toward men. The independent tribes of Greece came together twice a year at a little town in the Pass of Thermopylæ. At the temple of Delphi they assembled to reason with each other in the effort that peace might remain among them. It seems almost a travesty that within sight of the meeting place of these "dwellers around" Leonidas, the King of Sparta, subsequently confronted the hordes of Persia, and upon the very ground where these peacemakers had struggled with partial success to prevent their wars sleep the 400 and the 300 of their countrymen in whose memory there is erected the historical shaft on which there is the doleful inscription, "Go tell our countrymen that we lie here in obedience to their expressed command."

These promoters of peace bound themselves not to destroy any Amphictyonic towns nor turn away from them their running waters, either in time of war or time of peace, and to punish those who would violate this compact the Amphictyonies pledged themselves to employ their hands, feet, tongue, and their whole power to bring them to punishment. Even these semibarbaric strivers for peace encouraged war as an unavoidable means of settling disputes between two sides, not for destruction and devastation, but as a means of bringing the dispute to a conclusion.

In their decrees they taxed the lands of their enemies, to God enslaved their inhabitants, and made their lands an eternal waste and an everlasting wilderness. The decisions of the council were held sacred and inviolable and even arms were taken to enforce them. It is true that this great council seemed to have no organized means to enforce its decrees, yet it is shown in its history that it always had near at hand strong and active partisans who were ready and waiting to undertake the duty. This great council, the first peace effort known in history, the object of which was to prevent strife, fell into the hands of Philip of Macedon, who turned it to his own selfish purpose, and finally used it to overthrow Sparta; Philip alleging as a reason that the Spartans themselves had become the victims of the tyranny and the cruelty of the Amphictyonies. It is interesting to note that while this council made not the policy of Greece, nor did it assume power to settle disputes, except among its members, it always had at its door hordes of men armed and trained to do the duty of enforcing its decrees.

All the designs for universal and international peace that have been submitted to the world from that time to this contain some provision by which its decrees can be enforced, or else the world refused to consider them.

This great association, composed of the twelve neighoring tribes, was as powerless to prevent bloodshed even among its own members as the wiser nations of this day seem to be. The historians dismiss their account of this great council as powerless for good, inasmuch as it lacked ability to execute its own decrees.

Two thousand years passed since the first effort for peace was made until the second one was tried at The Hague, in which our nation took so important and conspicuous part. I do not mean by this that treaties effecting peace and providing for its restoration and maintenance have not been made. I mean that the nations having friendly relations with each other have not assembled from that day to this (except in the instance related) for the purpose of establishing peace and then keeping it when established. Many plans have been suggested, but none of them have been considered worthy of notice by the nations, because their adoption involved a surrender of questions and traditions which the nations preferred to settle in their own way.

Henry the IV in 1603 proposed, by the elimination of envy and the removal of the balance of power, to maintain the peace of the whole of Europe. He planned to divide Europe evenly between a certain number of powers, and thus parceling to each power the same amount of territory no fear could be had of war because of the establishment of equality. The States he reduced to fifteen, each being required to subscribe to reciprocal pledges regarding religion and politics as well as the liberty of commerce.

The Amphictyonies furnished the model, and their policy was adopted with some modifications. Henry planned for a continual session of ministers, to whom were to be submitted all occasions for quarrels, with authority invested in the convention to pacify them.

Mr. Chairman, to execute the decrees of this great tribunal, what was proposed? Answer me the question when you reply to-morrow.

Mr. BARTHOLDT. I can tell you now.

Mr. BUTLER of Pennsylvania. While Henry's plan has been commended by some authorities, it involved the equal distribution of territory conquered from nations not included and the perpetual tax upon those who participated to maintain an armed force to execute the council's decrees.

Mr. BARTHOLDT rose.

Mr. BUTLER of Pennsylvania. To-morrow, if the gentleman pleases, I can not stop now; look at the clock——

Mr. BARTHOLDT. Just a moment. It might be a point you have not followed.

Mr. BUTLER of Pennsylvania. It is disconcerting, but I always yield to a friend.

Mr. BARTHOLDT. Just one moment. In Sully's Mémoires this plan of Henry IV is described, and he says the plan was to annihilate Austria, and the other countries were to combine for that purpose, and these armies were to be parceled out to each one, and each one had to raise so much money——

Mr. BUTLER of Pennsylvania. I have read it——

Mr. BARTHOLDT. But the whole plan fell through, because of the assassin's hand.

Mr. BUTLER of Pennsylvania. Such a scheme of pillage and plunder nowhere blackens the pages of history, and yet we are assured of its execution had not Providence interfered in behalf of its defenseless people by promptly removing Henry and placing him where his power of subjugation was broken by providential decree. There is authority for the statement that Elizabeth, the English Queen, had agreed to become a party to what was known as the "Christian Republic," and had consented that Henry, the King of France, should set the day, time, and place at which the means were to be devised for the invasion of Spain, and from each confederate was to be collected its share of cost incurred in the endeavor. All this in the effort to secure peace. The same application of brute force to obtain peace that has followed civilization since its dawn. This proposition of King

Henry can not be taken as the initiative of our present programme for peace, as it did not include the benefits to be derived from international arbitration.

This plan of the French King suggested to William Penn, the apostle of peace, a scheme in which Penn himself said that he desired "first to show the desirableness of peace and that the truest means of it were justice, not war." In Penn's design he provided "that before this sovereign assembly should be brought all differences depending between one sovereign and another that can not be adjusted by diplomatic means before its sessions begin." This is a most perfect conception of the object to be reached and would have accomplished the author's intentions had all nations agreed thereto and after agreement kept the faith. But the great author, doubting the effectiveness of his own tribunal, made a further provision:

That if any of the sovereigns constituting this imperial diet should refuse to submit their claims or pretensions to the diet, or to accpet its judgment, and should seek their remedy by arms, or delay compliance beyond the time specified, all the other sovereignties, uniting their forces, should compel submission to and performance of the sentence and payment of all costs and damages.

In his comment on this provision he concludes that an acceptance of the compact would of itself deprive the sovereign of power and could not show the will to dispute the conclusion; consequently peace would be procured. It is but just to the author of this great document that he does not recommend disarmament. It is also just to him to conclude that he anticipated such result would follow the execution of the compact. No man understood the frailties of human nature better than Penn, so he suggested the first assembly should be central and that "to avoid quarrel for precedence the room may be round and have several doors to come in and go out at." Thus it is plain that while he was striving to increase "personal friendship between powers and states," he was at the same time doubtful of his ability to maintain peace even while the delegates were preparing for it.

I believe there is no man known to history who so greatly desired peace as did this convert to the religion of George Fox, of whom he was a compatriot and at the same time beloved follower; yet he doubted the success of his own design for the reasons found in the statement which he appended to it:

That the strongest and richest sovereignty will never agree to it, and if it should, there would be danger of corruption more than of force one time or other; that it will endanger an effeminacy by such a disuse of the trade of soldiery; that if there should be any need for it, upon any occasion, we should be at a loss as they were in Holland in 1672; that there will be great want of employment for younger brothers of families, and that the poor of that time must either turn soldiers or thieves; that sovereign princes and states will hereby become not sovereign—a thing they will never endure.

William Penn's "peaceable expedient" was approved by his own people in religion, but failed to receive the notice of those who prefer personal property to personal friendship, real estate to real love. "Those who would not prefer Jerusalem above their chief joy" were in the great majority and were in no wise influenced by Penn's expressed distrust in his own scheme.

This great counsellor, whose word and deed were always consistent, concluded his well-meaning and sensible advice with the admonition that—

By the same rules of justice and prudence by which parents and masters govern their families and magistrates their cities and estates and their republics and princes and kings their principalities and kingdoms, Europe may obtain and preserve peace among her sovereignties.

Penn admits that his "expedient" was but the modified design of Henry IV, as this great prince conceded to the Greeks the origin of the proposal which he submitted, a trial of which the red hand of Ravaillac alone prevented. From the days of these two peacemakers to the present no less than forty-four different schemes have been proposed, but none of them accepted with a seriousness productive of results. In none is disarmament provided for except in the substitution of an international force with which to compel obedience to the council's decrees.

The combined wisdom of all the attempts may be summed up in the words of Sprague, who says:

It will only be expedient to state now that any tribunal which has not an accessory physical power sufficient to procure the execution of its decrees must be essentially a tribunal of arbitration, no matter what it may be denominated.

The unanswerable question comes to the human mind, Where will be a corresponding power to restrain the one provided for in Sprague's scheme? The author does not offer a solution because his reason ends at this stage.

Arbitration, to be effective, must assume to settle all disputes. A little can be gained by delay, although we may reason one week and fight the next week. Every hour of peace furnishes so much to the betterment of the races and minimizes the horrors of war and renders them less frequent. We can't settle all differences by means of arbitration, for the one reason that all the nations insist that all disputes affecting their autonomy or their independence shall be excepted. The power of different states to give each to itself its own law will always remain in the state. Nearly all our wars have been fought to obtain independence of government. No patriot will consent to the sacrifice which such a surrender involves.

The result obtained through The Hague conference, in my judgment, indicates the beginning of a new epoch in the history of nations. Here were assembled the representatives of twenty-six governments, comprising one thousand six hundred millions of people and whose dominions and dependencies cover nine-tenths of the planet. The outcome was good because it was in the direction of good. But what was accomplished by this great tribunal looking toward the world's disarmament?

"On the question of armaments, agreement between the powers was, as had been anticipated, plainly out of the question; the difficulties were unsurmountable and national distrust too deep." The conference declared "that the limitation of military burdens is greatly to be desired for the increase of the material and moral well-being of humanity;" and it resolved "that the governments, taking into consideration the proposals made at the conference, should study the possibility of an agreement concerning the limitation of military and naval forces and of war budgets." This proposal is said to be a sufficient indorsement of the Czar's appeal for universal peace.

It will not impose a great burden upon the memory of man to recall the fact that Great Britain, Russia, and Japan earnestly indorsed this proposal. On the question of armaments three declarations were made and three agreements reached, forbidding the throwing of projectiles from balloons, the use of those only intended to diffuse asphyxiating gases, and the employment of expansive bullets.

The commentator on the results secured by this conference of nations says that while "something has thus been done in the way of mitigating the horrors of war in the future, but the regulations, however admirable, appear somewhat inconsistent." I believe that the world has concluded that the only real advantage obtained through this conference was to minimize the horrors attending war.

Can it be expected that any one of the nations participating in this conference should proceed to the arrest of its armaments when all the other nations are contributing to increase them? No one can dispute the fact that the existence of a permanent court of arbitration invites the settlement of disputes by argument. Arbitration, however, will never be completely successful until it can be made obligatory. This, of course, is impossible until all the nations conclude to forfeit their autonomy.

The peacemakers representing our Government were unwilling to affix their names to the conclusions reached by The Hague conference until this amendment was added to them:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not entering upon, interfering with, or entangling itself in the political questions or internal administration of any foreign state. Nor shall anything contained in the said convention be construed to require a relinquishment by the United States of America of its traditional attitude toward purely American questions.

Thus our nation agreed that while all the other nations might arbitrate, if they saw fit, any question they pleased, we would reserve to ourselves the right to settle all which might be adjudged purely American. This was right. But who are to determine whether the question raised is purely American? The tribunal was silent when this amendment was made, and its record shows an immediate and final adjournment. Thus our autonomy was reserved, and universal and permanent peace postponed.

Peace the whole world over can not be maintained without armaments, because the world does not contain the same people with the same speech, with the same views upon the same subjects, entirely different in race, dissimilar in appearance, and with differing ideas of civilization.

The Amphictyonies spoke the same tongue, and those who would feel themselves strangers because they were not united by a peculiar tie were not invited and were not expected at their councils.

The first attempt of different races was made at The Hague, and civilization looks to this tribunal alone not for the establishment of universal peace, not in the expectation that through conference nature will be changed, but for the remedy that will result not in complete disarmament, but in its great reduction.

This is all that can in reason be expected, the beginning of which, regretfully to be said, nowhere appears.

Since the day when Henry the IV proposed to relieve the miseries of the European races by enforcing with arms the remedies proposed in his "grand design," European nations have spent almost two-thirds of their time in actual war.

During those three centuries the wars among the nations have

decreased in number, while many of their attending barbarities have been eliminated. History stands for this statement.

If the advance of the British and the Egyptians upon Khartoum, covering a period of three years, can be included, Great Britain, with her millions uncounted and her soldiers and sailors standing constantly at "attention," has ninety-five years of war to her credit during this period. Yet it would be well to remember that since the Crimea to this time this nation has fought but two years, and they were spent in the absorption of the South African Republic. Has Great Britain become the leading advocate of peace or has her great armament, constantly increasing until it is twice that of any other two nations, put the balance of the world in fear of her? Does her complete preparation keep her from harm? Her statesmen contend for this conclusion. The annals seem to justify it. Do the great guns on her sixty-one first-class battle ships and her thirty-nine armored cruisers supply the influence her diplomats and her pacifiers fail to command? Has the knowledge that her battle line exceeds that of France more than twice over and of the United States and Germany each three times over promoted the peace of the world during the past twenty-five years? Great Britain is making the experiment of arming to maintain peace. The world watches it with anxiety.

Since the French laid the siege which resulted in the capture of La Rochelle, nearly three hundred years ago, France has spent one hundred and four years of her time in enforcing her views upon others through the lights made by the blazing gun.

Spain, since the days of the archdukes, kept at the throat of what she called her enemies sixty years, between 1624 and 1783, and the question might be in kindness asked, What has been the advantage to either France or Spain in property or person for their struggles in behalf of national rights?

Yet no man who has the power of reflection would contend that all these wars could have been averted without the loss of honor which patriotism would not approve and human nature tolerate.

Since Russia made her war against the Tartars, 1686, and a few years later conquered Azor, which marks her entrance into the politics of southeastern Europe, she has had but forty-six years of war.

Since the Sultan invaded Hungary in 1526 and later fled from Vienna, Turkey has been engaged in war one hundred and three years, and yet civilization seems to make no demand upon Turkey for more than an occasional expression of good will toward others.

Since the day when John George, the elector of Saxony, obstinately refused to break his neutrality and thereby assist in the dismemberment of the Empire and later surrendered to the persuasion of Gustavus Adolphus and allied himself against it, Sweden has enjoyed the absence of external discord three hundred years, except in long intervals when she has been compelled to fight. During these three hundred years she is credited with but sixteen years of war.

Mr. BARTHOLDT. If the gentleman will yield to me, I simply desire to call his attention to the fact that for thirty-five years there has been no great European war. It is true that Spain had her bloody encounter in America, England in Africa, and Russia in Asia, but during these many years there has not been a European war between two great nations, and the writers on this subject have reached the conclusion that the great powers of Europe are really afraid to-day to set the machinery of war in motion, and to wage the war for which they have been preparing for so long a time.

Mr. BUTLER of Pennsylvania. Prussia accepted France, Bavaria, and Spain as allies and made the Silesian war in 1740. From that time until her coalition she fought only sixteen years. It can be said to the honor of Austria since she made her peace with Russia at Dresden, 1745, she has been engaged in war but sixteen years. This is an account of the wars among the different nations named herein and does not include the campaigns which they may have made against their own people.

The history of these nations during the period which I have so quickly covered shows that the grand design of Henry IV made no impression upon them which lasted longer than the short hour consumed in reading it. They turned a deaf ear to the projects of Crucé, who prayed that they might be read by the kings of the whole world and designated truth as their escort. They denied the learning of Ernest Landgrave, who had commanded the united armies of Germany and smote his religious ideas with the arguments of maniacs. With defiant shouts they trampled upon the scheme of William Penn and laughed in the face of John Bellers, who proposed a general council to which all religious persuasions might go, not for dispute, but settlement. They snubbed the "elaboration" of St. Pierre, who asked them to subscribe to the agreement that any sovereign who should take up arms against another member of the great "Peace Society" should be considered its enemy. These fighting monarchs threw the extracts of Rosseau and Puffendorf in their camp fires, and after smearing the essay of Grotius with the blood of their offenders, hoisted it upon their pikes and carried it from the Dardanelles to Culloden field, terrifying peace until she fled from the whole of Europe not to return until she discovered that constant war meant annihilation through the increased armaments which the nations' discord demanded.

For Europe was seldom at rest in those days. Her history compels her to confess to seventy-seven years of war during the seventeenth century. The eighteenth shows a better record, for she spent but sixty-five years of it on the battlefield. The nineteenth shows the effect of pacification upon the militant spirit of the European, for he spent fifty-three years of it in peace and fought but forty-seven. To our encouragement we must bear in mind that the nations of Europe engaged in war but fourteen years between 1850 and 1875, and only nine years between 1875 and 1900.

Has the spirit of man been broken, or does he walk in humility with his ambition delivered up and his lust repressed? No; he is fast learning that war means destruction of his fortune. Its damage to the morals of those who engage in it the nations have not made prominent, but the effect on their budgets is receiving their most earnest and attentive consideration. Nations moan under the load of great armies and fast multiplying fleets, yet they are afraid to reduce them. Let them continue to add to their burdens until they conclude it to be cheaper to talk than fight, then they will consent to shift their accounts so that they may balance. A battle between two great nations costs ten times as much in money as it did a hundred years ago, and will cost more as man's adroitness is employed in working out contrivances to destroy whole armies in one day to march in triumph to the disputed territory in the next.

Great mobilization tends to confine war to selected spots. Pointed instances are fresh in our minds. Belligerents rarely listen to advice. They are quite ready to obey the command of those enabled to enforce it. If war must be, let us limit the conflagration to boundaries in which the interests of others are not found. If our armaments bring us to no other good than this, we will find our money well spent.

What has been our record since the dedication of America's sacred honor, her lives, and her property to the cause of liberty? Beginning with this declaration, our wars, including those with the Indians, cover a period of sixty-two years; excluding those engaged with the Indians, twenty-five years.

They are: 1775, the war of independence; 1776, Cherokees attack the settlements in eastern Tennessee and North Carolina; 1778, massacre at Wyoming, in Pennsylvania; 1779, expedition of General Sullivan against the Iroquois; 1798, war with France; 1790, Indian war; Harmar defeated 1790, St. Clair 1791, and Wayne victorious 1794; 1802, war with Tripoli; 1803, Navajos in hostility to the whites; 1811, war incited by Tecumseh; 1812, second war with Great Britain; 1812, Winnebagos and Dakotas take sides with the English in the war against the United States; 1813, Creek war; 1817, border warfare of the Seminoles; 1832, Black Hawk war; 1835, Seminole war; 1846, war with Mexico; 1848, trouble with Oregon Indians; 1855, Rogue River war; 1861, the civil war; 1862, Sioux rebellion; 1862, Apache outbreak; 1865, outbreak of Shoshones; 1872, Apache outbreak; 1873, Modoc war; 1876, Sioux rebellion; 1879, war with the Utes; 1890, Dakota rebellion; 1898, war with Spain; 1899, Philippine insurrection; 1900, Chinese expedition.

It is true the professional campaigner does not include the Indian wars in our actual fighting time, and to escape the terrible record of strife we have made he waves his hand and replies: "You can't count Indian killing as war." If the Indian wrote our history the inference is safe that he would give his instances of battlefield struggle the name of war.

The minutes kept by the time marker show us to have been quarrelsome—ready to settle, equally ready to fight. This part of our history some Americans wish to defend and explain, but our victories every one of us applauds. It is true we are under the restraint which our foremost place in the civilized rank imposes upon us, but our willingness to submit our disputes and surrender our traditions will not entitle us to the first reward when the arbitration day arrives and our ships drop their armaments into the sea at the command of the "Great Council."

Who is there among us to condemn the American delegates to The Hague conference because they refused to subscribe to the final act until an amendment was added thereto reserving to us the right to settle in our own way all purely American ques-

tions? This position was right, of course, but lacked the degree of submission necessary to secure universal peace.

Oppenheim, in a treatise published last year, sums up the effect which The Hague conference had upon the world's peace:

Soon after The Hague peace conference, in October, 1899, war broke out in South Africa between Great Britain and the two Boer Republics, which leads to the latter's annexation at the end of 1901. The assassination of the German ambassador and the general attack on the European legations in Peking in 1900 led to a united action of the powers against China for the purpose of vindicating this violation of the fundamental rules of the law of nations. In December, 1902, Great Britain, Germany, and Italy instituted a blockade against the coast of Venezuela for the purpose of making her comply with their demands for indemnification of their subjects wronged during civil wars in Venezuela, and the latter consents to pay indemnities, to be settled by a mixed commission of diplomats. But as other powers than those who had instituted the blockade likewise claim indemnities, the matter is referred to the permanent court of arbitration at The Hague, which in 1904 gives it verdict in favor of the blockading powers. In February of 1904 war breaks out in the Far East between Russia and Japan on account of Manchuria and Korea.

While the results have not been positive, our first attempt has proven its worthiness in that it will inspire repetition.

The past ten years show the "curse" to be still with us, yet we have confined it to isolated sections of the world. Russia and Japan refused to reconcile, but they consented to confine their battles to the fields of Manchuria upon the urgent request of the nations having sufficient guns to compel a compliance. Did the guns influence the seclusion? The nations who had them entertain that opinion.

I believe the great armaments and the fear which the nations possessing them have of each other have secured us, at least, a partial "armed peace." Persuasion has proven a failure. A few appealed for peace. Meanwhile the multitude appeals to arms.

How did a trial of Emerson's love, as a state basis, address itself to our sisters of South America? They were once tempted to agree to arbitration, but the effort to develop the "love basis" was not accepted with a seriousness that shows perfect appreciation. A plan of a permanent tribunal of arbitration was adopted by the International American Conference April 18, 1890, and the signatures of eleven States were obtained—Bolivia, Ecuador, Haiti, Honduras, Nicaragua, Salvador, the United States of America, the United States of Brazil, the United States of Venezuela, and Uruguay.

The treaty proposed lapsed, but the following Governments, in consequence of a form of extension submitted October 28, 1891, signified their acceptance of the proposal to revive the lapsed treaty: Ecuador, Guatemala, Honduras, Venezuela, Nicaragua, Salvador, and Bolivia; but the matter never progressed beyond this stage. Ecuador was in the throes of a rebellion in 1895; in 1893–94 Honduras and Nicaragua were at war; and in Honduras in the last three decades military revolts have been constant; the circumstances leading to the blockading of the ports of Venezuela and the dissensions that have beset that country are well known; an outbreak in Granada in 1891 led to a general insurrection in Nicaragua in 1892, and since 1897 there have been revolts at Nargote, San Juan del Sur, Rivas, and elsewhere; all this in addition to the war against Honduras; a military revolt occurred in Salvador in 1898, and other risings attended with bloodshed have occurred in that Republic; Bolivia was the seat of disturbances in 1899.

Our Government was one of the signatures, but did not sign the treaty. The reason for its failure is not plain, and perhaps had better be misunderstood. I hope that the history of our country written by strangers will not slander us and assign as a reason that we concluded it would cost our Government less time and money to fight than mediate.

These countries proposed that all controversies which did not imperil their independence should be submitted to arbitration. No other was excepted. Would our subscription to obligatory arbitration, in which all our differences should be settled, shake the opinion of the other great powers in our ability to provide for ourselves in our own way? Why did we not agree with our neighbors who had no armament, neither had they money with which to buy it? We had both. Was it worth while for us to surrender a principle we had secured with force in order that we might avoid further conflict? We need not look for such submission until we are ready to confess our own weakness of purse and forsake the policy of armed resistance.

The great powers, as well as the small, have made several unsuccessful attempts to preserve peace through means of arbitration. The outcome was not entirely without hope. The first modern arbitration treaty was that between the United Sates and Great Britain of November 19, 1794, which instituted three arbitrations. In 1812 the United States and Great Britain made war. The United States and Spain signed treaties involving arbitrations October 27, 1795; August 11, 1802; June 16, 1870; February 12, 1871, and February 28, 1885, and made war in 1898.

Austria, France, Great Britain, and Russia were the signatories to an arbitration treaty of November 20, 1815, and France and Russia, by an additional article to the treaty of peace of May 30, 1814, instituted a special arbitral commission for certain-named purposes. The Crimean war occurred in 1853–1856, the Austro-Prussian war in 1866, and the Franco-Prussian war in 1870–71. France and Mexico signed a treaty involving an arbitration March 9, 1839, and made war in 1861–1867. The United States and Mexico signed an arbitration treaty April 11, 1839, and made war in 1846–1848. Chile and Peru signed treaties of arbitration September 27, 1871, and made war in 1879. Bolivia and Chile signed, December 5, 1872, a treaty providing an arbitration, and made war in 1879. Colombia and Venezuela signed a treaty of arbitration September 14, 1881. In 1899 Colombia had to deal with an insurrection which is declared to have been aided from Venezuela.

I am satisfied that we have but started on the way toward that condition of amity which forms perfect society and would form perfect international relationship. I am also satisfied that man is yet much nearer the animal than the angel, with the attractions of the former so great that his advancement toward the latter is seriously impeded. Is all this an excuse for militarism? No; but it offers a reason.

We are safe in the deduction that during the past three hundred years history shows that the voice of the peacemaker has been drowned in the din of battle. A comparison of the present time with the past forces upon us the lamentable conclusion that we have made but little progress toward general peace that is not secured through armaments.

While we have escaped from the age of fable, we have not reached that degree of human completeness that will enable us to maintain universal peace and at the same time preserve our own sovereignties. These sovereignties have always been protected by arms and not by love. When will we reach a condition of nature where we may in safety completely disarm?

With sin came selfishness. To restrain men from their selfish purposes civil government was established. To inform the well disposed and to constrain those who would do evil, laws are made and above all are enforced when made. No height of civilization seems to bring with it absolute obedience. Many are willing, many are unwilling; to the latter force must be applied to obtain submission. When will we lay down arms?

When the soul of man gives up its covetousness and hastens to hides its avarice; when the itching palm is supplanted by the one that is stretched forth in its fullness; when the merchant rushes to the market place to give, not to sell; when the whir of the bullet is exchanged for the anthems of praise; when the "sword of the spirit" redeems the one that wounds the flesh—then, and not till then, can each nation lay down its arms and enjoy the peace secured through love; then will the races have reached the state where the soldier will abandon the parapet to prostrate himself at the altar. The sailor will strike his colors for the last time, donate his ship to the plutocrat in which to sail the world over, distributing his wealth equally among the unfortunate, and the 12-inch gun will be converted into sewer pipe through which the moral filth of ten thousand years' accumulation will be carried from our sight. The farmer will yoke himself with his ox to relieve the burden of the latter, while the trader and changer will pile their goods in the roads for the enjoyment of all their neighbors. Then will memory be preferred to inheritance and man shall, as Pitt did, marry only his country. Then will some of the Ten Commandments become obsolete, for the desire to steal and to kill will have departed from man's soul and his neighbor's ass will be no longer the subject of his covetousness. Then we will disarm and exchange the cannoneer for the priest, the flag for the cloth, for the fangs will be drawn from the serpent; but we will never consent, until we see the fangs of the other serpents safe in the lap of love, that America should become her own dentist. The possibility of such a condition would be a nightmare to civilization. In such a state the ambition of men would die within them, and they would walk the world over without aim and without spirit. The suggestion bears upon its face its own absurdity; yet men would not then fight.

When I came to this House ten years ago my coming was unheralded, and when I go my going will be unnoticed. While my stay here has been without great profit to my country and my constituency, it has afforded me the chance of hearing from the same lips appeals for conversion and votes for war. When I asked for an assignment to the Committee on Naval Affairs, it was with an avowed purpose of using a determination to prevent a further increase of the American Navy. Within a year

from the time my membership began the present Speaker of the House reported a resolution from his committee providing "for the national defense and for every purpose connected therewith, and to be expended at the discretion of the President, to remain available until January 1, 1899, $50,000,000." On this resolution the yeas were 313 and the nays were none, immediately followed by loud applause. I had joined the majority. Preceding the adoption of this resolution, many patriotic speeches were made, all encouraging war upon a nation loaded with debt and from which its former glory had all departed. Not one word in favor of peace. The people's representatives wanted a fight.

Monday, April 11, 1898, the President of the United States sent a message to Congress, from which I have extracted the following:

> And in the interest of humanity and to aid in preserving the lives of the starving people of the island, I recommend that the distribution of food and supplies be continued, and that an appropriation be made out of the Public Treasury to supplement the charity of our citizens.
> The issue is now with Congress. It is a solemn responsibility. I have exhausted every effort to relieve the intolerable condition of affairs which is at our doors. Prepared to execute every obligation imposed upon me by the Constitution and the law, I await your action.

God bless the name of William McKinley, and may posterity read of him as we knew him, and appreciate his effort to prevent the spilling of human blood that the American people demanded he should spill.

Nearly every American wanted a fight. Congress had not the power to resist had it been inclined, and had it not been for the determination of the intellectual and physical giant who presided over the House, those of you who were here at that time know, we would have made the mistake of beginning the fight before we had the gun loaded. The most pronounced advocates of peace explained as their reason for wanting a fight that humanity might be relieved. While the combination of peace-war people claimed that our honor was at stake, the everyday American of passion and muscle wanted a fight because we had been insulted.

Remember all this occurred but eight years ago. Are we better restrained now than then? Monday, April 25, this House passed these two resolutions unanimously:

> First. That war be, and the same is hereby, declared to exist, and that war has existed since the 21st day of April, A. D. 1899, including said day, between the United States and the Kingdom of Spain.
> Second. Resolved that the President of the United States be, and he is hereby, directed and empowered to use the entire land and naval forces of the United States, to call into the actual service of the United States the military of the several States, to such extent as may be necessary to carry this act into effect.

The work was done. America had gone forth not for conquest, but relief. She has become a world power, and her armaments must be increased to enable her to properly keep her place.

The RECORD has no reference to any Member raising his voice in opposition to this declaration of war against a nation that had withered and decayed with only a recollection of her former greatness to sustain her. Young Americans, for the first time in our history, volunteered to cross the seas and fight the battles of their native land, while their parents took to their knees and prayed the Master to deliver their sons from the hands of men who could not fight and did not want to fight. I have only words of praise for those who made our battle, and no criticism for those who encouraged them, for the cause justified us, as subsequent events have proven. I am begging for the patience of those who, insisting upon this war, now show irritation, not over its victories, but with its consequent calamities and unavoidable results.

We would not have fought the Spanish-American war had we been fully and thoroughly prepared. Three more great battle ships on this coast where the Spanish could have seen them, and they would have kept their thin-skinned ships at home and we would have our graveyards yet to fill and our money yet to spend.

Then the Spaniard became obstinate and would not surrender his sovereignty over the Philippines until we paid him $20,000,000. The law of humanity as well as the law of nations required us to retain the islands and take up a great duty in a land of blinding sunshine by day and terrifying darkness by night. Dewey obeyed instructions from his Government when he destroyed the only power which Spain possessed to maintain peace in the Philippines. We were bound under the laws prevailing among the nations to supply it. Congress was asked for $20,000,000 to carry out the treaty of obligations between the United States and Spain. Who was deceived as to the purpose for which this money was to be used? No Member of this House who sat in it on the 20th day of February, 1899, was misled. He was forewarned by Mr. Dockery, who offered his defective amendment defining our policy toward the Philippine Islands and declaring it to be our intention not to corporate their inhabitants with United States citizenship. For this appropriation 219 gentlemen voted, while but 33 are recorded in the negative. The wisdom of this Congressional act has been submitted to the source of power, the American people, and has their approval. I was among those who voted for this appropriation with full knowledge of its consequences and stand ready to accept my unimportant share of the responsibility.

The Philippines offer but few inducements to the pilgrim or the plowman; but oh, what a field for a conqueror. Does the fear of an undiscovered would-be conqueror furnish an excuse for urging great armaments? No; but it presents a reason. Our ownership of his sovereignty constitutes us his protector and puts upon us the burden of bearing arms in his defense. The duty to feed and educate the Filipino carries with it the corresponding duty of protection to his home and his property, whether his rights are invaded from within or without.

I believe it to be the common understanding of all Americans that the Filipino should have the sovereignty of his islands at such time that he may be able to satisfy them of his capabilities to manage well for himself. When that time will arrive no one now living can with even reasonable certainty prophesy. I believe the people now born will have secured their passports to immortality before the Filipino will have satisfied the American people that he has sufficiently matured to stand alone. The standard which he must approach to secure his independence of us no man can with accuracy describe. While none of us expect him to Americanize, he must certainly learn to live in a social community where respect for household ties is observed before he will have reached a measure of domestication that will receive American commendation. Since the time when Christopher Columbus offered the new world to Henry VII, in their views upon the domestic relation it has been the proud boast of every American that his countrymen were in the right. Our views upon the method of civilization may have made much discord, creating new methods and offering new ideas, but upon the immutability of the nuptial tie we have always agreed.

When will the Filipino learn that obedience is the first step to self-government? Until he manifests a resignation to the law of his own land, whether made by Americans or his own people, and we are satisfied of his sincerity, his destiny is in our hands.

Whether the possession of these islands by our Government is important to us in the eastern equation should have no weight with us in the final settlement which we may make with the Filipino. We did not embrace the occasion to extend our empire; we should not consider the Filipino's wealth when the day of his independence is at hand. We can afford generosity, but never meanness. That there was an imperative reason for the acquisition of these islands is apparent in the purchase of what we had already taken by conquest. They came to us in the entirety, and when they go from us they shall be undivided. The most desolate and empty portion of the islands, along with their unopened mines of wealth, is equally entitled to our defense; not one small acre of them will be disposed of to another nation without its owner's consent.

Until the hour of his preparation is reached, when he can stand unsupported or when he can with intelligence decide between us and another, we must bear the burden of his defense and further embellish our great name by bearing it without complaint. We must not forget that we compacted by treaty with Spain, December 10, 1898, when she relinquished her sovereignty to us, to secure all the inhabitants of these islands in the free exercise of their religion and guaranteeing to all Spanish subjects therein their rights of property and the uninterrupted opportunity of carrying on such industry, commerce, or profession in which they might be at that time engaged. Shall we run from our obligations and designate another keeper to whom these defenseless people might object? Spain was satisfied with our offer of guardianship. We will not surrender it willingly or unwillingly until our dependents assent.

The example of our civilization shall be set at all times before the Filipino in the hope that barbarous conditions may disappear. The process must be slow, the American patience abundant. Has the conqueror appeared? He has not; but we intend to indefinitely delay his appearance by the conservation of our great and admittedly capable armaments. Does the proper defense of these islands furnish an excuse for our armaments?

No; but it presents a good reason. We offer lands and possessions for protection. We have traditions which neither

the fear of the sword nor the proffer of gold nor the prayers of the weak will tempt us to abandon. Questions, purely American, reserved to our own keeping for our own settlement, according to our own conceptions, over which we deny the right of suggestion from others. By our armaments alone are they secured to us, not in battle, but in its postponement.

Since the father of our race, when Abraham was bidden to go to the south and was promised to be made a ruler of the land in which he might be a stranger, the human family has wandered. The Americans grow tired of looking around upon the same sameness and stray away into the recesses of forests after riches and pleasure. When they are imprisoned through the humor of a despot or held for ransom by a bandit what have we to depend upon to extend the American breastwork of influence but our sailor man in blue, with his white squadron? High-mettled fellows, with hearts of oak, they are ready to obey with or without weapons; they don't beg for protection for themselves, but for their Government, whose majesty is so cheerfully committed to them. The crossbow, the sling, the catapult, and the battering-ram will not repress the desire of him who would prevail over us. A longer-range gun than that of him whose appetite would tempt him to approach will maintain the distance between him and the object he would devour. Who is to determine the weight and extent of our armaments? The Congress. Who is to advise the Congress? Those in whose skill and attainments the Congress has confidence.

For reasons already made known to you we have been compelled to reduce the estimates submitted for our naval defense, but we have done it with great care and with a view of adding to its strength rather than adding to its size. We have reported to you only those reenforcements which our great naval experts insist are absolutely necessary to increase efficiency and maintain preparation. We should continue to arm that battles may be delayed. The fear of awful slaughter and the enormous cost attending hostile attack, with the uncertainty of results, will encourage unwillingness and prolong discussion. Make war expensive and man's selfishness will avert it rather than provoke it. All other remedies have failed. The races have concluded to employ this one.

Great Britain settled by arbitration 124 international disputes in which she was interested during the past fifty years; she had but two years of international war during the same period. While her arguments persuaded, the knowledge of her guns furnished the food for reflection. The policy of our Government is fixed, and we must not willingly set aside the influence which we should exert in coming conferences to settle the equality of national defense. That influence will be overpowering if our arms are kept brightened. It will be lost if they are decreased in numbers and capability.

When the people grow tired of the burdens which great armaments entail, their militant spirit will surrender to their cupidity, and, groaning under the fear of bankruptcy, they will demand the reduction of armaments through the mediation of international tribunals. When that great day comes we will rise to the supreme task which civilization imposes upon us and lead in the movement to diminish, but not debilitate. The weight of our word will be measured by the weight of our armaments.

Our only hope for this result lies through international agreement. Let us keep the hope constantly within us and apply ourselves diligently to this end. If the nations should engage in war and destroy every battle ship afloat, they would immediately proceed to supply them with others. Russia now presents this example. Then why fight to be rid of our armaments? Don't let us strive to wholly disarm by force or persuasion, but to reduce. No well-prepared nation can be expected to set the example, but the time can not be far in advance when they will all take the initiative. International wars will not be contemplated, but compromise expected. Each nation will retain sufficient armed force for the suppression of disorder, the maintenance of its independence, the protection of its own people and property, the enforcement of its own decrees, the settlement of its own questions, and the defense of its own traditions. All questions arising between nations will likely go to court for adjustment because of the absence of preparation for international war. The ideal state will be reached. Compulsory international arbitration is a dream, and involves complete disarmament. It is not looked for, and should not be hoped for. Man is not ready for submission that deprives him of his independence and his state of its sovereignty.

Don't let our modesty tend to an underestimation of our own importance, and don't let our official acts interrupt the humanizing influence which our nation sows broadcast throughout the world. Don't let us fritter away our opportunities in reviving theories that have proven failures. Every place where our national influence reaches quickens with life and blossoms with prosperity. Let us give our Government the armament she desires for the work she has to do, and make laws of sense which even the madman of the earth will be bound to observe. [Applause.]

Mr. FOSS. Mr. Chairman, I yield twenty minutes to the gentleman from New York [Mr. CALDER].

Mr. CALDER. Mr. Chairman, I have listened with great interest to the addresses of the distinguished gentlemen from Ohio and from Pennsylvania and subscribe heartily to the views expressed by the peace-loving Quaker from Pennsylvania.

Mr. Chairman, history informs us that during the Administration of President Monroe the people of this country were generally prosperous and contented, and we have always been pleased to refer to that time as the era of good feeling. In some degree this might be compared to the accession of President McKinley to the Presidency on March 4, 1897. The country had passed through four years of severe business depression to awaken with new hope after the result of the elections of 1896 became known.

I do not propose to enter into a discussion of the causes of this revival. We on this side of the Chamber attribute it largely to the protective tariff system, while the gentlemen on the other side contend it is the result of the great discoveries of gold and the general development of the country. The facts are that during the past nine years we have made greater strides in every phase of human existence than any other country on the face of this globe in double that period. In 1896 we were classed as the most influential nation on the North American continent; to-day we are the dominating influence in the Western Hemisphere and in the very first rank of the nations of the world, excelling all of them in our institutions of learning and our agricultural products and competing successfully in all of the markets of the world in every branch of manufacture. We are indeed a great nation.

During the past nine years we have acquired vast territory—in the West Indies, the Pacific Ocean, and in the Orient—so that to-day it may almost be said that the sun never sets on our domain. All of this has brought us new and greater responsibilities, and we are compelled, as a guaranty to the peace of the world, to make this country a great naval power.

Mr. Chairman, the bill under consideration is, in my judgment, of greater importance to the people of this country than any other measure we will be called upon to consider at this session.

Here on the floor of this House protests have been made against the expenditure of large sums of money for our naval establishment. I, for one, as long as I remain a Member of this House, will vote and use my influence for the building of a navy equal to that of Great Britain; this, as I have already said, would guarantee a lasting peace between this and the countries of the earth.

Mr. Chairman, I submit the following tables, showing the relative naval standing of the leading nations in the years 1880, 1890, 1900, and 1905:

OFFICE OF NAVAL INTELLIGENCE,
April 27, 1906.

Sea strength of the principal naval powers, 1880.

Class.	Great Britain.		France.		Russia.		Germany.	
	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.
Armored vessels	48	306,410	41	214,937	31	94,112	23	95,917
Unarmored vessels	75	132,954	67	103,424	40	49,160	24	45,102
Total	123	439,364	108	318,361	71	143,272	47	141,019

Class.	Italy.		United States.		Spain.		Japan.	
	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.
Armored vessels	13	67,913	14	27,600	7	32,165	5	10,877
Unarmored vessels	12	16,754	26	54,528	29	43,337	3	2,313
Total	25	84,667	40	82,128	36	75,502	8	13,190

Rank of principal naval powers.

Great Britain first, France second, Russia third, Germany fourth, Italy fifth, United States sixth, Spain seventh, Japan eighth.

At this date all nations were building torpedo boats, but few were completed.

See strength of the principal naval powers, 1890.

Class.	Great Britain.		France.		Russia.		Italy.		Germany.		United States.		Spain.		Austria.		Japan.	
	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	No.	Tonnage.
Armored	72	507,490	59	348,490	40	167,122	19	143,121	26	105,721	21	48,663	7	38,683	15	65,800	6	12,437
Unarmored	182	290,269	112	161,229	57	74,628	35	55,417	42	77,396	33	73,706	43	69,921	29	40,008	21	34,191
Torpedo boat	86	4,955	125	6,100	119	4,520	60	5,000	60	5,000	1	100	14	1,464	31	2,100	20	300
Total	340	802,714	296	515,819	216	246,270	114	203,538	128	188,117	55	122,469	64	110,068	75	107,908	47	46,928

Rank of principal naval powers: Great Britain first, France second, Russia third, Italy fourth, Germany fifth, United States sixth, Spain seventh, Austria eighth, Japan ninth.

Sea strength of the principal naval powers, 1900.

Type.	Great Britain.				France.				United States.			
	Built.	Tons.	Building.	Tons.	Built.	Tons.	Building.	Tons.	Built.	Tons.	Building.	Tons.
Battle ships, first class (above 9,000 tons)	45	562,470	11	154,900	19	197,920	1	12,580	9	99,830	6	78,000
Battle ships, second class, and coast-defense ironclads (below 9,000 tons)	25	142,355			25	123,725			8	35,030	4	11,020
Armored cruisers	11	71,260	14	167,600	10	63,050	11	104,000	2	17,415	6	76,500
Cruisers, protected and unprotected, not armored (above 3,000 tons)	77	446,490			22	105,495	2	7,860	18	86,300	9	43,200
Cruisers, 1,000 to 3,000 tons	72	134,615	8	11,600	17	30,250			23	32,915		
Cruisers, below 1,000 tons, gunboats	55	42,870			15	8,635			3	2,530		
Destroyers	108	34,920	42	12,600	55	9,085			4	1,095	16	6,695
Torpedo boats	167	7,295	2	350	228	14,245	14	1,220	23	2,400	12	2,005
Training vessels	9	6,085			9	36,175			8	25,105		
Total displacement	569	1,448,360	77	347,050	400	588,580	28	125,610	98	302,650	53	217,420
Total built and building ..... tons..	646—1,795,410				428—714,190				151—520,070			

Type.	Germany.				Japan.				Russia.			
	Built.	Tons.	Building.	Tons.	Built.	Tons.	Building.	Tons.	Built.	Tons.	Building.	Tons.
Battle ships, first class (above 9,000 tons)	9	95,782	5	60,000	4	54,400	2	30,400	15	162,915	7	92,300
Battle ships, second-class, and coast-defense ironclads (below 9,000 tons)	26	88,920			5	17,505			19	74,490		
Armored cruisers	4	35,760	2	17,740	6	51,285	1	9,850	11	82,730	1	7,800
Cruisers, protected and unprotected, not armored (above 3,000 tons)	9	49,210			10	41,485			8	46,680	8	44,860
Cruisers, 1,000 to 3,000 tons	20	38,660	3	8,400	16	27,995			19	28,875		
Cruisers, below 1,000 tons, gunboats	9	8,185			13	7,540			11	6,295		
Destroyers	16	5,275	8	2,800	11	3,180			25	7,215	12	3,280
Torpedo boats	132	11,498			55	3,730	11	940	186	11,240	10	900
Training vessels	10	25,610			4	2,560						
Total displacement	235	358,900	18	88,940	124	209,680	14	41,190	294	420,440	38	149,140
Total built and building ..... tons..	253—447,840				138—250,870				332—569,580			

Rank of principal naval powers: Great Britain first, France second, Russia third, Germany fourth, United States fifth, Japan sixth.

OFFICE OF NAVAL INTELLIGENCE, *January 1, 1906.*

Sea strength of the principal naval powers—Number and displacement of war ships, built and building, of 1,000 or more tons, and of torpedo craft of more than 50 tons.

Type of vessel.	Great Britain.				France.				Germany.				United States.			
	Built.		Building.		Built.		Building.		Built.		Building.		Built.		Building.	
	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.
Battle ships, first class [a]	55	754,450	6	99,050	19	216,425	6	89,190	18	204,581	6	78,000	14	167,225	11	166,304
Coast-defense vessels [b]	5	43,700			17	73,273			13	68,602			12	47,445		
Armored cruisers	30	313,900	13	185,100	19	158,803	5	66,360	6	55,740	2	21,660	6	72,335	6	85,360
Cruisers above 6,000 tons [c]	21	201,000			4	31,754							3	24,450	2	19,400
Cruisers, 6,000 to 3,000 tons [c]	52	224,840			18	74,476			14	63,840	6	19,650	17	61,379	3	11,250
Cruisers, 3,000 to 1,000 tons [c]	37	70,230			17	30,469			23	46,040			24	33,153		
Torpedo-boat destroyers	144	54,068	18	7,510	31	9,250	23	8,650	53	20,281	6	2,478	16	6,695		
Torpedo boats	91	8,150			230	21,192	75	7,120	74	9,000			30	4,820	2	468
Submarines	19	3,000	10	3,000	37	4,033	32	9,963			1	190	8	913	4	600
Total tons built and total tons building		1,673,338		294,660		619,675		181,283		466,084		121,978		418,415		283,382
Total tons built and building ..	1,967,998				800,958				588,062				701,797			

[a] Battle ships, first class, are those of (about) 10,000 or more tons displacement.
[b] Includes smaller battle ships and monitors.
[c] All unarmored war ships of more than 1,000 tons are, in this table, classed according to displacement as cruisers. Scouts are considered as cruisers in which battery and protection have been sacrificed to secure extreme speed. The word "protected" has been omitted because all cruisers except the smallest and oldest now have protective decks.

Sea strength of the principal naval powers—Number and displacement of war ships, built and building, etc.—Continued.

Type of vessel.	Japan.				Italy.				Russia.				Austria.			
	Built.		Building.		Built.		Building.		Built.		Building.		Built.		Building.	
	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.	No.	Tons.
Battle ships, first class[a]	9	120,240	3	52,200	13	165,969	4	50,500	8	92,429	4	57,233	1	10,600	2	21,200
Coast-defense vessels[b]	5	29,657	.....	.....	1	3,913	.....	.....	7	43,199	.....	.....	10	67,090	.....	.....
Armored cruisers	9	81,372	3	42,000	6	39,783	1	10,000	3	31,270	3	27,000	3	18,820	.....	.....
Cruisers above 6,000 tons[c]	2	13,130	.....	.....	.....	.....	.....	.....	5	33,110	3	20,025	.....	.....	.....	.....
Cruisers, 6,000 to 3,000 tons[c]	10	40,275	1	3,420	5	17,663	1	5,500	4	15,765	.....	.....	2	8,128	.....	.....
Cruisers, 3,000 to 1,000 tons[c]	10	19,774	.....	.....	12	27,107	.....	.....	7	8,760	2	3,916	7	14,250	.....	.....
Torpedo-boat destroyers	24	8,166	24	9,120	13	4,150	4	1,520	33	10,583	51	21,540	1	330	.....	.....
Torpedo boats	81	7,317	.....	.....	97	8,036	27	5,580	82	8,000	.....	.....	38	3,478	.....	.....
Submarines	9	1,200	.....	.....	1	107	5	600	13	1,485	12	1,380	.....	.....	.....	.....
Total tons built and total tons building	.....	321,131	.....	106,740	.....	266,728	.....	73,700	.....	244,601	.....	131,094	.....	122,756	.....	21,200
Total tons built and building		427,871				340,428				375,695				143,956		

[a] Battle ships, first class, are those of (about) 10,000 or more tons displacement. [b] Includes smaller battle ships and monitors.

[c] All unarmored war ships of more than 1,000 tons are, in this table, classed according to displacement as cruisers. Scouts are considered as cruisers in which battery and protection have been sacrificed to secure extreme speed. The word "protected" has been omitted because all cruisers except the smallest and oldest now have protective decks.

N. B.—The following vessels are not included in the tables: Those over twenty years old, unless they have been reconstructed and rearmed; those not actually begun, although authorized; transports, colliers, repair ships, torpedo-depot ships, converted merchant vessels or yachts; vessels of less than 1,000 tons, except torpedo craft; torpedo craft of less than 50 tons.

Relative order of war-ship tonnage.

At present.		As would be the case were vessels building now completed.	
Nation.	Tonnage.	Nation.	Tonnage.
Great Britain	1,673,338	Great Britain	1,967,998
France	619,675	France	800,953
Germany	466,084	United States	[a]701,797
United States	418,415	Germany	588,062
Japan	321,131	Japan	427,871
Italy	266,728	Russia	375,695
Russia	244,601	Italy	340,428
Austria	122,756	Austria	143,956

[a] This does not include the Michigan and South Carolina, battle ships of about 16,000 tons, authorized, but not building.

It will be observed that while in 1880 the United States was the sixth world power, to-day we are third, Great Britain being first and France second.

Mr. Chairman, I am going to ask the indulgence of the House for a few moments to discuss the wisdom of building war ships in the navy-yards of the country, and will incorporate in my remarks a table giving the names and character of the ships authorized by Congress and constructed since 1895, with the places where they were built, the cost, and the time consumed in their construction in excess of the time allowed in the contracts.

Vessels built since January 1, 1896, with cost and excess of contract time.

Name of vessel.	Type.	Built by—	Date of contract.	Contract date of completion.	Preliminary acceptance.	Excess over contract time.		Cost of vessel to December 31, 1905.
						Months.	Days.	
Kearsarge	Battle ship	Union Iron Works, San Francisco, Cal.	Jan. 2,1896	Jan. 2,1899	Nov. 8,1899	10	5	$4,429,890.69
Kentucky	do	do	do	do	Dec. 30,1899	11	27	4,418,094.99
Illinois	do	Newport News Co., Newport News, Va.	Sept. 26,1896	Sept. 26,1899	Sept. 16,1901	23	20	4,073,429.26
Alabama	do	Wm. Cramp & Sons, Philadelphia	Sept. 24,1896	Sept. 24,1899	Oct. 22,1900	12	27	4,077,010.09
Wisconsin	do	Union Iron Works, San Francisco, Cal.	Sept. 19,1896	Sept. 19,1899	Jan. 17,1901	15	28	4,162,617.53
Dahlgren	Torpedo boat	Bath Iron Works, Bath, Me	Oct. 6,1896	Apr. 6,1898	Nov. 24,1899	19	17	200,771.07
T. A. M. Craven	do	do	do	do	Mar. 20,1900	23	13	200,722.84
Farragut	do	Union Iron Works, San Francisco, Cal.	Oct. 5,1896	Apr. 5,1898	Jan. 30,1899	9	24	246,902.23
Davis	do	Wolff & Zwicker Iron Works, Portland, Oreg.	Oct. 6,1896	Oct. 6,1897	Jan. 26,1899	15	19	97,661.97
Fox	do	do	do	do	Mar. 13,1899	17	6	100,285.93
Morris	do	Herreshoff Mfg. Co., Bristol, R. I.	do	do	May 12,1898	7	5	94,923.87
Talbot	do	Herreshoff Mfg. Co., Bristol, R. I.	Oct. 6,1896	Oct. 6,1897	Mar. 26,1898	5	19	41,863.00
Gwin	do	do	do	do	do	5	19	41,688.24
Mackenzie	do	Chas. Hillman S. & E. B. Co., Philadelphia, Pa.	Oct. 7,1896	Oct. 7,1897	Jan. 7,1899	15	.....	66,334.59
McKee	do	Columbian Iron Works, Baltimore, Md.	do	do	May 24,1898	7	16	59,003.71
Stringham	do	Harlan & Hollingsworth Co., Wilmington, Del.	July 29,1897	Jan. 29,1899	(a)	.....	.....	274,280.35
Goldsborough	do	Wolff & Zwicker Iron Works, Portland, Oreg.	July 30,1897	Jan. 30,1899	(b)	.....	.....	262,170.91
Bailey	do	Gas Engine & Power Co., Morris Heights, N. Y.	July 28,1897	Jan. 28,1899	May 29,1901	28	.....	234,299.09
Chesapeake	Training ship	Bath Iron Works, Bath, Me	Mar. 16,1898	June 16,1899	July 22,1899	1	5	357,641.96
Maine	Battle ship	Wm. Cramp & Sons, Philadelphia	Oct. 1,1898	June 1,1901	Dec. 29,1902	18	27	4,566,642.69
Missouri	do	Newport News Co., Newport News, Va.	Dec. 30,1898	Aug. 30,1901	Dec. 1,1903	27	.....	4,438,925.08
Ohio	do	Union Iron Works, San Francisco, Cal.	Oct. 5,1898	June 5,1901	Sept. 10,1904	39	4	4,475,180.32
Bainbridge	Torpedo-boat destroyer	Neafie & Levy S. & E. B. Co., Philadelphia, Pa.	Oct. 1,1898	Apr. 1,1900	Nov. 4,1902	31	2	303,900.63
Barry	do	do	do	do	Oct. 30,1902	30	28	303,389.15
Chauncey	do	do	do	do	Oct. 22,1902	30	20	303,287.48
Dale	do	Wm. R. Trigg Co., Richmond, Va.	Nov. 16,1898	May 16,1900	July 17,1902	26	.....	278,990.25
Decatur	do	do	do	do	Apr. 1,1902	22	15	276,038.01
Hopkins	do	Harlan & Hollingsworth Co., Wilmington, Del.	Oct. 19,1898	Apr. 19,1900	May 27,1903	37	7	313,350.79
Hull	do	do	do	do	Mar. 18,1903	34	26	318,316.05

[a] Forfeited to Government Nov. 27, 1903. [b] Forfeited to Government Jan. 21, 1902.

Vessels built since January 1, 1896, with cost and excess of contract time—Continued.

Name of vessel.	Type.	Built by—	Date of contract.	Contract date of completion.	Preliminary acceptance.	Excess over contract time.		Cost of vessel to December 31, 1905.
						Months.	Days.	
Lawrence	Torpedo-boat destroyer.	Fore River S. B. Co., Quincy, Mass.	Dec. 3,1898	Apr. 3,1900	Apr. 7,1903	36	3	$296,659.77
MacDonough	do	do	do	May 3,1900	July 3,1903	38		297,023.98
Paul Jones	do	Union Iron Works, San Francisco, Cal.	Oct. 5,1898	Apr. 5,1900	July 19,1902	27	13	301,279.01
Perry	do	do	do	do	May 31,1902	25	25	303,390.47
Preble	do	do	do	do	June 21,1902	26	15	302,882.71
Stewart	do	Gas Engine and Power Co., Morris Heights, N. Y.	Sept. 30,1898	Feb. 28,1900	Nov. 14,1902	32	16	299,877.30
Truxtun	do	Maryland Steel Co., Sparrows Point, Md.	Oct. 4,1898	Apr. 4,1900	Aug. 16,1902	28	11	304,537.10
Whipple	do	do	do	do	Oct. 9,1902	30	4	303,754.39
Worden	do	do	do	do	Oct. 17,1902	30	12	303,301.00
Bagley	Torpedo boat	Bath Iron Works, Bath, Me	Oct. 19,1898	Oct. 19,1899	June 12,1901	19	23	166,065.40
Barney	do	do	do	do	May 31,1901	19	11	165,752.26
Biddle	do	do	do	do	Aug. 5,1901	21	16	165,804.01
Blakely	do	Geo. Lawley & Sons, South Boston, Mass.	Sept. 27,1898	Sept. 27,1899	Sept. 14,1904	59	17	182,105.02
De Long	do	do	do	do	Aug. 11,1902	34	14	174,810.88
Nicholson	do	Lewis Nixon, Elizabeth, N. J	Sept. 26,1898	Sept. 26,1899	(a)			202,193.49
O'Brien	do	do	do	do	(a)			215,688.26
Shubrick	do	Wm. R. Trigg Co., Richmond, Va.	Nov. 16,1898	Nov. 16,1899	May 31,1901	18	14	145,299.20
Stockton	do	do	do	do	Jan. 18,1901	14	1	137,729.64
Thornton	do	do	do	do	Apr. 1,1902	28	15	144,425.90
Tingey	do	Columbian Iron Works, Baltimore, Md.	Oct. 1,1898	Oct. 1,1899	Dec. 15,1903	50	13	196,707.65
Wilkes	do	Gas Engine and Power Co., Morris Heights, N. Y.	Sept. 30,1898	Sept. 30,1899	July 27,1902	33	26	162,057.07
Plunger	Submarine torpedo boat	Holland Torpedo Boat Co., New York, N. Y.	Nov. 19,1900	Oct. 19,1901	June 24,1903	20	4	196,034.45
Adder	do	do	Aug. 25,1900	Apr. 25,1901	Jan. 9,1903	20	14	173,657.80
Grampus	do	do	do	do	May 11,1903	24	15	173,364.35
Moccasin	do	do	do	May 25,1901	Jan. 13,1903	19	18	173,671.04
Pike	do	do	do	do	May 11,1903	23	15	173,288.41
Porpoise	do	do	do	June 25,1901	June 24,1903	23	29	171,843.44
Shark	do	do	do	July 25,1901	do	22	29	171,431.34
Denver	Cruiser	Neafie & Levy S. and E. B. Co., Philadelphia, Pa.	Dec. 14,1899	June 14,1902	May 5,1904	22	20	1,135,853.66
Des Moines	do	Fore River S. B. Co., Quincy, Mass.	do	do	Mar. 5,1904	20	19	1,156,256.68
Chattanooga	do	Lewis Nixon, Elizabeth, N. J	Dec. 14,1899	June 14,1902	(a)			1,377,717.78
Galveston	do	Wm. R. Trigg Co., Richmond, Va.	do	do	(b)			1,426,111.45
Tacoma	do	Union Iron Works, San Francisco, Cal.	do	do	Jan. 18,1904	19	3	1,113,395.45
Cleveland	do	Bath Iron Works, Bath, Me	do	do	Oct. 29,1903	16	14	1,098,320.33
Pennsylvania	Armored cruiser	Wm. Cramp & Sons, Philadelphia, Pa.	Jan. 10,1901	Jan. 10,1904	Mar. 9,1905	13	26	4,819,696.37
Colorado	do	do	do	do	Jan. 10,1905	12		4,792,510.44
West Virginia	do	Newport News Co., Newport News, Va.	Jan. 24,1901	Jan. 24,1904	Feb. 23,1905	12	29	4,725,920.90
Maryland	do	do	do	do	Apr. 18,1905	14	24	4,744,771.71
Charleston	Cruiser	do	Mar. 30,1901	Mar. 30,1904	Aug. 31,1905	17		3,081,073.76
Rhode Island	Battle ship	Fore River S. B. Co., Quincy, Mass.	Feb. 15,1901	Feb. 15,1904	Feb. 12,1906	24	2	5,060,935.00
Dubuque	Gunboat	Gas Engine and Power Co., Morris Heights, N. Y.	May 29,1903	Nov. 29,1904	May 31,1905	6	1	322,999.67
Paducah	do	do	July 6,1903	Mar. 6,1905	Aug. 31,1905	5	24	361,094.08
Boxer	Training brig	Navy-Yard, Portsmouth, N. H.	(c)	(c)	(c)			94,703.14
Arkansas	Monitor	Newport News Co., Newport News, Va.	Oct. 11,1898	Mar. 11,1901	Sept. 8,1902	17	27	$1,413,962.99
Nevada	do	Bath Iron Works, Bath, Me	Oct. 19,1898	Mar. 19,1901	Mar. 5,1903	23	13	1,396,488.61
Florida	do	Lewis Nixon, Elizabeth, N. J	do	do	do	23	13	1,306,992.73
Wyoming	do	Union Iron Works, San Francisco, Cal.	Oct. 5,1898	Mar. 5,1901	Dec. 1,1902	20	25	1,372,093.16

(a) Forfeited to Government Aug. 14, 1903.
(b) Forfeited to Government May 14, 1903.
(c) Was begun at the navy-yard May 12, 1903. Construction period fixed as ending July, 1904, and reported completed May, 1905. Cost of vessel to December 31, 1905, furnished by the Bureau of Supplies and Accounts.

It will be observed that of the seventy-seven vessels included in this list only one—the training ship *Boxer*—was constructed at a Government yard, and every single one of them exceeded the contract time allowance, some as much as four years and very few less than two years. I also submit a list of the ships authorized by Congress and now being constructed in private yards:

Vessels building under contract.

Name.	By whom building.	Estimate of—		Contract time.	Expiration of contract time.
		Degree of completion July 1, 1905.	Probable date of completion.		
BATTLE SHIPS.		*Per cent.*		*Months.*	
Virginia	Newport News Shipbuilding and Dry Dock Company	89.7	Feb. 1,1906	36	Feb. 15,1904
Nebraska	Moran Brothers Company	75.0	Sept. 6,1906	36	Mar. 7,1904
Georgia	Bath Iron Works	82.6	May 6,1906	36	Feb. 18,1904
New Jersey	Fore River Shipbuilding Company	86.2	Mar. 18,1906	36	Feb. 15,1904
Rhode Island	do	88.8	Feb. 3,1906	36	Do.
Louisiana	Newport News Shipbuilding and Dry Dock Company	80.7	June 15,1906	41	Mar. 15,1906
Vermont	Fore River Shipbuilding Company	53.6	May 12,1907	42	Dec. 20,1906
Kansas	New York Shipbuilding Company	55.1	Jan. 27,1907	42	Dec. 16,1906
Minnesota	Newport News Shipbuilding and Dry Dock Company	68.0	Dec. 20,1906	42	Dec. 20,1906
Mississippi	Wm. Cramp & Sons	31.2	Mar. 25,1907	38	Mar. 25,1907
Idaho	do	29.5	May 25,1907	40	May 25,1907
New Hampshire	New York Shipbuilding Company	11.2	Feb. 27,1908	38	Feb. 27,1908
ARMORED CRUISERS.					
California	Union Iron Works	78.3	Aug. 1,1906	36	Jan. 10,1904
South Dakota	do	76.1	Sept. 1,1906	36	Do.
Tennessee	Wm. Cramp & Sons	79.4	Aug. 9,1906	42	Aug. 9,1906
Washington	New York Shipbuilding Company	79.1	Aug. 10,1906	42	Aug. 10,1906
North Carolina	Newport News Shipbuilding and Dry Dock Company	9.1	Jan. 3,1908	36	Jan. 3,1908
Montana	do	7.9	Jan. 15,1908	36	Do.

Vessels building under contract—Continued.

Name.	By whom building	Estimate of—		Contract.	Expiration of contract time.
		Degree of completion July 1, 1905.	Probable date of completion.		
PROTECTED CRUISERS.		*Per cent.*		*Months.*	
St. Louis	Neafie & Levy Shipbuilding Company	67.4	July 30, 1906	36	Mar. 11, 1904
Milwaukee	Union Iron Works	75.2	Oct. 17, 1906	36	Apr. 17, 1904
Charleston	Newport News Shipbuilding and Dry Dock Company	97.0	Aug. 31, 1906	36	Mar. 30, 1904
SCOUT CRUISERS.					
Chester	Bath Iron Works		May 4, 1908	36	May 4, 1908
Birmingham	Fore River Shipbuilding Company		Nov. 17, 1907	30	Nov. 17, 1907
Salem	do		Mar. 17, 1908	34	Mar. 17, 1908
TORPEDO BOATS (SUBMARINE).					
No. 9	Electric Boat Company		Sept. 6, 1906	12	Sept. 6, 1906
No. 10	do		do	12	Do.
No. 11	do		Sept. 18, 1906	12	Sept. 18, 1906
No. 12	do		do	12	Do.

With the exception of the *Louisiana*, I am advised that the time consumed in the building of these ships will exceed the time limit of the contracts.

I also submit a list of the ships now being constructed, or authorized to be constructed in the navy-yards of the country:

Vessels building at navy-yards.

Name.	Where building.	Estimate of—		Constructional period.	Expiration of constructional period.
		Degree of completion July 1, 1905.	Probable date of completion.		
BATTLE SHIP.		*Per cent.*		*Months.*	
Connecticut	Navy-yard, New York	80.7	June 15, 1906	41	Mar. 15, 1906
TRAINING SHIPS.					
Cumberland [a]	Navy-yard, Boston	95.0		20	May 1, 1905
Intrepid [a]	Navy-yard, Mare Island, Cal.	97.5		20	Do.
COLLIERS.					
Vestal [b]	Navy-yard, New York				
Prometheus [c]	Navy-yard, Mare Island, Cal.				

[a] Work suspended pending Congressional action as to additional appropriations to complete. [b] Formerly Erie. [c] Formerly Ontario.

It will be observed that of the ships now being constructed and excluding the colliers only three out of thirty-one are being built in the navy-yards, and a total of 4 out of the 108 ships authorized in the past ten years, so that it surely can not be said that these great Government plants, constructed and maintained at a large cost to the Government, are getting more than they are entitled to.

Now, Mr. Chairman, the only means of comparison we have in this matter is in the battle ships *Connecticut* and *Louisiana*. These vessels were authorized at the first session of the Fifty-seventh Congress. The *Louisiana* is being constructed by the Newport News Shipbuilding and Dry Dock Company and the *Connecticut* in the navy-yard at Brooklyn, N. Y. The limit of cost for each, exclusive of armament and armor, was fixed at $4,212,000. Both are now practically completed, and for the first time in battle-ship construction will be finished within the time limit. This is the result of the pace set by the navy-yard and the determination of the Newport News people not to be beaten. The facts are that vessels contracted for with the Newport News Company one year before the *Louisiana* are not as far advanced.

It has been argued that we should not have another battle ship built at a navy-yard, for the reason that it costs more to construct. What are the facts?

The cost of the *Connecticut* and *Louisiana* up to December 31, 1905, including armor, was: *Connecticut*, $5,374,000.54; *Louisiana*, $5,185,655.01, a difference of less than 2 per cent.

I observe that the bill under consideration carries with it a provision to increase the limit of the cost of the *Connecticut* $400,000, while I am not prepared to admit it will cost that much more than the *Louisiana*. For argument's sake, granting it to be so, it would only mean a matter of 9½ per cent; this is infinitely less than the figures submitted when the bill authorizing the construction of these vessels was under consideration in the Fifty-seventh Congress, at which time the statement was made by the chairman of the Naval Committee, on the authority of the then Naval Constructor Admiral Bowles, that it would cost from 25 to 50 per cent more to build at the navy-yards.

Permit me to quote the figures relating to certain alterations in these two vessels, the result of an inquiry by my colleague [Mr. FITZGERALD], and contained in House Document No. 539, which show that the alteration in the plans of the *Connecticut* cost $112,009, while in the *Louisiana* they cost $132,986.

Now, Mr. Chairman, as a matter of good governmental policy, is it not best that we should make it a fixed rule to have this construction of vessels continue without interruption in the navy-yards of the country, even if it does cost slightly more to build them there than in private yards?

I am going to cite the yard at Brooklyn, N. Y.

How many Members of this House have visited; or, I might ask, how many members of the Committee on Naval Affairs have visited it? It is the largest and best equipped of any of the Government yards, and will compare with the private yards of the country. It covers 118.77 acres of land, and 59.05 acres are under water; it has three dry docks, and is constructing a fourth; it can float, and is equipped to construct, any vessel Congress will authorize; the land occupied by the yard is valued by the Government at $12,354,000, although actually worth $20,000,000, and the buildings, docks, machinery, etc., exclusive of tools, is valued at $11,578,489. Located in the heart of the great city of New York, with its magnificent harbor and unequaled railroad facilities, it is easily the best fitted for the largest shipbuilding plant in the world.

We were compelled, in the construction of the *Connecticut*, to create an organization for the purpose of building this ship. It was our first effort; much time and money was lost in preliminaries. Our organization is still intact. It will not now be an experimental matter, and I will venture the statement that in our next undertaking, even considering the fact that at the navy-yard our men work eight hours a day against ten hours in the private yards, we will be able to keep the difference in cost down to a very small figure, if not equal that of the private yards.

This is a great country; we have a great Navy, and will have a still larger one. Is it not best that, on the Atlantic

seaboard, we should have at least one Government plant equipped for any emergency at a moment's notice, with men of the greatest skill, to handle any naval proposition the Government might be called upon to face? [Loud applause.]

Mr. CLARK of Missouri. Mr. Chairman, I raise the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Missouri raises the point of order that there is no quorum present.

Mr. BURTON of Ohio. Mr. Chairman, I ask unanimous consent to extend and revise my remarks.

The CHAIRMAN. It is doubtful if the committee will have authority to grant permission until first ascertaining whether a quorum is present or not.

Mr. FOSS. I will say to the gentleman from Missouri I am going to move that the committee rise.

Mr. CLARK of Missouri. Mr. Chairman, the chairman of the committee says that he is going to move that the commitee rise, and therefore I withdraw the point.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18750—the naval appropriation bill—and had instructed him to report that it had come to no resolution thereon.

SCHOOL SALARIES IN THE DISTRICT OF COLUMBIA.

Mr. WANGER. Mr. Speaker, I desire to ask unanimous consent to print a brief statement in the RECORD in connection with the bill H. R. 18442, which is on the Calendar of unfinished business.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to print a statement in the RECORD in connection with the bill H. R. 18442. Is there objection?

There was no objection.

Mr. FITZGERALD. Is this in relation to the bill to reorganize the schools?

Mr. WANGER. Yes, sir. It is in relation to the bill to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia.

Mr. FITZGERALD. Does the gentleman want to debate it now?

Mr. WANGER. No. I asked to print in the RECORD a brief statement relative to librarians in the United States, so that it may be considered.

The statement referred to is as follows:

PUBLIC EDUCATION ASSOCIATION,
Washington, D. C., May 1, 1906.

To the Representatives in the Congress of the United States.

GENTLEMEN: On pages 5867 to 5868 in the CONGRESSIONAL RECORD for April 23 it appears that the questions of librarians in the public schools is laid over for the consideration of the individual Members of Congress.

The Public Education Association would therefore respectfully submit to you the following facts and suggestions showing the value which is placed upon school librarians in nearly every State in the Union. (See tabulated statement attached—Table I.)

A library is an absolutely necessary educational tool in every high school or central county school. Children who are not trained in the use of reference books and not taught to search for literary sources, general and special, will soon after they leave school sink back into ignorance. The people and the teachers, as well as the educational authorities, have recognized this importance by establishing numerous school libraries and appointing librarians for their successful use. There are now in the United States as many as 6,656 school libraries. There are, in fact, more school libraries than public institutions of that kind in this country. (See Table III.) In most of these school libraries professional librarians are employed. Where that is not the case, one of the teachers of the school performs these duties.

For further, more minute information we take the liberty of referring you to the annual report for 1903 of the United States Commissioner of Education. That record is replete with most interesting information on public school libraries in the United States. (See pp. 759–1017.)

Table II is a list of public school libraries of the District of Columbia in the order of the date of their foundation. It will be seen that they are not of recent growth, but have proved their value and should be fostered by the just and beneficent wisdom of Congress.

We respectfuly urge that the request of the Commissioners of the District of Columbia and of the board of education (H. R. 8472, p. 2, lines 21 to 22; and H. R. 18442, p. 6, lines 7 and 8) for specific salary provision for teachers and high school librarians be granted.

Respectfully,

GERTRUDE B. DARWIN,
Secretary of the Association.

TABLE I.—*Public school librarians in the United States.*

State or Territory.	Normal.	High.	Elementary.
Alabama	3	-------	-------
Arizona	1	-------	-------
Arkansas	-------	2	-------
California	6	10	45
Colorado	1	5	5
Connecticut	2	7	1
Delaware	-------	-------	1
District of Columbia	1	5	-------
Florida	-------	-------	-------
Georgia	2	1	1
Illinois	5	21	13
Indiana	3	10	7
Indian Territory	-------	-------	-------
Iowa	2	5	16
Kansas	2	12	6
Kentucky	1	2	-------
Louisiana	2	4	2
Maine	2	1	1
Maryland	1	1	1
Massachusetts	3	14	6
Michigan	5	17	31
Minnesota	4	14	19
Mississippi	1	3	1
Missouri	4	5	15
Montana	1	2	-------
Nebraska	3	4	3
Nevada	-------	1	-------
New Hampshire	-------	1	-------
New Jersey	2	6	13
New Mexico	1	-------	-------
New York	9	118	54
North Carolina	2	3	-------
North Dakota	2	1	3
Ohio	-------	7	26
Oklahoma	2	-------	-------
Oregon	1	-------	-------
Pennsylvania	12	11	19
Rhode Island	1	-------	1
South Dakota	2	-------	3
Tennessee	-------	-------	1
Texas	1	4	2
Utah	-------	-------	1
Vermont	-------	1	1
Virginia	2	-------	1
Washington	2	2	1
West Virginia	2	1	-------
Wisconsin	7	18	14
Wyoming	-------	1	1

NOTE.—In the above table are not included public school librarians having charge of less than 1,000 books.

The above table has been compiled with painstaking accuracy by the Public Education Association of Washington, D. C., from the official statistics of 1903 of the United States Bureau of Education. In the last three years the growth in the number of public school librarians has been marked, as this necessary branch of public school equipment was recognized and developed, but the latest statistics are not available at this date.

TABLE II.—*Public school libraries in the District of Columbia, 1903.*

Name.	Founded.	Volumes.
Curtis School (Peabody Library)	1873	9,000
Central High School	1880	6,200
Business High School	1890	1,000
M Street High School	1890	2,370
Western High School	1891	1,100
Eastern High School	1892	2,480
Teachers' library (normal school)	1895	10,000

TABLE III.—*Public school libraries in the United States.*

State or Territory.	Schools.	Volumes.
United States	6,656	4,107,086
North Atlantic division	1,493	1,268,179
South Atlantic division	401	180,273
South Central division	573	228,632
North Central division	3,778	2,171,172
Western division	411	258,830
North Atlantic division:		
Maine	122	29,822
New Hampshire	47	14,407
Vermont	61	20,631
Massachusetts	224	139,353
Rhode Island	19	14,226
Connecticut	75	65,307
New York	406	635,360
New Jersey	99	83,479
Pennsylvania	440	265,594
South Atlantic division:		
Delaware	11	2,588
Maryland	53	24,443
District of Columbia	6	7,951
Virginia	39	12,098
West Virginia	38	26,404
North Carolina	35	26,064

TABLE III.—*Public school libraries in the United States*—Continued.

State or Territory.	Schools.	Volumes.
South Atlantic division—Continued.		
South Carolina	69	24,873
Georgia	110	43,705
Florida	40	12,177
South Central division:		
Kentucky	70	33,393
Tennessee	58	17,031
Alabama	46	19,293
Mississippi	68	26,272
Louisiana	32	22,759
Texas	236	86,437
Arkansas	41	15,616
Oklahoma	19	6,981
Indian Territory	3	850
North Central division:		
Ohio	733	365,188
Indiana	530	273,824
Illinois	392	220,867
Michigan	359	209,592
Wisconsin	224	200,892
Minnesota	153	174,294
Iowa	342	202,765
Missouri	302	153,761
North Dakota	37	22,752
South Dakota	87	39,022
Nebraska	338	87,006
Kansas	281	131,209
Western division:		
Montana	25	15,716
Wyoming	10	4,903
Colorado	55	61,866
New Mexico	9	8,715
Arizona	4	2,350
Utah	10	5,505
Nevada	9	3,610
Idaho	13	7,933
Washington	78	36,709
Oregon	62	22,058
California	136	89,485

Mr. FOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 35 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for reproducing plats of surveys destroyed at San Francisco—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of the Navy submitting an estimate of appropriation for arms, equipage, etc., of the Marine Corps, to replace similar articles destroyed at San Francisco—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of War submitting an estimate of appropriation for State and Territorial homes for disabled soldiers and sailors—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Attorney-General submitting an estimate of appropriation for jails in Alaska—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for rent of temporary offices for the General Land Office—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the harbor and approaches to St. Louis, Mo.—to the Committee on Rivers and Harbors, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 5890) to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee, reported the same without amendment, accompanied by a report (No. 3793); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5891) to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee, reported the same without amendment, accompanied by a report (No. 3794); which said bill and report were referred to the House Calendar.

Mr. LITTLE, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 18328), to regulate the practice in certain civil and criminal cases in the western district of Arkansas, reported the same without amendment, accompanied by a report (No. 3795); which said bill and report were referred to the House Calendar.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18532) to authorize the Kansas City, St. Joseph and Excelsior Springs Railway Company to construct a bridge across the Missouri River, reported the same with amendment, accompanied by a report (No. 3796); which said bill and report were referred to the House Calendar.

Mr. LITTLEFIELD, from the Committee on the Judiciary, to which was referred the bill of the House H. R. 18436, reported in lieu thereof a bill (H. R. 18964) to define and limit the immunity provisions of the Statutes of the United States, accompanied by a report (No. 3797); which said bill and report were referred to the House Calendar.

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 5572) to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States, reported the same without amendment, accompanied by a report (No. 3798); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 394) granting an increase of pension to Amanda Lucas, reported the same without amendment, accompanied by a report (No. 3720); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 442) granting an increase of pension to Francis Colton, reported the same without amendment, accompanied by a report (No. 3721); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 522) granting an increase of pension to Emma Worrall, reported the same without amendment, accompanied by a report (No. 3722); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 557) granting an increase of pension to Mariot Losure, reported the same without amendment, accompanied by a report (No. 3723); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 678) granting an increase of pension to Albert Butler, reported the same without amendment, accompanied by a report (No. 3724); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 869) granting an increase of pension to Baltzar Mowan, reported the same without amendment, accompanied by a report (No. 3725); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 993) granting an increase of pension to Samuel J. Langdon, reported the same without amendment, accompanied by a report (No. 3726); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1508) granting an increase of pension to James A. Murch, reported the same without amendment, accompanied by a report (No. 3727); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions to which was referred the bill of the Senate (S. 1513) granting an increase of pension to Harriett A. Rawles, reported the same without amendment, accompanied by a report (No. 3728); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 1705) granting an increase of pension to Lewis S. George, reported the same without amendment, accompanied by a report (No. 3729); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2043) granting an increase of pension to Andrew H. Wolf, reported the same without amendment, accompanied by a report (No. 3730); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2467) granting an increase of pension to Martin Clark, reported the same without amendment, accompanied by a report (No. 3731); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2851) granting an increase of pension to George Chambers, reported the same without amendment, accompanied by a report (No. 3732); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2978) granting an increase of pension to Eli W. Knowles, reported the same without amendment, accompanied by a report (No. 3733); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3033) granting an increase of pension to Aaron F. Patten, reported the same without amendment, accompanied by a report (No. 3734); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3040) granting a pension to Mary C. Wilsey, reported the same without amendment, accompanied by a report (No. 3735); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3219) granting an increase of pension to Joseph M. Allison, reported the same without amendment, accompanied by a report (No. 3736); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3271) granting an increase of pension to Margarette E. Brown, reported the same without amendment, accompanied by a report (No. 3737); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3299) granting an increase of pension to Spencer C. Stilwill, reported the same without amendment, accompanied by a report (No. 3738); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3483) granting an increase of pension to William L. Sheaff, reported the same without amendment, accompanied by a report (No. 3739); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3485) granting an increase of pension to Mathias Hammes, reported the same without amendment, accompanied by a report (No. 3740); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3797) granting an increase of pension to Ahimaaz E. Wood, reported the same without amendment, accompanied by a report (No. 3741); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3798) granting an increase of pension to Charles Farrel, reported the same without amendment, accompanied by a report (No. 3742); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4005) granting an increase of pension to Michael Quill, reported the same without amendment, accompanied by a report (No. 3743); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4048) granting an increase of pension to Henry S. Knecht, reported the same without amendment, accompanied by a report (No. 3744); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4175) granting an increase of pension to John Caverly, reported the same without amendment, accompanied by a report (No. 3745); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4177) granting an increase of pension to Harlan P. Cobb, reported the same without amendment, accompanied by a report (No. 3746); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4239) granting an increase of pension to Job Rice, reported the same without amendment, accompanied by a report (No. 3747); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4358) granting an increase of pension to Thomas McCormick, reported the same without amendment, accompanied by a report (No. 3748); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4361) granting an increase of pension to John W. Daley, reported the same without amendment, accompanied by a report (No. 3749); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4401) granting an increase of pension to George W. Tomlinson, reported the same without amendment, accompanied by a report (No. 3750); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4457) granting an increase of pension to Louis A. Tyson, reported the same without amendment, accompanied by a report (No. 3751); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4460) granting an increase of pension to Ann J. Thompson, reported the same without amendment, accompanied by a report (No. 3752); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4525) granting an increase of pension to David Oglevie, reported the same without amendment, accompanied by a report (No. 3753); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5247) granting an increase of pension to Jacob Wigal, reported the same without amendment, accompanied by a report (No. 3754); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5163) granting an increase of pension to John Marah, reported the same without amendment, accompanied by a report (No. 3755); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5082) granting an increase of pension to David N. Winsell, reported the same without amendment, accompanied by a report (No. 3756); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5054) granting an increase of pension to George H. Woodard, reported the same without amendment, accompanied by a report (No. 3757); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4796) granting an increase of pension to Lorinda J. White, reported the same without amendment, accompanied by a report (No. 3758); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4752) granting an increase of pension to Thomas J. Tidswell, reported the same without amendment, accompanied by a report (No. 3759); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4718) granting an increase of pension to George W. Gilson, reported the same without amendment, accompanied by a report (No. 3760); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4692) granting an increase of pension to Adaline M. Thornton, reported the same without amendment, accompanied by a report (No. 3761); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4665) granting an increase of pension to Lewis Du Bois, reported the same without amendment, accompanied by a report (No. 3762); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4569) granting an increase of pension to Augustus A. Nevins, reported the same without amendment, accompanied by a report (No. 3763); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5343) granting an increase of pension to Ernest H. Wardwell, reported the same without amendment, accompanied by a report (No. 3764); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5259) granting an increase of pension to William H. Ward, reported the same without amendment, accompanied by a report (No. 3765); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5379) granting an increase of pension to Otto A. Risum, reported the same without amendment, accompanied by a report (No. 3766); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5492) granting an increase of pension to Joseph F. Tebbetts, reported the same without amendment, accompanied by a report (No. 3767); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5504) granting an increase of pension to Joseph Dickson, reported the same without amendment, accompanied by a report (No. 3768); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5516) granting an increase of pension to Alfred M. Hamlen, reported the same without amendment, accompanied by a report (No. 3769); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5522) granting an increase of pension to Charles E. Sischo, reported the same without amendment, accompanied by a report (No. 3770); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5523) granting an increase of pension to Thomas J. Pickett, reported the same without amendment, accompanied by a report (No. 3771); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5532) granting an increase of pension to Simon A. Snyder, reported the same without amendment, accompanied by a report (No. 3772); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5539) granting an increase of pension to Hermann Muehlberg, reported the same without amendment, accompanied by a report (No. 3773); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5562) granting an increase of pension to John Hull, reported the same without amendment, accompanied by a report (No. 3774); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5571) granting an increase of pension to Betsey B. Whitmore, reported the same without amendment, accompanied by a report (No. 3775); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5579) granting an increase of pension to Henry T. Sisson, reported the same without amendment, accompanied by a report (No. 3776); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5603) granting a pension to Kate S. Hutchings, reported the same without amendment, accompanied by a report (No. 3777); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5631) granting an increase of pension to Isaac M. Howard, reported the same without amendment, accompanied by a report (No. 3778); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5640) granting an increase of pension to Clinton B. Wintersteen, reported the same without amendment, accompanied by a report (No. 3779); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5641) granting an increase of pension to John W. Fletcher, reported the same without amendment, accompanied by a report (No. 3780); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5658) granting an increase of pension to Nancy Pruit, reported the same without amendment, accompanied by a report (No. 3781); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5668) granting an increase of pension to George P. Sealey, reported the same without amendment, accompanied by a report (No. 3782); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5671) granting an increase of pension to Richard L. Delong, reported the same without amendment, accompanied by a report (No. 3783); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5673) granting an increase of pension to Hilton Springsteed, reported the same without amendment, accompanied by a report (No. 3784); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5680) granting an increase of pension to Thomas J. Bowser, reported the same without amendment, accompanied by a report (No. 3785); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5702) granting an increase of pension to Anna C. Bingham, reported the same without amendment, accompanied by a report (No. 3786); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5704) granting an increase of pension to Ruth P. Pierce, reported the same without amendment, accompanied by a report (No. 3787); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5735) granting an increase of pension to Andrew D. Danley, reported the same without amendment, accompanied by a report (No. 3788); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5736) granting an increase of pension to Mary Clark, reported the same without amendment, accompanied by a report (No. 3789); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5754) granting a pension to Hannah McCarty, reported the same without amendment, accompanied by a report (No. 3790); which said bill and report were referred to the Private Calendar.

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5780) granting a pension to Lorenzo E. Johnson, reported the same without amendment, accompanied by a report (No. 3791); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4983) granting an increase of pension to John M. Farquhar, reported the same without amendment, accompanied by a report (No. 3792); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BARTHOLDT: A bill (H. R. 18960) to revise and amend the statutes relating to patents—to the Committee on Patents.

By Mr. ESCH: A bill (H. R. 18961) to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon—to the Committee on Interstate and Foreign Commerce.

By Mr. MOON of Tennessee: A bill (H. R. 18962) to authorize the Secretary of War to grant a permit to construct and operate an electric railway through the Chattanooga and Chickamauga National Military Park—to the Committee on Military Affairs.

By Mr. JONES of Washington: A bill (H. R. 18963) authorizing the construction of a dam across the Pend d'Oreille River, in the State of Washington, by the Pend d'Oreille Development Company, for the development of water power, electrical power, and for other purposes—to the Committee on Interstate and Foreign Commerce.

By Mr. LITTLEFIELD, from the Committee on the Judiciary: A bill (H. R. 18964) to define and limit the immunity provisions of the Statutes of the United States—to the House Calendar.

By Mr. SOUTHWICK: A resolution (H. Res. 418) authorizing the Clerk of the House to pay to certain House employees a specified sum of money—to the Committee on Accounts.

By Mr. LITTLEFIELD: A resolution (H. Res. 419) authorizing the Committee on Expenditures in the Department of Agriculture to make an examination into the expenditures of that Department—to the Committee on Accounts.

By Mr. GREGG: A resolution (H. Res. 420) asking the Secretary of State for information in regard to the seizure of the fishing schooner *Lizzie B. Adams*, and the arrest and imprisonment of her crew—to the Committee on Foreign Affairs.

By Mr. McLAIN: A memorial from the legislature of the State of Mississippi memorializing the Congress of the United States to endeavor to create a broader market for cotton and cotton goods—to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ALEXANDER: A bill (H. R. 18965) to correct the naval record of George W. Bone—to the Committee on Naval Affairs.

Mr. BARTLETT: A bill (H. R. 18966) granting a pension to John W. Ward—to the Committee on Pensions.

By Mr. BEIDLER: A bill (H. R. 18967) granting an increase of pension to Daniel W. Brumbaugh—to the Committee on Invalid Pensions.

By Mr. BELL of Georgia: A bill (H. R. 18968) granting a pension to Vance Perkins—to the Committee on Pensions.

By Mr. BENNET of New York: A bill (H. R. 18969) granting an increase of pension to Herman Hagemiller—to the Committee on Invalid Pensions.

By Mr. BONYNGE: A bill (H. R. 18970) granting a pension to William A. Johnson—to the Committee on Pensions.

Also, a bill (H. R. 18971) granting a pension to Alice Norton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18972) granting an increase of pension to Vinton G. Holliday—to the Committee on Invalid Pensions.

By Mr. BOUTELL: A bill (H. R. 18973) granting a pension to William Steers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18974) granting an increase of pension to Minna Hildebrand—to the Committee on Invalid Pensions.

By Mr. COCKS: A bill (H. R. 18975) granting an increase of pension to William S. Myton—to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 18976) granting an increase of pension to Nelson S. Preston—to the Committee on Invalid Pensions.

By Mr. CURTIS: A bill (H. R. 18977) granting an increase of pension to James Mulligan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18978) granting an increase of pension to Charles A. Goodwin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18979) granting an increase of pension to Ophelia C. Baldwin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18980) granting an increase of pension to John Durner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18981) granting an increase of pension to N. E. Murphy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18982) granting an increase of pension to Timothy O'Neil—to the Committee on Invalid Pensions.

By Mr. DAVIDSON: A bill (H. R. 18983) granting an increase of pension to Nathan B. Prentice—to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 18984) for the relief of James H. Hooe—to the Committee on War Claims.

Also, a bill (H. R. 18985) granting a pension to Samuel T. Jones, alias Thomas Jenkins—to the Committee on Pensions.

By Mr. DWIGHT: A bill (H. R. 18986) granting an increase of pension to Manning Austin—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 18987) granting an increase of pension to Augustus K. Ryno—to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 18988) granting an increase of pension to Giles E. Fellows—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18989) granting an increase of pension to Henry B. Peacock—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: A bill (H. R. 18990) for the relief of the Fykes Grove Primitive Baptist Church, of Sulphur Fork, Robertson County, Tenn.—to the Committee on War Claims.

By Mr. GREENE: A bill (H. R. 18991) granting an increase of pension to Catherine Cochrane—to the Committee on Pensions.

Also, a bill (H. R. 18992) granting an increase of pension to George H. Rock—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18993) granting an increase of pension to James Shaw—to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 18994) for the relief of G. B. Poteet, administrator of the estate of Aguilla Swann, deceased—to the Committee on War Claims.

By Mr. HASKINS: A bill (H. R. 18995) granting a pension to Lucy Skinner—to the Committee on Pensions.

By Mr. JONES of Virginia: A bill (H. R. 18996) for the relief of the estate of Robert R. Berry, deceased—to the Committee on War Claims.

By Mr. LEVER: A bill (H. R. 18997) granting an increase of pension to Josephine Hardester—to the Committee on Pensions.

By Mr. LITTLEFIELD: A bill (H. R. 18998) granting an increase of pension to Robert Hanly, 2d—to the Committee on Invalid Pensions.

By Mr. LIVINGSTON: A bill (H. R. 18999) granting an increase of pension to Harry C. McCool—to the Committee on Pensions.

By Mr. McLAIN: A bill (H. R. 19000) for the relief of the estate of Emanuel M. Solari, deceased—to the Committee on War Claims.

Also, a bill (H. R. 19001) granting an increase of pension to Elizabeth A. McKay—to the Committee on Pensions.

By Mr. MACON: A bill (H. R. 19002) to correct the military record of Thomas P. Allmond—to the Committee on Military Affairs.

By Mr. MAHON: A bill (H. R. 19003) for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the Bowman Act, and to provide for the payment of French spoliation claims recommended by the Court of Claims, under the provisions of the acts approved January 20, 1885, and March 3, 1891, and for other purposes—to the Committee on War Claims.

By Mr. MOON of Tennessee: A bill (H. R. 19004) granting a pension to Sarah J. Watson, or Hunter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19005) granting a pension to Gideon M. Burriss—to the Committee on Invalid Pensions.

By Mr. PUJO: A bill (H. R. 19006) for the relief of Adolph Hartiens, tutor—to the Committee on War Claims.

By Mr. REYNOLDS: A bill (H. R. 19007) granting an increase of pension to John C. Sparks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19008) granting an increase of pension to Stacy Hoon—to the Committee on Invalid Pensions.

By Mr. RHINOCK: A bill (H. R. 19009) granting an increase of pension to Lafayette H. McClung—to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 19010) granting an increase of pension to Charles Edwards—to the Committee on Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 19011) granting an increase of pension to E. K. Childs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19012) granting an increase of pension to A. P. Glaspie—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19013) granting an increase of pension to Charles F. Robinson—to the Committee on Invalid Pensions.

By Mr. SOUTHWICK: A bill (H. R. 19014) granting an increase of pension to Elizabeth A. Waller—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 19015) for the relief of the heirs of J. A. J. Rooker, deceased, and James Deatherage, administrator of estate of deceased—to the Committee on War Claims.

Also, a bill (H. R. 19016) granting a pension to Mary Wehrmann—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of the Methodist Protestant Church of New Brighton, Pa., for Sunday closing of the Jamestown Exposition—to the Select Committee on Industral Arts and Expositions.

By Mr. BARTHOLDT: Petition of citizens, against conditions existing in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. BELL of Georgia: Paper to accompany bill for relief of John S. Dillard—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Swinfield Stanley—to the Committee on Invalid Pensions.

By Mr. BENNET of New York: Paper to accompany bill for relief of William Winslow Bennett—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Herman Hage Miller—to the Committee on Invalid Pensions.

By Mr. BUTLER: Petition of G. Albert Hinksay, Louis A. Green, and Grange No. 851, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. CURRIER: Petition of citizens of the State of New Hampshire, against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. DRISCOLL: Petition of citizens of New York, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FOSTER of Vermont: Petition of the Amalgamated Association of Street and Electric Railway Employees of America, for retention of the present Chinese-exclusion law—to the Committee on Foreign Affairs.

By Mr. FULLER: Petition of the Negro Development and Exposition Company of the United States of America, for an appropriation relative to said company's exhibit at the Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

Also, petition of S. R. Taber, against bill S. 5538, relative to superintendence of Indian affairs in Alaska—to the Committee on the Territories.

Also, petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills)—to the Committee on the District of Columbia.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of the Fykes Grove Primitive Baptist Church—to the Committee on War Claims.

By Mr. GARDNER of New Jersey: Petitions of Fames, Linwood, Social, Goshen, Harmony, Beach, American Star, Purity, Tuckahoe, and Washington Councils, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Rules.

Also, petition of Washington Camps, Patriotic Order Sons of America, of Atlantic City and Pemberton, N. J., favoring restriction of immigration—to the Committee on Rules.

Also, petition of Mary J. Hunt Council, Daughters of Liberty, of Millville, N. J., favoring restriction of immigration—to the Committee on Rules.

By Mr. GOULDEN: Petition of members of St. Luke Council, No. 438, Knights of Columbus, for a memorial of Christopher Columbus—to the Committee on the Library.

By Mr. GRANGER: Petition of Rhode Island Chapter of the American Institute of Architecture, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. GUDGER: Paper to accompany bill for relief of the estate of Aquilla Swan—to the Committee on War Claims.

By Mr. JONES of Virginia: Paper to accompany bill for relief of estate of Robert R. Berry—to the Committee on Claims.

By Mr. KENNEDY of Nebraska: Paper to accompany bill for relief of Mary A. Peterson—to the Committee on Invalid Pensions.

By Mr. LAMB: Petition of St. Andrew's School, Richmond, Va., for the Burton bill (H. R. 18024) for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. LEVER: Paper to accompany bill for relief of Mina A. Boswell—to the Committee on Pensions.

By Mr. LIVINGSTON: Paper to accompany bill for relief of Harry C. McCool—to the Committee on Pensions.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of Sarah J. Watson—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of estate of Washington Pryor—to the Committee on War Claims.

By Mr. MUDD: Paper to accompany bill for relief of Frederick A. Holden—to the Committee on War Claims.

By Mr. PAYNE: Paper to accompany bill for relief of Charles Koester—to the Committee on Military Affairs.

By Mr. PUJO: Petition of the Society for Political Study, of New York City, for bills S. 2962 and 50 and H. R. 4462 (child labor and children's bureau)—to the Committee on the District of Columbia.

By Mr. REYNOLDS: Petition of the Civic Club of Cambria County, of Johnstown, Pa., against repeal of the Norris law relative to forest reservations—to the Committee on Agriculture.

By Mr. RHINOCK: Paper to accompany bill for relief of Lafayette H. McLeary—to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: Petition of citizens of Genesee County, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Local No. 303, American Federation of Musicians, C. A. Bush, jr., president, for bill H. R. 8748 for relief of civilian musicians—to the Committee on Naval Affairs.

By Mr. SPERRY: Petition of professors and students of Yale University, favoring consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. STEPHENS of Texas: Petition of citizens of Texas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULLIVAN of New York: Petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 and S. 2762—to the Committee on the District of Columbia.

By Mr. SULZER: Petition of Gen. Green B. Raum, L. A. Grant, C. D. Macdougall, and Samuel J. Crawford, for bill S. 2162, creating a volunteer retired list—to the Committee on Military Affairs.

Also, petition of the Frankfort Business Men's Club, against amendments to the pure-food bill calculated to impair its efficiency—to the Committee on Interstate and Foreign Commerce.

By Mr. WANGER: Petition of Washington Camp, No. 331, Patriotic Order Sons of America, of Edge Hill, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May 5, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

FIVE CIVILIZED TRIBES.

Mr. CURTIS. Mr. Speaker, I ask unanimous consent for the reprint of Public Law No. 129, entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes."

The SPEAKER. The gentleman from Kansas asks unanimous consent for a reprint of the public law designated. Is there objection?

There was no objection.

LEAVE TO PRINT.

Mr. BUTLER of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks on the naval appropriation bill in the RECORD.

The SPEAKER. The gentleman from Pennsylvania [Mr. BUTLER] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 6022. An act to amend section 6 of an act entitled "An act to define and fix the standard of value, to maintain the parity

of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," approved March 14, 1900; and

S. 5943. An act to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6022. An act to amend section 6 of an act entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," approved March 14, 1900—to the Committee on Coinage, Weights, and Measures.

LAND WITHIN FOREST RESERVES.

The SPEAKER laid before the House the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves, with Senate amendments.

The Senate amendments were read.

The SPEAKER also laid before the House the following request from the Senate:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves.

Mr. LACEY. Mr. Speaker, I move that the request of the Senate be granted.

The question was taken; and the motion was agreed to.

BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY.

The SPEAKER. The Chair appoints the following Board of Visitors to the United States Military Academy:

Mr. HOLLIDAY of Indiana; Mr. SAMUEL W. SMITH, of Michigan, and Mr. WILEY of Alabama.

BOARD OF VISITORS TO THE UNITED STATES NAVAL ACADEMY.

The SPEAKER. The Chair appoints the following Board of Visitors to the United States Naval Academy:

Mr. ROBERTS of Massachusetts, Mr. LILLEY of Connecticut, and Mr. GREGG of Texas.

ASSISTANT CLERK TO COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE.

Mr. CASSEL. Mr. Speaker, I offer the following resolution from the Committee on Accounts, and ask that the substitute be read.

The SPEAKER. The gentleman from Pennsylvania presents the following privileged report from the Committee on Accounts.

The Clerk read as follows:

Resolved, That the chairman of the Committee on Interstate and Foreign Commerce is hereby authorized to appoint an additional clerk to said committee, who shall be paid out of the contingent fund of the House at the rate of $1,800 per annum from and after July 1, 1906, unless otherwise provided for by law, and the Committee on Appropriations is hereby authorized and directed to provide for the salary of said clerk in one of the general appropriation bills: *Provided*, That the same shall be in lieu of the assistant session clerk to said committee authorized by House resolution adopted December 19, 1905.

Mr. CLARK of Missouri. I would like to ask the gentleman what necessity there is for this additional clerk.

Mr. CASSEL. This is not an additional clerk, but is making the assistant clerk an annual clerk, instead of being appointed from time to time by the committee.

Mr. CLARK of Missouri. What difference does it make to the Treasury?

Mr. CASSEL. It makes a difference of about $300 a year; probably more.

Mr. CLARK of Missouri. How much?

Mr. CASSEL. Between three and four hundred dollars a year, I understand. This makes the salary $1,800 a year, and at the present time it is $6 a day during the session of Congress.

Mr. CLARK of Missouri. They do not have any use for an assistant clerk when the committee is not in session, do they?

Mr. CASSEL. The chairman of the committee will explain.

Mr. HEPBURN. Mr. Speaker, I wish to say in regard to this matter that there is a great deal of business before this committee. There is a great deal of correspondence with individuals during the session and during the interval between sessions. Therefore I think it is a wise thing to make provision for two clerks, and any gentleman on the other side who is familiar with the work of the committee will know that it is a proper thing.

Mr. BARTLETT. Will the gentleman yield to me?

Mr. HEPBURN. I will refer the matter to the gentleman from Georgia.

Mr. BARTLETT. This is a report from the Committee on Accounts. If it be recalled, the Committee on Appropriations, in the legislative, judicial, and executive appropriation bill, after investigation, made provision for this identical assistant clerk in the way this resolution does, and it went out on a point of order. Being a member of the Committee on Interstate and Foreign Commerce, I am satisfied that this resolution ought to pass. I want to say, to the credit of the gentleman from Iowa, who asked for it, that he has been more modest in asking for assistance from the Committee on Accounts than the chairman of any committee I know of in the House; and, from my own knowledge of the business of that committee, I think the resolution ought to pass. The assistant clerk is needed. The committee is considering and investigating a large amount of business, larger probably than it ever did before, and in connection with that, I desire to say that I investigated the matter in the Committee on Accounts, and voted for it in that committee. I think it ought to pass.

Mr. SHACKLEFORD. I am quite familiar with the amount of work done in that committee, and, speaking from my own knowledge, I believe that we ought to adopt this resolution. I think the clerk is absolutely needed to do the work.

The substitute was agreed to.

The resolution as amended was agreed to.

CLERK TO COMMITTEE ON PATENTS.

Mr. CASSEL. I submit the following report from the Committee on Accounts.

The clerk read as follows:

House resolution No. 405.

Resolved, That the chairman of the Committee on Patents is hereby authorized to appoint a clerk to said committee, who shall be paid out of the contingent fund of the House at the rate of $2,000 per annum from and after July 1, 1906, unless otherwise provided for by law; and the Committee on Appropriations is hereby authorized and directed to provide for the salary of said clerk in one of the general appropriation bills: *Provided*, That the same shall be in lieu of the session clerk assigned to said committee.

The resolution was greed to.

CLERK IN HOUSE DOCUMENT ROOM.

Mr. CASSEL. Mr. Speaker, I report another resolution.

The Clerk read as follows:

House resolution No. 398.

Resolved, That the Doorkeeper of the House is hereby authorized and directed to appoint a clerk to perform such duties under the direction of the superintendent of the House document room as may be required, to be paid out of the contingent fund of the House until the end of the present fiscal year at the rate of $1,400 per annum, and the Committee on Appropriations is hereby directed to provide for the salary of said clerk in one of the general appropriation bills: *Provided*, That the position hereby created shall be in lieu of that of one assistant in the House document room at $1,400 per annum now provided for by law.

The question was taken; and the resolution was agreed to.

MACHINIST IN HEATING AND VENTILATING DEPARTMENT.

Mr. CASSEL. I present another report, Mr. Speaker.

The Clerk read as follows:

House resolution No. 364.

Resolved, That the Superintendent of the Capitol Building and Grounds is hereby authorized to employ a machinist in the heating and ventilating department of the House of Representatives, whose compensation shall be $1,200 per annum, said position to be in lieu of that of one fireman at $900 per annum, the difference in salary until the close of the present fiscal year to be paid out of the contingent fund of the House to the person who shall perform the duties of the position of machinist hereby created. And the Committee on Appropriations is hereby authorized to make further provision hereunder from and after July 1, 1906, in the legislative, executive, and judicial appropriation bill.

The amendment recommended by the committee was read, as follows:

In lines 12 and 13 strike out the words "the legislative, executive, and judicial appropriation bill" and insert "one of the general appropriation bills."

Mr. CLARK of Missouri. Is this a permanent officer you are creating, or not?

Mr. CASSEL. It is not. This is a remarkable resolution, I want to say. This employee does not know, I believe, there is a resolution presented. He has occupied this position for a number of years. He occupies a very responsible position, and some of the Members of the House felt that he should be placed upon the same salary as the men who run the elevators.

Mr. CLARK of Missouri. What do you want with anybody to attend to the heating apparatus from now to the end of this session?

Mr. CASSEL. It is changing his position and increasing his salary, that is all. He has charge of the elevators.

Mr. CLARK of Missouri. Better be fixing up some cooling apparatus.

Mr. GOULDEN. This simply increases the salary of this man from $900 to $1,200 a year. He is a most efficient mechanic, one who could obtain this compensation anywhere else in a like position. Holding a responsible place and being a first-class man in every respect, he is clearly entitled to this recognition.

The question was taken; and the amendment was agreed to.

The resolution was agreed to.

ASSISTANT TO THE FILE CLERK OF THE HOUSE.

Mr. CASSEL. Mr. Speaker, I present House resolution No. 401 for consideration.

The Clerk read as follows:

Resolved, That the Clerk of the House is hereby authorized and directed to appoint an assistant to the file clerk of the House of Representatives, whose compensation shall be $1,600 per annum, to be paid out of the contingent fund of the House until otherwise provided for by law; and the Committee on Appropriations is hereby authorized and directed to provide for the salary of said office in one of the general appropriation bills: *Provided*, That said office shall be in lieu of the office of assistant to the file clerk of the House, at $1,200 per annum, now authorized by law.

The following committee amendment was read:

In line 4 strike out the word "six" and insert the word "five," so that it shall read "$1,500 per annum."

The amendment was agreed to.

The resolution was agreed to.

EXPENSES OF SUBCOMMITTEE OF COMMITTEE ON NAVAL AFFAIRS.

Mr. CASSEL. Mr. Speaker, I call up House resolution No. 410.

The Clerk read as follows:

Resolved, That the expenses incurred by the subcommittee of the Committee on Naval Affairs, which visited the Naval Academy during the present session, to investigate hazing, including stenographic services, be paid out of the contingent fund on vouchers duly certified by the chairman of said subcommittee and approved by the Committee on Accounts.

The following committee amendment was read:

In line 5, after the word "fund," insert the words "of the House," so that it shall read, "be paid out of the contingent fund of the House."

The amendment was agreed to.

The resolution was agreed to.

On motion of Mr. CASSEL, a motion to reconsider the vote whereby the several resolutions were passed was laid on the table.

REPRINT OF REPORT ON NAVAL BILL.

Mr. FOSS. Mr. Speaker, owing to the fact that the supply of reports on the naval appropriation bill have become exhausted I ask unanimous consent that there be a reprint of the same with corrections.

The SPEAKER. The gentleman from Illinois asks unanimous consent for a reprint of the report (No. 3639) on the naval appropriation bill. Is there objection?

There was no objection.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. CRUMPACKER in the chair.

Mr. MEYER. Mr. Chairman, I now yield thirty minutes to the gentleman from South Carolina [Mr. JOHNSON].

Mr. JOHNSON. Mr. Chairman, as I do not believe in gatling-gun Christianity and battle-ship commerce, it is perhaps an opportune time to express my disapproval of our present policy. More than a quarter of a century ago I gave this subject some thought and consideration. I came to the conclusion that there ought to be an international tribunal, clothed with power to hear and determine controversies between nations, just as courts hear and determine controversies between individuals. I was filled with the hopes of youth. As the years have passed, many of the fond ideals of youth have been shattered; but, sir, with the passing years, and with riper experience and a deeper and a broader grasp of human affairs, the conviction that great international questions should be settled in the forums of conscience and in the forums of reason rather than by the arbitrament of the sword, has grown stronger.

I discovered, when I had this matter under consideration, that the nations of the earth were engaged in one constant, never-ending struggle to increase their naval and military strength. One nation, impelled by the desire not to be outdone by some rival nation, goes forward building new and greater battle ships and equipping new and other regiments. The rival nation is compelled to pursue a similar course. Thus, year after year, the nations of the earth increase their naval and military strength, because their rivals are engaged in the same mad game of folly. What is the result of all of it? At the end of five, or ten, or twenty years the nations have not changed materially their relative strength. They simply move like death, that comes to the cottage of the rich and the poor with equal pace. Even now Great Britain is engaged in building the *Dreadnought*, the most powerful monster of human destruction that has ever been built by man. Germany, in order not to be excelled, has decided to change the type of some of the battle ships heretofore authorized and build them of the type of the *Dreadnought*.

It is said in the report of the Naval Committee on this bill that Japan, the Yankee nation of the Far East, quick to learn, is engaged in building three great battle ships of this type, and the Secretary of the Navy in his recommendation to Congress urges this body that if but one battle ship shall be provided for it shall be the greatest that has ever been constructed.

What will be the end of this game of folly? When Great Britain, and France, and Germany, and Italy, and Japan, and the United States shall each have six or a dozen of the *Dreadnought* type, their relative position toward one another will be just the same as it was when they had none. Since the beginning of the construction of what is called the new navy we have spent in building ships $252,272,667. The ships already authorized and not yet completed will cost $52,429,629 more, making an expenditure of $304,702,000 since 1883 in the construction of monsters of human destruction. The ships under construction when completed will require about 24,000 more men and officers, making the entire naval force about 60,000. What is the game as we see it played? The United States builds a battle ship with armor that no gun will pierce. It forthwith proceeds, out of the tax money of the people, to construct a gun that will pierce any armor. Other nations are engaged in like conduct.

Those who advocate this doctrine seem to be men of peace; they claim that the preparation for war is the best preventive of war. I deny the proposition. "You may as well go out into the highways and hedges and tell men that the best way to prevent personal encounters and personal violence is for each man to arm himself to the teeth. It is not true in fact, and it is not according to high Christian ideals." How can you expect to encourage peace when you engage in teaching men war, when you are making preparations for war by land and by sea? This is the greatest country on this globe. We are not great by reason of our wars, though I have not one word to say against the men who have fought our battles, whose deeds of daring have been told in song and story; but our greatness is due to the magnificence of our domain, to our splendid institutions, and to the magnificent citizenship of our men and women.

As the greatest nation in the world a responsibility rests upon us. The nations of the Old World, with their rivalries and jealousies of centuries, are suspicious of one another, but if this giant Republic out of the West shall propose to the nations of the earth to stop this mad game of folly, propose to quit building battle ships and monsters of human destruction, they will gladly join us. We not only have the opportunity, but it is our duty to speak, and that message should be spoken through the Chief Executive of our nation. He is a man of wonderful personality, of indomitable will power and ceaseless energy. If with his personal characteristics, coupled with the prestige of his great office, he will take the burden upon himself of asking the nations of the world to join in an agreement to stop further military and naval extensions, even if he can not get the consent of his mind to ask for disarmament itself, I believe that the nations of the world will gladly assent.

As was said yesterday by the learned and eloquent gentleman from Ohio [Mr. BURTON], when the men of history shall record the deeds of the present Executive of the United States the greatest event in that active life will be the fact that his personality and his great prestige brought together the representatives of Japan and Russia. He not only brought the representatives of those nations together, but he did more. He snatched victory out of the very jaws of defeat and secured a treaty that was satisfactory to the nations involved and to the world. When the great coal strike was on, with his marvelous energy and his wonderful personality he stepped in and settled that controversy when no other living man could do it, and he carried joy to millions of American citizens.

We pose, Mr. Chairman, as a Christian nation. If we live up to our profession, if we make the Decalogue a living reality in our national and international life, instead of an irridescent dream, we would lead the nations in this great movement for the peace of the world.

You tell me that you are compelled to increase your naval

power and that the whole past of human history is but the story of war and bloodshed. I answer, sir, that because men have been evil in the past is no reason for pursuing that mad course in the future. What we should do is to endeavor to lift up and make better the human race, instead of ourselves trying to excel all other nations in folly.

I plead, Mr. Chairman, for the peace of the world. I plead for the Christian nation of the earth to take the lead. Are we a Christian nation? When affliction and desolation were visited upon our fellow-citizens on the Pacific slope, the rich man out of his abundance and the widow out of her mite contributed to their relief. When will we come to the relief of our fellows, not only on the Pacific coast, but all over the wide, wide world? I plead, Mr. Chairman, for the overburdened taxpayers of all the countries of the earth. I plead for the men who bare their breasts to the storms of battle. I plead for the women, God bless them, who while they bear no arms, suffer all the agonies of war.

The maid who binds her warrior's sash,
With smile that well her pain dissembles,
The while beneath each drooping lash
One starry tear drop hangs and trembles,
Though heaven alone records the tear,
And fame shall never know her story,
Hath shed a drop of blood as dear
As e'er bedewed the field of glory.

The wife who girds her husband's sword,
'Mid little ones who weep and wonder,
And bravely speaks the parting word,
What though her heart be rent asunder;
Doomed nightly in her dreams to hear
The bolts of death around him rattle,
Has shed as precious blood as e'er
Was poured upon the field of battle.

I plead, Mr. Chairman, for all the people of all the earth to be relieved from this great unnecessary burden. I want this Christian nation to hasten the day spoken of by the prophet—

And they shall beat their swords into plowshares and their spears into pruning hooks, and nation shall not rise up against nation; neither shall they learn war any more.

[Applause.]

Mr. CLARK of Missouri. Mr. Chairman, I rise to a question of order. There is no quorum present.

The CHAIRMAN. The gentleman from Missouri makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and twenty Members are present, and the point of order is overruled.

Mr. FOSS. Mr. Chairman, I yield one hour to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Chairman, at the proper time I propose to offer an amendment to that section of the pending bill which provides for a new battle ship. My amendment reads as follows:

Provided, however, That if at the second Hague conference any measure should be agreed upon for the gradual reduction of the naval forces of the great powers, or for the settlement of international controversies by judicial decision and by means of arbitration treaties, the Secretary of the Navy shall have discretion to defer the construction of the ship herein provided for.

This amendment, Mr. Chairman, does not antagonize the present naval programme. It merely recognizes such conditions as may arise and enables the Government to defer to them. It refers, as I will show later on, to the judgment of statesmenship a question which from its very nature should be settled by statesmen and not by naval experts. It gives our Government the necessary discretion in case the agreements to be arrived at at the next Hague conference should render the construction of that additional large battle ship unnecessary. Its adoption will be hailed as a healthy exercise of the judgment of Congress, which is the people's judgment in matters of this kind. Naval budgets, as we all know, are manufactured in the shops of the Navy Department, and little or nothing is known there of the progress of the peace movement, at least no consideration whatever is given to such progress. We here do know, however, and in the judgment of many great Americans it is our bounden duty as representatives of the people to give heed to a changed condition which is presented by the willingness of all the great powers to join us in an effort soon to be made at The Hague at laying the foundation for more permanent peace. To me it has become perfectly plain, through contact with leading men of other nations, that the United States must take the lead in this great movement. The jealousies of European powers and their mutual distrust of each other do not permit any of them to proceed, but they are willing, aye, anxious, for obvious reasons, to join and follow us on the onward march to a higher civilization—a civilization where the tribunal instead of the sword will settle the questions of right and wrong. The adoption of the amendment which I shall offer will serve notice upon the world—and this is our only chance to serve such notice—that the Congress of the United States is in sympathy with the peace movement; that America expects actual results from the second Hague conference, and, if these results will justify it, that we are ready and willing to abide by them.

Mr. Chairman, with the permission of the committee, I shall improve this opportunity to briefly review the movement for international justice and world organization, and briefly outline the demands of the hour, upon which the friends of this movement, after mature thought and due discussion, have concentrated their efforts.

With the Roosevelt peace at Portsmouth—I hope it will go down into history by that name—the peace of the world was nominally reestablished. I say nominally not because the present peace is any less secure or any less sincere or in any way different from what the world has heretofore experienced—oh, no!—but I call it a nominal peace because it is the only kind of peace which, under present conditions, governments are capable of securing, and the only kind, by the way, which the human family in all its history has every been permitted to enjoy. In reality it is no peace at all, but merely an armistice—a temporary suspension of hostilities, with no guaranty or safeguard whatsoever as to its lasting qualities. The world has made progress in every respect but this. Human ingenuity has fettered the forces of nature; it has successfully guarded against their destructiveness, and has made them even serviceable to man. Human foresight by international agreement has guarded against epidemics and disease, but in the thousands of years of social evolution no effective remedy has as yet been provided against war, that self-inflicted and most terrible plague of the human race. Peace to-day is as changeable as the weather. It may be disturbed at any moment and upon the least provocation, and even by a single individual if that individual happens to be the ruler of a nation. What an intolerable condition! All countries have made it a law that the citizen or subject must have due regard for the rights of his neighbor—that is, he must keep the peace or the power of the State will make him do so; but the governments themselves have not yet seen fit to apply that same law to their own conduct toward each other. In internal affairs the power of all rulers, even of autocrats, is more or less circumscribed, but in a question of war or peace, that most momentous of all questions, involving, as it does, a greater risk of human happiness, of treasure, and of life than any other, the will of a ruler is usually arbitrary and supreme. And regarding that question the people are either not consulted at all or they can be easily fooled, duped, and deceived. For resourceful rulers it is not a difficult matter to inflame the passions of the people and incite their wrath by manipulation. A spurious telegram can set a nation on fire. When Bismarck was ready for the war with France, a telegram from Ems, that little watering place on the Rhine, announced that the German Emperor had been insulted, and in a moment the people of all the German States, divided though they had been, rose like one man and the "furor Teutonicus" was aroused.

Bismarck is reported to have said in great emergencies such means are justifiable to arouse the patriotism, the enthusiasm, and the war spirit of the people. Even in a country like ours, where the power to declare war is reserved to the National Legislature, the security of the people against deception is not absolute. Have they or their representatives full knowledge of all that is going on in the State Department? Is it outside of the range of possibility that party leaders, in order to perpetuate their power, might incite a foreign war by manipulation? Fortunately in our country this has never been attempted, but human nature is the same everywhere, and a system which is left unrestrained by law or by binding international obligations is sure to constantly invite the attempt. The history of Europe tells us of many a war frivolously and criminally begun by rulers, because of the discontent of the people and in order to turn their attention from home grievances to an alleged foreign foe. If in such cases there was no casus belli it had to be invented and was invented. Thus the people's peace, which from the standpoint of human interest, should be the strongest and most secure institution, is really the weakest and most insecure. And why? Because in spite of the boasted civilization of the twentieth century the nations have up to this day failed to substitute for a state of international anarchy a system of international law and order. With this chapter alone and to show how the people, the dear, good, credulous masses, have been fooled and deceived, I could take up all the time allotted to me, but I must hurry on with my argument. I have shown the uncertainty of peace or rather of the armed interim between the armed conflicts which people are wont to call peace. Now, let me say a word about the cost of this kind of peace. Before the Franco-German war the

military budgets of Europe amounted to about $585,000,000 a year. In 1893 they were double that amount.

Mr. DRISCOLL. Does that include the naval budgets, too?

Mr. BARTHOLDT. That included both. Now their total is more than $1,400,000,000. In 1889 Lord Salisbury, by means of a confidential circular, ascertained the expenses of the armies and navies of Great Britain, Germany, Austria, Russia, Italy, and Spain for the years 1881 to 1888—that is, for seven years—to be £974,000,000, or nearly $5,000,000,000. The British prime minister transmitted these figures to the German Emperor who, as report has it, was so shocked by them as to immediately declare his intention of convening an international congress to consider measures of relief, but at that time France objected, and the project of a congress fell through. You are aware, of course, that our own expenses for the military and naval establishments have been at least doubled since the Spanish-American war, and these enormous expenditures, mind you, go constantly on; aye, they are constantly increasing. When nation A builds a battle ship, nation B builds two, and then the government of nation A points to its neighbor and asks the people to furnish means for three or four more, and so on, each successive appropriation begetting the necessity of an additional one, and no one can tell when and where the mad rivalry will ever stop. Evidently it will be carried to that extreme limit where mutual exhaustion and general collapse will be the inevitable result. Let me say right here, a peace which exacts such sacrifices should not be dignified with that name. In reality it is a state of suspended war rather than peace, with the characteristics of more suspense than peace.

To substitute for this costly and uncertain peace a condition of genuine lasting peace, a condition which embodies a law for its continuance and permanence is the sum and substance, the alpha and omega, of the modern peace movement.

And this leads me naturally to the discussion of the measures necessary to attain this end. Great progress has been made of late in the matter of bringing the problem down from the cloudy domain of theory and speculative thought to the solid ground of practical statesmanship. But let me premise a few words about the obstacles in the way of this greatest of all reforms and about the elements of opposition.

Victor Hugo once said that peace is the virtue, war the crime, of civilization. If this be true, and I certainly hold it to be true, then it should be the duty of every good man and woman to help promote the cause of peace in order that virtue might be enthroned upon the ruins of crime. Way down deep in their hearts the majority of people no doubt believe in the merits of the peace movement, but there are many who still doubt its final success, and these "doubting Thomases" constitute unknowingly the greatest possible impediment to the progress of the movement. In this class should also be included those who from prejudice or false notions glorify war as an exhibition of manliness and heroism, such as should be the boast of proud nations. Reduced to its last analysis, this theory would hold up the maddened bull in the bloody arena as the proper idol for us to worship. As if there was not more real heroism displayed in everyday life than there ever was in war!

To strike a blow in wrath is simply the operation of animal passion. But to manfully restrain that natural passion, even under provocation, is the result of human reasoning. If civilization means anything aside from the mere technical achievements, it is self-restraint, and the degree in which it is practiced is the measure of our culture. This self-restraint, I hold, should be practiced by nations as well as by individuals. And this lesson should be taken to heart even more especially by those who believe war to be a natural condition—a condition due to the inexorable laws of nature. Their theory, most interesting I admit, is that mutual slaughter is the rule of social growth; that our ancestors, pressed by necessity, made war perpetually upon one another and on all other living things, and that the best-advantaged race will devour the least or less advantaged.

War, they hold, is a question of food or wealth, and therefore always justifiable. And, mind you, they do not hesitate to draw the logical conclusion that might is right. They do not openly justify murder and cannibalism, but since the laws of nature do not change I can not see, if this theory is correct, why these laws should not require mutual slaughter to-day as they did in the dim ages. But you will notice at a glance what it is that this theory leaves out of its consideration. It is no less important a factor than that presented by the compact, the agreement, the law, of civilized society, by which the reign of brute force was made to give way to the reign of reason. In other words, the so-called law of nature has been tempered by that human self-restraint which gave birth to the law of society. One of the first lessons the student of law learns is that man in return for the privilege of living in a community must give up part of his natural rights and agree to bow to the law made by the community to secure peace and protection to all alike. And on this basis society has been organized everywhere. In the interest of life, liberty, and the pursuit of happiness natural law has been superseded by human law, so that justice instead of brute force will settle the questions of right and wrong. Thus our friends the war mongers will perceive that great advancement has been made, at least, by the separate nations from the primitive rule of mutual slaughter to a state of civilization governed by mutual respect for individual rights. But what a humiliating confession, that the mutual-slaughter rule should still obtain in international relations! And it does still obtain, the same as in mediæval times, the same as in the dim active ages when the ancestors of men went about on all fours killing and rending. In view of this amazing fact, I ask you, my friends, whether it is really so chimerical or whether you are really dreamers and rainbow chasers, when you demand that governments shall adjust their relations with other governments in accordance with the same civil laws with which they enforce and regulate the conduct of their own citizens? This is all the friends of peace demand, nothing more and nothing less.

Let me continue to enumerate the elements which are obstructing the world's progress toward more permanent peace. Our system of education, which holds up every soldier as a hero, should, of course, be mentioned here. European text-books on history are a glorification of war from beginning to end, and I regret to say we see in our own their mischievous images. This style of history is excusable, perhaps, in monarchical countries, but it is inexcusable in a democracy. The schools should be used to curb and not to stimulate the brute instincts of human nature, and the pupil's mind should at all times be impressed with the eternal truth "that peace hath its victories no less renowned than war." Moreover, the schoolroom is no place for military drills. Let us maintain a system of healthful physical exercise, which will prepare our boys for all emergencies, but be sure to banish everything from our school which smacks of the profession of war.

And now we come to the interested objectors. All other conscious or unconscious opponents of the modern peace programme are mere amateurs as compared with the man who suspects this programme of being a menace to his prerogatives and his throne. Any plan tending to interfere in the least with his war armament looks to him like an attempt at sawing off the limb upon which he is sitting. And yet, Mr. Chairman, there is good reason to believe that even the opinion of monarchs is undergoing a great change on this subject. Since the Franco-German and the Turkish wars there has been no great European war. As I said on yesterday, Spain has had her bloody encounters in America, England in Africa, Russia in Asia; but the great powers of Europe, though armed to their teeth, have for over thirty years dwelt peaceably together in neighborly friendship, without once during those many years resorting to arms, and whatever differences arose during that time were peaceably adjusted by agreements based on justice and reason. That is a great lesson.

Another instructive lesson was taught by both the Boer war and the Czar's experience with Japan. In the one case a mere handful of men held a powerful nation at bay for more than a year, and in the other case history will at best record a draw. The natural deduction from this is that it is not as easy as it used to be to vanquish even a weaker foe; in other words, war is much less effective than it formerly was to attain certain ends. The reason is simply that the frantic rivalry in the increase of armaments has produced the equal readiness of all, and this being the condition of affairs, it is nothing short of a delusion to suppose that ambitious plans could easily be carried out by war now as formerly.

Von Bloch, an eminent writer on this subject, goes so far as to express the belief that the powers are really unable to wage the war for which they prepare. "The greatest efforts of increase armaments," he says, "merely increase the probability of the inefficiency of war in a political or material sense." And this and other considerations are regarded by him as the forces which to-day are deterring the rulers from setting their war machinery in motion. This stage in the progress of political evolution is the great opportunity, it is needless to say, which the friends of peace have been awaiting these many, many years. It is the signal for the great moral forces which are engaged in waging war upon war to move all along the line. The question, too, as to how the advance is to be made and in what direction has fortunately been settled. It was a problem of no small proportions to harmonize the varied views of our friends and concentrate their scattered

efforts upon the specific measures to be advocated as a remedy of existing conditions. There is naturally a very strong feeling everywhere in favor of disarmament, or at least gradual reduction of armament. In the opinion of many this would afford the quickest relief from military burdens which to-day in many countries are well-nigh unbearable. Then there is the proposition advocated in this country by our friend, Captain Hobson, that the United States build a navy so big and so powerful as to make itself the master of the world and force it to keep the peace. Others, again, believe it possible to make the powers agree simply never to resort to war on account of any differences arising between them, and so on. It is largely due to the Interparliamentary Union, an organization composed of the lawmakers of the world, that these divergent views have been harmonized, as far as it was possible, and a definite direction has been given to the peace movement of the present day.

The union has long ago ceased to advocate disarmament as an independent proposition. Its members realize that to strive for disarmament means to confound symptom and cause. The war armaments are merely the symptom, while it is desired to remove the cause. Besides, the powers show a disinclination to listen to such a proposition, as became evident at the first Hague conference, which, though called for the specific purpose of considering a programme of disarmament, took no action concerning it, except to express the wish that the powers take up this question in the near future. No intelligent friend of peace expected that problem to be solved at that conference. It was starting the reform at the wrong end, and the objections of the military powers were foreseen. The war men made it appear, of course, that the cause of peace had suffered the defeat predicted by them, but this is far from the truth, particularly in view of the grand results of that conference in other respects.

In this connection permit me to mention as an amusing incident that the commission which was called upon to deal with the question of disarmament consisted exclusively of military men. Just think of asking a colonel to abolish his own regiment! It is the same as if we were to call upon shoemakers to seriously consider a proposition to abolish boots and shoes. This question is not a military question at all; it is an economic question, and it should be settled not by military men, but by statesmen.

Time will not permit, Mr. Chairman, a full discussion of all the different remedies brought forward to cure the identical evil, but I will say just a word about the Hobson plan, previously outlined. And this has some reference to the pending bill. The friends of arbitration realize, and so do I, that as long as there is no agreement between nations to keep the peace we must be in readiness for all possible emergencies. Hence, the majority of them do not antagonize your naval programme as long as they are satisfied that its adoption is necessary for the national defense. This, I think, will make it plain to the friends of that programme that in order to defend it it is unnecessary and uncalled for to antagonize or make light of the peace movement. They need our cooperation the same as we need theirs, until we reach a point when we can all agree that armaments can safely be dispensed with and are as unnecessary as the revolver in the hands of the murderer.

But the requirements of the national defense mark the limit of our patience. A navy more powerful than is necessary for defensive purposes might invite its abuse, and in the hands of unscrupulous men might prove, instead of a protection, a menace to the peace of the world and to our own liberties. Surely no good American will want to see his country in the rôle of an international bully. Rather let us remember the injunction: "Stand fast and hold the traditions which ye have been taught." America's traditions are to set the world an example in the love of liberty and peace and in the ways of justice and fair dealing in all its relations with others.

The American people—

Says Professor Moore, of Columbia—

have been accustomed to look upon war as a measure that could be justified only as a choice of evils, and have always deprecated standing armies and elaborate preparations for war as a menace to liberty.

It is this proud record which qualifies the United States so well to hold out the olive branch to all the world and through its great President invite international agreements to secure to us and to those who come after us the blessings of everlasting peace.

And what is the programme of the modern peace movement? It consists of two demands—arbitration treaties between all the civilized nations and an international congress to declare what is to be international law.

No political party has ever framed a more simple or more practical platform. There is nothing visionary about it, and no practical statesman will deny that both of its planks are timely as well as reasonable and attainable. Their adoption by the several governments will mark the elevation of right over might and justice over brute force.

The Interparliamentary Union at its twelfth conference, held at St. Louis in September, 1904, adopted this platform, and in response to its request President Roosevelt invited the nations signatory to The Hague treaty to consider it at the second Hague conference.

Mr. GOULDEN. Will the gentleman permit a question?

Mr. BARTHOLDT. I will.

Mr. GOULDEN. I think the committee would like to know how that interparliamentary peace union is made up and which of the great powers are actively associated with the movement?

Mr. BARTHOLDT. I can say for the information of the gentleman and the committee that the Interparliamentary Union consists of members of the national lawmaking bodies of the world. Each parliament has a group of members who strive for international arbitration and use their influence with their respective governments to hasten the conclusion of arbitration treaties between the several governments of the earth.

Mr. CLARK of Missouri. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman from Missouri yield to his colleague?

Mr. BARTHOLDT. I will

Mr. CLARK of Missouri. I would like to ask the gentleman how many nations have sent representatives to this Interparliamentary Union.

Mr. BARTHOLDT. All the civilized nations of the world except those that have no parliament, like Turkey and China and some others. All nations which have parliaments have a group for the promotion of international arbitration, and these different groups compose the Interparliamentary Union.

Mr. CLARK of Missouri. The gentleman has attended one or two of these meetings?

Mr. BARTHOLDT. I have.

Mr. CLARK of Missouri. Do the representatives of the other great nations talk like the sentiment in their countries was in favor of a peace programme or not?

Mr. BARTHOLDT. That is their object.

Mr. CLARK of Missouri. The object of the members, of course, but what about the public opinion in the nations that they come from?

Mr. BARTHOLDT. They are merely making propaganda in their parliaments for this programme of peace, trying to persuade the governments to adopt the plan of having arbitration as a substitute for war.

Mr. CLARK of Missouri. The gentleman does not seem to catch my question. What do they say about the drift of public sentiment in their nations as to the peace programme? Do they say that it is growing or not?

Mr. BARTHOLDT. Oh, I did not catch the gentleman's meaning. The reports at all conferences I have had the honor to attend, Mr. Chairman, were to the effect that the movement is growing all over the world, and that it only takes the initiative of some great nation—a nation like the United States—to carry out that programme. [Applause.]

Mr. GOULDEN. How many members attended the last congress, which was, I believe, the thirteenth conference of the Interparliamentary Union, held at Brussels in August last?

Mr. BARTHOLDT. Upward of 500 members of lawmaking bodies of the different nations.

Mr. GOULDEN. Divided among the leading nations of the world?

Mr. BARTHOLDT. Each nation can send as many delegates as it chooses. I am happy to say that the United States Congress was represented at the last congress by nineteen members, the largest number that ever represented us abroad. [Applause.] I may add also, without speaking boastfully, that the Americans, because of the advanced position they took, occupied the center of the stage at Brussels.

Mr. GOULDEN. Did not the position taken by the President of the United States in the matter of peace between Russia and Japan last August have much to do with the standing of the delegates among those of the other countries of the globe at this international conference?

Mr. BARTHOLDT. Undoubtedly. We were asked when the news came that peace had been restored between Russia and Japan through the instrumentality of President Roosevelt—we were asked what we thought about it, and our answer was that the capital of the world had been transferred from Paris to Washington. [Applause.]

Mr. SCOTT. I would like to ask the gentleman how many nations were represented at the last congress?

Mr. BARTHOLDT. Eighteen.

Mr. KEIFER. If the gentleman from Missouri can give me any information, I would like to know if Russia was represented there?

Mr. BARTHOLDT. Russia was not represented, because she has no parliament.

Mr. KEIFER. Well, Russia did, through her Czar, initiate some of these negotiations, did she not?

Mr. BARTHOLDT. Yes.

Mr. KEIFER. How did Russia drop out?

Mr. BARTHOLDT. Mr. Chairman, I might mention in answer to the distinguished gentleman from Ohio [Mr. KEIFER] an interesting bit of history. When the interparliamentary conference met in 1897, the Czar asked some one the question whether Russia was represented in that conference.

Mr. GOULDEN. What year was that?

Mr. BARTHOLDT. I believe in 1897. The answer was, naturally, that Russia was not represented, because she has no parliament and consequently could send no delegates to such a conference. Thereupon the Czar said that he greatly regretted the absence of Russian representation, and report has it that he made up his mind then and there to go a step further, and he called the first Hague conference for the consideration of the question of disarmament. [Applause.] So really the Interparliamentary Union is the inspiration—and you may say the mother—of that first Hague conference.

Mr. LACEY. Mr. Chairman, I am very much interested in that conference. In what language was the business of the conference conducted?

Mr. BARTHOLDT. There are three official languages recognized—English, French, and German; but about two-thirds of the deliberations are in French, naturally, because that is, after all, the diplomatic language of the world.

Mr. KEIFER. How was Russia represented, if at all, at that first Hague conference which was called by the Czar?

Mr. BARTHOLDT. Russia was represented, like every other nation, by three or four of her eminent statesmen.

Mr. RODENBERG. Appointed by the Czar?

Mr. BARTHOLDT. Yes. Ours were appointed by President Roosevelt, and I am glad to say that the American delegates to the next Hague conference have already been appointed, and they are great and good men.

Mr. FOSS. At that Hague conference was not a resolution passed to the effect of discouraging the building up of navies on the part of leading nations of the world? Did not the conference pass a resolution to that effect in favor of disarmament?

Mr. BARTHOLDT. As the gentleman from Illinois remembers, the conference was called for the express purpose of considering the question of disarmament, but when these gentlemen came together it became apparent very soon that it would be impossible to reach any agreement upon that question, and as I have mentioned before, one of the reasons was, perhaps, that that question had been referred to a commission composed exclusively of military men. Instead of making specific recommendations upon that question, they passed a resolution in which the pious wish is expressed that the nations or governments in the very near future should take up this question of disarmament or the gradual reduction of armament.

Mr. FOSS. Is it not a fact since then that the leading nations of the world have promulgated greater naval programmes than ever before?

Mr. BARTHOLDT. Well, that may be so. I do not doubt that; but that certainly has nothing to do with the merits of the proposition I am discussing.

Mr. FOSS. Oh, no.

Mr. CLARK of Missouri. Mr. Chairman, I would like to ask the gentleman a question that naturally follows the question of the gentleman from Illinois. If all the nations of the earth—that is, all the civilized great nations—are increasing their military armaments by land and sea, then how can we assume that the peace propaganda is really growing?

Mr. BARTHOLDT. Mr. Chairman, in answer to that I will say that in the history of the last hundred years more than 200 cases which, under different conditions, might have caused war between nations have been settled by arbitration, and more than that, in each one of those 200 cases the judgment of the arbitrators or of the court which passed upon them was accepted without any protest from any one of the interested parties. [Applause.] From that fact we infer, justly, so I think, that the cause of international arbitration is progressing, and progressing rapidly, but I admit that as long as there are no binding agreements between nations it is necessary for a nation to be ready for emergencies, and hence I do not antagonize the naval programmes.

Mr. BATES. Mr. Chairman, I would ask the gentleman from Missouri [Mr. BARTHOLDT] this: Could it not also be answered by the proposition that if a municipality, for instance, increases its police force it does so not for the purpose of provoking riots and disturbances, but for the sake of keeping them down and preventing disturbances, on the theory that a strong navy operates with a nation as a good police force does with a municipality?

Mr. BARTHOLDT. I am not now prepared to say that my friend's logic is entirely correct.

Mr. COCKRAN. But what would the municipality gain, Mr. Chairman, by suppressing riot if the cost of maintaining the police force should be greater than any loss that would be likely to arise from the riot?

Mr. BARTHOLDT. Mr. Chairman, that is a question which I have not raised, and I hope the gentleman from Pennsylvania [Mr. BATES], who did raise it, will be given an opportunity at some other time to answer it.

Mr. Chairman, at a recent conference of the interparliamentary union at Brussels I had the honor, in behalf of the American group in congress, to present the detailed plans touching these two great propositions, viz, the draft of an arbitration treaty which, in our judgment, should be acceptable to all nations, and the draft of a constitution for an international congress. They have since been wrestling with these details in the parliaments of Europe, and with what results I shall speak instantly.

To some all this may be more or less unintelligible, so let me explain. In olden times might was right, and when two persons had a difficulty physical superiority usually determined the right. So late as the year 1818 the so-called "trial by battle" was solemnly decided by the English court of King's bench to be a valid and legal mode of trial which the King's subjects were free to adopt. It obtained in civil as well as criminal cases and consisted of a personal combat between the parties in the presence of the court itself, and was grounded on the idea of an appeal to Providence, the expectation being that heaven would give the victory to the innocent or injured party. In the sunshine of the twentieth century this system appears barbarous, and yet this very system obtains to-day between nations. I say war is no more justifiable and is as barbarous as was the ancient trial by battle. Courts have superseded such trials and our civilization demands that courts shall supersede the trial by battle between nations. Hence the demand for international arbitration. If the several nations will agree to submit certain questions to arbitration and to refer all those reserved for the arbitrament by the sword to a commission for investigation before resort to arms, so that in this latter case at least time may be gained, they will do exactly what they are requiring their own citizens or subjects to do in case of a controversy between them. And surely this is as it ought to be. What is law for an individual should be law for a nation. [Applause.]

To make the objects of the friends of peace still plainer, let me put it this way: Nations are governed by three departments—the executive, the legislative, and the judicial. This applies to monarchies as well as to republics, and human wisdom has not yet been able to evolve a better plan. It is proposed to extend this plan to the community of nations and regulate the affairs of the whole human family through just such agencies—an international executive, legislature, and judiciary. Thus it becomes as much a question of law and order as of peace.

By the establishment of the high court at The Hague, which I regard as the grandest achievement of the last century, the international judiciary has been created. But we propose to magnify this court by giving it jurisdiction over all questions specified in the arbitration treaty previously referred to, and how necessary an international legislature is will appear from the fact that the court, I mean the high court at The Hague, now has no system of law to apply to cases which might be brought before it for adjudication.

Mr. JOHNSON. Will the gentleman let me ask him a question?

Mr. BARTHOLDT. Let me finish this first. What now passes under the name of international law is merely a compilation of precedents, opinions, maxims, and arguments, not one of which has ever received the sanction of law by a single parliament. As I said at Brussels, "It may not be necessary to change in a single instance the present system of maxims and opinions compiled by Grotius and others for the regulation of international society, but if it is to continue as the only recognized basis of negotiation and intercourse, if it is to be accepted by the coming ages of civilization as the universal

common law among nations, then we must insist that it shall acquire the authority which can only be given to it through the solemn form of legislation. This legislation can not be secured in this constitutional age without an international legislature or a congress of nations. Now I am willing to yield to the gentleman.

Mr. JOHNSON. I want to ask the gentleman from Missouri if the decision of The Hague a year or two ago giving those nations that have blockaded ports priority in the collection of claims did not have a damaging effect on the question of establishing international peace generally, and if that difficulty would not be obviated by an international legislative body to settle international law?

Mr. BARTHOLDT. Exactly. I felt as the gentleman does about that decision, but after I studied it more carefully I found that, under the system of laws or opinions or precedents under which they acted, they could not have decided otherwise.

Mr. JOHNSON. Perhaps so, but it might be well to have somebody in authority change those precedents and make laws in accordance with the high ideals of the twentieth century.

Mr. BARTHOLDT. Precisely; and that is our purpose. An international legislature, Mr. Chairman, is an old American pet scheme which Elihu Burritt and others advocated in European peace congresses more than fifty years ago, but the same objections raised then were interposed last summer at Brussels, namely, that the plan would interfere with the principle of sovereignty. In spite of these objections, however, the American delegates stuck to their propositions so persistently that the plan, instead of being pigeonholed, was finally referred to a commission with instructions to report within three months. This was generally regarded as a significant American victory, but the more substantial part of the triumph was yet to come. A few months ago a cable dispatch announced that that commission had met at Paris and had practically decided in favor of the American plan of an international congress, without stating, however, how the congress was to be constituted. Mail advices have in the meantime supplied this information, and the news is of such a character as to justify the friends of peace to hail it with delight. The proposed solution of the problem will appear to them as what it really is, an inspiration. Listen how the commission proposes to constitute the congress:

"The next Hague conference is to be constituted into a permanent body, a sort of international senate, which is to assemble automatically and periodically, and the Interparliamentary Union is to be reorganized so as to act as a parliamentary official adjunct, or a lower house. In the senate each nation is to have the same voice or weight by vote, while in the lower house all representation shall be proportional."

Mr. DRISCOLL. Will not such nations as Russia and Turkey have trouble, inasmuch as they have representatives in the upper house and can have none in the lower of this international legislature?

Mr. BARTHOLDT. Russia is now securing a legislature, we are all happy to observe, and no doubt Turkey will find some way of sending representatives to such a body.

Mr. STANLEY. Will the gentleman permit a question?

Mr. BARTHOLDT. Certainly.

Mr. STANLEY. If Turkey and Russia should both refuse to be bound by any regulations, or a decision of this high court, or by any agreement between other nations, will we have anything particular to fear from both of them combined?

Mr. BARTHOLDT. No, sir; nothing whatsoever. I believe that the combined moral force of the agreement between three or four or five nations will be sufficient to hold all the others in check and make all others agree to whatever arrangement might be entered into.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. BARTHOLDT] has expired.

Mr. BARTHOLDT. Mr. Chairman, I would like just a few moments in order to conclude. It may be five or ten minutes.

Mr. FOSS. Mr. Chairman, I yield to the gentleman sufficient time in which to conclude his speech.

Mr. BARTHOLDT. Thus there would be two chambers. In the one the executive, in the other the parliamentary branches of national governments would be represented and carried up into that new international parliament. It will be noticed at a glance that in its results this plan will insure to the world, in the simplest and most practical manner possible, exactly what we had proposed at Brusesls, namely, an international legislature of two houses, one to be created and controlled by the executives, the other by the parliament or, which is practically the same thing, the people. The first duty to be performed by that new international body is declared to be "to codify international law and to keep it up to date."

The question naturally arises how this great international reform is to be brought about. In view of the early assembling of the New Hague conference it appears to be merely a question of inducing this body to proceed to the consideration of the plan. Its feasibility will surely be admitted by the delegates of the several countries as readily as the supreme necessity of the early compilation and sanction by the nations of what now passes under the name of international law. It would seem that the advocacy and presentation of the plan by so influential an organization as the Interparliamentary Union should of itself be sufficient to insure its respectful and favorable consideration by the conference. But in addition to this the members of the union will no doubt use their influence with their respective governments in favor of the proposition. To leave nothing to chance, however, I have introduced a joint resolution here authorizing and requesting the President to instruct the American delegates to The Hague conference to favor this plan and to do all that lies in their power toward securing its adoption. What favorable action by the conference upon this magnificent scheme would mean to civilization and to the cause of humanity and international justice is apparent to all. In addition to an international judiciary now afforded by the high court at The Hague, the world would be assured of the benefit of an international legislature, charged with the duty, first, of supplying the law which is to govern the judiciary in the adjudication of cases to be brought before it, and secondly, of agreeing on a system of arbitration by which the possibilities of war will be reduced to a minimum. A reduction of armaments will follow without further agitation and as naturally as ripe fruit falls from the tree. And this will be only one of the beneficial consequences of the proposed international organization. A permanent Hague conference, with the power to meet periodically and when it pleases, once assured, there will be no more need of the friends of peace and arbitration to prevail upon Czars or Presidents to call such a body into being.

It goes without saying that the change here proposed will require the sanction of all governments to give it force and effect, even after the second Hague conference has pronounced in its favor; but no one need feel any concern on that score. If the people are given a chance to pass judgment upon this reform—the greatest, most far-reaching, and most beneficial to mankind ever undertaken—they are sure to rise to the full height of their golden opportunity, and the moment they grasp the new dispensation in its full comprehensiveness their majestic power will force all other majesties, great and small, to capitulate unconditionally. [Loud applause.]

An international executive is still unprovided for. There are those who would create the high office of peacemaker; but for one I am inclined to think that the moral force of these international agreements, when once entered into, and the actual power behind them, will be far greater than any system of international police could possibly be.

This, then, Mr. Chairman, is the plan destined to ground the world's peace on the solid foundation of mutual compact; not the kind of peace which constantly trembles on the point of bayonets, but that natural, self-enforcing, lasting peace condition which can not be disturbed except by one or more governments rebelling against the supreme judicial will which voices the agreement of the community of nations. The plan is designed simply to substitute law and justice for force, or right for might, and demands that by international agreement differences between nations shall be adjusted in the same manner as differences between individuals, namely, by arbitration and judicial decision.

It is not a novel idea. More than three hundred years ago Henry IV of France, as my friend from Pennsylvania [Mr. BUTLER] pointed out on yesterday, had conceived the idea of a general council of Europe to construct a system of laws for the guidance of all the different states in their intercourse with each other, and for the maintenance of peace. Unfortunately the assassin's hand struck him down before he could put the idea into execution. War upon war, it is true, has been waged since that time, but it is also true that many a bloody conflict has been averted in the same period by mediation and arbitration. When, in spite of the existence of The Hague tribunal, the Russo-Japanese war broke out, the friends of peace hung their heads in sorrow. But what is the actual result of that war? A stronger desire for peace and for a practical remedy to prevent the recurrence of such calamities than ever evinced before, because the world has been disgusted and sickened by that bloody spectacle. And the cause of arbitration has been wonderfully strengthened by the manner in which, thanks to President Roosevelt, peace was restored, and by which it was demonstrated that the contending parties might have reached an agree-

ment before, just as well as after, they had fought and bled to the point of exhaustion.

It is said that governments must be constantly ready for the bloody business of war, in order to preserve their sovereignty at home and an equal opportunity to trade abroad. Since in this age religious wars are out of the question, the same as wars for mere conquest, this naturally is the only reason which can be assigned for the annual expenditure of these billions of dollars. How much easier, I submit, these rights could be vouchsafed by the plan I have here outlined. The time has certainly come for the rulers to seriously consider peace propositions, because the people constituting their nations are rapidly learning that their common interests are always greater than their real or imaginary differences, and all that is necessary is for the rulers or their representatives to peaceably assemble and by mutual agreement guarantee to each other not only sovereignty and equal rights to trade, but territorial integrity, security, and peace as well.

The peace platform I have outlined, let me say in conclusion, was put forth by representatives of the United States in good faith and with good grace, as I hope all will admit. Our military burdens are less onerous, our sacrifices for war preparations are less perceptible, than those of other nations. We have less cause to fear war and less reason to expect it than any other people on earth. Hence the world will be more inclined to believe us than it would others when we say our motives are disinterested, that we are actuated only by an honest desire to promote the cause of humanity and justice. Washington expressed it in these words:

My first wish is to see this plague of mankind, war, banished from the earth.

General Grant said:

Let us have peace.

President McKinley said:

Let us remember that our real eminence rests in the victories of peace, not those of war.

President Roosevelt has saved the life of The Hague tribunal by referring to it the first case. He has called the second Hague conference and has restored the peace of the world by bringing Russia and Japan together. It seems that it well becomes a nation which can boast of such Presidents to appear in the world's councils carrying the gospel of humanity and peace. [Long continued applause on both sides of the Chamber.]

Mr. CLARK of Missouri. Mr. Chairman, it is evident that there is no quorum here, and we might as well take out.

The CHAIRMAN. The gentleman from Missouri makes the point of order that there is not a quorum present. The Chair will proceed to count and ascertain.

After counting, the Chairman announced 120 Members present—a quorum of the Committee of the Whole.

Mr. MEYER. I yield forty-five minutes to the gentleman from North Carolina [Mr. WEBB].

Mr. WEBB. Mr. Chairman, there is now a bill on the Calendar for consideration by the House, carrying an appropriation of $30,000 for the erection of a monument on Kings Mountain battle ground, to commemorate the great victory gained there by the American patriots over the British forces on October 7, 1870.

I trust that no Member will oppose the passage of this bill, for it is a shame that the National Government has already waited one hundred and twenty-six years to give fitting recognition of the importance of one of the decisive battles of the world. I use the words "decisive battle" advisedly. It will be remembered that the Revolutionary war had progressed in the North with varying fortunes to the American patriots. Lexington and Concord are hardly to be called battles—more properly important skirmishes. It is true that there it was that the shot was fired that was "heard around the world," but I propose to show this committee that the most important battle fought in the American Revolution was that fought at Kings Mountain. The Americans had fought bravely at Bunker Hill, but had lost. The fierce battle of Long Island, fought August 27, 1776, with 15,000 British against 8,000 Americans, was a decisive defeat for the American arms, with a loss of 970 killed and 1,077 wounded, while the British lost 400 only. The result of this battle was a sad shock to the American cause, coming so soon after our national Declaration of Independence. A little later, in December, however, our cause regained some of its lost prestige at the battle of Trenton, where our forces killed and wounded 30 British and captured 918, with a loss of only 2 Americans killed and 6 wounded. The battle of Princeton, fought in January, 1777, was also important in molding American sentiment and cheering American hopes. After the battle of Princeton yet another victory was added to the American arms at Monmouth, where the British lost 500 and the Americans 229.

At Brandywine, in September, 1777, however, Washington was driven from the field. This defeat fell heavily on the patriot cause. At Germantown, on October 4, 1777, the Americans lost 673 killed and wounded and 400 prisoners, and the tide of the battle was decidedly against us, recording another defeat for the patriots. Next comes the victory at Saratoga, in October, 1777, which gave fresh impetus to the cause of the rebellion.

During the year 1778 the war dragged along without any general campaign or important battles. At this time the French began to send us invaluable assistance. Clark, the veteran Western hero and pioneer, pushed his way to Vincennes and there captured that fort. It was a splendid feat of arms, performed after a march of 240 miles through the wilderness and forest. Clark's victory practically broke the British hold in the West.

With honors about even in the North, and with New York in the hands of the British, England decided that the quickest way to conquer America now was to overrun the South. Florida was invaded. Georgia and South Carolina were to be enrolled under the British flag and the rest of the Southern States were to yield immediately. Abundant ships and troops were collected by the British, and the southern harbors were blockaded.

In the fall of 1778 General Prevost marched out of Florida, and in a short campaign captured Savannah, Sunbury, and Augusta. On March 3, 1779, at Briar Creek, near Savannah, the Americans lost 1,000 men killed and captured, besides their cannon and small arms, while this battle only cost the British 16 men killed and wounded. Georgia was now in complete control of the British forces and influence, and the Government of King George was again thoroughly established there. A desperate effort was made by the Americans on the 8th of October, 1779, to recapture Savannah. In this sanguinary assault many of the patriot army were killed, among them being that prince of heroes, Count Pulaski, who fell mortally wounded and yielded up his life for the country which he had come so far to serve. This was another disastrous battle for the Americans, as our loss was more than 200, together with 600 French soldiers; while the British loss was very small. This defeat was a heavy setback to the cause of the Revolution in the South, and the outlook for success was becoming very gloomy. The militia of South Carolina and Georgia became discouraged and disbanded, and General Lincoln, with a small band of regular troops, fell back to Charleston. As said by Senator LODGE, in his Story of the Revolution, "Without men, without money, and without apparent ability for effective preparation, South Carolina seemed helpless if the enemy continued their invasion." Georgia was already completely and entirely in the control of the British, and South Carolina seemed destined to meet a similar fate. Charleston, the largest city in the State at that time, having a population of 15,000, was occupied by the American forces under General Lincoln.

During the Christmas holidays of 1779 Sir Henry Clinton and Lord Cornwallis sailed out from Sandy Hook, New York, with the splendid fleet of Admiral Arbuthnot, carrying 7,000 soldiers to commence an attack on the queen city of South Carolina. Only 4,000 Americans garrisoned the city. These soldiers were greatly dispirited on account of our losses in Georgia a short while before. On the 11th of February, 1780, the British fleet began the siege of Charleston, which continued for three long, gloomy, terrible months, by which time the enemy had gradually encircled the proud maritime city. Finally, on the 7th of May, after untold suffering on the part of the people of Charleston, the city surrendered. Many houses were burned during the siege, and 98 officers and men of the American forces were killed and 146 wounded. Five hundred of the 2,000 Continental troops were in hospitals. The regular American troops and sailors became prisoners of war. The English now sacked the city and divided the spoil among themselves to the amount of about one and a half million dollars. After the loss of Charleston it seemed as if the whole South were ready to surrender to the victorious troops under Cornwallis.

Colonel Tarleton was sent out to pursue Colonel Buford, whose regiment had failed to join the garrison at Charleston. Overtaking Buford at Waxhaw, Tarleton's Hessians and brigands attacked Buford's men as if they were savages, killing 113, while more than 100 were hacked to death, and only 53 prisoners were taken. This bloody butchery, which was commended by Cornwallis, added to the general depression among all classes of American citizens. But while it depressed many, it urged many others to a determination to fight for their country and never surrender. At this period of time Sir Henry Clinton, just before sailing for New York, reported to the royal authorities as follows:

Inhabitants from every quarter declare their allegiance to the King and offer their services in arms. There are few men in South Carolina who are not either our prisoners or in arms with us.

At this time the haughty Sir Henry spoke the truth, for it did seem that the whole South was either fleeing to the British standard or fleeing from it in terror. Those of the natives who were loyal to the American cause fled from South Carolina, leaving their homes to the torch of the invading foe.

At the battle of the Brandywine a gallant British officer of marked attainments was too brave and too noble to shoot General Washington in the back. This officer was wounded in that battle, but after complete recovery sailed with Sir Henry Clinton on his expedition to capture and overrun the South. This man, who played such a conspicuous part in the war from now on until his death, was none other than Maj. Patrick Ferguson. He had performed distinguished service in the Royal North British Dragoons in the wars of Flanders and Germany, where he distinguished himself for his coolness and his bravery. He was the inventor of a new kind of breech-loading rifle, which could be loaded and fired seven times in one minute. He was the finest rifle shot in the royal army, and possibly no other living man at this time surpassed him in unerring marksmanship. King George himself at one time attended an exhibition of his marksmanship. According to history and tradition, he could run his horse, suddenly check him, drop the reins on his neck, draw his pistol and throw it up into the air, catching it as it fell, take aim, and shoot the head off of a bird sitting on an adjacent fence. Major Ferguson also participated in the battle of Monmouth. Sir Henry Clinton selected him to accompany him on his expedition south and gave him a corps of 300 American volunteers to command, and for this special service he was given the rank of lieutenant-colonel. Two hundred Hessians were also added to Ferguson's corps. Irving says:

> Ferguson was a fit associate of Tarleton in hardy, scrambling, partisan enterprise, intrepid and determined, but cooler and more open to impulses of humanity.

But all will admit that Ferguson was a much higher type of man than Tarleton, who was called "the butcher of the Carolinas."

After the fall of Charleston Sir Henry Clinton dispatched Lord Cornwallis to make a campaign up through South Carolina and on into North Carolina, while Colonel Ferguson was dispatched to Ninety Six, S. C., where he arrived on June 22, 1780. Ferguson's winning ways, combined with the awe and fear which the enemy's invasion had created in the minds of the people, were causing many young men to enlist under his banner. These recruits were immediately drilled and prepared for warfare in the royal arms, and their training was perfect, for Ferguson was the best drillmaster in King George's army. Knowing the terrible impression that Tarleton's savagery had created among the people, Ferguson, in his march up through the Carolinas, made the following statement:

> We come not to make war on women and children, but to relieve their distress.

By this time the royal authority was fully established and recognized in all the up-country of South Carolina.

Draper, to whom I am indebted for many of the facts about this battle, says:

> The desperate, the idle, the vindictive, who sought plunder or revenge, as well as the youthful loyalists, whose zeal or ambition prompted them to take up arms, all found a warm reception at the British camp; and their progress through the country was marked with blood and lighted up with conflagration. During this period of several weeks the Tories scoured all that region of country daily, plundering the people of their cattle, horses, beds, wearing apparel, bee gums, and vegetables of all kinds—even wresting the rings from the fingers of the females.

In August, 1780, several skirmishes occurred between detachments of Cornwallis's army and the patriots under the leadership of Colonels Clark, McDowell, and Shelby, the most notable among them being Musgrove Mill, where the British lost 86 killed and 76 prisoners, while the Americans lost only 4 killed and 9 wounded. There were only about 250 Americans and about 300 British in this engagement. After this fight Shelby and McDowell and the other leaders dispersed their little band and fell back into the mountains to protect their homes from the enemy, and also to prevent complete annihilation from the forces of Cornwallis and Major Ferguson.

The most important military point in South Carolina was Camden. General Gates, in command of the American forces, marched against this point on August 15, 1780, and was met by Cornwallis and disastrously routed. The brave, chivalrous De Kalb was there mortally wounded leading the Maryland troops, and fell after having been pierced by eleven bullets. Gates, who had won distinction in the northern army, lost in this battle 800 of his brave soldiers. "His Northern laurels," as it was said, "had changed into Southern willows."

The American army was truly broken and destroyed. Thus, for the second time within ninety days the American army at the South had been practically annihilated. This was the darkest period in the history of the Revolutionary War. The whole South seemed prostrate at the foot of the enemy, while nothing but a triumphal march lay before Cornwallis and Major Ferguson. To add to the gloom which then overhung the struggling young Republic there came the news of the treason of Benedict Arnold, which thrilled the American patriots with a sense of horror. It seemed that their cause was lost, and that nothing was left the British but to reap the fruits of their successive victories. Arnold's treason was no doubt prompted by the feeling that the cause of American freedom was lost. In this awful period of depression even the unconquerable Washington said, "I have almost ceased to hope."

After his victory at Camden, Lord Cornwallis marched his army in September into North Carolina, and boasted that all the States south of the Susquehanna River would soon be in his grasp. When this victorious warrior reached Mecklenburg County in North Carolina he found a veritable hornet's nest of loyal patriots [applause], for on this soil Tories and deserters could not grow [applause], for here it was on May 20, 1775, that the first American Declaration of Independence was flung to the world in defiance of the King and all his army. [Applause.] All Mecklenburg was now united as one man in a determination to maintain this declaration with their lives and their sacred honor. [Applause.]

Cornwallis hoped to stamp out this spirit, and therefore pitched his tent in the plucky city of Charlotte. Major Ferguson was dispatched at the head of 1,100 soldiers to march into the Piedmont section of North Carolina to gather cattle and supplies for the army and to enlist all the natives who were willing to come under the King's standard. Charles McDowell, Clark, Shelby, and other leaders had fallen back into the mountainous section of North Carolina, and Ferguson entertained the hope of overtaking and capturing these leaders. Colonel Ferguson marched as far as Gilbert Town, in Rutherford County, N. C., and pitched his camp therefor several days. For many miles around Tories and weak-hearted natives visited the gallant officer and took the oath of allegiance, believing that since Charleston had fallen, Gates and Sumter routed at Camden, and the other patriot forces dispersed, that the patriot cause was absolutely hopeless. A portion of Ferguson's army marched as far as Brindletown, Burke County, and some even as far as the foot of the Blue Ridge Mountains.

At Old Fort, Colonel Ferguson rode up to the home of Capt. Thomas Lytle, a noted patriot leader, who then lived 4 miles from Old Fort. The captain was not at home, but Mrs. Lytle stepped to the door, elegantly dressed, and invited the colonel in, which invitation he declined, saying that his business required haste, as the King's army had restored his authority in the South, and that the rebellion was practically quelled, and that he had come to offer a pardon to Captain Lytle. Mrs. Lytle then told Colonel Ferguson that she did not know where the captain was, but thought that he was out with friends, whom the colonel had called "rebels." Whereupon Ferguson replied deprecatingly:

> Well, madam, I have discharged my duty. I felt anxious to help Captain Lytle, because I had learned that he was both brave and honorable. If he persists in the rebellion and comes to harm, his blood will be on his own head.

The brave little woman gave the colonel the following spirited reply:

> Colonel Ferguson, I don't know when this war may end; it is not unlikely that my husband may fall in battle; all I positively know is that he will never prove a traitor to his country.
>
> [Loud applause.]

So thoroughly was Ferguson imbued with the idea that the rebellion was over that when William Grant offered him a troop of cavalry for service in the King's cause he thanked him for his loyalty, but declined to accept them, "as the country was subdued and everything was quiet." This was in September, 1780, just thirty days before the great battle at Kings Mountain.

It was a critical and crucial moment in our history. Lord Cornwallis felt that he had the triumphant end of the Revolution in his hand. His chief lieutenants, Tarleton, Rawdon, Balfour, and Brown, had burned the people's property and hung the patriot leaders wherever they could be found.

Upon arriving at Gilberttown, Major Ferguson sent a verbal message by one Samuel Phillips, a prisoner and distant relative of Colonel Shelby, notifying the patriots who were then in the mountains that "if they did not desist from their opposition to the British arms he would march his army over the mountains, hang their leaders, and lay their country waste with fire and sword." No other words could have so thoroughly aroused the patriots. Colonel Shelby at once communicated the message to Colonel Sevier, who was the efficient officer of the Washington County militia, then in North Carolina, but now in Tennessee. These two brave leaders immediately resolved to raise all the

men possible and to attempt to surprise Ferguson in his camp or wherever he could be found. Colonel Shelby also communicated with Col. William Campbell, of Washington County, Va. A rendezvous was agreed upon and the 25th of September was the time set for the meeting of the patriot leaders on Watauga River.

Cornwallis had intended to march his army from Charlotte to Salisbury, N. C., and expected Ferguson to join him there, and with their combined army to overrun North Carolina and Virginia and take them under the King's control. In the meantime the mountain men were gathering. The sacrifice they were about to make was great, for their wives and helpless ones would be left to the torch and scalping knife of the Indians. But they had become desperate and had now resolved to take their lives in their hands and to take every chance in order to rid their country of the invading foe. Colonel Cleveland, of Wilkes County, N. C., was also notified, and he agreed to collect as many men as possible and join in the expedition. The whole country was aroused and fired with the spirit and determination to rout Ferguson and his Tory outlaws, who had threatened to hang their leaders and burn their homes.

John Adair, the officer for the sale of North Carolina lands, loaned the patriot leaders $13,000 with which to obtain ammunition and equipment for the expedition, Colonels Sevier and Shelby binding themselves to repay the money if the legislature failed to ratify the loan. Adair hesitated about loaning the money, for he had no authority to do so, but finally said:

If the country is overrun by the British, our liberty is gone. Let the money go, too. Take it. If the enemy by its use is driven from the country, I can trust that country to justify and vindicate our conduct; so take it.

Promptly at the time agreed upon Campbell, with 350 soldiers; Sevier, with 240, and Shelby, with an equal number of men, assembled ready for the march. The soldiers had no uniforms, no band of music had they, no bristling bayonets, no glittering equipage. Their only weapon was the Deckard rifle, which most of them had learned to use as experts against the Indians and wild beasts. Their other equipment was simple, being a blanket, a cup, and a little parched corn meal mixed with maple sugar.

Before starting on their perilous march to meet Major Ferguson and his army the brave, simple, unsubdued patriots uncovered their heads while a devout minister, Rev. Samuel Doak, prayed to Almighty God that success might crown their undertaking, and closed a brief but stirring address to them with the biblical quotation, "The sword of the Lord and of Gideon!" Immediately they began their arduous and difficult march over the hills and mountains and through the valleys, some of the higher mountain peaks being covered with snow. Camping and moving, moving and camping, they passed around Roan Mountain, following Roaring Creek and the Toe River. The mountain scenery along their march is not excelled by any to be found in Switzerland or any other portion of the world. Around them on every hand were towering peaks, some of them rising to the height of more than 6,000 feet. A writer has well said:

Here, if we were to meet an army with music and banners, we would hardly notice it; man and all his works and all his devices are sinking into insignificance. We feel that we are approaching nearer and nearer to the Almighty Architect. We feel in all things about us the presence of the great Creator. A sense of awe and reverence comes over us, and we expect to find in this stupendous temple we are approaching none but men of pure hearts and benignant minds. But, by degrees, as we clamber up the winding hill, the sensation of awe gives way—new scenes of beauty and grandeur open upon our ravished vision—and a multitude of emotions swell within our hearts. We are dazzled, bewildered, and excited; we know not how, nor why; our souls expand and swim through the immensity before and around us, and our being seems merged in the infinite and glorious works of God. This is the country of the faries; and here they have their shaded dells, their mock mountains, and their green valleys, thrown into ten thousand shapes of beauty. But higher up are the Titan hills; and when we get among them we will find the difference between the abodes of the giants and their elfin neighbors.

They crossed the Blue Ridge Mountains at Gillespies Gap on the 29th of September. About this time Col. Charles McDowell and Maj. Joseph McDowell with 160 men joined the little army, while Colonel Cleveland and Major Winston with 350 troops joined them soon after. A portion of the army passed over Linville Mountain and stopped at Quaker Meadows, the home of Cols. Charles and Joseph McDowell.

Up to this time no head of the organization had been selected, but on Monday, October 2, by common consent, out of courtesy to Colonel Campbell, who was the only officer who had come from another State, all the others being North Carolinians, he was chosen commanding officer. Col. Charles McDowell, the senior North Carolina officer, was requested to go at once to the camp of General Gates and to notify him of the plans of the mountain men, while his brother, Col. Joseph McDowell, assumed command of his men. McDowell's command was largely increased in Burke County by the gallant colonel's relatives, friends, and admirers. On the 3d of October, at Cherry Mountain, in Rutherford County, the little army was increased by the addition of a few South Carolinians under Colonel Williams. Colonel Lacey, of South Carolina, and Colonels Graham and Hambright and Major Chronicle, of Lincoln County, N. C., soon joined the patriots.

When the army arrived within 16 miles of Gilberttown, where they still supposed Major Ferguson had his camp, they expected the battle to begin soon, for they intended to attack the royal officer wherever they found him. On October 3, Colonel Cleveland, who at that time weighed about 250 pounds, requested the little army to form a circle. He was a man of great courage and hoped to infuse some of his own spirit into the minds of his men. Campbell, Shelby, Sevier, McDowell, and Winston came into the circle with Cleveland, whereupon Cleveland removed his hat and said with great feeling:

Now, my brave fellows, I have come to tell you the news. The enemy is at hand, and we must up and at them. Now is the time for every man of you to do his country a priceless service, such as shall lead your children to exult in the fact that their fathers were the conquerors of Ferguson. When the pinch comes I shall be with you. But if any of you shrink from sharing in the battle and the glory, you can now have the opportunity of backing out and leaving, and you shall have a few minutes for considering the matter.

Not one of the men, be it said to their credit, accepted the invitation, but each one repledged his life and his fortunes to the perilous undertaking. [Applause.]

On the next day, the 4th of October, they learned that Ferguson had fallen back from Gilberttown for the purpose of avoiding battle. Ferguson had been informed by some native deserters that the mountain men were in pursuit of him; yet he fell back so leisurely that it became impossible for him to form a junction with Cornwallis before the patriots could overtake him. Ferguson dispatched two inhabitants of the country, carrying a message to Lord Cornwallis, asking for immediate assistance. These carriers passed Webbs Ford, on by Mooresboro, and on toward Kings Mountain, when some of the patriots, seeing them, suspected their mission and set out in pursuit of them, which compelled them to lie in hiding by day and travel by night. Hence they did not reach Cornwallis, in Charlotte, until the 7th of October, the day of the battle.

Ferguson marched almost in a southerly direction from Gilberttown, attempting to give the impression that his objective point was Ninety-Six, S. C. On the 3d of October he halted his army at Camps Ford on Broad River. In this neighborhood he remained two days. On the 5th he sent a dispatch to Lord Cornwallis, saying:

I am on my march toward you by the old road from Cherokee Ford, north of Kings Mountain. Three or four hundred soldiers, part dragoons, would finish the business. Something must be done. This is their last push in this quarter.

He crossed Broad River at Cherokee Ford in South Carolina, and on the afternoon of October 6 arrived on Kings Mountain, a small mountain ridge which received its name on account of a man named King having lived near there. This mountain range is several miles in length, running northeast and southwest. The principal peak is something like 5 miles from the ridge on which the battle was fought, the battle ridge being about 500 yards long and 200 yards wide—"so narrow," says Mills' Statistics, "that a man standing on it may be shot from either side," and being just over the North Carolina line in York County, S. C. The ridge is about 75 feet above the surrounding country. Ferguson thought this would be an ideal spot on which to camp, and so pleased was he with his camping ground that he declared that the Almighty could not drive him from it, and affirmed that he would be able to capture or destroy any force the patriots could bring against him. One writer says that he declared that "he was on Kings Mountain, that he was king of that mountain, and that God Almighty could not drive him from it.

Meanwhile the gallant little army of patriots was pressing upon his march with enthusiasm and determination. When they arrived at Gilbert Town and learned that Major Ferguson had fallen back, in order to follow him with greater speed all the foot soldiers were weeded from the ranks and left behind and only those on horseback proceeded, with great haste, to overtake the royal army. They marched nearly all of the night of the 6th of October, with the determination not to desist in their pursuit until they had forced battle on Ferguson or driven him into the army of Cornwallis. In the meantime Major Candler and Colonel Clarke, of Georgia, with their little band, joined the American forces. The men kept their guns dry by wrapping their blankets and hunting coats around the locks, exposing themselves to the rain rather than run the risk

of destroying the usefulness of their trusty weapons. From some natives of that section they learned where Ferguson was camped and something of his strength. The combined force of the patriots was now 1,100 men, all of whom were well armed, and about 900 of whom were mounted, the remainder being foot soldiers. The patriots crossed the river at the same point where Ferguson crossed—Cherokee Ford. When within a few miles of the mountain a young girl, the daughter of a loyalist family, told the patriots that Ferguson was camped on the mountain. From some of the natives they had learned that Major Ferguson was dressed in a glittering uniform, but wore a linen duster to protect it. Each member of the army was apprised of this fact, and directed to look out for a man in such a dress and mark him for his rifle.

Finally they arrived within striking distance of the enemy and agreed upon their plan of attack. "Buford" was the watchword. Only 1 mile farther would bring them face to face with their long-sought enemy. The patriots were formed into two lines of battle, two men deep, Colonel Campbell leading the right line and Colonel Cleveland commanding the left. Each man understood that it was intended to surround the mountain on which Ferguson was camped, so that in shooting at him and his men there would be no danger of killing each other. The strictest orders were given that no talking would be allowed and that absolute silence must be maintained, which order was implicitly obeyed. This was about 3 o'clock in the afternoon on October 7. After the mountain had been surrounded the order was given to halt, dismount, and tie their horses. The final order was then given in these words: "Fresh prime your guns, and every man go into battle firmly resolving to fight until he dies!" This order was carried out with stoic determination. The idea of defeat was foreign to them. Dr. Lyman C. Draper, the author of the excellent history of this battle, well says in discussing this order:

> Never was war cry of the ancient Romans more ceaseless and determined that Carthage must be destroyed than was that of the mountaineers to catch and destroy Ferguson.

The provincial corps and well-drilled loyalists under Ferguson were carefully posted along the crest of the mountain. Here they were determined to stand their ground and never retreat. In Ferguson's army were about 1,100 men of the King's American Regiment, from New York, the Queen's Rangers, New Jersey Volunteers, and loyal militia. Every man in his army understood what actual fighting meant. They were specially skilled in the use of the bayonet, and the guns which were not provided with bayonets were provided with long knives, the handles of which were cut to fit the muzzles of the rifles.

In speaking of the class of men composing the patriot army, Doctor Draper says:

> They were better educated than most of the frontier settlers and had a more thorough understanding of the question at issue between the colonies and their mother country. These men went forth to strike their country's foes, as did the patriarchs of old, feeling assured that the God of battles was with them and that He would surely crown their efforts with success. They had no doubts nor fears. They trusted in God—and kept their powder dry. Such a thing as a coward was not known among them. How fitting it was that to such a band of men should have been assigned, by Campbell's own good judgment, the attack on Ferguson's choicest troops—his Provincial Rangers. It was a happy omen of success—literally the forlorn hope—the right men in the right place.

Campbell's corps was composed of his own regiment, Sevier's regiment, and McDowell's and Winston's battalions, and were to cross the southern end of the ridge and attack Ferguson. Cleveland's corps was made up of Williams's command, which included the men under Brandon, Hammond, and Candler, his own men from Wilkes and Surry, those commanded by Lacey, and also the troops from Lincoln County under Hambright and Chronicle. Shelby commanded a corps of his own men. These troops under Cleveland and Shelby were to be disposed on the left of the ridge and opposite to Colonel Campbell's troops.

Thus arranged the entire force consisted of four columns, two columns being on the north side and the other two on the south side of the ridge, the columns being commanded respectively by Shelby and Cleveland, Campbell and Sevier. All the troops being thus arranged, the leaders then appealed to the soldiers to conduct themselves like heroes in the impending fight. Thus, standing on the very verge of what was to be one of the greatest fights of the Revolutionary war, Campbell visited each command and said to the soldiers that if any of them, men or officers, were afraid, to quit the ranks and go home; that he wished no man to engage in the action who could not fight; that as for himself he was determined to fight the enemy a week if need be to gain the victory.

After giving the orders in a voice that could be heard by most of the men, Campbell placed himself at the head of his own regiment, and, after each of the other commanding officers had done the same, the order to march was given. A large number of the soldiers threw away their hats and tied handkerchiefs about their heads so as not to be retarded by the undergrowth or limbs in charging up the mountain. On the gallant army marched, two men deep, for the scene of action. The actual battle ground was now about 1,200 yards away. Arriving in shooting distance, the men under Shelby and the men under Campbell began the attack. Ferguson did not discover the presence of the patriot army until they had approached to within 400 yards of him; whereupon the alarm in his camp was given, "to arms" was ordered, and his shrill silver whistle was heard resounding through the forest calling his men to prepare for battle.

The first actual firing was done by Shelby and his men on the north side of the ridge; whereupon, according to prearrangement, the entire patriot army united in a loud ringing frontier war whoop and dashed forward into the fray. The moment Colonel Campbell caught first sight of the enemy he shouted to his men: "Here they are, my brave boys; shoot like h—l and fight like devils!" On all sides of the hill the firing became rapid and regular. About this time, Cleveland, in order to encourage his men, said to them:

> My brave fellows, we have beaten the Tories, and we can beat them again. They are all cowards; if they had the spirit of men they would join with their fellow-citizens in supporting the independence of their country. When you are engaged you are not to wait for the word of command from me. I will show you by my example how to fight. Fire as quick as you can, and stand your ground as long as you can.

Campbell led his men straight up the hill, pouring a deadly fire into the enemy. He and his men were immediately charged by Ferguson's men with fixed bayonets, and Campbell was driven down the hill. At the same time Shelby and his men were advancing in quick time on the other side of the ridge, so that Ferguson's army found it necessary to give their attention to Shelby's assault. As one has said:

> Shelby, a man of the hardiest make, stiff as iron, among the dauntless singled out for dauntlessness, went right onward and upward like a man who had but one thing to do and with but one thought, to do it.

But he and his brave fellows, like Campbell's, were compelled to retreat before the dashing charge of Ferguson's men. When driven to the foot of the hill, Shelby cried out to his men:

> Now, boys, quickly reload your rifles and let's advance upon them and give them another hell of fire.

[Applause.]

Thus back and forth, Campbell and Sevier on one side and Shelby and Cleveland on the other, the patriots charged up the hill three consecutive times and each time they were driven back and each time renewed the charge, until the whole hill was enveloped in flame and the rattle of the musketry sounded like thunder. The coils of the patriots—commanded by Campbell, Sevier, McDowell, Winston, Hambright, Cleveland, Lacey, Williams, and Shelby—were drawing closer around Ferguson, who galloped back and forth cheering his men and giving orders. Above the din and roar of the battle could be heard his shrill silver whistle, by which he gave his commands. The place of his encampment was cleared land, or rather bare of timber, which made his men easily seen and singled out by the attacking force; but the mountain sides were studded with trees, which furnished protection for the patriots. The distinguished Col. Harry Lee, after the battle, said of Ferguson's choice of the place:

> It was more assailable by the rifle than defensible by the bayonet.

The battle was now in progress on all sides of the mountain. The roar and din was terrific. Hon. Bailey Peyton, of Tennessee, said: "When the conflict began the mountain appeared volcanic; there flashed along its summit and around its base and up its sides one long sulphurous blaze."

At the first fire delivered by Ferguson's men Colonel Lacey's horse was shot from under him. The conflict was terrible and sanguinary. The patriots were trained with the gun and were "dead shots." The royal troops were well drilled, well armed, and well commanded. Thus the battle raged for more than an hour, much of the time being engaged in hand-to-hand fighting. Capt. William Edmondson, one of Campbell's men, dashed up the side of the hill, knocked a rifle from a Briton's hand, seized him by the neck, and dragged him to the foot of the hill. [Applause.] He returned again to make a similar conquest, when he fell mortally wounded. After the battle was ended one of his faithful men told him of the great victory, whereupon the dying man showed his great satisfaction of the result and passed away. Colonel Campbell took him by the hand and wept. He died with the shout of victory in his ears, "smiled, loosed his feeble hold on life, and the Christian patriot went to his reward."

Major Chronicle and Colonel Hambright, with their Lincoln County boys, were in the thickest of the fight, and while making a gallant charge up the mountain side Major Chronicle was

struck with a ball by the enemy and fell; but Hambright took command and pressed on up the hill to victory. Many bold hand-to-hand fights took place during this terrible hour. The splendid steed which Colonel Cleveland rode was shot from under him. McDowell's men (Burk and Rutherford) did splendid service and were at all times where the bullets fell thickest. No regiment, no man, failed to do his duty. The brave Colonel Williams, on the top of the mountain, fell and died like a hero. His dying words were: "For God's sake, boys, don't give up the hill!" Each soldier of the army obeyed to the letter Shelby's battle cry, "Never shoot until you see an enemy, and never see an enemy without bringing him down." [Applause.]

At the end of an hour the brave fighters under Ferguson and De Peyster began to despair, for during the terrible preceding fifty minutes their numbers were rapidly decreased by the incessant and unerring fire of the mountain men. The Tories began to give way first, hammered and driven by Shelby and Campbell. At this time De Peyster, second in command, seeing that all was lost hoisted the white flag, whereupon Ferguson galloped up and cut it down with his sword. It is evident that Ferguson never intended to surrender, but his idea was to escape or die fighting. Accordingly he and a few of his closest officers made a daring attempt to break through the patriot lines for their freedom. Dashing forward, he cut and slashed on every side with his glittering sword. Some one in the American army cried out: "There's Ferguson; shoot him!" Whereupon more than a dozen muskets leveled at him and he fell from his horse after receiving eight fatal wounds, one of them being through the head. He died almost immediately. To the men in Sevier's column is due the credit of having delivered the fatal shots and prevented the escape of the royal commander.

Now a final hand-to-hand conflict between the contending forces ensued, which lasted about twenty minutes. Shelby and Campbell were leading the onslaught. The fighting was done within 100 feet range. This onset drove Ferguson's gallant rangers and well-drilled tories back to their tents, where most of the rangers were killed. At this point Captain De Peyster, who fought gallantly during the entire battle, again hoisted the white flag. The royalists were now huddled in a group on the top of the mountain. The patriots were ordered to close up and surround them and receive their surrender. [Applause.]

After the surrender it was proposed to give three cheers for "Liberty," which was done, and the old hills and caverns resounded with shouts of victory and freedom.

Ferguson died like a hero; De Peyster commanded like a veteran. Considering the numbers engaged, there was no more sanguinary battle fought during the Revolutionary war. It was one of the most complete and far-reaching victories that history records. Not one of Major Ferguson's army escaped, 456 having been killed and wounded and 648 taken prisoners. The American loss was 6 officers and 23 privates killed and 54 wounded.

Draper says that "so curious were the Whigs to see the fallen British chief that many repaired to the spot to see the body as it lay in its gore and glory." On the southeast portion of the ridge the valiant leader, wrapped in a raw beef's hide, without military cloak or hero's coffin, was buried, and his grave may now be seen by the passer-by, although this has been his sepulcher for more than a hundred years. Ferguson's famous silver whistle fell into the hands of Colonel Shelby, while Colonel Sevier took charge of his silken sash. To Colonel Cleveland was given Ferguson's beautiful white horse.

Thomas Young, in describing this battle, says:

> Awful, indeed, was the scene of the wounded, the dying, and the dead on the field after the carnage of that dreadful day.

Another says:

> The scenes of the battle ground the night after the conflict were heartrending in the extreme—the groans of the dying and the constant call of "Water, water!"

Says another:

> The groans of the wounded and dying on the mountain were truly affecting, begging piteously for a little water.
>
> The red rose grew pale at the blood that was shed,
> And the white rose blushed at the shedding.

Mr. Chairman, in the smoke and din of this terrible battle, in which were engaged twenty-two hundred sturdy fighters, was born this magnificent Republic, whose blessings we now share. [Applause.] The effect of this great victory on the people, both North and South, was electrical. Every American took fresh courage, and the cause of the patriots began to ascend from that hour, and grew stronger and stronger until the surrender of Cornwallis at Yorktown. This victory paved the way for his surrender. Ferguson, with his army, was the right arm of Cornwallis, and his loss and defeat compelled Cornwallis to evacuate Charlotte and hastily retire into South Carolina. Thenceforward the British cause waned, and the splendid fabric of this splendid Republic was made not only a possibility, but a reality.

Senator LODGE, in his Story of the Revolution, writing of this battle, says:

> It proved one of the decisive battles of the Revolution. It turned the tide of war in the Southern States. From that time the British fortunes declined, while the spirit of the southern people rose at a bound. The back country was freed, for Ferguson and his men constituted the force upon which Cornwallis counted to subdue the interior and crush out all local risings. That force and its very brave and efficient commander were wiped out of existence.

Speaking of the retreat of Cornwallis from Charlotte, the same author says:

> All the way his men had been shot down by the militia—something quite impossible before Kings Mountain. * * * Cornwallis had been forced to abandon his northern march.

Thomas Jefferson said of this battle:

> It was the joyful annunciation of that turn in the tide of success that terminated the Revolutionary war with the seal of our independence.

Dr. J. Watts De Peyster, an eminent authority, says that Kings Mountain was the decisive battle of the war in the South, and, perhaps, the decisive result everywhere. He further says that it was "the deadliest for the number who actually fought in it at the South." He says the tactics of the patriots in this battle were unexceptionable and, as applied to Colonel Cleveland, as "worthy of the strategem of Hannibal, which implies the highest commendation."

John H. Wheeler, the historian, says:

> This was the turning point of the fortunes of America. This decisive blow prostrated the British power for the time, vanquished the Tory influence, and encouraged the hopes of the patriots.

John Fiske, in his War of Independence, says:

> In the series of events which led to the surrender of Cornwallis the battle of Kings Mountain played a part similar to that played by the battle of Bennington in the series of events which led to the surrender of Burgoyne. It was the enemy's first serious disaster, and its immediate result was to check his progress until the Americans could muster strength enough to overthrow him.

Now, Mr. Chairman, I have tried in my poor way to show the House the importance of this battle in establishing American independence and in delivering our country from Britain's yoke, and believing that those Members who have followed me in this discourse are satisfied that Kings Mountain was one of the most important, if not the most important, conflict during the entire Revolutionary war, and believing thus, everyone must feel a deep sense of mortification in the failure of this Government for more than a century to commemorate this battle in some suitable way.

The great heroes who fought there and shed luster upon American arms need no monument to their memory. If they did, the high peak of Kings Mountain, standing isolated from its lofty neighbors, keeps eternal vigil over the battle ground, continually pointing to the spot "where valor proudly sleeps;" but we, ourselves American citizens, who have reaped the benefit of their sacrifice and their glory can not afford to let this spot go unmarked by national recognition. So let us, by our votes in this House, build upon this sacred spot a magnificent shaft; and if love of country, if patriotism, could be the architect, I venture to say it would pierce the clouds beyond the flight of the eagle, for it was there on that stony mountain crest that these patriots planted the banner of liberty, and there "blazed out the path and made clear the way up which all the nations of the earth must come in God's appointed time."

> When honored and decrepit age shall lean against the base of this monument, and troops of ingenuous youth shall be gathered around it, and when the one shall speak to the other of its objects and the purposes of its construction, and the great and glorious event with which it is connected, there shall rise from every youthful breast the ejaculation, "Thank God, I—I also—am an American!"

But whether you build this monument or not, the example of the brave heroes who there fought and yielded up their stainless lives upon their country's altar will be a perennial inspiration to all the young people of this entire country—brave yeomanry! simple in their habits, lofty in their aspirations, patriotic in action, gallant in battle, and glorious in death! [Applause.]

But in justice to ourselves and to our country let us build to their memory a magnificent monument. In the language of Webster—

> Let it rise! Let it rise till it meet the sun in his coming; let the earliest light of the morning gild it, and the parting day linger and play on its summit.

[Prolonged applause.]

Mr. FOSS. Mr. Chairman, I now yield ten minutes to the gentleman from Massachusetts [Mr. TIRRELL].

Mr. CLARK of Missouri. Mr. Chairman, I raise the point of no quorum.

The CHAIRMAN. The Chair will count. [After counting.]

One hundred and seven Members; a quorum is present, and the point of order is overruled.

Mr. TIRRELL. Mr. Chairman, the chairman of this committee, in his opening remarks, made reference to desertions from the Navy during the last year. He stated that these desertions numbered 3,227, a decrease from the previous year, when desertions numbered 4,488. He assigned as reasons for these desertions three causes: First, the restless spirit of American youth; second, the hardships of life at sea, and, third, the oath they took to serve the Government not being taken seriously. To these reasons the gentleman from New York [Mr. FITZGERALD] added another, namely, that the hardships of the service itself was the cause of many desertions.

I desire to add one more reason, which has caused me a great deal of trouble, and I presume has caused other Representatives who live near the seashore, and especially near some large city, where many enlistments are made, namely, the enlistment of minors—and I mean by minors those under 18 years of age.

I have had very little trouble connected with the enlistment of those over 18 years of age, but an infinite amount of trouble from those who enlisted under 18. Now, the rules and regulations of the Department relative to the enlistment of minors under 18 years of age, if they were fully carried out, or explicitly and clearly explained by the recruiting officers, are not subject to much criticism.

The trouble is, in the anxiety to recruit the service these explanations are glossed over, and many immature youth—children, in fact, unable to judge for themselves and their interest, or the interest of the family with which they are connected—are enlisted by recruiting officers throughout the country. The rules and regulations are substantially to this effect: That a boy under 18 years of age, desiring to enlist in the Navy, must have the written consent of his father and mother, or one if the other is not living.

As a matter of fact, boys 15 and 16 years of age appear at the recruiting office, and the course of procedure follows somewhat in this way: They are presented with a paper, and that paper will contain certain questions in fine print. Up in the left-hand corner will be the age. They are not required to give their age explicitly, but the year and the month in which they were born. Certain other questions are to be answered. Having looked that paper over and signed their name to it, the recruiting officer takes the boy out and a more elaborate blank is prepared by the officer, and he passes that blank over to the boy and asks him to read it, and then asks whether he understands it and the contents thereof. He then signs that blank.

Then they take him into another room, where there is a placard on the wall which says something about regulations in the Navy, and ask him to read that; and he glances at it, and, apparently having read it, he is sworn into the service.

Now, in the cases which have come under my observation I have not found one where the boy has understood what he has been doing. I never yet have found one where it has been explained to him that if he swore falsely in regard to his age he has committed perjury, and that before he could be discharged from the Navy he must be tried by court-martial, and if found guilty must be imprisoned from six months to a year, which is the usual period, although it is somewhat modified in case of good behavior.

Mr. RIXEY. Will the gentleman allow me a question?

Mr. TIRRELL. Certainly.

Mr. RIXEY. Where the applicant is under 21 years of age, does he not have to have the consent of his parents?

Mr. TIRRELL. Yes.

Mr. RIXEY. If he goes with the consent of the parents by certifying that he is over 18 years of age, and in addition makes affidavit that he is over 18 years of age, how are you going to take any additional precaution?

Mr. TIRRELL. I am not finding any fault with that, and I am coming to the point that I will endeavor to make in these few remarks. I say that of the cases that have been brought to my attention—and they have been many, for there are many in eastern Massachusetts, and other Representatives have told me they are numerous in different part of the country—I have found that the boys have not had explained to them the facts, either orally or by anything in writing which has been submitted to them, that if they swear falsely in regard to their age this imprisonment follows. I want to say to the gentleman from Virginia [Mr. RIXEY] that in one town in my district of about 11,000 inhabitants, where everybody knows everybody else, where the recruiting office is almost within a stone's throw of where the parents lived, there were two boys, 15 or 16 years of age, who were enlisted under the circumstances I have stated, and in order that I might know exactly how this was done in another case last summer I had myself associated as assistant counsel in a court-martial, so that I might learn all the details connected with the methods of enlistment which were followed by the Army and Navy in our country.

I found that this boy, who was within one month of 18 years of age when he entered the enlisting office, stated that he was 18 years of age the next month. There was no contradiction by any witness who was on the stand before the court-martial that he made that statement. I found that he was given a paper and that he filled it up, that they then made out another paper, and then asked him if he understood it. Then they took him to another room and pointed out to him a placard on the wall and asked him to read what was written on the placard. He said, at the trial, it was "Something about the Declaration of Independence." In other words, that boy did not have the slightest comprehension of the enormity of the offense and punishment to which he would be subjected provided he committed perjury in stating his age. Yet, notwithstanding those facts, notwithstanding that his father was sick and had been so sick for several years that he was unable to earn a dollar, and that this boy was the only support of a family of four or five children—for he worked in the shoe shops in the city of Marlboro—and that the family was dependent upon him for the support that he must give by so working, he was subjected under those circumstances to an imprisonment of one year on account of his having sworn falsely about his age. I presume they had the right to find from all the circumstances that he was not 18 years of age. What I say, Mr. Chairman, is not in criticism of the Naval Department, nor in criticism of the rule which they have laid down, because that rule is all right and proper provided it is understood. My criticism is relative to this particular point, and this particular point only, that the requirements are not such that the boys of immature age, 14, 15, 16, and 17 years, can comprehend or do comprehend from the methods of enlistment which are adopted the course which they are taking and the punishment to which they will be subjected provided a false statement is made.

This matter has been brought to the attention of the Navy Department by myself. They have the matter under consideration, and I insist that unless it is regulated and changed by the Navy Department it ought to have the attention of Congress in the way of legislation, in order that there shall be a rule in reference to enlistment to prevent these desertions by minors and that there shall not only be a written statement which they shall be required to read, explicitly stating that if perjury is committed in regard to any essential fact which they sign that they are liable to court-martial and imprisonment, but also that the recruiting officer shall be obliged to explain orally to these applicants what they are doing and the punishment which they may suffer.

Mr. DRISCOLL. Is it not true that they do not suffer now unless they themselves take advantage of their own perjury?

Mr. TIRRELL. Yes; but can you prevent it? Let me say that in every post-office in eastern Massachusetts, in every town of considerable size, as you enter the door you will see a placard in flaming colors——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSS. Mr. Chairman, I yield the gentleman three minutes more.

Mr. TIRRELL. You will see a great placard in flaming colors which would make one believe that enlistment in the Navy was one long, sweet song, with a battle ship off in the distance and the flag of our country flying from her masthead, with a boat on the shore filled with natty midshipmen, with their blue suits and happy, laughing countenances, on the point of embarking for the battle ship beyond. And do we not all know that with an inflamed imagination boys 15 or 16 years of age, regardless of every other consideration, the state of things at home and of their own condition, will seek these recruiting offices and be enlisted if they can? If they are to be enlisted, then let these things be fully explained to them, and if they are fully explained—and I never yet have found a case, and I have had many of them, where they have been—then I believe that the desertions, which are now so numerous, will very much lessen and that the boys of the ages of which I have spoken will not be taken away from father and mother and subjected to the temptations of a life at sea. They are not old enough to resist the temptations to which they are subjected, and many a young fellow has been ruined for life thereby.

Mr. DRISCOLL. The usual custom. Does not the whole trouble consist in the fact that the ordinary American boy, by reason of his bringing up and his independence, is not fit to be a servant? That is, he is not adapted to the work of a servant, and the work in the Navy of a common sailor is a menial service very largely. Is not that the trouble?

Mr. TIRRELL. No doubt that is true to a great extent. Mr. Chairman, that is all I desire to say.

Mr. RIXEY. I would like to ask the gentleman a question.

Mr. TIRRELL. Yes.

Mr. RIXEY. He states these boys are taken away from their parents. As I understand the rules of the Department, the parent has to give his written consent to any minor where the boy is under 21 years of age. Now, therefore, there can be no question about the boy being taken away from the parents where the parents object to it. Now, you complain of the advertisements for the Navy. You surely do not expect the Navy Department to advertise the disadvantages of the Navy. The Navy wants recruits. It puts forth the advantages of enlistment, and it is for the young man and the parents of the boy to decide whether that boy will go in or not.

Mr. MANN. If a private individual circulated that stuff through the Post-Office Department, they would be forbidden to use the mails on the ground of fraud.

Mr. RIXEY. Well, I do not know about that.

Mr. FOSS. Mr. Chairman, I yield one hour to the gentleman from Massachusetts [Mr. WEEKS].

Mr. WEEKS. Mr. Chairman, I have no disposition to join in a general debate with my colleague from Massachusetts on the subject which he has just been discussing, but if it meant anything it was a criticism of the officers of the Navy who are detailed for recruiting service. Now, an officer detailed for that duty does not get credit for the number of men he enlists, but his record is made up and he gets credit for the number of efficient men he enlists, determined after these men have performed their term of service and have been discharged. It would be an offense subjecting an officer to punishment to enlist a minor without the consent of the minor's parents or guardian, and in my experience of now something like fifteen months the only case which has come to my attention where a minor has been enlisted was where he wrote a letter giving this consent, forged the signature of his guardian, and took the oath that he was over age, and when he got into the service he found, as a great many other young men find, that he did not like the life and he wanted to get out of the service, so he fell back on the statement that he was under age when enlisted. The fact is these are bad boys and have no business to be in the service under any circumstances. In all such cases the officer is deceived by the men he has enlisted, and if anybody deserves sympathy it is the officer who is being imposed upon, and it is the Government that is being imposed upon by these young fellows who are so ready to make a false oath.

Mr. TIRRELL. May I ask my colleague a question?

Mr. WEEKS. Certainly.

Mr. TIRRELL. Do you not think the recruiting officer is as anxious to get recruits and make a good record in filling up as anything else that induces him to do these things?

Mr. WEEKS. I have just stated, Mr. Chairman, that the officer did not obtain any credit for the number of enlistments made. The credit which he gets is determined by the number of efficient enlistments he makes, which can only be determined after the men have performed their term of enlistment of three years; so that there is no earthly reason why an officer of the Navy should enlist a man who is under age or who is not likely to be efficient.

Mr. FULKERSON. Do you not think that when the enlisted sailor and recruiting officer are in the same town that the Government should go to the parents and find out whether they give their consent or not?

Mr. WEEKS. I do not know about that. Possibly.

Mr. FULKERSON. I have a case in mind where a boy under 18 years of age made application, but neither of his parents ever heard of it until after he was already on the way to the coast. He was enlisted, notwithstanding he was under age and neither parent gave consent.

Mr. WEEKS. But he made oath he was over 18.

Mr. FULKERSON. That is true, but has not the parent some right in his boy until he is 21 years of age, and ought not the Government to respect the parents' interest to that extent?

Mr. KEIFER. They get them out——

Mr. FULKERSON. Oh, you can get them out on a writ of habeas corpus, but then they will be prosecuted for having made a false oath.

Mr. WEEKS. The fact is, a boy 18 years of age who will do that proves that he is a bad boy.

Mr. FULKERSON. That does not relieve the Government of the right to give the parents a fair show. It is the duty of the Government to see that the parents are protected in the right of their boy until he is 21 years of age, and if the Government did not get the parents' consent the boy should be sent home to them.

Mr. WEEKS. Mr. Chairman, I am surprised that any case has come to the attention of the gentleman from Missouri in which a young man under age has been enlisted without the consent of his parents or guardians.

Mr. FULKERSON. That fact exists notwithstanding, and the Secretary of the Navy admits it, and says it is wrong that such a thing should exist.

Mr. MANN. I could name twenty cases of that same kind that have come under my personal knowledge during my brief term here.

Mr. TIRRELL. I can name a number in my district.

Mr. WEEKS. All I can say to you, gentlemen, is that it is your duty to report these cases to the Secretary and it will be his duty to punish the offending officer.

Mr. HUMPHREY of Washington. I had a case of that same kind where the boy was under age. I attempted to have him released, and it was very strongly intimated that if he was released he might be prosecuted for perjury.

Mr. WEEKS. Why should he not be prosecuted for perjury?

Mr. CLARK of Missouri. I would like to ask the gentleman one question.

Mr. WEEKS. I will be glad to reply.

Mr. CLARK of Missouri. Where a boy under 18 years of age enlists in the Navy, and in order to get in makes an affidavit that he is over 18 years of age, and his parents find it out and want him discharged, does the gentleman think the Navy Department ought to undertake to fasten a stigma on the boy by prosecuting him for perjury or giving him a dishonorable discharge from the Navy?

Mr. WEEKS. I do not know why not.

Mr. CLARK of Missouri. Because he is a child.

Mr. KEIFER. He would not be a child if it was in anything else.

Mr. CLARK of Missouri. I do not think if a boy strains his conscience in the cause of patriotism and swears that he is over 18 years of age, and his parents want to take him out of the Navy for some good reason, that he ought to have a stigma put upon him. And that is precisely what they do.

Mr. WEEKS. As some of you gentlemen know, I am a graduate of the Naval Academy. In my time cadets entered the Academy between the ages of 14 and 18. They were obliged to enter under the age of 18. They took an oath when they entered the Academy to do their duty, to obey certain regulations, etc. Now, we have been condemning hazing at the Naval Academy, but if the position taken by the gentleman from Missouri [Mr. CLARK] is sound, any cadet who enters the Naval Academy under 18 and takes an oath to observe the regulations ought not to be held up to that oath, because he took it when under 18 and consequently was not responsible.

Mr. CLARK of Missouri. That is not a parallel case at all. I would object to those boys over there at Annapolis being prosecuted for perjury because they indulged in hazing. I am opposed to hazing, but I am not in favor of putting that kind of a stigma on a boy. I do not think it is right.

Mr. LOUD. Mr. Chairman, I will say that I had a boy treated under similar circumstances to those the gentleman has stated, and he was released without a stigma of any kind.

Mr. CLARK of Missouri. That is a very strange way, to have one rule for you over there and then another one for us. That is the whole thing.

Mr. HUMPHREY of Washington. I would like to know how the gentleman proceeded.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state that I had a similar case not more than a week ago, where a young man 17 years of age went away from home and enlisted in the Navy, and as soon as the parents ascertained it they wanted to get his discharge. They ascertained that he had made an affidavit that he was 18 years of age. The naval authorities refused to have him discharged or to recommend his discharge, and that is a similar case to the one stated by the gentleman on my left.

Mr. WEEKS. If the Navy Department were to allow the discharge of such fellows on the statement that they were under age when enlisted it would lose one-third of the men enlisted before any reasonable service had been gotten out of them, and this recruiting is a very considerable expense.

I listened yesterday to the remarks of the gentleman from Ohio [Mr. BURTON] with great interest, and while they were not new, or were only in part new, I doubt if the views which he expressed have ever been stated more explicitly or with greater force; but similar statements have been made by gentlemen in this House and in other places ever since this Government was organized. I recollect when I was a youngster in school reading in a newspaper a statement made by a then distinguished Member of this House, Mr. Blount, of Georgia, afterwards known as "Paramount Blount," of Hawaiian fame,

in which he made very similar statements to those made by the gentleman from Ohio yesterday, and I will read from the RECORD of May 14, 1876, to show this similarity:

In the first place, I do not consider that the continued keeping up of the Navy of the United States at a high state is at all consistent with the genius of our people any more than to maintain a large standing army.

It is our great good fortune that, unlike the great powers of Europe, which are continually meditating destruction of each other both upon land and upon sea, we are isolated, disconnected with those controversies which are continually and, as it would seem, necessarily arising there. While this Government has been in existence but a hundred years our Navy has been called upon but once worthy of mention to go out against a foreign foe and that was during the war of 1812. I know we have had other troubles, but they amounted to naught.

It was charged against the Administration of Jefferson as well as against the Administration of Madison that they had almost wholly neglected the Navy. What was the result? When the trial of strength did come, although we encountered an enemy who by reason of the blows she had given to the Spanish, French, and Dutch navies was riding the ocean with contempt for the rest of the world, who does not remember with pride our struggle, and that it was our own despised little Navy which first brought her to a recognition of the fact that there was one power she must and should respect? But how did it happen? Much was due to the fact that our Navy was composed of men of skill, of courage, and of endurance, and a great deal that we found our commercial marine ready at once to come to our rescue. It was our hidden, but our easily available strength.

It is true that there is greater reason for ample preparation for naval warfare now than there was in 1812. In those days it required only a few months to build the largest battle ship. It took comparatively few weeks to build a ship of the ordinary size, and we had a merchant marine in those days on which we could rely for men. As sailors they performed the same duties on board the merchant ship which they would have to perform on a man-of-war, and they generally had some knowledge of gunnery, because in those days merchant ships were obliged to be armed for protection against pirates and privateers in time of war. Then it took three or four months to declare war, and that was a reasonable time to make preparation for it. To-day a declaration of war can be made in as many minutes, allowing no time for preparation. It takes three years to build a battle ship and a commensurate time to build smaller ships, and we have no merchant marine to furnish suitable men needed to serve on a man-of-war, which requires special training. We have had many examples in our own history to show the necessity for preparation. In the *Virginius* affair, which took place just before the gentleman from Georgia made the remarks which I have quoted, American citizens were seized in Cuba, stood in a row, and shot down, and other Americans would have been treated the same way if it had not been for the interposition of a British consul, backed by a British man-of-war, while we stood supinely by and did nothing, simply because our Navy was so weak that even our demands for redress received scant courtesy. It is safe to say that there would be no occasion to make such a demand under present circumstances, for no nation would now dare treat American citizens in such a way. Compare this humiliation with the pride and satisfaction felt by every American citizen when the reports came that Admiral Dewey had destroyed the Spanish fleet in Manila Harbor.

This will always be considered one of the great events in American history, but the part which people forget or have never considered is that, while as a military accomplishment the result was perfect, it would have been impossible if Admiral Dewey and his fleet had not been prepared to do just exactly what they did do. It should not be necessary to add to these illustrations, and the remedy for both is exactly the same—preparation would prevent the first affair and will make a recurrence of the second a reasonable certainty. But such a recent and convincing example of the same truth as the war between Japan and Russia furnishes should be added. It almost goes without saying that if Japan had not been prepared for that war she would have ceased to be an independent nation before this time, for her defeat on the sea would have meant military ruin, whatever successes she might have gained elsewhere; outside interference alone could have prevented this, and we have seen in the case of Korea within the past year that this aid could not be depended upon.

As stated by the gentleman from Ohio, a radical change in the reasons for making war has taken place since the French Revolution. Before that time wars were made because ruling families or rulers believed that the interests of their families or their own interests would be promoted by so doing, they conveniently assuming that the interests of the people were promoted in this way. Such a war would now be impossible, and the wars of the future will be waged for commercial or humane reasons, as have been nearly all wars since the time of the first Napoleon.

We, in common with all the great nations of Europe, have reached a condition where we produce more manufactured goods than we consume. We are all looking for markets. To insure our having a fair chance to trade with the whole world the open-door policy must be maintained, especially in the Orient, but if we were lacking in physical power it is safe to say that the door to our trade in many localities would be closed. Gentlemen speak of the triumphs of diplomacy as indicating the folly of maintaining a large navy, but diplomacy would lose many of its laurels if the Navy did not exist to insure a hearing and to compel a respectful consideration of our demands. From a commercial standpoint at least, the greatest success obtained by diplomacy in recent years was our demand, after the Boxer uprising, that the integrity of the Chinese Empire, territorially, and the open door for her trade should be agreed to, but does anyone believe that any attention would have been paid to our demand if our fleet in Chinese waters had consisted of three old ships of the civil war period, as it did twenty-five years ago, or if it had not been well known that we had the physical power at sea to make ourselves a vital factor in the affairs of the world?

It is an historical fact that when our naval power was at its lowest point our trade with the Orient was at its lowest possible ebb. When we commenced to build up our Navy, and especially when we had advertised our strength by the Spanish-American war, our trade commenced to increase and has continued to increase enormously. In the last fifteen years our trade with Japan has increased 700 per cent, while England's trade with Japan has scarcely doubled. Our trade with China in the last twenty-five years has increased 1,000 per cent, while the trade of England has increased but about 300 per cent.

Mr. PALMER. I am curious to know how an increase in trade can be ascribed to an increase in the Navy. I should like to have that explained.

Mr. WEEKS. I will try briefly to point out what I mean by this. As I stated a moment ago, if the gentleman had been listening——

Mr. PALMER. I have been listening to you intently.

Mr. WEEKS. Our trade commenced to increase about the time that our Navy commenced to develop. Our Navy is our one advertising medium in the Orient. The fact that we showed great strength during the Spanish-American war, great physical power, appeals to those people. They buy goods of nations which show to them that they have physical strength; and while I do not pretend to say that our increased trade is due entirely to that one cause, I believe that a large part of it is due to it, and I can show, Mr. Chairman, that where we have not objected to the closing of the door against us in other parts of the world, we have lost the trade that we had.

The best illustration of that statement is in the loss of our trade with Madagascar. Nearly ten years ago the French Government decided that it would take possession of that island. We had a trade with Madagascar that year of over half a million dollars. Our trade last year was about $11,000. In other words, in these days of reciprocity and favored-nation treaties and preferentials, such regulations can be made that unless the open door is maintained (and I have said the open door can not be maintained unless we have physical force), we are not going to develop new markets for our goods if we do not lose the trade we now have. Another illustration of that very point is the case of the Kongo.

Mr. DRISCOLL. Have we not had physical force for several years back?

Mr. WEEKS. Yes.

Mr. DRISCOLL. Why did we concede this trade to France in Madagascar?

Mr. WEEKS. That was before the Spanish-American war, and we are not responsible for that concession.

Mr. Chairman, some twenty years ago, before the Berlin conference, every annual message that was sent to Congress by our President mentioned the great trade which might be developed in the Kongo territory. This was also frequently referred to in reports made by our State Department. President Arthur, for instance, in his annual message in 1883, said:

The rich and populous valley is being opened to commerce. The United States can not be indifferent to the work nor to the interests of their citizens involved in it. It may become advisable for us to cooperate with other commercial powers in promoting the rights of trade and residence in the Kongo Valley.

Now, everybody knows the Kongo was put under the control of the King of Belgium. He has taken the trade of that territory to himself. We have no consul in the Kongo region, and while it is becoming one of the greatest, if not the greatest, exporting rubber-producing territories in the world, and Antwerp, in Belgium, is the greatest rubber market in the world, our records do not show that we are doing one single dollar of business with the Kongo, although we are one of the first countries in the manufacture and consumption of rubber goods. In other

words, the King of Belgium, or Belgium, whichever it is, has taken that entire trade. If we had had our interests properly looked after and that door had been kept open, we would be getting our share of that large and valuable trade.

Mr. PALMER. But the gentleman would not advocate the method by which the King of Belgium has conquered the rubber country and ask the United States to go into that business, would he?

Mr. WEEKS. Not at all. Now, Mr. Chairman, I understood the gentleman from Ohio [Mr. BURTON] to say yesterday that he was not opposed to a navy, but he did not state just how large a navy he was in favor of. That is the crux of the whole matter. If a definite arrangement were made with our commercial rivals, preventing the increase of armament, or for a gradual reduction of armament, I doubt if there is a Member of this House who would not be in favor of such a proposition, but until such an arrangement is made there is nothing for us to do, in my judgment, but to do what they are doing.

The question I would like to ask the gentleman from Ohio is, What kind of a navy is he in favor of—a navy half large enough to protect ourselves, a navy one-quarter large enough to protect ourselves, or a navy large enough to protect ourselves? There are some very good people in this country who do not believe in the maintenance of any navy. There are others, like the distinguished Democrat from Alabama, who is about to stop in Congress on his way to the Presidency long enough to provide for a billion-dollar navy—who, I believe, are extremists in the opposite direction.

But the fact is, Mr. Chairman, we need a navy large enough to meet the commercial rivals whom we would have to meet in case of difficulty. In other words, our building policy, in my opinion, should be based upon what our rivals are doing, and while I have no right to speak for the Committee on Naval Affairs, I have no doubt their conclusions are based on some similar reasons. The Navy is not being increased to any extent by this bill. We have an old ship that is going to the junk heap, the *Texas*, the only ship in the Navy, by the way, except a few small ones that were acquired during the war with Spain, the plans of which were not made in this country.

The battle ship which is proposed is simply to take the place of the *Texas*.

Now, I want to say one word in reply, or rather in reference to a suggestion made by the chairman of the Naval Committee, when in making his opening statement he said that the estimates sent to the Naval Committee would have required $120,000,000, as I recollect it, and that the committee had reduced the estimates about $22,000,000. I contend, Mr. Chairman, that this statement should not be construed as a criticism of the Secretary of the Navy or the bureau officers, for they as well as the Naval Committee have done their duty in this case. It is the business of the Navy to prepare to fight. It is not the business of its officers to say how much money shall be appropriated, but it is their duty to evolve plans which, if carried out, would put us in condition to fight successfully if we have to do so at all.

It is the duty of Congress when the estimates are presented to make appropriations which will reflect not only the prevailing desire of the people for a strong Navy, but also their desire that economy shall be considered in making appropriations; to take into account also the fact that the revenues can not all be devoted to one purpose only, since proper consideration must be given to the needs of other Departments. That is exactly what has been done in this case. Those who have made the estimates for the Navy Department have doubtless based them on theoretical perfection, as it was their duty to do, and the Naval Committee has cut down the estimates to meet the conditions which I have referred to. I do not want to take any laurels from the Committee on Naval Affairs, but I do not think the officers of the Navy Department who have prepared the estimates should be criticised because the estimates are larger than the appropriations we are willing to make.

But when asked to appropriate $100,000,000 for the naval service this House and the country at large should have the assurance that the money is being wisely expended; that our ships fill all the modern requirements of fighting machines, and especially that the personnel is in quality and efficiency at least equal to that which has in every crisis in the past brought honor and glory to the American flag, and that in education and discipline it is maintaining the best traditions of our naval service. Neither the Naval Academy, the naval officer, nor the naval service have escaped criticism, much of it from unreliable sources, but occasionally coming from a source of such high character that it seems to me desirable to consider in detail some of these criticisms and as far as possible to determine whether they are justified or not, for I assume that there is no Member of this House who will vote $100,000,000 for the support of a military organization in which the personnel is not diligent and efficient and honestly trying to improve the character and standard of the service, and I hope there are few, if any, Members who will not willingly support the naval programme if convinced that the country is getting the best possible results from the expenditures made, and especially if convinced that the service is not only not retrograding in character, but is each year reaching a higher standard.

Fair and friendly criticism is beneficial to the naval service, as well as to any person or organization, but when criticism is based on insufficient data or information it is especially unfair to the naval service, which can not resort to the press, magazines, or stump to defend itself, but must depend on past service and achievements for a reply.

I propose to refer to two criticisms of the naval service recently made to illustrate the difference between the just and unjust varieties. Naval officers and those responsible for the effectiveness of the naval establishment have repeatedly called the attention of Congress to the necessity for a change in the age of promotion and retirement, a change which from every view point seems most essential. One of these propositions depends on the other in this way, that retiring or placing on the reserve list officers of a stipulated rank, who have not been promoted before reaching a stipulated age, will cause the promotion of their juniors early enough to enable the latter to perform the best service in the grade to which they are being promoted.

By our present system of promotion men reach command and flag rank at an age which precludes their obtaining great experience in those grades before the retiring age—62 years—reaches them, so that officers come to these responsible positions disqualified by age from giving the Government the service which we naturally expect and demand. This is a condition which has been growing more acute during recent years, owing to the large number of midshipmen graduated from the Naval Academy during and immediately after the civil war, forming a hump, which, by the way, will be duplicated by the unusual number of midshipmen now being appointed to the Naval Academy. Nothing better illustrates the desirability of a liberal and at the same time conservative naval policy which will keep the service in condition for hostilities without taking unusual and expensive action whenever we are brought face to face with real trouble than does this condition of the Navy personnel. It is not, as I have stated, a new question, but has been repeatedly called to the attention of Congress by the President, Secretaries of the Navy, and bureau chiefs during recent years.

In his annual message in 1904 the President referred to the subject by saying:

> Sooner or later we shall have to provide some method by which there will be promotions for merit as well as for seniority or else retirement of all those who after a certain age have not passed beyond a certain grade.

In 1905 the President in his annual message repeated this suggestion in these terms:

> There should be a resolute effort to eliminate the aged officers of reputable character who possess no special efficiency.

In 1903 the Secretary of the Navy, Mr. Moody, in his annual report, says:

> In discussing this subject the Chief of the Bureau suggests as the only remedy for the evils attending the tardy attainment of command rank * * * early compulsory retirement in the higher grades.

In 1904 the Secretary of the Navy, Mr. Morton, in his annual report, says:

> I believe that action should be taken to place younger men in positions of command as soon as a way can be found to do so that does not involve injustice or impose unnecessary hardship upon officers whose long and worthy service entitles them to consideration.

In 1905 the Secretary of the Navy, Mr. Bonaparte, called attention to this defect in our system and proposed a plan to remedy it.

During the last five years the Bureau of Navigation, which has special charge of the personnel of the Navy, has had at its head two officers who to an unusual degree have had the confidence of the Navy as well as of the public—Rear-Admiral H. C. Taylor and Rear-Admiral George A. Converse, the present incumbent. They have repeatedly voiced this criticism of the condition of the personnel of the Navy, and Admiral Taylor, in his annual report in 1904, in speaking of the ages of captains, said:

> Unless these be diminished disaster is practically certain to ensue.

And Admiral Converse in his annual report in 1904 discussed the necessity, and in 1905, in referring to the subject, says:

> This subject was discussed at some length in my last annual report, and the views of the Bureau were fully indorsed by your predecessor (Secretary Morton). These were in general effect that officers arrived at flag and command ranks too late and served too short a period in those grades for the general efficiency of the Navy.

These citations are sufficient to show that this is a criticism

based not on rumors or insufficient knowledge, but on real facts, coming as it does from those who are best qualified to pass upon the subject; but in order to show that we are not in even a comparatively good position, I wish to compare the ages of our officers with the ages of seagoing officers of command and flag ranks in the principal navies of the world. This compilation is taken from an article recently written by Lieut. Commander A. L. Key, United States Navy, printed in the proceedings of the United States Naval Institute, which treats this subject exhaustively, and from which I shall make additional quotations. It is, however, too long to be reprinted in this connection.

Seagoing flag officers.

Country.	Rear and vice admirals.		Captains.	
	Average years in grade.	Ages.	Average years in grade.	Ages.
Great Britain	8.0	49 to 62	11.2	35 to 55.0
France	14.2	53 to 64	9.5	47 to 59.0
Germany	6.0	51 to 56	6.2	42 to 52.0
Japan	11.0	44 to 57	8.0	38 to 52.0
United States	1.0	59 to 62	4.5	55 to 61.5

This table shows that officers in our Navy come to the command of battle ships between the ages of 55 and 61½ years; that they serve but four and one-half years in the grade of captain, and that if they get the command of a battle ship they never have it for a longer time than one cruise of two years; that officers come to flag rank between the ages of 59 and 62 years, and that the average time served in this grade is but one year. It should be observed, however, that officers holding the rank of commander in our Navy are given command of smaller ships than battle ships, but that under our present retirement system officers do not reach that rank until they are about 48 years of age.

Every business man knows that the age of best achievement, at least as far as taking the initiative is concerned, is between 30 and 50, and no business man would consider employing a man in a minor position until he had reached the age of 50 and then suddenly place him in a position where he would be obliged to depend absolutely on his own judgment, for even at 48 the naval officer may not receive a command, but he will quite likely get one command of two years as a commander and one command of two years as a captain, or a total service of four years in command rank before he becomes a flag officer, and then possibly serve one year in the latter position. Such a proposition if applied to business affairs would be considered ridiculous. It is none the less so in the naval service.

It is no reply to say that officers have reached the age of 60, or even a greater age than that, and have performed service of the best character, for it will be found that in all such cases those officers were placed in command rank when very young and had had years of preparation for any unusual service performed in high rank late in life. I have stated that the average service which flag officers will in future perform in that rank is one year. To show that conditions are getting worse rather than better, it may be stated that the five senior rear-admirals on the Navy list the 1st of January, 1906, have served, or will serve before their retirement, an average in that grade of four and four-fifths years; while the five senior captains on the Navy list January 1, 1906, will serve as rear-admirals just one-half of that time, or two and two-fifths years.

As Lieutenant-Commander Key well says:

> Since our Navy is maintained for the single purpose of fighting the navy of some foreign power, when the necessity arises, if our captains and flag officers have as much sea experience or training as the flag officers and captains of other navies then we, at least in the crucial test of war, will be on equal terms.

The table which I have given, however, shows conclusively that we would not be on equal terms in this respect. Neither have we been as liberal in providing for officers of advanced rank as have foreign governments, for they have not only made provision so that officers may serve as rear-admirals for a considerable number of years, but have provided the additional grades of admiral and vice-admiral for officers of unusual capacity who have served in the grade of rear-admiral for a term of years, as the following table will show:

	England.	France.	Germany.	Japan.	United States.
Admirals of the fleet	4	----	1	----	1
Admirals	11	----	4	7	----
Vice-admirals	23	15	8	23	----
Rear-admirals	49	30	19	25	18

Neither have we been as liberal in providing flag officers in proportion to our tonnage or the number of our men as have foreign navies, which is shown by the following comparison:

	England.	France.	Germany.	Japan.	United States.
Tonnage per flag officer	22,447	17,799	18,373	7,778	38,939
Men per flag officer	1,121	1,158	1,097	551	2,056

These figures demonstrate that we are not doing our duty even from an independent standpoint, or from a business standpoint, in retaining officers in junior capacities until they have passed the age when they are best fitted to assume great responsibilities; neither have we done our duty when we compare our course with foreign governments, which should be the final test. Our Navy in the past has been successful, or very largely so, because we have been superior to the enemy in ships of the same general class, in guns of the same general caliber, and in personnel of the same general rank—that is, ship for ship, gun for gun, and man for man we have been superior.

While it is believed that we retain our advantage in ships and guns, we have distinctly lost that advantage in the age of the promotion of our officers, and it should be up to Congress to at once remedy this defect. Let us not continue to spend one hundred millions a year for the purpose of maintaining an efficient Navy and at the same time fail to take advantage of criticisms which call to our attention the fact that we are spending our money with the probability that we are not getting the best possible results. I now wish to call to your attention a criticism of an entirely different character.

During the recent discussion of a measure to prevent hazing at the Naval Academy the occasion was taken by the distinguished Representative from Iowa, whose name is a household word throughout the country, to show that, as a result of hazing and hazing methods at the Naval Academy, the Navy personnel was inefficient, and, further, that the incompetent were protected from adequate punishment by their companions in arms before whom they were brought for trial in accordance with Navy regulations. These are serious charges which have been circulated throughout the country, not made by some irresponsible person, but by a leading Member of Congress, whose experience and ability as a legislator are known and respected everywhere and whose words for that reason carry unusual weight and conviction. In this case, however, I believe his criticisms and conclusions are not only unwarranted, but that they do the naval service rank injustice, and for that reason I wish to call to the attention of the Members of this House the actual facts, taken from the records, and I hope that these facts may not only carry conviction to the Members of this House, but may reach a few, at least, of the thousands throughout the country who have read, and doubtless have been persuaded by, the statements made by the gentleman from Iowa that the naval service needs prompt and vigorous overhauling.

The first of the two charges made was based on the fact that there had been within twenty-five years a large number of disasters to naval vessels due to negligence and inefficiency of their officers. It was made in the following terms:

> In twenty-five years twenty-six vessels have been destroyed. Almost every month you read of some mark of inefficiency upon the part of those who are charged with the conduct and management of the Navy.

Unfortunately for the United States naval service, it is impossible to make comparisons with other similar services or with the merchant marine to prove that our service has been singularly free from accidents due to either of the causes alleged, because service at sea is subject to many and unlooked-for conditions which can never be the same, or even similar, in different services. It is apparent that the number of accidents must depend on the number of ships in commission, on the activity of those ships, and on the character of the activity, whether it is based on well-known conditions or experimental conditions, for navies have been making great changes in the last twenty years, the character of ships and their armament having undergone almost a complete revolution, so that much of the active service has been trying out new devices and applying old and oftentimes out-of-date methods of handling a fleet to new conditions and new ships. Such a thing as fleet maneuvers in our Navy twenty-five years ago were almost never thought of. Our ships were not only few in number, but of widely different classes, so that fleet tactics were seldom engaged in, but to these necessary evolutions have been due some of the most serious accidents, not only in our own Navy but in foreign navies, which have happened in recent years. Again, danger in active service is governed by the location in which the service takes place. If in the Tropics, earthquakes, tidal waves, cyclones, and other violent conditions are encountered, and frequently the results

from them are disastrous under conditions which no man could foresee or prepare for.

Very frequently naval vessels must cruise in unknown or comparatively unknown waters, along badly lighted and buoyed coasts, using charts which are both incomplete and inaccurate, so that it can readily be seen that, if much service is required or performed under such conditions, accidents must necessarily be more frequent than they would be if the same amount of service were performed in tropical latitudes and contiguous to our own well lighted and charted coasts.

This brief statement will indicate the impossibility of comparing our own service with any other, or even with itself, at different periods. Neither would it be fair to compare it with the merchant marine, which, generally speaking, does not cruise except along well-known coasts, in many cases, in fact generally, between the same ports for long periods, so that the merchant ships' officers become perfectly familiar with the condition of tides, currents, winds, and natural and artificial marks in the section in which they are employed, while the naval officer must frequently, in fact, when away from the coast of his own country almost always, take his ship along coasts and into harbors which he is entirely unfamiliar with, so that the commercial marine is not a fair standard to compare with naval efficiency or lack of it. Therefore it becomes necessary to take up individual accidents, in fact, all such, to determine whether they are sufficient in number and are of a character to warrant such a sweeping charge as a general declaration of lack of efficiency.

In 1865 the U. S. S. *San Jacinto* ran aground on the Bahama Banks. She was not seriously injured, but her commanding officer was court-martialed and sentenced to three years' suspension; he appealed from this decision and the President ordered a new trial by a different court, which resulted in the same sentence being imposed as in the first instance.

January 4, 1866, the U. S. tug *Narcissus* foundered in the Gulf of Mexico. A volunteer ensign was in command and he had a reputation as a competent officer. A violent hurricane passed over the Gulf at the time, and as all hands were lost it is presumed that the accident was unavoidable.

In June, 1867, the U. S. S. *Sacramento* was lost on a known reef in the Bay of Bengal. Her captain and navigator were tried by court-martial, were both found guilty and sentenced to three years' suspension and to be publicly reprimanded. In both cases the sentence was reduced to two years by the Secretary of the Navy.

In 1867 the U. S. S. *Monongahela*, while anchored in the harbor of Fredickstadt, island of St. Croix, was picked up by a tidal wave and landed on a wharf. The next wave in receding carried the ship to the entrance of the harbor and deposited her on a coral reef, from which she was later removed but little damaged and with small loss of life.

In the same storm the U. S. S. *De Soto*, anchored in a St. Thomas harbor, was treated in a similar way and, as in the case of the *Monongahela*, she was later floated with but little damage and small loss of life. No court-martial was ordered in either of these cases.

August 13, 1868, the U. S. S. *Fredonia* and the U. S. S. *Wateree* were anchored in the harbor of Arica, Peru, where they were overwhelmed by a tidal wave, resulting from an earthquake, which carried the *Wateree* a half mile inland, from which position the ship was never moved; the *Fredonia* was sunk in the harbor by the same wave and most of her officers and crew were lost. In neither case was a court-martial ordered.

In 1868 the U. S. S. *Suwanee* was lost in Shadwell Passage, Alaska. There are irregular and unusually strong currents in this locality, and while the ship had been furnished with the only available charts, they were imperfect and incomplete. Her captain was court-martialed and exonerated.

January 24, 1870, the U. S. S. *Oneida*, while putting to sea in Yokohama Bay was, in the night, run into by the English steamer *Bombay* and sank fifteen minutes after the collision, carrying down nearly all of her officers and crew. A court of inquiry showed conclusively that the *Oneida* had the right of way and no court-martial was ordered.

In 1870 the U. S. S. *Saginaw* was carried by unknown and unchartered currents onto a reef in the Pacific Ocean and was lost. Her commander, Lieut. Commander Montgomery Sicard, one of the most distinguished officers of the Navy, was court-martialed and exonerated.

In 1874 the U. S. S. *Brooklyn* ran aground near Key West, Fla. She was floated and no damage was done. Her captain was court-martialed and acquitted.

In 1875 the U. S. S. *Saranac*, while cruising in uncharted waters in Seymour Narrows off the Alaskan coast, was thrown by a whirlpool on a sunken rock and lost. No court-martial was ordered.

In 1877 the U. S. S. *Huron* was lost during a severe storm on Cape Hatteras; as her captain, navigator, and the deck officer, who was on duty at the time, as well as nearly all of the other officers and men, went down with the ship, there was no court-martial ordered.

In 1881 the U. S. S. *Rogers*, a whaler purchased to take part in the Greeley relief expedition, while frozen in the ice in the Arctic Ocean caught fire and, being saturated with oil, was quickly destroyed. No court-martial was considered necessary.

In 1883 the U. S. S. *Ashuelot* was run on a rock off the coast of China and lost. Her captain was court-martialed and dismissed from the service. It is worth noting that this officer had previously been dismissed for drunkenness and restored to the service by act of Congress.

In 1888 the U. S. S. *Enterprise* ran onto a submerged barrier in Christiana Bay, which was new and did not show on the charts furnished the ship. The ship was not damaged and no court-martial was ordered.

In 1889 the U. S. S. *Trenton*, *Vandalia*, and *Nipsic* were lying at anchor in the harbor of Apia, Samoan Islands, in company with a German squadron of three ships and H. M. S. *Caliope*, when such a terrific hurricane arose that the American and German ships, being unable to steam against it, were wrecked; the Englishman, being a new ship, with, for that day, powerful engines, was able to get to sea. The *Trenton* and *Vandalia* were a total loss; the *Nipsic*, however, was later pulled off the reef and repaired. Several officers and many men were lost. No court-martial was ever ordered. On the contrary, Rear-Admiral Kimberly and his officers were highly complimented for their devotion and heroism on this occasion. And with your permission I will read part of the letter which the Secretary of the Navy sent to Admiral Kimberly:

NAVY DEPARTMENT,
Washington, April 27, 1889.

SIR: * * * In reply to your request and that of Captain Farquhar for a court of inquiry, the Department has to say that it deems such a court unnecessary. It is satisfied that the officers in command of the ships at Apia did their duty with courage, fidelity, and sound judgment, and that they were zealously and loyally seconded by their subordinates; that the hurricane which caused the destruction of the vessels and the loss of so many lives was one of those visitations of Providence in the presence of which human efforts are of little avail; that the measures actually taken by yourself and the officers under you were all that wisdom and prudence could dictate, and that it was due to these measures that so large a proportion of the crews were saved; that the one step which might have averted the catastrophe, namely, to have put to sea before the storm had developed, could only have been justified in view of the grave responsibilities resting upon you at Samoa, by the certainty of overwhelming danger to your fleet, which could not then be foreseen; that you rightly decided to remain at your post, and that the Department, even in the face of the terrible disaster which it involved, approves absolutely your decision, which has set an example to the Navy that should never be forgotten.

To convene a court of inquiry under these circumstances would seem to imply a doubt on the part of the Department where no doubt exists; and instead of ordering an investigation, it tenders to you, and through you to the officers and men of your command, its sympathies for the exposures and hardships you have encountered, and its profound thanks for the fidelity with which you performed your duty in a crisis of appalling danger.

Very respectfully,

B. F. TRACY,
Secretary of the Navy.

Rear-Admiral L. A. KIMBERLY, U. S. Navy,
Commanding United States Naval Force on the Pacific Station, Apia, Samoa.

In 1889 the U. S. S. *Constellation* was run aground in Lynnhaven Bay, but received no injury. Her captain was court-martialed and sentenced to two years' suspension. This sentence was reduced to one year by the Secretary of the Navy.

In 1891 the U. S. S. *Dispatch* was run aground and lost on the New Jersey coast, and, although a court of inquiry found the captain, navigator, and officer of the deck negligent, the Secretary of the Navy decided that a court-marital was not necessary.

In 1891 the U. S. S. *Galena*, while being towed by the tug *Nina*, was run aground on Gay Head, off the Massachusetts coast, the course of the tug being directed from the *Galena*. The *Galena* had no deviation table and the captain had failed to compare his compass with the tug's. The ships were in a dense fog at the time of the accident. The captain of the *Galena* was suspended for one year.

The same year and at the same time the tug *Luiana*, while proceeding in the fog to the relief of the *Galena*, ran on a rock. Her commanding officer was court-martialed and acquitted.

In 1892 the U. S. S. *Alliance* was run against the breakwater in Yokohama Harbor, with slight damage. The captain was court-martialed and suspended for one year.

In 1892 the U. S. S. *Tallapoosa* was run down and sunk by a coal-laden schooner. A court of inquiry showed that the *Tallapoosa* had the right of way and no court-martial was ordered.

In 1893 the U. S. S. *Mohican* was run on a rock off the badly charted Alaskan coast. The captain was court-martialed and dismissed.

In 1894 the U. S. S. *Kearsarge* was run onto Roncador Reef, in the Caribbean Sea, and lost. Her captain and navigator were each sentenced to two years' suspension, and in both cases the sentence was reduced to one year by the Secretary of the Navy.

In August, 1894, the U. S. S. *Adams* was run aground on St. Paul Island, Bering Sea. The accident was due to unknown or irregular currents. Her acting captain and navigator were sentenced to one year's suspension, which was reduced to six months by the Secretary of the Navy.

In 1898 the U. S. S. *Maine* was blown up in Habana Harbor. No court-martial was ordered.

In 1899 the U. S. S. *Charleston* was, while using old Spanish charts on the Philippine coast, run onto an uncharted rock and lost. Her officers were held blameless.

In 1901 the U. S. S. *Yosemite* was, by a tidal wave, driven ashore on the island of Guam and then carried to sea, where she foundered. In this case the officers were acquitted.

In 1903 the U. S. S. *Frolic*, while entering the harbor of Cebu at night, was run on a reef, from which she was later removed, little damage having been done. Her commanding officer was sentenced to receive a public reprimand.

February 26, 1903, the tug *Leydon* was, during a violent storm, run onto rocks off Block Island. Her commanding officer was court-martialed and acquitted of negligence.

In 1903 the U. S. torpedo boat *Winslow* collided with a ferry-boat in New York Harbor. Her commanding officer was sentenced to lose three numbers and receive a public reprimand.

In 1904 the U. S. S. *Culgoa* collided with and sunk a schooner. The court-martial developed the fact that the *Culgoa* had the right of way, and her captain was acquitted.

In 1905 the U. S. S. *Eagle* was run on a rock and slightly damaged. Her commanding officer was sentenced to lose four numbers.

May 17, 1905, the U. S. S. *Detroit*, while leaving the harbor of Porto Plata, Dominican Republic, was twice run aground. Her captain was court-martialed and dismissed from the service.

This record, which is complete, being taken from the records of the Navy Department, shows that in the forty-one years since the civil war there have been thirty-seven cases of ships lost or accidents of such character that the court of inquiry reported negligence on the part of the officers which necessitated a court-martial being ordered. It should be noted that if a ship is lost, Navy regulations require that a court-martial be ordered, even if there be no apparent fault on the part of her officers.

These thirty-seven accidents include twenty-two ships lost for the following reasons:

By hurricanes or by tidal waves, which human power could not have foreseen or controlled, 6; by uncharted currents or on uncharted rocks, 6; by collision in cases in which the man-of-war had the right of way and therefore her officers were not at fault, 2; the U. S. S. *Maine* blown up in Habana harbor, 1; the U. S. S. *Rogers* burned, 1; the U. S. tug *Lyden*, a small vessel, lost in a violent storm and her commanding officer found without fault, 1; and there were five ships lost when the accident presumably should have been avoided. In one of these cases the captain was dismissed; in one the responsible officers were lost, and in the other three the sentence of the court was reduced by the Secretary of the Navy or no court was ordered by him.

In the fifteen cases in which the court of inquiry found negligence but in which the ships were not lost, the court-martial found the officers guilty in ten cases, but in three of these ten sentences the convening authority—the Secretary of the Navy—reduced the sentence imposed.

Of the other five cases, one was the *Nipsic*, wrecked in the Samoan hurricane, and one the *Culgoa*, in collision when she had the right of way. In not a single case of these thirty-seven was the sentence of the court-martial disapproved because it was too lenient, and after a careful study of all the cases, I believe that the most critical and even partial authority on such matters would have returned a more severe sentence in but three instances.

As an evidence of an apparently constant increase in efficiency in the navigation of our men-of-war, it should be noted that, although the Navy has passed through a war within the last ten years and has been engaged in unusual service in and near the Philippine Islands, and has elsewhere been extremely active, there has not been a single case of loss of a vessel which could have been prevented by any human foresight or skill, and that in the few cases of accidents brought to court-martial the responsible officers have, in every case, been given an adequate punishment.

I have stated that it is impossible to make accident and efficiency comparisons with other navies, but before leaving this subject I wish to call to the attention of the committee a report made to the British Admiralty for the year 1904, the last year reported, showing the nature of all accidents for that year, the result of the inquiry, and other details.

This report shows that there were 108 accidents, of which 50 were collisions. As we have perhaps two-fifths as many vessels in commission as the English, if we had a similar number of collisions the number would be twenty, which is a greater number of collisions than have been reported in our Navy for the last twenty years. From August 5 to August 11 there were six collisions, several of which took place during maneuvers, which illustrates the suggestion which I have made that activity is one of the principal factors leading to accidents; but if we had a proportional number of collisions in our Navy in any one week we should be likely to inquire the reason for their frequency, and there would be a better basis for criticism than there is now. The Admiralty report indicates that no punishment whatever, except a reprimand in one case, was inflicted in the six cases referred to.

The second part of the charge, or the second charge, made by the gentleman from Iowa is the one, however, which should most concern Congress and the country, for if it were true that in isolated, or even in many, instances, there were naval officers guilty of stupidity and inefficiency, that is a matter which can be remedied; the incompetent can be relieved from responsible duty or dismissed from the naval service. That, however, would not indicate that the whole naval service, or any great part of it, were not efficient. But the question which I now wish to call to the attention of the House is one which involves the honor of naval officers, not only individually, but collectively, for it is charged that the naval officer is not only guilty of dishonesty, but guilty of dishonesty in its most unworthy form, namely, the violation of his oath, the charge being made in these words:

> We do not punish naval officers. There is no punishment inflicted upon naval officers except in most extraordinary cases by a system of court-martial selected from among the friends and associates and old classmates of the man who is to be tried. It is a mockery, a mockery, and it results in, I believe, this condition of inefficiency.

No form of court proceedings or method used in the trial of civil and criminal cases is or ever will be entirely satisfactory. The human equation will always enter and prevent entirely equitable verdicts. There is probably not one of the nearly three hundred lawyers in this House who has not had experiences with juries and individual jurymen which were anything but satisfactory, or who has not seen case after case decided in a way which not only introduced a doubt of the jury's capacity to give to testimony suitable weight, if, indeed, it did not indicate in some cases a lack of honesty on the part of the individual juryman; and it is no uncommon practice for the sitting judge to set aside a verdict as not being in accord with the testimony submitted, but I do not recall any case where a judge has set aside a verdict brought in by a jury as being too severe, except in cases of personal damage suits. Notwithstanding these many cases of a miscarriage of justice, I doubt if there is here or elsewhere a lawyer or layman who would seriously advocate giving up jury trials in the great majority of cases which are now tried in that way.

A similar question enters into the proceedings of the general court-martial. It is not a perfect tribunal, for personal sympathy might be a bar to a just verdict, at least in many cases where the relations between members of the court and the accused had been intimate, and it would seem possible that in many cases a sufficiently severe sentence would not be imposed, but when the character of the jury, or judges as the members of a court really are, their capacity to comprehend the fitness or unfitness of technical testimony, and their appreciation of the sanctity of the oath which they have taken are all considered, it is almost certain that in no other way could there be obtained as fair and just a trial of a naval offender.

Naval discipline, as far as ordering courts of inquiry and courts-martial are concerned, is entirely in the hands of the Secretary of the Navy, and when the court has brought in a verdict the passing upon that verdict, either in approving or disapproving, rests entirely in the hands of the Secretary of the Navy, or, in the case of a sentence of dismissal, in the hands of the President of the United States.

For the last twenty years, at least, these officers have almost invariably been lawyers of the highest standing, quite competent to pass upon evidence of all kinds and to judge whether sentences ordered by court were or were not sufficiently severe, and I propose to show from the records that, as a matter of fact,

a very large percentage of the verdicts returned by general courts-martial have been approved, and of those disapproved the sentence has been reduced by the reviewing power four times as frequently as it has been considered too mild. Gentlemen may complain that there have been few dismissals from the Navy for offenses which seem to deserve the severest punishment, but they forget that officers charged with offenses have very often, in fact nearly always, had many years of honorable and efficient service to their credit, and that their fault, if fault it be, in the case at issue may be simply an error of judgment. In such a case the court-marital would not be a trial, but a persecution of the offender if it failed to give credit for the years of good service performed. As I have said, general courts-martial, except on foreign stations, are ordered by the Secretary of the Navy. They are usually, except in the case of the loss of a ship, preceded by a court of inquiry, which is the grand jury of naval jurisprudence, which looks into the facts and reports its finding. Basing his conclusion on this finding, the Secretary acts, and in all of the criticisms which I have read or heard I do not recall that there has been any criticism of the court of inquiry or the method of conducting it. Its members are under oath, as they are when acting as members of a court-martial, the oath which they take being as follows:

You, A. B., do swear (or affirm) that you will try without prejudice or partiality the case now depending according to the evidence which comes before the court, the rules for the governing of the Navy, and your own conscience; that you will not by any means divulge or disclose the sentence of the court until it shall have been approved by the proper authority, and that you will not at any time divulge or disclose the vote or opinion of any particular member of the court unless required so to do before a court of justice in due course of law.

In all cases the members of a court must be either equal in rank to, or senior to, the accused.

I have had examined the records of Navy courts-martial for the past twenty years, with the following results:

General courts-martial ordered	130
Sentences approved	92
Sentences reduced	29
Sentences disapproved	9
Total number of dismissals	21

In other words, in only 9 instances out of 130, or less than 7 per cent, was the sentence of the court-martial disapproved by the convening authority because it was either too lenient or for some technical reason, though it should be said in possibly four or five other cases the Secretary of the Navy did not entirely approve of the character of the sentence imposed. This is a most complete disapproval of the charge made against the honor and integrity of naval officers and the entire manner of performing this most distasteful duty—distasteful for, as has been said, members of the court are passing on the errors of their intimate associates. This examination shows not only a refutation of the charge, but also a keen appreciation of the value of testimony and a greater tendency to impose severe punishments than would be imposed by the civilian officers who have had the reviewing of the courts' proceedings, and, instead of the statement that officers are never punished, this record shows that twenty-one officers in twenty years have been dismissed from the service, though in many of these cases the sentence has been reduced by the President of the United States, and in two of these cases the dismissed officer was restored to his place in the Navy by special act of Congress. It is worth noting that one of the two officers dismissed last year for gross irregularities was one of the two officers who had been restored to their positions in the Navy by special act of Congress during the period being considered.

It is also a fact that in the case of the loss of the U. S. S. *Ashuelot*, in many respects the most blameworthy of the accidents which have happened to naval vessels, for which her commanding officer was dismissed, that officer had been previously dismissed from the service by a general court and had been restored to the Navy list by a special act of Congress.

In the previous twenty years to those from which the statistics referred to have been compiled—that is, from 1866 to 1886—seventy officers were dismissed for various causes. Of this number fourteen line officers and forty-three staff officers were discharged between 1866 and 1876, nearly two-thirds of all those dismissed during the last forty years, and it is worthy of note that none of these staff officers and only part of the line officers had had a Naval Academy training, but were largely the product of more or less hurried appointments from civil life during the civil war period. I do not mention this to reflect on the staff, but as an incident to show that the Naval Academy training, or the assumed lack of discipline in the Naval Academy, is not responsible for neglect of duty when the graduates have gone into the naval service.

The fact that it has been assumed by the gentleman from Iowa that hazing at the Naval Academy is not only the reason for lack of discipline and disorder there, but is the cause for neglect, loss of ships, and every form of accident which happens in the Navy, seems to me to justify my calling to the attention of this House what the Naval Academy has done for the Navy during its sixty years' existence. It is the most democratic of all the higher institutions of learning in this country, excepting always its older sister, West Point, which is similar to it in practically all respects. The method of appointment to the academy is reduced to the result of a competitive examinations, or to the appointment of those whose parents have shown marked military or naval ability, or to those who in themselves seem to demonstrate the possibility of unusual ability. The political consideration and money equation have been eliminated, and the varied and democratic character of appointees resulting from this system of appointments may be judged by the result of a compilation made of the parentage of the graduates of West Point for fifty years. While these figures have not been compiled for the Naval Academy, there is every reason to believe that the results would be substantially the same. The parentage of the 5,491 graduates from West Point during these years represented 152 callings, of whom 442 were the sons of officers, 367 of physicians, 722 of merchants, 341 of mechanics, 151 of manufacturers, 645 of lawyers and judges, 128 of clergymen, and 1,149 of farmers and planters, the remaining 1,546 coming from 142 trades and professions. It necessarily follows from this statement that the midshipman when he enters the Naval Academy is pretty raw material, and while the physical and mental training which he receives does not insure his being a great officer or great seaman, there is developed in him the naval spirit, a keen sense of duty, regularity in habits, respect for proper authority and obedience, all of which fits him for the great variety of duties which will come to him in his professional career, and which in any career combine to make the good citizen.

It is easily the best system for the development of the naval officer which has been established, and not only prepares the graduate to perform his routine duties in time of peace and war, but the habits of thought, of manner, and of body which he obtains are the foundation of all his activities and efforts throughout his entire service. But even if the professional accomplishments and efficiency of the naval officer afloat is admitted, it only tells part of what should be said for the graduate of the Naval Academy. Twenty-five years ago we were as weak in ordnance, motive power, and every detail of naval equipment as in ships, but the development of these accessories has kept pace with the growth of our naval architecture, and the most gratifying part of this record is that we have not turned to outside sources or to foreign aid for this upbuilding, but it has been accomplished by our own officers, and so successfully that the country may have confidence that no nation has better ships, better guns, better projectiles, better motive power than have we.

There is not a ship in our Navy, except the *Texas*, and she is about to go to the scrap heap, and the smaller craft acquired at the time of the Spanish-American war, which has not been designed by our own naval architects, every member of that corps to-day being a graduate of the Naval Academy, and all of these ships, including the *Texas*, have been built in this country under the supervision of our own naval constructors, so that the Navy may properly claim that it has furnished the fleets which we can so reliably depend upon.

Mr. COOPER of Wisconsin. Will the gentleman permit an interruption?

Mr. WEEKS. Certainly.

Mr. COOPER of Wisconsin. I notice the gentleman from Massachusetts said the *Texas* was going to the junk heap. She is a battle ship.

Mr. WEEKS. She is a second-class battle ship.

Mr. COOPER of Wisconsin. How old is that ship?

Mr. WEEKS. She was built about 1890, if my recollection is correct.

Mr. COOPER of Wisconsin. In the opinion of the gentleman, is that about the average life of a battle ship?

Mr. WEEKS. I should think it ought to be longer.

Mr. COOPER of Wisconsin. That is fifteen years, approximately.

Mr. WEEKS. That is sixteen years, and I think the *Texas* was five years building. I should think a battle ship ought to last longer than that, and I expect from the designs our own constructors have made that the life of battle ships will be longer.

Every gun of large caliber has been built at our gun foundry at the Washington Navy-Yard under the supervision of our own officers, and not only that, but the machinery which has been used in this work, which can be viewed any day by any Member of this House, forming as fine a plant for such a pur-

pose as there is in the world, has been either designed or revised by our own people, so that we may claim the entire credit for this work. The engines and boilers used on our men-of-war have been designed by our Bureau of Steam Engineering, and the officers who run these engines are to-day entirely the product of our Naval Academy. The electrical equipment which now, to such an extent, fills our men-of-war, has been entirely adapted to the purpose for which it is applied by our own constructors and officers; in short wherever we look in the naval service we see nothing but efficiency and accomplishment. There is nothing in the records of the immediate past to show that in professional accomplishments and in personal honor the officers of our Navy do not compare favorably with our naval officers in any period of the nation's history or in the same characteristics with the officers of any military force in the world, and I submit to this House that the recital of this record should remove any doubt which the people may have had regarding the efficiency of our Navy at this time and should strengthen confidence that no backward step is being taken, but that it is living up to its history as the equal, if not the superior, of any existing naval establishment. [Loud applause.]

Mr. FOSS. I would ask my colleague on the committee if he desires to go ahead?

Mr. MEYER. We have no more on our side to speak this afternoon.

Mr. FOSS. Mr. Chairman, that closes general debate upon this side, and I would call for the reading of the bill.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

PAY, MISCELLANEOUS.

For commissions and interest; transportation of funds; exchange; mileage to officers while traveling under orders in the United States, and for actual personal expenses of officers while traveling abroad under orders, and for traveling expenses of civilian employees, and for actual and necessary traveling expenses of midshipmen while proceeding from their homes to the Naval Academy for examination and appointment as midshipmen; for rent and furniture of buildings and offices not in navy-yards; expenses of courts-martial, prisoners and prisons, and courts of inquiry, boards of inspection, examining boards, with clerks' and witnesses' fees, and traveling expenses and costs; stationery and recording; expenses of purchasing paymasters' offices of the various cities, including clerks, furniture, fuel, stationery, and incidental expenses; newspapers and advertising; foreign postage; telegraphing, foreign and domestic; telephones, copying; care of library, including the purchase of books, photographs, prints, manuscripts, and periodicals; ferriage; tolls, and express fees; costs of suits; commissions, warrants, diplomas, and discharges; relief of vessels in distress; recovery of valuables from shipwrecks; quarantine expenses; reports; professional investigation; cost of special instruction at home and abroad, in maintenance of students and attachés and information from abroad, and the collection and classification thereof, and other necessary and incidental expenses, $650,000: *Provided*, That hereafter in cases where orders for travel are given to officers of the Navy or Marine Corps, the Secretary of the Navy, in his discretion, may direct that either mileage or else their actual and necessary expenses only shall be allowed.

Mr. FOSS. Mr. Chairman, in view of the fact that many Members of the House are not here this afternoon who may be interested in the different provisions in this bill, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Illinois moves that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, the Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18750—the naval appropriation bill—and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 8226. An act granting an increase of pension to Laura B. Ihrie;

H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;

H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;

H. R. 15397. An act granting an increase of pension to Edward Gillespie;

H. R. 15687. An act granting an increase of pension to William F. M. Rice;

H. R. 15907. An act granting an increase of pension to Lewis De Laittre;

H. R. 16215. An act granting an increase of pension to Mary Dagenfield;

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo.; and

H. R. 15435. An act to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands to be used for flowage purposes.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled bills, reported that this day they had presented to the President of the United States, for his approval, the following bill and joint resolutions:

H. J. Res. 145. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers;

H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter; and

H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River, at Lock 2, Alabama.

ADJOURNMENT.

Mr. FOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 4 o'clock and 10 minutes p. m.) the House adjourned to meet on Monday next, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Director of the Mint submitting an estimate of appropriation for transportation of bullion and coin—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for the relief of Luisa de Castro, of Quingua, Bulacan, P. I.—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for the relief of Pedro Evangelista & Bro., Candaba, Pampanga, P. I.—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for return of certain funds to citizens of the island of Cebu, Philippine Islands—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. BURTON of Ohio, from the Committee on Rivers and Harbors, to which was referred the House joint resolution (H. J. Res. 134) authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind., reported the same without amendment, accompanied by a report (No. 3873); which said joint resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7589) granting an increase of pension to Robert A. Scott, reported the same with amendment, accompanied by a report (No. 3799); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9828) granting an increase of pension to John Broughton, reported the same with amendment, accompanied by a report (No. 3800); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8852) granting a pension to Frederick W. Clark, reported the same with amendment, accompanied by a report (No. 3801); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to

which was referred the bill of the House (H. R. 18655) granting an increase of pension to Leander Gilbert, reported the same without amendment, accompanied by a report (No. 3802); which said bill and report were referred to the Private Calendar.

Mr. HOPKINS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18116) granting an increase of pension to Green Evans, reported the same with amendment, accompanied by a report (No. 3803); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1420) for the relief of John Nay, reported the same with amendment, accompanied by a report (No. 3804); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7244) granting an increase of pension to Christopher S. Guthrie, reported the same with amendment, accompanied by a report (No. 3805); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6914) granting an increase of pension to John Hecker, reported the same without amendment, accompanied by a report (No. 3806); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5560) granting an increase of pension to Henry Chubb, reported the same with amendment, accompanied by a report (No. 3807); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4715) granting an increase of pension to John H. Whiting, reported the same with amendment, accompanied by a report (No. 3808); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4241) granting an increase of pension to David B. Coleman, reported the same without amendment, accompanied by a report (No. 3809); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4161) granting an increase of pension to Robert Beatty, reported the same with amendment, accompanied by a report (No. 3810); which said bill and report were referred to the Private Calendar.

Mr. GUDGER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3572) granting a pension to William L. Riley, reported the same with amendment, accompanied by a report (No. 3811); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3351) granting a pension to George King, reported the same with amendment, accompanied by a report (No. 3812); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 3005) granting an increase of pension to Jacob C. Shafer, reported the same without amendment, accompanied by a report (No. 3813); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2237) granting an increase of pension to Martin Poole, reported the same with amendment, accompanied by a report (No. 3814); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1788) granting an increase of pension to William D. Christy, reported the same with amendment, accompanied by a report (No. 3815); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1650) granting an increase of pension to Frank B. Watkins, reported the same with amendment, accompanied by a report (No. 3816); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1247) granting an increase of pension to Columbus Botts, reported the same with amendment, accompanied by a report (No. 3817); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1178) granting a pension to Herman Buckthall, reported the same with amendment, accompanied by a report (No. 3818); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 1034) granting an increase of pension to John D. Logan, reported the same with amendment, accompanied by a report (No. 3819); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9243) granting an increase of pension to Joseph A. Bernard, reported the same with amendment, accompanied by a report (No. 3820); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committtee on Invalid Pensions, to which was referred the bill of the House (H. R. 10794) granting an increase of pension to Jacob Schultz, reported the same with amendment, accompanied by a report (No. 3821); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12184) granting an increase of pension to Joseph Sprauer, reported the same without amendment, accompanied by a report (No. 3822); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13069) granting an increase of pension to Friend S. Esmond, reported the same with amendment, accompanied by a report (No. 3823); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12971) granting an increase of pension to Matthew H. Brandon, reported the same with amendment, accompanied by a report (No. 3824); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12879) granting an increase of pension to Catherine Myers, reported the same with amendment, accompanied by a report (No. 3825); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17390) granting an increase of pension to Mary Sheehan, reported the same without amendment, accompanied by a report (No. 3826); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17445) granting an increase of pension to William H. Farrell, reported the same with amendment, accompanied by a report (No. 3827); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2785) granting an increase of pension to Margaret Bonynge, reported the same with amendment, accompanied by a report (No. 3828); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17922) granting an increase of pension to Thomas D. Adams, reported the same with amendment, accompanied by a report (No. 3829); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17999) granting an increase of pension to Samuel Yehl, reported the same with amendment, accompanied by a report (No. 3830); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18041) granting an increase of pension to William R. Hiner, reported the same with amendment, accompanied by a report (No. 3831); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8795) granting an increase of pension to O. A. A. Gardner, reported the same with amendment, accompanied by a report (No. 3832); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9862) granting an increase of pension to William B. Warren, reported the same with amendment, accompanied by a report (No. 3833); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9531) granting an increase of pension to Eliza Rogers, reported the same with amendment, accompanied by a report (No. 3834); which said bill and report were referred to the Private Calendar.

Mr. GUDGER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8867) granting an increase of pension to George Stillman, reported the same without amendment, accompanied by a report (No. 3835); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10395) granting an increase of pension to Stephen Cundiff, reported the same with amendment, accompanied by a report (No. 3836); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17466) granting an increase of pension to James P. Hall, reported the same with amendment, accompanied by a report (No. 3837); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18076) granting an increase of pension to Elizabeth Bartley, reported the same with amendment, accompanied by a report (No. 3838); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18135) granting an increase of pension to Benedict Sutter, reported the same with amendment, accompanied by a report (No. 3839); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18724) granting an increase of pension to Alfred Gude, reported the same with amendment, accompanied by a report (No. 3840); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18447) granting an increase of pension to Elijah G. Gould, reported the same with amendment, accompanied by a report (No. 3841); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18243) granting an increase of pension to Jacob S. Rickard, reported the same with amendment, accompanied by a report (No. 3842); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18449) granting an increase of pension to Hannah R. Jacobs, reported the same with amendment, accompanied by a report (No. 3843); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18184) granting an increase of pension to John J. Howells, reported the same with amendment, accompanied by a report (No. 3844); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17388) granting an increase of pension to Patrick McCarthy, reported the same without amendment, accompanied by a report (No. 3845); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18132) granting an increase of pension to John W. Blanchard, reported the same without amendment, accompanied by a report (No. 3846); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18105) granting an increase of pension to John A. Lyle, reported the same with amendment, accompanied by a report (No. 3847); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17374) granting an increase of pension to Isom Wilkerson, reported the same without amendment, accompanied by a report (No. 3848); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18357) granting an increase of pension to William E. Starr, reported the same with amendment, accompanied by a report (No. 3849); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18308) granting a pension to Clay Riggs, reported the same with amendment, accompanied by a report (No. 3850); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18165) granting an increase of pension to Jacob Stauff, reported the same with amendment, accompanied by a report (No. 3851); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17542) granting an increase of pension to John Cain, reported the same with amendment, accompanied by a report (No. 3852); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13828) granting an increase of pension to John M. Carroll, reported the same with amendment, accompanied by a report (No. 3853); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14264) granting an increase of pension to John H. Eversole, reported the same without amendment, accompanied by a report (No. 3854); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14729) granting an increase of pension to David Ford, reported the same with amendment, accompanied by a report (No. 3855); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14702) granting an increase of pension to Christian Schlosser, reported the same without amendment, accompanied by a report (No. 3856); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16441) granting an increase of pension to Joseph J. Good, reported the same with amendment, accompanied by a report (No. 3857); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17171) granting an increase of pension to David H. Parker, reported the same with amendment, accompanied by a report (No. 3858); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16595) granting a pension to James Russell Hicks, reported the same with amendment, accompanied by a report (No. 3859); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16005) granting an increase of pension to Hezekiah J. Reynolds, reported the same without amendment, accompanied by a report (No. 3860); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16812) granting an increase of pension to Dudley McKibben, reported the same without amendment, accompanied by a report (No. 3861); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16252) granting an increase of pension to Adam Dixon, reported the same with amendment, accompanied by a report (No. 3862); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16565) granting an increase of pension to George H. Gordon, reported the same with amendment, accompanied by a report (No. 3863); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16878) granting an increase of pension to James B. Adams, reported the same without amendment, accompanied by a report (No. 3864); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16977) granting a pension to Isabel Newlin, reported the same with amendment, accompanied by a report (No. 3865); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15126) granting an increase of pension to William K. Trabue, reported the same with amendment, accompanied by a report (No. 3866); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. HEARST: A bill (H. R. 19017) to promote the construction of a national system of good roads, facilitate the extension of the postal service, and lessen the dependence of the agricultural and industrial interests of the country upon the railroads for transportation—to the Committee on Agriculture.

By Mr. BENNETT of Kentucky: A bill (H. R. 19018) authorizing The Warfield Coal and Salt Company to construct a bridge across Tug Fork of Big Sandy River—to the Committee on Interstate and Foreign Commerce.

By Mr. RUCKER: A bill (H. R. 19019) providing that all contributions hereafter made to political committees engaged in promoting the election of Representatives or Delegates to the Congress of the United States or of Presidential electors at any election at which such Representatives or Delegates shall be voted for shall be given publicity—to the Committee on the Election of President, Vice-President, and Representatives in Congress.

By Mr. STEPHENS of Texas: A bill (H. R. 19020) authorizing suit to be brought in the Court of Claims in behalf of certain Indians in the Indian Territory—to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BURNETT: A bill (H. R. 19021) granting a pension to Andrew M. Gilbreath—to the Committee on Pensions.

By Mr. BRUNDIDGE: A bill (H. R. 19022) granting an increase of pension to James R. Russell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19023) granting a pension to John T. Lester—to the Committee on Invalid Pensions.

By Mr. CHANEY: A bill (H. R. 19024) granting an increase of pension to George W. Cloin—to the Committee on Invalid Pensions.

By Mr. DALE: A bill (H. R. 19025) granting an increase of pension to Milton McFarland—to the Committee on Invalid Pensions.

By Mr. HARDWICK: A bill (H. R. 19026) granting an increase of pension to Mary Navy—to the Committee on Pensions.

By Mr. HEPBURN: A bill (H. R. 19027) granting an increase of pension to Peter Lunsford—to the Committee on Invalid Pensions.

By Mr. KINKAID: A bill (H. R. 19028) granting an increase of pension to Lorenzo D. Frantz—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19029) granting an increase of pension to Henry Julius—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: A bill (H. R. 19030) granting an increase of pension to Samuel S. Peters—to the Committee on Invalid Pensions.

By Mr. PEARRE: A bill (H. R. 19031) for the relief of William Iams—to the Committee on War Claims.

By Mr. SMITH of Kentucky: A bill (H. R. 19032) granting an increase of pension to Charles W. Brown—to the Committee on Invalid Pensions.

By Mr. TIRRELL: A bill (H. R. 19033) granting an increase of pension to Moses S. Rockwood—to the Committee on Invalid Pensions.

By Mr. WILEY of Alabama: A bill (H. R. 19034) granting a pension to Elizabeth Morgan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19035) granting a pension to Lizzie Morgan—to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Resolution of the board of aldermen of the city of New York, for relief for heirs of victims of *General Slocum* disaster and asking favorable action on the bill for their relief introduced by Mr. SULZER—to the Committee on Claims.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Andrew J. Anderson—to the Committee on Pensions.

By Mr. CAPRON: Petition of the councils of the Order of United American Mechanics, in Providence, Anthony, Phenix, Clayville, Wickford, Woonsocket, Hope Valley, and Riverside, R. I., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the State League of Improvement Societies, in Rhode Island, for an appropriation to stay the ravages of the gypsy and brown-tail moths—to the Committee on Agriculture.

Also, petition of Rhode Island Chapter, American Institute of Architects, for forest reservations in the White Mountains—to the Committee on Agriculture.

Also, petition of Rhode Island Chapter, American Institute of Architects, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. CHANEY: Petition of Frank Nebb Post, Grand Army of the Republic, of Sullivan, Ind., for relief of George W. Cloin—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: Petition of citizens of Janesville, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DAVIS of West Virginia: Paper to accompany bill for relief of Jacob H. Heck (previously referred to the Committe on Pensions)—to the Committee on Invalid Pensions.

By Mr. GOULDEN: Petition of members of St. Luke Council, No. 438, Knights of Columbus, favoring bill H. R. 13304, for a memorial to Christopher Columbus—to the Committee on the Library.

By Mr. HAUGEN: Petition of citizens of Marble Rock, Floyd County, Iowa, and citizens of Winneshiek County, Iowa, against consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. HIGGINS: Petition of the Municipal Art Society of Hartford, Conn., for bill H. R. 18024, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. LACEY: Petition of citizens of Grinnell, Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. POLLARD: Petition of citizens of Talmage, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of Charles W. Brown—to the Committee on Pensions.

By Mr. SMITH of Pennsylvania: Petition of 500 citizens of Indiana, Pa., against sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. SMITH of Texas: Petition of the Chamber of Commerce of El Paso, Tex., for an appropriation for the enlargement of the Federal building in El Paso, Tex., and papers to accompany bill H. R. 17574—to the Committee on Public Buildings and Grounds.

SENATE.

MONDAY, *May 7, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Friday last, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

TRANSPORTATION OF PETROLEUM.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, stating, in response to a resolution of the 4th instant, that, as was shown by the footnote to the President's message, the full copy of the report on the transportation of petroleum is now in the hands of the Public Printer; which was referred to the Committee on Interstate Commerce, and ordered to be printed.

RESTORATION OF PUBLIC BUILDINGS IN CALIFORNIA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting photographs of the Government buildings damaged in San Francisco, San Jose, and Oakland, Cal., together with an estimate of cost for repairs thereof, and also brief references to reports on file showing the heroic work done on the part of several officials of the Treasury Department in connection with their efforts to save these buildings; which, with the accompanying papers, was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

DESTRUCTION OF USELESS PAPERS.

The VICE-PRESIDENT. The Chair lays before the Senate a communication from the Postmaster-General, transmitting a schedule of papers and documents not needed in the transaction of public business and which have no permanent value of historical interest in connection with that Department; which will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, and printed.

The Chair appoints as members of the committee on the part of the Senate the Senator from Alabama [Mr. PETTUS] and the Senator from New Hampshire [Mr. GALLINGER]; and the House of Representatives will be notified of this action.

FINDINGS OF THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Nathaniel W. Jones *v.* The United States; which,

with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, returned to the Senate in compliance with its request the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 15331) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes for the fiscal year ending June 30, 1907, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SHERMAN, Mr. CURTIS, and Mr. STEPHENS of Texas managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

H. R. 8226. An act granting an increase of pension to Laura B. Ihrie;

H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;

H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;

H. R. 15397. An act granting an increase of pension to Edward Gillespie;

H. R. 15435. An act to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands to be used for flowage purposes;

H. R. 15687. An act granting an increase of pension to William F. M. Rice;

H. R. 15907. An act granting an increase of pension to Lewis De Laittre;

H. R. 16215. An act granting an increase of pension to Mary Dagenfield; and

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Council of Jewish Women of Lafayette, Ind., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of Local Grange No. 979, Patrons of Husbandry, of West Chazy, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. GALLINGER presented a petition of the faculty of New Hampshire College, of Durham, N. H., and a petition of the Maine Manufactuing Company, of Nashua, N. H., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a memorial of the East Washington Citizens' Association, of Washington, D. C., remonstrating against the appointment by the supreme court of the District of the members of the board of education in the District of Columbia; which was referrred to the Committee on the District of Columbia.

He also presented a petition of Augustus Saint-Gaudens, of Windsor, Vt., praying for the enactment of legislation providing for the appointment of a national advisory board on civic art in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the petition of Morris E. Sabin, of Washington, D. C., praying for the enactment of legislation providing for the grading and macadamizing of Girard street NE., between Twelfth street and Brentwood road NE.; which was referred to the Committee on the District of Columbia.

Mr. WETMORE presented a petition of the Rhode Island Chapter of the American Institute of Architects, of Providence, R. I., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Rhode Island Chapter of the American Institute of Architects, of Providence, R. I., praying for the enactment of legislation to establish national forest reserves in the Southern Appalachian and White mountains; which was ordered to lie on the table.

Mr. DRYDEN presented a petition of the Woman's Home Missionary Society of the First Methodist Episcol Church of Cranford, N. J., remonstrating against the enactment of legislation providing for the transfer of the Alaskan native schools from the United States Bureau of Education to the governor of the Territory of Alaska; which was referred to the Committee on Territories.

He also presented petitions of sundry citizens of Milltown and Sayreville, in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of sundry citizens of Montclair, N. J., praying for the enactment of legislation to establish a national bureau for the protection of children; which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of Dennisville, N. J., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a memorial of the Society for the Prevention of Cruelty to Animals, of Vineland, N. J., remonstrating against the enactment of legislation to extend the time in the interstate transportation of live stock; which was ordered to lie on the table.

He also presented petitions of sundry citizens of Elizabeth, Westfield, Newark, and Atlantic Highlands, all in the State of New Jersey, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented a petition of J. B. Morris Post, No. 46, Department of New Jersey, Grand Army of the Republic, of Long Branch, N. J., praying for the enactment of legislation granting pensions to ex-prisoners of war; which was referred to the Committee on Pensions.

Mr. BURROWS presented a petition of sundry citizens of Grand Rapids, Mich., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Montcalm County Medical Society, of Greenville, Mich., praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented a petition of the Grand Rapids Clearing-House Association, of Grand Rapids, Mich., praying for the enactment of legislation permitting national banks to loan 10 per cent of their capital and their surplus to individual borrowers; which was ordered to lie on the table.

He also presented a petition of the Rock Elm Grange, Patrons of Husbandry, of East Jordan, Mich., praying for the passage of the so-called "Hepburn railroad rate bill;" which was ordered to lie on the table.

He also presented a petition of Rock Elm Grange, Patrons of Husbandry, of East Jordan, Mich., praying for the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of sundry citizens of Charlotte, Detroit, Ludington, and Grass Lake; of Hamburg Grange, No. 118, of Hamburg; Pomona Grange, of Gratiot County; Garfield Grange, No. 1106, of Crooked Lake; Pomona Grange, of Ingham County, and Fern Grange, No. 803, of Big Rapids, all of the Patrons of Husbandry; of Local Union No. 514, Painters, Decorators, and Paper Hangers, of Ann Harbor; the Wolverine Auto and Commercial Vehicle Company, of Dundee; the Charles A. Greenman Company, of Grand Rapids; the Grand Rapids Wood Carving Company, of Grand Rapids; the Grand Rapids Furniture Association, of Grand Rapids; the Keeler Brass Company, of Grand Rapids; the Gale Manufacturing Company, of Albion; the Clough and Warren Company, of Detroit; the Alamo Manufacturing Company, of Hillsdale; the Kalamazoo Tank and Silo Company, of Kalamazoo; the Dowagiac Manufacturing Company, of Dowagiac; the "New Way" Motor Company, of Lansing; the Cadillac Motor Car Company, of Detroit; the Reo Motor Car Company, of Lansing; the Saginaw Manufacturing Company, of Saginaw; the Globe Furniture Company, of Northville; the McRae & Roberts Company, of Detroit; the Field-Brundage Company, of Jackson; the Otsego Chair Company, of Otsego; the Challenge Refrigerator Company, of Grand Haven; the Wolverine Brass Works, of Grand Rapids; the Charles A. Strelinger Company, of Detroit; the Truscott Boat Manufacturing Company, of St. Joseph; the Muskegon Valley Furniture Company, of Muskegon; the Hackley-Phelps-Bonnell Company, of Grand Rapids; the Detroit Trolley Wheel and Electrical Equipment Company, of Detroit; the Michigan Steel Boat Company, of Detroit, and the Manistee Novelty Company, of Manistee, all in the State of Michigan, and of the Wisconsin Chemical Company, of Hackley, Wis., praying for the removal of the internal-reve-

nue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a memorial of the Amalgamated Association of Street and Electric Railway Employees of Ypsilanti, Mich., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of the Woman's Club of Detroit, Mich., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the Woman's Independent Voters' Association of Detroit, Mich., and a petition of the Central Woman's Christian Temperance Union of Detroit, Mich., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which were referred to the Committee on Education and Labor.

Mr. DANIEL presented a petition of sundry students of St. Andrew's School, of Richmond, Va., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

Mr. GAMBLE presented a petition of the Western South Dakota Stock Growers' Association, praying for the classification of public lands in South Dakota lying west of the Missouri River and adjacent thereto; which was referred to the Committee on Public Lands.

He also presented a petition of the Western South Dakota Stock Growers' Association, praying for the enactment of legislation extending the time for the interstate transportation of live stock; which was ordered to lie on the table.

Mr. BURNHAM presented the petition of Augustus St. Gaudens, of Windsor, Vt., praying for the enactment of legislation providing for the appointment of an advisory board on civic art in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented petitions of the Morris Manufacturing Company, of Nashua; of Prof. Charles L. Parsons, of Durham; of the Drysalter Club of New England; of Rev. Thomas Whiteside, of Lancaster, all in the State of New Hampshire, and of the International Association of Master House Painters and Decorators of the United States and Canada, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. KEAN presented a petition of sundry citizens of Long Branch, N. J., praying for the enactment of legislation granting pensions to ex-prisoners of war; which was referred to the Committee on Pensions.

He also presented petitions of sundry citizens of Pleasantville, Fanwood, Princeton, and Dennisville, all in the State of New Jersey, and a petition of sundry citizens of New York City, N. Y., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of sundry citizens of Sayreville, Milltown, and Plainfield, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented memorials of sundry citizens of New Jersey, of the Woman's Home Missionary Society of the First Methodist Episcopal Church, of Cranford, N. J., of the Woman's Home Missionary Society of the Methodist Episcopal Church of Plainfield, N. J., and of sundry citizens of Rutherford, N. J., remonstrating against the enactment of legislation removing the control of the schools in Alaska from the Bureau of Education to the governor of Alaska; which were referred to the Committee on Territories.

He also presented petitions of sundry citizens of Montclair, N. J., praying for the enactment of legislation to establish a national bureau for the protection of the children of the United States; which were referred to the Committee on Education and Labor.

Mr. SPOONER presented a memorial of sundry citizens of Kewaskum, Wis., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Cream City Mirror Plate Company, of Milwaukee; of the Fuller & Johnson Manufacturing Company, of Madison, and of sundry citizens, all in the State of Wisconsin, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. HEMENWAY presented petitions of the Woman's Missionary Society of the Second Presbyterian Church of Madison, of the congregation of the Presbyterian Church of Hanover, and of the Woman's Missionary Society of the First Presbyterian Church of Logansport, all in the State of Indiana, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented petitions of Local Union, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Indianapolis; of sundry citizens of Goshen; of Local Union, Brothhood of Painters, Decorators, and Paper Hangers of America, of Lafayette; of Robinson & Co., of Richmond; of the Birdsell Manufacturing Company, of South Bend, and of the Hubbard Saw and Planing Mill, of Martinsville, all in the State of Indiana, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Council of Jewish Women of Lafayette, Ind., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

Mr. FRYE presented the petition of Arthur L. Sampson and sundry other citizens of Maine, praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. BEVERIDGE presented a petition of the Missionary Society of the First Presbyterian Church of Logansport, Ind., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 4937) granting an increase of pension to John Reece; and

A bill (S. 4852) granting an increase of pension to Andrew Reeder.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5256) granting an increase of pension to John Johnson;

A bill (H. R. 16320) granting a pension to Esther M. Noah;

A bill (H. R. 4965) granting an increase of pension to Samuel P. Holland;

A bill (H. R. 6114) granting an increase of pension to Andrew J. Douglass;

A bill (H. R. 7584) granting an increase of pension to James H. Kemp;

A bill (H. R. 11917) granting an increase of pension to Davis Preston;

A bill (H. R. 13026) granting an increase of pension to J. Bailey Orem;

A bill (H. R. 15274) granting an increase of pension to Edward W. Bell; and

A bill (H. R. 15523) granting a pension to Jose N. Lucero, alias Nasario Lucero.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 4879) granting an increase of pension to Nellie Baker;

A bill (S. 722) restoring to the pension roll the name of Annis Bailey, widow of Abram R. Ward;

A bill (S. 3629) granting an increase of pension to William Hibbs; and

A bill (H. R. 12135) granting an increase of pension to William Landahn.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 549) granting an increase of pension to Charles W. Storr, jr.;

A bill (H. R. 1482) granting an increase of pension to Philip Cook;

A bill (H. R. 6061) granting an increase of pension to William H. Chapman;

A bill (H. R. 6546) granting an increase of pension to Samuel A. White;

A bill (H. R. 6865) granting an increase of pension to Charles F. Voss;

A bill (H. R. 11151) granting an increase of pension to John Sirmyer;

A bill (H. R. 11552) granting an increase of pension to Abraham G. Leiser;

A bill (H. R. 13979) granting an increase of pension to Emeline A. Stewart; and

A bill (H. R. 15634) granting an increase of pension to Samuel M. Reese.

Mr. GALLINGER. The bill (S. 152) to provide for the building of a public avenue on the south side of the Potomac River from the city of Washington to Mount Vernon was referred to the Committee on the District of Columbia by mistake. I report the bill back, and move that the Committee on the District of Columbia be discharged from its further consideration, and I move that it be referred to the Committee on Claims, where it belongs.

The motion was agreed to.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5928) granting an increase of pension to Patrick Gaffney;

A bill (S. 5442) granting a pension to Frances E. Taylor;

A bill (S. 5790) granting an increase of pension to Jehial P. Hammond;

A bill (S. 3486) granting an increase of pension to Edwin D. Wescott; and

A bill (S. 2032) granting an increase of pension to Thomas F. Stevens.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5798) granting an increase of pension to Charles Hunsley; and

A bill (H. R. 15869) granting an increase of pension to Wilson H. McCune.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 3487) granting an increase of pension to Joseph Fuller;

A bill (S. 5949) granting an increase of pension to George F. White;

A bill (H. R. 1182) granting an increase of pension to Ezekiel Bridwell;

A bill (H. R. 1192) granting an increase of pension to George B. Hess;

A bill (H. R. 2816) granting an increase of pension to James C. Town;

A bill (H. R. 2168) granting an increase of pension to William Bridges;

A bill (H. R. 2226) granting an increase of pension to George F. Long;

A bill (H. R. 2234) granting an increase of pension to Jacob W. Gersteneker;

A bill (H. R. 10029) granting an increase of pension to Abram Higbie;

A bill (H. R. 10257) granting an increase of pension to Samuel Deems;

A bill (H. R. 10922) granting an increase of pension to John McDonald;

A bill (H. R. 10561) granting an increase of pension to Joseph N. Piersell;

A bill (H. R. 11822) granting an increase of pension to Lawyer Sugs;

A bill (H. R. 12810) granting an increase of pension to Edward Ross; and

A bill (H. R. 14801) granting an increase of pension to Thomas Armstrong.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5966) granting an increase of pension to C. C. Davis;

A bill (S. 5708) granting an increase of pension to Nathalia Boepple; and

A bill (S. 5032) granting a pension to Daisy Crowninshield Stuyvesant.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5948) granting an increase of pension to Samuel B. Rice;

A bill (H. R. 1719) granting an increase of pension to William N. Whitlock;

A bill (H. R. 18237) granting an increase of pension to Rachel Egeness;

A bill (H. R. 5571) granting an increase of pension to William Cary;

A bill (H. R. 8716) granting an increase of pension to John L. Coffey;

A bill (H. R. 10766) granting a pension to Rachel L. Bartlett;

A bill (H. R. 9529) granting an increase of pension to William Gibson;

A bill (H. R. 11062) granting an increase of pension to Samuel W. Harlan;

A bill (H. R. 11365) granting an increase of pension to Robert D. Williamson;

A bill (H. R. 15316) granting an increase of pension to James McKelvy; and

A bill (H. R. 15819) granting an increase of pension to William T. Burgess.

Mr. GEARIN, from the Committee on Claims, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 225) granting a pension to Thomas R. Smith;

A bill (S. 5932) granting an increase of pension to E. R. Merriman; and

A bill (S. 5056) granting a pension to Alexandar Plotts.

Mr. GEARIN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 14118) granting an increase of pension to Edward Delany;

A bill (H. R. 17118) granting an increase of pension to John Burke;

A bill (H. R. 11989) granting an increase of pension to Francis M. Hinds;

A bill (H. R. 11510) granting an increase of pension to Joseph S. Larrance;

A bill (H. R. 9138) granting an increase of pension to Aaron L. Rockwood;

A bill (H. R. 9135) granting a pension to August Crome; and

A bill (H. R. 735) granting an increase of pension to Frank L. Fornshell.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 1336) providing for the allotment and distribution of the tribal funds of the Yankton tribe of Sioux Indians in the State of South Dakota; and

A bill (S. 1337) providing for the allotment and distribution of the tribal funds of the Sisseton and Wahpeton tribes of Sioux Indians in the State of South Dakota.

Mr. PILES, from the Committee on Pensions, to whom was referred the bill (S. 2008) granting a pension to Virginia A. McKnight, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5844) granting an increase of pension to John Keys; and

A bill (H. R. 13022) granting an increase of pension to Sarah L. Ghrist.

Mr. PILES, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4205) granting an increase of pension to George Warner;

A bill (H. R. 17387) granting an increase of pension to David F. Eakin;

A bill (H. R. 17806) granting an increase of pension to Enoch Boyle;

A bill (H. R. 8954) granting a pension to George Cunningham;

A bill (H. R. 10008) granting an increase of pension to James W. Dorman;

A bill (H. R. 12762) granting an increase of pension to Jesse H. Brandt;

A bill (H. R. 13337) granting an increase of pension to Joseph W. Harsh; and

A bill (H. R. 14982) granting an increase of pension to Isaac N. Long.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 20) granting an increase of pension to Edward Higgins;

A bill (S. 3553) granting an increase of pension to William Oliver;

A bill (S. 4492) granting an increase of pension to George W. Fletcher; and

A bill (H. R. 17072) granting an increase of pension to Joseph French.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 1256) granting an increase of pension to Lewis D. Moore;

A bill (S. 1865) granting an increase of pension to Solomon H. Baker;

A bill (H. R. 1557) granting an increase of pension to Frank J. Oatley;

A bill (H. R. 1946) granting an increase of pension to James A. Sproull;

A bill (H. R. 2791) granting an increase of pension to Mary E. Adams;

A bill (H. R. 3694) granting an increase of pension to Joseph D. Emery;

A bill (H. R. 4240) granting an increase of pension to James F. Chipman;

A bill (H. R. 4244) granting an increase of pension to John Spaulding;

A bill (H. R. 3686) granting an increase of pension to Henry R. Cowan;

A bill (H. R. 5222) granting an increase of pension to Lewis R. Stegman;

A bill (H. R. 8737) granting an increase of pension to Horace A. Manley;

A bill (H. R. 8771) granting an increase of pension to Florence Sullivan;

A bill (H. R. 8833) granting a pension to Edna M. Johnson;

A bill (H. R. 12238) granting an increase of pension to Helen S. Brown;

A bill (H. R. 14391) granting an increase of pension to Franklin Cooley; and

A bill (H. R. 15305) granting an increase of pension to Ezra H. Brown.

Mr. OVERMAN, from the Committee on Pensions, to whom was referred the bill (S. 5290) granting an increase of pension to James Ramsey, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5855) granting an increase of pension to Blanche B. Badger;

A bill (S. 4608) granting a pension to George W. Walter; and

A bill (S. 4173) granting an increase of pension to Catharine E. Smith.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5767) granting an increase of pension to Thomas D. Welch;

A bill (S. 5700) granting an increase of pension to Stacy B. Warford;

A bill (S. 5765) granting an increase of pension to Theodore F. Montgomery;

A bill (S. 4910) granting an increase of pension to William Wright;

A bill (H. R. 1413) granting an increase of pension to John Crawford;

A bill (H. R. 1768) granting an increase of pension to George W. Childers;

A bill (H. R. 3345) granting an increase of pension to Christina White;

A bill (H. R. 5048) granting an increase of pension to William A. Failer;

A bill (H. R. 6498) granting an increase of pension to Isaac C. France;

A bill (H. R. 9923) granting an increase of pension to Joseph J. Mishler;

A bill (H. R. 10993) granting an increase of pension to Samuel Jones;

A bill (H. R. 12727) granting an increase of pension to Benjamin D. Bogia;

A bill (H. R. 14169) granting an increase of pension to Bettie Stern;

A bill (H. R. 14731) granting an increase of pension to Ezra H. Wiggins;

A bill (H. R. 15003) granting an increase of pension to James Gray;

A bill (H. R. 15695) granting a pension to John T. Wagoner; and

A bill (H. R. 15748) granting an increase of pension to Jacob R. Deckard.

Mr. BLACKBURN, from the Committee on the Judiciary, to whom was referred the bill (H. R. 15332) to incorporate the National Society of the Sons of the American Revolution, reported it without amendment.

Mr. SPOONER, from the Committee on Finance, to whom was referred the bill (H. R. 6101) for the relief of the estate of Charles M. Demarest, deceased, reported it without amendment.

IMPROVEMENT OF PUBLIC ROADS.

Mr. PLATT. I am directed by the Committee on Printing, to whom was referred the resolution submitted on the 4th instant by the Senator from South Carolina [Mr. LATIMER], to report it with an amendment; and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution, which was read, as follows:

Resolved, That there be printed for the use of the Senate 10,000 copies of the hearings before the Committee on Agriculture and Forestry of the Senate on Senate bills 3477 and 2539, Fifty-eighth Congress, relating to public roads.

The amendment of the Committee on Printing was, to add at the end of the resolution:

And that the said copies, when printed, shall be delivered to the document room of the Senate.

The amendment was agreed to.

The resolution as amended was agreed to.

HEARING BEFORE COMMITTEE ON WOMAN SUFFRAGE.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. BACON on the 4th instant, reported it without amendment, and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the stenographer employed to report the hearing before the Select Committee on Woman Suffrage given to a delegation of the National Woman Suffrage Association, February 15, 1906, be paid from the contingent fund of the Senate.

AID IN REBUILDING SAN FRANCISCO.

Mr. ALDRICH. From the Committee on Finance I report back the concurrent resolution submitted by the Senator from Nevada [Mr. NEWLANDS] on the 2d instant, relative to aid in rebuilding San Francisco, and I submit a report thereon. As the matter is a rather important one and the report is very short, I ask that it may be read.

The VICE-PRESIDENT. The Secretary will read the report.

The Secretary read as follows:

The Committee on Finance, to whom was referred Senate concurrent resolution No. 24, providing for the creation of a joint committee to consider various plans for national financial aid in the work of rebuilding the city of San Francisco, beg leave to report:

The resolution suggests alternative plans for national relief: First, that the Federal Government guarantee the credit of the city of San Francisco to the extent which will enable that city to secure the money necessary for the restoration of its public and private buildings, the money to be loaned at fair rates of interest to property owners upon note and mortgage;

Second. That the United States should subscribe to stock in, or make loans to, a great financial corporation, to be chartered either by the State or the nation, which should undertake the work of rebuilding San Francisco, or of making loans for this purpose.

Your committee are clearly and unanimously of the opinion that both the plans suggested are without the legitimate province of Congressional action, and therefore that the appointment of a joint committee to consider their advisability or practicability is inexpedient.

It does not seem to your committee advisable at this time to appoint a committee to consider other plans for national aid.

They therefore report the resolution adversely, and recommend that it be indefinitely postponed.

Mr. ALDRICH. In the absence of the Senator from Nevada [Mr. NEWLANDS], I ask that the resolution and report may go upon the Calendar.

The VICE-PRESIDENT. Without objection, it is so ordered.

BILLS INTRODUCED.

Mr. HANSBROUGH introduced a bill (S. 6037) to amend an act entitled "An act regulating the sale of intoxicating liquors in the District of Columbia;" which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PILES introduced a bill (S. 6038) authorizing the construction of a dam across the Pend d'Oreille River, in the State of Washington, by the Pend d'Oreille Development Company, for the development of water power, electrical power, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. TALIAFERRO introduced a bill (S. 3039) granting an increase of pension to George Gardner; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. McENERY introduced a bill (S. 6040) for the relief of the estate of Joseph Richard Martin; which was read twice by its title, and referred to the Committee on Claims.

Mr. OVERMAN introduced a bill (S. 6041) granting an increase of pension to James N. Brown; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLAY introduced a bill (S. 6042) for the relief of the Jerusalem Evangelical Lutheran Church, Ebenezer, Ga.; which was read twice by its title, and referred to the Committee on Claims.

Mr. SPOONER introduced a bill (S. 6043) granting an increase of pension to George W. Phillips; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6044) granting an increase of pension to John H. Arnold; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 6045) granting an increase of pension to J. G. Bridaham; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FULTON introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6046) granting an increase of pension to K. Shannon Taylor; and

A bill (S. 6047) granting a pension to W. C. Baker.

Mr. GAMBLE introduced a bill (S. 6048) for the relief of L. A. Jopeline; which was read twice by its title, and referred to the Committee on Claims.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6049) granting a pension to Mary A. Washburn;

A bill (S. 6050) granting an increase of pension to Edward W. Galligan; and

A bill (S. 6051) granting an increase of pension to Mary A. Duncan.

Mr. BEVERIDGE introduced a bill (S. 6052) granting an increase of pension to William E. Redmond; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6053) for the relief of William Taylor; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARNER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 6054) granting a pension to Edward W. Livingston;

A bill (S. 6055) granting an increase of pension to Henry H. Davis;

A bill (S. 6056) granting an increase of pension to Alexander C. Boner;

A bill (S. 6057) granting an increase of pension to James M. Wood;

A bill (S. 6058) granting an increase of pension to Samuel Owings;

A bill (S. 6059) granting a pension to Uriah Fosberg;

A bill (S. 6060) granting an increase of pension to Alonzo W. Wright; and

A bill (S. 6061) granting an increase of pension to William K. Trabue.

Mr. GEARIN introduced a bill (S. 6062) granting a pension to Mary Haney; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TILLMAN introduced a bill (S. 6063) granting an increase of pension to F. A. Sullivan; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. RAYNER (for Mr. GORMAN) submitted an amendment proposing to appropriate $130,629.67 to reimburse the directors of Providence Hospital, in the District of Columbia, for moneys expended by them in the reconstruction of said hospital, intended to be proposed by Mr. GORMAN to the sundry civil appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. OVERMAN submitted an amendment proposing to appropriate $8,000 for paving Eleventh street from K to O streets NW. with sheet asphalt, intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. GALLINGER submitted an amendment proposing to appropriate $143,000 for the purchase of land and modification and extension of railroad system incident to abolition of grade crossings in connection with the spur railroad from the Washington Navy-Yard to the tracks of the Pennsylvania Railroad Company, intended to be proposed by him to the naval appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Naval Affairs.

He also submitted an amendment proposing to appropriate $3,000 each for six justices of the peace in the District of Columbia, etc., intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. DICK submitted an amendment providing for the transference to the Secretary of the Navy for preservation, indexing, and preparation of the publication of all records relating to the personnel and operations of public and private armed vessels of the North American colonies in the war of the Revolution, intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. MILLARD submitted an amendment proposing to increase the number of superintendents of registry, Post-Office Department, from twenty-five to twenty-seven, intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

AMENDMENTS TO RAILROAD RATE BILL.

Mr. CULBERSON. I submit an amendment, in the nature of a substitute, to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, which I ask may be printed in the RECORD. It is not very long.

There being no objection, the proposed substitute was ordered to lie on the table, and to be printed, and to be printed in the RECORD, as follows:

That whenever the Interstate Commerce Commission, created by "An act to regulate commerce," approved February 4, 1887, and exercising powers thereunder and under acts amendatory thereof, and under this act, shall, upon complaint and hearing, as provided by said acts, or either of them, decide that any rate fixed for service which is subject to the provisions of said acts, or either of them, is unjust and unreasonable, said Commission shall have the power, and it shall be its duty, to fix a just and reasonable maximum rate for such service and make an order specifying the time, which shall be within not less that twenty days from the date of said order, when such rate shall take effect; and thereafter such rate shall be the only lawful rate which the carrier may charge for such service for the period of one year from the time such rate may become operative, unless otherwise ordered by the Commission: *Provided*, That if such rate so fixed by the Commission is in violation of the rights of any party in interest secured by the Constitution of the United States the party so affected may proceed against the Commission by appropriate proceedings in equity in any circuit court of the United States of competent jurisdiction to enjoin the enforcement of such order and rate: *Provided further*, That in determining what is a just and reasonable rate no consideration shall be given fictitious stock issued by the carrier or bonds or other obligations of the carrier issued in excess of the fair value of its property: *Provided further*, That no circuit or other court of the United States, and no judge thereof in vacation, shall annul, restrain, enjoin, or otherwise interfere with the enforcement or operation of a rate and order established and made by the Interstate Commerce Commission provided for in this act until a petition, declaration, bill of complaint, or other proper statement of the cause of action is filed in said court or presented to said judge in vacation, and the Interstate Commerce Commission is duly and legally served with a copy thereof at least ten days prior to any action taken by the court or judge thereon and until said Commission has had opportunity within said ten days to answer by proper pleadings and present testimony in like form as the complainants therein: *Provided further*, That in such proceedings either party to the suit may appeal immediately and directly to the Supreme Court of the United States from the final decree therein, or from any interlocutory or preliminary restraining order therein, whether granted during the term or in vacation, by which the rate and order so established and made by the Commission is enjoined in whole or in part: *Provided further*, That said appeal must be taken within thirty days from the entry of such order or decree, and said case so appealed shall be advanced and take precedence in the Supreme Court of all cases of a different character therein: *Provided further*, That the circuit court, or the judge thereof, or the Supreme Court or any justice thereof, may direct that the final decree or the interlocutory or preliminary restraining order from which an appeal is taken shall be stayed during the pendency of such appeal.

SEC. 2. That section 1 of an act entitled "An act to regulate commerce," approved February 4, 1887, be, and the same is hereby, amended so as hereafter to read as follows:

"That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of oil, gas, or water wholly or partly by pipe lines and to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, when both are used for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however*, That the provisions

of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

"The term 'railroad' as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term 'transportation' shall include the use of cars and other vehicles and the use of all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing storage, and handling of property transported; and it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto.

"All rates fixed by the carrier or the Interstate Commerce Commission for any service rendered or to be rendered in the transportation of passengers or property, or in connection therewith, as aforesaid, shall be subject to the provisions of this act, and shall be just and reasonable both to the public and the carrier."

SEC. 3. That section 1 of an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, be, and the same is hereby, amended so as hereafter to read as follows:

"That anything done or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give or to solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, give or solicit, accept or receive any such rebates, concessions, or discriminations shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000: *Provided*, That every person who shall offer, grant, give or solicit, accept or receive any such rebate, concession, or discrimination shall, in addition to said fine, be imprisoned in the penitentiary for a term not less than one year nor more than five years.

"Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, or determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

"In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier acting within the scope of his employment shall in every case be also deemed to be the act, omission, or failure of such carrier as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereof, or participates in any rates so filed or published, that rate as against such carrier, its officers, or agents in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act."

SEC. 4. That all acts and parts of acts in conflict herewith are repealed and that this act take effect from its passage.

Mr. LA FOLLETTE submitted eleven amendments intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which were ordered to lie on the table and be printed.

WILLIAM WILSON.

Mr. McCUMBER. I offer the concurrent resolution which I send to the desk, and ask unanimous consent for immediate action upon it.

The VICE-PRESIDENT. The Senator from North Dakota submits a resolution, which will be read.

The Secretary read the resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 3454) entitled "An act granting an increase of pension to William Wilson."

Mr. McCUMBER. I simply desire to say that the beneficiary named in the bill has died since its passage.

The concurrent resolution was considered by unanimous consent, and agreed to.

ASSOCIATION OF THE NAVAL MILITIA.

Mr. GALLINGER. I have had handed to me the typewritten copy of the annual proceedings of the Association of the Naval Militia of the United States, accompanied by bills pending before Congress on the subject of the naval militia. On some former occasion the Senate has published proceedings of this association as a public document, and I move that it be printed as a public document.

The resolution was agreed to.

VOLUNTEER RETIRED LIST OF THE ARMY.

Mr. NELSON. I present a statement showing the number, residence, and age of officers affected by the bill (S. 2162) to create in the War Department a special roll to be known as "the volunteer retired list," to authorize placing thereon with pay certain surviving officers of the United States Volunteer Army of the civil war, and for other purposes, and also the amount of money involved. I move that the statement be printed as a public document and referred to the Committee on Military Affairs.

The motion was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On May 1:

S. 3045. An act to incorporate the American Cross of Honor within the District of Columbia;

S. 4046. An act to incorporate the Edes Home; and

S. 47. An act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes.

INDIAN APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 15331) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CLAPP. I move that the Senate insist upon its amendments, agree to the request for a conference, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. CLAPP, Mr. McCUMBER, and Mr. DUBOIS as the conferees on the part of the Senate.

AGRICULTURAL LANDS WITHIN FOREST RESERVES.

The VICE-PRESIDENT laid before the Senate the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves, returned from the House of Representatives in compliance with the request of the Senate.

Mr. FULTON. Mr. President, I entered a motion to reconsider the vote by which this bill was passed. I do not wish to press it at the present time, but I desire to explain briefly why I entered the motion.

Personally I favor the bill; I desire that it may become a law; but the Senator from Idaho [Mr. HEYBURN], who is too ill to attend the sessions of the Senate, wishes to be heard on the measure. This I suggested at the time the measure was before the Senate for passage, and I allowed it to be passed and afterwards entered a motion to reconsider the vote in order that it may rest where it is until the Senator from Idaho may attend the sessions of the Senate and present his views.

The VICE-PRESIDENT. The bill will lie on the table.

PRESERVATION OF NIAGARA FALLS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying paper, referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of the Congress, a report made to the Secretary of War by the International Waterways Commission, under date of May 3, 1906, upon the preservation of Niagara Falls.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 7, 1906.*

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. The morning business is closed, and——

Mr. SCOTT. I should like very much to call up a bill out of order as a compliment to a retiring Senator on the opposite side. It is Senate bill 2794, a very short bill.

The VICE-PRESIDENT. Under the unanimous-consent agreement House bill 12987 is in order.

Mr. HALE. I must make a point of order against the request of the Senator from West Virginia. First, I ask that the rule be read.

The VICE-PRESIDENT. The Secretary will read the unanimous-consent agreement, as requested by the Senator from Maine.

The Secretary read as follows:

It is agreed by unanimous consent that on Friday, May 4, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill, H. R. 12987, to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; the bill to be read by sections for the purpose of amendment, the discussion upon amendments offered to proceed under a fifteen-minute rule, the amendments to be disposed of when the discussion thereon is concluded. (April 30, 1906.)

Mr. HALE. I will state my point of order. I do not like to interfere with the Senator from West Virginia, but the purpose and object and operation of the rule are entirely clear. The Senate by unanimous consent made the rule and the order of business. You can not upon one unanimous-consent agreement afterwards changed that by another unanimous-consent agreement. My point of order is that there is nothing under the rule which has been read that the Senate can do except to proceed to the consideration of amendments to the rate bill, and no unanimous-consent agreement can or ought to interfere with that order.

The VICE-PRESIDENT. The unfinished business will be proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The VICE-PRESIDENT. The pending amendment is the one offered by the Senator from South Dakota [Mr. KITTREDGE]. The Secretary will read it.

The SECRETARY. It is proposed to add at the end of section 1 the following:

Companies or persons owning, leasing, managing, or operating cars used in the business of carrying any kind of property, including live stock, though such cars run upon railroads not owned, leased, managed, or operated by such companies or persons, shall be deemed to be carriers engaged in the transportation of property by railroad within the meaning of this act.

Mr. CLAPP. Mr. President, I can not believe that the Senator from South Dakota fully realize the scope of his proposed amendment. I fully agree with him, as every one else must agree with him, as to the evil known as the private car lines. As he wisely suggested in his remarks last Friday, one of the remedies is the elimination of the private car lines. The committee at its hearings last spring and the members of the committee in considering this subject have been face to face with the proposition whether private car lines could be eliminated. We recognize it is the law that a common carrier must furnish the facilities for transportation; we realize that they depend to-day very largely upon the private car lines for those facilities; and now to abruptly require them to make the necessary investment and to create that disturbance which would result from the prohibition of the use of these cars by anything but a railroad company seemed entirely too drastic, and the committee had to abandon that thought.

The next plan was how best to meet the evil of the private car lines. One difficulty to-day is that the shipper of fruit and other freight requiring refrigeration has to deal not only with the railroad company which transports that freight, but also he has to deal with the company owning these private cars; and while it did not seem a bit feasible, if advisable, to eliminate the private cars, it did seem as though we ought to take one step forward and require the common carrier to furnish these cars so far as the shipping public is concerned, so that the shipper would have to deal only with one corporation, and that would be the carrier, and the carrier would be free either to buy its cars, own its cars, rent its cars, or employ the cars owned by the private car line companies so long as in its last analysis the cost of transportation, including refrigeration and those things especially inherent in the private cars, was within the control of the Interstate Commerce Commission and the shipper had to deal only with one person, and the Commission had to deal only with one person, and that the common carrier. So we provided first as to what a carrier—a railroad—should be, what transportation should be, bringing refrigeration, icing, and all these matters finally under the one head of transportation or freight, so that it would simplify the subject both with the shipper and the Commission.

Before the Senate votes on the amendment I wish to make another suggestion. So far as the subject of eliminating the private car lines is worthy of consideration, it ought not to be embarrassed in the future by at this time a legislative declaration of its legal existence and its license as a common carrier. If we find in experience that thus making the private car line facilities, and including icing and refrigeration and all these matters, a part of the freight charge, to be dealt with as one matter both with the shipper and the Commission, does not meet the evil, and it should be thought later by a gradual process fair to all and feasible as practical legislation to eliminate the private car lines, I say we ought not then to be embarrassed by the fact that we had deliberately legalized that business and recognized it and licensed it as a common carrier. There will be time enough then, if our present plan should not prove a practical one, to deal with it from that standpoint.

I hope before the Senate thus, within the purview of this law, legalize the operation of the private car lines they will consider if it is not better, for the time being at least, to place every item of transportation subject to the railroads, so that the shipper and the Commission will have to deal primarily and exclusively with the railroad company alone.

Mr. TALIAFERRO. Mr. President, before the Senate proceeds to vote on this amendment, or any of the pending amendments indeed, I wish to announce that my colleague [Mr. MALLORY] is unable to be present on account of illness. He has a general pair with the senior Senator from Vermont [Mr. PROCTOR], but has sent me a brief statement of his views on the bill, which I desire shall be read. I send the statement to the desk.

The VICE-PRESIDENT. The Secretary will read the statement prepared by the senior Senator from Florida [Mr. MALLORY].

The Secretary read the statement, as follows:

"In my judgment the Hepburn-Dolliver rate bill as it came to the Senate from the House of Representatives will accomplish very little practical benefit. It, however, enunciates a principle which has been more or less disputed in the past and which, in my judgment, is worthy of distinct recognition. The bill declares that the National Legislature has a right, through a commission established by that Legislature, to prescribe reasonable and just rates for the transportation of passengers and freight by common carriers engaged in interstate and foreign commerce. As the bill stands, this is the only point that induces me to favor its enactment into law.

"I believe that one of the greatest difficulties that the Interstate Commerce Commission has to deal with is the facility with which a railroad charged with the imposition of excessive rates can secure a preliminary injunction on facts not adduced before the Commission when that body passed on the rate in question. I believe that Congress has the power to prevent the issuance of such preliminary or interlocutory injunction by the minor United States courts, and that unless Congress does impose such restraint on those courts the practical working of the Hepburn-Dolliver bill will be but little improvement on the working of the law that it seeks to amend. There are other features of the bill that I think should be radically amended, and many provisions might be put on it that would relieve it of serious grounds of criticism. But with effective restrictions on the power of the courts to grant preliminary injunctions I think that substantial benefit to the public could be realized.

"In general, I desire to say that I favor any amendment that enlarges the powers and strengthens the hands of the Interstate Commerce Commission within constitutional limits and that I am opposed to any amendment that in any way lessens the power, narrows the jurisdiction, or weakens the strength of the Commission."

The VICE-PRESIDENT. The pending question is on the amendment proposed by the Senator from South Dakota [Mr. KITTREDGE].

Mr. HOPKINS. Mr. President, before a vote is taken on the amendment I wish to ask the framer of the amendment a few questions with regard to its proper construction. The first lines of the amendment read:

Companies or persons owning, leasing, managing, or operating cars used in the business of carrying any kind of property, including live stock, etc.

The amendment concludes as follows:

Shall be deemed to be carriers engaged in the transportation of property by railroad within the meaning of this act.

What I want to know is this: Suppose a stock breeder in central Illinois leases one, two, or three cars for the purpose of transporting some of his fancy stock into an adjoining State for exhibition purposes, would that act come within the provisions of this amendment and make him a common carrier?

Mr. KITTREDGE. Mr. President, in my judgment it would not.

Mr. HOPKINS. Why does the Senator so think? The provision reads:

Or persons owning, leasing, managing, or operating cars used in the business of carrying any kind of property.

There would be a person, and he would be leasing a car and using it for transporting live stock from one State to another.

Mr. KITTREDGE. That is not intended to be the construction of this amendment. The object of the use of the words "companies or persons" is very evident. The word "companies" is a broader term than the word "corporations," and the words "persons" is there used so as to include anyone engaged in the transportation of property enumerated in this amendment.

Mr. HOPKINS. Under the explanation of the Senator, Mr. President, just such a case as I have indicated would come within the provisions of this proposed law, because there would be a person who would be leasing cars, and he would be leasing them for transporting live stock from one State to another.

Mr. KITTREDGE. That is quite a mistake as to the purpose of this amendment. The case which the Senator mentions is not at all reached by this language. In the case he has cited the owner of the live stock would be the shipper and not the carrier.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Dakota yield to the Senator from Indiana?

Mr. KITTREDGE. Certainly.

Mr. BEVERIDGE. I wish to ask the Senator from South Dakota a question. The bill at present permits a railroad company to make contracts for leasing cars of private car line companies, but provides that the cost of those cars shall be included in the charge the railroad company makes to the shipper. Does not the Senator's amendment, making the private car lines also interstate carriers, compel the shipper to pay two separate charges, one to the railroad company and one to the private car line? Is not that the case?

Mr. KITTREDGE. Mr. President, my construction of section 1 of the bill now pending, and especially of the part relating to transportation, is that it does not reach at all the relations that may exist between the private car line companies and the shipper, but it does reach the charges that the railway company may make on the private car line companies. If the private car line company presents to the carrier, the railroad company, a car with its contents, the relation of shipment is between the private car line company and the railroad, and the relations between the shipper and the railroad company are not reached in any degree.

Mr. BEVERIDGE. By the present bill?

Mr. KITTREDGE. By the bill which is now pending.

Mr. BEVERIDGE. I think it is an admirable thing that that point has been brought out, because if the bill as it stands will not permit the railroad company to make a contract with a private car line, but compels it to include the charge made by the private car line company in the charge it makes to the shipper, then I am sure a large number of Senators have been deceived. I should be very glad to hear from some Senator who has had something to do with the bill upon that question.

As I interpret the amendment of the Senator from South Dakota—and it was to that to which my question was directed—the only difference between the law as it would be if his amendment should be adopted and the law as it would be if his amendment should not be adopted would be that in the first case the shipper must deal with two companies in the carrying of his goods and in the other the shipper would deal with but one carrier in the shipment of his goods.

If the Senator who has charge of the bill will explain whether or not it is true that, in his judgment, this bill does provide that the common carrier may make his contract with the private car line and include the charge that it pays to the private car line in the charge it makes to the shipper, I think it would be enlightening to us.

Mr. HOPKINS. Mr. President, I have examined the amendment of the Senator from South Dakota a little further since the Senator has given me his construction of it, that it would be the carrier and not the shipper that would be held to be a common carrier. I do not interpret the amendment as suggested by the Senator, and, with all due deference to his opinion, I submit that it is not susceptible of the construction that he places upon it, for this reason: Eliminating the other words and bringing the proposition down to the illustration that I gave of the shipper of live stock from Illinois to an adjacent State, it reads that persons leasing cars or operating cars used in the business of carrying any kind of property, including live stock, shall be deemed to be carriers engaged in the transportation of property by railroad within the meaning of this act.

Now, to show that it can not mean the railroads, the amendment substantially provides that the person who owns or leases a car or cars for the purposes I have indicated shall be held to be a carrier under the provisions of this act, "though such cars run upon railroads not owned, leased, managed, or operated by such companies or persons."

So that it precludes the idea that the railroad over which the car is transported would be the shipper. It is the person who leases or owns the car. If that construction is correct—and it seems to me that that is the plain English of it—then a person who is a breeder of fancy stock of any kind who carries it for the purpose of exhibition from one State to another, or for any of the purposes relating to private business, by this amendment becomes a carrier under this proposed law.

Mr. McCUMBER. Mr. President, I understood when this amendment was introduced and from the remarks that were made by the Senator from South Dakota [Mr. KITTREDGE] on Friday that it was intended simply to bring these private car lines under the control of the Interstate Commerce Commission; that it was not intended in any way to make a shipper, who leased a car for his own private purpose, a common carrier; nor can I understand that any court could possibly give that construction so as to make a common carrier of a single individual shipping only his own goods in a leased car. But in order to make that absolutely certain, so that there may be no question regarding it, I desire simply to suggest to the Senator from South Dakota that he add after the word "carrying," in line 2 of his amendment, the words "for the public;" so that it would read:

Companies or persons owning, leasing, managing, or operating cars used in the business of carrying for the public any kind of property, including live stock, though such cars run upon railroads not owned, leased, managed, or operated by such companies or persons, shall be deemed to be carriers engaged in the transportation of property by railroad within the meaning of this act.

That would make it, then, susceptible only to the construction that is contended for by the Senator from South Dakota.

Mr. KITTREDGE. Mr. President, if it be permissible for me to do so, I gladly accept that amendment.

The VICE-PRESIDENT. The Senator can so modify his amendment, if he desires.

Mr. KITTREDGE. Then, I will modify the amendment in that way.

The VICE-PRESIDENT. The Secretary will state the modification of the amendment.

The SECRETARY. In line 2, of the proposed amendment, after the word "carrying," it is modified by adding the words "for the public."

The VICE-PRESIDENT. Without objection, it will be agreed to.

Mr. BEVERIDGE. Mr. President, I desire to ask either the Senator from South Carolina [Mr. TILLMAN] or the Senator from Iowa [Mr. DOLLIVER] a question; but I will first ask the Senator from South Dakota [Mr. KITTREDGE], Does the bill as it stands, in case the present amendment should not be adopted, permit the railroad company to make its contract with the private car line and include the charge of the private car line within the charge that the railroad company makes to the shipper?

Mr. TILLMAN. Mr. President, unless the language on pages 2 and 3, where the terms "railroad" and "transportation" are defined, is twisted out of its ordinary interpretation, it looks to me as if those two words as defined there embrace everything that could be utilized or would be required in carrying either passengers or freight.

Mr. BEVERIDGE. Then, as the bill stands as amended, the shipper will have to deal with one carrier, and not with two carriers?

Mr. TILLMAN. That is as I understand it. The Interstate Commerce Commission would have to deal with the railroad alone; it does not matter whose car it uses or what sort of a car it may be.

Mr. BEVERIDGE. Certainly; but whatever charges the railroad company makes, the private car line must be included in the toll which it charges the shipper; so that the shipper will have to deal with only one common carrier.

Mr. TILLMAN. I do not think the Commission would have anything to do with the charge for the facilities of transportation or with what contract it might have with this person. He having secured cars for the transportation of stock or fruit from whatever source, then the railroad alone is amenable to the authority, order, and supervision in fixing the rate by the Commission. That would be my judgment of this language.

Mr. BEVERIDGE. My question has nothing to do with the Commission. As I look at the amendment which is proposed and at the bill as it has been explained to the Senate by those on both sides who stand sponsor for it, the bill as it now stands, without this amendment, provides that the shipper shall deal with one carrier and pay one toll, whereas if the amendment of the Senator from South Dakota be adopted, the shipper must deal with two carriers and pay two tolls.

Mr. TILLMAN. To which I object.

Mr. BEVERIDGE. If that is correct—and that is the purpose of my question to the Senator from South Carolina and to the Senator from South Dakota—then I can not see the wisdom of the proposed amendment; and it was in order to bring the matter clearly before the Senate that I ventured to propound the question to both Senators.

Mr. TILLMAN. In my judgment, the amendment is entirely unnecessary.

Mr. BEVERIDGE. I can see the very serious possible objection of compelling a shipper to deal with two common carriers where he might deal with but one and to pay two charges where he might pay but one.

The VICE-PRESIDENT. The Chair will again call the attention of Senators to the rule under which the Senate is now proceeding, which forbids Senators from speaking more than once upon an amendment.

Mr. BEVERIDGE. Mr. President, the time that I have been addressing the Senate has been within the fifteen minutes; but I will ask the Chair, under the rule, whether or not I have the right to dispose of that fifteen minutes either by speaking continuously or by asking other Senators questions?

The VICE-PRESIDENT. The Chair understands that the rule is clear—that there can be but one speech by each Senator on an amendment, and that not exceeding fifteen minutes.

Mr. BEVERIDGE. "Not exceeding." I have not——

The VICE-PRESIDENT. The Chair had no reference to the Senator from Indiana.

Mr. BEVERIDGE. Oh, well, I think it wise, so far as that is concerned, if the Chair will permit me, that that be determined at this early stage of the discussion, because if a Senator feels that he can better use his fifteen minutes by asking other Senators questions or by addressing the Senate, I wish to know if he would have the right to occupy the floor in that way for that time.

Mr. LODGE. Mr. President, it is well known that many of the worst cases of personal discriminations and rebates occur in connection with private car lines; many of the worst abuses have arisen through such lines. If they can be reached through this bill, certainly that is greatly to be desired. But the point I am trying to get at is whether we can hold the railroads responsible for discriminations made by the private car lines? If we can not, then the bill, so far as private car line discriminations go, is worthless.

Mr. TILLMAN. If the Senator from Massachusetts will continue to occupy the floor so that I shall not be ruled out of order, I wish to make a suggestion.

Mr. LODGE. Certainly.

Mr. TILLMAN. So as to set this matter absolutely at rest, and make it impossible for anyone to construe this language otherwise than as I have just interpreted it, I would suggest to insert, on page 2——

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Pennsylvania?

Mr. LODGE. I have just yielded to the Senator from South Carolina.

Mr. TILLMAN. On page 2 of the bill, line 21, after the word "railroad," if we insert the words "or cars," we would then include in the definition of the word "railroad" the cars, so that there could be no possibility of the private ownership of the car exempting the carrier from the control of the Commission.

Mr. LODGE. That is what I want to get at—the proper control over the private car lines by the Commission.

Mr. TILLMAN. I will move, then, to insert those words.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Pennsylvania?

Mr. LODGE. Certainly, I yield to the Senator from Pennsylvania.

Mr. KNOX. If the Senator from South Carolina will permit me just a moment, I think he has properly construed this bill. When you come to look at the proposed amendment it only has one purpose, and that is to declare, as will be seen if the amendment be examined carefully on the fifth line, that the persons owning or leasing or managing cars shall be deemed carriers. For what purpose? The next line answers that question. They are to be deemed carriers "within the meaning of this act." Why are they to be deemed carriers "within the meaning of this act?" To give the Interstate Commerce Commission jurisdiction over them. If you will take the bill as the Senator from South Carolina called attention to it a moment ago, you will find that under the definition of transportation that is all provided for. Assuming that they are not carriers and assuming that they are not now within the jurisdiction of the interstate-commerce act, what are they? They are facilities and instrumentalities of commerce. That is what they are as a fact, and that, of course, no one can question. They are facilities and instrumentalities of commerce—they are cars. The pending bill says that all instrumentalities and all facilities of every kind used or necessary in the transportation of persons or property shall be within the meaning of this act, and then, in order "to make assurance double sure," they bring it in under the title of "transportation," and say that "transportation shall include cars and other vehicles." I therefore think it is wholly unnecessary to adopt the amendment of the Senator from South Dakota.

Mr. CULLOM. May I ask the Senator a question?

The VICE-PRESIDENT. The Senator from Massachusetts has the floor. Does he yield to the Senator from Illinois?

Mr. LODGE. I believe I have the floor; but I yield to the Senator.

Mr. CULLOM. I did not know the Senator from Massachusetts had the floor. The question I want to ask is, whether, in view of the provision on the second page of the bill, the amendment of the Senator from South Dakota is necessary at all?

Mr. KNOX. In my judgment, it is wholly unnecessary.

Mr. CULLOM. That is what I thought.

Mr. LODGE. Mr. President, I have received the answer I desired to receive—that the amendment is unnecessary.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from South Dakota [Mr. KITTREDGE].

The amendment was rejected.

Mr. FORAKER. I offer the amendment which I send to the desk, to be added at the end of section 1.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. At the end of the first section it is proposed to add the following:

That no carrier engaged in interstate commerce shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater or less compensation for interstate transportation of passengers than it charges, demands, collects, or receives from any other person for the same or equally good accommodations and a like and equally good service. And any carrier violating this provision shall be deemed guilty of unjust discrimination and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars: *Provided*, That nothing herein shall prevent the free carriage of destitute or indigent persons, or the issuance of mileage or excursion passenger tickets, or prevent such carriers from giving free or reduced transportation to ministers of religion, or to the inmates of hospitals, eleemosynary and charitable institutions, or to prevent any such carrier from giving free transportation to officers, agents, employees, attorneys, stockholders, or directors of carrier companies, or to the families of the same.

Mr. TILLMAN. Will the Senator from Ohio inform us on what page of the bound copy of the amendments his amendment is to be found?

Mr. FORAKER. On page 163.

Mr. BEVERIDGE. Mr. President, I suggest to the Senator from Ohio—in fact, I move it as an amendment—that after the word "drawback," in line 3, the word "pass" be inserted.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to amend the amendment after the word "drawback," in lines 2 and 3, by inserting the word "pass."

Mr. FORAKER. I accept that amendment.

The amendment to the amendment was agreed to.

Mr. NELSON obtained the floor.

Mr. TELLER. Mr. President——

Mr. NELSON. I yield to the Senator from Colorado.

Mr. TELLER. Mr. President, inasmuch as we have all the proposed amendments to the bill, or are supposed to have them all, before us, printed in bound form, I think when a Senator submits an amendment he should tell us on what page it is to be found.

Mr. FORAKER. I did announce the page.

Mr. TELLER. I know the Senator did, but owing to the confusion nobody in this part of the Chamber could hear what he said.

Mr. FORAKER. My amendment is to be found at page 163 of the amendments as printed and bound together.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio.

Mr. McCUMBER. Mr. President, it has been the custom of the railways in the agricultural Northwest in the months of July and August, during harvest time, to make special rates for laborers to take them to the farmers' fields. That custom has been absolutely necessary for the people of the Northwest in order to get the laborers there at all. This amendment proposes to cut that off entirely, and the only way under it by which we could get the laborers would be the old-fashioned

method of travel by the tramps before they found work to do, the method that was so much in vogue between 1893 and 1896.

Mr. GALLINGER. 1897.

Mr. McCUMBER. The amendment, if it is incorporated in the bill in its present form, will do almost untold and inestimable damage to the farmers of my section of the country and of the northwestern section of the United States generally.

I do not know whether the same system prevails in reference to the shipment of laborers to the mines in other sections of the Northwest. I know it does prevail in my section of the country, and I do not think the Senator could do any greater damage to that section of the United States than to provide that the railways shall make no provision whatever for the transportation of laborers for our farmers during the very busy season.

The farmers' whole crop is harvested from the 25th day of July to about the 1st day of October. If he is going to have laborers there at all, then some provision must be made. I believe the usual method has been that the railway gives a special rate and requires the laborer to bring a certificate of the farmer for whom he has worked, showing he has given at least so many days' labor, and then he is returned home for about one-fifth of the regular rate of fare.

There are so many of these exigencies that have to be met that it seems to me it would be dangerous to tie up a railroad so that it could not meet these exigencies, not only in farming operations, but in many others, such as mining, irrigation work, and railroad work. There are thousands of other cases which might possibly be mentioned in which it would be proper for the railroads to give reduced rates where it would be just as important as it would be to give the reduced rates to ministers of religion, etc.

Mr. HANSBROUGH. Mr. President, I wish to state to my colleague that in all probability the language to be found on the second page of the proposed amendment will be construed so as to exempt the class to which he refers. I call his attention to lines 2 and 3, where are found the words "or the issuance of mileage or excursion passenger tickets." I am inclined to think, although I would not put my opinion against that of the Senator from Ohio, or that of my colleague, that the class to which my colleague refers would come in under the terms of that provision in the amendment.

Mr. McCUMBER. I do not consider that they would come in under the provision "inmates of hospitals, eleemosynary and charitable institutions," or under "excursions," either. Making reduced rates for a laborer is not an excursion. It is not all done in one car or on a special train. The laborer is given those rates for a certain length of time; and that is not all, I want to say to my colleague. Special rates are given to land seekers during certain months. They ride on any train they desire. Tickets are good for a certain length of time. They are all cut out under the provisions of this amendment, and I do not believe it could be amended in such form as to except them.

Mr. BAILEY. Will the Senator from North Dakota allow me to ask him a question? I take it that the purpose of inserting the words "the same or equally good accommodations" is to include just such a case as he recites.

Mr. HANSBROUGH. In what part of the amendment is that?

Mr. BAILEY. In lines 6 and 7.

Mr. HANSBROUGH. I see.

Mr. BAILEY. When they carry home seekers they generally have a particular car——

Mr. McCUMBER. That is not true.

Mr. BAILEY. That may not be true in the Senator's section.

Mr. McCUMBER. It may be in certain sections.

Mr. BAILEY. The Senator was a little too hasty.

Mr. McCUMBER. They do not carry home seekers in box cars.

Mr. BAILEY. It may not be true of the Senator's State, but he did not make any qualification until I called his attention to it. They come with sleeping-car accommodations. They have reduced rates. I want to know if that is the purpose for which the words are to be inserted?

Mr. FORAKER. If I can answer——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Ohio?

Mr. McCUMBER. I yield.

Mr. FORAKER. If I can answer without exhausting my right under the rule to speak——

Mr. McCUMBER. I concede that the Senator is speaking in my time. I yield to the Senator.

Mr. FORAKER. I first introduced the amendment some time in March, I think. Then I reintroduced it April 12, explaining at the time when I introduced it that I had made that change, and the words are printed in italics only because they are an amendment of the amendment as originally introduced. The purpose is simply to secure to all who pay the same compensation the same kind of treatment.

Mr. McCUMBER. That, it seems to me, would strike the cars in Virginia and in Maryland which are used to carry colored people only. If they pay the same price, they should have the same accommodations.

Mr. FORAKER. I do not want to speak, except in your time.

Mr. McCUMBER. That will be the effect of it.

Mr. FORAKER. The man who pays $10 to ride from A to B, no matter what his color may be, is entitled to the same kind of accommodations and the same kind of service that any other man is who pays $10.

Mr. McCUMBER. I agree with the Senator. He is entitled to the same accommodations.

Mr. FORAKER. That any other man is who pays the same sum.

Mr. GALLINGER. Mr. President, I wish to make a suggestion in the line of the suggestion made by the Senator from North Dakota in reference to the influx of men into the harvest fields of the West at certain seasons of the year. In my part of the country we have workingmen's trains, and the workingmen, at certain hours of the day, are carried at a less rate than the ordinary passenger. While I have not examined this amendment so as to satisfy myself entirely that it would interfere with that arrangement, I wish to suggest in this debate that if it does so interfere, it will be a very great hardship that ought not to be imposed upon the workingmen of the country.

Mr. McCUMBER. There can be no possible doubt that it does.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Wisconsin?

Mr. McCUMBER. Certainly.

Mr. FORAKER. If the Senator will allow me, I was occupied in answering a question and I did not hear what the Senator from New Hampshire said.

Mr. GALLINGER. I will say to the Senator that I suggested that in certain sections of the country, New England notably, we have trains for workingmen, and the workingmen are carried during certain hours of the day at a less rate than is the ordinary passenger; and that if the amendment in any way interferes with this arrangement it would be a very great hardship to the workingmen of New England and ought not to be put in the bill.

Mr. FORAKER. I do not want to interfere with that arrangement, and I suppose the issuance of mileage or excursion tickets would cover that. If the Senator thinks differently, I will be very glad to consider any amendment he may suggest.

Mr. McCUMBER. This amendment provides:

> That no carrier engaged in interstate commerce shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater or less compensation for interstate transportation of passengers than it charges, demands, collects, or receives from any other person for the same or equally good accommodations and a like and equally good service.

Now, the only latitude there is that for second or third class accommodations they might charge less. That is the only meaning that could possibly be given to the amendment of the Senator. Now, what are the exceptions to this? The exceptions are—

> The free carriage of destitute or indigent persons or the issuance of mileage or excursion passenger tickets."

The exception certainly does not apply to either the laborer or the farmer who is looking for land in the Northwest, and who now receives especially low rates.

The amendment proceeds:

> That nothing herein shall prevent the free carriage of destitute or indigent persons, or the issuance of mileage or excursion passenger tickets, or prevent such carriers from giving free or reduced transportation to ministers of religion, or to the inmates of hospitals, eleemosynary and charitable institutions, or to prevent any such carrier from giving free transportation to any of its officers.

Those are the exceptions, and anyone can see from the reading of the amendment that it would absolutely cut off all of the special privileges for farmers and laborers, both in mines and in public works, or works that are of importance at certain seasons of the year, where without making those concessions it would be impossible to secure the laborers.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Wisconsin?

Mr. McCUMBER. Certainly.

Mr. LA FOLLETTE. On Friday I was recognized by the presiding officer to offer some amendments. Among others I had prepared an amendment to this provision of the bill. The RECORD failed to note the recognition and the offer which I

made, and my amendments were not printed. I would ask that this provision be passed for the time being that I may have the opportunity to present the amendment which I wish to offer.

Mr. McCUMBER. I do not understand that under the rule it can be passed. However, so far as I am concerned—it is not my amendment—I have no objection.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Minnesota?

Mr. McCUMBER. I yield to the Senator from Minnesota.

Mr. NELSON. Oh, no. I rise in my own time.

Mr. McCUMBER. Very well. I yield the floor, then.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Minnesota?

Mr. LA FOLLETTE. I made a request which I should like to have submitted.

The VICE-PRESIDENT. Will the Senator kindly restate his request?

Mr. LA FOLLETTE. It is that this provision of the bill may be passed for to-day, in order that I may have an opportunity to present the amendment I have prepared.

The VICE-PRESIDENT. The Chair is of opinion that that is not practicable under the unanimous-consent agreement.

Mr. CULLOM. If I may be allowed to make a suggestion, the Senator from Wisconsin states that he attempted to offer an amendment to this section and failed to be recognized for want of being noticed when he was upon the floor; otherwise his amendment would have been presented and printed. I think under those circumstances——

Mr. LA FOLLETTE. I beg the Senator's pardon. I was recognized by the Chair and offered my amendment, but the RECORD failed to note the fact, and for that reason the amendment could not be printed as other amendments have been.

Mr. CULLOM. I am pleading for the Senator to have an opportunity.

Mr. LA FOLLETTE. I understand that; but I wish to have the facts stated correctly.

Mr. CULLOM. I supposed the Senator was not recognized, and that is the reason why the amendment had not been printed. I think under the circumstances this section ought to be passed over.

Mr. ALDRICH. I would suggest if the Senator from Wisconsin has the text of his amendment here he can offer it now.

Mr. LA FOLLETTE. I have no doubt of that. I thank the Senator for his suggestion; but I want the amendment printed and put upon the desks of Senators, so that it may be examined as other amendments are.

Mr. BAILEY. I suggest, as a matter of order, although this is a unanimous-consent agreement, it is still in order for the Senate, by unanimous consent, to modify it. I would not think that the Senate could bind itself by one unanimous-consent agreement to the extent that it could not modify that unanimous-consent agreement. My understanding is that the Senator from Wisconsin asks unanimous consent that this section may be passed, so that he may have an opportunity to present his amendment, and so that Senators may have that amendment before them before they are required to vote upon it.

Mr. LA FOLLETTE. I did make that request, and I understood the Chair to rule that it was inadmissible even to make the request.

The VICE-PRESIDENT. The Chair did not understand the Senator.

Mr. LA FOLLETTE. I asked that it might be passed.

The VICE-PRESIDENT. The Chair did not understand the Senator. Did the Senator ask the Chair that it be passed, or did he ask the unanimous consent of the Senate that the order under which the Senate is proceeding should be modified?

Mr. BAILEY. To that extent, as I understand.

The VICE-PRESIDENT. If that is the request of the Senator from Wisconsin, of course it is always competent for the Senate, by unanimous consent, to modify a unanimous-consent agreement, but it is not usual.

Mr. HALE. Mr. President, that might involve very serious consequences. If a unanimous-consent agreement can be modified by unanimous consent, it can be destroyed by unanimous consent. I do not think the Senator here in this case needs to ask that the rule be modified by unanimous consent, but simply as a matter of procedure that the amendment may be passed over.

Mr. BAILEY. But the Senator from Maine will readily see that the Senate has it within its own power to protect itself against the destruction of any agreement. I suggest this to the Senator: Suppose we had reached a point where some peculiar and exceptional state of facts had arisen and the Senate had made a unanimous-consent agreement, thus putting it beyond its power to modify it. We might find ourselves very seriously embarrassed. Suppose a Senator desired to offer a particular amendment not at the place in the bill which the Senate then had under consideration, and that for some reason peculiar to him or peculiar to the public service it was desirable to consider and dispose of that amendment right there, and that every Senator in the body recognized the necessity or the propriety of such a disposition. Surely there could be no danger in allowing the Chair to submit to the Senate a request for unanimous consent, because to be effective every Senator must agree to it.

Mr. HALE. My idea of the rule is that in matters such as have come up now and such as have been stated by the Senator from Texas, it does not require a modification of the agreement. The proceedings, points of order, and things of that kind go on without regard to the agreement. They are not an infringement of the agreement, and if it is sought to pass an amendment by for the present, it is not intended that the agreement shall cover that. But it is intended to cover all the essential things in relation to the debate and the consideration of amendments. But the other things, I think, can be safely left to the Chair to settle without asking that the agreement be modified.

Mr. BEVERIDGE. Does the Chair hold that the request of the Senator from Wisconsin for unanimous consent that his amendment may be offered to-morrow is in order under the agreement? I trust, if so, unanimous consent will be given.

But I desire to ask the Chair at this point a parliamentary question. Under the agreement, if a section is passed and adopted in Committee of the Whole, and thereafter at any time before the bill goes into the Senate any Senator desires to offer an amendment to that section, is he precluded from doing so?

Mr. GALLINGER. He can offer it in the Senate.

Mr. BEVERIDGE. I want to know about the construction of the agreement. After a section of the bill has been passed in Committee of the Whole, if thereafter some Senator wants to offer an amendment in Committee of the Whole, is he, under the unanimous-consent agreement, precluded from doing so?

The VICE-PRESIDENT. The Chair would think that under a strict construction of the unanimous-consent agreement an amendment would not be in order after a particular section had been under consideration and had been amended.

Mr. BEVERIDGE. Does the Chair hold—of course it is not necessary to ask the question—that when the bill is in the Senate any and every section is open to amendment?

The VICE-PRESIDENT. It is open to any amendment, under the rule.

Mr. BACON. Mr. President——

Mr. BEVERIDGE. I have not finished. When the bill is in the Senate and a new amendment is proposed, does the Chair hold that under the agreement of the Senate it is then subject to debate under the fifteen-minute rule?

The VICE-PRESIDENT. The Chair will not rule upon questions that may arise——

Mr. BEVERIDGE. Oh!

The VICE-PRESIDENT. In the future.

Mr. BEVERIDGE. I did not mean to embarrass the Chair, but I saw that a very serious predicament might arise by the situation that now confronts the Senate, and in order that we might all be advised in advance as to what every Senator could do and what his rights were, so that at the end he would not be precluded from offering or discussing an amendment, and that he might be on his guard, I thought it advisable that the Senate should know what the unanimous-consent agreement meant.

Mr. HALE. I should not for a moment suppose that the agreement interfered in the slightest degree with the general procedure in the Senate as to the relation between the Committee of the Whole and the Senate; that when the bill is reported to the Senate it is subject to the general rules of the Senate. Any subject may be then considered. But when you come to the question of debate and the time that shall be used, then the agreement is in force. But it does not uproot and destroy the general rules of the Senate.

Mr. SPOONER. I think the ruling of the Chair is entirely correct; and in so far as it was a unanimous-consent agreement, it does uproot some of the rules of the Senate by unanimous consent. It seems to be the obvious purpose of the unanimous-consent agreement that when a section is reached it shall be amended, so far as it is in the power of the Committee of the Whole to amend it, and then we pass to the next section. The sections are to be taken up in their order. Of course after the Senate, sitting as a Committee of the Whole, has amended these sections they are all open in the Senate to unlimited amendment. But it seems to me very clearly that the unanimous-consent agreement precludes the idea that upon request

sections are to be passed, and I think if we begin that (because similar requests will be made as to other sections) we will defeat practically the purpose which was sought to be accomplished by the unanimous-consent agreement. I think the ruling of the Chair is entirely correct.

Mr. BEVERIDGE. May I ask a question——

Mr. BACON. Mr. President, I am inclined to agree with the statement just made by the senior Senator from Wisconsin [Mr. SPOONER], unless by implication he intends still further than I do agree. I do not understand that under this agreement, after Senators have discussed certain amendments offered to the first section, for instance, and no other amendment then being offered to the first section, the Senate passes to the consideration of the second section, it is impracticable thereafter for anyone to offer an additional amendment to the first section.

Mr. SPOONER. I meant to be understood as expressing the opinion that it is, until the bill gets into the Senate.

Mr. BACON. In that I disagree with the learned Senator. There is nothing in the unanimous-consent agreement to that effect. The consent agreement——

Mr. ALDRICH rose.

Mr. BACON. Does the Senator object to my finishing the sentence?

Mr. ALDRICH. No.

Mr. BACON. I hope he will permit me to do so. I have not stated my proposition.

Mr. ALDRICH. I simply rose. I had not addressed the Chair.

Mr. BACON. The Senator rose, but he looked to me properly as the one who was to give my consent. I had not even stated my proposition.

Mr. ALDRICH. With becoming respect, as I always do.

Mr. BACON. Not only with respect, but in obedience to the rule, which the Senator always observes.

Mr. ALDRICH. I had not addressed the Chair, but I was about to, with the Senator's permission.

Mr. BACON. I have not stated my proposition, but if the Senator wants to interrupt me, I am willing for him to go ahead.

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. BACON. I have just stated that I was willing for the Senator to go ahead.

Mr. ALDRICH. I stated distinctly while this matter was under consideration that it should be understood that amendments to any section of the bill would be in order under the rules of the Senate and under the ordinary customs of the Senate from the time it was first taken up until it was passed to a third reading in the Senate; that we could not cut off amendments to any part of the bill.

Mr. BACON. Then I understand the Senator to agree with me.

Mr. ALDRICH. That is what I was about to say.

Mr. BACON. I am sorry I did not know that before. I will conclude, however, by saying that there is nothing in this unanimous-consent agreement which looks to a clôture as to amendments upon any particular section. The sole scope of the unanimous-consent agreement is that amendments when offered can be debated not exceeding fifteen minutes by each Senator, and that when the debate as to that particular amendment is concluded there shall be a vote upon it. That is not the exact language of the agreement. It says "shall be disposed of"—disposed of as the Senate may determine, either by direct vote or upon a motion to lay upon the table.

The point I am after is this: For instance, we are about at the conclusion of the first section. A Senator may have an amendment which he may design to offer to the second section, but upon consideration he may think it better to offer it to the first, and the fact that we have passed from the first to the second section does not, in any manner, it seems to me, preclude the propriety of his thereafter offering the amendment to the first section. It is true that having voted upon a particular amendment which has been disposed of to the first section, that particular amendment can not, in the absence of a motion to reconsider, be again acted upon until we get into the Senate, but as long as we are in Committee of the Whole substantive or independent amendments to any section may be offered at any time. It seems to me that is undoubtedly the correct construction of the unanimous-consent agreement.

Mr. LODGE. The very point which the Senator is making, which I think is perfectly sound, was stated by the Senator from Iowa [Mr. ALLISON] when we were discussing this agreement:

> The Senator will see that there being sixty or seventy amendments, unless we proceed reasonably in order it will take a long time. Of course a Senator can withhold his amendment until we get through with the reading of the bill for amendment, and amendments can be offered to the bill in the Senate.

Mr. BACON. Yes.

Mr. LODGE. I think the agreement was made with that understanding fully.

Mr. BACON. Not only can it be offered in the Senate, but before we get into the Senate a Senator can offer an amendment to any section which may have been passed over. If we were proceeding upon the idea that as soon as the amendments applying to any particular section had been acted upon the Senate would then vote upon that section, it would preclude any further amendment being offered to the section until we get into the Senate. But there is no such proceeding in contemplation.

Mr. BEVERIDGE. I wish merely to ask the Senator a question, as to whether he thinks that when the bill gets into the Senate and an amendment is offered it may be debated under this rule? Of course we all know that any amendment may be offered after we get into the Senate, or that any amendment which has been offered and adopted in Committee of the Whole may be voted on again; but the question I am asking is whether when we get into the Senate and an amendment is offered it may then be debated?

Mr. BACON. In other words, the Senator means to ask whether the debate in Committee of the Whole precludes debate in the Senate?

Mr. BEVERIDGE. Precisely so.

Mr. BACON. I should say not. Of course the same rule will obtain in the Senate as obtains in Committee of the Whole.

Mr. BEVERIDGE. The Senator thinks we may debate in the Senate?

Mr. LODGE. Of course.

Mr. BACON. I think so, undoubtedly.

Mr. BEVERIDGE. Under the fifteen-minute rule?

Mr. BACON. Undoubtedly.

Mr. BEVERIDGE. That is a very important point to be determined at this juncture.

Mr. FORAKER. Regular order, Mr. President.

Mr. BACON. I would say further before yielding the floor that the junior Senator from Wisconsin will have ample opportunity when the bill is the Senate to offer any amendment to this section which he desires to offer.

Mr. GALLINGER. I propose an amendment to the amendment by inserting, after the word "institutions," in line 5, page 164, the words which I send to the desk.

The VICE-PRESIDENT. The Senator from New Hampshire proposes an amendment, which will be stated.

The SECRETARY. It is proposed to amend the amendment offered by the Senator from Ohio by inserting, on page 2 of the amendment, in line 5, after the word "institutions," the following words:

> Or to laborers, agricultural or otherwise, under rules to be prescribed by the Interstate Commerce Commission.

Mr. NELSON. Mr. President——

Mr. FORAKER. I accept that.

The VICE-PRESIDENT. The Senator from Ohio.

Mr. FORAKER. I say I do not object to the amendment offered to the amendment.

The VICE-PRESIDENT. Without objection, it is agreed to.

Mr. NELSON. I object to the adoption of that amendment to the amendment until I have had something to say on the general proposition.

Mr. BACON. I hope it may be read again in connection with the text.

The VICE-PRESIDENT. The Secretary will again state the amendment.

Mr. BACON. So as to show us the connection.

The VICE-PRESIDENT. The Secretary will state the amendment as requested.

The SECRETARY. After the word "institutions," in line 5 of the proposed amendment, it is proposed to insert the following:

> Or to laborers, agricultural or otherwise, under rules to be prescribed by the Interstate Commerce Commission.

So that it will, if amended, read:

> *Provided*, That nothing herein shall prevent the free carriage of destitute or indigent persons, or the issuance of mileage or excursion passenger tickets, or prevent such carriers from giving free or reduced transportation to ministers of religion, or to the inmates of hospitals, eleemosynary and charitable institutions, or to laborers, agricultural or otherwise, under rules to be prescribed by the Interstate Commerce Commission, etc.

Mr. GALLINGER. Mr. President, I simply desire to say a word. Unless I change my mind I shall vote against the amendment submitted by the Senator from Ohio. But if that amendment is to be made a part of the bill it is very clear to my mind that we ought not to enact legislation which would prevent railroads from giving reduced transportation to the men who go from the East to the West to work in the harvest field—thousands of them every year—or to the workingmen trains

that are being run on some of the railroads of the country. So I am very glad the Senator from Ohio is willing to have the amendment I have suggested incorporated in his amendment, which I trust will be done.

Mr. HANSBROUGH. Mr. President, I offer an amendment to the amendment, to come in after the word "dollars," in line 11.

The VICE-PRESIDENT. Will the Senator from North Dakota withhold his amendment until the pending amendment to the amendment is acted upon?

Mr. HANSBROUGH. I offer an amendment to the amendment.

Mr. GALLINGER. It is not in order.

Mr. FORAKER. There is an amendment to the amendment pending.

The VICE-PRESIDENT. The Senator from Minnesota objected to the amendment proposed by the Senator from New Hampshire to the amendment offered by the Senator from Ohio.

Mr. HANSBROUGH. I understood the Senator from Ohio to accept the amendment offered by the Senator from New Hampshire.

Mr. FORAKER. I announced that I was willing to accept the amendment, but the Senator from Minnesota objected to it.

Mr. NELSON. I objected to it.

Mr. HANSBROUGH. I did not hear the Senator from Minnesota make his objection. I will withhold my amendment to the amendment until the proper time.

Mr. NELSON. Mr. President, I desire to call the attention of the Senate to the vice of the amendment of the Senator from Ohio. It has not been really touched upon by the Senator from South Dakota or anyone else in this discussion. If you will read the first of the amendment you will see that it confounds interstate and local traffic, and it amounts to this: That a carrier can charge neither more nor less for an interstate rate of passengers that it can for the local rate. In line 4 you will find, commencing in line 1, that—

> No carrier engaged in interstate commerce shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater or less compensation for interstate transportation of passengers than it charges, demands, collects, or receives from any other person for a like and equally good service.

Now, taking that whole proposition together it amounts to this: That they can not charge more for passengers carried as interstate passengers than they can charge for passengers carried at local rates. Whatever local rate is paid, for instance, in the State of Minnesota by passengers, that same rate must be charged for passengers going from Minnesota to New York.

We all know, as a matter of fact, that for long distances railroads charge much lower rates than they do for mere local rates. This is, in fact, putting the two on a par, so that the railroads can charge absolutely as much for interstate traffic as for local traffic, and indirectly it reduces it to a mileage basis, because it is proposed to say, "If you charge only 3 cents a mile for local passenger rates, you can not charge any less than 3 cents a mile for interstate passenger rates," and that is the whole milk in the cocoanut. I do not care about taking up more of the time of the Senate. Anyone who will inspect the amendment will see that it has that effect.

Mr. FORAKER. Will the Senator allow me to interrupt him?

Mr. NELSON. Certainly.

Mr. FORAKER. If I understand the Senator correctly, his point is one that never occurred to me in connection with my amendment. I should like to have him suggest what words would change that.

Mr. NELSON. The very best way is to leave the amendment out.

Mr. FORAKER. We can find plenty of people who are willing to leave out all provision about prohibiting passes, but in some form or other we will have it presented, so that there will be a vote on it any way.

Mr. NELSON. This amendment does not relate to passes at all. That is a distinct question. What I insist is that it puts interstate passenger rates and local passenger rates on exactly the same level, on practically a mileage basis, by which the railroads can charge just as much for the long transportation from St. Paul to New York as they do from St. Paul to my own home 140 miles from St. Paul. It is putting the two rates on an exact level.

Mr. FORAKER. Mr. President, the language employed, if I may address the Senate at this time, does not admit of any such construction, in my judgment. What the Senator has discovered is entirely new. I am sure it has not occurred to any other member of this body. I have not heard of such a thing being suggested before. I should like to have any man look at that language and tell me how it admits of any such construction.

The provision applies simply to interstate transportation, and it says that no person shall be charged more or charged less than every other person is charged. That language was not new with me. I copied it out of the law as it now stands in that respect. The only trouble with the law as it now stands, and this is the law as it now stands precisely in that particular, is that it provides no penalty. Now, I have added a penalty. The law is good enough as it is already on the statute books to prohibit the giving of passes if there were only a penalty attached.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. If I am not greatly mistaken, section 10 of the interstate-commerce act, amended March 2, 1889, provides a rather more severe penalty than the amendment proposed by the Senator from Ohio.

Mr. FORAKER. I do not know about that section. I do not know of any section which provides a penalty for this offense.

Mr. President, I had just two purposes in view in offering this amendment. One is to prohibit the granting of passes with respect to the interstate transportation of passengers. I wanted to put the language in such a form that there could not be any question about it. Then I wanted to provide a penalty that would secure its enforcement. There being no penalty, passes are granted and they have been ever since 1887, and most of us perhaps have accepted them. I have. I have used them; but I have not used any for a considerable time. That is a fault we have all, or at least most of us have, been open to criticism for. But the time has come when we ought to break up that practice. That is universally recognized. You can not break it up unless you provide a penalty, and that I have provided for. If it is not severe enough, make it more severe.

But I had another purpose in view, Mr. President. When we are not making rates, but the railroads are making them, we can stand by and see a great many things done which we can not afford to do. We can acquiesce in them; but when we undertake to make rates, when we put the Government into that business, the Government becomes responsible for the rates that are made and for the treatment of the passengers who pay those rates.

My purpose was, avoiding, if possible, all question about the so-called "Jim Crow cars," to simply put in the law a provision that there should be equal treatment of all passengers who pay the same compensation for being transported.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Illinois?

Mr. FORAKER. Certainly.

Mr. HOPKINS. I wish to suggest the condition of affairs in Chicago.

Mr. FORAKER. I do not want to lose my time.

Mr. HOPKINS. All right; I will wait until after the Senator concludes.

Mr. FORAKER. In other words, Mr. President, the man who pays a fare, who is charged, for instance, the regular fare from Washington to Richmond or to Mobile, should have precisely as good accommodations without regard to whether he is white or black as any other man who pays it. That is all there is in it. We should put in this law something on which the Commission can stand to enforce equality of treatment in the carriage of passengers, if we are to undertake to become responsible therefor.

The provision I have offered avoids all question about the right to separate passengers by having separate coaches, and the law I have provided, if it should be adopted, is less stringent in that respect then the laws of some of the Southern States. Take the State of Georgia, for instance. I have before me their statute on that subject. They provide as follows:

> The different railroads in this State, acting as public carriers, are required to furnish equal accommodations to all, without regard to race, color, or previous condition.

I say nothing about race, color, or previous condition, but I do say there shall be equal treatment; and I want to know whether any man who believes in equality of treatment will vote against putting in this bill a provision to that effect, especially if it does not conflict with the laws of the different States in that respect. You can do as you like about separating, but there should be an equality of treatment so far as the facilities of travel are concerned and so far as the accommodations are concerned.

That is what I have in mind along with the prohibition of passes. When the Senator from Minnesota [Mr. NELSON] says that the milk of the cocoanut is to give to the railroads some advantage, the Senator from Minnesota speaks without any warrant whatever so far as anything in my mind was concerned. If there is anything in the language that has been employed which admits of that construction, I hope the Senator will tell me how to correct it, and I will be obliged to him.

Mr. NELSON. I charged the Senator with nothing at all, and he knows it. I stated what the construction of the bill was bound to be.

Mr. FORAKER. I did not say the Senator had charged me with anything.

Mr. NELSON. I do not want him to try and make a personal matter out of it. I gave him no occasion for it.

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FORAKER. I ask the Senator to wait until I answer the Senator from Minnesota. I did not say that the Senator from Minnesota had charged me with anything; but I said, when the Senator said the milk in the cocoanut was to try to give the railroads more advantage, he spoke without warrant, so far as anything in my mind was concerned and so far as anything in the language could be construed of which I have any knowledge. If the Senator will tell me how to correct the language so as to accomplish, to his satisfaction, the purpose I have in view by prohibiting the granting of passes and securing equality of treatment to all who travel and who pay the same for their travel I will be very greatly obliged. I am not here to higgle over language, and I have no purposes whatever, except those which I have expressed.

Mr. ELKINS. In reference to providing a penalty, in section 10, if the Senator has examined that act, he will find that provision is made for a penalty. I think that section 10, as amended by the act of March 2, 1889, provides for a penalty for everything that may be prescribed to be done or omitted to be done under any act regulating interstate commerce.

Mr. BEVERIDGE. Will the Senator read that portion of the section with reference to passes?

Mr. FORAKER. There is not a word in it about passes.

Mr. ELKINS. But the Senator in his amendment has prescribed a penalty for passes. Now, I will read section 10, if the Senator will allow me:

That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein——

Mr. FORAKER. The Senator is talking in my time. I would not care if it had any pertinency to this, but the Senator will allow me to say, respectfully, I do not think it has. It does not cover the case. I was not unmindful of that provision. I thought when the Senator from Iowa [Mr. DOLLIVER] spoke about it a moment ago he referred to something I had overlooked. I am perfectly familiar with that. It is one of those general provisions for penalty for any violation of the general act. I want to amend that special provision with respect to this subject, and the amendment I have offered fits the case, unless it is open to the suggestion made by the Senator from Minnesota. I do not see how it can be, but I have so much respect for his judgment I would be glad if he would aid me to correct the language if it needs correction.

My sole purpose is, and I think it ought to be put in here without any doubt, to further prohibit the giving of passes, except only in the excepted classes and under the conditions which were suggested by the Senator from New Hampshire, that may be prescribed by the Interstate Commerce Commission. And I think we ought to put in the bill a provision that there shall be equal treatment of all who travel and pay the same fare.

Mr. CULBERSON. I desire to ask if a substitute for the amendment offered by the Senator from Ohio is in order at this time. I understood that the several amendments proposed to the amendment had been accepted. If that be true, I take it that a substitute is in order.

Mr. BEVERIDGE. Not now.

The VICE-PRESIDENT. The Chair is of the opinion that the amendment is not now in order.

Mr. LODGE. The amendment of the Senator from New Hampshire to the amendment is pending.

The VICE-PRESIDENT. That is an amendment to the amendment of the Senator from Ohio.

Mr. GALLINGER. I should like to have the amendment to the amendment acted upon.

Mr. CULBERSON. I understood that the amendments suggested by the Senator from New Hampshire and by one of the other Senators, probably the Senator from North Dakota [Mr. HANSBROUGH], were accepted by the Senator from Ohio. If so, the amendment would be thereby perfected, and a substitute would be in order now.

The VICE-PRESIDENT. When the amendments now offered to the amendment have been acted upon the Chair will recognize the Senator from Texas. There was a request made that the amendment of the Senator from New Hampshire to the amendment should be again stated.

Mr. FORAKER. I announced that I would accept the amendment of the Senator from New Hampshire, and I understood the Senator from Minnesota to object to it. But he informs me that he has no objection, and if I may, I accept it.

The VICE-PRESIDENT. The Senator from Ohio has that privilege.

Mr. FORAKER. I accept the amendment offered by the Senator from New Hampshire to my amendment.

The VICE-PRESIDENT. Then the amendment of the Senator from North Dakota [Mr. HANSBROUGH] to the amendment is in order.

Mr. HANSBROUGH. I offer an amendment to the amendment, to come in after the word "dollars," line 10, page 1, of the amendment offered by the Senator from Ohio.

The VICE-PRESIDENT. The Secretary will read the amendment proposed by the Senator from North Dakota to the amendment offered by the Senator from Ohio.

The SECRETARY. After the word "dollars," page 1, line 10, of the proposed amendment, insert:

That it shall be unlawful for any Senator or Representative, or officer, agent, or other employee of the Government to solicit, accept, or use for himself or for others free railway transportation over any railway engaged in interstate commerce, and any person violating this provision shall forfeit the position he or she holds under the Government: *Provided*, That clerks to committees of the Senate and House of Representatives and clerks to Senators and Members shall be entitled to receive, upon proper vouchers, an amount equal to the sum necessary to pay their actual transportation expenses to and from the national capital once each year.

Mr. FORAKER. Mr. President, I am willing to accept so much of that amendment as makes the provision applicable to Senators and Representatives in Congress and other officers of the Government. I think it already applies to all such without it.

Mr. LODGE. I only want to say, as to the acceptance of the amendment, that I wish to vote on it. I object to the proviso very strongly.

Mr. FORAKER. I have not accepted the amendment as a whole. I announced that I would accept it to that extent. The Senator may change it if he sees fit.

Mr. HANSBROUGH. I did not hear the Senator distinctly.

Mr. FORAKER. I accept the amendment of the Senator from North Dakota that he had read at the desk a moment ago, in so far as it relates to Senators and Representatives in Congress.

Mr. GALLINGER. Does the Senator agree to the provision that the asking of a pass for some poor person on the part of a Senator would disqualify him for continuing in the office of Senator?

Mr. FORAKER. No, sir; I do not.

Mr. GALLINGER. I should hope not.

Mr. FORAKER. I do not think that that is proper.

Mr. LODGE. The proviso is that we shall have the right to get free transportation for our clerks.

Mr. HANSBROUGH. Mr. President, so far as the proviso is concerned, I wish to say that while I make no charge whatever against any clerk or employee about the Senate or the other branch of Congress, it has come to my attention that clerks have extended favors in lieu of passes given by railroad companies, and it seemed to me this was the only way that this condition of affairs could be obviated.

Mr. HALE. If the facts are as stated by the Senator in any given case of that kind, it is high time that that clerk should cease to be a clerk.

Mr. HANSBROUGH. I say I do not make any general charge, nor do I refer to any individual clerk, but there is no doubt but that incidents of that kind have occurred about this Capitol, and I do not see any other way to avoid it. If the Senator can propose any measure here that will avoid it, I shall be perfectly willing to accept it.

Mr. HALE. I take it, if the Senator will allow me, that the objection is to the entire clause. It recognizes that these clerks should receive favors from railroads and that they should have substituted allowances in place of paying their fare.

Mr. President, if it has come to the pass that clerks of this body, clerks of Senators, or clerks of the House are receiving

favors from railroads in the way of passes and are soliciting these favors, or accepting them without solicitation, it is high time that that should cease entirely.

The proviso of the amendment to the amendment recognizes that situation and acknowledges it as an existing fact. I trust the Senate will not by any means pass the provision.

Mr. HANSBROUGH. I do not agree with the Senator that the proviso recognizes anything of the kind. If he will pardon me, I disagree with him on that point. We are proposing to extend to clerks by this proviso the same privilege that is now extended to Senators and Members by paying the mileage of Senators and Members to and from their homes once a year. A clerk is an officer of the Government or an officer of the Senate as much so as a Senator is, and he is entitled to receive mileage. I think it would be a good idea to prohibit him from accepting passes at the same time that we are prohibiting Senators from accepting passes, and to pay them both the legitimate mileage which belongs to them. That is all there is to the proviso.

Mr. HALE. Does the Senator think that the mileage provision which applies to Senators and Members ought to apply to clerks?

Mr. HANSBROUGH. If the Senator will examine the provision he will see it provides that the clerks shall receive the actual expenses of traveling to and from the capital once a year.

Mr. HALE. In other words, it is an enlargement of the privilege of mileage, which is now and always has been confined to Senators and Members. It extends it to their clerks. Does the Senator propose to do that?

Mr. HANSBROUGH. The amendment proposes to do it.

Mr. HALE. Does the Senator think that that would be a good thing?

Mr. HANSBROUGH. What serious objection does the Senator from Maine find to it?

Mr. HALE. Then why not extend it to messengers?

Mr. GALLINGER. Certainly.

Mr. HALE. And to janitors?

Mr. GALLINGER. And pages?

Mr. HALE. And to the roll of employees, and to the stenographers? Why not extend it to all officials about the Senate?

Mr. HANSBROUGH. I have no objection to that.

Mr. HALE. I have had an old-fashioned idea that it was intended to follow the representation in the two bodies—the Senator and the Representative—and that it never would be agitated or supposed that this mileage allowance should be extended to the minor officers. If the Senator believes that is a good thing, let him test the Senate on the proposition.

Mr. HANSBROUGH. Certainly; I am perfectly willing to test the Senate on it. I offer the suggestion so that the clerks may be as independent as Senators and Members should be.

Mr. BEVERIDGE. Is the amendment now open to amendment?

The VICE-PRESIDENT. It is not. The question is on agreeing to the amendment proposed by the Senator from North Dakota to the amendment of the Senator from Ohio.

Mr. BEVERIDGE. Immediately after action upon the amendment to the amendment I assume the amendment will be open to amendment.

The VICE-PRESIDENT. It will.

Mr. GALLINGER. Mr. President, it seems to me that we are inclined to run wild on this question of dealing with men in public life. Why it is necessary to single out Senators and Representatives in Congress in the amendment and put them under the ban when we are under the ban if the amendment passes as proposed by the Senator from Ohio, surpasses my comprehension. If we are going to do it, let us include the judges of the courts and all other men in official position.

I shall vote against it, not because I have any objection myself to being denied the privilege of asking or receiving a pass by an interstate railroad, but I do object to it because of the fact that it is invidious distinction which, to my mind, is utterly nonsensical and unnecessary.

Mr. DOLLIVER. Mr. President, it is very certain that the pass has become an evil and an abuse in our transportation system, and I cordially concur with the Senator from Ohio in his anxiety to abolish it. But I am not able to discover any more efficiency in the provision of the amendment which he has submitted than there is or ought to be in the law which was passed over twenty years ago. The older members of the Senate tell me that it was well understood in 1887 that the pass had been abolished, and for many months—I think I may say for years—after the enactment of the interstate-commerce law the pass disappeared in our transportation system.

In order to show that the present interstate-commerce law contains every provision that is contained in the amendment of the Senator from Ohio it is only necessary to read section 3, which provides that—

> It shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

The theory of the present interstate-commerce law is that the rate or fare of the railroads shall be published, and a whole section of the present law is devoted to the publication of the rate. In the sixth section occurs this language:

> And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

The Senate will observe therefore that in 1887 the very same care was taken, almost in the same language, to guard against the free railroad pass as appears to be taken in the honorable Senator's proposal.

Mr. FORAKER. The act does not mention the pass.

Mr. DOLLIVER. I do not notice the word "pass" in the amendment.

Mr. FORAKER. I accepted that amendment to the amendment.

Mr. BEVERIDGE. I will offer an amendment with the word "pass" in it.

Mr. DOLLIVER. It does not make any particular difference.

Mr. FORAKER. I did not think so, but to make it perfectly clear I accepted the amendment to the amendment.

Mr. DOLLIVER. My honorable friend from Ohio says there is no penalty. I called his attention in an off-hand way to section 10, and I want to read that section to show that the interstate-commerce act now provides a penalty for every violation of that law. Whenever a railroad company does what that law says is unlawful a penalty is provided; and if I have the correct use of language, it is a very much more severe penalty than appears in the Senator's amendment. Section 10 of the interstate-commerce law as amended March 2, 1889, provides that—

> Any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed $5,000 for each offense: *Provided*, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

Mr. BEVERIDGE. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. DOLLIVER. Certainly.

Mr. BEVERIDGE. I think the Senator will admit that if the language of the act as read covers the position the Senator states it does not do so by construction about which there may be doubt. That being true, what objection has the Senator to putting it in the law in terms about which there may be no doubt?

Mr. DOLLIVER. I was going to suggest that if this amendment is proper—and I certainly sympathize with the notion that everybody in the United States ought to pay the same fare for the same service—I think it would be well to devise, if we are able to do so, some language that would at least be less liable to be misinterpreted than the language of the interstate-commerce act of 1887.

Mr. FORAKER. I call the Senator's attention to the fact that there is nothing in the language of the act of 1887 requiring the furnishing of equally good service and equally good accommodations.

Mr. DOLLIVER. There is something in the act of 1887 that requires passenger and freight rates to be published, and makes a departure from them unlawful. I would suggest, Mr. President——

Mr. SPOONER. Mr. President, will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Wisconsin?

Mr. DOLLIVER. Certainly.

Mr. SPOONER. Does the Senator know of any act now upon the statute book which practically has been construed to prevent the issuance of passes?

Mr. DOLLIVER. I do not know that that act has ever been construed at all in that respect.

Mr. SPOONER. Does the Senator know of any act which has operated to prevent the issuance of passes?

Mr. DOLLIVER. The act has certainly not operated to prevent the issuance of passes.

Mr. SPOONER. I ask whether or not an amendment should be incorporated here which will prevent their issuance?

Mr. DOLLIVER. That is just exactly what I am trying to get at, and I suggest this language:

No common carrier subject to the provisions of this act shall issue any pass or other form of free transportation to any person to be used in an interstate journey except as herein provided, and it shall be unlawful for any person, except as herein provided, to receive or use any such pass or other form of free transportation.

Mr. BEVERIDGE. I intend at the proper time to offer a substitute, that no carrier engaged in interstate commerce shall issue a pass or give free transportation to any person or persons except such as are excepted in the interstate-commerce law.

Mr. DOLLIVER. I quite agree with the Senator from Indiana that if we are going to prevent the issuance of passes they ought to be prevented from being issued to any person except persons who are excepted by the original interstate-commerce law. I have here the original interstate-commerce law, and I will read the persons who are excepted, on page 15, section 22:

SEC. 22. (*As amended March 2, 1889, and February 8, 1895.*) That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions, for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies.

So that it will be observed that the law now prohibits a departure from the published passenger rates, and makes it unlawful and provides punishment for a violation; and this section makes very elaborate exceptions which, I think, have been found to work well as to persons who are excepted from the law. The only place in the law where the word "pass" occurs is in this section. Now, if it is necessary to amend the law, it certainly is worth while to do it in terms so distinct that everybody will know that we are referring to passes.

For my part, I think that, instead of confining it to public officials, the issuance of passes ought to be made unlawful for any purpose, except as to the persons excepted in the section which I have just read.

Mr. FORAKER. It does not apply to all persons. It does not except anybody except only the classes enumerated.

Mr. DOLLIVER. That is true.

Mr. LODGE obtained the floor.

Mr. HANSBROUGH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from North Dakota?

Mr. LODGE. I want my own time.

Mr. HANSBROUGH. I desire to ask if it be in order for me to withdraw the amendment I offered and to substitute another in place thereof—a modified amendment?

The VICE-PRESIDENT. The Senator from North Dakota can modify his amendment.

Mr. HANSBROUGH. If so, I offer, in lieu of the amendment heretofore offered by me, the one which I now send to the desk.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. After the word "dollars," in line 11 of the proposed amendment by Mr. FORAKER, it is proposed to insert:

That it shall be unlawful for any Senator or Representative, or officer, agent, or other employee of the Government to solicit, accept, or use for himself or for others free railway transportation over any railway engaged in interstate commerce; and any person violating this provision shall, on conviction, pay to the United States a penalty of not less than $100 nor more than $2,000.

Mr. HANSBROUGH. Mr. President, the amendment as now modified meets some of the objections which have been made against the first amendment I offered.

Mr. LODGE. Mr. President, I think we are all agreed as to the desirableness of stopping the issuance of passes. As the Senator from Iowa [Mr. DOLLIVER] has shown, that is provided for under existing law, although the language is general; and it certainly was so construed when the law was first put into operation. I think it then fell into desuetude, even if it was not innocuous. At all events, there is a great deal more law for the prevention of the issuance of passes in the law as it now stands than there is in the amendment of the Senator from Ohio [Mr. FORAKER]. The exceptions in that amendment, it seems to me, simply destroy practically the prohibition of passes. They are enlarged beyond the exceptions of the existing law so as to cover all stockholders of the railroads. That opens up a very wide field. A man can make himself eligible for a pass by buying one share of stock. It includes all the families of employees; which the original law does not.

Mr. FORAKER. If the Senator will allow me to interrupt him, I think he is mistaken about that. So far as the word "stockholders" is concerned, I took that out of the statute I was copying from; but I will strike that word out. There need be no difficulty on that point.

Mr. LODGE. It is not in section 22 which I have before me. The families of employees are also added by the amendment. That single addition includes several million persons. I read from section 22:

Nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees.

There is nothing about the families of persons that I can find in the law.

Mr. FORAKER. I am perfectly willing to strike out the word "families." I do not want to enlarge the provision. I do not go as far as the present law goes.

Mr. LODGE. Under the amendment offered by the Senator from New Hampshire [Mr. GALLINGER], I understand that the railroads are to be authorized to issue passes to any laborer, agricultural or otherwise. Under the existing law agricultural laborers and all other laborers would be entitled to receive reduced rates. That is all, I think, that ever has been granted. I am very anxious to preserve the workingmen's trains and their special rates, which are very important in my part of the country; and I have no doubt the same is true of agricultural laborers elsewhere. I may have misunderstood the amendment. I thought it provided for free transportation as well as for reduced rates.

Mr. GALLINGER. That, presumably, is reduced transportation.

Mr. LODGE. Why not leave it as it is in the existing law, which covers those cases perfectly?

Mr. GALLINGER. If the Senator will permit me, I quite agree with him on that point. As I said a moment ago, I expect to vote against the amendment of the Senator from Ohio, so I am not troubled about what gets into it.

Mr. LODGE. The amendment of the Senator from Ohio, as it seems to me, relaxes the law against passes. It does not make it more stringent. The law to-day, properly construed and properly enforced, prevents the issuance of passes to all except certain classes, who are properly excepted in section 22.

I think the legislation as proposed in this amendment is totally needless. I believe we have a better law now, and it is simply a question of its proper enforcement. The language of section 3, if honestly interpreted and properly enforced, covers passes, and the penalties in section 10 apply to section 3. This proviso simply opens the door to the very evil that we are trying to shut out. If it is thought necessary to make more definite what section 3 of the existing law means and to put in it explanatory words, I have no objection to that; but this amendment seems to me to relax the existing law and to add an enormous number of people to the exceptions.

In my State, of small railroad mileage comparatively, there are 36,000 stockholders alone who are immediately eligible for passes, and 60,000 employees, and if their families be added, that would make 300,000 more people eligible for passes. With this extension as to laborers, agricultural and otherwise, it

would gradually cover in pretty nearly everybody in the community, and pretty much all the population would become eligible for passes.

I think, Mr. President, unless this amendment can be very much changed we had much better leave the law as it is.

Mr. FORAKER. I think the Senator from Massachusetts has made a just criticism of the amendment in two respects, and I desire to take advantage of his criticism to correct the amendment. He criticised it because it contained the word "stockholders." That word was employed because it was in the statute which I copied. I ask leave to modify the amendment by striking out the word "stockholders," in line 8, page 2, and also in the same line the words "or to the families of the same." I modify my amendment in that way.

The VICE-PRESIDENT. The Secretary will state the modification suggested by the Senator from Ohio.

The SECRETARY. In the last line of the pending amendment it is proposed to strike out the word "stockholders," and also the words "or to the families of the same;" so as to read:

Or to prevent any such carriers from giving free transportation to officers, agents, employees, attorneys, or directors of carrier companies.

Mr. FORAKER. As so modified, the exempted classes are restricted, and not enlarged; and it is a complete answer to all the Senator said about the law now on the statute book providing all that this amendment proposes to provide. It does not have any such effect; it never has had it; it never has been effective; and never has been put into operation.

Mr. HOPKINS. I desire to call the Senator's attention to the difficulty I suggested earlier in the debate, which is local to Illinois. There are probably between two and three hundred thousand people doing business in the city of Chicago who live in the suburbs. Those suburbs extend down into Illinois and up into Wisconsin. The railroads that center in the city of Chicago, in order to enable those people to properly do business, have established what they call "suburban trains," and allow passengers to travel to and from these points at very much reduced rate over what would be charged a passenger from any other point in either the State of Wisconsin or of Indiana coming to Chicago.

If this amendment is adopted in the form in which it is presented, in my judgment it will cut off those suburban trains that are bound from any point in Wisconsin or any point in Indiana to the city of Chicago. I ask the Senator if he would have any objection to adding this proviso after the word "service," in line 7:

Provided, That this section shall not apply to the transportation of passengers in what are called "suburban trains."

Mr. TILLMAN. I rise to make a parliamentary inquiry.

The VICE-PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. TILLMAN. I have been listening to the course of this debate, and I thought that, under the agreement, the amendment of the Senator from North Dakota was the only one under discussion, and that we were to consider that and end it; but we have branched off; we are amending everything, and we do not vote on anything. I should like to have the Chair enforce the rule and let us move on, not that I propose to intimate that the Chair is not trying to do that, but Senators seem to forget what they themselves have agreed to.

The VICE-PRESIDENT. The Senator is right in his insistence. The only question under consideration now is the amendment proposed by the Senator from North Dakota [Mr. HANSBROUGH] to the amendment of the Senator from Ohio [Mr. FORAKER].

Mr. HOPKINS. Mr. President, I do not propose to be taken off the floor.

The VICE-PRESIDENT. The Chair——

Mr. HOPKINS. I am speaking under the fifteen-minute rule.

Mr. TILLMAN. If the Senator will permit me, I am trying to get a vote on the amendment offered by the Senator from North Dakota. After that amendment is disposed of then the Senator's amendment to the amendment of the Senator from Ohio [Mr. FORAKER] will be in order. I do not want to interfere with his rights in the least.

Mr. HOPKINS. I will say to the Senator from South Carolina that I was not proposing my amendment at the present time. This is the second time I have undertaken to get the attention of the Senator from Ohio to the objection that I had to his amendment. If it can be arranged so as not to interfere with the great interests in Chicago of the character I have suggested, I am heartily in favor of the amendment; but, instead of offering an amendment, I was challenging the attention of the Senator from Ohio to the subject-matter of my amendment when I should propose it. I am not proposing it now.

Mr. TILLMAN. I merely desired to get a vote on the amendment now pending offered by the Senator from North Dakota, so that we may move on to some other amendment.

Mr. HOPKINS. After I yield the floor I have no objection whatever to a vote on the amendment.

Mr. FORAKER. As the Senator has asked me a question, if I may answer I will call his attention to the provision on page 2 of the amendment, which reads:

Nothing in this act contained * * * shall prevent the issuance of mileage or excursion passenger tickets.

That might be made to read "mileage, commutation, or excursion tickets."

Mr. HOPKINS. Mr. President——

Mr. TILLMAN. I beg the Senator's pardon, but I declare we will never do anything unless we enforce the rule.

Mr. HOPKINS. I can not be interrupted. I have got my fifteen minutes, and I decline to be interrupted.

The VICE-PRESIDENT. The Senator from Illinois declines to yield.

Mr. TILLMAN. I rose to a parliamentary inquiry. I made the inquiry; the Chair sustained me; and now let the Chair please enforce the rule.

The VICE-PRESIDENT. The Chair is unable to say whether the Senator from Illinois, who has risen within his fifteen minutes, is going to speak to the amendment or not. The Chair assumes, until it otherwise appears, that the Senator from Illinois will address himself to the question before the Senate.

Mr. HOPKINS. Mr. President, the question before the Senate is perfecting this amendment. I want to suggest to the Senator from Ohio that, in my judgment, the language he has suggested will not meet the difficulty, and I desire him to look over the proviso which I have prepared, and which later I shall present to the Senate.

Mr. FORAKER. Very well, I will do so.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from North Dakota [Mr. HANSBROUGH] to the amendment of the Senator from Ohio [Mr. FORAKER].

Mr. KEAN. Let the amendment be read.

The VICE-PRESIDENT. The amendment will be again stated, at the request of the Senator from New Jersey.

The SECRETARY. After the word "dollars," in line 11, it is proposed to insert:

That it shall be unlawful for any Senator or Representative or officer——

Mr. KEAN. That is enough. I know now what the amendment is.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment.

Mr. OVERMAN. Is an amendment to that amendment in order?

The VICE-PRESIDENT. It is not in order. It would be an amendment in the third degree.

Mr. McLAURIN. I should like to hear the amendment stated.

The VICE-PRESIDENT. The amendment will be again stated, at the request of the Senator from Mississippi.

The SECRETARY. After the word "dollars," in line 11, page 1, of the pending amendment, it is proposed to insert:

That it shall be unlawful for any Senator or Representative or officer, agent, or other employee of the Government to solicit, accept, or use for himself or for others free railway transportation over any railway engaged in interstate commerce; and any person violating this provision shall, on conviction, pay to the United States a penalty of not less than $100 nor more than $2,000.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from North Dakota [Mr. HANSBROUGH] to the amendment of the Senator from Ohio [Mr. FORAKER].

The amendment to the amendment was rejected.

Mr. MORGAN. I propose an amendment to the amendment of the Senator from Ohio, in line 6, page 1, after the word "same," to insert the words "class of accommodations."

Mr. FORAKER. As I understand it, I have no objection to that amendment, and accept it.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After the word "same," in line 6, it is proposed to amend the amendment by inserting the words "class of accommodation."

The amendment to the amendment was agreed to.

Mr. HOPKINS. On page 2, line 2, of the amendment, after the word "mileage," I move to insert the word "commutation."

Mr. FORAKER. I accept that amendment also.

The VICE-PRESIDENT. The amendment to the amendment will be stated by the Secretary.

The SECRETARY. On page 2 of the pending amendment, line 2, after the word "mileage," it is proposed to insert the word "commutation."

The amendment to the amendment was agreed to.

Mr. MORGAN. I offer the amendment which I send to the desk as an amendment to the amendment of the Senator from Ohio.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. In line 2, page 2, after the word "persons," it is proposed to insert "or persons who are in distress and are prevented from pursuing their usual vocations by visitations of epidemic diseases or of earthquakes or of tempests or of cyclones."

Mr. MORGAN. I desire to make a few observations on that amendment. We have been listening here a long time in the Senate to accusations of bitter character against the conduct of the railroads of this country. Perhaps those accusations in the main are true; but they are not more true probably of the railroad companies than they are of the banks and of a great many other public institutions. While this has been going on, however, a visitation has come upon this country of a calamitous and painful character, and it is my observation, sir, that the railroads of the country have contributed perhaps beyond the capacity or perhaps beyond the generosity of any other class of our citizens to relieve the people of San Francisco against this terrific visitation. I feel more like expressing a sense of gratitude toward these great institutions for their conduct under these circumstances than I do like berating them for their supposed or actual transgressions of the laws of trade and ordinary commercial transactions. But this bill, if it is to contain the amendment of the Senator from Ohio, ought not to put the railroads in such a position as that it would be criminal if they should extend the generosity which they are now extending to the class of people I have been mentioning—those visited by earthquakes, by cyclones, and tempests, and also by epidemic diseases.

The amendment of the Senator from Ohio, Mr. President, contains a proviso, a part of which I will read:

Provided, That nothing herein shall prevent the free carriage of destitute or indigent persons.

My amendment extends the classification of those persons so that they may receive free carriage in their condition of destitution, which I describe in my amendment, without thereby putting the railroads in a criminal attitude toward the laws of the country.

Mr. GALLINGER. Mr. President, I am glad the Senator from Alabama [Mr. MORGAN] has called attention to the fact that these much berated corporations that seem to have few friends in the country to-day have been doing this great work in connection with the earthquake sufferers in California. On the 22d day of April a dispatch was printed in the New York newspapers, and has not been denied, that up to that time the railroads had given free transportation to the amount of $3,450,000, and a day or two ago I noticed a statement which seemed to be authentic that it then had exceeded the amount of $5,000,000 in transporting people from San Francisco to other parts of the country.

Mr. FRYE. And supplies also.

Mr. GALLINGER. And likewise in giving supplies to them.

I do not know whether or not it is advisable to add the amendment the Senator from Alabama has suggested to the amendment of the Senator from Ohio. If that amendment shall be adopted, there can be no question about it, it seems to me, that the amendment of the Senator from Alabama enlarges the sphere of beneficence, but what I think is valuable is that the Senator from Alabama has called attention to the fact that in a great emergency these corporations have been generous and liberal and have done everything in their power to relieve the suffering of those stricken people.

Mr. McCUMBER. I wish to ask a question of the Senator from New Hampshire.

Mr. GALLINGER. Certainly.

Mr. McCUMBER. If the amendment which is proposed by the Senator from Ohio were the law to-day, would not the railways which have granted these concessions to the stricken people of San Francisco, if the law were strictly enforced, be fined a sufficient amount to break every one of those railroads?

Mr. GALLINGER. I think that is very probable, if I understand the question correctly.

Mr. McCUMBER. And in connection with that, I wish to ask the Senator if it is not true that it is customary for the railways to give free transportation to these commercial delegations from China and Japan and other countries who come here for the purpose of understanding our people and devising means to extend our trade in the Orient. The railways would also under this amendment be liable to punishment for that offense, would they not?

Mr. GALLINGER. I think so.

Mr. McCUMBER. They would also be subject to punishment for bringing over the peace commissioners, whom they brought from San Francisco or Seattle during the last year, conveying them, in fact, I believe, from the Orient and back again?

Mr. GALLINGER. I should think so.

Mr. TILLMAN. I wish to ask the attention of the Senator from Ohio to a small amendment which I wish to add on line 7, page 2, of his amendment, after the word "attorneys." I understand he has already accepted an amendment striking out the word "stockholders."

Mr. FORAKER. Yes.

Mr. TILLMAN. The words I want to put in after the word "attorneys" are these: "Exclusively in its service." The Senator can very readily——

Mr. FORAKER. I accept the amendment.

Mr. TILLMAN. See that if these agents and attorneys can be given passes——

Mr. FORAKER. I accept the amendment.

Mr. TILLMAN. All right; if the Senator accepts it, that ends it.

Mr. GALLINGER. Let it be stated.

Mr. MORGAN. I wish to inquire whether the amendment I offered is pending, or whether it has been passed over?

The VICE-PRESIDENT. It is pending.

Mr. GALLINGER and Mr. KEAN. Let it be acted upon.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Alabama to the amendment.

The amendment to the amendment was agreed to.

Mr. BEVERIDGE. I move to amend the amendment by striking out all after the words "section 3" and inserting the following:

No carrier of interstate commerce shall issue any pass or by any other device give free transportation to any person or persons except as herein provided, and any carrier violating this provision shall be deemed guilty of unjust discrimination and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

Mr. President, I do not desire to occupy the attention of the Senate very long upon this, except to say that the discussion has developed that there is a serious difference of opinion as to what the amendment of the Senator from Ohio means. The first person to call attention to what, putting it lightly, may be said to be the ambiguity of the language was the Senator from Minnesota, and the whole debate has proceeded upon that line. Now, since it seems to be the intention to prevent any carrier of interstate commerce from giving free transportation, it seems to me that that might best be accomplished by stating that intention in so many words, and for that reason I offer the amendment.

The VICE-PRESIDENT. Are there further amendments to the amendment proposed by the Senator from Ohio?

Mr. FORAKER. The amendment of the Senator from Indiana has not been disposed of.

The VICE-PRESIDENT. The Chair did not understand the amendment distinctly.

Mr. FORAKER. I understood the Senator from Indiana to offer an amendment.

Mr. BEVERIDGE. Yes, Mr. President, I offered an amendment, to strike out all after the words "section 3." It is a substitute.

The VICE-PRESIDENT. It is fair for the Chair to state that the Senator from Texas [Mr. CULBERSON] rose before——

Mr. BEVERIDGE. I am aware of that.

The VICE-PRESIDENT. Before the amendment was completed to move a substitute.

Mr. BEVERIDGE. Very well. I will withdraw my amendment.

The VICE-PRESIDENT. The Chair requested him to withhold his substitute, stating that he would be recognized to offer it when the amendment had been completed.

Mr. BEVERIDGE. I saw the Senator not rising. If the Senator from Texas desires to offer a substitute, I will withdraw mine until the Senator from Texas has an opportunity to offer his.

Mr. BACON. I desire to make a statement now, in order that I may not be misconstrued in any subsequent action. There are some amendments which I would offer to the amendment proposed by the Senator from Ohio, but I do not care to do so in case there should be a substitute agreed to. So I withhold any amendment I may see fit to offer, in order to see if a substitute is agreed to. If not, I shall then have some amendments to offer.

Mr. CULBERSON. Mr. President, while I do not intend to

make any extended remarks upon this matter, I do desire to say that I think it far preferable to confine whatever provision we have on this general subject upon which we have been talking to the prohibition of the issuance of free passes or free transportation. There are a good many reasons for that, but I desire to invite attention to only two. The first is that suggestions have been made, which strike me with favor, by Senators on the other side of the Chamber to the effect that the corporations ought to be permitted to issue commutation tickets or excursion tickets or reduced transportation under certain peculiar circumstances. And the second reason is that the subject to which the Senator from Ohio alluded has for the principal motive which influences him in suggesting this amendment that which ought not to be injected in this bill.

The question of discrimination on the part of railroads engaged in interstate commerce, in so far as it may be affected by his suggestion of discrimination on account of race, ought not to be injected, I repeat, into this bill or into this debate, and I decline to go into the question, so far as a discussion of it is concerned. But for these two reasons I suggest that it is far better to confine this amendment, so far as this legislation is concerned, to a prohibition against the issuance of free passes by railroad companies; and, consequently, I move as a substitute what I send to the desk.

Mr. BEVERIDGE. For the purpose of clearing the way for the Senator from Texas, I withdraw the substitute which I offered.

Mr. CULBERSON. I offer it as a substitute for the amendment of the Senator from Ohio.

Mr. BEVERIDGE. I will state to the Senator from Texas that I had offered a substitute, which I now withdraw in order that he may offer his substitute.

The VICE-PRESIDENT. The substitute proposed by the Senator from Texas will be read.

The SECRETARY. It is proposed, in lieu of the part proposed to be inserted, to insert the following:

That no carrier engaged in interstate commerce shall, directly or indirectly, issue or give any free ticket, free pass, or free transportation to any person except to the officers, agents, employees, and attorneys of the carrier issuing the same, or to ministers of religion, inmates of hospitals, eleemosynary, or charitable institutions. Any carrier violating this provision shall be deemed guilty of a misdemeanor and shall, for each offense, pay to the United States a penalty of not less than one hundred nor more than two thousand dollars.

Mr. BEVERIDGE. May I suggest to the Senator from Texas for what it may be worth that instead of making the specific exceptions which he does in his substitute he put in the words "except as herein provided?" That will leave as the exceptions the exceptions already in the law, which were read by the Senator from Iowa. The substitute of the Senator from Texas is practically the same as the one I offered and gladly withdrew, and I make this suggestion to the Senator because it will probably accomplish his purpose better. It is no matter to me whether he does or not.

Mr. FORAKER. I suppose I have a right to speak to the substitute. I want to say, in answer to the Senator from Texas, that the amendment as I offered it was so plain as to avoid raising the question which he injects into this controversy.

Mr. CULBERSON. I prefer the form of the substitute to the suggestion of the Senator from Indiana [Mr. BEVERIDGE].

Mr. FORAKER. I want to make some remarks in opposition to the substitute of the Senator from Texas, speaking now in my own time, in answer to that. I drew this amendment, as I have already stated, in the particular to which the Senator has referred, so as to accomplish two purposes—in the first place, to avoid if possible raising any question as to discrimination on account of color, and, in the second place, so as to afford a legal provision in this statute on which the Commission could stand to enforce equality of service and equality of treatment in the transportation of interstate passengers. I might have gone much further than I did without going as far as the statutes of the various Southern States have gone in that particular. I read a moment ago from the Georgia statute, which requires that there shall be no discrimination on account of race, color, or previous condition, using that exact language.

Mr. BACON. Will the Senator pardon me a moment? That is coupled with the provision which prohibits common carriers from carrying the two races in the same car.

Mr. FORAKER. I am going to call attention to that. That is the general provision. Now, without anything at all being said on the subject, there is no requirement in this proposed law that the passengers shall be carried in the same coach.

Mr. BACON. No.

Mr. FORAKER. There may be separate coaches provided. In certain of the States there is that statutory provision. I did not care to conflict with that. I do not either approve or disapprove it. I simply let it alone. But I do want in this law, and I think we should all be agreed about that, a provision the necessity for which has been recognized by every Southern State, that there shall be equality of treatment, not that white and black shall be put in the same coach where it is objectionable, as it is in many States, but if you have separate coaches that they shall be as these southern statutes already provide, equally good for both races.

Mr. BACON. I should like to ask the Senator a question.

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. FORAKER. Yes; I do.

Mr. BACON. If that is the present provision in all of the Southern States, which I think practically it is, what possible good can there be in the insertion of these words? If that is the matter which the Senator has in mind, so far from there being any good in it, will not the very fact of the insertion of those words create the presumption that it was thought that there was not now provision under which this equality of treatment was required?

Mr. FORAKER. The Senator will remember that I have only fifteen minutes, although I yield to him.

Mr. BACON. I beg pardon.

Mr. FORAKER. The necessity is in this: The Interstate Commerce Commissioners can not enforce the statutes of the several States. If in any State there should be a failure to enforce the provisions of the State statutes requiring equality of service and accommodation, the Interstate Commerce Commission would have a legal warrant for doing that thing. In the State of Texas they have very carefully provided for exactly what I want to provide for here, except only I have not gone so far as they have gone in either Texas or Georgia, for in Texas they say that the coach so to be provided shall be equal in all points of comfort and convenience. I think the words "equally good service" would cover everything.

Mr. President, the question comes up to us in such a way that we can not avoid it if we are going into the business of controlling transportation directly, fixing the rates which shall be paid, prescribing the regulations and rules which shall govern in the operation of trains. It is a different attitude that we assume with respect to that matter from that which we have heretofore been standing in.

We become responsible, and if there be any ground in any case for complaint—I do not know anything about what the fact is, but I know I have read a good deal to the effect that there is such ground; I have received a great many letters to that effect—that under the provision of law that they shall give separate and equally good coaches, they are giving separate but not equally good coaches, and very different treatment. What I want in this law is something that does not necessarily raise any question of discrimination; that does not require anything to be done that the laws of the several States, which would have most interest in this question, do not already require to be done; and that is that the Interstate Commerce Commission shall have authority, and authority from the Congress of the United States, to see to it that the humblest man, without regard to color, who pays the same money that the white man pays, may have, not a seat in the same coach, necessarily, but that he shall have decent, respectable, acceptable, and equally good accommodations for his transportation. That is all there is in this. So far as the provision about passes is concerned, there is not, as the Senator from Indiana said a moment ago, any ambiguity about it. The only objection to it is that there is no ambiguity about it. Every Senator here knows that if this provision goes into the statute book as it is framed, there will be no more free passes for anybody, except only the excepted classes. There is not a man here who does not fully understand that and appreciate it.

Mr. BEVERIDGE. If the Senator will excuse me, I said the debate had proceeded upon the assumption that there was ambiguity in the Senator's language.

Mr. FORAKER. I am proceeding upon the theory that the Senator thinks there is ambiguity, and I am saying there is no ambiguity. Every man here understands the provision. Every man here knows it is to prohibit the further abuse of granting free passes. I do not want to dwell upon that any longer. I spoke about it sufficiently earlier in the day. But now a final word about the other provision. Every man here knows that if we are going into the business of rate making we assume a responsibility about it, and we should carefully provide that there should be equality of service for equality of pay. Now, who will vote against it? I want to see.

Mr. HOPKINS. Before the Senator from Ohio takes his seat, I wish to ask him if the difference between his amendment and the substitute offered by the Senator from Texas is this,

that his amendment provides against free passes and in addition also provides for equality of accommodations——

Mr. FORAKER. That is all the difference there is.

Mr. HOPKINS. While the substitute simply provides against free passes.

Mr. BACON. Mr. President, there can be no possible necessity in the Senate's considering these two separate questions together in one amendment. The question of free passes is one thing and a distinct thing. It is a question of what shall be paid in the way of compensation by one man upon terms of equality with another man for the same service; in other words, whether one man shall pay for what another man receives free.

Mr. President, the question of discrimination is another and a distinct thing. There are in this bill other provisions which look to the question of discrimination, and if this question is to be discussed, and if such a provision is to be incorporated in the bill, I submit to Senators that the latter is the proper portion of the bill in which to incorporate it and not upon this particular part of it. Mr. President, is it the design of Senators—can it be the design of the Senator from Ohio and others who think like him—to incorporate upon the question of free passes, which he knows will receive the unanimous vote practically of the Senate, this additional subject-matter about which there is a difference, in order that the second subject-matter may carry with it strength it otherwise would not have?

Mr. FORAKER. Mr. President——

Mr. BACON. If the Senator will permit me for a moment——

Mr. FORAKER. If the Senator will allow me, I accepted an amendment offered by the Senator from Alabama, which removed all objections, as I understood, upon the question to which the Senator is now addressing himself, thereby showing that I had no such purpose as that, but only——

Mr. BACON. I am speaking of the fact that the Senator from Ohio joins in the same amendment the question of passes and the question of discrimination.

Mr. FORAKER. It is equality of pay and equality of service.

Mr. BACON. That may be true, but that relates to every other part of the bill. All through the bill runs the question of discrimination. I have confidence in the desire of the Senator not to take any unfair advantage in this matter. I want to call the attention of the Senator to the fact that he raises here a most vital question, a question of the deepest concern and importance to a very large section of this country that has a burden to bear which no other section of the country has to bear; a question of vital importance to the personal comfort and the social organization as well of our people.

The Senator himself says that the purpose of this amendment is not to secure a provision of law on this subject in the Southern States, because he recognizes the fact that that provision of law already exists in the Southern States by enactment of the Southern States. But the Senator avows the purpose to be to give the Interstate Commerce Commission the right to enforce the law, to go into the States and see whether or not the State of Georgia, for instance, is enforcing its law, and if it is not enforcing it, then to enforce it as a Federal law.

Mr. FORAKER. I suggest that the Interstate Commerce Commission will not go into the State any more on this point than it will on every other point on which it is authorized to act.

Mr. BACON. That may be, but that does not change the proposition that that is the purpose of the Senator. There can be no question which could be raised which would more deeply affect our people and which would more deeply concern them in their everyday life.

Mr. FORAKER. May I ask the Senator a question?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. BACON. I do for a question.

Mr. FORAKER. Does the Senator object to a provision in this bill securing equality of service and accommodation to all paying equal prices for transportation?

Mr. BACON. I am free to grant——

Mr. FORAKER. And if he does not, I am willing to have that put in the language of the Georgia statute. I do not object. I do not want——

Mr. BACON. I object to the Interstate Commerce Commission taking charge of this subject.

Mr. FORAKER. Yes; and I insist that they shall.

Mr. BACON. Very well; that may be. The Senator very well knows the fact that he has very nearly two-thirds of the Senators in this Chamber in his party, and consequently he can make his boast of what he will insist upon with very great confidence.

Mr. FORAKER. I did not make it boastfully.

Mr. BACON. The Senator's tone and manner were very boastful.

Mr. FORAKER. I withdraw the boastful spirit.

Mr. BACON. The Senator withdraws the boast, but at the same time it is well known that the Senator does not withdraw his purpose to insist upon it. So the question of phraseology does not amount to much.

I do insist upon it that a spirit of fairness ought to require that those two matters should not be put together. Give us, as the substitute proposes to give, the opportunity to vote upon the question of passes free from any embarrassing or conflicting question. We are all of us in favor of the proposition which will prevent the giving of free passes to anybody. I want to restrict it more than it is in the present law. But there is no possible necessity why the two should not be separate, and then if the Senator shall seek to incorporate upon this bill the independent feature, and he has the votes to do it, of course we can not complain. That is their right. But what we complain of is that they combine the two. I hope the Senator will see the propriety of such division.

I want to call the attention of the Senate to another matter. My objection is not to the principle of the law. That can not be, because for thirty years we have had in Georgia this law which the Senator now proposes to incorporate in the same words in this bill. It is not that I desire that the purpose he has in view shall be defeated; but it is the desire on my part and those who think with me—and I am sure I reflect the sentiments of the people of my section—to avoid what will be an incentive to strife and which will be taken advantage of by malicious and designing people who desire to stir up strife between the races and who will make complaints that are not well founded, and who would be constantly developing discord and discontent in the midst of a people who have every reason to avoid any influences of that kind. It is perfectly competent for the Senator to divide this amendment so that he will have that which relates to passes as an independent proposition. He will get, I suppose, on the provision prohibiting free passes, the unanimous vote of those of us who come from the section who will be particularly affected by the other part of this amendment. He will not jeopardize the other part of his amendment if he has the numerical strength to carry out his announced purpose, and there can be no possible reason, to my mind, why the Senator should combine the two, unless he desires to put other Senators in the position of either voting against the part they approve or compelling them at the same time to vote for another part of which they disapprove.

Mr. FORAKER. I put them together only because they go together.

Mr. BACON. Will the Senator so divide it that we can call for a division?

Mr. FORAKER. I would have to frame the amendment anew, and it seems to me it is perfectly proper to provide that for the same compensation there shall be equally good service to all who travel. I do not go as far as the Senator's State statute goes. There is nothing here to interfere with the enforcement of the State statute. The whole thing is in the hands of the Interstate Commerce Commissioners. I hope they will never have any occasion to enforce this provision, but if they should have, they ought to have that authority.

Mr. CLAY. Will the Senator from Ohio let me ask him a question?

The VICE-PRESIDENT. Does the Senator from Georgia yield to his colleague?

Mr. BACON. I am going to yield the floor in a moment, and my colleague can then present his views in full.

I want to say this: Here is a substitute offered by the Senator from Texas which fully covers the ground, so far as free passes go, and which will receive the unanimous vote, I repeat, of Senators on this side of the Chamber. The fact that the substitute is adopted will not prevent the Senator from Ohio from offering as an independent measure whatever he may desire to offer upon that subject, so that if the Senate adopts the substitute offered by the Senator from Texas it will in no manner be agreeing to what I say on the subject, or disagreeing to the opposite view of the Senator from Ohio, and it will give the opportunity to Senators on this side to vote independently for the matter providing against free passes, and still leave the Senator from Ohio absolutely free to offer any amendment he sees fit in regard to the matter of discrimination, which more properly, in any event, comes to another part of the bill.

Mr. TILLMAN. Mr. President, I had——

Mr. MONEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Mississippi?

Mr. TILLMAN. Certainly.

Mr. MONEY. I should like very much to ask a question of the Senator from Ohio.

Mr. TILLMAN. If the Senator will pardon me, we are not proceeding under the rules which prevail every day, and I should like to get through what I have to say, and then the Senator from Mississippi can ask the question of the Senator from Ohio.

The VICE-PRESIDENT. The Senator from South Carolina declines to yield.

Mr. TILLMAN. Mr. President, we have had a great many discussions here on this rate bill, but I never expected to have the race question dragged into it. I deprecate that there should be any allusion to it in this debate.

Mr. FORAKER. Mr. President, I did not——

Mr. TILLMAN. I am not charging the Senator from Ohio with the responsibility for it. Unfortunately for myself, though, I have been unable to see things through the same spectacles with some other Senators here, and I for one welcome the recognition by a Senator of the North that used to be known—and I do not intend it as any reflection upon him—as "Fire Alarm," because of this very issue. I welcome, I say, the recognition by that Senator that there are conditions in the South which make it imperative that we should be allowed to deal with that question in our own way. Our laws recognize equality. We compel the carriers to give the same kind of transportation and character of coach to the two races. We only compel them to keep them separate; and when the Senator from Ohio and his colleagues shall recognize that in doing that we intend to stand by that provision in good faith, and want the law enforced by our own people, and will enforce it, I for one am ready to say that the Interstate Commerce Commission may go down there and see that the colored people have just as good coaches to ride in as the white people, because the roads are owned in the North, anyhow, and I want no discrimination by northern capitalists against southern negroes. [Laughter and applause in the galleries.]

The VICE-PRESIDENT. The Chair will inform the occupants of the galleries that under the rules of the Senate manifestations are not in order, and he requests the occupants to refrain from a repetition.

Mr. MONEY. Mr. President, I desire to ask whether, if the amendment is adopted and becomes a law, a colored passenger going through a State from one State to another, coming under the interstate-commerce law, would be compelled to go into a coach equally as good provided for him by the State statute as he goes through that State, or would he be permitted under this provision to go into a coach set apart for white people by the law of that State?

Mr. FORAKER. I stated with some particularity that I did not undertake to touch upon the question of separate coaches at all. The only requirement is that there shall be equally good service and equally good accommodation. If the railroad company should furnish only one coach all would have to travel in it, but if they have two kinds of passengers and do not want them to ride in the same coach they must provide equally good coaches for them. In that respect I do not undertake to interfere with the State law.

They have such a statute in Texas, such a statute in Tennessee, and such a statute, I think, in about every other Southern State. I have read from two or three of them. I do not go as far as any of those statutes go. I only want to put under the Interstate Commerce Commission, for that board to stand upon, something that will give them authority to enforce equal treatment if there are complaints, and just complaints, that there is not equal treatment.

Mr. MONEY. Mr. President, the Senator did not answer the question that I asked.

Mr. FORAKER. I thought I was answering it.

Mr. MONEY. I asked for his construction of the law, if it should have his amendment incorporated in it, whether a colored passenger going through a State from a State beyond or a State on the border would be at liberty to go into a white coach provided by the law of that State, although a colored coach equally good was provided, being, in other words, in the terms of his amendment, "equally good?"

Mr. FORAKER. Certainly he would not be. I do not remember just how the Senator put his question, but this does not interfere with such a requirement as the Senator refers to by State statute. He could be required, if a State passenger, to go into a separate coach if it was equally as good, but not if an interstate passenger. I do not make any such requirement, nor do I interfere with it where the State has made it.

Mr. OVERMAN. Did I understand the Senator to accept the amendment as to the class of accommodation?

Mr. FORAKER. Certainly, I accepted it; so that there might be no question of discrimination, or so-called "Jim Crow car" question raised.

Mr. BAILEY. Mr. President, I rather thought that the purpose of this, and I was sure that the effect of it, would be to recognize the right of the carrier to provide separate cars for the two races, provided one coach was as good as the other. The separate-coach law of Texas and the separate-coach law of Arkansas do not supplement each other, because a passenger starting in Arkansas to go into Texas is not subject to the law of either State. But if I understand this provision, and I hope that that is what it means, it is that carriers operating in that section of our country where these arrangements are necessary can provide separate coaches for each race and then can require each race to stay in its own coach, provided one coach is as good as the other coach.

Mr. FORAKER. Yes, that is the only purpose of it, if they see fit to provide separate coaches which would be equally good.

Mr. BAILEY. If that is true, then surely those of us from the South, where we try to enforce the separation of passengers, could find no possible objection to it. Indeed, instead of being objectionable to me, I am glad to take it, because it enables the carriers to conform in their interstate passenger services with the law of the States on that particular subject. Those of us who live in that part of the country and have experienced the relief which the separate coaches have brought, surely agree that every carrier operating there depending upon the patronage and favor of those people will provide the separate coaches for interstate travel if the law of Congress permits them to do it.

Mr. MONEY. Mr. President, the experience of every State which has adopted a "Jim Crow" law is that the railroad companies would not, for the sake of the good will and patronage of the country through which they operated, provide these separate coaches, for the experience of the Southern States is that every single railroad company which operates in their limits would not provide the separate accommodations, however much it might be demanded by the white people of that country, and it requires a State statute to compel them to do it.

The inquiry I made of the honorable Senator from Ohio was, When this interstate-commerce law of Congress overrode the State law whether a negro passing from one State to another through a State, becoming an interstate passenger, would be compelled to abide by the State law, and whether the railroad companies would then be compelled to provide the separate cars? I do not, for one, believe that they would be compelled to do it, and I have had this much experience with them that I do not believe they will do anything they are not compelled to do which will cost them an extra dollar.

Mr. BAILEY. Will the Senator from Mississippi permit me to ask him a question?

Mr. MONEY. Certainly.

Mr. BAILEY. I agree with the Senator that the railroads would not provide an extra coach at an extra expense, but they are compelled to provide the extra coach for the intrastate passengers of different races, and therefore, having already the separate coaches, they can compel interstate passengers to stay in the coach provided for each race without any additional expense to them.

Mr. MONEY. But the trouble about that is that it is not practical. Under this amendment you can not order a passenger to get up and go into another coach equally as good if he is satisfied with the seat he occupies. So that falls to the ground. The railroad company could do it, perhaps; but will they do it? Consequently there is no remedy for a State that has seen fit to pass a law which separates these two classes of passengers with equally good accommodations, and they are equally good in my State I know, and in other Southern States. This law would come in to override the State statute, and there is no provision that the company shall provide separate cars for interstate passengers.

Mr. BAILEY. Does the Senator from Mississippi believe that this law can divest the State control over the supervision of intrastate passengers?

Mr. MONEY. Oh, of course not.

Mr. BAILEY. Of course not.

Mr. MONEY. Of course not; but what I mean to state is that under such an interstate-commerce act, if passed, the passenger in a coach beyond the limits of the States having the "Jim Crow law," as it is called, keeps his seat in that coach, and you make no provision here by which he is to go into any other coach when he reaches the State line where there is such a law. There is nothing in this amendment, and I venture to say there will be nothing offered here, such as is in every State statute on this subject; but there will be provision made for equally good accommodations. The Senator said it provided for this

distinction between the passengers, and also provided that they should have equally good accommodations.

Mr. BACON. I wish to ask the Senator to permit me in his time to ask the Senator from Ohio a question.

Mr. MONEY. Certainly.

Mr. BACON. That is, if the Senator from Ohio is willing to incorporate in the amendment a specific requirement that railroads engaged in interstate commerce shall observe the local laws of the States with reference to separate cars for the separate races.

Mr. FORAKER. I would not want to do that, Mr. President. I think I have gone as far as I care to go—not as far as I might very well go—in simply requiring equally good service.

Mr. BACON. The Senator objects, then, to the incorporation here of a specific requirement that railroads engaged in interstate commerce shall in this particular observe the laws of the State through which they pass? The Senator objects to that.

Mr. FORAKER. I do; because I do not know what all those laws are. If there is any law which does not require equally good service and equally good accommodations I do not want to subject the Interstate Commerce Commissioners to an observance of that requirement. All I want is that they may have equally as good coaches if the carriers see fit to provide separate coaches. I am not going to agree to an amendment that would require them to do the one thing or the other, but to require them to furnish equally good serivce if they see fit to make them separate.

Mr. McCUMBER. Mr. President, I regret that Senators on the other side should object to the only good provision there is in the amendment. I say the only good provision because I mean by that that the other provision relating to the granting of free passes is fully covered by the law as it now stands. If the English language can make the meaning of a term clear, it is made so in the section 10, which was read by the Senator from Iowa [Mr. DOLLIVER]. That section compels railway companies to publish the rates for transportation, both freight and passenger, between any given points. It then prohibits taking either a greater compensation or a less compensation from any person who goes from one point to another. Now, if taking no compensation is not taking less compensation I do not know what you would call it.

Then it goes on and provides a penalty not to exceed $5,000, which is much greater than the penalty provided in the amendment proposed by the Senator from Ohio. We have on the statute books to-day a clear prohibition against the granting of free transportation and a severe penalty for it. Repassing the same law would not tend in any way to make it more effective. We have the law now.

Then the Senator from Georgia seems to object upon the ground that this amendment and the other amendment would tend to create strife in his State. Now, why would it create strife? Would the white population object that the colored man who pays a given sum of money equal to the white man for transportation from one point to another point should have a car equally good? I do not think the Senator would claim that the white people would object to that. In fact, that is the law of his State as it exists to-day.

Mr. BACON. I hope the Senator will permit me to answer the inquiry.

Mr. McCUMBER. Certainly.

Mr. BACON. The objection was not based upon that ground at all, nor is there any danger of any conflict growing out of any such situation as that suggested by the Senator. The trouble is that designing people of either color, who may be in sympathy with such a movement, encouraging the insistance of a man of one race that he shall have the liberty to go into another car upon the claim which he may make, whether unfounded or well founded, and generally unfounded, that the car he is in is not as good as the other car, a constant conflict of that kind will arise.

Mr. McCUMBER. Clearly the amendment does not contemplate any interference with the local laws of any State or Territory. It simply provides that in interstate commerce, and that is all it can cover, equally good facilities, equally good cars, shall be granted to one race or one set of individuals as is granted to the other. Certainly it would tend to eliminate rather than increase any race prejudice if the amendment became a law and compelled the railways to grant exactly the same character of coaches to the colored race. It would make them feel at least that they were being treated honestly and justly, and they certainly can not and will not feel that they have been dealt with other than kindly and honestly if they receive exactly the same kind of treatment that is accorded to the white population.

To-day I understand it is universally conceded that notwithstanding the State laws the same character of coaches are not granted, but that in some cases they are compelled to ride in coaches that would be only fit for a cattle car. If that is true, the white population ought not to object that the railways are compelled to furnish decent transportation for all passengers, irrespective of color.

Mr. CLAY. Do I understand the Senator——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. Certainly.

Mr. CLAY. Do I understand the Senator to say that in Georgia the colored people are compelled to ride in the same kind of cars that are used for cattle or other live stock?

Mr. McCUMBER. Oh, no.

Mr. CLAY. I was informed that the Senator said so.

Mr. McCUMBER. No, Mr. President; I do not claim that they are compelled to ride in box cars or in cattle cars.

Mr. CLAY. I want to say to the Senator that I have been living in Georgia for fifty years, and I think I have been as familiar with the situation there as anyone, that equally as good cars are used for the colored people as those used for the white people there. There is no difference whatever. The law requires that, and the law has been carried out.

Mr. McCUMBER. If it is true—and I have no doubt it is true, as the Senator suggests—then there can be no objection that that same law shall be carried out in every State; and that is all that is contended for in the amendment of the Senator from Ohio.

Mr. BACON. I will ask the Senator if he will permit an amendment of this kind to come in at the end of the seventh line:

Provided, That the carrier engaged in interstate commerce shall conform to the laws of each State through which its lines run in regard to providing separate cars equally good for the different races.

Does the Senator object to that?

Mr. McCUMBER. I do not understand that we can enforce the law of another State.

Mr. BACON. You can adopt the law of the State.

Mr. McCUMBER. I would prefer myself if it is to be made a law that it shall be by an act of Congress, so that the Commission will be enforcing Congressional laws and not State laws.

Mr. MONEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Mississippi?

Mr. McCUMBER. With pleasure.

Mr. MONEY. If the Senator has concluded, I will take the floor in my own right.

The VICE-PRESIDENT. The Chair would state to Senators that under the rule no Senator who has spoken to the amendment pending has a right to speak again after having surrendered the floor.

Mr. MONEY. After he has exhausted his fifteen minutes?

The VICE-PRESIDENT. Even though he has not exhausted the fifteen minutes.

Mr. MONEY. I will ask the Senator from North Dakota to permit me, then, to make a statement.

Mr. McCUMBER. I do not propose to take a great deal of time, but I will allow the Senator to trespass upon my time by any question or suggestion he desires to make.

Mr. MONEY. If it will be trespassing, I will not insist upon it. I want to say, if it is not too much trespassing——

Mr. McCUMBER. I did not mean any trespassing in an offensive way, I assure the Senator.

Mr. MONEY. I will take the laws of the State of Mississippi. The law requires that equally good accommodations, equally good cars, shall be provided for the two races. A black man is not permitted to enter into a car provided for white people and a white man is not permitted to enter into a car furnished for the black people. One is just as much a violation of the law as the other. This condition of equality in the service and of not mixing in the travel is the result of a feeling which is called prejudice on that side, and the Senator from North Dakota thinks it would probably tend to eliminate that prejudice.

Now, there is no desire to eliminate that prejudice in the South on our part. We do not propose to eliminate that prejudice either by Congressional legislation or legislation of any other sort. We are perfectly willing for gentlemen who want to live with the colored people to do so—and there are quite a number, I have no doubt, who feel just as comfortable in a car containing colored people as in a car with whites. But, nevertheless, there is no disputing of tastes. According to the old proverb, "De gustibus non est disputandum."

Consequently, while we have this law in the South we can

not see what objection can be offered to the amendment offered by the Senator from Georgia, which exactly complies with the statutes of the Southern States. There is no invasion of the statutes of the Southern States. It is simply ratifying them or, rather, conforming with them or concurring in them in Federal legislation on the same subject, and it can hurt nobody. I do not see what the objection is unless somebody insists that these interstate-commerce passengers shall have the privilege a State does not now grant.

I want to say further, if anything could have been designed to kill this bill, as far as the vote on this side is concerned, this is the very instrument to do it. I say very frankly I will not vote for any rate bill with this provision in it. That is my way of looking at it, and I think there are a great many others who feel the same way. If it is the intention to kill this bill, you are proceeding in a very summary way as far as our vote is concerned.

Mr. McCUMBER. Mr. President——

The VICE-PRESIDENT. In order that there may not be a misunderstanding, the Chair would suggest that in his opinion it is contrary to the spirit of the unanimous-consent agreement for one Senator to yield his time to another Senator who has previously occupied the floor under the rule in his own right. The Chair recognizes the right of Senators to rise for a question in the time of another Senator, but he does not recognize his right to rise for a second speech in another Senator's time, because it is the spirit of the rule that each Senator shall speak only once and not exceeding fifteen minutes. The Senator from North Dakota will proceed.

Mr. McCUMBER. I believe I have not occupied the fifteen minutes.

The VICE-PRESIDENT. The Senator from North Dakota has not occupied the fifteen minutes.

Mr. McCUMBER. I shall then be very brief in replying to the Senator from Mississippi [Mr. MONEY]. I do not expect, Mr. President, by any character of law to eliminate any prejudice of race the Senator from Mississippi or the people of the South or any other place may have. That is a deep-seated prejudice; it is a racial prejudice which no law could possibly eliminate; but I think we might eliminate the cause for just complaint on the part of the other race if we insist by a proper law that when they pay the same price for transportation they shall be accorded the same character of transportation, not by the mixing of the races at all, but equally good or substantially equally good accommodations. I understand that there is considerable complaint. I know a great deal of complaint has been made to me upon that ground, and it seems to me that it would open up an era of a great deal of better feeling if, under our boasted theory that the law shall operate equally upon and against all persons, we should so provide that it would operate in giving every person who pays a given price for transportation equality of transportation, notwithstanding that he may be darker than some other man.

Mr. TALIAFERRO. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Florida?

Mr. McCUMBER. I yield entirely, Mr. President.

Mr. TALIAFERRO. I should like to ask the Senator from North Dakota a question.

Mr. McCUMBER. Certainly.

Mr. TALIAFERRO. Would the Senator from North Dakota object to an amendment striking out the words "the same or" where this language occurs:

> Demands, collects, or receives from any other person for the same or equally good accommodations and a like and equally good service.

I ask the Senator if he would consent to striking out the words "the same or" and the words "and a like;" so that the sentence would read:

> Receives from any other person for equally good accommodations and equally good service.

Mr. McCUMBER. Certainly I should not object to that; but I understand that has already been amended where the word "class" is used. I do not remember the exact words.

Mr. GALLINGER. If the Senator will permit me, on the motion of the Senator from Alabama, I will say to the Senator from Florida that after the word "same," in line 6, the words "class of accommodations" were added.

Mr. McCUMBER. That means practically the same thing, as I understand.

Mr. GALLINGER. Yes.

Mr. McCUMBER. I desire to say, in closing, Mr. President, that I am opposed to the amendment as a whole, because it duplicates to some extent the old law, or attempts to reenact it, and does not reenact, in my opinion, as good a law as the old law.

Mr. CLARKE of Arkansas. Mr. President, I think if the words "the same or" were stricken out in line 6, it would remove the objections which have been indicated by the senior Senator from Georgia [Mr. BACON] as nearly as we have a right to expect they could be removed at this time. The very fact that the Senator from Ohio [Mr. FORAKER] indicates a purpose to recognize the policy embodied in the laws of the Southern States upon this subject, where this separation has been brought about, indicates that very commendable progress has been made upon this question. This provision of law would not go as far, in my judgment, as it should; but it goes very much further than anybody on the other side of the Chamber has ever concluded to go before. It permits a carrier to provide equally good accommodations, though some of the carriers have not heretofore been able to do so; and it recognizes to that extent that principle. Though the amendment could be, in my judgment, improved by including specific provisions such as are now found in our State laws, that is really too much to expect at this time. It shows, however, a better understanding of the question, which comes from the general enlightenment of the age and may bring about a better understanding between the two parties hereafter, in recognition of the good sense of the people of the South, who have done so much to solve the problem so far as the Southern States are concerned.

I feel entirely justified in saying that I believe the code of Arkansas on this subject, if it were properly understood, would not be seriously changed in the enactment of this law. The railroad companies have responded to the statutory demands in many respects satisfactorily. There may be exceptional cases arising out of unusual local conditions, but they are very few in number. That may happen under any law. I have, however, heard very little complaint. I see no ground for complaint at all if the words "the same or" be stricken out of this bill. If it is the intention of the Senator from Ohio to do that, I have no disposition to haggle with him if he desires only to provide for equal accommodations. I repeat I think this is a very decided step in the direction of a proper solution of this question.

Mr. FORAKER. Will the Senator favor me with a statement of the amendment which he proposes?

Mr. CLARKE of Arkansas. I propose to strike out of the proposed amendment the words "the same or," where they occur in the sixth line, and also the words "a like and," in line 7, so that it would read:

> For interstate transportation of passengers than it charges, demands, collects, or receives from any other person for equally good accommodations and equally good service.

That would permit railway companies to exercise that discretion, so as to save themselves from being sued for damages or otherwise proceeded against. It does not command them to do it, but gives them permission to do it. It is a recognition of the fact that, in some parts of this great country, there are differences, or at least there are opinions, concerning this question that would seem to justify the law-making power of the different States in providing a system of that kind. If that be done, I can see no objection to the adoption of the amendment.

Mr. FORAKER. If the Senator will allow me to answer the suggestion, he inquired of me why I put in the words "the same or." I did so in order that there might be a standard by which there could be a comparison as to whether or not the service rendered was equally good. The railroads are not required to give the same, but an equally good service.

Mr. CLARKE of Arkansas. I would ask my friend from Ohio to leave out the words "the same or," leaving in the words "equally good accommodations," which I think would answer every requirement.

Mr. FORAKER. "Or equally good."

Mr. CLARKE of Arkansas. "Equally good accommodations."

Mr. FORAKER. Between all classes?

Mr. CLARKE of Arkansas. Yes, sir; "equally good accommodations for all classes" or "any other classes carried on that train" or any term that will make it clear.

Mr. FORAKER. When we get to a place where we can consider that, I will see if I can so frame the language as to meet the Senator's views. I am not disposed to haggle about any words, just so that I get the substance of what I want.

Mr. CLARKE of Arkansas. That is exactly the spirit in which I am discussing this matter. I do not intend to be censorious in trying to obtain what I desire, nor do I wish to indulge in any hypercritical criticism, for, as I have before stated, I regard this as a substantial step in recognition of the fact that experience in my section of the country has shown that this class of legislation has been necessary; and it is that which has

created that impression here. Such legislation would not have been possible a few years ago. I am disposed to meet the proposition in a friendly spirit and to do justice to the motives which induce Senators on the other side to make these concessions.

The VICE-PRESIDENT. The question is on agreeing to the amendment in the nature of a substitute proposed by the Senator from Texas [Mr. CULBERSON] to the amendment of the Senator from Ohio [Mr. FORAKER].

Mr. BERRY and Mr. CULBERSON called for the yeas and nays.

The yeas and nays were ordered.

Mr. ALDRICH and Mr. LODGE. Let the proposed substitute be again stated.

The VICE-PRESIDENT. The amendment in the nature of a substitute will be again stated.

The SECRETARY. In lieu of the matter proposed to be inserted by Mr. FORAKER, it is proposed to insert:

That no carrier engaged in interstate commerce shall, directly or indirectly, issue or give any free ticket, free pass, or free transportation to any person, except to the officers, agents, employees, and attorneys of the carrier issuing the same, or to ministers of religion, inmates of hospitals, eleemosynary or charitable institutions. Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

Mr. CULBERSON. At the suggestion of one or two Senators, I desire to modify the amendment, after the word "attorneys," by inserting the words "exclusively in the service."

The VICE-PRESIDENT. The modification will be stated.

The SECRETARY. After the word "attorneys" insert "exclusively in the service."

Mr. GALLINGER. Mr. President, I shall vote against this proposed substitute, for the reason that the amendment is not as comprehensive a law as the present statute. The present statute covers the matter more satisfactorily, to my mind, than does this amendment.

The VICE-PRESIDENT. The Secretary will call the roll on the amendment, in the nature of a substitute, proposed by the Senator from Texas [Mr. CULBERSON] to the amendment of the Senator from Ohio [Mr. FORAKER].

The Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the senior Senator from Iowa [Mr. ALLISON], and therefore withdraw my vote.

Mr. DILLINGHAM (when Mr. PROCTOR'S name was called). I desire to announce that my colleague [Mr. PROCTOR] is necessarily absent. He is paired with the senior Senator from Florida [Mr. MALLORY], who is also necessarily absent.

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK], who is absent. If I were at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. CLARK of Montana (after having voted in the affirmative). I inquire if the senior Senator from Indiana [Mr. BEVERIDGE] has voted?

The VICE-PRESIDENT. The Chair is informed that the senior Senator from Indiana has not voted.

Mr. CLARK of Montana. I have a general pair with that Senator, and therefore withdraw my vote.

Mr. GAMBLE (after having voted in the affirmative). I inquire whether the senior Senator from Nevada [Mr. NEWLANDS] has voted?

The VICE-PRESIDENT. The Chair is informed that he has not voted.

Mr. GAMBLE. Then I withdraw my vote, as I have a general pair with that Senator.

The result was announced—yeas 38, nays 35, as follows:

YEAS—38.

Bacon	Dolliver	Long	Rayner
Bailey	Dubois	McCreary	Simmons
Berry	Foster	McEnery	Stone
Blackburn	Frazier	McLaurin	Sutherland
Burkett	Frye	Martin	Taliaferro
Clapp	Gearin	Money	Teller
Clarke, Ark.	Kittredge	Nelson	Tillman
Clay	Knox	Nixon	Warner
Culberson	La Follette	Overman	
Daniel	Latimer	Pettus	

NAYS—35.

Aldrich	Clark, Wyo.	Fulton	Millard
Alger	Crane	Gallinger	Perkins
Allee	Cullom	Hale	Piles
Ankeny	Dick	Hansbrough	Platt
Brandegee	Dillingham	Hemenway	Scott
Bulkeley	Dryden	Hopkins	Smoot
Burnham	Elkins	Kean	Warren
Burrows	Flint	Lodge	Wetmore
Carter	Foraker	McCumber	

NOT VOTING—16.

Allison	Clark, Mont.	Heyburn	Patterson
Beveridge	Depew	Mallory	Penrose
Burton	Gamble	Morgan	Proctor
Carmack	Gorman	Newlands	Spooner

So Mr. CULBERSON'S amendment to the amendment of Mr. FORAKER was agreed to.

Mr. WARREN. I offer an amendment to the substitute just offered, which I send to the desk. I ask the attention of the Senator from Texas to the amendment.

The VICE-PRESIDENT. The amendment is not, in the opinion of the Chair, in order at the present stage of the bill.

Mr. WARREN. May I ask at the present time when it will be in order?

The VICE-PRESIDENT. It will be in order when the bill goes into the Senate. Are there further amendments to section 1?

Mr. NELSON. I rise to a question of order.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. NELSON. Is not the question now upon agreeing to the amendment as amended.

The VICE-PRESIDENT. The Senator is correct. The question is on agreeing to the amendment of the Senator from Ohio as amended.

Mr. WARREN. I rise to a parliamentary inquiry, Mr. President. I inquire what is the parliamentary condition of the amendment now? I understand from the Chair that I can not offer an amendment to the amendment until the bill gets into the Senate.

The VICE-PRESIDENT. Section 1 is open to further amendment.

Mr. GALLINGER. The substitute has not been adopted.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. There is so much confusion that it is difficult to hear Senators. Will the Senator from Wyoming please state his parliamentary inquiry?

Mr. WARREN. My inquiry is as to the present parliamentary condition of the substitute just adopted. I wish to offer an amendment to it. I understood from the Chair that I must wait until the bill gets in the Senate.

The VICE-PRESIDENT. The Chair now understands the Senator, which he did not when the inquiry was first made. The question is on agreeing to the amendment of the Senator from Ohio as it has been amended by the substitute proposed by the Senator from Texas.

Mr. WARREN. It is then open to amendment; and I desire to offer an amendment.

The VICE-PRESIDENT. The Chair understands now——

Mr. CULBERSON. I rise to a question of order, Mr. President.

The VICE-PRESIDENT. The Senator will state his question of order.

Mr. CULBERSON. The substitute having been adopted in lieu of the amendment, is not the question now whether section 1 shall be amended by the adoption of the substitute?

Mr. OVERMAN. That is the question which was put.

The VICE-PRESIDENT. It is an amendment to an amendment.

Mr. CULBERSON. It has been adopted as a substitute in lieu of the proposed amendment, and now, I submit, the question is on the adoption of the substitute as an amendment to section 1.

Mr. WARREN. That is the way I understand it. I now wish to know whether it is still subject to amendment.

Mr. BERRY. It is not open to amendment, I suggest, Mr. President. The question is on agreeing to the amendment as amended, and it is not open to another amendment.

The VICE-PRESIDENT. That is correct. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. ELKINS obtained the floor.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Ohio?

Mr. ELKINS. Certainly.

Mr. FORAKER. Is it in order now to offer another amendment to section 1?

The VICE-PRESIDENT. Section 1 is still open to amendment.

Mr. ELKINS. I offer the amendment which I send to the desk, to be found on page 147 of the bound copy of amendments.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. At the end of section 1, it is proposed to add the following:

It shall be unlawful for any common carrier subject to the provisions of this act, unless authorized by its charter to do so, to en-

gage, directly or indirectly, in the production, manufacture, buying, furnishing, or selling of coal or coke or any other commodity or commodities of commerce in competition with any shipper or producer on its line or lines: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal exclusively for its own use.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from West Virginia.

Mr. DOLLIVER. Mr. President, I should like to inquire of the Senator whether it is the purpose of his amendment to prevent a common carrier from engaging in the mining of coal or any other business, if the operations are not conducted upon its own line?

Mr. ELKINS. Mr. President, I want to confine the railroads to the legitimate business for which they are incorporated—the transportation of freight and passengers—and to forbid them engaging in any other business, especially the business of mining, producing, and selling coal or any other commodity on their lines in competition with a shipper.

Mr. GALLINGER. Why does the Senator insert the words "unless authorized by its charter to do so?" Will not that absolutely destroy the potency of the amendment?

Mr. ELKINS. There are a great many ancient charters in the United States——

Mr. GALLINGER. If the Senator will permit me, I move to strike out the words I have indicated.

Mr. ELKINS. I will state, Mr. President, this reason: There are a great many old State charters, some, I think, sixty years old, some fifty, some forty, some thirty, and some more modern, which authorize the railroad companies—common carriers—to engage in other business. It is known to Senators here, and to the country, that there are a great many of what are called "coal-carrying roads," which, when they were first organized and incorporated, were authorized especially to mine and sell coal. Whether or not an act of Congress is competent to interfere with the vested rights of these corporations is a question. Some say that an act of Congress could, under the power of Congress to regulate interstate commerce, prohibit them from carrying on the business of mining and selling coal, and could annul or set aside their charters to that extent. I do not want to bring on any conflict by this amendment. I want to be fair. I do not want to interfere with any vested rights.

Mr. GALLINGER. But, Mr. President, if the Senator will permit me——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from New Hampshire?

Mr. ELKINS. Certainly.

Mr. GALLINGER. Unless some such amendment as I have suggested be adopted it is very manifest that we shall have a certain class of railroads permitted to do this work and a certain other class prohibited from doing it. I think that would be anomalous and a very unjust condition of things.

Mr. ELKINS. As to railroads that are hereafter to be incorporated, I think this would prohibit them from mining and selling coal.

Mr. HOPKINS. Will the Senator allow me a moment?

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Illinois?

Mr. ELKINS. Yes.

Mr. HOPKINS. I will suggest to the Senator that the ancient charters of which he speaks were issued by the States, and that this bill deals with interstate traffic. Therefore, the words in the amendment of the Senator from West Virginia suggested to be eliminated by the Senator from New Hampshire should be eliminated, or else, as suggested by the Senator from New Hampshire, a monopoly will be created by excluding some roads, and putting the carrying of interstate commerce and engaging in the coal business with certain railroads that have these privileges under the State charters.

Mr. ELKINS. It is only a legal question as to whether or not it can be done. For my part, if the Senate will agree to the amendment, I will accept the amendment of the Senator from New Hampshire, and agree that the words he suggests may be stricken out.

Mr. BAILEY. Mr. President, what are the words which it was agreed should be stricken out?

The VICE-PRESIDENT. The Secretary will state the words which are proposed to be stricken out.

The SECRETARY. In lines 2 and 3 of the proposed amendment it is proposed to strike out the words "unless authorized by its charter to do so."

Mr. BAILEY. That was a suggestion which I intended to make, but there is a graver objection to this amendment than that. It is unquestionably true that Congress has a right to forbid a carrier engaged in the production of coal and other commodities from engaging in interstate commerce; but Congress has no power to control within a State the production of coal or any other commodity. The Senator from West Virginia has not, in my opinion, phrased his amendment so as to make it valid. Instead of forbidding any common carrier who is producing these commodities to engage in interstate commerce, the prohibition ought to be against any carrier producing these commodities engaging in interstate commerce.

In other words, the question of the production of coal or of any other commodity is beyond the jurisdiction of the Congress, but who shall be permitted to engage in interstate commerce is wholly for the General Government to decide. I suggest to the Senator from West Virginia, who undoubtedly wants to make his amendment effective, that he change the prohibition by making it read "that no common carrier engaged in the production or distribution of these commodities shall be permitted to engage in interstate commerce." Then he will have an amendment that will hold beyond all doubt.

Mr. ELKINS. I do not agree with the Senator from Texas [Mr. BAILEY]. It seems to me the language of the amendment is plain and unmistakable and that it meets the objection raised by the Senator from New Hampshire [Mr. GALLINGER]. What I am aiming to do is to prohibit interstate roads, carriers of interstate commerce, from engaging in or doing any other business than the transportation of freight and passengers.

Mr. BAILEY. But the Senator forgets that a railroad is not subject to the jurisdiction of Congress because it engages in State commerce. It is only subject to the jurisdiction of Congress when it does engage in interstate commerce. For instance, the Pennsylvania Railroad, running from New York to St. Louis, is only subject to the jurisdiction of the Federal Government in respect to those transactions which are interstate, and the Federal Congress has absolutely no power over a transaction begun and concluded within a State through which it runs. The Federal Government has no power to say whether this railroad shall produce coal or iron, or whether it shall manufacture either or both in the State of Pennsylvania or in any other State; but the Federal Government does have a right to say that a railroad which is engaged in producing these commodities and in distributing them on its own account shall not be permitted to engage in interstate commerce. That is the whole power of the Federal Government.

Mr. ELKINS. I think it is clearly expressed in the amendment, which reads:

It shall be unlawful for any common carrier subject to the provisions of this act, unless authorized by its charter to do so, to engage, directly or indirectly, in the production, manufacture, buying, furnishing, or selling of coal or coke or any other commodity or commodities of commerce in competition with any shipper or producer on its line or lines, etc.

Mr. President, I want to get this amendment in such shape that it will stop an evil or an abuse that obtains in West Virginia, Pennsylvania, and other coal-mining States. The Supreme Court of the United States, in a recent opinion in a case coming up from West Virginia, decided that under the existing law railroads can not engage in the mining, manufacturing, and selling of coal.

Mr. BAILEY. They did not decide that.

Mr. ELKINS. They intimated it strongly.

Mr. BAILEY. They did not decide it.

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Texas?

Mr. ELKINS. He has already said what he wanted to, I hope.

Mr. BAILEY. I want the Senator from West Virginia to be right as we go along.

Mr. ELKINS. I understand what the Senator means. I do not mean to say that they have decided it definitely, but they intimated in a way that is notice to the country and to Congress and to everybody concerned that the railroads were not empowered to produce and sell coal. I thought, following that intimation, it would be better to put into the statutes of the United States a positive prohibition that railroads should not engage in the mining and manufacture and production and selling of coal and coke, and that they should be confined to the legitimate business for which they were chartered, to wit, the transportation of freight and passengers. I do not see how there can be any objection to this, and I do not quite comprehend the Senator's legal objection. I do not want to reverse the wording of this at all. It seems to me it is plain on its face. It shall be unlawful for any carrier of interstate commerce or interstate railroad to do what? To engage in certain kinds of business. If Congress has not jurisdiction over interstate railroads, then all this talk for weary months is vain, stale, flat, and unprofitable.

Mr. BAILEY. The jurisdiction of Congress is over interstate commerce and not over a carrier, whose line happens to extend across two States, except as to interstate transportation.

The jurisdiction of Congress is complete over a line wholly within a State as to interstate-commerce transactions.

Mr. ELKINS. I understand that distinction. But under the recent acts of Congress and the decisions of the courts, you can hardly get a line that is wholly within a State, that is altogther a State line, or intrastate line, because the decisions of the court are to the effect that if products are carried out of the State in which they are produced the road becomes an interstate road, and Congress would have jurisdiction.

Mr. NELSON. Will the Senator from West Virginia allow me to make a statement?

Mr. ELKINS. Yes.

Mr. NELSON. I think the Senator from Texas is entirely correct. The Supreme Court in the Knight case—the sugar-refining case—with which all lawyers are familiar, decided that the authority of the United States did not extend to the mere manufacture or production; that it only related to the transportation of commerce between the different States; that where it related wholly to a matter of the manufacture and production in a given State it was completely under the jurisdiction of the State. I think the objection of the Senator from Texas is well taken, and unless you amend it as suggested by the Senator your amendment will be of no avail to you in the court.

Mr. BAILEY. Let me state this case to the Senator from West Virginia, in order to illustrate it. Suppose you should make it an indictable offense for the carriers subject to the provisions of this act to produce coal, and suppose you indicted them in the Federal courts. The proof is they were producing coal in the State of West Virginia. The Federal court would instantly say there is no power in the Federal Government to punish such a crime. The Federal Government can not regulate the production or the manufacture of any article within any State, and it seems to me—I may be mistaken about it, but if I am I am very egregiously mistaken, if I am mistaken at all, for it seems to me too plain for argument—that the Senator from West Virginia has attempted to prohibit what we have no power to prohibit, and he omits to prohibit what we may clearly prohibit.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Massachusetts?

Mr. LODGE. Oh, no. I will wait until the Senator is through.

Mr. CLAPP. If the Senator will pardon me, it would seem wise——

Mr. ELKINS. I yield to the Senator from Minnesota.

Mr. CLAPP. I would suggest some such amendment as you have in your hand.

Mr. ELKINS. As an amendment to the amendment or as a substitute?

Mr. CLAPP. As a substitute.

Mr. ELKINS. I want to ask the attention of the Senator from Texas to this language. Would it cover the point he makes?

Mr. BAILEY. I read it hurriedly, but I think it does.

Mr. CLAPP. If it does not, it can be easily amended.

Mr. ELKINS. I will read it:

It shall be unlawful for any common carrier engaged in the production, manufacture, buying, furnishing, or selling, directly or indirectly, of coal, coke, or any other commodity of commerce, to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or furnishing or producing other commodities exclusively for its own use.

Will that meet the Senator's objection?

Mr. BAILEY. I think it does.

Mr. CLAY. I desire to ask the Senator from West Virginia whether he provides any penalty for a violation of this law? If the amendment offered by the Senator from West Virginia simply makes it unlawful to do a certain thing and then does not fix any penalty, the law in reality will have no effect.

Mr. ELKINS. On that point I will say that the general penalty clause of section 10 will cover this very case. I call the Senator's attention to section 10. It provides a penalty for anything done contrary to, or anything omitted to be done required by, the interstate-commerce act.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Massachusetts?

Mr. ELKINS. For the purpose of offering an amendment?

Mr. LODGE. I want to suggest this form of amendment. It is not in order, but I should like to have it read.

The VICE-PRESIDENT. The proposed amendment will be stated.

The SECRETARY. After the word "lines," in line 6 of the proposed amendment, add the following:

And any common carrier who shall violate this provision shall be debarred from taking part in interstate commerce.

Mr. ELKINS. I ask that the amendment I sent up, suggested by the Senator from Minnesota, be read at the desk.

The VICE-PRESIDENT. The Secretary will read the amendment proposed by the Senator from West Virginia.

The SECRETARY. It is proposed to add at the end of section 1, after the amendment already adopted at that place, the following words:

It shall be unlawful for any common carrier subject to the provisions of this act to engage, directly or indirectly, in the production, manufacture, buying, furnishing, or selling of coal or coke or any other commodity or commodities of commerce in competition with any shipper or producer on its line or lines: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal exclusively for its own use.

Mr. GALLINGER. That is the original.

Mr. ELKINS. That is the original. Let the Secretary read the one he has in his hand, suggested by the Senator from Minnesota.

The Secretary read as follows:

It shall be unlawful for any common carrier engaged in the production, manufacture, buying, furnishing, or selling, directly or indirectly, of coal, coke, or any other commodity of commerce, to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or furnishing or producing other commodities exclusively for its own use.

Mr. ELKINS. I wish to ask the Senator from Texas a question. Does this substitute, offered by the Senator from Minnesota, meet the objection raised by the Senator from Texas?

Mr. BAILEY. The amendment——

Mr. ELKINS. Just read at the desk.

Mr. BAILEY. I think it does.

I will say I have not much confidence in work that is done in a hurry, even when I do it myself. But reading that hastily, I think it does not only provide against the evil, but does so in a way clearly within the power of Congress.

Mr. LODGE. I should like to have my amendment read again.

The VICE-PRESIDENT. The Secretary will again state the amendment proposed by the Senator from Massachusetts.

The SECRETARY. In the print of the amendment of the Senator from West Virginia [Mr. ELKINS], in line 6, after the word "lines," it is proposed to insert:

And any common carrier who shall violate this provision shall be debarred from taking part in interstate commerce.

Mr. KNOX. I should like to inquire of the Senator from Massachusetts, who, I understand, proposed this modification of the amendment, by what process he proposes to ascertain the violation of the law, and how he proposes to enforce the penalty of nonadmission to the channels of interstate commerce?

Mr. ALDRICH. I should like to have the last proposition of the Senator from West Virginia again read.

Mr. ELKINS. The substitute?

Mr. ALDRICH. Yes.

Mr. ELKINS. The substitute offered by the Senator from Minnesota.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. The Senator from West Virginia modifies his original amendment so as to read as follows:

It shall be unlawful for any common carrier engaged in the production, manufacture, buying, furnishing, or selling, directly or indirectly, of coal, coke, or any other commodity of commerce to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or furnishing or producing other commodities exclusively for its own use.

Mr. DANIEL. I beg to ask that the amendment may be sent me.

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Virginia?

Mr. ELKINS. I have the floor.

Mr. DANIEL. I beg pardon.

The VICE-PRESIDENT. The time of the Senator from West Virginia has expired.

Mr. ELKINS. I did not get to say anything I wanted to say.

Mr. McCUMBER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from North Dakota?

Mr. DANIEL. I want to make a few remarks about this amendment.

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from North Dakota?

Mr. DANIEL. I did not hear what the Senator said.

Mr. McCUMBER. I did not understand the Senator.

Mr. DANIEL. I had just taken the floor to speak to this amendment. I did not hear what the Senator from North Dakota said.

Mr. McCUMBER. I should like to ask a question, and the Senator can answer it at the same time, if that is satisfactory to the Senator.

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from North Dakota?

Mr. DANIEL. I yield for a question.

Mr. McCUMBER. I simply wish to place this proposition before the Senate. Suppose the mining is done in a State, and the coal is sold in the same State, and in a State which does not prohibit it. Has Congress any authority to prevent a railway which does that from engaging in interstate commerce?

That is exactly what this amendment does, if it does anything. I do not anticipate that we can prevent a railway doing business in interstate commerce simply because it is doing some act wholly within a State that is not prohibited by the laws of that State.

Mr. DANIEL. I beg to request that the first amendment offered by the Senator from West Virginia be sent to me.

Mr. President, it was with respect to the identical question that the Senator from North Dakota has addressed to me that I desire to say a few words about this amendment. It is my desire that when an amendment is put in the bill on this subject it shall be an effective one, and the end I would subserve would be this, to prevent those railroads which are engaged also in mining from carrying their own product to market in competition with the shippers who have to pay to get to market.

Now, as it would seem to me, and as it has seemed also to strike the mind of the Senator from North Dakota, this amendment would not accomplish that purpose. There are two propositions in this amendment. First:

It shall be unlawful for any common carrier engaged in the production, manufacture, furnishing, or selling, directly or indirectly, of coal, coke, or any other commodity of commerce to engage in interstate commerce.

Now, what does that mean?

There are some States of this Union, including the State of West Virginia, in which some of the railroads have lawful authority from the State to engage in mining, manufacturing, furnishing, and selling of coal and coke, and as long as they exercise their charter within the scope of the sovereignty which has granted it it does not strike my mind that it is within the power of Congress or of any other power to interfere with their lawful undertaking.

Provided—

Says this amendment—

That nothing in this act shall be construed to prevent a carrier from mining coal or furnishing or producing other commodities exclusively for its own use.

I see no use whatsoever of putting in the second proviso. We do not undertake to interfere with any things except those which we mention, and there is no use in putting in things that we do not propose to interfere with. But the main proposition and the gravamen of this first declaration, I fear, will be a vain one. What is sought to be aimed at is the transportation of articles produced by a common carrier in interstate commerce in competition with articles which are bought by shippers or are delivered to the railroads for carriage by customers. How can Congress avail that purpose by attempting to deny the right of a carrier which is engaged in a lawful occupation, under the charter of a State, from engaging in interstate commerce at all?

It seems to me that the amendment takes hold of the subject by the wrong handle and puts its interdict on the wrong thing. It is the transportation of such things in interstate commerce, not engaging in interstate commerce at all, to which it seems to me the aim of Congress should be directed. If the amendment would say in so many words that no carrier shall transport in interstate commerce articles of which it is itself the producer or the manufacturer, that would reach it, if Congress can reach it.

I concur in the remarks which the Senator from Texas has made, and they are very clear, with respect to the amendment in the form in which it was first offered by the Senator from West Virginia. There was excepted from the amendment the very companies which are the source of the competition which Congress desires to reach—the companies that are chartered by States and with which we have nothing to do in so far as they operate within those States. The exception would simply have solidified and continued a practice which it is the desire of some in Congress to prevent, and I fear if we were to take hold of this matter by this handle we would find that we had exceeded our power in putting an absolute inhibition upon engagement in interstate commerce at all upon those companies which at home are exercising a legitimate and legal calling. But, on the other hand, if we can do this it can only be done by interdicting interstate-commerce transportation by a carrier of articles produced, manufactured, or mined by itself to come in competition with those of its shippers.

Mr. CLAPP. Mr. President, I fail to see the force of the argument of the Senator from Virginia, much as I dislike to take issue with him. If Congress can interdict the carrying by a carrier of an article that the carrier mined in the State, and under State law was lawfully engaged in doing so, it is because the carrier took its charter under the State law subject to the reserve power in Congress to regulate that carrier when it comes to interstate commerce. There can be no question——

Mr. DANIEL. Will the Senator allow me to put an illustration before him in order to define better what my meaning is?

Mr. CLAPP. Yes.

Mr. DANIEL. Suppose a carrier, we will say, in Maryland, was engaged in mining coal and in manufacturing iron, both. Suppose its only transactions in mining coal and selling it and in manufacturing iron were within Maryland, and suppose its only interstate transactions were those that were absolutely unimpeachable, and that it did not in interstate commerce engage in any practice whatsoever that was subject to criticism. You would thereby inhibit it from going on with perfectly legitimate relations to the Federal Government when it had not obtruded into interstate commerce a thing that was objectionable, and was merely doing what at home was entirely legitimate and in accordance with State law. Now, then, instead of doing that——

Mr. CLAPP. If the Senator will pardon me, we are limited to fifteen minutes each. I have no objection to the question——

The VICE-PRESIDENT. The Senator from Minnesota declines to yield further.

Mr. CLAPP. What I was going to say was that no matter how legal the business of the corporation might be in Maryland under the laws of Maryland, the only ground upon which Congress could prohibit the carriage of those commodities, which the carrier itself produces, is under the power of Congress to regulate interstate traffic; and if we can lay a prohibition upon that which is produced by a carrier, under a State charter, which authorizes the production of that commodity, then we can lay any prohibition we please upon that carrier when it comes to interstate commerce.

The difficulty with the Senator's position, it seems to me, is here. We are face to face now with one of the gravest questions involved in this whole legislation, and we have a right to invoke law which not only seeks to prohibit, but seeks to prohibit by a penalty for the violation of that prohibition. We can say this to a carrier, taking its charter under a State law, for no matter what that charter contains it was taken subject to the power of Congress to regulate that carrier the moment it engaged in interstate traffic and regulate it as to interstate traffic. It seems to me we ought to make that as strong as possible, by not only prohibiting that carrier from carrying products which it has itself mined or produced, but also a prohibition upon that carrier exercising the right of commerce under Federal regulation.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Oregon?

Mr. CLAPP. Certainly.

Mr. FULTON. I want to ask the Senator a question.

Mr. KEAN. We can not hear the Senator.

Mr. FULTON. I do not wish to take the floor. I desire simply to ask the Senator from Minnesota a question. Can Congress, in the exercise of the power to regulate interstate commerce, so exercise it as to practically regulate intrastate or purely domestic commerce within a State, unless it is necessary to do so in the exercise of the power of regulating interstate commerce? Does not the proposition which the Senator is advocating amount practically to a regulation of purely State or intrastate commerce as distinguished from interstate commerce?

Mr. CLAPP. It regulates in the last analysis the mining, buying, and selling of commodities by railroads, and if, in the exercise of our power, we do that which prohibits or prevents their exercising that right, it is an incident to the exercise of power by Congress—it is not the objective point, but it is the incident—and it must yield to the higher power of Congress, provided, as we have assumed here, that Congress can regulate interstate commerce. I repeat, if Congress, in the exercise of that power, can successfully prohibit the carrying by this carrier of coal which it has mined under a charter which authorizes it so to do within the State, we can, in the exercise of our power to prevent that wrong, go further and say that that carrier, while so engaged in that work, shall not participate in the benefits of interstate traffic. I feel, Mr. President, there can be no question as to the legality of that position.

Mr. FULTON. I should like to say a word. I concede that if it becomes necessary, in order to exercise the power of regulating interstate commerce, to incidentally interfere with the

domestic commerce of the State, it is within the province of Congress to do it. But I submit that Congress can not, under the pretense of regulating interstate commerce, interfere with the domestic commerce of a State, any more than a State can, under a pretense of regulating its own commerce or interstate commerce, interfere with or regulate interstate commerce.

Mr. CLAPP. That is not accurate. If in the regulation of rates for interstate traffic under the power of Congress the matter should reach that point where there was a conflict between the rates prescribed by Congress or Congressional machinery and the State rates, in that controversy the State rate must yield to the interstate rate. That is the underlying principle of the authority of Congress to regulate interstate traffic.

Mr. SPOONER. Mr. President, the evil sought to be remedied by this amendment is one as to the existence of which there can be no question. I think it has relation principally to the mining of coal. Companies engaged in interstate transportation, even though engaged lawfully in the States in mining and producing coal, have been able to freeze out independent operators. They have been able thereby to diminish the output of a necessary of life, and to put upon consumers throughout the country a price to suit their own will. That ought to be remedied. But the Senator who believes that it is a subject free from difficulty and intricacy I think makes a very grave mistake. It requires much thought, more thought, I think, than has been bestowed upon it in the preparation of this amendment.

There was great wisdom in the observations of the Senator from Virginia [Mr. DANIEL], because we want to be careful, I think, in striking at this evil and penalizing the interstate traffic of such a corporation so far as is necessary to eliminate the evil, not to punish the people and the cities and villages along the line.

What we want to accomplish, it seems to me, is to prevent the transportation in interstate commerce of the commodities referred to in this amendment—coal, if you please, or coke—but to say, going beyond that, that the carrier shall not engage in interstate commerce at all, that he shall not carry freight, that he shall not carry passengers to and from sections of the country, may be striking with a very heavy hand at hundreds of thousands of people along the line and at cities and terminal points and points midway along the line. That is what this amendment would do if adopted. It would say to the carrier, though permitted by the law of the State to mine coal, "If you do not abandon that business you shall not carry a passenger from State to State; you shall not carry any freight from State to State." That punishes the carrier, but it punishes the people.

I rose simply to suggest whether it is not the practicable remedy, and as far as Congress may safely go, to prohibit a carrier so situated from transporting from State to State to a market the product of which it is the producer. I take it that that will be less objectionable from the standpoint of the law than this broad provision which penalizes all the traffic for the purpose of preventing some of it. I suggest whether the object might not be accomplished by prohibiting the transportation from State to State by any such carrier of the commodity which it produces in competition with people along its line.

Mr. McLAURIN. Mr. President, I offer an amendment which I think will cover the objection which has been made. I am inclined to believe that Congress has the power to prevent a common carrier from engaging in any kind of interstate commerce so far as carriage is concerned, as a penalty for any act that Congress may think objectionable to the welfare of the country. But I doubt whether Congress has the right to say that anybody, whether an artificial person or an actual person, can be prohibited from engaging in interstate commerce.

The amendment prohibits those engaged in the mining or production of coal or coke or other commodities from engaging in interstate commerce of any kind. I think the amendment would be unobjectionable if after the words "interstate commerce" it added "as a common carrier of articles and commodities of its own production, mining, or manufacture." I do not think that because a railroad company is engaged in the mining of coal it should be prohibited from engaging in any kind of interstate commerce as a common carrier or in hauling the United States mail. I do not think the mere fact that a common carrier is engaged in the mining of coal should preclude that common carrier from carrying flour, or meal, or meat, or wheat, or any other commodity except the one in the production of which it is engaged.

Therefore I think the amendment is a good amendment with the addition I have sent to the desk, and I ask that it shall be read.

Mr. ELKINS. Let it be read.

The VICE-PRESIDENT. The Secretary will read the amendment proposed by the Senator from Mississippi.

Mr. BEVERIDGE. Is there not an amendment to the amendment already pending?

The VICE-PRESIDENT. There is an amendment proposed by the Senator from Massachusetts to the amendment.

Mr. BEVERIDGE. Then another amendment is not in order.

Mr. LODGE. It is to be read for the information of the Senate.

The VICE-PRESIDENT. The amendment will be read merely for the information of the Senate.

Mr. BEVERIDGE. It is not then now offered?

The VICE-PRESIDENT. It can not be offered now.

Mr. CULLOM. Let it be read.

The VICE-PRESIDENT. The amendment intended to be proposed by the Senator from Mississippi to the amendment will be read for the information of the Senate.

The SECRETARY. Amendment intended to be proposed to the substitute offered by the Senator from West Virginia [Mr. ELKINS]. After the words "interstate commerce" insert "as a common carrier of articles and commodities of its own production, mining, or manufacture;" so that if amended it will read:

It shall be unlawful for any common carrier engaged in the production, manufacture, buying, furnishing, or selling, directly or indirectly, of coal or coke or any other commodity of commerce to engage in interstate commerce as a common carrier of articles and commodities of its own production, mining, or manufacture: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. BAILEY. Mr. President, the amendment proposed by the Senator from Mississippi [Mr. McLAURIN] is undoubtedly an excellent one if it is the desire of the Senate to go no further than that; and I can see that there may, as suggested both by the Senator from Mississippi and the Senator from Wisconsin [Mr. SPOONER], a grave difficulty arise out of a total prohibition of interstate transportation on the part of a carrier engaged in the prohibited enterprises. But my own opinion is that in practical effect no serious embarrassment will grow out of it, because the moment you forbid a common carrier engaged in the production of these commodities to engage in interstate commerce, the interstate commerce being more valuable to it than the production of commodities, it would at once desist from further transactions included in the prohibition.

There is a danger that under the amendment suggested by the Senator from Mississippi a railroad which owns large coal fields in Pennsylvania or in West Virginia will continue in the production of coal, and distributing the coal produced by itself within the State of its production, then continue to transport coal produced by other collieries for interstate commerce. So it might happen that the amendment, if limited, might not be adequate to the correction of the evil.

I have no kind of doubt, since the decision in the Lottery Ticket case, that Congress can absolutely prohibit interstate commerce. Before that case I would have doubted it, because I never have believed that the power to regulate included the power to destroy, though I do understand that the power to destroy includes the power to regulate. But as long as the Lottery case stands as the final expression from the Supreme Court, it looks to me like we can not safely say that Congress exceeds its power when it absolutely prohibits interstate commerce.

If a State in this Union creates a corporation and endows it with powers and faculties contrary to the general public good, I have no question that under the decisions of the Supreme Court Congress may prevent that corporation from engaging in commerce among the States and with foreign nations. If the States have chartered railroads, and if they have expressed in their charters that the railroads may also engage in business other than that of a common carrier, we can simply confine the creature of the State to the boundaries of the State and protect all other States from the injury which would result from combining transportation with production in any form.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Rhode Island?

Mr. BAILEY. I do.

Mr. ALDRICH. Has the Senator from Texas any doubt but that the remedy suggested by the Senator from Mississippi would be effective? It seems to me there can be no doubt about that. In all the cases I know of which have been brought to our attention coal and the other commodities are necessarily articles which must go into interstate commerce, and in order to go into interstate commerce they must be transported by the railroad companies themselves. Therefore, I think the prohibition suggested by the Senator from Mississippi would be found to be one that would practically stop the practice. It seems to me there can be no doubt about that.

Mr. BAILEY. I would like to annihilate the practice. I want a common carrier to engage in the business of a common carrier, and I want that common carrier to leave the business of all other men alone. I know I am not more earnestly in favor of that than the Senator from Mississippi, and, as he has given this matter very great attention, I am sure he thinks that his amendment is sufficient to correct the abuses which have become so gross as to provoke universal condemnation.

I had supposed that this is one correction upon which all Senators would agree, because I have not during this prolonged discussion heard any Senator express any opposition to the divorce between the business of a common carrier and the business of a miner, a manufacturer, or a producer. I have assumed that there would be no controversy about it and I have therefore given it no attention. I first participated in the debate because it seemed to me that the amendment as proposed was fatally defective, Congress having no power at all over the ownership of land and the operation of mines, but plenary power over interstate commerce.

It may be a sufficient protection for the people against these abuses to interdict the transportation of the commodities which a carrier produces; but while that may be, I know the other will be sufficient, and I should like to make the prohibition as broad as the practice and eradicate the evil at once and for all time.

Mr. LODGE. Mr. President, the Senator from Pennsylvania [Mr. KNOX] asked me a question when I introduced my amendment, which was intended to cover the point just made by the Senator from Texas. I want, if possible, to break up absolutely and finally this ownership and operation of other businesses by the common carrier. I have assumed that railroads entered into interstate commerce solely on the conditions and by the permission of the Government of the United States. I have assumed that we could prohibit their engaging in interstate commerce if they violated the provisions that we laid down.

As for the manner in which we should enforce it, I assume that we should enforce it as we enforce every other order made by the Commission. A question of this sort would come before the Commission, and the Commission would be bound, under the law, to make an order that they should not engage in interstate commerce because, having violated the provisions of the statute by carrying on the coal or coke business, and then the order would be enforced in the manner provided in the act. I know of no other way in which to get at it. Very possibly in practice the amendment proposed by the Senator from Mississippi will reach the difficulty, but I should think it much safer to put an absolute prohibition upon it and bring to an end finally the operation of other great businesses by the common carrier.

Mr. TILLMAN. Mr. President, I think when Senators consider this question a little more they will find that there are other sides to it which will add to its perplexities. Granting that all of us are earnestly desirous of accomplishing the result of divorcing production and transportation—and I have heard no objection to it, stated in a general way like that, from any source—the more you consider it the more troublesome it grows. At least that has been my experience, and I have been thinking a great deal about it, and I have had suggestions from various sources. I have asked half a dozen great lawyers to suggest amendments; each and every one of them differ; and as yet I have not been able to get any satisfactory solution so far as my own mind goes.

Now, I will state some of my perplexities. This amendment deals with the three great problems: First, of monopoly—the railroad controlling coal lands and freezing out competitors who are engaged in the business as private owners. Second, it deals with the question of discrimination—preventing a fair deal between the private owner and the railroad by distribution of cars and access to market. It also deals with the more perplexing question or idea of the destruction of private rights and private interests.

For instance, suppose we should limit the engaging in interstate commerce of a public carrier to the production by others, forbidding transport beyond the State line of any article which he himself was producing, what would become of that class of cases or those conditions in some region where the country is sparsely settled and where there is a great lumbering industry—that is, a great deal of lumber standing in trees? I have known half a dozen railroads in the South, in my own limited scope of view, that have been built entirely and solely for the purpose of hauling out the lumber from the swamps and backwoods to get it to market; and but for the fact that the lumbermen built their own road they absolutely would have had no market for their product.

Take coal. Go into West Virginia and you find in some of those coves and backwoods large and rich deposits of coal which will lie there—I will not pretend to guess how long, but fifty or a hundred years—undeveloped and unproductive, lacking in value to the present owners, if you say to a company, "You shall not buy this coal and construct a road to market your coal and get it out so as to put it on the market." So you will put a ban on those lands and they will lie there useless.

I take West Virginia as an illustration, because I have had a great many communications from down there complaining about the discrimination and injustice of the Baltimore and Ohio and the Chesapeake and Ohio in their dealings with private operators. Lots of those people have been bottled up, but those little roads have been built primarily for the purpose of getting to the through roads or interstate-commerce roads. While they will transport small quantities of other products, they will build primarily and solely for the purpose of marketing the coal which they have bought, and without the coal there would have been no road, and without the road the coal is valueless. So if you say a man who undertakes to build his own road solely for the purpose of marketing his own coal shall not continue to run the railroad, you put up a barrier to his utilization of his own property.

As I said, you can not have any sweeping and general provision here without doing serious injury somewhere. The more I think about it the more I consider the condition in the anthracite field where this coal monopoly already exists, where the five railroads penetrating the anthracite field have absolute domination over every ton of coal and have parceled out the product and fixed the price. You see the perplexity and the difficulty of legislating along this line without seriously jeopardizing somebody's interests.

Now, I want to stop it. I want Senators to consider seriously the various aspects and difficulties involved. While the amendment offered by the Senator from Mississippi [Mr. MCLAURIN] will go a long way toward helping, it will itself bottle up and destroy private interests in ownership in coal lands which can never be utilized or reach the market unless the man who owns the land shall also be allowed to build a railroad to get to market.

So, Senators, you will not quickly dispose of it in any wise and judicious way. By careful consideration we may be able to discover a method by which we can accomplish what we seek to do, but unless we are very cautious we will make a mistake, and we had better go not quite far enough than to go too far.

Mr. ELKINS. Mr. President, I am gratified that this has attracted so much attention.

Mr. BEVERIDGE. Before the Senator begins his remarks, I should like to suggest to him a form of amendment to his amendment, that it may be considered during his time:

No carrier of interstate commerce shall engage in any other business except the carriage of passengers and freight for hire: *Provided*, That said carrier may mine or make fuel exclusively for its own purposes.

I should like to ask the Senator from West Virginia and the Senator from Minnesota whether that does not, in the fullest way, cover not only those engaging in the business of coal mining, but every other possible business?

Mr. ELKINS. Mr. President, I think the suggestion of the Senator is broad and very comprehensive.

Mr. BEVERIDGE. I give notice that I shall offer that amendment to the amendment in the morning.

Mr. ELKINS. I have drawn the amendment two or three times and at the advice of good lawyers. The amendment suggested by the Senator from Mississippi [Mr. MCLAURIN] seems to find favor with the good lawyers of the Senate. I am willing to accept an amendment in any form that will correct this great abuse, because it has become the fashion of late for interstate roads to engage in the owning, mining, and selling of coal, which leads to the crushing out, as stated by the Senator from South Carolina, of independent operators.

The VICE-PRESIDENT. The Chair would remind the Senator from West Virginia that he has already occupied the floor.

Mr. ELKINS. On the amendment of the Senator from Mississippi I have not said a word.

The VICE-PRESIDENT. The Senator has not spoken to that amendment.

Mr. ELKINS. I am speaking now to the amendment of the Senator from Mississippi.

The VICE-PRESIDENT. The Senator is in order upon that amendment.

Mr. ELKINS. Mr. President——

Mr. MCCUMBER. I do not know whether or not the Senator is through, but I only desire to make one suggestion.

Mr. DANIEL. Mr. President, if the Senator will permit me, I wish to offer an amendment as a substitute for the pending

amendment which I think will reach the matter. I ask that the amendment may be read.

Mr. LODGE. Mr. President, there have been a number of amendments offered, and I suggest that they be printed and go over until tomorrow, so that we may have an opportunity to consider them. There is an amendment by the Senator from Mississippi [Mr. McLAURIN]; one by the Senator from Virginia [Mr. DANIEL], and another to be offered by the Senator from Indiana [Mr. BEVERIDGE]. If they are printed we can then have an opportunity to examine them, and I think we shall be shortening our work by doing so.

The VICE-PRESIDENT. The Senator from Virginia [Mr. DANIEL] proposes an amendment in the nature of a substitute for the pending amendment, which will be stated.

The SECRETARY. It is proposed to substitute for the pending amendment the following:

It shall be unlawful for any common carrier to transport from one State, Territory, or district of the United States to another State, Territory, or district of the United States or to any foreign country any article of commodity whatever which may be owned by it or in which it has any interest, excepting such as are necessary for its own use in its business as a carrier and not intended for sale, barter, or commercial traffic of any sort.

The VICE-PRESIDENT. The amendment to the amendment will be printed and laid upon the table, in the absence of objection.

Mr. GALLINGER. I move that the Senate proceed to the consideration of executive business.

Mr. CLAY. Will the Senator withhold the motion for a moment that I may offer an amendment?

Mr. GALLINGER. Certainly.

Mr. CLAY. Mr. President, I desire to offer—although I know it is not in order at this time—a substitute to the amendment offered by the Senator from West Virginia [Mr. ELKINS]. I simply ask to have it printed.

The VICE-PRESIDENT. The proposed substitute offered by the Senator from Georgia will be printed, as will all the amendments which have been proposed and are pending, and the amendment will lie upon the table.

Mr. BEVERIDGE. I offer the amendment which I send to the desk, to be printed and lie upon the table.

The VICE-PRESIDENT. The amendment will be printed and lie upon the table, in the absence of objection.

Mr. FORAKER. I understand there is nothing further at present to be considered, and I give notice that I will offer the amendment which I now send to the desk.

Mr. TELLER (to Mr. FORAKER). Have it printed.

Mr. FORAKER. I will offer the amendment now, and ask that it may be printed.

The VICE-PRESIDENT. The proposed amendment will be ordered to be printed and lie upon the table.

EXECUTIVE SESSION.

Mr. GALLINGER. I renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After sixteen minutes spent in executive session the doors were reopened, and (at 5 o'clock and 25 minutes p. m.) the Senate adjourned until tomorrow, Tuesday, May 8, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 7, 1906.

PROMOTIONS IN THE ARMY.

Lieut. Col. James B. Quinn, Corps of Engineers, to be colonel from May 5, 1906, vice Suter, retired from active service.

Maj. George McC. Derby, Corps of Engineers, to be lieutenant-colonel from May 5, 1906, vice Quinn, promoted.

Capt. Clement A. F. Flagler, Corps of Engineers, to be major from May 5, 1906, vice Derby, promoted.

First Lieut. Gustave R. Lukesh, Corps of Engineers, to be captain from May 5, 1906, vice Flagler, promoted.

Second Lieut. Robert P. Howell, jr., Corps of Engineers, to be first lieutenant from May 5, 1906, vice Lukesh, promoted.

APPOINTMENT IN THE NAVY.

Abraham H. Allen, a citizen of Pennsylvania, to be an assistant surgeon in the Navy from the 2d day of May, 1906, to fill a vacancy existing in that grade on that date.

PROMOTIONS IN THE NAVY.

Gunner Conrad W. Ljungquist to be a chief gunner in the Navy from the 10th day of March, 1906, upon the completion of six years' service, in accordance with the provisions of an act of Congress approved March 3, 1899, as amended by the act of April 27, 1904

Midshipman Bradford Barnette to be an ensign in the Navy from the 2d day of February, 1906, to fill a vacancy existing in that grade on that date.

REGISTER OF THE LAND OFFICE.

J. J. Payne, of Des Moines, Iowa, to be register of the land office at Des Moines, Iowa, vice Thornton S. Howard, term expired and resigned.

POSTMASTERS.

GEORGIA.

Stephen B. Vaughn to be postmaster at Augusta, in the county of Richmond and State of Georgia, in place of Edward D. Smythe. Incumbent's commission expired January 21, 1906.

INDIANA.

Walter G. Bridges to be postmaster at Greenfield, in the county of Hancock and State of Indiana, in place of Newton R. Spencer. Incumbent's commission expires June 5, 1906.

J. Albert Spekenhire to be postmaster at Richmond, in the county of Wayne and State of Indiana, in place of Daniel Surface. Incumbent's commission expires June 5, 1906.

Luther Worl to be postmaster at Matthews, in the county of Grant and State of Indiana, in place of Frank Smiley. Incumbent's commission expired March 15, 1906.

INDIAN TERRITORY.

John McL. Dorchester to be postmaster at Pauls Valley, District Seventeen, Indian Territory, in place of John McL. Dorchester. Incumbent's commission expired April 2, 1906.

KANSAS.

Lavelle H. Boyd to be postmaster at Russell, in the county of Russell and State of Kansas, in place of Lavelle H. Boyd. Incumbent's commission expires June 30, 1906.

KENTUCKY.

George M. Crider to be postmaster at Marion, in the county of Crittenden and State of Kentucky, in place of George M. Crider. Incumbent's commission expired January 13, 1906.

L. W. Key to be postmaster at Mayfield, in the county of Graves and State of Kentucky, in place of James H. Happy. Incumbent's commission expires May 14, 1906.

Samuel T. Moore to be postmaster at Princeton, in the county of Caldwell and State of Kentucky, in place of Samuel T. Moore. Incumbent's commission expired February 28, 1906.

MASSACHUSETTS.

Louise G. Newton to be postmaster at South Ashburnham, in the county of Worcester and State of Massachusetts, in place of Wilbur F. Whitney, resigned.

MICHIGAN.

William S. Linton to be postmaster at Saginaw, in the county of Saginaw and State of Michigan, in place of William S. Linton. Incumbent's commission expired March 31, 1906.

Henry D. Northway to be postmaster at Midland, in the county of Midland and State of Michigan, in place of Henry D. Northway. Incumbent's commission expires July 1, 1906.

MINNESOTA.

Kee Wakefield to be postmaster at Hutchinson, in the county of McLeod and State of Minnesota, in place of Kee Wakefield. Incumbent's commission expires May 8, 1906.

MISSOURI.

Willis E. Flanders to be postmaster at Paris, in the county of Monroe and State of Missouri, in place of Willis E. Flanders. Incumbent's commission expired January 22, 1906.

Joseph H. Smith to be postmaster at Warrensburg, in the county of Johnson and State of Missouri, in place of Nellie S. Van Matre, resigned.

Isaac N. Strawn to be postmaster at Hopkins, in the county of Nodaway and State of Missouri, in place of Isaac N. Strawn. Incumbent's commission expires June 28, 1906.

MONTANA.

Edward A. Winstanley, of Montana, to be receiver of public moneys at Missoula, Mont., to take effect May 21, 1906, at the expiration of his term. (Reappointment.)

NEBRASKA.

John R. Hays to be postmaster at Norfolk, in the county of Madison and State of Nebraska, in place of John R. Hays. Incumbent's commission expires May 19, 1906.

NEW HAMPSHIRE.

Addison H. Frizzell to be postmaster at Groveton, in the county of Coos and State of New Hampshire, in place of Addison H. Frizzell. Incumbent's commission expires June 11, 1906.

NEW JERSEY.

Henry B. Hagerman to be postmaster at Mahwah, in the county of Bergen and State of New Jersey. Office became Presidential January 1, 1906.

Carl L. Richter to be postmaster at Fort Lee, in the county of Bergen and State of New Jersey. Office became Presidential January 1, 1906.

NEW MEXICO.

Dora W. Howard to be postmaster at San Marcial, in the county of Socorro and Territory of New Mexico. Office became Presidential April 1, 1906.

NEW YORK.

Edward T. Cole to be postmaster at Garrison, in the county of Putnam and State of New York, in place of Edward T. Cole. Incumbent's commission expires July 1, 1906.

David O. Williams to be postmaster at Mount Vernon, in the county of Westchester and State of New York, in place of David O. Williams. Incumbent's commission expires June 24, 1906.

NORTH CAROLINA.

Patrick J. O'Brien to be postmaster at Durham, in the county of Durham and State of North Carolina, in place of Patrick J. O'Brien. Incumbent's commission expires May 19, 1906.

Joshua P. Jessup to be postmaster at Hertford, in the county of Perquimans and State of North Carolina, in place of Joshua P. Jessup. Incumbent's commission expires June 27, 1906.

Joseph G. Walser to be postmaster at Lexington, in the county of Davidson and State of North Carolina, in place of Joseph G. Walser. Incumbent's commission expired March 24, 1906.

NORTH DAKOTA.

Henry F. Speiser to be postmaster at Fessenden, in the county of Wells and State of North Dakota, in place of Homer A. Jackson, resigned.

OHIO.

George G. Sedgwick to be postmaster at Martins Ferry, in the county of Belmont and State of Ohio, in place of George G. Sedgwick. Incumbent's commission expires July 1, 1906.

PENNSYLVANIA.

Alpheus B. Clark to be postmaster at Hastings, in the county of Cambria and State of Pennsylvania, in place of Alpheus B. Clark. Incumbent's commission expired April 10, 1906.

George H. Moore to be postmaster at Verona, in the county of Allegheny and State of Pennsylvania, in place of George H. Moore. Incumbent's commission expired April 10, 1906.

Jesse N. Watson to be postmaster at Hatboro, in the county of Montgomery and State of Pennsylvania, in place of Jesse N. Watson. Incumbent's commission expired April 3, 1906.

Franklin Wisener to be postmaster at Beaver Falls, in the county of Beaver and State of Pennsylvania, in place of Harry F. Hawkins. Incumbent's commission expired January 30, 1906.

WASHINGTON.

William T. Cavanaugh to be postmaster at Olympia, in the county of Thurston and State of Washington, in place of William T. Cavanaugh. Incumbent's commission expired January 16, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 7, 1906.

PROMOTIONS IN THE ARMY.

Subsistence Department.

Maj. Albert D. Kniskern, commissary, to be deputy commissary-general with the rank of lieutenant-colonel from April 24, 1906.

Capt. Charles P. Stivers, commissary, to be commissary with the rank of major from April 24, 1906.

Artillery Corps.

Capt. John C. W. Brooks, Artillery Corps, to be major from March 16, 1906.

Capt. George T. Bartlett, Artillery Corps, to be major from March 26, 1906.

Capt. Charles A. Bennett, Artillery Corps, to be major from April 1, 1906.

Capt. Edward A. Millar, Artillery Corps, to be major from April 14, 1906.

Cavalry Arm.

First Lieut. Ben H. Dorcy, Fourth Cavalry, to be captain from April 26, 1906.

PROMOTION IN PORTO RICO PROVISIONAL REGIMENT OF INFANTRY.

Second Lieut. Pedro J. Parra, Porto Rico Provisional Regiment of Infantry, to be first lieutenant from February 23, 1906.

PROMOTIONS IN THE NAVY.

P. A. Surg. Holton C. Curl to be a surgeon in the Navy from the 16th day of December, 1905.

To be assistant naval constructors in the Navy from the 30th day of April, 1906, to fill vacancies existing in that grade on that date:

Edwin G. Kintner.
Alexander H. Van Keuren.
Paul H. Fretz.
Roy W. Ryden.
Fred G. Coburn.
Waldo P. Druley.

Lieut. Commander William L. Rodgers to be a commander in the Navy from the 7th day of January, 1906.

Lieut. Thomas J. Senn to be a lieutenant-commander in the Navy from the 7th day of January, 1906.

POSTMASTERS.

CALIFORNIA.

La Fevre Webster to be postmaster at Ventura, in the county of Ventura and State of California.

COLORADO.

Frank B. Thomas to be postmaster at Del Norte, in the county of Rio Grande and State of Colorado.

FLORIDA.

Dick M. Kirby to be postmaster at Palatka, in the county of Putnam and State of Florida.

ILLINOIS.

Levi W. Davison to be postmaster at Earlville, in the county of Lasalle and State of Illinois.

Milton A. Ewing to be postmaster at Neoga, in the county of Cumberland and State of Illinois.

Joseph E. Helfrich to be postmaster at Carthage, in the county of Hancock and State of Illinois.

Frank Rockwell to be postmaster at St. Charles, in the county of Kane and State of Illinois.

Jerome B. Stewart to be postmaster at Wilmington, in the county of Will and State of Illinois.

Sylvanus S. Thompson to be postmaster at Marseilles, in the county of Lasalle and State of Illinois.

KANSAS.

Frank E. Shoemaker to be postmaster at Neodesha, in the county of Wilson and State of Kansas.

Alonzo H. Williams to be postmaster at Holton, in the county of Jackson and State of Kansas.

LOUISIANA.

John A. Duplan to be postmaster at Patterson, in the parish of St. Mary and State of Louisiana.

MICHIGAN.

E. Harvey Drake to be postmaster at Yale, in the county of St. Clair and State of Michigan.

Hannibal A. Hopkins to be postmaster at St. Clair, in the county of St. Clair and State of Michigan.

John D. Smead to be postmaster at Blissfield, in the county of Lenawee and State of Michigan.

MINNESOTA.

Claude Atkinson to be postmaster at Hibbing, in the county of St. Louis and State of Minnesota.

John T. Hammar to be postmaster at Madison, in the county of Lac qui Parle and State of Minnesota.

Frank B. Lamson to be postmaster at Buffalo, in the county of Wright and State of Minnesota.

Fred A. Swartwood to be postmaster at Waseca, in the county of Waseca and State of Minnesota.

MISSOURI.

James H. Nay to be postmaster at Holden, in the county of Johnson and State of Missouri.

MISSISSIPPI.

William F. Elgin to be postmaster at Corinth, in the county of Alcorn and State of Mississippi.

Sallie Millsaps to be postmaster at Hazelhurst, in the county of Copiah and State of Mississippi.

NEBRASKA.

Edward R. Sizer to be postmaster at Lincoln, in the county of Lancaster and State of Nebraska.

NEW JERSEY.

Edward S. Hance to be postmaster at Wharton, in the county of Morris and State of New Jersey.

NORTH DAKOTA.

Arnold J. Brunner to be postmaster at Minot, in the county of Ward and State of North Dakota.

OHIO.

Samuel H. Bolton to be postmaster at McComb, in the county of Hancock and State of Ohio.

John H. Oakley to be postmaster at Ravenna, in the county of Portage and State of Ohio.

Manning M. Rose to be postmaster at Marietta, in the county of Washington and State of Ohio.

Seth M. Snyder to be postmaster at Coshocton, in the county of Coshocton and State of Ohio.

PENNSYLVANIA.

Silas C. Daugherty to be postmaster at Jeannette, in the county of Westmoreland and State of Pennsylvania.

Charles A. Dunlap to be postmaster at Manheim, in the county of Lancaster and State of Pennsylvania.

Richard M. Hunt to be postmaster at Houtzdale, in the county of Clearfield and State of Pennsylvania.

Lott I. Leech to be postmaster at Chicora, in the county of Butler and State of Pennsylvania.

R. A. Fulton Lyon to be postmaster at Greensburg, in the county of Westmoreland and State of Pennsylvania.

John Scher, jr., to be postmaster at Dushore, in the county of Sullivan and State of Pennsylvania.

Sydney S. Smith to be postmaster at Punxsutawney, in the county of Jefferson and State of Pennsylvania.

TENNESSEE.

Gale Armstrong to be postmaster at Rogersville, in the county of Hawkins and State of Tennessee.

Frank E. Britton to be postmaster at Jonesboro, in the county of Washington and State of Tennessee.

William A. Pamplin to be postmaster at Fayetteville, in the county of Lincoln and State of Tennessee.

TEXAS.

William S. Hart to be postmaster at Humble, in the county of Harris and State of Texas.

Tom Richards to be postmaster at Sherman, in the county of Grayson and State of Texas.

Walter S. Yates to be postmaster at Forney, in the county of Kaufman and State of Texas.

VERMONT.

Minnie A. Benton to be postmaster at Saxtons River, in the county of Windham and State of Vermont.

Fred G. Haskins to be postmaster at Bristol, in the county of Addison and State of Vermont.

Charles A. Parker to be postmaster at West Rutland, in the county of Rutland and State of Vermont.

David A. Perrin to be postmaster at White River Junction, in the county of Windsor and State of Vermont.

WASHINGTON.

James M. Vernon to be postmaster at Everett, in the county of Snohomish and State of Washington.

Emery Troxel to be postmaster at Connell, in the county of Franklin and State of Washington.

WISCONSIN.

Rollin C. Lybrand to be postmaster at Richland Center, in the county of Richland and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

MONDAY, *May 7, 1906.*

The House was called to order at 12 o'clock m. by the Speaker, who, on assuming the chair, was greeted with great applause.

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

O Thou who art supremely great and glorious, creating, recreating, life-giving, life-sustaining potentate, increase, we beseech Thee, our faith and confidence in Thee and in the integrity of mankind that, in spite of the enigmas of life, its sorrows and disappointments, we may, with unfaltering footsteps and undying allegiance to right, truth, and duty, follow the dictates of conscience wherever it may lead, leaving the result to Thee, who doeth all things well. Let Thy blessing descend upon each Member of this House, especially upon him who presides over its deliberations crowned by the glory of seventy years of usefulness to-day. Lengthen his years, keep him in health, strength, and vigor to his family, friends, and country. All of which we ask in the name of Jesus Christ, our Lord. Amen.

The Journal was read.

The SPEAKER. Without objection, the Journal will stand approved.

Mr. WILLIAMS rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry; has any motion been made to approve the Journal?

The SPEAKER. No motion has been made.

Mr. SHERMAN. Mr. Speaker, I move that the Journal be approved.

The SPEAKER. The gentleman from New York moves that the Journal be approved.

The question was taken; and the Chair announced that the ayes seemed to have it.

Mr. WILLIAMS. Mr. Speaker, upon that I call for the yeas and nays.

The SPEAKER. The gentleman from Mississippi demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Twenty-five have voted in the affirmative.

Mr. DALZELL. The other side, Mr. Speaker.

The SPEAKER. Those opposed to ordering the yeas and nays will rise and stand until they are counted. [After counting.] Upon this question there are 25 in the affirmative and 111 in the negative, not a sufficient number, and the yeas and nays are refused.

Mr. WILLIAMS. Mr. Speaker, upon this motion I ask for tellers.

The SPEAKER. The gentleman from Mississippi calls for tellers. [After counting.] Thirty-seven gentlemen have arisen—not a sufficient number; and tellers are refused and yeas and nays are refused [applause on the Republican side], and the Journal is approved.

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. Mr. Speaker, I move to suspend the rules and discharge the Committee on Indian Affairs from further consideration of the Indian appropriation bill with Senate amendments, to disagree to all the Senate amendments, and to ask a conference thereon with the Senate.

The SPEAKER. The gentleman from New York moves to suspend the rules and take from the Speaker's table the Indian appropriation bill with Senate amendments, disagree to the Senate amendments, and ask for a conference. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, I demand a second.

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from New York [Mr. SHERMAN] asks unanimous consent that a second may be considered as ordered.

Mr. WILLIAMS. Mr. Speaker, I object to that.

The SPEAKER. The gentleman from New York [Mr. SHERMAN] and the gentleman from Mississippi [Mr. WILLIAMS] will take their places as tellers.

The House divided; and the tellers reported—ayes 142, noes 52.

So a second was ordered.

The SPEAKER. The gentleman from New York [Mr. SHERMAN] is entitled to twenty minutes and the gentleman from Mississippi [Mr. WILLIAMS] to twenty minutes.

Mr. SHERMAN. Mr. Speaker, I simply desire to say that there are 212 amendments to the bill, that in amount there is nearly $3,000,000 added to the bill, that the amendments cover a wide range of subjects, including the ratification of agreements, including legislative matters as well as matters of appropriation, and it is apparent that an unusual amount of time must of necessity be consumed in the conference committee in giving full and proper consideration to all of these various amendments and the subjects to which they relate. Therefore, Mr. Speaker, it is perfectly clear to anyone that we should get into conference at the earliest possible moment. I reserve the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I quite agree with every word that has been uttered by the gentleman from New York, and I think the motion which has been made ought to prevail. I have been actuated merely by the desire to discover whether there was a quorum in the House of Representatives or not to do this or any other sort of business.

The SPEAKER. The question is on agreeing to the motion of the gentleman from New York.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended, and the motion was agreed to.

The SPEAKER. The Chair announces the following conferees on the part of the House: Mr. SHERMAN, Mr. CURTIS, and Mr. STEPHENS of Texas.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives, by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and joint resolution of the following titles:

On April 27:

H. R. 15910. An act to amend the act entitled "An act to regu-

late commutation for good conduct for United States prisoners," approved June 21, 1902.

On April 28:

H. R. 5297. An act for the relief of the board of trustees of West Tennessee College, Jackson, Tenn.;

H. R. 10152. An act granting certain lands to the city of Biloxi, in Harrison County, Miss., for park and cemetery purposes; and

H. R. 17135. An act providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected and select other lands from the public domain in lieu thereof.

On April 30:

H. R. 17217. An act to amend an act entitled "An act to establish a code of law for the District of Columbia," regulating proceedings for condemnation of land for streets; and

H. R. 18025. An act to regulate shipping in trade between ports of the United States and ports or places in the Philippine Archipelago, between ports or places in the Philippine Archipelago, and for other purposes.

On May 1:

H. R. 14508. An act permitting the building of dams across the north and south branches of Rock River, adjacent to Vandruffs Island and Carrs Island, and across the cut-off between said islands, in Rock Island County, Ill., in aid of navigation and for the development of water power; and

H. R. 11490. An act granting the Edison Electric Company a permit to occupy certain lands for electric-power plants in the San Bernardino, Sierra, and San Gabriel forest reserves, in the State of California.

On May 2:

H. R. 16954. An act providing for the reappraisement of certain suburban lots in the town sites of Port Angeles, Wash.

On May 3:

H. R. 11037. An act relating to the transportation of dutiable merchandise without appraisement;

H. R. 17757. An act extending to the subport of Spokane, in the State of Washington, the privileges of the seventh section of the act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement; and

H. R. 18709. An act making additional appropriations for the public service on account of the earthquake and attending conflagration on the Pacific coast.

On May 4:

H. R. 15911. An act to amend the laws of the United States relating to the registration of trade-marks.

On May 5:

H. R. 1565. An act for the relief of Theodore H. Bishop.

On May 7:

H. J. Res. 145. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers; and

H. R. 8997. An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes.

WHARVES, PIERS, AND OTHER STRUCTURES IN LAKE MICHIGAN.

Mr. CRUMPACKER. Mr. Speaker, I move to suspend the rules and pass House joint resolution No. 134, authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan adjoining certain lands in Lake County, Ind.

The SPEAKER. The gentleman from Indiana [Mr. CRUMPACKER] moves to suspend the rules and pass House joint resolution No. 134, which the Clerk will report.

The Clerk read as follows:

Resolved, etc., That the owners of the property known as sections Nos. 33 and 34, township 37, range 8 west, Lake County, Ind., be permitted to fill the whole, or such portions as they may elect, of the bed of Lake Michigan adjacent to such property, and within the boundary established by the extension of such section lines, out to a depth of water not exceeding 25 feet, and that such owners may be permitted to build wharves, piers, and such other structures as may be useful for occupancy or to promote navigation inside of and out to such 25-foot line: *Provided*, That the owners thereof shall present a map showing the line to which they intend filling and complete plans to the Secretary of War and Chief of Engineers, and until they shall approve the same this permission shall not be effective: *Provided further*, That this permit shall not conflict with any law or statute of the State of Indiana in which said property is located.

The SPEAKER. Is a second demanded?

There being no demand for a second, the question was taken; and (two-thirds voting in the affirmative) the rules were suspended and the joint resolution was passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading Clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 15331) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAPP, Mr. MCCUMBER, and Mr. DUBOIS as the conferees on the part of the Senate.

MARY E. DUGGER.

Mr. DALZELL. Mr. Speaker, I move to suspend the rules and pass the order which I send to the Clerk's desk.

The SPEAKER. The gentleman from Pennsylvania [Mr. DALZELL] moves to suspend the rules and pass the order which the Clerk will report.

The Clerk read as follows:

Ordered, That the motion to reconsider the vote whereby the House passed the bill (S. 1975) "granting an increase of pension to Mary E. Dugger" be, and hereby is, taken from the table and is agreed to; that the vote on the third reading of the said bill is hereby reconsidered; that the bill is hereby amended by inserting the initial "L," after the word "Jefferson," in line 6, so as to read "Jefferson L. Dugger;" and that the bill as amended be considered as read a third time, and passed.

The SPEAKER. Is a second demanded?

There being no demand for a second, the question was taken; and (two-thirds voting in the affirmative) the rules were suspended and the order was adopted.

PRIVILEGE TO CERTAIN BILLS.

Mr. HEPBURN. Mr. Speaker, I move to suspend the rules and pass the following order.

The SPEAKER. The gentleman from Iowa moves to suspend the rules and pass the following order.

The Clerk read as follows:

Ordered, That the privilege granted to bills reported from committees having the right to report at any time, be, and is hereby, granted to the following bills:

S. 88: "For preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes."

H. R. 18673: "To regulate the immigration of aliens into the United States."

Ordered further, That the bill (H. R. 17984) to provide a code of penal laws for the United States be, and hereby is, made a special continuing order for consideration at evening sessions of the House, whenever the House shall by vote take a recess from the usual hour of adjournment until 8 p. m., the said evening sessions not to continue after 10.30 p. m.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. I demand a second.

Mr. ADAMSON. I demand a second.

Mr. WILLIAMS. I demanded a second myself.

Mr. HEPBURN. I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. A gentleman who is opposed to the bill and on the committee would be entitled to demand a second.

Mr. ADAMSON. I am opposed to the bill, and have been for ten years; and if I live ten years longer I will still be opposed to it.

The SPEAKER. Very well, under the practice, the gentleman should have been recognized to demand a second.

Mr. HEPBURN. I request that a second may be considered as ordered.

The SPEAKER. Is there objection?

Mr. ADAMSON. I do not consent that a second be accorded. I ask for a vote.

The SPEAKER. The gentleman from Iowa [Mr. HEPBURN] and the gentleman from Georgia [Mr. ADAMSON] will take their places as tellers.

The House divided; and tellers reported—ayes 119, noes 29.

Mr. WILLIAMS. Mr. Speaker, I do not desire to make the point of no quorum, but I hope in order to obviate that necessity that this order will be divided. Here is an order taking a whole lot of bills, not homogeneous, not kindred one to the other, in order, with the privileges of appropriation bills, and providing for night sessions for their consideration.

The SPEAKER. The gentleman is in error as to the night sessions. The night session that is provided for is for the bill codifying the criminal code.

Mr. GAINES of Tennessee. The most important one of them.

The SPEAKER. And then only when the House recesses, and the usual motion to adjourn could cut it off.

Mr. WILLIAMS. Then, Mr. Speaker, I will modify my remarks in that respect. I read the order hastily. But the order provides to accord the right of privileged legislation to several bills in principle not homogeneous with each other.

Now, in explanation of my position, reserving the right to make the point of no quorum, I want to state that I called for a division this morning for the purpose of determining whether a quorum was present to transact this or any other business.

I am perfectly willing for the bills to be considered which may be brought before the House on motion to suspend, each upon its distinctive merits or demerits, at the time. I am perfectly willing to let the business under suspension of the rules go on, but I would like to ask the gentleman in charge of this order if it is not well to separate the bills in the order and make the order apply seriatum to each bill mentioned in the order instead of including them all in one order?

Mr. HEPBURN. I am perfectly willing for the gentleman to pursue any parliamentary course that he pleases in connection with the matter.

Mr. WILLIAMS. I was not asking the gentleman with a big club in my hand, Mr. Speaker. I am asking him sincerely whether or not he will agree to a motion to accord the privileges to each of these bills. I am asking the gentleman whether he is willing that this order shall be made applicable to each of the bills in their order asking for consideration.

Mr. HEPBURN. I am perfectly willing to allow the question to be determined in the usual parliamentary way. I have no agreement to make.

Mr. WILLIAMS. Then I will ask the Chair a parliamentary inquiry. Still reserving the right to make the point of order, I want to ask the Chair this question.

Mr. PAYNE. What is the point of order?

The SPEAKER. The House is now proceeding under unanimous consent.

Mr. PAYNE. What point is the gentleman making?

Mr. WILLIAMS. I am trying to arrive at a modus vivendi with the gentleman.

Mr. HEPBURN. I ask for the regular order.

Mr. WILLIAMS. Then, Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and eight gentlemen are present—a quorum.

Mr. WILLIAMS. Mr. Speaker, I call for tellers on the count.

Mr. PAYNE. I make the point of order against that. The rules provide how a quorum shall be ascertained, and a quorum has been ascertained.

The SPEAKER. The Chair holds that under the precedents the gentleman's demand is not in order, the point being made upon it. The gentleman can obtain the same result, as he is aware, by demanding the yeas and nays.

Mr. WILLIAMS. At this time?

The SPEAKER. When the House votes on the motion.

Mr. WILLIAMS. Very well, Mr. Speaker. I had my doubts myself as to whether I could call for tellers, but I wanted to submit it to the Chair.

The SPEAKER. The question is on suspending the rules and agreeing to the order. The gentleman from Iowa [Mr. HEPBURN] is entitled to twenty minutes, and the gentleman from Georgia [Mr. ADAMSON] is entitled to twenty minutes.

Mr. CLARK of Missouri. I should like to ask the gentleman from Iowa [Mr. HEPBURN] a question for information before this debate begins. Do you propose to hold the House here until you get this codification scheme through?

Mr. HEPBURN. We merely want a vote on this proposition that is now before the House.

Mr. CLARK of Missouri. Well, I know; but the proposition that is now before the House involves night sessions for the consideration of this revision or codification business—whatever it is—and the Clerk can not read the Revised Statutes of the United States between now and the 4th of March, if he reads five hours a day without ever stopping.

Mr. TALBOTT. Does this order include what is known as the "pure-food bill?"

Mr. WILLIAMS. Yes.

Mr. HEPBURN. I reserve the balance of my time, Mr. Speaker.

Mr. ADAMSON. I should like to have the Clerk read the proposition from the desk.

The SPEAKER. The Clerk will read.

The Clerk read the pending order again.

Mr. ADAMSON. Mr. Speaker, I have tried to understand the proposition, but gentlemen have prevented the Clerk from laying the matter before us. I thought we had a right to know what the proposition was.

As to night sessions, I have no disposition to resist them because I am here to work, and I am willing to work night or day for my constituents.

As to indiscriminate immigration, I am opposed to it.

Mr. PAYNE. Mr. Speaker, I make the point of order that there is so much confusion that gentlemen can not be heard.

The SPEAKER. The point of order is well taken. The House will be in order.

Mr. ADAMSON. I thank the gentleman from New York, Mr. Speaker. He is right for one of the few times in his life. I know he wants to be right, and he would be right but for his unfortunate environment. [Laughter on the Democratic side.]

As to the proposition about immigration, Mr. Speaker, I am against immigration to this country by anybody but industrious, healthy, and moral folks. I would not admit paupers, lunatics, nor diseased people.

Mr. CLARK of Missouri. Nor anarchists.

Mr. ADAMSON. Nor anarchists. I would not permit anybody to land on the shores of this, the greatest Republic on earth, except honest, good, straight people. [Applause.] I shall never say "nation." I say "Republic," because it is the greatest and best exhibition of brains and patriotism the world has ever seen, all combined to establish a republic.

As to the other proposition, my dear friend the gentleman from Iowa [Mr. HEPBURN], chairman of our Committee on Interstate Commerce, has inherited what he calls the "pure-food bill." It is not of his origination. Another man fomented it, and worked on it, and the gentleman from Iowa took it up. Instead of pure food, Mr. Speaker, it ought to be called "pure foolishness." That is what it ought to be named. [Laughter.]

It is a proposition to abolish all legal responsibility; it is a proposition to take up one industry and damn another. We have for eight years, in my experience in Congress, had hearings, and the whole output of the entire investigation has been with reference to prostituting the Federal Government, with its power and its money, to uphold one enterprise and destroy another.

Mr. Speaker, during this time a great many bad things have been developed in the hearings. There is not a solitary case ever developed that is not punishable by local authorities if the local authorities will do their duty. I want to say another thing; there are two or three features in that bill that are not only foolish, but vicious also.

There is one section in that bill that would fill this country with morphine and opium fiends. Read that section. It is a provision that any druggist may supply the customers with a concoction containing 2 grains of opium or one-quarter of a grain of morphine to each ounce whether fluid or solid.

More than that, Mr. Speaker, the bill contains a proposition to go into the regulations of the State and say whether or not you shall put so many ounces into a package. It proposes that if you sell a pound package and it is less than a pound the Federal Government will undertake to correct that crime. It is not only foolish, but illegal. I believe habeas corpus would discharge any man arrested under that provision.

I tell you, Mr. Speaker, the system of this Government as propounded by its founders is that people shall sweep in front of their own doors; that the Federal Government shall not be loaded down with all the domestic affairs, and you know it. The Federal Government was not created for the purpose of cutting your toe nails or corns. We ought to do our duty to the Government and State. There is not in this entire bill a proposition to punish any crime that your own State can not punish, if it will do its duty. All lawyers know it is the duty of the State and the right of the State to perform that part of the functions of government involving police duty. We all know that a venue has to be laid and proved, and if the Federal judges are as honest as the State judges the same requisites are necessary to convict a criminal. Is not that true? There is not in all the hearings for eight years on this pure-foolishness bill a case cited that we can not convict in Georgia or in Pennsylvania or any other State.

I will yield to the gentleman from Georgia [Mr. BARTLETT].

Mr. THOMAS of North Carolina. Mr. Speaker, a parliamentary inquiry?

The SPEAKER. The gentleman will state it.

Mr. THOMAS of North Carolina. I understand these propositions are tied together. We have got to vote for consideration of all of them or against consideration of all of them.

The SPEAKER. The motion is in that form.

Mr. THOMAS of North Carolina. These three propositions to be considered under the proposed order are the pure-food bill, the bill restricting immigration, and the penal code.

The SPEAKER. That is true unless the motion is modified, and it can only be divided by unanimous consent.

Mr. THOMAS of North Carolina. So that we are put in a position we must either vote for consideration of all of them or against consideration of all of them?

The SPEAKER. The gentleman will see that; the motion speaks for itself.

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. Have we not the right to call for a division of the vote?

The SPEAKER. The gentleman from Mississippi will notice that this is a motion to suspend all rules and pass the order—that is, without regard to rules. The request for a division is given under the rules; but this is a motion to suspend that rule as well as all others.

Mr. WILLIAMS. Until the motion to suspend all the rules is passed we are still working under the rule.

The SPEAKER. The motion is that the rules be suspended. The rule says that on certain Mondays it shall be in order to move to suspend the rules and pass the proposition.

Mr. WILLIAMS. Right there, Mr. Speaker, is the point whether or not even upon a motion to suspend the rules there is not the right to consider independent propositions contained in one order, separating one from the other?

The SPEAKER. And call for a division on the question?

Mr. WILLIAMS. Yes.

The SPEAKER. No; not under a uniform ruling of the Chair for a generation.

Mr. ADAMSON. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I do not desire to consume the time of the House except to put before the House, if it has not already understood it, what the proposition is. The proposition, as I understand it, is to pass this resolution, which gives certain bills named in the resolution the same privileges that bills coming from committees having the right to report and call up the bills they report at any time. Amongst these bills the first one proposed is what is known as the "pure-food bill," or rather the bill which by title and purport and intent is solely to provide against the misbranding of food products, drugs, etc.—the adulteration of foods, etc. The other bill, as I understand it, is the one which restricts immigration, and the third part of the order provides for the House having sessions in the evening to consider what is known as the bill for revision of the criminal laws of the United States for the purpose of codifying them. Taking up these laws in the inverse order in which they are stated in the rule, I apprehend that no lawyer upon the floor of this House, no man who has had occasion to practice in the United States courts, will doubt that the third proposition is of the utmost importance—a work that has been done, and I understand well done, by the Commission appointed by the President to revise and codify the criminal statutes. I have read the report which comes from the Committee on the Revision of the Laws, made by its able chairman, and I desire to say that it is a most painstaking, able, and elaborate report, and I believe that consideration ought to be given to that bill, that the country might know what the criminal statutes of the United States are that are in existence, and that the profession and the people may have ready access to a statute where they may be readily found. As for the immigration bill, I am in favor of many of the provisions of the bill reported, and believe that the Congress of the United States ought to enact law which would further restrict immigration to this country.

As for the other bill, known as the "pure-food bill," I do not deem it to be worthy of the consideration of the House as these other bills are. The bill proposes from its very title to the very last line written in it that the Congress of the United States shall enact purely police laws to govern the trade in certain foods and drugs. The phrase "interstate commerce" nowhere occurs in the title, so the bill itself is nothing more than a *bill to enact police* laws of the United States for the States of the Union—a thing which in my judgment Congress ought not and can not do. What the purpose of joining these two meritorious measures with the one which in my judgment is not meritorious, one that should not receive the sanction and approval of this House is, I do not know. This I do know: I am not in favor of, and I trust that this side of the House at least will not permit the joining of these two meritorious measures of which most of us are in favor, and I hope that the House will not permit this rule to be passed dragging along with these meritorious measures as it does the other bill which I do not believe we ought to consider or vote for—I mean the pure-food bill, at least not without ample debate. This bill known as the "pure-food bill," inaugurates here in Washington a bureau, another bureau in the Agricultural Department, for the purpose of enabling the Bureau of Chemistry of the Agricultural Department to declare what is adulterated and what is not adulterated food, and to establish standards of foods for all the States. It strikes down with one fell blow all the laws of the States of the Union that have been enacted in behalf and in the interest of pure food and the enforcement of pure-food laws. I do not care to further detain the House, Mr. Speaker. I apprehend all of those Members who have given the matter attention are fully aware of the provisions of the alleged pure-food bill. I desire to state this fact, that the committee from which this bill comes has not yet completed consideration of some amendments that have been suggested. There are some amendments that are very serious and of great importance that are still pending before that committee with a view of reporting them to the House and having them made a part of the bill as committee amendments. We expected to have further consideration in order that the bill, if it shall pass, may be perfected in many particulars.

Mr. Speaker, how much more time have I remaining?

The SPEAKER. The gentleman has three minutes remaining.

Mr. BARTLETT. Mr. Speaker, I yield three minutes to the gentleman from North Carolina [Mr. THOMAS].

Mr. THOMAS of North Carolina. Mr. Speaker, as I stated in my parliamentary inquiry a few moments ago, as I understand this situation, these three measures are tied together. I agree in part with my friend from Georgia [Mr. BARTLETT]. I do not see how any lawyer can possibly object to the consideration of the national penal code from the Committee on Revision of the Laws. I am not, of course, familiar with that legislation, but see no objection to its consideration. I agree with my friend from Georgia in that I am heartily in favor of the bill to restrict undesirable immigration. From the reports of the Commissioner of Immigration and the Secretary of Commerce and Labor and my research (my views being contained in the speech I have already made in this House upon the subject of further restrictions upon immigration) I believe that is a measure important to the interests of the American people at this time. As to the pure-food bill, I have not given it the investigation which I hope and expect to give it, but I wish to have the immigration bill considered, and it ought to be given consideration. I do not wish to lose this opportunity of getting that measure before the House.

Now, every Member of the House by this proposed order is placed in the position that he has got to vote to give or not to give precedence upon the Calendar—or, rather, to give or not to give the same right to these measures as is given to appropriation bills—and he has got to vote to give all of them that right or he has got to vote to give none of them that right, and I want the House to understand that. So far as I am concerned, being in favor as I am of the bill to restrict immigration, I do not see how I can vote otherwise than for this order, unless these propositions are separated, and I would much prefer to see them separated. But the Speaker informed me, upon my parliamentary inquiry, that the House would have to vote for consideration of all of the propositions or against consideration of all of the propositions, according to the proposed order, unless unanimous consent is given to vote upon them separately, and this can not be obtained, it is apparent.

Mr. ADAMSON. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has half of one minute.

Mr. ADAMSON. I yield that to Mr. HENRY of Texas.

Mr. HENRY of Texas. I do not desire the time.

Mr. CLARK of Missouri. A parliamentary inquiry, Mr. Speaker. Is there not any way of dividing this proposition?

The SPEAKER. The motion speaks for itself; it can not be divided except by unanimous consent.

Mr. HEPBURN. I yield five minutes to the gentleman from Alabama [Mr. RICHARDSON].

Mr. ADAMSON. I will ask the gentleman from Alabama to yield to me.

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Georgia?

Mr. RICHARDSON of Alabama. Certainly; I will yield to the gentleman from Georgia.

Mr. ADAMSON. Then I wish to ask the distinguished gentleman from Iowa if we can not have unanimous consent to divide the question?

Mr. HEPBURN. Regular order, Mr. Speaker.

Mr. RICHARDSON of Alabama. Mr. Speaker, as I understand, the effect of this proposition, so far as the pure-food bill is concerned, is to restore it to the position of privilege it lost a few days since. I desire to call the attention of the House to the remarks made by the gentlemen from Georgia [Messrs. BARTLETT and ADAMSON] in criticism made upon the pure-food bill. This House, Mr. Speaker, has become accustomed during the Fifty-seventh, Fifty-eighth, and Fifty-ninth Congresses to just such criticisms as those gentlemen have passed upon the pure-food bill.

Mr. ADAMSON. Will the gentleman from Alabama, who has lost his bearing on this question, yield?

The SPEAKER. Does the gentleman from Alabama yield?

Mr. ADAMSON. I ask that he have order and a respectful hearing.

The SPEAKER. The House will be in order.

Mr. RICHARDSON of Alabama. I say, Mr. Chairman, that these worthy and distinguished gentlemen simply repeat the misapplied theories of States rights to the pure-food bill. There is an express reservation found in section 12 of the bill that it shall not be construed to interfere with commerce wholly internal in any State nor with the exercise of their police powers by the several States, etc.

Mr. ADAMSON. Mr. Speaker——

Mr. RICHARDSON of Alabama. No; I can not yield to my friend at this moment.

Mr. ADAMSON. Just for——

Mr. RICHARDSON of Alabama. I have but five minutes allowed me and I regret that I can not yield further to the gentleman from Georgia [Mr. ADAMSON].

The SPEAKER. The gentleman declines to yield.

Mr. ADAMSON. Just a minute.

Mr. RICHARDSON of Alabama. The pure-food bill has been before the House certainly through the Fifty-seventh, Fifty-eighth, and Fifty-ninth Congresses, and at last the Senate, that has heretofore taken but little, if any, notice of any bills that have been passed by the House, have passed a bill, and it has come to the House, and we have perfected—if I may be allowed to say—that into one of the best bills probably that we have ever had before the House from the Interstate Commerce Committee, notwithstanding the objection made by the two distinguished Georgians. A pure-food bill passed the House in the Fifty-seventh and Fifty-eighth Congresses, and, with a part of the minority of the members of the Interstate Commerce Committee, I have been an earnest advocate of the passage by Congress of this legislation.

Mr. WILLIAMS. Mr. Speaker——

The SPEAKER. Does the gentleman from Alabama [Mr. RICHARDSON] yield to the gentleman from Mississippi?

Mr. RICHARDSON of Alabama. I yield with pleasure to the gentleman from Mississippi.

Mr. WILLIAMS. The question I wanted to ask the gentleman from Alabama was this: Even supposing his position is perfectly correct in regard to the pure-food bill—assuming that now for the sake of argument—does he think that that would justify coupling three or four bills together in one order, so as to logroll the support of each in support of all? Does he think that this parliamentary device is one which can be indorsed by any of us?

Mr. RICHARDSON of Alabama. I do not agree to that. I do not think they ought to be coupled together. I am in favor of giving the right of way to the pure-food bill and the immigration bill, but I do not desire to couple with them the bill for the revision of laws.

Mr. WILLIAMS. Very well, then. I hope to have the gen- understands that we are placed by this order in the parliamentary attitude that if we vote against one of these bills we are bound to vote against the consideration of all.

Mr. RICHARDSON of Alabama. I would like to see them considered separately, if the gentleman desires to know my view in regard to it. If I had my way, I would strike out the bill for the revision of laws and give the other two bills the privilege of being called up.

Mr. Speaker, we were talking about the pure-food bill and its merits, as I understand it. I desire the House to understand that we had uncontradicted and reliable testimony before the Interstate and Foreign Commerce Committee on this one article that there were 60,000,000 gallons of whisky made in the State of Kentucky annually, and that only 15,000,000 of it was pure. The rest is altogether adulterated. This is but a sample of the adulteration of various other food products. Yet gentlemen will say there ought to be no legislation on so important a subject as that of the purity of our food. This bill does not interfere with the honest dealer or manufacturer. And yet the fact remains, Mr. Speaker, that in many of the States where they have undertaken by statutes to regulate the adulteration of food it has totally and absolutely failed to accomplish the desired end. Why has it been a failure? It is simply because, as was so well described before the Interstate Commerce Committee, as was done by a gentleman from Michigan, that he had to prepare different brands or labels for different States where he sold his goods having practically the same statutes, because different State commissioners of food had given different constructions to really the same statute, and this gentleman had to make his cans and his preparations comply with the different constructions made by different State commissioners. What the commerce of the country desires is uniformity in our food standards. This can only be accomplished by Federal legislation.

The SPEAKER. The gentleman's time has expired.

Mr. RICHARDSON of Alabama. Mr. Speaker, I ask three minutes longer from the gentleman from Iowa [Mr. HEPBURN].

Mr. HEPBURN. Mr. Speaker, I yield three minutes more to the gentleman.

Mr. RICHARDSON of Alabama. I say, Mr. Speaker, that it is utterly impossible to enforce the different statutes of the different States on account of the difference of standards in the different States; hence arises the absolute necessity of legislation by Congress for the government of this matter. There are too many different constructions given in the different States to make it practicable to give the public the protection against fraud, deception, and misrepresentation so generally resorted to throughout the country in the matter of the sale of our food products. This bill that we have does not legalize in any improper or dangerous way the sale of opium or morphine or any of that nature of poisonous and destructive medicines, as has been charged. It merely provides, in that important feature, that the quantity or proportion of opium or morphine need not be stated on the label unless the proportion contained in an article is more than the Pharmacopœia provides; but wherever cocaine is used at all, it is required to be put upon the label. We know that soothing sirups and a great many innocent medicines of that kind that enter into daily domestic use have a certain amount of morphine or opium in them. Would anyone be so unreasonable as to require that to be labeled when it complies with the Pharmacopœia, as prescribed by the medical fraternity and by the pharmacists, who professionally prescribe these quantities? It would be a vexatious and unnecessary requirement in opposition to the aim and end of the bill.

Mr. ADAMSON. Mr. Speaker——

The SPEAKER. Will the gentleman from Alabama [Mr. RICHARDSON] yield to the gentleman from Georgia?

Mr. ADAMSON. I think I am within the rule when I ask the gentleman to yield to me one minute.

Mr. RICHARDSON of Alabama. I will yield.

Mr. ADAMSON. I want to ask the distinguished gentleman from Alabama, whom I love and honor as much as any Member of this House, if he can not discriminate between the rights of States and the duties of States?

Mr. RICHARDSON of Alabama. Oh, yes. I have been taught, Mr. Speaker, just as thoroughly as my friend from Georgia, what are the rights of States; and I have been taught at the same time that the Federal Government, in the exercise of its lawful and constitutional functions, has some rights also. I have already referred to the section of this bill that provides that this bill shall not be construed as interfering with any of the police rights of the States. I look at this matter in entirely a different light from my distinguished friend from Georgia [Mr. ADAMSON]. Constitutionally no law can be passed by Congress that usurps the positive and reserved rights of the States, but Congress can pass a law tending to aid and help the States that desire protection from unwholesome, unhealthy, adulterated foods by bringing about uniformity of rules and standards by which the public can be more efficiently protected. Mr. Speaker, I have taken occasion to say on this floor before that I am just as much imbued with the sanctity of rights of the States as anyone on this floor. I do not concede to anyone a greater love and respect than I possess for the rights of the State. I believe in and uphold the exercise of the fullest rights of the State. I believe in the power of the State as to the enactment of its criminal laws and the punishment of its criminals. I believe in the power of the State to protect its people and the lives of its people in the matter of health. I believe in the right of the State to preserve order. All of these questions, it seems to me, are easily understood and applied and can be exercised without conflict with the Federal Government. If the State is unable by reason of impracticable conditions to make efficient its own laws, then the Congress of the United States has the constitutional right to so legislate as to help the State. This bill, if it becomes a law, will not hinder or prevent any State from enacting and enforcing the most drastic laws for the regulation of the sale of adulterated food products. Why, then, should our States rights friends complain?

Mr. HEPBURN. I yield to the gentleman from Pennsylvania [Mr. MOON].

Mr. MOON of Pennsylvania. Mr. Speaker, I rise for the purpose of correcting a misapprehension as to the length of the bill embracing the penal code of the United States. The impression seems to exist here that this bill includes an entire

revision of the laws. I want to state that it is a short bill, embracing less than 400 sections, and that it is a bill which can be read in the short space of two or three evenings. What length of time it would take to discuss it, of course I can not undertake to say; but it is a bill in itself that will not take a very protracted time of the session of Congress for the purpose of reading.

Mr. CLARK of Missouri. Mr. Speaker, I would like to ask the gentleman one question.

The SPEAKER pro tempore (Mr. LITTLEFIELD). Does the gentleman yield?

Mr. MOON of Pennsylvania. Certainly.

Mr. CLARK of Missouri. Now, when that bill is brought in here as part of the statute law that is now law, will it be susceptible to debate and amendment? If so, will it not take from now until the 4th of March to get through with it?

Mr. MOON of Pennsylvania. I understood the gentleman to say it would take from now to the 4th of March to read it.

Mr. CLARK of Missouri. It would if the whole thing is run through.

Mr. MOON of Pennsylvania. I am only speaking of the time required for the reading of this bill, which embraces about 258 pages in all. It embraces simply the penal laws of the United States.

Mr. BARTLETT. As they have been collated.

Mr. MOON of Pennsylvania. Yes. Respecting the other question, I would not assume now to say. But my impression is they would be subject to amendment and discussion.

Mr. CLARK of Missouri. Now, if that is the case, then the opinion of everyone in the House is liable to be expressed as to whether the law that is now the law should still remain the law or be modified in any respect.

Mr. MOON of Pennsylvania. That may possibly be true.

Mr. CLARK of Missouri. And there is certainly enough in the criminal code for debate to last twelve months.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOON of Pennsylvania. I would like a moment or two more.

Mr. HEPBURN. I yield a few moments.

Mr. MOON of Pennsylvania. I want to say that as far as the report of the committee itself is concerned, they have recommended but few changes in existing law; they refer to only a very few sections. The length of time required for the discussion of the bill I do not attempt to predict. I rise only for the purpose of correcting the impression that the reading of the bill would require a great deal of time. It is not in itself a very long bill. I repeat—less than 400 sections.

Mr. HEPBURN. It seems to me, Mr. Speaker, that gentlemen do not understand the proposition before the House. It is simply for the purpose of restoring——

Mr. ADAMSON. Mr. Speaker, will the gentleman yield to me for a question?

Mr. HEPBURN. For what purpose does the gentleman rise?

Mr. ADAMSON. I want to ask you a question.

Mr. HEPBURN. I yield for a question.

Mr. ADAMSON. I know you can answer it. Do you not think that individualism and local responsibility are the guaranty of the safety of the Republic? [Laughter.]

Mr. HEPBURN. I will answer that on some other occasion. I want to say at this time that the purpose of this order is this: It will be remembered that not many days ago the bill (S. 88) providing for the prevention of adulteration or misbranding of foods or drugs was made a special order. It was not called up at the time named in the order, because on that day an appropriation bill was before the House, and it is believed by many that therefore it lost its privileged character. The purpose of this order is to restore that privilege, in order that the bill, later on, when appropriation bills are not in the way, may be called up and considered. The order further provides——

Mr. BARTLETT. Will the gentleman yield to me for a question?

Mr. HEPBURN. Certainly.

Mr. BARTLETT. The gentleman understands that when the special order was made it provided that a certain time would be given for debate. This rule does not provide anything of the kind.

Mr. HEPBURN. That is true.

Mr. BARTLETT. It was the understanding when the special order was unanimously agreed to that at least a certain time for debate should be had upon the bill. This bill does not follow that in any way.

Mr. HEPBURN. I say that it does not, although I have no doubt but that every effort will be made by the friends of the bill to secure full time for its consideration.

Mr. Speaker, this order covers another bill to regulate the immigration of aliens into the United States, and a little further, one to provide for considering a bill providing a code of penal laws for the United States. The latter is conditional. That bill is to be considered at evening sessions—such evening sessions as the House at some future time may provide for. If it does not provide for them, then nothing will come from this provision in this order.

I ask for a vote.

The SPEAKER. The question is on the motion to suspend the rules and adopt the order.

Mr. WILLIAMS. Mr. Speaker, to save the time of the House we had better have the yeas and nays.

The question being taken on ordering the yeas and nays, there were 36 ayes.

Mr. ADAMSON. The other side, Mr. Speaker.

The negative vote being taken, there were 124 noes.

Accordingly (more than one-fifth voting in favor thereof) the yeas and nays were ordered.

The question was taken; and there were—yeas 189, nays 43, answered "present" 19, not voting 130, as follows:

YEAS—189.

Adams, Wis.	Davis, Minn.	Johnson	Reeder
Alexander	Dawes	Jones, Wash.	Reynolds
Allen, Me.	Dawson	Kelfer	Rhodes
Ames	De Armond	Kinkaid	Richardson, Ala.
Andrus	Dickson, Ill.	Kitchin, Claude	Rives
Babcock	Dixon, Ind.	Kitchin, Wm. W.	Rixey
Bannon	Dixon, Mont.	Klepper	Roberts
Barchfeld	Draper	Knopf	Robertson, La.
Bates	Dunwell	Knowland	Rodenberg
Bede	Dwight	Lacey	Russell
Beidler	Ellerbe	Landis, Chas. B.	Ryan
Bell, Ga.	Ellis	Landis, Frederick	Samuel
Bennet, N. Y.	Esch	Lawrence	Shartel
Bennett, Ky.	Fassett	Lilley, Conn.	Sibley
Birdsall	Finley	Loud	Slayden
Bishop	Fletcher	Loudenslager	Slemp
Bonynge	Flood	McCall	Small
Bowersock	Fordney	McCleary, Minn.	Smith, Cal.
Bradley	Foster, Ind.	McCreary, Pa.	Smith, Iowa
Brantley	Foster, Vt.	McKinney	Smith, Samuel W.
Brick	Gaines, Tenn.	McLachlan	Smith, Wm. Alden
Brooks, Colo.	Gaines, W. Va.	McMorran	Smith, Pa.
Broussard	Gardner, Mass.	Madden	Smyser
Brownlow	Gardner, Mich.	Mahon	Snapp
Burke, Pa.	Gillespie	Marshall	Southwick
Burnett	Gillett, Cal.	Maynard	Sperry
Burton, Del.	Goebel	Mondell	Stafford
Burton, Ohio	Graff	Moon, Pa.	Steenerson
Calderhead	Graham	Moon, Tenn.	Taylor, Ohio
Capron	Greene	Morrell	Thomas, N. C.
Cassel	Gregg	Mouser	Thomas, Ohio
Chaney	Grosvenor	Mudd	Tirrell
Clark, Fla.	Hamilton	Murphy	Townsend
Cocks	Hay	Needham	Trimble
Cole	Hayes	Norris	Volstead
Conner	Hedge	Olmsted	Vreeland
Cooper, Pa.	Heflin	Overstreet	Waldo
Cooper, Wis.	Hepburn	Page	Wallace
Cousins	Hermann	Palmer	Webb
Cromer	Hill, Conn.	Parker	Weeks
Crumpacker	Hinshaw	Parsons	Weems
Currier	Hoar	Payne	Wiley, N. J.
Curtis	Holliday	Pearre	Wilson
Cushman	Hubbard	Perkins	Woodyard
Dale	Huff	Pollard	Young
Dalzell	Hughes	Powers	
Darragh	Hull	Pujo	
Davidson	Humphrey, Wash.	Randell, Tex.	

NAYS—43.

Aiken	Garrett	Littlefield	Smith, Tex.
Bowers	Goldfogle	Lloyd	Spight
Bowie	Granger	McNary	Stanley
Broocks, Tex.	Henry, Tex.	Macon	Stephens, Tex.
Brundidge	Hill, Miss.	Minor	Sullivan, Mass.
Burleson	Humphreys, Miss.	Reid	Talbott
Clark, Mo.	Hunt	Rhinock	Towne
Clayton	Kellher	Robinson, Ark.	Wiley, Ala.
Cockran	Lester	Rucker	Williams
Fitzgerald	Lewis	Sheppard	Wood, Mo.
Floyd	Little	Sims	

ANSWERED "PRESENT"—19.

Adamson	Deemer	James	Ruppert
Bartholdt	Foss	Jenkins	Shackleford
Bartlett	French	Lever	Southall
Boutell	Garner	Livingston	Sparkman
Chapman	Goulden	Mann	

NOT VOTING—130.

Acheson	Butler, Tenn.	Field	Gronna
Adams, Pa.	Byrd	Finck	Gudger
Allen, N. J.	Calder	Fowler	Hale
Bankhead	Campbell, Kans.	Fulkerson	Hardwick
Beall, Tex.	Campbell, Ohio	Fuller	Haskins
Bingham	Candler	Garber	Haugen
Blackburn	Davey, La.	Gardner, N. J.	Hearst
Brown	Davis, W. Va.	Gilbert, Ind.	Henry, Conn.
Buckman	Denby	Gilbert, Ky.	Higgins
Burgess	Dovener	Gill	Hitt
Burke, S. Dak.	Dresser	Gillett, Mass.	Hogg
Burleigh	Driscoll	Glass	Hopkins
Butler, Pa.	Edwards	Griggs	Houston

Howard	Longworth	Patterson, S. C.	Sulzer
Howell, N. J.	Lorimer	Patterson, Tenn.	Tawney
Howell, Utah	Lovering	Pou	Taylor, Ala.
Jones, Va.	McCarthy	Prince	Tyndall
Kahn	McDermott	Rainey	Underwood
Kennedy, Nebr.	McGavin	Ransdell, La.	Van Duzer
Kennedy, Ohio	McKinlay, Cal.	Richardson, Ky.	Van Winkle
Ketcham	McKinley, Ill.	Schneebeli	Wachter
Kline	McLain	Scott	Wadsworth
Knapp	Martin	Scroggy	Wanger
Lafean	Meyer	Sherley	Watkins
Lamar	Michalek	Sherman	Watson
Lamb	Miller	Smith, Ill.	Webber
Law	Moore	Smith, Ky.	Weisse
Lee	Murdock	Smith, Md.	Welborn
Le Fevre	Nevin	Southard	Wharton
Legare	Olcott	Sterling	Wood, N. J.
Lilley, Pa.	Otjen	Stevens, Minn.	Zenor
Lindsay	Padgett	Sullivan, N. Y.	
Littauer	Patterson, N. C.	Sulloway	

So (two-thirds having voted in favor thereof) the order was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. SHERMAN with Mr. RUPPERT.

Mr. WANGER with Mr. ADAMSON.

Until further notice:

Mr. OTJEN with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. WATSON with Mr. SHERLEY.

Mr. NEVIN with Mr. FIELD.

Mr. LILLEY of Pennsylvania with Mr. GILBERT of Kentucky.

Mr. DAVIDSON with Mr. LEE.

Mr. SOUTHARD with Mr. PATTERSON of South Carolina.

Mr. DRISCOLL with Mr. RANSDELL of Louisiana.

Mr. MCGAVIN with Mr. SMITH of Maryland.

Mr. HASKINS with Mr. LEVER.

Mr. DOVENER with Mr. SPARKMAN.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. KENNEDY of Ohio with Mr. HOUSTON.

Mr. SCHNEEBELI with Mr. PATTERSON of Tennessee.

Mr. FOSS with Mr. MEYER.

Mr. DEEMER with Mr. KLINE.

Mr. BURKE of South Dakota with Mr. DAVEY of Louisiana.

Mr. WELBORN with Mr. GUDGER.

Mr. HITT with Mr. LEGARE.

Until May 24:

Mr. FULLER with Mr. RICHARDSON of Kentucky.

Until May 18:

Mr. CHAPMAN with Mr. HOPKINS.

For one week:

Mr. CAMPBELL of Ohio with Mr. SOUTHALL.

For this day:

Mr. LE FEVRE with Mr. MOORE.

Mr. KNAPP with Mr. LAMAR.

Mr. BINGHAM with Mr. HEARST.

Mr. BUCKMAN with Mr. BUTLER of Tennessee.

Mr. DENBY with Mr. MCDERMOTT.

Mr. KAHN with Mr. GARBER.

Mr. WOOD of New Jersey with Mr. WEISSE.

Mr. MILLER with Mr. WATKINS.

Mr. ADAMS of Pennsylvania with Mr. BURGESS.

Mr. WACHTER with Mr. TAYLOR of Alabama.

Mr. VAN WINKLE with Mr. SULZER.

Mr. STERLING with Mr. MCLAIN.

Mr. LOVERING with Mr. PATTERSON of North Carolina.

Mr. LONGWORTH with Mr. RAINEY.

Mr. LITTAUER with Mr. LINDSAY.

Mr. KETCHAM with Mr. LAMB.

Mr. HOWELL of New Jersey with Mr. GLASS.

Mr. GILBERT of Indiana with Mr. BYRD.

Mr. CAMPBELL of Kansas with Mr. BEALL of Texas.

Mr. BURLEIGH with Mr. BANKHEAD.

Mr. GRONNA with Mr. CANDLER.

Mr. HALE with Mr. DAVIS of West Virginia.

Mr. HENRY of Connecticut with Mr. GILL.

Mr. BUTLER of Pennsylvania with Mr. BARTLETT.

Mr. MCKINLEY of Illinois with Mr POU.

Mr. MCCALL with Mr. VAN DUZER.

Mr. KENNEDY of Nebraska with Mr. JAMES.

Mr. GILLETT of Massachusetts with Mr. JONES of Virginia.

Mr. ACHESON with Mr. ZENOR.

Mr. BOUTELL with Mr. GRIGGS.

On this vote:

Mr. SCOTT with Mr. GOULDEN.

Mr. FRENCH with Mr. HARDWICK.

Mr. TAWNEY with Mr. UNDERWOOD.

Mr. OLCOTT with Mr. SULLIVAN of New York.

The result of the vote was then announced as above recorded.

SUPPORT OF SCHOOLS, AND SO FORTH, IN ALASKA.

Mr. LLOYD. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3522) to amend an act entitled "An act to provide for the consideration and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 1 of an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905, be, and the same is hereby, amended so as to read as follows:

"SECTION 1. That all moneys derived from and collected for liquor licenses, occupation or trade licenses outside of the incorporated towns in the district of Alaska shall be deposited in the Treasury Department of the United States, there to remain as a separate and distinct fund, to be known as the 'Alaska fund,' and to be wholly devoted to the purposes hereinafter stated in the district of Alaska. One-fourth of said fund, or so much thereof as may be necessary, shall be devoted to the establishment and maintenance of public schools in said district; 5 per cent of said fund shall be devoted to the care and maintenance of insane persons in said district, or so much of said 5 per cent as may be needed; and all the residue of said fund shall be devoted to the construction and maintenance of wagon roads, bridges, and trails in said district: *And provided further*, That the clerk of the court of each judicial division of said district is authorized, and he is hereby directed, whenever considered necessary, to call upon the United States marshal of said judicial division to aid in the collection of said license moneys by designating regular or special deputies of his office to act as temporary license inspectors, and it shall be the duty of said United States marshal to render such aid; and the said regular or special deputies, while actually engaged in the performance of this duty, shall receive the same fees and allowances and be paid in the same manner as when performing their regular duties."

SEC. 2. That section 2 of said act be, and the same is hereby, amended so as to read as follows:

"SEC. 2. That there shall be a board of road commissioners in said district, to be composed of an engineer officer of the United States Army, to be detailed and appointed by the Secretary of War, and two other officers of that part of the Army stationed in said district and to be designated by the Secretary of War. The said engineer officer shall, during the term of his said detail and appointment, abide in said district. The said board shall have the power, and it shall be their duty, upon their own motion or upon petition, to locate, lay out, construct, and maintain wagon roads and pack trails from any point on the navigable waters of said district to any town, mining or other industrial camp or settlement, or between any such town, camps, or settlements therein, if in their judgment such roads or trails are needed and will be of permanent value for the development of the district; but no such road or trail shall be constructed to any town, camp, or settlement which is wholly transitory or of no substantial value or importance for mining, trade, agricultural, or manufacturing purposes. The said board shall prepare maps, plans, and specifications of every road or trail they may locate and lay out, and whenever more than $20,000 in the aggregate shall have to be expended upon the actual construction of any road or section of road designed to be permanent, contract for the work shall be let by them to the lowest responsible bidder, upon sealed bids, after due notice, under rules and regulations to be prescribed by the Secretary of War. The board may reject any bid if they deem the same unreasonably high or if they find that there is a combination among bidders. In case no responsible and reasonable bid can be secured, then the work may be carried on with material and men procured and hired by the board. The engineer officer of the board shall in all cases supervise the work of construction and see that the same is properly performed. As soon as any road or trail laid out by the board has been constructed and completed they shall examine the same and make a full and detailed report of the work done on the same to the Secretary of War, and in such report they shall state whether the road or trail has been completed conformably to the maps, plans, and specifications of the same. It shall be the duty of said board, as far as practicable, to keep in proper repair all roads and trails constructed under their supervision, and the same rules as to the manner in which the work of repair shall be done, whether by contract or otherwise, shall govern as in the case of the original construction of the road or trail. The cost and expenses of laying out, constructing, and repairing such roads and trails shall be paid by the Secretary of the Treasury, through the authorized disbursing officer of the board designated by the Secretary of War, out of the road and trail portion of said 'Alaska fund' upon vouchers approved and certified by said board. The Secretary of the Treasury shall, at the end of each month, send by mail to each of the members of said board a statement of the amount available of said 'Alaska fund' for the construction and repair of roads and trails, and no greater liability for construction or repair shall at any time be incurred by said board than the money available therefor at that time in said fund. The members of said board shall, in addition to their salaries, be reimbursed in the sums actually paid or incurred by them in traveling expenses in the performance of their duties, and shall be entitled to receive their actual expenses of living while serving as members of said board within the limits of the district and not stationed at a military post."

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the bill was passed.

SETTING ASIDE PUBLIC LANDS IN HAWAII.

Mr. KALANIANAOLE. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 10106) providing for the setting aside for governmental purposes of certain ground in Hilo, Hawaii, with the committee amendment.

The Clerk read the bill, as follows:

Be it enacted, etc., That all of the public land contained in block C, situated in the city of Hilo, island and Territory of Hawaii, be, and the same is hereby, set apart and declared to be a Government reservation and site for a Federal building or buildings, the same being more particularly described as the area contained in the following lines, to wit: Beginning at the west corner of Waianuenue and Bridge streets, the coordinates of which point are 3,373.1 feet north and 2,911.81 feet east of Halai trigonometrical station, and running by true azimuths 56 degrees 48 minutes 396.62 feet along Waianuenue street; 148 degrees 55 minutes 330 feet along Pitman street; 231 degrees 400.17 feet along Wailuku street; 328 degrees 55 minutes 370.47 feet along Bridge street to the point of beginning, and containing 3.19 acres, excepting therefrom so much of said tract as has been deeded to the Hilo Masonic Association of the Territory of Hawaii: *Provided*, That the superintendent of public works of the Territory of Hawaii is hereby authorized and directed to sell or otherwise dispose of whatever buildings are now located on the above-described reservation, in such manner as he may find most advantageous, such sale and removal to be made as rapidly as the existing leases on said ground expire, and the proceeds thereof to be applied by the superintendent of public works to the parking and general improvement of said Federal building site.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and, two-thirds having voted in favor thereof, the bill was passed.

PUBLICITY OF THE RECORD OF SPECIAL TAX RECEIPT HOLDERS.

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 14968) to amend the internal-revenue laws, so as to provide publicity of its records, a bill of my colleague (Mr. HUMPHREYS of Mississippi) which he has already explained to the House.

The Clerk read the bill, as follows:

Be it enacted, etc., That chapter 3 of the Revised Statutes of the United States be, and hereby is, amended in section 3240, so as to read:

"SEC. 3240. Each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and upon application of any person he shall furnish a certified copy thereof, as of a public record, for which a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested may be charged.

Mr. GROSVENOR. Mr. Speaker, I desire to ascertain, if possible, whether or not there is a quorum present? [Laughter.]

The SPEAKER. The Chair will count. [After counting.] Two hundred and seventy Members, a quorum is present. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the bill was passed.

ALLOTMENT OF TRIBAL INDIAN FUNDS.

Mr. LACEY. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 5290) providing for the allotment and distribution of tribal funds, with the amendment reported by the Committee on Indian Affairs.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President is hereby authorized, in his discretion, from time to time, to designate any individual Indian belonging to any tribe or tribes whom he may deem to be sufficiently advanced in civilization to be capable of managing his or her own affairs, and he may cause to be apportioned and allotted to any such Indian his or her pro rata share of any tribal or trust funds on deposit in the Treasury of the United States to the credit of the tribe or tribes of which said Indian is a member, and said amount shall be placed to the credit of such Indian upon the books of the Treasury, and the same shall be paid to such Indian at such times and in such manner as the President may direct: *Provided*, That no apportionment or allotment shall be made to any Indian until such Indian has first made an application therefor; and before any portion thereof is paid such Indian shall file a release of any further interest in the tribal or trust funds of such tribe or tribes of which he may be a member, such release to cover any funds that may thereafter be deposited to the credit of such tribe or tribes.

SEC. 2. That the President shall, by Executive order, prescribe rules and regulations to carry out the purposes of this act. Such regulations may also provide the method and proceedings for the distribution of the share of any allottee who may die before payment and after such allotment on the books of the Treasury Department.

Mr. FITZGERALD. Mr. Speaker, I demand a second.

Mr. LACEY. I ask unanimous consent that a second be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Iowa is entitled to twenty minutes and the gentleman from New York to twenty minutes.

Mr. HINSHAW. Mr. Speaker, I would like to ask the gentleman a question.

Mr. LACEY. I yield to the gentleman from Nebraska for a question.

Mr. HINSHAW. The bill says that after an allotment has been made any funds that may come into the tribal fund can not be allotted to that particular person who has received his allotment. Does the gentleman think that that would debar allottees from any considerable fund that might hereafter be apportioned?

Mr. LACEY. In any instance of that kind, where the allottee might fear anything of that kind he need not apply for his allotment.

Mr. HINSHAW. The chances are that any allottee would have knowledge of any funds that were coming into the tribal fund and so could protect himself?

Mr. LACEY. Oh, yes; and that was the reason the committee remodeled the bill.

Mr. HINSHAW. I think it is a very meritorious bill.

Mr. FITZGERALD. I would like to ask the gentleman from Iowa a question.

Mr. LACEY. I will yield to the gentleman.

Mr. FITZGERALD. Must the Indian have land allotted before he can apply for the allotment of the funds?

Mr. LACEY. In all cases Indians can have the land allotted under existing law, but there is no law in which they can have their share in the tribal fund allotted, and this authorizes the proceeding and designating from time to time such Indians as are capable of managing their own funds. Of course under existing law land allotments may be made to men who are not capable of handling their money, because the land allotments will be to them without any power of alienation in many instances for twenty-five years, and thus they may be protected. Of course this bill will apply only to those Indians whose intelligence would entitle them to handle their own affairs. There are a great many Indians of that kind, many of them well-educated men. I have in mind some gentlemen who are college graduates, men engaged in the professions, men of a high order of intelligence and education, whose money is tied up in these tribal funds and who would no doubt be at once designated to withdraw their share of the fund and be relieved entirely from governmental guardianship thereafter.

Mr. FITZGERALD. As I recollect the law regarding the allotment of lands, that can be done by the President, but no Indian can apply and have an allotment of land made to him.

Mr. LACEY. Yes; an Indian can apply for an allotment on the public lands where he does not belong or is not attached to any specific tribe. There is a general law by which he may be allotted on the public domain, but nearly all the allotments of lands to Indians grow out of treaties or some arrangement being made to break up the reservation and give to the individuals farms to begin with and dispose thereafter of the remainder of the land for settlement.

Mr. FITZGERALD. The gentleman from Iowa does not believe that it would be possible for any Indian to have his share of tribal funds allotted to him previous to having an allotment of lands, where the tribe holds certain lands.

Mr. LACEY. It is not at all likely, because provisions for allotment of lands are so much more liberal and easy than this would be. This would carry out in a general way to competent Indians practically what was done with the Kaw Indians. Their money has all been divided, and they are all now citizens on their farms.

Mr. FITZGERALD. I would say to the gentleman that with him I favored some such bill, but I was in favor of incorporating into the bill to be passed a provision that no Indian could have an allotment of tribal funds made unless he at the time had an allotment of lands.

Mr. LACEY. Well, the individual Indian must first make his application, and when it is found that he is entirely capable of handling these funds, the President then may designate him. I think the bill does not go as far as my friend from New York would have gone, and certainly not as far as I would have gone if I could have had my own way about it, but it is a step in the right direction of eliminating a considerable number of Indians, who are not only citizens, but intelligent and capable citizens and able to take care of their own affairs.

Mr. HINSHAW. Mr. Speaker, one more question. This provides, does it, that all the funds are to be allotted and no reservation to be made of school funds or any part of the whole fund, to be kept back for Indian schools?

Mr. LACEY. The funds in question are trust funds, belonging to certain tribes. One tribe has a large fund and another a small fund. From year to year the interest on those funds has been paid out in annuities to various Indians. This proposes, as the money really belongs to them and the Government is only a trustee, that certain designated Indians, who are capable of managing their own affairs, will draw their share out of

that fund, and that then such allottees will all drop into the common mass of American citizenship.

Mr. HINSHAW. The entire fund is divided pro rata? That is, so that the particular Indian gets his pro-rata share of the entire fund?

Mr. LACEY. At the time of the division; yes.

Mr. HINSHAW. And it does not in any way affect the lands which have been or will hereafter be allotted.

Mr. LACEY. Not at all. I might add that this bill has been carefully considered by the Indian Bureau, and the Bureau would like to have gone much further than this bill goes, but it certainly is good as far as it goes. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] is recognized.

Mr. FITZGERALD. Mr. Speaker, I have no desire to use any time.

The SPEAKER. The question is on the motion of the gentleman from Iowa to suspend the rules and pass the bill.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

BOUNDARY RESERVATION AT HOT SPRINGS, ARK.

Mr. ROBINSON of Arkansas. Mr. Speaker, I call up the bill (H. R. 8976) to change the line of the reservation at Hot Springs, Ark., and of Reserve avenue, and move to suspend the rules and pass the bill as amended, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the line of the Government reservation at Hot Springs, Ark., and of Reserve avenue, be changed so as to run from stone monument 26 to stone monument 28 on a direct line, instead of running from 26 to 27 and thence to 28, as it now does: *Provided*, That the tract of land thus excluded from the reservation by changing the lines as above be ceded to the city of Hot Springs, to become a part of Reserve avenue and to be used for street purposes only; to be accepted by the city without change of the opposite (southerly) boundary line of said avenue.

Mr. WILLIAMS. Mr. Speaker, for the purpose of obtaining an explanation I will demand a second. This bill just donates to the town certain land for street purposes?

Mr. ROBINSON. I can not hear the gentleman, Mr. Speaker.

Mr. WILLIAMS. Does this bill simply donate to the city——

Mr. ROBINSON. It does not donate anything. This bill simply changes the line of one street in the city of Hot Springs. It is made necessary because it is on the reservation and is under the control of the Interior Department. The bill is recommended by the Interior Department, the War Department, and unanimously reported by the Committee on Public Lands. The superintendent of the reservation writing about the bill says, among other things, "the bill is all right and will materially improve both the reservation and the street."

Mr. WILLIAMS. What it does, then, is simply to give permission to take some more of the reservation for an addition to the street?

Mr. ROBINSON of Arkansas. No, sir; it does not do that. It changes the line of the street. It straightens out a crooked street in the city of Hot Springs. It is intended to beautify the street.

Mr. WILLIAMS. And in doing that, of course, it gives some of the street to the reservation and some of the reservation to the street?

Mr. ROBINSON of Arkansas. No, sir; under the amendment that is adopted the line of the reservation is not changed.

Mr. WILLIAMS. If it does not touch the reservation or take some of the reservation, what has the Federal Government to do with it?

Mr. ROBINSON of Arkansas. The gentleman from Mississippi will understand the street on the reservation is part of the reservation, so it is not affected except as to one side of the street. It does change the line, but does not take anything off the reservation.

Mr. HENRY of Texas. Does not broaden it?

Mr. ROBINSON of Arkansas. No; it straightens out the street. The street runs from stone monument 26 to stone monument 27 and then to stone monument 28, and this bill merely straightens it out and runs the line direct from stone monument 26 to stone monument 28 on the reservation.

Mr. WILLIAMS. Then, as I understand, it does as I thought.

Mr. ROBINSON of Arkansas. I do not know what the gentleman thought.

Mr. WILLIAMS. It straightens the street and, by straightening it out, all the street now being upon the reservation, the Government takes some land now in the street over to the balance of the reservation and takes some of the balance of the reservation over for the new street.

Mr. ROBINSON of Arkansas. Well, I do not think that is true, because it provides that the southern boundary line shall not be changed.

Mr. WILLIAMS. Does it change the northern boundary line?

Mr. ROBINSON of Arkansas. Yes, sir.

Mr. WILLIAMS. Then, in changing it, of course it takes in some more land, does it not?

Mr. ROBINSON of Arkansas. Yes, sir; but the whole street is on the reservation.

Mr. WILLIAMS. Then, if the whole of the line is on the reservation, it takes in some more of the reservation?

Mr. ROBINSON of Arkansas. I am utterly unable to understand what the gentleman is driving at.

Mr. WILLIAMS. I was trying to arrive at the connection between the bill and the Federal Government. Now, if I understand, the whole street is upon the reservation?

Mr. ROBINSON of Arkansas. Yes, sir.

Mr. WILLIAMS. And the interest the Federal Government has in it is this, that without the consent of the Federal Government the line of the street can not be changed so as to go upon some part of the reservation not now in the street?

Mr. ROBINSON of Arkansas. Certainly.

Mr. WILLIAMS. That is what I have been asking and trying to ascertain. I have no objection to the bill at all, and I withdraw the demand for a second.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the bill was passed.

FORT BRADY MILITARY RESERVATION, SAULT STE. MARIE, MICH.

Mr. YOUNG. Mr. Speaker, I move to suspend the rules and pass the bill S. 2801, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 2801) to withhold from sale a portion of Fort Brady Military Reservation, at Sault Ste. Marie, Mich.

Be it enacted, etc., That that portion of the military reservation known as Fort Brady, in the city (late village) of Sault Ste. Marie, in the State of Michigan, bounded on the north by that part of Water street adjacent to the Government park, on the east by Brady street, on the south by Portage avenue, and on the west by Bingham avenue, be, and the same is hereby, reserved from sale under the authority of the act of Congress authorizing the sale of Old Fort Brady, approved July 8, 1886, and that the same be set apart for a site for a public building at Sault Ste. Marie, Mich.

The SPEAKER. Is a second demanded?

A second not being demanded, the question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

COUNTY OF CLINTON, IOWA.

Mr. DAWSON. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18330) entitled "An act transferring the county of Clinton, in the State of Iowa, from the northern judicial district of Iowa to the southern judicial district of Iowa."

The SPEAKER. The gentleman from Iowa moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the county of Clinton, in the State of Iowa, be, and the same is hereby, transferred from the northern judicial district of the United States circuit and district courts for the State of Iowa to the southern judicial district of the United States circuit and districts courts of the said State of Iowa, and that the said county of Clinton be, and the same is hereby, made a part of the Davenport division of the said southern judicial district of Iowa.

SEC. 2. That all civil process issued against persons resident in the said county of Clinton and cognizable before the United States courts shall be made returnable to the courts, respectively, to be held at the city of Davenport, Iowa, and all prosecutions for offenses committed in said county of Clinton shall be tried in the appropriate United States courts at the city of Davenport, Iowa: *Provided*, That no process issued or prosecution commenced or suit instituted before the passage of this act shall be in any way affected by the provisions hereof.

The SPEAKER. Is there a second demanded?

No second being demanded, the question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

HOMESTEADS TO NATIVES OF ALASKA.

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and put upon its passage the bill (S. 5537) entitled "An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska."

The SPEAKER. The gentleman from Mississippi moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and empowered, in his discretion and under such rules as he may prescribe, to allot not to exceed 160 acres of nonmineral land in the district of Alaska to any Indian or Eskimo of full or mixed blood who resides in and is a native of said district, and who is the head of a family, or is 21 years of age; and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress. Any person qualified for an allotment as aforesaid shall have the preference right to secure by allotment the nonmineral land occupied by him not exceeding 160 acres.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

CLAIM OF THE UNITED STATES AGAINST THE STATE OF MICHIGAN.

Mr. TOWNSEND. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3436) to provide for the settlement of the claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with St. Marys Falls Ship Canal.

The SPEAKER. The gentleman from Michigan [Mr. TOWNSEND] moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That upon the payment by the State of Michigan of $68,927.12 into the Treasury of the United States, the Attorney-General be, and is hereby, authorized to settle and dismiss from the Supreme Court of the United States a suit in equity now pending therein in which the United States is complainant and the State of Michigan is defendant, and to relinquish all further claims against said State, including interest upon said amount, which have arisen by reason of its trust in constructing and operating St. Marys Falls Ship Canal and locks: *Provided*, That such payment is made within ninety days from the passage and approval of this act.

The SPEAKER. Is a second demanded?

Mr. BARTLETT. I want to inquire if this bill is reported by the committee?

Mr. TOWNSEND. Yes, sir. It has been reported by the Judiciary Committee.

Mr. Speaker, the State of Michigan began as early as 1850 to urge upon Congress some method of developing the vast mineral, timber, and grain resources of upper Michigan, northern Wisconsin and Minnesota in a commercial way through the improvement of St. Marys River, the outlet from Superior to Huron. At that time Government lands were considered worth scarcely anything. The only method of reaching that northern region was through its waterways, and navigation was stifled, to a large extent, because the great and valuable products of that country were of such bulk and character that they could not be conveniently subjected to portage round the Falls of St. Marys. Men of advanced ideas and comprehensive prevision saw the vast opportunities for the welfare of the country that could be made available by a short canal and a lock to avoid the cataract and let the commerce of the Great Lakes, up and down, pass through the St. Marys River.

The question of State action upon the part of Michigan was carefully considered, but in that early day it had no resources either of property or others that could be made available by State taxation to do this work. The legislature, inspired by the influence of prominent men, memorialized Congress for a grant of lands for the purpose of this work, and the act of August 26, 1852, passed, appropriating to Michigan 750,000 acres of land for the enterprise. It was the most judicious grant from the public domain ever made. The State took up the trust under careful restriction, used the land, and accomplished the purpose. The canal became operative about 1855, and from that time onward until 1882 it was operated by the State of Michigan—a period of about twenty-seven years.

No trust in the interest of the people was probably ever managed with such skill, economy, and beneficial results as this one. Not a dollar was lost in the disposal of the lands which were practically exchanged for the construction of a finished canal and lock. The charges for toll through the canal were kept to the very minimum of expenditure in care and maintenance. The canal board, charged by the State with its management, served without salary above actual expenses. The superintendent was paid only such a meager salary as furnished him comfortable days' wages. The collector, employed only during the season of navigation, always served at a compensation that would now be regarded as small for an ordinary clerk in the Departments here. The toll was thus reduced to a very minimum upon the commerce passing through the canal. The difficult, and at times hazardous, work of maintenance and repair was reduced in expense to the lowest possible sum, and during these twenty-seven years of the upbuilding of a great freighting business the State of Michigan as a government never profited a dollar by reason of its trust.

Had the State of Michigan alone been benefited through its development by the great work accomplished, there would probably now have been no reason for asking relief at the hands of Congress; but a brief résumé will serve to show that it was only relatively benefited, and that the entire northern portion of the United States was to a greater or less degree the recipient of benefits from this work. While at first the iron and copper regions of the upper peninsula of Michigan were rendered productive and their development made possible, very rapidly other interests became involved, viz, the mineral resources of northern Wisconsin and northeastern Minnesota, the vast pine regions of the same States, and very soon the great wheat fields of Minnesota and the Dakotas felt the influence of the commerce over this waterway. Almost the entire copper output of the country, which built up to a great degree the wealth of Boston and other portions of New England, the iron ore which developed Cleveland, Erie (Pa.), and to some extent Pittsburg, the great steel and iron interests of Milwaukee and Chicago—all these were produced as the result of this canal. Emigrants from the east to the northwest availed themselves of it; supplies from New York, Pennsylvania, Ohio, Indiana, Illinois, and Wisconsin, all were shipped up into the Lake Superior country to a large and constantly increasing extent, until at the time the canal was turned over to the General Government the volume had increased with such rapidity and to such a magnitude that it was difficult to realize the full measure of importance attained by and through the St. Marys Canal.

Then came in the vast lumber interests. Probably no finer bodies of timber were ever brought into use for the upbuilding of all the country tributary to the Erie Canal to the territory in New York, Pennsylvania, Ohio, Indiana, Illinois, and all the States lying west of the same, than that which border upon or lie adjacent to Lake Superior. Lumber cut from these forests was distributed over the entire northern half of the country as far west as the Rocky Mountains, to a greater or less degree. But along about 1880 the great increase in the use of this canal, the improvements in widening and deepening the St. Clair flats near Detroit and the St. Marys River below the canal, made necessary a new and marked departure from the comparatively limited capacity of its original construction. This was recognized by the people of all the States involved in the lake-carrying trade, and it was unselfishly recognized by the State of Michigan. Exercising the mere trust in the premises, it was probably not within the constitutional power of the State of Michigan to levy taxes upon its inhabitants and property to construct a greater and enlarged canal and locks. It was not, strictly speaking, a State work. The State had merely acted as trustee for the General Government. It could not justify the diversion of funds from its own people to improve or facilitate the operations of a matter in which it was a trustee and in which other States (in fact a large portion of the United States) were being relatively benefited, and yet the conditions of commerce required a forward movement.

Having never benefited a penny and having unselfishly carried on and executed its trust, Michigan, through its legislature, proposed to put the canal back into the hands of the General Government, which alone had the means and power to deal with the situation in a way commensurate with its importance.

Had the General Government surrendered all claim of the State to the property in question, the State might then have proceeded to create a great improvement which would have been to it and to its citizens a financial success as a money-making institution, but no such thing was contemplated for a moment by the State, nor was the United States Government, through its officers in charge of the improvements upon the Great Lakes, in sympathy with such a course, and Congress, had it been proposed, would undoubtedly have been met at once by the united forces of all the other States immediately benefited, and properly so. Moreover, St. Marys River is a Federal—in fact, an international—stream. Without, therefore, putting in any bill for its great care and meritorious services, without asking for a dollar for remuneration for the execution of its trust in the commendable way already set forth, it was decided to turn over to the General Government the work as it was, in excellent condition. Even the tools that had been used were surrendered, and the money which had been collected and was then on hand, amounting to about $68,000, was also ready to be turned over, when called for by the General Government, as a part of the assets of the canal and of the trust.

A proviso was made in the resolution of the Michigan legislature that money should be devoted to the construction of a dry dock, which was then greatly needed for the benefit of commerce in that region, none of any consequence being available nearer than Detroit or Chicago, and navigation in the upper ends of Lakes Huron and Michigan and in all Lake Superior

being subject at all times to greater or less difficulty and danger to the vessel interests.

The Federal Government accepted and took over the canal. It paid no attention to the proviso of the Michigan legislature even as an appeal to its generosity. It never constructed any dry dock, and, what is more, it never called for the money. Had it been a private individual or corporation submitting a trust to a trustee involving twenty-seven years of continuous exercise of a trust function, but leaving for eighteen years thereafter what was left of the trust in the hands of a trustee without calling for it, it would have probably been conceded in any court of equity that the trustee was entitled to retain the funds thus left in its hands, and such undoubtedly was the construction of the matter placed upon it by the Michigan legislature in 1897, after the money had lain in the treasury of Michigan for fifteen years, when such legislature passed the resolution transferring this $68,000 to the general fund of the State. In fact, however, not until about 1901 was any such claim made, and none would probably ever have been made had it not been for the mistaken sense of duty upon the part of a resident of Sault Ste. Marie, who called the attention of the Attorney-General to the existence of this fund and suggested that the State be called upon for the fund, and that Congress devote it to the purpose of constructing a marine hospital, which was very much needed at that place. Having thus been stirred up, the Government decided to demand of the State authorities the fund in question and asserted its right of ownership of the same.

It was even a consideration upon which lawyers were not entirely agreed as to whether it was a trust at all. In other words, whether the terms of the act of Congress appropriating to the State of Michigan the 750,000 acres of land were not an actual grant to that State for its own State improvements. So strongly was this question debated that the State so claimed in its answer to the bill in equity, filed by its attorney-general, and upon these lines the case was decided by the United States Supreme Court in favor of the Government. Upon various theories of the lawyers of the Department of Justice, the interest upon this fund during all these years would reach somewhere between thirty and fifty thousand dollars, depending upon what theory the court might decide was the proper one to apply. But at the very outside figure the amount of this interest which Congress is now asking to relieve the State from paying, in case the Supreme Court should hold in favor of the Government, for the twenty-seven years the State was building and managing this canal, would not be an allowance to the State of more than $2,000 per year for what it did. And the United States and the world at large had received incalculable benefits from that work, without any effort, without even a shadow of concern, without sweating a hair, without a feeling being ruffled. But Michigan, which took upon itself and carried the burden, accomplished the work and deserved the merit and the gratitude of the entire country for its faithful performance of its duty, is now pursued by the Government of the United States to the last pound of flesh and last drop of blood.

By the terms of the proposed bill it is required to pay over the money on hand, and if this bill should not be passed and the court should hold in favor of the Government on this question of interest, it would be required and exacted that it should actually pay for the privilege of rendering such a service to civilization.

Such a course is not in keeping with the character of the General Government, which has ever been broad, generous, and liberal in dealing with its people and with its States and Territories, without regard to the merits of their claims.

At the lowest rate of computation adopted by the commissioner who made the computations in this case, it would be scarcely more than $1,000 per year to the State for the twenty-seven years of its service as trustee, and this does not take into account at all the expenses of its attorneys in defending it thus far in a litigation which has been to some extent expensive.

But it may be claimed and stated that the Government, through its attorneys in the Department of Justice, went to the State authorities before beginning the litigation, with an offer of compromise of the claim upon the basis of receiving just the principal of the sum involved, and it may be charged to the discredit of the State that it did not agree upon such a basis.

But this situation confronted them. An attorney-general of the State had expressed the opinion that the act of Congress conferred an actual grant to the State, and there was no trust involved, and that the State had perfect title to the money in question, and naturally it followed that the payment of any portion of it would be an act of injustice. Under such circumstances neither the governor nor the State board of auditors felt that it would be proper for them to go contrary to such an opinion and to the apparent intent of the legislature in converting the money to the general fund, without some proper decision of a court of competent jurisdiction to the effect that the State was liable. In other words, as proper conservators of the interest of the State they could not see their way clear to take the law into their own hands and decide upon a question that was contested, in so far as to attempt to pay a claim which might or might not prove to be a just and valid one.

Nearly fifty years have elapsed since the trust was created. These proceedings had passed beyond the recollection of most of the people in being, and probably all of those engaged actively in the affairs of the State, and a degree of uncertainty, which was reasonable warrant for the refusal upon their part, naturally obtained. Few men in official life would feel like disposing of the public money under such circumstances, and it is my idea that the State took a perfectly proper view of the condition as it presented itself to them and nothing should be resolved against it on account of that refusal.

It may again be said that the equities involved in this case—that is, the interest part of it—is before the Supreme Court for disposal, and that court should be allowed to dispose of them; in other words, pass upon them. At first blush this might seem to be very clear and, to an extent, argumentative, but after a moment's consideration we of Congress (and the members of the Judiciary Committee have so considered) will reflect that the mere questions as to whether money lying unclaimed for a long period of time, under such a set of circumstances as are here disclosed, should in equity be required to draw interest, and the further question that whether interest can be claimed as against the State, even upon an equitable claim, without express affirmative legislation by the legislature of that State, and such other questions as might arise as purely appertaining to equity jurisprudence.

These, and these only, are before the court for its disposal. But it is clearly true that the broader equitable consideration, based upon the purely public morality of the affair of whether Congress ought to hold Michigan up sharply and with a round turn and demand every last penny from her, without conceding anything for the great and beneficial work initiated, finished, and operated for twenty-seven years, might not be commensurate, at least with the interest, upon this small sum of money for a lesser period after the Federal Government assumed charge. This question is purely for Congress, which has the power to give and the power to take away that which belongs of strict right to the Federal Government according to its own sovereign will and pleasure.

The question whether we shall be niggardly, exacting, and clearly unjust; whether we shall disregard good morals and fair dealing, that question is here now in the hands of the Congress.

Let us suppose a private corporation in expectation of receiving a great benefit therefrom, decided to outlay upon an improvement approximately a million of dollars' worth of lands which it owned—750,000 acres in amount of presumable value of $1.25 per acre—should take these lands and put them into the hands of a lesser corporation for the purpose of accomplishing this work and go away and leave the matter to be cared for without let or hindrance. Suppose this lesser corporation, as trustee, should honestly and economically make use of every foot of the land for the purpose designed, accomplish the work, and then proceed for a period of twenty-seven years to operate the improvement to the great and lasting benefit of the larger corporation, according to the trust. At the close of the work the trust is surrendered in excellent condition and in the high tide of prosperity, and a sum of $68,000 be found on hand. Suppose the larger corporation should then leave the $68,000 in the hands of the trustee corporation for a period of upward of eighteen years, without saying anything about it at all, and then call upon the trustee for the money, exacting it through a court at law, and then say, in addition, I demand the use of that money during this eighteen years and I decline to allow you any credit whatever for your services during these twenty-seven years of active service in my interest, or for your safe-keeping of this money during the eighteen years more in which I did not call for the money.

What would be thought of the greater corporation? What would be the feeling of the trustee, or lesser corporation? What would be the opinion of the people outside concerning such a transaction? This is the real question before Congress. The court can pass upon the pleadings and the law as they stand, according to the rules of equity jurisprudence, but at the bar of public opinion, and whether at the bar of public opinion or not, in good conscience and good morals we should seek to pass upon this question and decide it according to the very right of the case. In other words, had the attorneys and counselors of

Michigan, after the decision of the demurrer in this case, proceeded to answer and set up what they did, and make a charge or claim for compensation for the services of the State as trustee during these periods, it is quite possible that a different case in equity would be presented to the court. Not having shown that, however, is it not entirely possible that we can settle that matter here and now without further troubling the court, and upon a proper and reasonable basis?

I have said that the State of Michigan conceived, brought forth, and reared to the highest degree of usefulness a great national—yea, international—improvement, and without profit to herself. If, instead of administering the affairs pertaining to the construction and operation of the canal during more than a quarter of a century, through a board composed of men of highest business and moral integrity, who received not a dollar as compensation, she had paid these men what their services were worth and what she had a right to pay them, the State would not only not have had a fund to turn over to the Federal Government, but larger tolls would have been imposed upon the country's commerce. When the State turned over the canal it was employing but twenty men. Almost immediately the number was increased, and in 1905 about 100 men were employed. Economy and integrity were Michigan's watchwords, and her trust was surrendered unblemished by even the taint of fraud, corruption, or incompetency.

When she undertook the work, in 1852, the prophecy of the stupendous commerce of the future was but an annual traffic of about 12,000 tons, which by portage was carried around St. Marys Falls. Michigan turned over to the country and humanity more than one and one-half millions of tons in 1881, which had been gathered not largely from Michigan industries, but from the fields and forests and mines of the Northwest and carried not to the citizens of Michigan, but more generally to the manufacturing cities of Lake Erie and the farther East. That one and one-half millions of tons has now increased to over 50,000,000 tons. Down over the highway whose foundations Michigan laid there has been carried since 1855 about $5,000,000,000 worth of products to enrich the world and contribute more than any other one thing to the progress and prosperity of the United States.

In view of this great benefit which Michigan brought to our people; of the economy and integrity with which the trust was executed; of the fact that the State, as expressed in the act transferring the canal to the Federal Government, expected that a dry dock would be built within her borders; of the fact that the parties to the transfer in 1883 evidently intended that not even the principal of the canal fund should be turned over and that no demand was made for more than eighteen years; of the fact that the Federal Government never pays interest on a claim and can not rightfully collect interest from a State without the consent of the legislature of a State—in view of all the equities in the case I most earnestly urge the passage of this bill.

No second being demanded, the question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

BRIDGE ACROSS TALLAHATCHIE RIVER.

Mr. SPIGHT. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18439) to authorize the construction of a bridge across the Tallahatchie River, in Tallahatchie County, Miss.

The SPEAKER. The gentleman from Mississippi [Mr. SPIGHT] moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the board of supervisors of Tallahatchie County, State of Mississippi, a municipal corporation under the laws of the State of Mississippi, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a wagon bridge and approaches thereto, across the Tallahatchie River at or near Jarman Ferry, in Tallahatchie County, in the State of Mississippi, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

CERTIFICATES OF NATURALIZATION.

Mr. BENNET of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18713) to validate certain certificates of naturalization.

The SPEAKER. The gentleman from New York moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That naturalization certificates issued after the act approved March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States," went into effect, which fail to show that the courts issuing said certificates complied with the requirements of section 39 of said act, but which were otherwise lawfully issued, are hereby declared to be as valid as though said certificates complied with said section, but shall not be by this act further validated or legalized.

SEC. 2. That all the records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded, or issued prior to the time when this act takes effect in or from any court having a clerk and a seal shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this act further validated or legalized.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, I demand a second.

Mr. BENNET of New York. I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The Chair hears no objection. The gentleman from New York [Mr. BENNET] is entitled to twenty minutes and the gentleman from Mississippi [Mr. WILLIAMS] to twenty minutes.

Mr. BENNET of New York. I understand that the gentleman from Mississippi desires an explanation of the bill.

Mr. WILLIAMS. Indeed, I do.

Mr. BENNET of New York. Mr. Speaker, this bill is in two sections, and is necessary in order to cure two defects growing out of our present system of naturalization. By section 39 of the immigration bill of 1903 it was provided that every court naturalizing an alien should insert in the certificate the fact that the man had been examined as to whether he had been an anarchist or not. If the insertion was not made, the certificate was void. The State courts throughout the country, not being officially notified of this requirement, almost uniformly failed to insert the proper words in their certificates, and every day they are getting here in the State Department certificates of naturalization issued since that law was passed which do not contain that language on their face, and therefore, by the terms of the law, are void. It simply means that lots of young men from Germany and Ireland and Scotland, and such places as that—more particularly France and Germany, where they have the military service—can not go back and visit their homes, because they will be liable to military service and can not get a passport.

The second section of the bill relates to courts where they have been naturalizing on the theory that they were entitled to naturalize.

Mr. GOLDFOGLE. How many of these cases exist, say, in the city of New York?

Mr. BENNET of New York. Well, not so many in the city of New York as in other places.

Mr. GOLDFOGLE. In the State?

Mr. BENNET of New York. I suppose thousands throughout the country.

Mr. GOLDFOGLE. How many came under your notice?

Mr. BENNET of New York. Not very many, because in the city of New York the courts keep up with the law; but in the rural parts, where the work is done by the county courts and where they were unadvised, because the business is not sufficient to have kept acquainted with the laws, a great many. The second section——

Mr. GOLDFOGLE. Then what is the purpose of the bill?

Mr. BENNET of New York. The purpose of the bill is to enable the Department of State, which asks for this bill, to issue passports to hundreds of men who are really equitably entitled to passports, but who have their naturalization certificates returned to them because they are void under the law, although the men are entitled to naturalization and have complied with every requirement of the law. The fault has been with the courts.

Mr. GOLDFOGLE. If such certificate is valid on its face, it is recognized by the State Department without question.

Mr. BENNET of New York. I think if my colleague had been here when I started to explain he would have understood that under the laws the certificates are not valid on their face, and that is just the trouble, because the law says they must have on their face the language called for by section 39, and they do not have that language, and therefore they are invalid.

Mr. HEPBURN. Why is it not the easier method to go to a court and secure now proper certificates, if those they have have become invalid under the law?

Mr. BENNET of New York. In answer to the gentleman from Iowa I will say that in hundreds and thousands of cases the people never know that their certificates are invalid. In a number of States the children of an alien can not inherit his real property, and a man may have lived and voted and died

under the impression that he was a naturalized citizen, and his heirs will not be able to take his real property on his death, and he will never know anything about this naturalization law.

Mr. HEPBURN. What does the bill do? Does it validate the invalid certificates or repeal the law?

Mr. BENNET of New York. It validates those invalid certificates so far as that particular provision is concerned.

Mr. GROSVENOR. I want to ask the gentleman from New York a question on the same line. In reading the bill hastily, it has occurred to me whether it does not validate the future issuing of naturalization papers which are alike invalid upon their face, and whether naturalization papers hereafter will continue to be corrected in that way?

Mr. BENNET of New York. It was not the intention.

Mr. GROSVENOR. It certainly could not have been the intention. I would like to have the bill and call attention to it directly. Now, the first section provides:

That naturalization certificates issued after the act approved March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States," went into effect, which failed to show that the courts issuing said certificates complied with the requirements of section 39 of said act, but which were otherwise lawfully issued, are hereby declared to be as valid as though said certificates complied with said section, but shall not be by this act further validated or legalized.

Mr. BENNET of New York. That is, having no other effect.

Mr. BONYNGE. The bill clearly applies to that which has heretofore occurred. The language is all in the past tense, and therefore could be construed only to relate to cases occurring prior to the passage of the bill.

Mr. GROSVENOR. That all relates to naturalization certificates already given. It is not drawn exactly the same way in the second section. I suppose a fair construction of it is that it only applies to those already issued that did not comply with section 39.

Mr. BENNET of New York. As to the second section, Mr. Speaker, courts all over the Union have been naturalizing aliens, and as to some of them there has been a question as to their jurisdiction. The State Department has information that there are between 60,000 and 70,000 persons now voting in the United States, or who are believed to be entitled to vote under the idea that they are citizens, who are deemed to be citizens, but who have invalid certificates because of the failure of the jurisdiction of the court.

Mr. CRUMPACKER. I understand that the defect in the naturalization comes from the lack of information on the part of the court that the law of 1903 went into operation upon its passage, and that the courts throughout the country were provided with the ordinary blank certificates of the old form, and continued to use them without any investigation of the change of the law.

Mr. BENNET of New York. Exactly.

Mr. CRUMPACKER. And that this bill is designed to validate the certificates that were issued under those circumstances.

Mr. BENNET of New York. Exactly.

Mr. CRUMPACKER. And the Department of State recommends the enactment of legislation.

Mr. BONYNGE. If the gentleman will pardon me, not the Department of State, but the commission that was appointed by the President to make recommendations for the revision of the naturalization laws does recommend the validating of the certificates, which upon their face are invalid because of this omission required by the act.

Mr. BENNET of New York. And the passport bureau in the Department of State, which has to deal with this question, recommends the legislation.

Mr. CRUMPACKER. I have no doubt that there are a number of instances of this sort in the district which I have the honor to represent. I think the bill ought to pass.

Mr. HINSHAW. These omissions were in reference to the questions which the judge should ask the applicant in regard to his attitude of mind toward the Government—his moral character, and so forth?

Mr. BENNET of New York. The judge may have asked the questions, but the law went further and said that must appear on the face of the certificate.

Mr. HINSHAW. I have in mind a case where I assisted in the naturalization of a gentleman who went abroad, and who had difficulty while there, because his passport was not properly made out. And this will probably remedy any such difficulties hereafter.

Mr. BENNET of New York. Yes. This bill validates those certificates which were otherwise lawfully issued, but which failed to show that the courts issuing them complied with the requirements of the act.

Mr. LOUDENSLAGER. Does this first section seek to make valid the naturalization papers hereafter issued?

Mr. BENNET of New York. No.

Mr. LOUDENSLAGER. Where in the law is that prohibited?

Mr. BENNET of New York. It relates entirely to the past, and of course could not speak for the future.

Mr. LOUDENSLAGER. It could by repealing the provisions of the other law.

Mr. BENNET of New York. But it does not repeal them.

Mr. LOUDENSLAGER. It would unless there is something here to the contrary.

Mr. BENNET of New York. Not at all. It is just a validating section. It leaves the other section in force. It is all in the past tense.

Mr. LOUDENSLAGER. Would it not be well to insert in line 3, section 1, between the word "certificates" and the word "issued," the word "heretofore?"

Mr. BENNET of New York. If it was not for the word "were" in line 8, it might be, but I do not think it is either necessary or advisable. It says, "but which were otherwise lawfully issued," and you can not use the word "were" in reference to the future.

I yield to the gentleman from Illinois [Mr. MANN] such time as he may require.

Mr. MANN. I introduced the original bill for which this bill was introduced by the committee as a substitute. The bill that I originally introduced has reference to the matters referred to in section 2 of this bill. It developed two or three years ago that in the city of Chicago the criminal court of Cook County had issued between 20,000 and 30,000 certificates of naturalization. The law on the subject of naturalization provides that naturalization papers may be issued in a court of common-law jurisdiction. The criminal court of Cook County is a court of criminal jurisdiction, presided over by judges assigned to it from other courts of common-law jurisdiction. Whether it is technically a court of common-law jurisdiction has never been definitely settled by any authority, and doubt arose as to whether that court was a court of common-law jurisdiction. Hence they ceased issuing naturalization certificates. I have been informed that the same condition of affairs occurred in St. Louis. It certainly exists in some of the other large cities of the country. So there were in our own county between 20,000 and 30,000 certificates of naturalization issued by a court which purported to have full jurisdiction; papers accepted by people who assumed that they were citizens, who still consider themselves citizens, many of whom are still voting as citizens. Probably not one of them has ever been informed that there is any doubt about the legality of his certificate of naturalization. They complied with all the provisions of the law.

The criminal court is a court of equal jurisdiction, so far as its standing is concerned, with any of the other courts which could issue certificates of naturalization; and the second section of this bill is simply to provide that as to the question of jurisdiction a court which has acted in this matter shall be considered to have had jurisdiction.

It has been asked here, can not these persons go into court and each one of them have it corrected? That would involve new applications for citizenship in each case, and that of itself would be an acknowledgment that the party was not a citizen before, and would render him liable to prosecution for illegal voting, or possibly for perjury; and the only fair method by which this can be corrected, both as to these people and as to their heirs in case the question of citizenship comes up hereafter in descent of real estate, is by the passage of a corrective act such as this.

Mr. CRUMPACKER. Is it not true that a large majority of the holders of this kind of certificates do not know, as a matter of fact, that there is any defect in them, and probably never will know it?

Mr. MANN. The gentleman is right. I do not suppose that one-tenth of 1 per cent of those who have been naturalized in the criminal court in Cook County have ever known that any question has arisen about it. It has not been advertised in our city. There is no occasion for disturbing these people, and the clerk of the court two or three years ago came to the conclusion that the court ought to stop issuing naturalization papers. He was the one who first prepared the bill which I introduced originally on the subject.

Mr. GARRETT. I would like to ask the gentleman if this practice still goes on? I do not mean in the gentleman's city, but I mean generally.

Mr. MANN. I think generally the practice has been stopped; that is my information, that when the question was raised as to the jurisdiction the practice ceased. It is not certain, however, that the court does not have common-law jurisdiciton. The matter has never been definitely settled and perhaps never will be. These people in good faith have attempted to become

citizens, and have adopted all the methods and have followed the entire course prescribed by Congress, and certainly in no event is it their fault that there is any trouble about it.

Mr. WILLIAMS. Mr. Speaker, I demanded a second for the purpose of having an explanation as to the object of the bill. It seemed to me at first blush to be rather dangerous legislation. I have come to the conclusion after the explanation has been made to the House that the bill is all right; but it does show a rather dangerous condition of things in the country at any rate. It shows that for three years the courts of the country have not been obeying the laws of the country by certifying to what they ought to have certified in naturalization certificates. But for the fact that property rights are involved, as explained by the gentleman from Illinois, I would insist that the bill ought not to be passed, that these people with invalid naturalization certificates should go to the courts and take out new naturalization papers. But it seems to me, under all the circumstances, that property rights might be involved and serious damage done to people who are not responsible for the loose way in which the court business, over which they had no control, has been done. I have no objection to the passage of the bill.

Mr. BENNET of New York. Mr. Speaker, I yield one minute to the gentleman from Colorado.

Mr. BONYNGE. Mr. Speaker, I desire to correct one statement made by the gentleman from Mississippi. He stated, as I understood him, that the practice has been in existence for twelve years. The defects in the certificate are defects that have occurred since the passage of the act of 1903, and therefore it is only for three years.

Mr. WILLIAMS. 1903? Then the gentleman is right. I understood that it was 1893.

Mr. BONYNGE. I agree with the gentleman from Mississippi in this respect, that as it becomes necessary to pass this bill it demonstrates clearly to my mind the necessity for the passage of the general naturalization bill now pending before the House. [Applause.]

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

CHANGE IN COMMITTEE TO INVESTIGATE ST. ELIZABETH ASYLUM.

The SPEAKER. The Chair is informed that the gentleman from Tennessee [Mr. PADGETT] is absent on account of sickness in his family. He was appointed as one of the members upon the committee to investigate the St. Elizabeth Asylum. If there be no objection, the Chair will substitute the name of Mr. WALLACE for that of Mr. PADGETT.

There was no objection.

CONSTRUCTION AND EXTENSION OF WHARVES IN PORTO RICO.

Mr. COOPER of Wisconsin. Mr. Speaker, I move to suspend the rules and pass with amendments the bill (H. R. 18502) to empower the Secretary of War, under certain restrictions, to authorize the construction, extension, and maintenance of wharves, piers, and other structures on lands underlying harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto.

The Clerk began the reading of the bill.

Mr. CRUMPACKER. Mr. Speaker, I understood the motion to be to pass the substitute.

Mr. COOPER of Wisconsin. The motion was to pass the bill with the amendments. There is a substitute to the bill and amendments to the substitute.

The SPEAKER. The motion is to pass the bill as amended, which is to strike out all after the enacting clause and insert a substitute.

Mr. COOPER of Wisconsin. And to pass the substitute with the amendments to the substitute.

The SPEAKER. Let the Chair see if the Chair understands the motion.

Mr. COOPER of Wisconsin. The Clerk was reading the substitute.

The SPEAKER. The Chair understands the motion of the gentleman to be to pass the bill, striking out all after the enacting clause and inserting a substitute for the bill with amendments.

Mr. COOPER of Wisconsin. With amendments to the substitute.

The SPEAKER. Yes; with amendments to the substitute. Under that motion, in the opinion of the Chair, it is only necessary to read the enacting clause and the substitute with the amendments to the substitute.

Mr. WILLIAMS. Mr. Speaker, as I understand it, this substitute as amended is the shape in which the bill comes from the committee.

Mr. COOPER of Wisconsin. Yes. Mr. Speaker, I wish to say about the bill that it has the unanimous report of the Committee on Insular Affairs.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, empowered, subject to the restrictions and under the conditions hereinafter mentioned, to authorize the construction, extension, and maintenance of any wharf, pier, dolphin, boom, weir, breakwater, sea wall, bulkhead, jetty, or other structure on any of the lands belonging to the United States which underlie the harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto and the filling in and dredging of such lands.

SEC. 2. That the word "person," as used in this act, shall be construed to import either the singular or the plural, as the case demands, and shall include individuals, municipalities, quasi municipal corporations, corporations, companies, and associations.

SEC. 3. That the powers granted in the foregoing section shall be subject, however, to the following restrictions:

(*a*) No authorization to any person to construct, extend, or maintain any such structure shall continue for a longer period than the period set forth in such authorization, and shall provide that the Government of the United States or the government of Porto Rico shall have the right at any time after the expiration of thirty years from the date of such authorization, and after three months' notice, to take any such structure from the owner thereof upon paying the value of the same at the time it shall be so taken, and the amount paid shall not exceed the original cost of the same as may be fixed under paragraph (*f*) hereof. In case the Government of the United States or the government of Porto Rico should claim that the value of the structure when seized and taken is less than its original cost, the extent of deterioration or diminution from the original value shall be determined by a board or commission of four members, two of whom shall be appointed by the Government of the United States or the government of Porto Rico and two by the owner of such structure. If the four members thus chosen and appointed shall not be able to agree, they shall choose by mutual agreement a referee, whose decision shall be final, but in no case shall the amount to be paid exceed the original cost as fixed under the provisions of said paragraph (*f*). If the four members thus chosen and appointed are unable by mutual agreement to select a referee, then the Chief of Engineers of the United States Army shall be the referee, and his decision shall be final.

All authorizations granted by the Secretary of War for any such construction, extension, or maintenance

(*b*) Shall be subject to alteration, amendment, or repeal by Congress;

(*c*) Shall provide that the wharfage fees and charges for vessels, for passengers, and for goods loaded or discharged on, from, at, or over any such structure, and for approach and entry to any such structure, shall be no greater than are just, reasonable, and fairly remunerative, and for that purpose shall at all times be subject to regulation and revision by the said Secretary of War; that such fees and charges shall be the same for all persons, and all persons shall have equal right to approach, enter, and use the said structure, subject to such reasonable rules and regulations as the grantee thereof may establish, all of which rules and regulations shall be subject to revision by the Secretary of War;

(*d*) That all necessary dredging in or in connection with the said structure, or the use thereof, shall be made by the grantee of the authorization;

(*e*) That such authorization shall be null and void unless actual construction shall be commenced within one year from the date of such authorization by the Secretary of War, and completed within three years from the date of such authorization, or within such lesser periods as may be therein fixed: *Provided*, That the Secretary of War may for due cause shown extend the time for the completion of such construction for a reasonable period.

(*f*) That duly verified accounts of expenditure for the construction, extension, or improvement of such structure shall be exhibited to, and filed with, the United States Army engineer at the city of San Juan, P. R., who shall report to the Secretary of War the entire cost of such structure, extension, or improvement to be built under such authorization.

(*g*) That the said structure shall not be sublet, sold, transferred, or assigned, nor shall the authorization therefor be granted, sold, transferred, or assigned without the consent of the Secretary of War, nor in any case to a person engaged directly or indirectly in the same line of business in the same harbor area, navigable stream, or body of water, and that any grant, subletting, sale, transfer, or assignment in violation hereof shall be null and void.

(*h*) That any and all vessels owned or chartered by the United States Government shall in case of any emergency, or in time of war, have prior right, free of charge, to the use of any such structure; and

(*i*) Shall contain such further restrictions as the Secretary of War may see fit to impose therein.

SEC. 4. That no such authorization by the Secretary of War shall be granted to any person unless the applicant therefor shall first furnish to the Secretary of War satisfactory proof either that he (or it) is the owner or lessee of the approaches to the shore end of the proposed structure, with the right to use the same in connection therewith, or that he (or it) is the owner of a franchise granting the right to use said approaches in connection with such proposed structure. Every application to the Secretary of War for any such authorization shall be accompanied by plans and specifications for such structure, extension, or improvement, which said plans and specifications shall be submitted to, and approved by, the Chief of Engineers of the United States Army before the granting of any such authorization by the Secretary of War, "and such plans and specifications shall not be deviated from in any such structure, extension, or improvement without the written consent, first obtained, of the said Chief of Engineers."

SEC. 5. That nothing herein contained shall be so construed as to effect legal or equitable rights, if any, existing at the date of the approval of this act which were acquired by the government of Porto Rico or any other party under any contract, lease, or license, for the construction, extension, improvement, or maintenance of any such structure, granted by the United States authorities prior to the approval of this act.

The SPEAKER. The question is on the motion of the gentleman from Wisconsin to suspend the rules and pass the bill in the nature of a substitute as amended.

The question was taken; and in the opinion of the Chair two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

DISPOSITION OF USELESS PAPERS IN POST-OFFICES.

Mr. OVERSTREET. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2140) to authorize the Postmaster-General to dispose of useless papers in post-offices, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the Postmaster-General is hereby authorized to sell as waste paper or otherwise dispose of the files of papers which have accumulated or may hereafter accumulate in post-offices that are not needed in the transaction of current business and have no permanent value or historical interest, and pay the proceeds of said sales into the Treasury as postal revenues.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

REGULATING PRACTICE IN CERTAIN CASES IN WESTERN DISTRICT OF ARKANSAS.

Mr. FLOYD. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18328) to regulate the practice in certain civil and criminal cases in the western district of Arkansas, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That in civil cases in law or equity, now or hereafter pending, in either the district or circuit court of the United States, for either of the divisions of the western district of Arkansas, may, on written stipulation of the parties or their attorneys of record, signed and filed with the papers in the case, in vacation or in term, and on the written order of the judge, signed and filed in the case, in vacation, or on the order of the court, duly entered of record, in term, be transferred to another division of the district for final trial; and in the event of such transfer, it shall be the duty of the clerk of the court in which such suit is pending to make out and transfer a certified copy of all the record entries in the case together with all the original papers in the case to the clerk of the court to which such case is transferred, for which he shall have such fees as are now allowed for making transcripts, and the sum of $2 additional for transferring the same, to be taxed as costs and paid as other costs in the case, and the clerk receiving such transcript and original papers shall file the same and the case shall then proceed to final disposition as other cases of like nature.

SEC. 2. That the defendants in criminal cases now or hereafter pending in the district courts of the Harrison or Texarkana divisions of the western district of Arkansas and who are incarcerated at Fort Smith to await trial because of their inability to furnish bail and who desire to plead "guilty" may, on their written motion showing those facts and filed in the case, in vacation, and upon the order of the judge, duly signed and filed in the case, have their cases transferred to the Fort Smith division of the western district of Arkansas, to the end that trials may be had and sentences imposed as in other cases of like nature; and prisoners bound over to answer to indictments in the Harrison or Texarkana divisions of the western district of Arkansas for offenses committed in those divisions and who are incarcerated in the jail at Fort Smith, Ark., for inability to furnish bail, and who desire to plead "guilty" to such offenses, may on their own motions have their cases submitted to a grand jury of the Fort Smith division for indictment and final disposition in the courts of that division, or in proper cases may plead to informations filed in the proper court in said division and have their cases disposed of as other cases of like nature when the offense was committed in the Fort Smith division. When a transfer is ordered, as provided in this section, the clerk shall make out and forthwith send a certified copy of the record entries, together with the indictment and all the original papers, to the clerk of the court to which such case is transferred, who shall file the same, and thereupon the case shall be proceeded with as other cases of like nature pending in such court. For making out said transcript and forwarding the same, together with the original papers in said case, the clerk of the court shall have the usual compensation for making out transcripts, as now provided by law, and $2 additional, to be taxed and paid as other costs in like cases.

The SPEAKER. Is a second demanded?

Mr. CRUMPACKER. Mr. Speaker, for the purpose of having the bill explained I will demand a second.

Mr. FLOYD. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection.

There was no objection.

Mr. CRUMPACKER. Mr. Speaker, I simply want an explanation of the bill. It would seem to provide on its face for changing the methods of court procedure in the western district of Arkansas. I would like to know to what extent it makes changes. Of course it would not do to have one kind of civil procedure in one district and another kind in another district, and if it makes a change of a general character, in my judgment it ought not to pass.

Mr. FLOYD. Mr. Speaker, I will take pleasure in explaining this bill to the gentleman from Indiana. In the western district of Arkansas there are three courts. One is situated at Texarkana, one at Harrison, and one at Fort Smith. The jail for the entire district is at Fort Smith. This bill provides that persons who are incarcerated in jail in default of bail at Fort Smith on criminal charges may be permitted on their own application, in case they desire to plead guilty, to have their cases tried before the Fort Smith division of the court and enter pleas of guilty. That only occurs on the application of the defendant in a case in which he has been incarcerated in default of bond. The object of this provision is to enable parties who desire to plead guilty to dispose of their cases more rapidly, so that they will not be required to be confined in jail until the meeting of the court at Texarkana or at Harrison.

Mr. CRUMPACKER. It provides only for a more convenient arrangement for the disposition of cases in that particular district?

Mr. FLOYD. That is all.

Mr. CRUMPACKER. It has no reference to proceedings in the courts?

Mr. FLOYD. It has no reference to proceedings in other courts except in the western district of Arkansas.

Mr. CRUMPACKER. It does not change the procedure in the court, does it?

Mr. FLOYD. In no way, except that the defendant incarcerated in jail on his own application in a criminal case may have his case disposed of at Fort Smith when he desires to plead guilty.

Mr. CRUMPACKER. Fort Smith is in the same district?

Mr. FLOYD. Yes.

Mr. CRUMPACKER. And so, as I said a moment ago, its purpose is to provide a more convenient arrangement for the trial of cases at the several points in that district.

Mr. FLOYD. That is all, in reference to criminal cases. Now, there is another provision of the bill, with reference to civil cases, which I desire to explain. This bill further provides that parties to civil suits in any of the divisions of the western district of Arkansas may change the case from one division of the district to another by written stipulation of the attorneys, so that the case may be transferred from one division to the other by consent of the parties for trial in civil cases.

Mr. CRUMPACKER. Is that from one district to another or from one division to another?

Mr. FLOYD. From one division to another.

Mr. CRUMPACKER. Can not that be done now under the law?

Mr. FLOYD. No; it can not. I will state further that this bill comes from the Committee on the Judiciary and has the unanimous report of that committee. I desire also to state that Judge Rogers, who presides over the courts in that district, has given his sanction to the bill and in fact suggested it.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

FORT SHAW MILITARY RESERVATION, MONT.

Mr. DIXON of Montana. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 17114) to provide for the disposition under the public land laws of the lands in the abandoned Fort Shaw Military Reservation, Mont.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to dispose of the lands in the abandoned Fort Shaw Military Reservation, in Montana, under the provisions of the public land laws, and the public land surveys shall be extended over the lands therein: *Provided*, That he may reserve for Indian school purposes the following described lands in township 20 north, range 2 west, Montana principal meridian, as determined by the extension of public surveys: That portion of section 2 lying south of Sun River, all of sections 11, 14, and 23, and that portion of section 26 lying within the present reservation boundary: *Provided further*, That before opening the reservation to entry, the Secretary of the Interior may withdraw any other lands therein needed in connection with an irrigation project under the provisions of the act of June 17, 1902, known as the reclamation act, for use or disposition thereunder.

The SPEAKER. Is a second demanded?

A second not being demanded, the question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

SUBDIVISION OF LANDS ENTERED UNDER THE RECLAMATION ACT.

Mr. REEDER. Mr. Speaker, I ask to suspend the rules and pass the bill (H. R. 18536) providing for the subdivision of lands entered under the reclamation act, and for other purposes.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That whenever, in the opinion of the Secretary of the Interior, a lesser area than 40 acres may be reasonably required for the support of a family on lands to be irrigated under the provisions of the act of June 17, 1902, known as the reclamation act, he may fix a lesser area than 40 acres as the minimum entry and may establish farm units of not less than 10 nor more than 160 acres. That wherever it may be necessary, for the purpose of accurate description, to fur-

ther subdivide lands to be irrigated under the provisions of said reclamation act, the Secretary of the Interior may cause subdivision surveys to be made by the officers of the reclamation service, which subdivisions shall be rectangular in form, except in cases where irregular subdivisions may be necessary in order to provide for practicable and economical irrigation. Such subdivision surveys shall be noted upon the tract books in the General Land Office, and they shall be paid for from the reclamation fund.

SEC. 2. That wherever the Secretary of the Interior, in carrying out the provisions of the reclamation act, shall acquire lands covered by a bona fide unperfected entry under the land laws of the United States, the entryman upon such tract may make another and additional entry, as though the entry thus relinquished had not been made.

SEC. 3. That any town site hertofore set apart or established by proclamation of the President, under the provisions of sections 2380 and 2381 of the Revised Statutes of the United States, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of the act of Congress approved April 16, 1906, entitled "An act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes;" and all necessary expenses incurred in the appraisal and sale of lands embraced within any such town site shall be paid from the reclamation fund, and the proceeds of the sales of such lands shall be covered into the reclamation fund.

The SPEAKER. Is a second demanded?

Mr. LACEY. Mr. Speaker, I demand a second.

Mr. REEDER. I move that a second be considered as ordered.

The SPEAKER. The gentleman from Kansas asks unanimous consent that a second be considered as ordered. Is there objection?

Mr. UNDERWOOD. Before I give unanimous consent, I would like to ask the gentleman from Kansas——

The SPEAKER. This is for the ordering of a second.

Mr. UNDERWOOD. I know, but before that is done I would like to ask if this has been considered by the Committee on Irrigation and is it a unanimous report?

Mr. REEDER. Yes, sir; and it is a unanimous report.

The SPEAKER. The Chair hears no objection. The gentleman from Kansas is entitled to twenty minutes, and the gentleman from Iowa is entitled to twenty minutes.

Mr. REEDER. Mr. Speaker, this bill has three purposes in view.

Mr. LACEY. Mr. Speaker, perhaps it will shorten my friend's remarks. In the hasty reading of the bill it occurred to me that a few weeks ago we passed a bill covering precisely the same point as to sale of lands inside of town sites in these irrigation projects, and that a bill has already been passed covering that question. I would like to ask my friend if he has taken pains to compare the bill passed by the House a short while ago with that feature of the bill?

Mr. REEDER. It was thought that we had passed a bill that did cover this point, but the Department has held that that bill does not cover certain town sites that had been set apart previous to the passage of that bill, and this bill simply brings those three town sites under the provisions of the bill which we passed within a short time.

Mr. LACEY. What is the status of the bill we passed? Has it gone through the Senate and become a law?

Mr. REEDER. Yes, sir; it has become a law.

Mr. LACEY. And this proposes to make further amendment?

Mr. REEDER. This is simply to bring three town sites under the provisions of that law, which all thought at that time were under its provisions.

Mr. LACEY. I would like to ask the gentleman to read that part that enlarges the bill which we passed.

Mr. REEDER (reading):

SEC. 3. That any town site heretofore set apart or established by proclamation of the President, under the provisions of sections 2380 and 2381 of the Revised Statutes of the United States, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of the act of Congress approved April 16, 1906, entitled "An act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes;" and all necessary expenses incurred in the appraisal and sale of lands embraced within any such town site shall be paid from the reclamation fund, and the proceeds of the sales of such lands shall be covered into the reclamation fund.

It makes exactly the same provision made in the bill passed within the last fifteen days, except it applies to some town sites heretofore set apart, and it was supposed at that time that these town sites were covered by the law passed less than fifteen days from the present time, but the Department has held that that law does not cover these three town sites.

I reserve the balance of my time.

Mr. LACEY. Mr. Speaker, I would only like to add a word or two to what the gentleman from Kansas [Mr. REEDER] has said. Some confusion arises owing to introducing a bill providing for matters of reclamation and coupling with that bill further provisions as to the disposition of public lands. The bill to which the gentleman referred was reported, I think, by the Committee on Public Lands at the request of the Department, in order to cover the very matters that seem to be embraced in part now in the present bill.

Mr. REEDER. Mr. Speaker——

Mr. LACEY (continuing). By bringing in that feature of the bill over which the Committee on Irrigation has no jurisdiction, and coupling that with the proviso as to the disposition of the proceeds, it leads to confusion and this duplication of legislation.

Mr. REEDER. Let me say——

Mr. LACEY. I presume either committee would have jurisdiction of this bill, but it has been so drawn as to provide for matters that are exclusively within the jurisdiction of the Public Lands Committee and other matters that are exclusively in the jurisdiction of the Irrigation Committee.

Mr. REEDER. I will say this particular part of the bill was drawn by the department, and they requested that our committee insert it in this bill, which also covers two other points.

Mr. LACEY. What department?

Mr. REEDER. The Irrigation Department.

Mr. LACEY. That is the trouble; the Irrigation Department is attempting to make regulations as to the disposal of the public lands. They have no right to dispose of them. All they have to do is to receive the proceeds of public lands and spend them in irrigation. The lands themselves must be disposed of by the Land Office and not by the Irrigation Bureau, which is an entirely separate organization. I do not care to complain of this, but the two committees have been trying to get along harmoniously, and there has been no effort on the part of the Committee on Public Lands at any time to neglect preparing the necessary provisions as to the disposal of the domain that is inside of an irrigation scheme; but this confusion makes endless trouble, where two committees are attempting to legislate on the same subject on separate lines and without consultation. Here comes a bill to amend that law within two weeks of the time that the bill has been passed at the request of the Irrigation Bureau, and from the Irrigation Committee, one that has nothing to do with the sale of public lands.

Mr. REEDER. Let me say to the gentleman from Iowa that he stated to start with that he thought they had provided that these town sites should come within the former bill. The Department then decided that the law did not cover the three towns established previous to the passage of this town-site law, and in order to cover these towns the Irrigation Department suggested we put a provision in this bill which will accomplish what all thought was accomplished by the former bill when it was passed.

Mr. LACEY. I can not see yet, Mr. Speaker, where there is any defect in the former law.

Mr. REEDER. These town sites were laid out——

Mr. LACEY. Mr. Speaker, I think I understand this. The proceeds from the town sites were not specifically provided for as to going into the irrigation fund.

Mr. REEDER. Except as to the three town sites that had been previously laid out on the Minidoka project in Idaho, it did fully provide. All thought that these particular town sites came under the law the same as any other town sites. The Department held that they did not, and in order to provide for that defect this provision was suggested by the Department.

Mr. LACEY. Mr. Speaker, I reserve the balance of my time.

Mr. STEPHENS of Texas. Will the gentleman yield for a question?

The SPEAKER. Will the gentleman from Kansas [Mr. REEDER] yield to the gentleman from Texas?

Mr. REEDER. Yes, sir.

Mr. STEPHENS of Texas. As I understand your bill, it provides that these irrigable lands shall be sold in quantities of not less than 10 acres and up to as high as 160 acres?

Mr. REEDER. Yes, sir.

Mr. STEPHENS of Texas. Now, is it contemplated to sell the public domain in that way?

Mr. REEDER. It is contemplated under these irrigation projects. Where they find that a man can not cultivate 40 acres, but can cultivate and care for 10 acres, the Department has the privilege of reducing the farming unit to 10 acres; and hence a man can take 10 acres of this land to pay for the water necessary to irrigate it and not be obliged to take 40 acres. Where it has been found impracticable for them to utilize and pay for so large a tract, in such cases they desire the privilege of making the farm unit less. And I will say, from my experiences in looking over those irrigation projects last year, I favored making the unit as low as 5 acres, but the committee thought that 10 acres would be low enough.

Mr. STEPHENS of Texas. Does the bill provide that a man should be an actual settler upon the land, subject to the home-

stead laws of the United States, to be entitled to a 10-acre subdivision?

Mr. REEDER. Yes, sir. On land that may be improved in certain sections by irrigation. For instance, in your country there are places where they can plant fruits, and 10 acres is as much as one man can handle profitably.

Mr. STEPHENS of Texas. Suppose he has 160 acres under the laws now and has lived on it; he may have located upon the land. Can he drop 80 or 100 acres?

Mr. REEDER. He can if he so desires.

Mr. STEPHENS of Texas. He can not be forced to drop any part of it unless he chooses.

Mr. REEDER. No, sir; but of the public lands he can take under the law only so much as the irrigation department determines, between 10 and 160 acres.

Mr. STEPHENS of Texas. I have not had an opportunity to examine the bill, but I think it is a bill in the right direction.

Mr. LACEY. I would like to ask the gentleman from Kansas still further, if he has a communication from the Department relative to this matter?

Mr. REEDER. I think I have right here the exact paper sent us by the Department, suggesting that portion of the bill.

Mr. LACEY. By whom was the bill drawn?

Mr. REEDER. I do not know that I can answer that.

Mr. LACEY. From what Department did it come?

Mr. REEDER. It was from the Geological Survey; the irrigation department.

Mr. LACEY. It did not come from the Land Department?

Mr. REEDER. I am not quite sure; but I do not think it did.

Mr. LACEY. I would ask, Mr. Speaker, if the gentleman does not think he ought to withdraw the bill and consult with the officials of the Land Office about this matter he proposes to have done by the House? It is a matter that comes from the Geological Survey, and relates to patents on lands and the disposition of lands, two entirely different organizations charged with the operation of the bill. This comes from the Geological Survey.

Mr. REEDER. I think that would be very undesirable. I do not think I would be willing to do that, for the reason that it simply provides that the three towns that all supposed came under the law passed a couple of weeks since shall come under the law. The Department holds these particular towns do not come under it.

Mr. LACEY. That is the point I am making; that this is from the Geological Survey, that has no law department connected with it.

Mr. REEDER. It was the Land Department.

Mr. LACEY. Then, the gentleman can not tell me whether the proposed bill which he now presents was drawn by the Geological Survey or in the Land Department.

Mr. REEDER. I think it was drawn at the Geological Survey. But I see the gentleman from Wyoming, the chairman of the committee, is here now, and I will permit him to answer.

Mr. MONDELL. I will say to the gentleman from Iowa that the officers of the Reclamation Service took up with the officers of the General Land Office the question as to whether the three town sites heretofore established in the State of Idaho could be appraised and sold under the law passed a few days ago. It was the opinion of the officers of the Land Office that there was some question as to whether this could be done.

Mr. LACEY. Now, what communication has my friend on that subject from the Land Office?

Mr. MONDELL. I have no communication from the Land Office on that subject, but, Mr. Speaker, the officials of the Land Office also informed the gentlemen on the Reclamation Service that they had no funds with which they could proceed to appraise and sell these town sites in Idaho under the law under which they were set apart. So that it is necessary either to provide an appropriation for the appraisal and sale of these town sites under the law under which they were originally set apart or to provide, which we believe is better, that these town sites shall now come under the provisions of the law passed a few days ago. This bill provides that these town sites may be appraised and sold under the general law which was reported from the Committee on Irrigation of Arid Lands, and which became a law April 16.

Mr. REEDER. I reserve the remainder of my time.

Mr. LACEY. It is a rather novel proposition that the Land Department should call upon this House through this committee for legislation on the bill which passed on the 16th of April, or was approved on the 16th of April, and affecting a matter that is entirely different.

This new law is from a Department that is in no way in charge of the land laws in any sense, and it should have gone to another committee, and say when a bill that had been presented by the Interior Department through its law officers, and which was just a couple of weeks old, required a new enactment or remodeling into some other form. Of course it would have to go to the Committee on Public Lands. It would come up as a separate proposition, but being combined as it was with the irrigation question, it might go to either, and the result is we have two committees, each one of them possibly coming to different conclusions, and the House being asked under a suspension of the rules, without opportunity for examination, to pass this feature of the bill.

Now, my friend from Wyoming is on both committees, and no doubt more familiar with the details than the gentleman in charge of the bill. I do not want to obstruct the bill, but it is a very unsatisfactory form in which to present legislation in the House.

Mr. MONDELL. I do not think it is extraordinary, Mr. Speaker, and I hope not unsatisfactory. The Committee on Irrigation reported a bill some little time ago providing for town sites on irrigation tracts. That bill became a law April 16. Prior to the passage of that legislation there had been three town sites set aside in the State of Idaho under one of our town-site laws, under which the proceeds of sales go to the National Treasury. We supposed that these town sites already established could be appraised and sold under the new law.

Now, it seems there is some question whether this can be done, but this would not be so important except for the fact that the Land Office has no funds with which to appraise and sell those town sites in accordance with the law under which they were set aside. Therefore unless we make some such provision as is contained in this bill, those town sites can not be appraised and sold, and the people can not obtain titles to their lots. There has been no attempt on the part of the Committee on Irrigation to usurp the jurisdiction of the Committee on the Public Lands. The question of town sites under irrigation projects is one that the Committee on Irrigation has had charge of from the beginning, if the gentleman from Iowa will recall; but owing to the fact that there are three town sites already set aside under an old law, which can not be sold because there is no appropriation available, we find it necessary to provide by this legislation that they may be sold and disposed of under the legislation which became a law April 16.

The SPEAKER. The question is on suspending the rules and passing the bill.

In the opinion of the Chair, two-thirds having voted in favor of the motion——

Mr. WILLIAMS. Division, Mr. Speaker!

The question was taken; and there were—ayes 96, noes 5.

Accordingly (two-thirds voting in favor thereof) the rules were suspended and the bill passed.

FORT KEOGH MILITARY RESERVATION, MONT.

Mr. YOUNG. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5203) granting to the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation in Montana, and for other purposes.

The SPEAKER. The gentleman from Michigan moves to suspend the rules and pass a bill which the Clerk will report.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a corporation created under and by virtue of the laws of the State of Montana, be, and the same is hereby, empowered to survey, locate, construct, and maintain a railway, telegraph, and telephone line through Fort Keogh Military Reservation, Mont., upon such a line as may be determined and approved by the Secretary of War.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway, telegraph, and telephone line, and for no other purpose, a right of way 100 feet in width through said Fort Keogh Military Reservation, and a right to take and use a strip of land in said reservation 200 feet in width, with a length of 3,000 feet, in addition to said right of way, for stations, station grounds, and stock yards, with the right to use other additional ground, when cuts and fills may be necessary for the construction and maintenance of said roadbed, not exceeding 100 feet in width on each side of said right of way, or as much thereof as may be included in said cut or fill: *Provided*, That no part of the lands herein authorized to be taken shall be used except in such manner and for such purposes as shall be necessary for the construction and convenient operation of said railway, telegraph, and telephone lines and the use and enjoyment of the rights and privileges herein granted; and when any portion thereof shall cease to be so used such portion shall revert to the United States, from which the same shall be taken: *Provided further*, That the Chicago, Milwaukee and St. Paul Railway Company, of Montana, will fence its right of way and will provide and maintain necessary and suitable crossings: *And provided further*, That the said Chicago, Milwaukee and St. Paul Railway Company, of Montana, shall comply with such other regulations or conditions as may from time to time be prescribed by the Secretary of War.

The SPEAKER. Is a second demanded?

No second was demanded; and the question being taken

(two-thirds voting in favor thereof), the rules were suspended and the bill passed.

MARYLAND OYSTER BEDS.

Mr. GILL. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18435) to authorize the Secretary of Commerce and Labor to cooperate, through the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries, with the shellfish commissioners of the State of Maryland in making surveys of the natural oyster beds, bars, and rocks in the waters within the State of Maryland.

The SPEAKER. The gentleman from Maryland moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of Commerce and Labor be, and he is hereby, authorized and directed, upon the request of the governor of the State of Maryland, to designate such officers, experts, and employees of the Bureau of the Coast and Geodetic Survey and of the Bureau of Fisheries as may be necessary to cooperate with the Maryland State board of shellfish commissioners in making a survey of and locating the natural oyster beds, bars, and rocks in the waters within the State of Maryland; and the Secretary of Commerce and Labor is hereby authorized and directed to furnish to the officers, experts, and employees of said Bureaus so detailed as aforesaid such instruments, appliances, and steam launches as may be necessary to make the survey aforesaid; and the Secretary of Commerce and Labor is hereby authorized to have made in the Bureau of the Coast and Geodetic Survey all the plats necessary to show the results of the aforesaid survey and the locations of the said natural oyster beds, bars, and rocks in the waters within the State of Maryland, and to furnish to the board of shellfish commissioners of the State of Maryland such copies as may be necessary, and for this purpose to employ, in the District of Columbia and elsewhere, such technically qualified persons as may be necessary to carry out the purposes of this act.

SEC. 2. That the Secretary of Commerce and Labor is hereby further authorized to have erected or constructed by the officers so detailed as aforesaid, while making said survey, such structures as may be necessary to mark the points of triangulation, so that the same may be used for such future work of the Coast and Geodetic Survey as the said Bureau may be hereafter required to perform in prosecuting the Government coast survey of the navigable waters of the United States located within the State of Maryland.

SEC. 3. That the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries be, and they are hereby, authorized and directed to expend, under the direction of the Secretary of Commerce and Labor, a sum of money not exceeding $15,000 in carrying out the purposes of this act.

SEC. 4. That this act shall take effect from the date of its passage.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and (two-thirds voting in favor thereof) the rules were suspended and the bill passed.

DAM ACROSS NIOBRARA RIVER, NEBRASKA.

Mr. KINKAID. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 17982) to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across the Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation.

The SPEAKER. The gentleman from Nebraska moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That Charles H. Cornell, his assigns, assignees, successors, and grantees, be, and are hereby, privileged, authorized, and granted the authority and right to construct, maintain, and use for power purposes a dam across the Niobrara River on parts of sections 22 and 27, township 34, range 27 west of the sixth principal meridian, in the State of Nebraska, and to abut said dam on the east bank of said Niobrara River upon land which is a part of the Fort Niobrara Military Reservation, the property of the United States; and said dam may be of sufficient height and strength to support a body of water affording or furnishing as much as fifty feet effective head for power purposes, with the privilege of backing water upon or overflowing such part of the Fort Niobrara Military Reservation as may reasonably result from the proper construction, maintenance, and use of said dam, and that any damages caused thereby may be assessed by the Secretary of War and paid to the United States before any construction hereby provided for shall be commenced, with the privilege also of constructing and suspending wires upon, over, and across said military reservation for the purpose of transmitting electric light and power generated by said water power, also with like privileges of constructing and suspending telephone wires: *Provided*, That the grants and privileges above specified as to such dam, water power, and wires aforesaid shall become void unless the construction of said dam be commenced within two years from the approval of this act and completed and put into operation within five years from the approval of this act; and the said Charles H. Cornell, his assigns, assignees, successors, and grantees, are further privileged, authorized, and granted the authority and right to construct and operate a trolley or electric railway, with necessary side tracks and station buildings, also telegraph and telephone lines, upon, over, and across the land of said Fort Niobrara Military Reservation, said trolley or electric railway and telegraph and telephone lines to start from the town of Valentine and run by a feasible route as nearly as may be in a direct course to the Fort Niobrara military post, upon said military reservation, thence north or northeast upon a feasible route in the direction of the Rosebud Indian Reservation, in the State of South Dakota, with authority to operate and use such trolley or electric railway and telegraph and telephone lines: *Provided*, That a map of said proposed dam, storage reservoir, railway line, telegraph line, or telephone line shall be filed with the honorable Secretary of War, and the location thereof shall by him be approved before any of these privileges herein aforesaid shall become effective: *Provided further*, That the privileges herein granted may at any time be rescinded or suspended by order of the Secretary of War; and said corporation shall, at any time when so ordered by the Secretary of War, remove its rails and all fixtures and appurtenances, at its own expense and cost and without any claim of any kind from the United States: *And provided further*, That the grants and privileges mentioned in this act as to said railway, telegraph, and telephone right of way shall become void unless the road or railway shall be commenced within two years from the date of the approval of this act and said road and telegraph or telephone line be completed from the town of Valentine to the Fort Niobrara military post, on said Fort Niobrara Military Reservation, and put into operation within five years from the date of the approval of this act.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and (two-thirds voting in favor thereof) the rules were suspended, and the bill passed.

DISTRIBUTION OF ANNUITIES TO CERTAIN INDIANS.

Mr. COUSINS. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 10133) to provied for the annual pro rata distribution of the annuities of the Sac and Fox Indians of the Mississippi between the two branches of the tribe, and to adjust the existing claims between the two branches as to said annuities, as amended.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the future distribution of the annual appropriations for the fulfillment of existing treaty stipulations with the Sac and Fox Indians of the Mississippi the Secretary of the Interior be, and he is hereby, directed, after deducting the $5,000, or so much thereof as may be necessary, for the support of the manual-labor school, as provided in article 9 of the treaty of 1867, with said Indians, to make a pro rata division thereof between the two branches of the tribe, one branch residing in the Territory of Oklahoma and the other branch residing in the State of Iowa, according to their respective numbers to be ascertained by the annual enrollment of them.

SEC. 2. That in order to settle and adjust the claims of that branch of the tribe residing in the State of Iowa, as set forth in their memorial to Congress, printed in Senate Document No. 64, Fifty-seventh Congress, second session, the Secretary of the Interior is hereby authorized and directed to cause to be transferred on the books of the Treasury Department from the fund of $251,929.50 held to the credit of the Sac and Fox Indians of the Mississippi in Oklahoma, or whatever the amount thereof may be at the date of the passage of this act, the sum of $100,167.10, to the credit of that branch of said tribe now residing in the State of Iowa, and from the amount so transferred to pay to R. V. Belt, the attorney of the said Sac and Fox Indians residing in the State of Iowa, the compensation fixed by them in council assembled by resolution adopted November 6, 1899, as set forth on page 26 in House of Representatives Document No. 38, Fifty-seventh Congress, first session; also to pay therefrom to the principal chief of the Foxes of said tribe the sum of $1,000 in settlement of the claim of said principal chief for the annual installments of the amount stipulated by the treaty to be paid to him and not heretofore so paid.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and, two-thirds having voted in favor thereof, the bill was passed.

TURPENTINE TREES ON PUBLIC LANDS.

Mr. LACEY. Mr. Speaker, I move to suspend the rules and pass with amendment the bill (H. R. 16672) to punish cutting, chipping, or boxing trees on the public lands.

The Clerk read the bill, as follows:

Be it enacted, etc., That every person who shall cut, chip, chop, or box any tree on any lands belonging to the United States or on any lands covered by or embraced in any unperfected settlement, application, filing, entry, selection, or location, made under any law of the United States, for the purpose of obtaining from such tree any pitch, turpentine, or other substance; and every person who shall knowingly encourage, cause, procure, or aid any such tree to be so cut, or who shall buy, trade for, or in any manner acquire any pitch, turpentine, or other substance, or any article or commodity made from any pitch, turpentine, or other substance, when he has knowledge that the same has been so unlawfully obtained from such trees, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than $500 or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

UNSURVEYED LANDS IN LOUISIANA.

Mr. WATKINS. Mr. Speaker, I move to suspend the rules and pass with amendment the bill (H. R. 16307) authorizing the Secretary of the Interior to have a survey made of unsurveyed public lands in the State of Louisiana.

The Clerk read the bill, as follows:

Be it enacted, etc., That pursuant to section 2218 of the Revised Statutes of the United States the Secretary of the Interior be, and he is hereby, authorized and instructed to cause a survey to be made of all of the unsurveyed public lands in the State of Louisiana lying north of the Louisiana base line and thirty-first degree of north latitude, together with such resurveys and retracements as may be found necessary in order to complete the original surveys herein provided for.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

RESURVEY OF TOWNSHIPS IN NEBRASKA.

Mr. KINKAID. Mr. Speaker, I move to suspend the rules, and pass with amendments the bill (H. R. 17411) for the resurvey of certain townships in the State of Nebraska.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to cause to be made a resurvey of the lands in township 23 north of range 12, township 23 north of range 13, township 28 north of range 14, township 32 north of range 47, townships 25 and 26 north of range 32, township 29 north of range 35, all west of the sixth principal meridian, in the State of Nebraska; townships 17, 18, 19, and 20 north of ranges 30, 31, 32, 33, 34, and 35 west of the sixth principal meridian, in Nebraska; and all rules and regulations of the Interior Department requiring petitions from all settlers of said counties asking for resurvey and agreement to abide by the result of the same, so far as these lands are concerned, are hereby abrogated: *Provided*, That nothing herein contained shall be so construed as to impair the present bona fide claim of any actual occupant of said lands so occupied: *Provided further*, That before any survey is ordered it shall be made to appear to the satisfaction of the Secretary of the Interior that the former official survey of said lands is so generally inaccurate or obliterated as to make it necessary to survey the land, and only such parts of the land where the survey is so inaccurate or obliterated shall be surveyed.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and (two-thirds having voted in favor thereof) the bill was passed.

BRIDGES ACROSS CLINCH AND HOLSTON RIVERS, VIRGINIA AND TENNESSEE.

Mr. MANN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5890) to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee.

The Clerk read the bill, as follows:

Be it enacted, etc., That the South and Western Railroad Company, a corporation created, organized, and existing under the laws of the State of Virginia, its successors and assigns, be, and they hereby are, authorized to construct, maintain, and operate bridges, with single or double tracks, and approaches thereto, over and across the Clinch River and the branches thereof, in the State of Virginia, and over and across the Holston River and the branches thereof, in the States of Virginia and Tennessee, at such points as it may now or hereafter be desired, for the passage of railway engines, cars, and trains, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

Mr. MANN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5891) to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee.

The Clerk read the bill, as follows:

Be it enacted, etc., That the South and Western Railway Company, a corporation created, organized, and existing under the laws of the States of Kentucky, Virginia, and Tennessee, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate bridges, with single or double tracks, and approaches thereto, over and across the Clinch River and the branches thereof, in the State of Virginia, and over and across the Holston River and the branches thereof, in the States of Virginia and Tennessee, at such points as it may now or hereafter be desired, for the passage of railway engines, cars, and trains, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

GRANT OF CERTAIN LANDS TO MINNESOTA.

Mr. VOLSTEAD. Mr. Speaker, I move to suspend the rules and pass, with House amendments, the bill (S. 4976) to grant certain lands in the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby granted to the State of Minnesota the following tract of land in said State, to wit: Lot 6, section 2, township 141 north, range 31 west of the fifth principal meridian, in the State of Minnesota: *Provided, however*, That said State shall pay therefor at the rate of $1.25 per acre: *And provided further*, That the land hereby appropriated shall forever be and remain subject to the right of the United States to overflow the same, of any part thereof, by such reservoirs as now exist or may hereafter be constructed upon the headwaters of the Mississippi River.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

RESTORING CERTAIN LANDS TO PUBLIC DOMAIN IN MINNESOTA.

Mr. VOLSTEAD. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2296) restoring to the public domain certain lands in the State of Minnesota, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the following-described lands, to wit: The southwest quarter of the southwest quarter of section 2, township 134 north of range 29 west, fifth principal meridian, and the east half of the northeast quarter and lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 of section 10, township 134 north of range 29 west, fifth principal meridian, being situate in the State of Minnesota, are hereby restored to the public domain, subject to homestead entry; and all rights of priority of entry and settlement are hereby reserved, to be determined as to respective claims by the proper officials of the land office of the district in which said lands are situate, subject to appeal and review as provided by law for the entry of lands for homesteads: *Provided, however*, That said homestead entries shall be made subject to, and the restoration of these lands to the public domain is made subject to, the right of the United States to construct and maintain dams for the purpose of creating reservoirs in the aid of navigation, and no claim shall accrue by reason of the overflow of said lands on account of the construction and maintenance of such dams and reservoirs. And there shall be incorporated in the final receipts and in the patents when issued for these lands a condition and reservation reading as follows: "Subject to the right of the United States to overflow."

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

NORTHWESTERN NORMAL SCHOOL, ALVA, OKLA.

Mr. McGUIRE. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 11787) ratifying and approving an act to appropriate money for the purpose of building additional buildings for the Northwestern Normal School, at Alva, in Oklahoma Territory, passed by the legislative assembly of Oklahoma Territory, and approved the 15th day of March, 1905, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the act of the legislative assembly of the Territory of Oklahoma, approved March 15, 1905, and entitled "An act to appropriate money for the purpose of building additional buildings for the Northwestern Normal School, at Alva," be, and the same is hereby, ratified and affirmed and approved, and all restrictions of the appropriation act of Congress in reference thereto are hereby removed and said act shall be in full force and effect from and after the passage of this act.

SEC. 2. That all acts and parts of acts in conflict herewith are hereby repealed.

SEC. 3. That this act shall take effect and be in full force on and after its passage.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

RIGHT OF WAY ACROSS PIGEON POINT LIGHT-HOUSE RESERVATION, SAN MATEO COUNTY, CAL.

Mr. HAYES. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 15078) granting to the Ocean Shore Railway Company a right of way for railroad purposes across Pigeon Point Light-House Reservation, in San Mateo County, Cal., as amended, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That a right of way be, and the same hereby is, granted to the Ocean Shore Railway Company, a railroad corporation organized and existing under the laws of the State of California, its successors and assigns, over, upon, and across the United States Light-House Reservation at Pigeon Point, in the county of San Mateo, State of California, 40 feet in width, being 20 feet in width on the northerly side and 20 feet in width on the southerly side of a center line described as follows, namely: Beginning at a point on the southeasterly boundary line of a tract known as the "nine-acre lot," which shall be 28 feet, more or less, from the northeasterly corner of said lot; thence westerly 800 feet, more or less, along a circular curve, to the right, whose radius shall be 1,910 feet to a point on the northwesterly boundary

of said lot, 125 feet, more or less, northerly from the southwesterly corner; said right of way as thus described containing 0.73 of an acre, more or less: *Provided*, That the Ocean Shore Railway Company, its successors and assigns, shall place a suitable fence on each side of the said right of way, with proper gates and cattle guards, and shall also place a watering trough with pipe 1 inch in diameter laid 18 inches under the surface, with suitable cocks and fittings, joining said trough with the water tank now at or near the northwest corner of said "nine-acre lot," all to be placed and maintained to the satisfaction of the Secretary of Commerce and Labor and without expense to the United States; and the officers, employees, and agents of the United States shall have the right of ingress and egress to and from the right of way herein granted, and shall at all times have access to the water pipes laid underground across said right of way: *Provided further*, That the Ocean Shore Railway Company, its successors and assigns, shall deliver light-house freight shipped over that road and billed to Pigeon Point light-station as near the said "nine-acre lot" as practicable and not in any case to exceed one-fourth of a mile from said "nine-acre lot."

SEC. 2. That Congress expressly reserves the right to alter, amend, or repeal this act, in whole or in part, without liability on the part of the United States for any damages or losses sustained by said company.

SEC. 3. That said right of way shall be used for railroad purposes only, and if at any time it ceases to be so used then and in that event said grant shall be terminated and said property revert to the United States; and the right herein granted shall be forfeited by said company, its successors and assigns, unless the road shall be constructed through the said reservation within three years after the passage of this act.

The SPEAKER. Is a second demanded?

Mr. BURTON of Ohio. Mr. Speaker, reserving the right to demand a second, I would like to ask a question. Does this bill have the approval of the Light-House Board?

Mr. HAYES. Yes; and the unanimous report of the Committee on Interstate and Foreign Commerce.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and, two-thirds voting in favor thereof, the rules were suspended and the bill was passed.

LEASES IN YELLOWSTONE PARK.

Mr. DIXON of Montana. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 14410) to amend an act approved August 3, 1894, entitled "An act concerning leases in the Yellowstone National Park," with an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and empowered to lease for a period not exceeding ten years, at an annual rental to be determined by him, to any person, corporation, or company he may authorize to transact business in the Yellowstone Park separate tracts of land, not exceeding 20 acres each, at such places, not to exceed ten in number to any one person, corporation, or company, in said park as the comfort and convenience of visitors may require, for the construction and maintenance of substantial hotel buildings and buildings for the protection of stage, stock, and equipment.

Any person, corporation, or company holding a lease within said park for the purposes above described is hereby authorized, with the approval of the Secretary of the Interior, to execute mortgages upon his or its rights, properties, and franchises, including his or its contract or contracts with the Secretary of the Interior, and such mortgages, together with the approval of said Secretary of the Interior, may be filed for record in the office of the Secretary of the Interior, and when so recorded shall have all the effect of a public record.

Any mortgage, lien, or incumbrance created under the provisions hereof shall be subject to the rights of the Government to compel the enforcement of the terms of the lease or contract of the mortgagor, and any purchaser under a foreclosure of such incumbrance shall take subject to all conditions assumed by the original lessee or contractor.

All provisions of existing law in relation to said park not in conflict herewith are hereby continued in full force and effect.

The SPEAKER. Is a second demanded?

Mr. PERKINS. Mr. Speaker, reserving the right to demand a second, I would like to ask a question. That grants permission only for the purpose of convenience of travelers?

Mr. DIXON of Montana. It is a bill prepared by the Secretary——

Mr. PERKINS. It is not for any business purposes.

Mr. DIXON of Montana. Oh, no; it is for the hotels.

Mr. PALMER. Of course it is for a business purpose.

Mr. PERKINS. Well, for the convenience of travelers.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill as amended was passed.

BRIDGE ACROSS THE MISSOURI RIVER.

Mr. MARSHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18376), to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River, which I send to the desk and ask to have read, as amended.

Mr. LACEY. Mr. Speaker, before that bill is read I would like to ask the gentleman if he is moving to pass the Senate bill or the House bill?

Mr. MARSHALL. The House bill is the one that the gentleman from South Dakota gave me.

Mr. LACEY. That bill has already passed the Senate, and I would suggest to the gentleman that he move to pass the Senate bill in lieu of the House bill.

Mr. MARSHALL. In that event I will ask to substitute the Senate bill for the House bill.

Mr. MONDELL. Are the bills identical?

Mr. LACEY. Yes; they were introduced about the same time in each House, and the Senate bill has come over, having passed the Senate.

Mr. MONDELL. This bill is amended.

Mr. LACEY. The Senate bill passed with the amendment, I think, that is proposed in this bill.

Mr. MARSHALL. Mr. Speaker, I will ask to substitute the Senate bill, being S. 5943, for the bill which I just sent to the desk.

The SPEAKER. The gentleman from North Dakota moves to suspend the rules and pass the following Senate bill, which the Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the Minnesota, Dakota and Pacific Railway Company, a corporation organized under the laws of the State of South Dakota, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a railway bridge and approaches thereto across the Missouri River between the mouth of the Moreau River and the south line of Walworth County, in the State of South Dakota, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906: *Provided*, That said corporation shall commence said construction within two years and complete the same within four years from the passage of this act.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

The SPEAKER. Without objection, a similar House bill will lie on the table.

There was no objection.

JOHN W. HAMMOND.

Mr. CALDERHEAD. Mr. Speaker, I move to suspend the rules and pass the following concurrent resolution.

The SPEAKER. The Clerk will report the concurrent resolution.

The Clerk read as follows:

Resolved, etc., That the President be requested to return the bill (H. R. 8948) entitled "An act granting an increase of pension to John W. Hammond."

Mr. CALDERHEAD. Mr. Speaker, I make this motion in view of the following letter:

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, D. C., May 5, 1906.

CHAIRMAN COMMITTEE ON INVALID PENSIONS,
House of Representatives.

SIR: There has been referred to this office from the President H. R. 8948, entitled "An act granting an increase of pension to John W. Hammond."

The records of this office show that the said pensioner died on April 7, 1906; consequently the act, if approved, would be inoperative.

Inclosed please find a draft of a concurrent resolution requesting the President to return the bill to the House of Representatives.

Very respectfully,

V. WARNER, *Commissioner.*

The SPEAKER. Is a second demanded?

A second not being demanded, the question was taken; and two-thirds voting in favor thereof, the rules were suspended and the concurrent resolution was passed.

FORT DOUGLAS MILITARY RESERVATION.

Mr. HOWELL of Utah. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5498) granting additional land from the Fort Douglas Military Reservation to the University of Utah.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That there is hereby granted to the University of Utah the following-described land lying within the Fort Douglas Military Reservation and adjacent to the site of said university, in the State of Utah, namely: Beginning at the point of intersection of the west boundary line of Fort Douglas Reservation and north boundary line of Fourth South street, of Salt Lake City, which point is 10.23 rods east and 192.14 rods south of the northeast corner of section 5, township 1 south, range 1 east, Salt Lake meridian, and which marks the southwest corner of the present campus of the University of Utah, and running thence south 48 rods, thence east 80 rods, thence north 184 rods to the intersection of the prolongation of the north boundary of the campus of the University of Utah, thence west 9.4 rods to the northeast corner of the university campus, thence south 136 rods along the east boundary of the campus to the southeast corner of same, thence west 70.6 rods to point of beginning: *Provided*, That the State of Utah shall improve the said property and maintain the same for university purposes and not otherwise, and that in case said land shall be abandoned by the State for said purposes the said land and all improvements thereon shall revert to the United States: *Provided further*, That the grant of said land shall in no manner carry with it any right or title in or to any portion of the waters of the Red Butte Canyon Creek: *And provided further*, That there is reserved to the United States the

perpetual right to maintain, alter, rebuild, and enlarge the sewer which runs from the Fort Douglas Military Post across said tract of land, or to construct and maintain a new sewer system across the same should it be desirable so to do.

The SPEAKER. Is a second demanded?

A second not being demanded, the question was taken; and (two-thirds voting in favor thereof) the rules were suspended and the bill was passed.

RELIEF OF CERTAIN ENTRYMEN AND SETTLERS WITHIN THE LIMITS OF THE NORTHERN PACIFIC RAILWAY LAND GRANT.

Mr. JONES of Washington. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2292) for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the provisions of the act of July 1, 1898 (30 Stat., pp. 597 and 620), which provided for the adjustment by the Land Department of conflicting claims to lands within the limits of the grant to the Northern Pacific Railroad Company, and also the provisions of the act of March 2, 1901, entitled "An act for the relief of settlers under the public land laws to lands within the indemnity limits of the grant to the Northern Pacific Railroad Company," be, and they hereby are, extended to include any bona fide settlement or entry made subsequent to January 1, 1898, and prior to May 31, 1905, in accordance with the erroneous decision of the Land Department respecting the withdrawal on general route of the Northern Pacific Railroad between Wallula, Wash., and Portland, Oreg., where the same has not since been abandoned: *Provided*, That all lieu selections made under this act shall be confined to lands within the State where the private holdings are situated.

SEC. 2. That this act shall become effective upon an acceptance thereof by the Northern Pacific Railway Company being filed with the Secretary of the Interior.

The SPEAKER. Is a second demanded?

A second not being demanded, the question was taken; and two-thirds voting in favor thereof, the rules were suspended and the bill was passed.

GREAT COASTING DISTRICTS OF THE UNITED STATES.

Mr. GROSVENOR. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5572) to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That section 4348 of the Revised Statutes be, and hereby is, amended to read as follows:

"SEC. 4348. The seacoasts and navigable rivers of the United States and Porto Rico shall be divided into five great districts: The first to include all the collection districts on the seacoasts and navigable rivers between the northern boundary of the State of Maine and the southern boundary of the State of Texas; the second to consist of the island of Porto Rico; the third to include the collection districts on the seacoasts and navigable rivers between the southern boundary of the State of California and the northern boundary of the State of Washington; the fourth to consist of the Territory of Alaska; the fifth to consist of the Territory of Hawaii."

SEC. 2. That this act shall take effect on and after January 1, 1907.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, reserving the right to demand a second—I do not know whether I shall or not—does the gentleman think there are any more people here now than there were this morning?

Mr. GROSVENOR. I think about the same number.

Mr. WILLIAMS. You think the Speaker would probably arrive at the conclusion there were 208?

Mr. GROSVENOR. I do.

Mr. WILLIAMS. Then I will not demand a second. [Laughter and applause.]

A second not being demanded, the question was taken; and two-thirds voting in favor thereof, the rules were suspended and the bill was passed.

REGULATION OF MOTOR BOATS.

Mr. GROSVENOR. Mr. Speaker, I move to suspend the rules and pass the bill (S. 4094) to amend section 4426 of the Revised Statutes of the United States; regulation of motor boats.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That section 4426 of the Revised Statutes of the United States be, and it is hereby, amended by striking out, after the words "launches of ten," and before the words "and under," the words "tons burden," and inserting in lieu thereof the words "gross tons," and by striking out, after the words "above fifteen," and before the words "carrying freight," the words "tons burden," and inserting in lieu thereof the words "gross tons;" and also that said section be, and it is hereby, further amended by adding at the end thereof the following: "All vessels of 15 gross tons or less propelled in whole or in part by gas, gasoline, petroleum, naphtha, fluid, or electricity, and carrying passengers for hire, shall carry one life-preserver, of the sort prescribed by the regulations of the board of supervising inspectors, for every passenger carried, and no such boat while so carrying passengers shall be operated or navigated except in charge of a person duly licensed for such service by the local board of inspectors. No examination shall be required as a condition of the obtaining of such a license, and any such license shall be revoked or suspended by the local board of inspectors for misconduct, gross negligence, recklessness in navigation, intemperance, or violation of law on the part of the holder, and if revoked, the person holding such license shall be incapable of obtaining another such license for one year from the date of revocation," so that said section, when amended, shall read as follows:

"SEC. 4426. The hull and boilers of every ferryboat, canal boat, yacht, or other small craft of like character propelled by steam shall be inspected under the provisions of this title. Such other provisions of law for the better security of life as may be applicable to such vessels shall, by the regulations of the board of supervising inspectors, also be required to be complied with before a certificate of inspection shall be granted, and no such vessel shall be navigated without a licensed engineer and a licensed pilot: *Provided, however*, That in open steam launches of 10 gross tons and under one person, if duly qualified, may serve in the double capacity of pilot and engineer. All vessels of above 15 gross tons carrying freight or passengers for hire, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors, shall be, and are hereby, made subject to all the provisions of section 4426 of the Revised Statutes of the United States relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of this title applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applicable, the said vessels, their masters, officers, and owners shall be subject to the provisions of sections 4496, 4497, 4498, 4499, and 4500, relating to the imposition and enforcement of penalties and the enforcement of law.

"All vessels of 15 gross tons or less propelled in whole or in part by gas, gasoline, petroleum, naphtha, fluid, or electricity, and carrying passengers for hire, shall carry one life-preserver, of the sort prescribed by the regulations of the board of supervising inspectors, for every passenger carried, and no such boat while so carrying passengers shall be operated or navigated except in charge of a person duly licensed for such service by the local board of inspectors. No examination shall be required as a condition of the obtaining of such a license, and any such license shall be revoked or suspended by the local board of inspectors for misconduct, gross negligence, recklessness in navigation, intemperance, or violation of law on the part of the holder, and if revoked the person holding such license shall be incapable of obtaining another such license for one year from the date of revocation."

The SPEAKER. Is a second demanded?

Mr. FITZGERALD. Mr. Speaker, I will ask the gentleman if he will not briefly explain the changes the bill makes in the present law?

Mr. GROSVENOR. The bill makes no change in the present law excepting that it provides that these small craft shall have an experienced officer. He shall take a license, but without competitive examination or any other examination, and register his name with the license upon application; thereupon, in case of misdemeanor or drunkenness or anything of that character, his name is known to the proper officials of the Government and he can be suspended.

Mr. FITZGERALD. Does it require the owners of these boats under 15 tons gross burden that do not carry passengers to take out licenses?

Mr. GROSVENOR. It only changes the law in the particular I have stated. The bill is recommended by the Department of Commerce and Labor and it is unanimously reported from the committee and passed in the Senate in the same way.

Mr. FITZGERALD. There has been a great deal of discussion about——

Mr. GROSVENOR. I know; but it does not affect the interest the gentleman is speaking about.

Mr. PERKINS. As I understand, if the gentleman will yield, this bill does not in any of its provisions affect boats that do not carry passengers for hire.

Mr. GROSVENOR. Not at all.

The SPEAKER. Is a second demanded?

A second not being demanded, the question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

BRIDGE ACROSS ROANOKE RIVER.

Mr. CLAUDE KITCHIN. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18204) to authorize the Northampton and Halifax Bridge Company to construct a bridge across the Roanoke River at or near Weldon, N. C.

The SPEAKER. The gentleman from North Carolina moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the Northampton and Halifax Bridge Company, a corporation organized under the laws of the State of North Carolina, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a wagon, cart, vehicle, and footway bridge, and approaches thereto, across the Roanoke River at or near the town of Weldon, in the State of North Carolina, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

DANGERS TO NAVIGATION.

Mr. HEPBURN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5683) to provide for the removal of derelicts and other floating dangers to navigation, with Senate amendment.

The SPEAKER. The gentleman from Iowa moves to suspend the rules and pass the following bill, with Senate amendment, which the Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized to have constructed, at a cost not to exceed $250,000, a steam vessel specially fitted for and adapted to service at sea in bad weather, for the purpose of blowing up or otherwise destroying or towing into port wrecks, derelicts, and other floating dangers to navigation, said vessel to be operated and maintained by the Revenue-Cutter Service under such regulations as the Secretary of the Treasury may prescribe.

The SPEAKER. Is a second demanded?

No second being demanded the question was taken; and two-thirds having voted in favor thereof, the bill as amended was passed.

CONDEMNATION OF LANDS IN CONNECTION WITH RIVER AND HARBOR IMPROVEMENT.

Mr. BURTON of Ohio. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 15095) authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvements at the expense of persons, companies, or corporations.

The SPEAKER. The gentleman from Ohio move to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That whenever any person, company, or corporation, municipal or private, shall undertake to secure, for the purpose of conveying the same to the United States free of cost, any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, and shall be unable for any reason to obtain a valid title thereto, the Secretary of War may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney-General of the United States to institute and conduct such proceedings upon the request of the Secretary of War: *Provided*, That all the expenses of said proceedings and any award that may be made thereunder shall be paid by the said person, company, or corporation, to secure which payment the Secretary of War may require the said person, company, or corporation to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced.

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

SUBDIVISION AND SALE OF LANDS, STATE OF WASHINGTON.

Mr. CUSHMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 17127) to provide for the subdivision and sale of certain lands in the State of Washington, with amendment.

The SPEAKER. The gentleman from Washington moves to suspend the rules and pass the following bill as amended, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior may, if in his opinion the public interests so require, cause lots 1, 2, and 3, and the northwest quarter of the northwest quarter of section 4; and lots 2, 3, and 4, and the northeast quarter of the southeast quarter, and all of the northeast quarter of section 5; and the east half of the northeast quarter and the east half of the southeast quarter of section 7; and the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section 8, in township 21 north; and lot 4 of section 33, in township 22 north, all in range 2 east of the Willamette meridian, in the State of Washington, or any part thereof, to be regularly surveyed or subdivided into tracts or lots of 10 acres each, or less, and into town lots, or either, or both. He shall cause said lands to be so surveyed and subdivided and each tract thereof to be appraised by three competent disinterested men, to be appointed by him, and who shall, after having each been first duly sworn to impartially and faithfully execute the trust reposed in him, appraise said lands, subdivisions, and tracts, and each of them, and report their proceedings to the Secretary of the Interior for his action thereon. If such appraisement be disapproved, the Secretary of the Interior shall again cause the said lands to be appraised as before provided; and when the appraisement has been approved he shall cause the said lands, subdivisions, and lots to be sold at public sale to the highest bidder for cash, at not less than the appraised value thereof and not less than $2.50 per acre, first having given not less than sixty days' public notice of the time, place, and terms of sale, immediately prior to such sale, by publication in at least two newspapers having general circulation in the county or the section of the county where the lands to be sold are situated; and any lands, subdivisions, or lots remaining unsold may be reoffered for sale at any subsequent time in the same manner, at the discretion of the Secretary of the Interior; and if unsold at such second offering for want of bidders then the Secretary of the Interior may sell the same at private sale for cash at not less than the appraised value nor less than $2.50 per acre: *Provided*, That any settler who is in actual occupation of any portion of such lands at the date of the passage of this act who has settled thereon in good faith for the purpose of securing a home, and is by law entitled to make a homestead entry, shall be entitled to enter the land so occupied, not exceeding 160 acres in a body, according to the Government surveys and subdivisions thereof, upon payment to the Government of the sum of $2.50 per acre for each acre entered by him, and upon showing residence and cultivation of such lands in the manner and for the length of time required by the homestead laws of the United States.

The SPEAKER. Is a second demanded?

Mr. CAMPBELL of Kansas. Mr. Speaker, for the purpose of finding out something about the bill, I demand a second.

Mr. CUSHMAN. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

Mr. CAMPBELL of Kansas. My purpose in demanding a second is to find out how much land this bill covers, and the purpose of the bill.

Mr. CUSHMAN. Mr. Speaker, the scope of the bill covers about 800 acres of land. In the years of 1866 and 1868 certain lands near Gig Harbor, in Pierce County, in the State of Washington, were placed in two military reserves. In the year 1904 certain of those lands were excluded from the military reserves and placed under the jurisdiction of the Department of the Interior for disposal under the act of July 5, 1884. Under the provisions of the act of July 5, 1884, it was necessary for settlers, in order to make entry upon the lands thus excluded, to have resided upon these lands since the 1st day of January, 1884. In other words, in order to enter these lands and acquire title thereto they must have resided thereon since twenty-two years ago. Now, there are about eighty settlers on those 800 acres, making about 10 acres for each settler, and this bill simply provides each settler may enter the land upon which he now resides. None of the settlers has lived on these lands as long as twenty-two years. They have lived on it for twenty-one years on down to six and eight years; and this bill waives that necessity created by existing law for residence on these lands for twenty-two years.

Mr. CAMPBELL of Kansas. Are all these lands now occupied by bona fide settlers?

Mr. CUSHMAN. They are; every acre.

Mr. CAMPBELL of Kansas. By the people who proposed to enter them and make homes on them?

Mr. CUSHMAN. And have been so occupied for many years.

Mr. CAMPBELL of Kansas. I have no objection to the bill.

The queston was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

AMENDMENT TO SECTION 858, REVISED STATUTES.

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 7065) to amend section 858 of the Revised Statutes of the United States.

The SPEAKER. The gentleman from New York [Mr. PERKINS] moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read, as follows:

Be it enacted, etc., That section 858 of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"SEC. 858. The competency of a witness to testify in any civil action, suit, or proceeding in the courts of the United States shall be determined by the laws of the State or Territory in which the court is held."

The SPEAKER. Is a second demanded?

No second being demanded, the question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

ELECTION OF DELEGATE FROM HAWAII.

Mr. LLOYD. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 18443) that I send to the Clerk's desk.

The Clerk read as follows:

A bill (H. R. 18443) to amend the act to provide a government for the Territory of Hawaii, approved April 30, 1900.

Be it enacted, etc., That section 85 of an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, shall be amended to read as follows:

"SEC. 85. That a Delegate to the House of Representatives of the United States, to serve during each Congress, shall be elected by the voters qualified to vote for members of the house of representatives of the legislature. Such Delegate shall possess the qualifications necessary for membership of the senate of the legislature of Hawaii.

"Such election shall be held on the first Tuesday after the first Monday in November of every even year and at such places as shall be designated by the secretary of the Territory. The ballot for Delegate shall be such as the legislature of Hawaii may designate, and until provision is made by the Territorial legislature the ballot shall be of pink paper and shall be of the same general form as those used for the election of representatives to the legislature.

"The method of certifying the names of candidates for place on this ballot and all the conduct of the election of a Delegate shall be in conformity to the general election laws of the Territory of Hawaii.

"The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly.

"Every such Delegate shall have a seat in the House of Representatives, with the right of debate, but not of voting. In case of a vacancy

occurring in the office of Delegate, the governor of the Territory is directed to call a special election to fill such vacancy: *Provided, however*, That no vacancy shall be filled which occurs within five months of the expiration of a Congressional term.

"The legislature of the Territory of Hawaii shall have the right to alter or amend any part of the election laws of said Territory, including those providing for an election of Delegate to Congress, and its action shall be the law, with full, binding force, until altered, amended, or repealed by Congress."

The SPEAKER. Is a second demanded?

Mr. KEIFER. I would like, without demanding a second, to know in what particular this is an amendment to the present law.

Mr. LLOYD. The Committee on Elections having in charge the election contest from Hawaii made this recommendation:

Your committee respectfully recommend to the House of Representatives that the election laws of the Territory of Hawaii be so amended and supplemented as to provide definitely for the election of a Delegate to the Congress.

Now, the existing organic laws provide for the election of a Delegate, but the existing Territorial law does not provide the method of election, and the purpose of this law is to provide permanently for the election of a Delegate.

Mr. KEIFER. I do not understand from this that it does provide a method of election specially.

Mr. LLOYD. It provides that the Territory of Hawaii shall have authority to prepare the election machinery.

Mr. KEIFER. The present law authorizes that.

Mr. LLOYD. The present law does not.

Mr. KEIFER. It simply provides for the Delegate?

Mr. LLOYD. Yes, sir; it provides for the Delegate, but does not provide for the election.

Mr. KEIFER. Another question. Does this bill, if it becomes law, fix the qualifications for suffrage?

Mr. LLOYD. That is already fixed by existing law.

Mr. KEIFER. That is not changed by this bill?

Mr. LLOYD. It is not changed by this bill.

A second was not demanded.

The question was taken; and in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

CANYON CITY, COLO., PARK.

Mr. BROOKS of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill H. R. 4546, with the amendments recommended by the committee.

The Clerk read as follows:

A bill (H. R. 4546) ceding to the city of Canon City, Colo., certain lands for park purposes.

Be it enacted, etc., That there is hereby granted to the city of Canon City, municipal corporation in the county of Fremont and State of Colorado, all lands now belonging to the United States of America located in sections Nos. 21, 22, 23, 24, 25, 26, 27, and 28, in township No. 18 south, range No. 71 west, of the sixth principal meridian, said lands being located along and on either side of the Arkansas River in said State, and containing thereon a certain canyon designated as the Royal Gorge; the said lands to be held by the said city solely for park purposes and for the use and benefit of the public, without other restriction than such as may be necessary to protect the said premises from trespasses and injury. And said lands and all of them are hereby withdrawn from location and entry under the laws of the United States of America.

SEC. 2. That the common council of the said city of Canon City shall have and is hereby granted full power and authority to control, protect, and preserve said lands so removed from entry and ceded, and the water courses and timber thereon; and for the purpose aforesaid to make such rules and regulations preventing trespass, defacement of natural scenery, or any preventable injury to the said canyon as may be necessary or proper in the premises; and the said city council shall further have power and authority to locate and maintain through itself, or grant the right to so locate and maintain to others, railways, wagon roads, ditches, canals, and other improvements, and also to permit on said ceded premises the erection of all such buildings or structures as may be necessary or proper to carry out the purpose and intent of this act.

SEC. 3. That when and so soon as any present appropriations or locations, or any inchoate or incomplete appropriations, or locations of any of the said premises, under any of the land laws of the United States, shall lapse, become forfeited, or abandoned, the premises covered by such locations shall at once, and without further action, fall under and become subject to the operation of this act, and shall be ceded to and become the property of the said city of Canon City for the uses herein set forth.

SEC. 4. That the grant and cession hereby made is to the said city of Canon City alone, and upon any attempt by the said city of Canon City to alienate or encumber the said premises or any portion thereof, or should said city cease to care for said park for a period of three years or more, the title thereto and to all the said lands shall at once revert to and revest in the United States of America; and the said city of Canon City shall further, and within one year from the date hereof, mark and define the boundaries of the said lands by permanent and substantial monuments.

SEC. 5. That the said city of Canon City shall further, and within six months after the marking of said premises, file in the United States land office at Pueblo, Colo., proof of the said marking and determination of the boundaries of said premises as herein above set forth, and the formal acceptance by the said city of the grant herein evidenced, under the conditions herein set forth; and thereupon patent shall issue to the said city of Canon City for the lands above described, subject, however, to the herein stated reservations, limitations, and conditions.

SEC. 6. That the right to amend or repeal this act at any time is hereby reserved, and upon such repeal the title granted herein shall revert to the United States.

The SPEAKER. Is a second demanded?

A second was not demanded.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

PROTECTION AND REGULATION OF THE FISHERIES OF ALASKA.

Mr. CAPRON. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 13543) as amended by the committee.

The SPEAKER. The gentleman from Rhode Island moves to suspend the rules and pass the bill with an amendment in the nature of a substitute, reported by the committee. The Clerk will read the substitute.

The Clerk read as follows:

A bill (H. R. 13543) for the protection and regulation of the fisheries of Alaska.

Be it enacted, etc, That every person, company, or corporation carrying on the business of canning, curing, or preserving fish or manufacturing fish products within the territory known as Alaska, ceded to the United States by Russia by the treaty of March 30, 1867, or in any of the waters of Alaska over which the United States has jurisdiction, shall, in lieu of all other license fees and taxes therefor and thereon, pay license taxes on their said business and output as follows: Canned salmon, 4 cents per case; pickled salmon, 10 cents per barrel; salt salmon in bulk, 5 cents per 100 pounds; fish oil, 10 cents per barrel; fertilizer, 20 cents per ton. The payment and collection of such license taxes shall be under and in accordance with the provisions of the act of March 3, 1899, entitled "An act to define and punish crimes in the district of Alaska, and to provide a code of criminal procedure for the district," and amendments thereto.

SEC. 2. That the catch and pack of salmon made in Alaska by the owners of private salmon hatcheries operated in Alaska shall be exempt from all license fees and taxation of every nature at the rate of ten cases of canned salmon to every 1,000 red or king salmon fry liberated, upon the following conditions:

That the Secretary of Commerce and Labor may from time to time, and on the application of the hatchery owner shall, within a reasonable time thereafter, cause such private hatcheries to be inspected for the purpose of determining the character of their operations, efficiency, and productiveness, and if he approve the same shall cause notice of such approval to be filed in the office of the clerk or deputy clerk of the United States district court of the division of the district of Alaska wherein any such hatchery is located, and shall also notify the owners of such hatchery of the action taken by him. The owner, agent, officer, or superintendent of any hatchery the effectiveness and productiveness of which has been approved as above provided shall, between the 30th day of June and the 31st day of December of each year, make proof of the number of salmon fry liberated during the twelve months immediately preceding the 30th day of June, by a written statement under oath. Such proof shall be filed in the office of the clerk or deputy clerk of the United States district court of the division of the district of Alaska wherein such hatchery is located, and when so filed shall entitle the respective hatchery owners to the exemption as herein provided; and a false oath as to the number of salmon fry liberated shall be deemed perjury and subject the offender to all the pains and penalties thereof. Duplicates of such statements shall also be filed with the Secretary of Commerce and Labor. It shall be the duty of such clerk or deputy clerk in whose office the approval and proof heretofore provided for are filed to forthwith issue to the hatchery owner causing such proofs to be filed, certificates which shall not be transferable and of such denominations as said owner may request (no certificate to cover fewer than 1,000 fry), covering in the aggregate the number of fry so proved to have been liberated; and such certificates may be used at any time by the person, company, corporation, or association to whom issued for the payment pro tanto of any license fees or taxes upon or against or on account of any catch or pack of salmon made by them in Alaska; and it shall be the duty of all public officials charged with the duty of collecting or receiving such license fees or taxes to accept such certificates in lieu of money in payment of all license fees or taxes upon or against the pack of canned salmon at the ratio of 1,000 fry for each ten cases of salmon. No hatchery owner shall obtain the rebates from the output of any hatchery to which he might otherwise be entitled under this act unless the efficiency of said hatchery has first been approved by the Secretary of Commerce and Labor in the manner herein provided for.

SEC. 3. That the money derived from the license taxes, as provided for in section 1 of this act, shall be paid into the United States Treasury and shall constitute a permanent appropriation, to be known as the "Alaskan fisheries fund," to be used under the direction of the Secretary of Commerce and Labor for the purpose of propagation and fish culture and the construction and maintenance of fish hatcheries in the waters of Alaska; for the protection, regulation, investigation, and inspection of the Alaskan fisheries and hatcheries; for the collection and compilation of statistics and information pertaining thereto, and for the enforcement of the law and the regulations made thereunder with reference to the subject of fisheries in the waters of Alaska.

SEC. 4. That it shall be unlawful to erect or maintain any dam, barricade, fence, trap, fish wheel, or other fixed or stationary obstruction, except for purposes of fish culture, in any of the waters of Alaska at any point where the distance from shore to shore is less than 500 feet, or within 500 yards of the mouth of any red-salmon stream where the same is less than 500 feet in width, with the purpose or result of capturing salmon or preventing or impeding their ascent to their spawning grounds; and the Secretary of Commerce and Labor is hereby authorized and directed to have any and all such unlawful obstructions removed or destroyed.

SEC. 5. That it shall be unlawful to lay or set any drift net, seine, set net, pound net, trap, or any other fishing appliance for any purpose except for purposes of fish culture, across or above the tide waters of any creek, stream, river, estuary, or lagoon, for a distance greater than one-third the width of such creek, stream, river, estuary, or lagoon, or within 100 yards outside of the mouth of any red-salmon

stream where the same is less than 500 feet in width. It shall be unlawful to lay or set any seine or net of any kind within 100 yards of any other seine, net, or other fishing appliance which is being or which has been laid or set in any of the waters of Alaska, or to drive or construct any trap or other fixed fishing appliance within 600 yards laterally or within 100 yards endwise of any other trap or fixed fishing appliance.

SEC. 6. That it shall be unlawful to fish for, take, or kill any salmon of any species in any manner or by any means except by rod, spear, or gaff, in any of the waters of Alaska over which the United States has jurisdiction, except Cook Inlet, the delta of Copper River, Bering Sea, and the waters tributary thereto, from 6 o'clock p. m. of Saturday of each week until 6 o'clock a. m. of the Monday following, or to fish for or catch or kill in any manner or by any appliances except by rod, spear, or gaff, any salmon in any stream of less than 100 yards in width in Alaska between the hours of 6 o'clock in the evening and 6 o'clock in the morning of the following day of each and every day of the week. Throughout the weekly close season herein prescribed the gate, mouth, or tunnel of all stationary and floating traps shall be closed, and 25 feet of the webbing or net of the "heart" of such traps on each side next to the "pot" shall be lifted or lowered in such manner as to permit the free passage of salmon and other fishes.

SEC. 7. That the Secretary of Commerce and Labor may, in his discretion, set aside any streams or lakes as preserves for spawning grounds, in which fishing may be limited or entirely prohibited; and when, in his judgment, the results of fishing operations in any stream, or off the mouth thereof, indicate that the number of salmon taken is larger than the natural production of salmon in such stream, he is authorized to establish close seasons or to limit or prohibit fishing entirely for one year or more within such stream or within 500 yards of the mouth thereof, so as to permit salmon to increase: *Provided, however,* That such power shall be exercised only after all persons interested shall be given a hearing, of which due notice must be given by publication; and where the interested parties are known to the Department they shall be personally notified by a notice mailed not less than thirty days previous to such hearing. No order made under this section shall be effective before the next calendar year after same is made: *And provided further,* That such limitations and prohibitions shall not apply to those engaged in catching salmon who keep such streams fully stocked with salmon by artificial propagation.

SEC. 8. That it shall be unlawful to can or salt for sale for food any salmon more than forty-eight hours after it has been killed.

SEC. 9. That is shall be unlawful for any person, company, or corporation wantonly to waste or destroy salmon or other food fishes taken or caught in any of the waters of Alaska.

SEC. 10. That it shall be unlawful for any person, company, or corporation canning, salting, or curing fish of any species in Alaska to use any label, brand, or trade-mark which shall tend to misrepresent the contents of any package of fish offered for sale: *Provided,* That the use of the terms "red," "medium red," "pink," "chum," etc., as applied to the various species of Pacific salmon under present trade usages shall not be deemed in conflict with the provisions of this act when used to designate salmon of those known species.

SEC. 11. That every person, company, and corporation engaged in catching, curing, or in any manner utilizing fishery products, or in operating fish hatcheries in Alaska, shall make detailed annual reports thereof to the Secretary of Commerce and Labor, on blanks furnished by him, covering all such facts as may be required with respect thereto for the information of the Department. Such reports shall be sworn to by the superintendent, manager, or other person having knowledge of the facts, a separate blank form being used for each establishment in cases where more than one cannery, saltery, or other establishment is conducted by a person, company, or corporation, and the same shall be forwarded to the Department at the close of the fishing season and not later than December 15 of each year.

SEC. 12. That the catching or killing, except with rod, spear, or gaff, of any fish of any kind or species whatsoever in any of the waters of Alaska over which the United States has jurisdiction shall be subject to the provisions of this act, and the Secretary of Commerce and Labor is hereby authorized to make and establish such rules and regulations not inconsistent with law as may be necessary to carry into effect the provisions of this act, and such rules and regulations shall have the force and effect of law.

SEC. 13. That to enforce the provisions of this act and such regulations as he may establish in pursuance thereof, the Secretary of Commerce and Labor is authorized and directed to depute, in addition to the agent and asistant agent of salmon fisheries now provided by law, from the officers and employees of the Department of Commerce and Labor, a force adequate to the performance of all work required for the proper investigation, inspection, and regulation of the Alaskan fisheries and hatcheries, and he shall annually submit to Congress estimates to cover the cost of the establishment and maintenance of fish hatcheries in Alaska, the salaries and actual traveling expenses of such officials, and for such other expenditures as may be necessary to carry out the provisions of this act.

SEC. 14. That any person, company, corporation, or association violating any provision of this act or any regulation established in pursuance thereof shall, upon conviction thereof, be punished by a fine not exceeding $1,000 or imprisonment at hard labor for a term of not more than ninety days, or by both such fine and imprisonment, at the discretion of the court; and in case of the violation of any of the provisions of section 4 of this act and conviction thereof a further fine of not more than $250 per diem may, at the discretion of the court, be imposed for each day such obstruction is maintained. And every vessel or other apparatus or equipment used or employed in violation of any provision of this act, or of any regulation made thereunder, may be seized by order of the Secretary of Commerce and Labor, and shall be held subject to the payment of such fine or fines as may be imposed.

SEC. 15. That the violation of any provision of this act or of any regulation made thereunder may be prosecuted in any district court of Alaska or any district court of the United States in the States of California, Oregon, or Washington. And it shall be the duty of the Secretary of Commerce and Labor to enforce the provisions of this act and the rules and regulations made thereunder. And it shall be the duty of the district attorney to whom any violation is reported by any agent or representative of the Department of Commerce and Labor to institute proceedings necessary to carry out the provisions of this act.

SEC. 16. That all acts or parts of acts inconsistent with the provisions of this act are, so far as inconsistent, hereby repealed.

SEC. 17. That this act shall take effect and be in force from and after its passage.

The SPEAKER. Is a second demanded?

Mr. CRUMPACKER. I demand a second.

Mr. CAPRON. I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Rhode Island is entitled to twenty minutes and the gentleman from Indiana to twenty minutes.

Mr. CAPRON. Mr. Speaker, I do not believe that anyone who will look at the merits of the bill probably would need any information about it. If there is any gentleman who desires to ask any question I shall be glad to tell anything I know about it, and that is the whole story. I reserve the balance of my time.

Mr. CRUMPACKER. Mr. Speaker, this is a very important bill. I know very little about its general provisions, but there is one provision in the bill that ought not to be contained in any bill to be operative anywhere. It confers upon the Secretary of Commerce and Labor the power to make rules and regulations which shall have the force and effect of law, and it imposes criminal penalties for violation of those regulations. I do not believe that Congress ought to delegate the power to enact criminal legislation to the Secretary of Commerce and Labor or to any other administrative officer of the Government.

Mr. DALZELL. Do you think Congress can delegate it?

Mr. CRUMPACKER. I do not think it can, and I do not think it ought to if it could.

Mr. CAMPBELL of Kansas. Does the gentleman from Indiana believe that it is within the power of Congress to delegate such a power to any Cabinet officer or to any other officer?

Mr. CRUMPACKER. I do not believe it is within the power of Congress to delegate its legislative authority, but certainly I think we ought not in terms to seem to confer any such authority or undertake to confer any such authority. There is altogether too much vesting of arbitrary power in the Department officials in our legislation; but when a bill goes to the extent of conferring on the head of a Department the making of rules and regulations and provides that such rules and regulations shall have the force and effect of law, and then provides a system of penalties for the violation of rules and regulations that neither Congress nor anybody can possibly know anything about when the bill is passed, it is most vicious and indefensible from every standpoint. Whether the provision be valid or not, the bill ought to be defeated.

Mr. LACEY. I should like to make a suggestion to my friend from Indiana, that this question he is now discussing has been passed upon by the district judges of three of the Pacific coast districts, where a regulation under act of Congress relating to forests was made, providing a criminal penalty, and each of those judges held that the regulation was invalid; that the power to make a regulation the violation of which would be criminal could not be delegated.

Mr. CRUMPACKER. I do not see how a court could hold otherwise.

Mr. GROSVENOR. Perhaps those decisions might not be applicable here. The legislation of Congress had already created the crime for which those regulations sought to inflict the punishment, and the regulation only defined what should be a violation of the general statute. Here is an attempt to create a crime by the legislative act of an executive officer. I do not believe it is valid.

Mr. CRUMPACKER. I do not think it is valid, and I do not think it ought to be contained in the bill. I think the presence of it in the bill is sufficient to justify every man in the House, no matter how strongly he may be in favor of the regulation of the fisheries in Alaska, in voting against the measure. I believe the gentleman ought to withdraw his motion to suspend the rules and correct the bill in that respect.

Mr. LACEY. I should like to suggest further to my friend from Indiana that that question afterwards came up in the House, and Congress expressly enacted a provision making a crime of the specific acts that had been covered by the regulations. The regulations having been held invalid, the matter was met by direct Congressional action.

Mr. CRUMPACKER. What difference does that make with this provision?

Mr. LACEY. It is right along the line of the gentleman's contention. Congress afterwards acted and passed the proper provision of law in place of the regulation which had been held invalid.

Mr. CUSHMAN. I would state in explanation that when this matter came before the Committee on Territories there were two bills relating to fisheries in Alaska. One of them prohibited aliens from taking fish in the waters of Alaska, the other being

this bill to regulate the fisheries of Alaska. This provision giving to the Secretary of the Department of Commerce and Labor authority to make rules and regulations which should have the force and effect of law was contained in both bills. When the other bill, to wit, the bill prohibiting aliens from fishing in the waters of Alaska—the alien bill—came up in this House, the House struck out of it the language "and such rules and regulations shall have the force and effect of law."

I do not think there is any objection to striking that language out of this bill. I think, as a matter of fact, the objection raised by the gentleman from Indiana [Mr. CRUMPACKER] is a very forcible one, and that we have no authority to confer legislative power upon any Executive Department.

Mr. CRUMPACKER. Mr. Speaker, I ask unanimous consent—I think the gentleman in charge of the bill will not object—that I may suggest an amendment that will remedy the objection. I think the objection is a serious one, that probably will or at least ought to defeat the motion to suspend the rules and pass the bill. I ask unanimous consent that I may be permitted to offer an amendment.

The SPEAKER. The gentleman from Indiana asks unanimous consent to offer the following amendment, which the Clerk will report:

Mr. CRUMPACKER. Strike out in line 18, page 17, the words "or of any regulation made thereunder;" and strike out all after the word "act" in line 10, page 16; that is, all of section 12, the words to be stricken out being "and such rules and regulations shall have the force and effect of law."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 16, lines 10 and 11, strike out the words "and such rules and regulations shall have the force and effect of law;" and on page 17, line 18, strike out the words "or of any regulation made thereunder."

The SPEAKER. Is there objection?

There was no objection.

The question being taken, the rules were suspended; and two-thirds voting in the affirmative, the bill with the amendments was passed.

YOSEMITE VALLEY GRANT AND MARIPOSA BIG TREE GROVE.

Mr. GILLETT of California. Mr. Speaker, I move to suspend the rules and pass House joint resolution (H. J. Res. 118) accepting the recession by the State of California of the Yosemite Valley grant and the Mariposa Big Tree Grove, and including the same, together with fractional sections 5 and 6, township 5 south, range 22 east, Mount Diablo meridian, California, within the metes and bounds of the Yosemite National Park, and changing the boundaries thereof.

The Clerk read the bill, as follows:

Resolved, etc., That the recession and regranting unto the United States by the State of California of the cleft or gorge in the granite peak of the Sierra Nevada Mountains, situated in the county of Mariposa, State of California, and the headwaters of the Merced River, and known as the Yosemite Valley, with its branches or spurs, granted unto the State of California in trust for public use, resort, and recreation by the act of Congress entitled "An act authorizing a grant to the State of California of the Yosemite Valley and of the land embracing the Mariposa Big Tree Grove," approved June 30, 1864 (13 Stat., p. 325), as well as the tracts embracing what is known as the "Mariposa Big Tree Grove," likewise granted unto the State of California by the aforesaid act of Congress, is hereby ratified and accepted, and the tracts of land embracing the Yosemite Valley and the Mariposa Big Tree Grove, as described in the act of Congress approved June 30, 1864, together with that part of fractional sections 5 and 6, township 5 south, range 22 east, Mount Diablo meridian, California, lying south of the South Fork of Merced River and almost wholly between the Mariposa Big Tree Grove and the present south boundary of the Yosemite National Park, be, and the same are hereby, reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States and set apart as reserved forest lands, subject to all the limitations, conditions, and provisions of the act of Congress approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations," as well as the limitations, conditions, and provisions of the act of Congress approved February 7, 1905, entitled "An act to exclude from the Yosemite National Park, California, certain lands therein described, and to attach and include the said lands in the Sierra Forest Reserve," and shall hereafter form a part of the Yosemite National Park.

The south and west boundary lines of the Yosemite National Park are hereby changed as follows: Beginning at the point on the line between sections 35 and 36, township 4 south, range 21 east, where same intersects the middle of the channel of the South Fork of the Merced River; thence north on section line to the southwest corner of section 25; thence west on section lines to the southwest corner of section 28; thence north on section line to the northwest corner of section 28; thence west on section line to the quarter-section corner between sections 20 and 21; thence north through the middle of section 20 to the center thereof; thence east through the middle of section 20 to the quarter-section corner between sections 20 and 21; thence north on section line to the quarter-section corner between sections 16 and 17; thence west through middle of section 17 to the center thereof; thence north through the middle of sections 17, 8, and 5 to the quarter-section corner of north boundary of section 5 on township boundary, all in township 4 south, range 21 east; thence north through the middle of section 32, township 3 south, range 21 east, to the center thereof; thence west through the middle of section 32, said township, and section 36, township 3 south, range 20 east, to the quarter-section corner between sections 35 and 36; thence north on section line to the quarter-section corner between sections 25 and 26; thence east through the middle of section 25 to the center thereof; thence north through the middle of sections 25 and 24 to the center of section 24; thence west through the middle of sections 24, 23, and 22 to the quarter-section corner between sections 21 and 22, township 3 south, range 20 east, on the present western boundary of the Yosemite National Park. And all that portion of the Yosemite National Park lying between the boundary line last above mentioned and the present boundary line of said national park is excluded from said park; and the said lands so excluded, and all thereof, are added to and made a part of the Sierra Forest Reserve, and shall hereafter form a part of said Sierra Forest Reserve, and shall be subject to all of the acts of Congress with relation thereto: *Provided*, That the Secretary of the Interior may require the payment of such price as he may deem proper for privileges on the land herein segregated from the Yosemite National Park and made a part of the Sierra Forest Reserve accorded under the act approved February 15, 1901, relating to rights of way over certain parks, reservations, and other lands, and other acts concerning rights of way over public lands: *And provided further*, That in the grant of any right of way for railway purposes across the lands placed under this measure within the Sierra Forest Reserve it shall be stipulated that no logs or timber shall be hauled over the same without the consent of the Secretary of the Interior, and under regulations to be promulgated by him.

SEC. 2. That none of the lands patented and in private ownership in the area hereby included in the Sierra Forest Reserve shall have the privileges of the lieu-land scrip provisions of the land laws, but otherwise to be in all respects under the laws and regulations affecting the forest reserves, and immediately upon the passage of this act all laws, rules, and regulations affecting forest reservations, including the right to change the boundaries thereof by Executive proclamation, shall take effect and be in force within the limits of the territory excluded by this act from the Yosemite National Park, except as herein otherwise provided.

SEC. 3. That all revenues derived from privileges in the park authorized under the act of October 1, 1890, the act of February 7, 1905, as well as under this measure, or from privileges accorded on the lands herein segregated from said park and included within the Sierra Forest Reserve, shall be paid into the Treasury of the United States, to be expended under the direction of the Secretary of the Interior in the management, protection, and improvement of the Yosemite National Park.

The SPEAKER. Is a second demanded?

There was no demand for a second.

The question on the passage of the bill was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

On motion of Mr. LACEY, House joint resolution 77 on the same subject was laid on the table.

RESTRICTING RIGHT OF APPEAL IN HABEAS CORPUS PROCEEDINGS.

Mr. LITTLEFIELD. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 17948) restricting in certain cases the right of appeal to the Supreme Court in habeas corpus proceedings.

The Clerk read as follows:

Be it enacted, etc., That from a final decision by a court of the United States in a proceeding in habeas corpus where the detention complained of is by virtue of process issued out of a State court no appeal to the Supreme Court shall be allowed unless the United States court by which the final decision was rendered or a justice of the Supreme Court shall be of opinion that there exists probable cause for an appeal, in which event, on allowing the same, the said court or justice shall certify that there is probable cause for such allowance.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, reserving the right to demand a second, I want to say that it is now after 5 o'clock. I do not want to know what is coming up next, because I think, as the gentleman from Missouri [Mr. CLARK] says, we ought to "take out." I will not demand a second.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

LEAVE OF ABSENCE.

The SPEAKER laid before the House the request of Mr. PATTERSON of Tennessee for absence, indefinitely, on account of important business.

The SPEAKER. Without objection, the request will be granted.

Mr. WILLIAMS. I object, Mr. Speaker. I move that the request of the gentleman from Tennessee be granted.

The question was taken; and the motion was agreed to.

REPORT OF THE INTERNATIONAL WATERWAYS COMMISSION.

The SPEAKER laid before the House the following message from the President of the United States: which was referred to the Committee on Rivers and Harbors, and, with the accompanying papers, ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith, for the consideration of the Congress, a report made to the Secretary of War by the International Waterways Commission, under date of May 3, 1906, upon the preservation of Niagara Falls.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 7, 1906.*

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 15 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting an estimate of the expenses of repairing Government buildings injured by earthquake and fire in California, and commending the conduct of Lieut. C. C. McMillan, of the Revenue-Cutter Service, and employees of the United States Mint—to the Committees on Appropriations, Interstate and Foreign Commerce, and Coinage, Weights, and Measures, and ordered to be printed, with illustrations.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of Commerce and Labor submitting an estimate of appropriation for two lighthouse tenders—to the Committee on Interstate and Foreign Commerce, and ordered to be printed.

A letter from the Secretary of the Interior, transmitting, with a copy of a letter from the Commissioner of the General Land Office, a recommendation as to a sale of certain lands in New Mexico to Messrs. Bonham and Holt, for themselves and associates—to the Committee on the Public Lands, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. HAMILTON, from the Committee on the Territories, to which was referred the bill of the House (H. R. 18891) to aid in the construction of a railroad and telegraph and telephone line in the district of Alaska, reported the same without amendment, accompanied by a report (No. 3874); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. REYNOLDS, from the Committee on the Territories, to which was referred the bill of the House (H. R. 17510) to provide for a reconnoissance and preliminary survey of a land route for a mail and pack trail from the navigable waters of the Tanana River to the Seward Pensinsula, in Alaska, and for other purposes, reported the same without amendment, accompanied by a report (No. 3875); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. MURPHY: A bill (H. R. 19036) to remove the restrictions on the alienation of land in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole nations, Indian Territory, and for other purposes—to the Committee on Indian Affairs.

By Mr. FOSS: A bill (H. R. 19037) to extend the time for the completion of the Alaska Central Railway, and for other purposes—to the Committee on the Territories.

By Mr. ROBINSON of Arkansas: A bill (H. R. 19038) appropriating $1,000 for drainage investigations and experiments in Prairie Longue and Grand Pairie, in Arkansas—to the Committee on Agriculture.

By Mr. McGUIRE: A bill (H. R. 19039) to establish a fish hatchery and fish-culture station in the Territory of Oklahoma—to the Committee on Appropriations.

By Mr. DIXON of Montana: A bill (H. R. 19040) to authorize the Chicago, Milwaukee and St. Paul Railway Company, of Montana, to construct a bridge across the Missouri River in Montana—to the Committee on Interstate and Foreign Commerce.

By Mr. WACHTER: A bill (H. R. 19041) authorizing the chairman of the Committee on Enrolled Bills to appoint an additional clerk—to the Committee on Accounts.

By Mr. PARKER: A resolution (H. Res. 422) amending Rule I, paragraph 5, of the House rules—to the Committee on Rules.

By Mr. BABCOCK: A resolution (H. Res. 423) authorizing the Doorkeeper of the House to appoint a clerk in the House document room—to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BATES: A bill (H. R. 19042) granting a pension to Georgette K. Collum—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 19043) granting an increase of pension to Sarah V. Malone—to the Committee on Pensions.

By Mr. BEDE: A bill (H. R. 19044) granting an increase of pension to Samuel C. McCormick—to the Committee on Invalid Pensions.

By Mr. BOUTELL: A bill (H. R. 19045) granting a pension to Mary A. Agey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19046) granting an honorable discharge to Andrew R. Honey—to the Committee on Military Affairs.

By Mr. BOWIE: A bill (H. R. 19047) granting an increase of pension to Susan C. Smith—to the Committee on Pensions.

By Mr. BROWNLOW: A bill (H. R. 19048) granting an increase of pension to Alfred Branson—to the Committee on Invalid Pensions.

By Mr. BROUSSARD: A bill (H. R. 19049) for the relief of the heirs of James Billiu, deceased—to the Committee on War Claims.

By Mr. BRUNDIDGE: A bill (H. R. 19050) to correct the military record of John R. Chapman—to the Committee on Military Affairs.

Also, a bill (H. R. 19051) granting a pension to J. B. Preston—to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 19052) for the relief of the heirs of W. F. Gaines, deceased—to the Committee on War Claims.

By Mr. DE ARMOND: A bill (H. R. 19053) granting an increase of pension to John T. Heaney—to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 19054) granting an increase of pension to John Shinolt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19055) granting an increase of pension to Benjamin F. Scott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19056) granting an increase of pension to William Luck—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 19057) granting an increase of pension to Leroy N. Johnson—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 19058) granting an increase of pension to James Clark—to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 19059) to refund legacy taxes illegally collected—to the Committee on Claims.

By Mr. HINSHAW: A bill (H. R. 19060) granting an increase of pension to Elston Armstrong—to the Committee on Invalid Pensions.

By Mr. JOHNSON: A bill (H. R. 19061) granting an increase of pension to Mary E. Mundy—to the Committee on Pensions.

By Mr. FREDERICK LANDIS: A bill (H. R. 19062) to amend the records of the War Department as to Paul L. Bahr—to the Committee on Military Affairs.

By Mr. LILLEY of Connecticut: A bill (H. R. 19063) to correct the military record of Michael Houlihan—to the Committee on Military Affairs.

By Mr. ROBINSON of Arkansas: A bill (H. R. 19064) granting an increase of pension to Francis L. Smith—to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 19065) granting an increase of pension to William R. Rodenberger—to the Committee on Pensions.

By Mr. TYNDALL: A bill (H. R. 19066) granting an increase of pension to N. Smith Burgess—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19067) granting an increase of pension to Thomas J. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19068) granting an increase of pension to William Adams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19069) granting an increase of pension to Cornelius A. Willis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19070) granting an increase of pension to John H. Glenn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19071) granting an increase of pension to Adam F. James—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19072) granting an increase of pension to William R. Gray—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19073) granting an increase of pension to Benton Braden—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 4917) for the relief of Elsas, May & Co.—Committee on War Claims discharged, and referred to the Committee on Ways and Means.

A bill (H. R. 19032) granting an increase of pension to Charles W. Brown—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18631) granting an increase of pension to Daniel Whalen—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 18931) granting an increase of pension to Malinda Wike—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 19013) granting an increase of pension to Charles F. Robinson—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 19014) granting an increase of pension to Elizabeth A. Waller—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMS of Wisconsin: Petition of citizens of Oakland and Cambridge, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BATES: Petition of Grange No. 858, Townville, Pa., and A. J. Terrill, master of Grange No. 800, Saegerstown, Pa., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Grange No. 838, Shadeland, Pa., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Grange No. 1233, Hartstown, Pa., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Grange No. 1233, Hartstown, Pa., for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Grange No. 1233, Hartstown, Pa., for bill H. R. 180 (the good-roads bill)—to the Committee on Agriculture.

Also, petition of Grange No. 1033, of Hartstown, Pa., for bill H. R. 10099 (the Heyburn pure-food bill)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Grange No. 1233, Hartstown, Pa., for retention of the tax of 10 cents per pound on imitation butter—to the Committee on Agriculture.

By Mr. BARCHFELD: Petition of the Woman's Christian Temperance Union, for Sunday closing of the Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Sarah V. Malone—to the Committee on Pensions.

By Mr. BEDE: Paper to accompany bill for relief of Dr. S. C. McCormick—to the Committee on Invalid Pensions.

By Mr. BOWIE: Petition of Frank Crichton, of the Banner, against Government printing names and return addresses on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. BRUNDIDGE: Paper to accompany bill for relief of John R. Chapman—to the Committee on Military Affairs.

By Mr. BURKE of Pennsylvania: Paper to accompany bill for relief of Capt. Hugh Donnelly—to the Committee on Military Affairs.

By Mr. BURTON of Ohio: Petition of the Cleveland Sunday Union and the same association of nearly all the other States of the Union, for legislation making Sunday rest in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Cleveland Sunday Union, for investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of the Cleveland Sunday Union, for legislation to regulate the sale of opium—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Cleveland Sunday Union, against sale of liquor in any of the Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of the Cleveland Sunday Union, for exclusion of gambling matter from the mails—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Cleveland Sunday Union, for exclusion of gambling matter from the express and telegraphic service—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Cleveland Sunday Union, for regulation of the liquor traffic in the States by noninterference of the law governing interstate commerce therein—to the Committee on the Judiciary.

Also, petition of the Cleveland Sunday Union, against Sunday post-office banking—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Cleveland Sunday Union, for an amendment of the bill for the admission to statehood of Oklahoma, Indian Territory, New Mexico, and Arizona by eliminating the word "sex" from the section of the bill providing for suffrage—to the Committee on the Territories.

By Mr. DAVIDSON: Petition of the faculty of the State Normal School at Stevens Point, Wis., for removal of the duty on works of art—to the Committee on Ways and Means.

By Mr. DEXTER: Petition of the Woman's Missionary Society of the Second Presbyterian Church of Madison, Ind., and the Second Presbyterian Church of Hanover, Ind., for a constitutional amendment abolishing polygamy—to the Committee on the Judiciary.

By Mr. FLETCHER: Petition of citizens of Minneapolis, Minn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GOULDEN: Petition of members of St. Luke Council, No. 438, Knights of Columbus, for a suitable memorial to the memory of Christopher Columbus—to the Committee on the Library.

By Mr. GRAHAM: Petition of the Fort Pitt Supply Company, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

By Mr. GROSVENOR: Petitions of citizens of Bloomingdale, Dunellen, Paterson, Basking Ridge, Mount Holly, Elizabeth, May, Phillipsburg, East Freehold, Midvale, Wanaque, Marlboro, Hightstown, Hope, South Amboy, Union, Nutley, Newark, Plainfield, Elizabeth, Butler, Martinsville, Statmanville, Paulsboro, Fairton, North Long Branch, Matawan, Newfoundland, and Holopen, N. J.; and of Hiawatha, Oakland, Thomas Jefferson, Industry, Linwood, Wantage, Peerless, Mahwah, Jersey Blue, Verona, Rockaway, Westville, Hightstown, Victory, Newark, Reliable, Nathan Hale, Garfield, Peter Cooper, George B. Roberts, Riverside, North Star, Social, Howell, Columbia, Olive Branch, Salter, Lake Side, Martinsville, General F. H. Harris, Eureka, Orange, Somerset, Eagle, M. L. Ward, Peyuomock, L. C. Butternutt, Gorham, Harmony, Nertley, Ivanhoe, Joel Parker, Bergen, Wallkill, Jersey Jump, Hopewell, and Franklin councils, Junior Order United American Mechanics, for bills H. R. 15442 and 17941, for the establishment of a bureau of immigration and naturalization and for a uniform rule for the naturalization of aliens throughout the United States—to the Committee on Rules.

By Mr. HOWELL of New Jersey: Petition for relief of John P. Veach, to accompany bill H. R. 5707—to the Committee on Invalid Pensions.

By Mr. JOHNSON: Paper to accompany bill for relief of Mary E. Mundy—to the Committee on Pensions.

By Mr. KELIHER: Petition of Woman's Council, of Roxbury, for forest reservations in the White Mountains and Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. LACEY: Petition of Henry C. Leighton Post, No. 199, Grand Army of the Republic, Department of Iowa, against retiring all Union officers of the civil war above the rank of major on three-quarters pay—to the Committee on Military Affairs.

By Mr. LEVER: Paper to accompany bill for relief of Josephine Haidester—to the Committee on Pensions.

By Mr. LILLEY: Petition of George D. Reid et al., for investigation of the condition in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. LIVINGSTON: Paper to accompany bill for relief of William Hetzel—to the Committee on War Claims.

By Mr. NEEDHAM: Petition of citizens of California, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. PARSONS: Petition of the Domestic Circle, of New York City, for pure-food legislation—to the Committee on Interstate and Foreign Commerce.

By Mr. WM. ALDEN SMITH: Petition of the First Congregational Church of Portland, Mich., for investigation of the conduct of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., for bill H. R. 16548, for a judicial review of the fraud order by Post-Office Department—to the Committee on the Judiciary.

SENATE.

TUESDAY, *May 8, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. DUBOIS, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

LANDS IN NEW MEXICO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office inclosing a report of the investigation of the contract for the sale of certain lands belonging to the Territory of New Mexico, and stating that Congress alone has the power to enforce the conditions of the grant; which, with the accompanying papers, was referred to the Committee on Public Lands, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 2140. An act to authorize the Postmaster-General to dispose of useless papers in post-offices;

S. 2801. An act to withhold from sale a portion of Fort Brady Military Reservation, at Sault Ste. Marie, Mich.;

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with St. Marys Falls Ship Canal;

S. 3522. An act to amend an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905;

S. 5203. An act granting to the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation in Montana, and for other purposes;

S. 5537. An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska;

S. 5572. An act to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States;

S. 5796. An act to authorize the construction of a bridge across the Missouri River and to establish it as a post-road;

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee;

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee; and

S. 5943. An act to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River.

The message also announced that the House had passed the bill (S. 1975) granting an increase of pension to Mary E. Dugger, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, with amendments in which it requested the concurrence of the Senate:

S. 2292. An act for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant;

S. 2296. An act restoring to the public domain certain lands in the State of Minnesota;

S. 4094. An act to amend section 4426 of the Revised Statutes of the United States—regulation of motor boats;

S. 4976. An act to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives;

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah; and

S. 5683. An act to provide for the removal of derelicts and other floating dangers to navigation.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 13783) to provide souvenir medallions for the Zebulon Montgomery Pike Monument Association.

The message further announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

H. R. 4546. An act ceding to the city of Canon City, Colo., certain lands for park purposes;

H. R. 5290. An act providing for the allotment and distribution of Indian tribal funds;

H. R. 7065. An act to amend section 858 of the Revised Statutes of the United States;

H. R. 8976. An act to change the line of the reservation at Hot Springs, Ark., and of Reserve avenue;

H. R. 10106. An act providing for the setting aside for governmental purposes of certain ground in Hilo, Hawaii;

H. R. 10133. An act to provide for the annual pro rata distribution of the annuities of the Sac and Fox Indians of the Mississippi between the two branches of the tribe, and to adjust the existing claims between the two branches as to said annuities;

H. R. 11787. An act ratifying and approving an act to appropriate money for the purpose of building additional buildings for the Northwestern Normal School, at Alva, in Oklahoma Territory, passed by the legislative assembly of Oklahoma Territory, and approved the 15th day of March, 1905;

H. R. 13543. An act for the protection and regulation of the fisheries of Alaska;

H. R. 14410. An act to amend an act approved August 3, 1894, entitled "An act concerning leases in the Yellowstone National Park;"

H. R. 14968. An act to amend the internal-revenue laws, so as to provide publicity of its records;

H. R. 15078. An act granting to the Ocean Shore Railway Company a right of way for railroad purposes across Pigeon Point Light-House Reservation, in San Mateo County, Cal.;

H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvement at the expense of persons, companies, or corporations;

H. R. 16307. An act authorizing the Secretary of the Interior to have a survey made of unsurveyed public lands in the State of Louisiana;

H. R. 16672. An act to punish cutting, chipping, or boxing of trees on the public lands;

H. R. 17114. An act to provide for the disposition under the public land laws of the lands in the abandoned Fort Shaw Military Reservation, Mont.;

H. R. 17127. An act to provide for the subdivision and sale of certain lands in the State of Washington;

H. R. 17411. An act for the resurvey of certain townships in the State of Nebraska;

H. R. 17948. An act restricting in certain cases the right of appeal to the Supreme Court in habeas corpus proceedings;

H. R. 17982. An act to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across the Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation;

H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across the Roanoke River at or near Weldon, N. C.;

H. R. 18328. An act to regulate the practice in certain civil and criminal cases in the western district of Arkansas;

H. R. 18330. An act transferring the county of Clinton, in the State of Iowa, from the northern judicial district of Iowa to the southern judicial district of Iowa;

H. R. 18435. An act to authorize the Secretary of Commerce and Labor to cooperate, through the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries, with the shellfish commissioners of the State of Maryland in making surveys of the natural oyster beds, bars, and rocks in the waters within the State of Maryland;

H. R. 18439. An act to authorize the construction of a bridge across the Tallahatchie River, in Tallahatchie County, Miss.;

H. R. 18443. An act to amend the act to provide a government for the Territory of Hawaii, approved April 30, 1900;

H. R. 18502. An act to empower the Secretary of War, under certain restrictions, to authorize the construction, extension, and maintenance of wharves, piers, and other structures on lands underlying harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto;

H. R. 18536. An act providing for the subdivision of lands entered under the reclamation act, and for other purposes;

H. R. 18713. An act to validate certain certificates of naturalization;

H. J. Res. 118. Joint resolution accepting the recession by the State of California of the Yosemite Valley grant and the Mariposa Big Tree Grove, and including the same, together with fractional sections 5 and 6, township 5 south, range 22 east, Mount Diablo meridian, California, within the metes and bounds of the Yosemite National Park, and changing the boundaries thereof; and

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan adjoining certain lands in Lake County, Ind.

The message also announced that the House had passed a concurrent resolution requesting the President of the United States to return to the House the bill (H. R. 8948) entitled "An act granting an increase of pension to John W. Hammond;" in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Manufacturers' Club of Fort Wayne, Ind., praying for the removal of the internal-revenue tax on denatured alcohol; which was referred to the Committee on Finance.

He also presented a petition of sundry citizens of Durant, Choctaw Nation, Ind. T., praying for the enactment of legislation for the removal of restrictions on the right to alienate land in the Indian Territory; which was referred to the Committee on Indian Affairs.

He also presented the petition of Liliuokalani, ex-Queen of the Hawaiian Islands, praying for the consideration of her claim before Congress; which was referred to the Committtee on Claims.

He also presented a petition of the Manufacturers' Club of Fort Wayne, Ind., praying for the enactment of legislation to remove the duty on denatured alcohol; which was referred to the Committee on Finance.

Mr. PLATT presented a petition of the National Bank of Rochester, of the Traders' National Bank, and of the National Bank of Commerce, all of Rochester, in the State of New York, praying for the enactment of legislation to amend section 5200, Revised Statutes of the United States, relating to national banks; which was ordered to lie on the table.

He also presented a petition of Local Council No. 37, Junior Order of United American Mechanics, of Riverhead, N. Y., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. SCOTT presented a petition of Harmon Grange, No. 151, Patrons of Husbandry, of Ashton, W. Va., praying for the enactment of legislation to remove the duty on denatured alcohol; which was referred to the Committee on Finance.

Mr. HOPKINS presented petitions of sundry citizens of Chicago, Aurora, Monmouth, Manito, Harvey, Rockford, Freeport, Elgin, Hoopeston, Batavia, Moline, and Racine, all in the State of Illinois, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. DUBOIS presented a petition of the Woman's Interdenominational Missionary Union of the District of Columbia, praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Woman's Interdenominational Missionary Union of the District of Columbia, praying for the enactment of legislation to protect the first day of the week as a day of rest in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Woman's Interdenominational Missionary Union of the District of Columbia, praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

Mr. BURKETT presented a petition from the Nebraska Federation of Women's Clubs, praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

Mr. RAYNER presented a petition of sundry citizens of the State of Maryland, praying for the enactment of legislation to remove the duty on denatured alcohol; which was referred to the Committee on Finance.

Mr. ELKINS presented a memorial of Shattuck & Jackson Company, of Parkersburg, W. Va., remonstrating against the passage of the so-called "anti-injunction bill;" which was referred to the Committee on the Judiciary.

He also presented the petition of J. L. Springston, of Viand, Ind. T., praying for the enactment of legislation granting relief for certain conditions existing in the Indian Territory; which was referred to the Committee on Indian Affairs.

He also presented a memorial of Bluestone Council, No. 110, United Commercial Travelers, of Bluefield, W. Va., remonstrating against the enactment of legislation to consolidate third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry pharmacists and physicians of Jefferson County, W. Va., praying for the enactment of legislation to amend certain sections of the Revised Statutes relating to patents; which was referred to the Committee on Patents.

REPORTS OF COMMITTEES.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 718) granting an increase of pension to Hamilton D. Brown;

A bill (H. R. 18005) granting a pension to Emily Compton;

A bill (H. R. 18006) granting an increase of pension to Martha J. Bass;

A bill (H. R. 4363) granting an increase of pension to Thomas D. Campbell;

A bill (H. R. 4388) granting a pension to Laura Hilgeman;

A bill (H. R. 4625) granting an increase of pension to Anderson J. Smith;

A bill (H. R. 10246) granting an increase of pension to John Harrison;

A bill (H. R. 12088) granting an increase of pension to Louisa Spielman;

A bill (H. R. 15152) granting an increase of pension to Mary T. Corns; and

A bill (H. R. 15886) granting an increase of pension to John Misner.

Mr. BURKETT, from the Committee on Claims, to whom was referred the bill (H. R. 5217) for the relief of Agnes W. Hills and Sarah J. Hills, reported it without amendment, and submitted a report thereon.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5559) granting an increase of pension to Ann H. Crofton;

A bill (S. 5969) granting an increase of pension to Franklin Burdick; and

A bill (S. 4372) granting an increase of pension to Emily P. Hubbard.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4719) granting an increase of pension to John Joines;

A bill (H. R. 2155) granting an increase of pension to William H. Smith;

A bill (H. R. 10525) granting an increase of pension to Artemas D. Many;

A bill (H. R. 10524) granting an increase of pension to Ebenezer W. Akerley;

A bill (H. R. 13809) granting an increase of pension to James P. Tucker;

A bill (H. R. 14237) granting an increase of pension to Isaac Kindle;

A bill (H. R. 15206) granting an increase of pension to Peter G. Thompson;

A bill (H. R. 15565) granting an increase of pension to Josias R. King; and

A bill (H. R. 17635) granting an increase of pension to George Willy.

Mr. HOPKINS, from the Committee on Fisheries, to whom was referred the bill (S. 5986) for the establishment of a fish-cultural station in the State of Florida, reported it without amendment, and submitted a report thereon.

Mr. PILES, from the Committee on Territories, to whom was referred the bill (S. 5901) to extend the time for the completion of the Alaska Central Railway, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5804) granting an increase of pension to Joseph A. Noyes;

A bill (H. R. 4406) granting a pension to Albert M. Ryan;

A bill (H. R. 5732) granting an increase of pension to Elias C. Kitchin;

A bill (H. R. 8547) granting an increase of pension to John W. Madison;

A bill (H. R. 10319) granting an increase of pension to Harvey Deal;

A bill (H. R. 14490) granting an increase of pension to Martha A. Kenney;

A bill (H. R. 15275) granting an increase of pension to Jehu Martin;

A bill (H. R. 15450) granting an increase of pension to Virginia J. D. Holmes; and

A bill (H. R. 16193) granting an increase of pension to Daniel Shrader.

Mr. ALDRICH, from the Committee on Interstate Commerce, to whom was referred the bill (H. R. 14604) forbidding the importation, exportation, or carriage in interstate commerce of falsely or spuriously stamped articles of merchandise made of gold or silver or their alloys, and for other purposes, reported it with amendments.

CHARLES HUNSLEY.

Mr. McCUMBER. From the Committee on Pensions I desire to make an additional oral report, merely announcing the death of the beneficiary of the bill (S. 5798) granting an increase of pension to Charles Hunsley. The bill is on the Calendar, and I move that it be indefinitely postponed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. CLARK of Wyoming introduced a bill (S. 6064) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WETMORE introduced a bill (S. 6065) granting an increase of pension to Ellen M. Dyer; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6066) for the relief of ship keepers at the Mare Island Navy-Yard, Cal.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6067) to reimburse the State of California for moneys expended in placing at the disposal of the United States 18,715 volunteer troops between 1861 and 1865; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6068) to correct the military record of Conrad Hyne; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McLAURIN introduced a bill (S. 6069) for the relief of the estate of Mary F. Birdsong, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. FOSTER introduced a bill (S. 6070) for the relief of Mrs. Gabriel Le Breton Deschapelles; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURKETT introduced a bill (S. 6071) granting an increase of pension to George W. Patton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TILLMAN introduced a bill (S. 6072) for the relief of the trustees of Ebenezer Methodist Episcopal Church South, of Hampton County, S. C.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6073) for the relief of the trustees of the Baptist Church of Hardeeville, S. C.; which was read twice by its title, and referred to the Committee on Claims.

Mr. FLINT introduced a bill (S. 6074) for the relief of the State of California; which was read twice by its title, and referred to the Committee on Claims.

Mr. CRANE introduced a bill (S. 6075) to regulate the salaries of letter carriers in free-delivery offices; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. WARNER introduced a bill (S. 6076) granting an increase of pension to John McKnight; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 6077) granting a pension to William H. Tate; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRAZIER introduced a bill (S. 6078) granting an increase of pension to Elijah B. Hudson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6079) for the relief of Mrs. George M. Goodwin; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. ELKINS introduced a bill (S. 6080) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 6081) for the relief of the heirs of David H. Strother, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6082) for the relief of Stephen A. West; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6083) granting a pension to George W. Johnson; and

A bill (S. 6084) granting an increase of pension to John K. Whitford.

Mr. McCREARY introduced a bill (S. 6085) making an appropriation for the construction of locks and dams numbered 12 and 13 on the Kentucky River; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6086) making an appropriation for the construction of dams at Lock No. 1, Tug Fork, and Lock No. 1, Levisa Fork, of the Big Sandy River; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6087) granting an increase of pension to Sallie B. Welch; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6088) for the relief of the Madison Female Institute, of Richmond, Ky.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6089) for the relief of the Cumberland Presbyterian Church, of Russellville, Ky.; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. FLINT introduced a joint resolution (S. R. 54) authorizing a change in the weighing of the mails in the fourth section; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

PUBLIC BUILDING AT VERSAILLES, KY.

Mr. SCOTT. Before the morning business is closed, I should like to call up, by unanimous consent, the bill (S. 4956) to provide for the purchase of a site and the erection of a building at Versailles, in the State of Kentucky. I am sure there is not a Senator on this floor who will object to the bill when he knows the character of it.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, after line 5, to strike out the following words:

No money shall be used for the purpose mentioned until a valid title to the site of said building shall be vested in the United States, nor until the State of Kentucky shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

So as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building, including heating and ventilating apparatus, for the use and accommodation of the United States post-office and other Government offices, in the city of Versailles and State of Kentucky, the cost of said site and building, including said heating and ventilating apparatus, complete, not to exceed $25,000.

Proposals for the sale of land suitable for said site shall be invited by public advertisement in one or more of the newspapers of said city of largest circulation for at least twenty days prior to the date specified in said advertisement for the opening of said proposals.

The building shall be unexposed to danger from fire by an open space of at least 40 feet on each side, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

STATUE OF GOVERNOR STEVENS T. MASON, OF MICHIGAN.

Mr. ALGER. I ask unanimous consent for the present consideration of the joint resolution (S. R. 47) granting condemned cannon for a statue to Governor Stevens T. Mason, of Michigan.

The Secretary read the joint resolution; and there being no

objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of War to deliver to the governor of the State of Michigan six bronze or brass condemned cannon, to be used to make a life-size statue of Stevens T. Mason, late governor of Michigan.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORTIFICATION OF PURE SWEET WINES.

Mr. FLINT. I ask unanimous consent for the present consideration of the bill (H. R. 15266) to amend existing laws relative to the fortification of pure sweet wines.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

Mr. SCOTT. Is there a report from the Department on the bill? If there is, I should like to have it read.

Mr. TILLMAN. Mr. President, I ask that the unfinished business be laid before the Senate.

The VICE-PRESIDENT. Does the Senator from South Carolina object to the present consideration of the bill just read?

Mr. TILLMAN. There seems to be some trouble about its going through.

Mr. FLINT. It comes with a unanimous report from the committee.

Mr. ALDRICH. I do not think there is any trouble about the bill. It has been very carefully considered both by the committee and by the Department.

Mr. STONE. I object to the consideration of the bill.

The VICE-PRESIDENT. Objection is made.

ENTRY OF LANDS UNDER RECLAMATION ACT.

Mr. DUBOIS. I ask the Senator from South Carolina to allow a House bill which came over to be taken up.

The VICE-PRESIDENT. The Chair will state to the Senator from South Carolina that the morning business has not yet been closed. The Chair will lay the unfinished business before the Senate as soon as the morning business is concluded. The Chair lays before the Senate a bill from the House of Representatives:

H. R. 18536. An act providing for the subdivision of lands entered under the reclamation act, and for other purposes, was read twice by its title.

Mr. DUBOIS. I move that section 3 of the bill be stricken out and that the following be inserted. I will say to the Senate——

The VICE-PRESIDENT. The Chair will state that the bill is not before the Senate. Does the Senator from Idaho wish the present consideration of the bill?

Mr. DUBOIS. I ask for the present consideration of the bill.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

Mr. KEAN. Has the bill been reported by a committee of the Senate?

The VICE-PRESIDENT. It has not been.

Mr. DUBOIS. I will say to the Senator from New Jersey that the Senate has passed a bill on the same subject as the third section, and the House committee has unanimously reported in favor of the same bill.

Mr. KEAN. Then a bill on the same subject has been reported by the Senate committee?

Mr. DUBOIS. Yes. I will ask the Senate to substitute the bill which has passed the Senate for section 3, and then it will go into conference.

Mr. TELLER. This is a pretty important bill, and it seems to me it is hardly wise to put the bill into conference without some examination on the part of the Senate.

Mr. DUBOIS. I will say to the Senator from Colorado that the Senate committee has had a similar bill under consideration and has passed one bill covering entirely section 3, which same bill has been reported unanimously by the House committee. However, I have no objection to its going to the committee except that it will delay it.

Mr. TELLER. Mr. President, what we are just now in danger of in the West is too much legislation on this very question. We are threatened with very dangerous legislation, and if the Department or some portion of the Department, which have the Reclamation Service in charge, have their way there is not an intelligent man in the West who in two years will not regret that the Government ever touched this question. I do not know whether this bill is objectionable or not, but I think we are entitled to have an opportunity to examine these bills. Therefore I am going to insist that the bill shall go to the committee for action, and that we shall be given an opportunity to be heard if we have any objection to it.

Mr. KEAN. Let us have the regular order, Mr. President.

The VICE-PRESIDENT. Does the Senator from Idaho suggest that the bill be referred to the Committee on Irrigation?

Mr. DUBOIS. To the Committee on Irrigation.

The VICE-PRESIDENT. The bill will be so referred.

REMOVAL OF DERELICTS, ETC.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5683) to provide for the removal of derelicts and other floating dangers to navigation, which were in line 4, after the word "constructed," to insert a comma and the words "at a cost not to exceed $250,000," and to strike out all of section 2.

Mr. FRYE. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

LANDS IN MINNESOTA.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2296) restoring to the public domain certain lands in the State of Minnesota, which was, on page 1, line 7, after the word "lots," to strike out "five and six" and insert "one, two, three, four, five, six, seven, eight, and nine."

Mr. NELSON. I move that the amendment be concurred in.

The motion was agreed to.

SANITARIUM IN MINNESOTA.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 4976) to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives.

The amendments of the House were, in line 3, to strike out all after "Minnesota" down to and including "consumptives," in line 5.

In line 8, to strike out all after the word "That" down to and including "States," in line 11, and insert "said State shall pay therefor at the rate of $1.25 per acre."

Mr. NELSON. I move that the amendments of the House be concurred in.

The motion was agreed to.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SUTHERLAND submitted an amendment proposing to appropriate $6,000 for alterations in and additions to the public building at Salt Lake City, Utah, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. FLINT submitted an amendment authorizing the Postmaster-General, on account of the earthquake calamity in California, to use the average daily weight of mails for a period of not less than thirty successive working days ascertained during the period from February 20 to April 17, 1906, in adjusting the compensation on all railroad routes in the fourth section, etc., intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On April 27:

S. 5520. An act to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905.

On May 7:

S. 956. An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. Are there concurrent or other resolutions? If not, the morning business is closed, and the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. WARNER. I send an amendment to the desk to be read.

The VICE-PRESIDENT. There is a pending amendment to the amendment.

Mr. WARNER. I will ask that the amendment be read.

The VICE-PRESIDENT. Without objection, the amendment proposed by the Senator from Missouri will be read by the Secretary.

The SECRETARY. After the last line of the substitute of the senior Senator from Texas [Mr. CULBERSON] for the amendment of the senior Senator from Ohio [Mr. FORAKER] insert:

It shall be the duty of carriers engaged in interstate commerce to give like accommodations to all persons paying the same compensation for interstate transportation of passengers.

The VICE-PRESIDENT. The amendment to the amendment will lie on the table.

Mr. HOPKINS. I desire to make a motion to reconsider the vote by which the amendment found on page 6497 of the RECORD was adopted. It reads as follows:

In line 5 of the proposed amendment, after the word "water," insert "at any place within the jurisdiction or within the governmental authority of the United States."

I will state to the Senate that this amendment was proposed by the senior Senator from Alabama [Mr. MORGAN] and was adopted. I desire to make a motion to reconsider it; and as I see he is not in his seat, I will let the motion be pending until he comes into the Chamber.

The VICE-PRESIDENT. The motion to reconsider will be entered. The pending question is on the amendment proposed by the Senator from Mississippi [Mr. MCLAURIN] to the modified amendment of the Senator from West Virginia [Mr. ELKINS]. The Secretary will read the amendment to the proposed amendment.

The SECRETARY. In line 4 of the proposed substitute, after the word "commerce," insert the words "as a common carrier of articles and commodities of its own production, mining, or manufacture."

Mr. ALDRICH. I ask that the original amendment be read as it would read if amended.

The VICE-PRESIDENT. The Secretary will read as requested by the Senator from Rhode Island.

The SECRETARY. Add at the end of section 1 the following proposed substitute offered by the Senator from West Virginia [Mr. ELKINS], which if amended by the Senator from Mississippi [Mr. MCLAURIN] would read as follows:

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce as a common carrier of articles and commodities of its own production, mining, or manufacture: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. MCCUMBER. I think, Mr. President, everyone is agreed that we should absolutely divorce our railways as common carriers from engaging in any character of business in competition with any person, firm, or corporation. Being agreed upon that, then we are brought face to face with this proposition. Under the bill, or under the amendment, as it now stands, in my opinion, it would be clearly unconstitutional. Suppose that a company in the State of Maryland, under the laws of that State, engages, as it has a right to engage, in the mining and selling of products purely within that State. That being the case, is it possible for Congress to enact a law which would forfeit the right of that company to do an interstate-commerce business in property that it is not buying or selling within the State? Any prohibition such as is contained in the provision of the amendment of the Senator from West Virginia would, in effect, take this private property of the carrier without due process of law, in my opinion, and it would be absolutely unconstitutional.

What the Senator, I presume, really wants to secure, and what we all wish to secure, is an amendment that will prohibit railway companies as much as possible from engaging in interstate commerce in articles of their own production. That may be obtained, it seems to me, by a very few words, much less than are contained in the amendment offered by the Senator from Mississippi to the amendment. Suppose that the provision should simply read this way:

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

That is a simple proposition. He would be prohibited from entering into that business only, if entering into it, he engaged in interstate commerce in connection with it. That would bring it under the interstate-commerce clause of the Constitution and the authority of Congress to deal with it. It is a simple proposition and covers entirely what is desired by the Senator from West Virginia. The proposition is in a very few words:

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

That would leave the company free to engage in that business in the State which allowed the company to so engage. It would prohibit the company from engaging in the sale of any commodity which would enter into interstate commerce. It would be comprehensive and, at the same time, simple, clear, and definite.

Mr. HOPKINS. Does the Senator offer that as an amendment to the substitute?

Mr. MCCUMBER. I can not offer it as an amendment now, because I understand that one amendment to the amendment is pending, and I simply present it as a suggestion. I will ask the Chair whether an amendment would at this time be in order?

The VICE-PRESIDENT. The Chair is of opinion that it is not now in order.

Mr. MCCUMBER. It was my opinion that it is not now in order.

Mr. ALDRICH. I suggest that the amendment of the Senator from North Dakota be read for the information of the Senate.

Mr. MCCUMBER. I send it to the desk.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. As a substitute for the amendment just read, at the end of section 1, in lieu of the matter proposed to be inserted, add the following:

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

The VICE-PRESIDENT. The Chair understands that the amendment of the Senator from North Dakota is in the nature of a substitute for the amendment of the Senator from West Virginia.

Mr. MCCUMBER. Yes.

The VICE-PRESIDENT. The Chair would suggest, then, that after the amendment of the Senator from West Virginia has been perfected by its friends the proposed substitute of the Senator from North Dakota will be in order.

Mr. DRYDEN. Mr. President, I wish to ask the Senator from West Virginia whether there is any provision in the bill as to the time when his amendment, if adopted, will go into operation and become effective upon the railroads? I will state the point of my inquiry. The carrying of coal to the markets from the mines has to be done by these carrying companies. If it be true, as is commonly believed, that the carrying companies own property valued perhaps at hundreds of millions of dollars, and that the only way the public can get the coal is through these companies, there should be, in my judgment, a time set for the operation of this law to go into effect. If not, two things are sure to result: First, an enormous injustice to the carrying companies and all the holders of their securities, and, second, tremendous distress to the public, because if these companies are shut off without proper notice and without due time for the disposal of their property the public will be positively unable to get the coal which they must have for their use. Now, is a reasonable time limit set for the operation of the law to take effect? If not, should it not be done? I should like to ask the view of the Senator from West Virginia on that point.

Mr. ELKINS. In the original draft of the amendment under discussion, and which I drew——

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Jersey yield to the Senator from Colorado?

Mr. DRYDEN. Certainly.

Mr. TELLER. I think we are entitled to know what is going on in the Senate, and unless Senators speak louder than they have been speaking, with the noise there is, we might as well retire to the cloakroom.

Mr. DRYDEN. I have asked a question of the Senator from West Virginia.

Mr. TELLER. I have not heard a word the Senator from New Jersey has said, and I have listened intently.

Mr. DRYDEN. The point of my inquiry, I will say to the Senator from Colorado, is whether there is any provision in the bill to set a time when the bill shall go into operation if it becomes a law, and particularly with reference to the amendment proposed by the Senator from West Virginia. I say this question is so broad that it is not too strong a statement to make to say that it will affect almost every household in this country. This amendment which is now pending is one of the

most vital in the whole bill, and if this amendment as proposed be incorporated in the bill and become a law—and there is no time set for the bill going into operation, as I understand—then I say that the people of this entire country will be prevented from getting their supply of coal; every household, every great manufacturing concern, the railroads themselves which do not own their own coal mines, every industry and every individual to-day dependent for comfort and life upon the supply of coal, would be prohibited from getting a supply under the operation of this amendment. Therefore, if there is no such provision, I propose to offer a proposition to that end, and I should like to know what the real situation is.

Mr. TELLER. Mr. President, I will inquire whether or not the Senator from New Jersey [Mr. DRYDEN] has concluded?

Mr. DRYDEN. I have for the present.

Mr. TELLER. Mr. President, of course there is no provision in this bill as to when it shall take effect, and therefore, as in the case of other bills, it will take effect on its approval by the President. In my judgment it is rather unfortunate that this feature should be put into the bill. While there is an evil unquestionably in allowing railroad corporations to mine coal or to manufacture products of any kind, yet we might as well face the fact that that is something which we can not prevent, at least until the article so produced or manufactured shall enter into interstate commerce. The State of New Jersey, if it sees fit so to do, may charter a railroad company and authorize it, in addition to doing its railroad business, to do something else. If the State of New Jersey sees fit to authorize it so to do, such railroad company may mine coal or it may manufacture cotton goods or anything else. The power of a corporation is derived from the State and not from the General Government. A corporation is entirely outside of the control of the General Government as to what it shall do until it enters the domain of interstate commerce.

Mr. President, it is not unlawful for some corporations in the State of Pennsylvania to mine coal, because, as I understand, they are authorized so to do by their charters. I do not believe any railroad company in the State of Colorado could, within its charter, mine coal; but it is certainly within the power of the State of Colorado to authorize it to do so if the State thinks the interests of the public would be promoted by its so doing. So the mining of coal by a railroad corporation is not an offense against law in the State of Pennsylvania, though it is an offense in some States; and the company which should mine coal might subject itself to the danger of losing its charter. But I take it for granted that where railroad companies are mining coal in the eastern sections of the country they are doing so by some specific authority of the State. Under their charter they have a right to mine coal and to ship it on their cars, but when they reach the State line, then, Mr. President, that coal becomes the subject of our jurisdiction, and we can then have something to say about it.

Suppose a railroad company mines large quantities of coal and ships it out on terms exactly the same as it ships other people's coal, under precisely similar conditions, making no discrimination between that corporation and any other; there is not any reason for finding fault with that, and that is not the complaint. The complaint is that the railroad company, having the opportunity to furnish cars for its own coal and to carry its own coal for a rate of freight that it does not carry other coal, avails itself of that opportunity, and so becomes a hostile competitor, not a competitor in the proper sense of the term, but a favored competitor with others engaged in the same business—that is, in mining coal—who do not happen to own a railroad to carry it. In my judgment, when a company does that and carries its coal, and such coal becomes a subject of interstate commerce, when it is transported outside of the State, then we have control.

In my judgment, we do not have any control until that thing happens; and this corporation organized in Pennsylvania, holding its right to mine coal and selling its coal only within the boundaries of that State, that coal not being the subject of interstate commerce, but of domestic consumption, it is absolutely beyond our control. That is a question which is presented to us here, and as a matter of principle there is not anything more important than that in the whole bill; not even rate making is more important than that. I think, Mr. President, no railroad company ought to be so chartered. As a matter of policy, the States ought not to authorize that; but they have authorized it, and they may continue to authorize it.

I want to repeat that it is a subject we can not control, although it may be reprehensible and objectionable. We can not meet everything we may object to with a remedy.

Mr. FORAKER. Will the Senator allow me to interrupt him?

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Ohio?

Mr. TELLER. I will yield for a question, but I do not propose in the fifteen minutes I have got to yield to an argument.

Mr. FORAKER. I only want to state to the Senator that I agree with all that he has said as to the legal aspect of this proposition; but I wish to call his attention and ask for the benefit of his view as to what would happen if our legislation should be enacted as proposed and it should be held to be constitutional, and we would thereby prohibit railroads who are now engaged in mining and manufacturing coal from sending it out as interstate commerce and supplying the people with it.

Mr. TELLER. I would rather not consider a question that seems to me to be so exceedingly remote. I can not conceive that any court in this country entitled to be called a court would hold that we have that right. The Senator from New Jersey [Mr. DRYDEN] has touched upon that subject. I only want to deal with the question, How are you to reach this matter, if you reach it at all? I should myself very much prefer that this question should come to us in a separate bill, where it could be considered by itself, and not interfere with this general bill, which the public have been looking for and expecting us to pass in some shape or form for the last two years, or nearly that time.

Mr. President, whenever coal or anything else that the railroads may produce becomes the subject of interstate commerce, then I admit the United States may put its power in operation and may control it.

I only want to say a few words, for I know that fifteen minutes do not give an opportunity for any real discussion of this question; but I want to enter my protest here against that which I know has the sanction of a very high court. When the Constitution of the United States authorized us to regulate interstate commerce it did not authorize us to destroy commerce, and although there may be high authority to the effect that the power to regulate means the power to control, and I may be compelled to accept that in some cases, I am not compelled to accept it as binding upon me when I come to a positive act of my own. I may refrain, Mr. President, from doing some things that I should like to do as a member of this body. I may withhold my vote from a certain proposition because the court has said substantially that such a proposition would be a nullity; but the court can not compel me to act affirmatively when it comes to legislation. I may withhold my assent then. I can make my objection, although the court says the act may be constitutional, if, in my judgment, it is impolitic, and especially if, in my judgment, it would work injustice.

Mr. President, I suppose we shall have to deal with the subject as it is here. I want to deal with it, not upon the theory that the people who are mining coal are guilty of a crime by mining it, for if they are guilty of any offense against either law or morals, it is in that they take advantage of the condition they are in to unfairly compete with others who are engaged in the same business. Beyond that I do not believe we ought to go.

This amendment has been, in my judgment, rather hastily drawn, and I am not satisfied with it. I myself do not believe that in a time of haste, when we are endeavoring to get through with this bill, is a good time to introduce this question. Yet it is an evil, I admit, that we have got to wrestle with in the near and immediate future.

Mr. President, this bill has been before Congress a good while, and it has been pending here something like ten weeks, I think. I have not believed that it required any great haste on our part. It has been pretty thoroughly discussed upon one feature principally, and that is as to what should be the condition when the Interstate Commerce Commission has declared that a rate made by a railroad company was an improper one; what should be the right of the carrier and also the shipper, for that matter, when the condition arrives that the court has passed upon the rate made by the railroad company and declared it an improper one; what, then, shall be the condition when the carrier goes into court, and what court shall he go into, and what questions shall be considered there?

We have heard, Mr. President, about "broad review" and a "limited review." I think, as a general rule, that a man brought up in the profession to which I belong would hesitate somewhat to provide in a matter of this kind for a limited review. In the first place, I think he would be somewhat at sea when he began to try to determine as to what particular thing this review should go; and then I think he would be very much embarrassed for fear he might not give to the carrier such a review as he is entitled to under the Constitution of the United States. So, Mr. President, it has generally been understood here, I think—I have tried to make it so—that, so far as I am concerned, I am in favor of such a review as will enable the car-

rier, if he says his rights have been invaded by the Commission, to go into court to determine that question.

We are told that an agreement is to be made amongst the friends of this bill, of which I count myself one, as to the character of the review to be provided; but concerning that agreement I admit I have not been consulted.

We heard yesterday or the day before that an amendment was to be offered by the senior Senator from Iowa [Mr. ALLISON], but it did not come. On Saturday we heard of it, on Sunday we heard of it, and yesterday we heard of it. We have not seen it yet, but a newspaper man, who at least thinks he knows what it is, handed me a paper and said that it contained the gist of the proposed review provision.

The VICE-PRESIDENT. The Chair is obliged to inform the Senator from Colorado that his time has expired.

Mr. TELLER. Well, I will take occasion later, when some other amendment is pending, to finish my remarks. I will not undertake to violate the rule.

Mr. DICK. Mr. President, the inquiry of the Senator from New Jersey [Mr. DRYDEN] is both pertinent and important. Either the time should be extended very considerably or this matter should be dealt with in an entirely separate bill. In the first place, we recall that some years ago the iron masters of Pittsburg constructed a railroad, extending through a part of the State of Pennsylvania and a part of the State of Ohio, to reach the ports of Lake Erie for the purpose of carrying iron ore from the Lake ports to Pittsburg because of extortionate rates charged them by the railroads. If this amendment is adopted and that road is still in the possession of the men who constructed it, they must either go out of the business of manufacturing steel or the business of common carriers.

Again, we adopted in the early part of the voting an amendment putting pipe lines into the list of common carriers; and the men who own pipe lines, whether the companies are large or small, will be compelled, if this amendment is adopted, either to go out of the business of pumping and refining oil or out of the business of conveying it.

Within a few days the Committee on Territories favorably reported a bill chartering a railroad in the district of Alaska, its purpose being largely to mine coal and other minerals, and the bill grants certain coal-mining privileges in that district. The company means to mine that coal, to convey it to a seaport, and thence to the Pacific coast. It will have to change these arrangements, and perhaps abandon the enterprise altogether, if it is confined entirely to the business of a common carrier and prohibited from engaging in the business of mining.

Ample illustrations might be given, in addition to the illustration made by the Senator from New Jersey or the one made previously by the Senator from South Carolina [Mr. TILLMAN], when he referred to the lumber industries of the South. It extends still further. Great companies are mining iron ore in Michigan and in Wisconsin. They own vessels for the transportation of that ore from where it is mined to points where it is consumed in the manufacture of steel. They will have to go out of the business of mining or out of the business of common carriers.

So that, in all its ramifications, this question is so great, it affects so many interests, not only the interests of capital, but the interests of labor as well, that it seems to me the question itself is quite as important, and perhaps of even greater importance, than this matter of railroad-rate regulation, in that railroad-rate legislation has been a question that has been dealt with by Congress for more than twenty years. This very bill is but a conformation of old legislation to newer conditions, but this particular question is a new and a very important question. It is to be hoped the Congress will see that it is a wise thing to do to defer action upon so important a matter until the pending rate legislation is out of the way and it can be dealt with as a separate and distinct proposition in important legislation.

Mr. ELKINS. Mr. President, the purpose of introducing this amendment was to correct an abuse and evil growing up in the State of West Virginia and in other mining States, owing to the fact that railroads engage in competition with producers on their lines. My idea of this is, and it is my judgment, that railroads should be strictly held to doing the business for which they are incorporated—that is, the transportation of freight and passengers, and should be prohibited by law from engaging in any other business, and especially business in competition with the producers and shippers on their lines.

When I first drew this amendment I inserted the words "unless authorized by its charter to do so," which were objected to yesterday by the Senator from New Hampshire [Mr. GALLINGER]. The amendment reads:

> It shall be unlawful for any common carrier subject to the provisions of this act, unless authorized by its charter to do so, to engage, directly or indirectly, in the production, manufacture, buying, furnishing, or selling of coal or coke or any other commodity or commodities of commerce in competition with any shipper or producer on its line or lines, etc.

I put in the words objected to in order to meet the question raised partly by the Senator from Ohio [Mr. DICK] and the Senator from New Jersey [Mr. DRYDEN]. For instance, the Reading Railroad, the Lackawanna Railroad, and probably the Pennsylvania Railroad took the right, by special acts of their legislatures fifty years ago, perhaps sixty years ago, to mine, sell, and produce coal. That right has never been questioned and I do not want to disturb vested rights.

It is impossible, under the general incorporation acts of the various States authorizing the organization and incorporation of railroads, for them now to get the power to mine and sell coal. The power of the railroads to mine and sell coal and coke and engage in any other business was derived from special acts of the legislatures. With the vested rights growing out of these special acts I did not want to interfere at all, and, therefore, I put in the words "unless authorized by their charters to do so."

The Senator from New Hampshire [Mr. GALLINGER] says that would work injustice, because all the railroad companies would have to do would be to organize not only to transport freight and passengers, but to engage in the mining business.

The VICE-PRESIDENT. The Chair will call the attention of the Senator from West Virginia to the fact that, upon consulting the RECORD of yesterday's proceedings, he finds the Senator from West Virginia took the floor upon the amendment proposed by the Senator from Mississippi [Mr. MCLAURIN].

Mr. ELKINS. Yes, sir.

The VICE-PRESIDENT. Under the Chair's interpretation of the unanimous consent agreement, the Senator from West Virginia is not in order to speak to that amendment.

Mr. ELKINS. I am speaking to the amendment of the Senator from North Dakota.

The VICE-PRESIDENT. That amendment is not pending.

Mr. ELKINS. Well, I must speak to some amendment. [Laughter.] I can not speak to my own amendment. Other Senators took all of my time on that.

The VICE-PRESIDENT. The Chair regrets that he is obliged——

Mr. ELKINS. Can I speak to the substitute? I did not exhaust my fifteen minutes on the substitute offered by the Senator from Mississippi.

The VICE-PRESIDENT. But the Senator from West Virginia has exhausted the rule. The Chair, of course, can not enforce the rule. It must be left to Senators to observe it or not, according to their good judgment.

Mr. ELKINS. Senators took all my time yesterday asking questions, and I want to get a chance to explain my own amendment. Can the Senator from South Carolina [Mr. TILLMAN], in his prolific mind, offer something here that I can speak to? [Laughter.]

Mr. TILLMAN. With the permission of the Chair, I will state to the Senator from West Virginia that the Senator from South Carolina exhausted his time on this amendment yesterday afternoon, but after this amendment is disposed of there will be opportunity for him to speak on others. I have something I am trying to get up here that may obviate some of this difficulty.

Mr. KNOX. Mr. President, I listened yesterday afternoon to as wise a bit of advice from the lips of the Senator from South Carolina [Mr. TILLMAN] as I have heard yet uttered in this Chamber. I read it to the Senate from the RECORD. Speaking of the amendment of the Senator from West Virginia, the Senator from South Carolina said:

> So, Senators, you will not quickly dispose of it in any wise and judicious way. By careful consideration we may be able to discover a method by which we can accomplish what we seek to do, but unless we are very cautious we will make a mistake, and we had better go not quite far enough than to go too far.

The first task of the morning I set for myself was to read the entire statement of the Senator from South Carolina which preceded these concluding words of advice. What he said is still fresh in the mind of the Senate, and it is not my purpose to repeat it. I am willing to confess my entire inability, by further illustration along the lines of his observations, to illuminate the question to which he was addressing himself: but I wish to give to the Senate the benefit of the reflections that I have made at the invitation of the Senator from South Carolina, stated in as succinct a form as possible, and stated practically in the way of naked legal propositions.

In the first place, Mr. President, the question we are considering is how we may lay the hand of injunction upon corporations conducting a carrying trade between the States to prevent them from doing either that which the States have, by the express act

of their legislatures, authorized them to do or, by a long period of acquiescence, permitted them to do.

The question of the power of Congress to prohibit commerce between the States has been passed on but once by the Supreme Court of the United States. The thing which Congress prohibited in that case was the transportation from State to State by express or railroad or by the hand of man of a lottery ticket, a thing connected with a gambling scheme, a thing which had been condemned by Congress time and time again. It had been excluded from the mails; it had been excluded from foreign commerce; and, Mr. President, the question of the power of Congress to prohibit that noxious thing was debated three times in the Supreme Court of the United States by the court's own invitation, and then only sustained by a vote of 5 to 4. I challenge any Senator to put his hand upon a decision of the Supreme Court of the United States to the effect that Congress has the power to go within the borders of any State and lay its hand upon and stifle or crush the policy of that State as declared in its own legislation with respect to the development of its own resources as proposed by this amendment.

Take for illustration the State of North Carolina, rich in timber, possibly not so wealthy in capital as some of her neighbors. It is her laudable ambition that her timber shall be brought to the markets of the world; that her borders shall be filled with the industrious men who are to be engaged in that enterprise. She invites capital to come within her borders for investment. She gives by charter the privilege to a lumber company to accumulate a large area of timber land, the extent of which she may circumscribe. She permits the people who invest their money upon her hills to build highways into the forest in order that the lumber may be carried out and put into the channels of interstate and foreign commerce.

Does any Senator mean to say that it rests in the power of Congress, under the Constitution, to reverse that policy? If so, I should like to see the authority upon which it rests. Congress may, I think, without question provide that a carrier which is lawfully engaged within the borders of a State which created it in developing the resources of that State and which seeks unlawfully to gain an advantage in interstate commerce over its competitors in that particular product shall be excluded from participating in interstate commerce with respect to that product.

Congress can prevent a carrier from stifling competition by refusing to give cars, facilities in the way of side tracks, and other facilities. Congress can, with absolute certainty, in my judgment, prohibit a carrier from entering into interstate commerce in respect to particular traffic if it is trying to crush out its rivals. But, Mr. President, to say that Congress can cancel the policy of any State in respect to the development of its own resources by prohibiting the agencies of its creation from commercial intercourse upon equal terms with citizens of other States is to say that which I think is impossible; and I entirely agree with the legal conclusions that have been so clearly announced upon this subject by the Senator from Colorado [Mr. TELLER].

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Mississippi [Mr. MCLAURIN]. [Putting the question.] In the opinion of the Chair, the "noes" have it. The noes have it, and the amendment is rejected.

The question recurs upon agreeing to the amendment of the Senator from West Virginia [Mr. ELKINS].

Mr. MCCUMBER. I desire to offer a substitute.

The VICE-PRESIDENT. The Senator from North Dakota proposes a substitute, which will be stated by the Secretary.

The SECRETARY. As a substitute for the amendment offered by the Senator from West Virginia, it is proposed to insert the following:

> Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

Mr. ELKINS obtained the floor.

Mr. MCLAURIN. Mr. President——

The VICE-PRESIDENT. The Senator from Mississippi.

Mr. MCLAURIN. I was out of the Chamber a few moments ago, and I heard that an amendment had been voted upon offered by the Senator from Mississippi. I did not know that it was my amendment which was under discussion. I was told yesterday that it was not in order at that time to offer the amendment, and that the amendment was then only read to see how it would sound if it should be adopted. I do not know how the amendment got before the Senate or how it came to be voted upon.

The VICE-PRESIDENT. The Chair understood the amendment was offered, and soon after the bill was laid before the Senate the Chair announced that the question was on agreeing to the amendment offered by the Senator from Mississippi.

Mr. MCLAURIN. Yesterday I stated that I offered it, but I was told that under the rules of the Senate it was out of order at that time and could not be offered until the substitute had been acted upon. For that reason I was not in a hurry to offer it again; also for that reason I was not in the Chamber to offer the amendment when the opportune time should come.

Mr. ELKINS. I should like to ask the Senator a question. As I understand, this was a verbal amendment offered by the Senator from Mississippi yesterday, and the Senator also offered a substitute. It was the understanding in the Senate when we adjourned that he would perfect the substitute and offer it this morning.

Mr. MCLAURIN. I did not offer a substitute. The amendment was read at the time I presented it to the Senate, but I was told at that time that it was out of order to offer it because the substitute for the amendment offered by the Senator from West Virginia had not been acted upon.

Mr. ELKINS. Will the Senator allow me?

Mr. MCLAURIN. I now haye a substitute which I have prepared.

The VICE-PRESIDENT. The Chair was governed in the matter by the record of the Secretary. The proposed amendment of the Senator from Mississippi was stated by the Secretary, and at the request of Senators the amendment proposed by the Senator from West Virginia was read with the proposed amendment of the Senator from Mississippi incorporated in it.

Mr. MCLAURIN. I am not complaining of the Chair.

The VICE-PRESIDENT. The Chair does not understand that the Senator is, but the Chair was simply advising the Senator as to the manner in which the proposed amendment came before the Senate.

Mr. DANIEL. If the Senator from Mississippi will permit me, I ask unanimous consent that the vote by which the amendment was rejected be reconsidered.

The VICE-PRESIDENT. Without objection, it will be reconsidered.

Mr. MCLAURIN. I now offer a substitute for the pending amendment.

The VICE-PRESIDENT. Withdrawing the proposed amendment heretofore submitted?

Mr. MCLAURIN. Yes, sir.

The VICE-PRESIDENT. The Secretary will read the proposed substitute.

The Secretary read as follows:

> It shall be unlawful for any corporation that mines or manufactures or produces any article or commodity of commerce for sale to engage in the business of interstate commerce as a carrier of any of its own products, mining, or manufacture; and it shall be unlawful for such corporation to charge, demand, collect, or receive any money or other thing for the carriage, as a carrier of interstate commerce, of any of the like kind of articles or commodities produced, mined, or manufactured by any other person, company, or corporation; and for a violation of this provision the person paying such charge or demand may recover in any State or Federal court having jurisdiction of the subject-matter an amount triple the amount so collected or paid, together with all costs of collection, including attorney's fees and costs of travel to and from and attendance upon court. If any such corporation shall engage in the business of a carrier of such articles or commodities as intrastate carrier it shall be unlawful for such corporation to engage in interstate commerce as a carrier of any kind of commerce.

Mr. ELKINS. I understand the substitute was read for information; it is not offered?

The VICE-PRESIDENT. The Chair understood the Senator from Mississippi to withdraw the amendment proposed yesterday and to offer the amendment just proposed in lieu of it.

Mr. MCLAURIN. That is correct, Mr. President.

Mr. ELKINS. I wish to speak to the amendment of the Senator from North Dakota.

Mr. MCCUMBER. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from North Dakota will state his parliamentary inquiry.

Mr. MCCUMBER. As the record now stands, the substitute offered by the Senator from Mississippi yesterday was voted down. That disposed of that amendment. Then I introduced a substitute, upon which the Senator from West Virginia [Mr. ELKINS] started to speak. It was in order at that time.

That being the case, I ask the Chair if it is possible that this other substitute, the amendment which is now offered by the Senator from Mississippi, can be considered until the other amendment is disposed of? Which has precedence?

The VICE-PRESIDENT. The Chair understands the rule to be that an amendment to the part to be stricken out is first in order. In other words, that the friends of a pending measure have a right to perfect it by way of amendment, and after it is

made as perfect as they desire to make it, then the amendment in the nature of a substitute is put to the Senate.

Mr. McCUMBER. I am a friend of the measure, and the object of the substitute which I offered was to perfect it. I can not see wherein there should be a distinction between the two.

The VICE-PRESIDENT. The Chair asked the Senator some time ago if his proposition was in the nature of a substitute, and the Chair understood from the Senator that that was so, taking the place of the amendment of the Senator from West Virginia.

Mr. McCUMBER. It was then laid aside until the other matter was disposed of.

The VICE-PRESIDENT. That is correct.

Mr. McCUMBER. Then I offered it as a substitute.

The VICE-PRESIDENT. That is correct. But the Chair invites the attention of the Senator from North Dakota to the fact that the amendment of the Senator from Mississippi was first proposed and acted upon, and by unanimous consent the vote by which it was rejected was reconsidered. The Senator from Mississippi then withdrew his original amendment, and offered the one which has just been read by the Secretary.

Mr. McCUMBER. I will state to the Chair that I did not know that a motion to reconsider had been made. I did not hear it.

The VICE-PRESIDENT. Yes. So the Chair is of opinion that the proposed amendment of the Senator from Mississippi would take precedence.

Mr. ELKINS. Mr. President, in urging my amendment to prohibit interstate carriers from engaging in any other business than transporting freight and passengers, or, rather, not to engage in any business in competition with shippers on their lines, I do not want to interfere with any vested rights which may exist by reason of special acts of State legislatures authorizing railroad companies to engage in mining and selling coal. I therefore left in the amendment as I drew it the words "unless authorized by their charters," feeling that no other charters would be granted by special acts of legislatures to railroad companies and permit them to engage in the business of mining and selling coal and producing lumber.

I invite the attention of the Senate to the recent decision of the Supreme Court in the Chesapeake and Ohio case, a case that came up from West Virginia. Without taking the time of the Senate to read the decision, I will say that the court in effect decides that where a railroad company does not have, by an act of the legislature, expressly conferred upon it the power to engage in mining and selling coal under existing law the railroad company could not mine and sell coal. That was the decision of the court in the Chesapeake and Ohio case.

Mr. BACON. Will the Senator repeat that statement?

Mr. ELKINS. As I understand the decision of the Supreme Court in the Chesapeake and Ohio Railroad case, it being a railroad company chartered and organized under the laws of Virginia without the power definitely expressed in the charter to mine and sell coal, it did not have the right, under the laws of Congress to regulate commerce, to mine and sell coal, and the court decided that it could not do so.

Mr. President, we have here a decision of the Supreme Court clearly meeting the point raised, as I thought, by the Senator from New Jersey. The court did not hold that where a legislature had especially authorized a railroad company to mine and sell coal it could not engage in the business of mining and selling coal, and therefore, as I stated before, I put in the words "unless authorized by their charters." I am not able to say whether an act of Congress could go so far as to annul and destroy a special act of the legislature authorizing a railroad company to sell coal and under which it had owned coal lands and mined and sold coal for fifty years and had mortgaged said coal lands to secure bonds.

We will have no trouble on this score in the future, because under the general incorporation acts of the States railroads can not take power to engage in any other business than transporting freight and passengers, although they may take all sorts of power. Under the laws of West Virginia a railroad company is prohibited from engaging in the business of mining and selling coal.

This act of the legislature was passed in 1895 and prevents railroad companies from buying or selling coal or coke.

The object of this amendment is to incorporate in the laws of Congress just what the law of the State of West Virginia is on this subject. Now, I think the question raised by some Senators that the right to mine and sell coal by intrastate roads can not be interfered with disappears when it is disclosed that any common carrier subject to the provisions of the interstate-commerce laws—that means any interstate carrier—shall be prohibited from engaging in the mining, manufacture, and production of coal in competition with shippers, because under the decisions of the courts every local railroad in the States are interstate carriers. The mining and selling coal by railroad companies in competition with shippers on their lines is a great evil and abuse, and unless stopped by law the railroads of this country can acquire all the coal lands in a particular locality or State, and can crush out under this power to mine and sell coal all independent operators and individual miners, because they can favor their own interests and deny shippers many of the advantages they enjoy.

The answer to this may be that they can not discriminate; but a railroad company owning the coal and the means of transportation can discriminate in a way so as not to violate the law, and in the end the independent operators must yield, surrender, and go out of business.

What I am contending for in this amendment is that the independent operator, the individual mine owner, shall be protected in his business against the rapacity and injustice of railroads owning coal lands. No independent operator, no small mine owner, can afford to engage in competition with a railroad company that owns twenty or thirty or forty thousand acres of coal doing business in the same locality. I say it is perfectly competent for Congress to pass such legislation. The law of West Virginia on this subject has been sustained. Congress by proper laws should forbid railroad companies from engaging in any business in competition with shippers on their lines.

It seems to me that the substitute offered by the Senator from North Dakota [Mr. McCUMBER] is clear, explicit, and to the point. It says it shall be unlawful, using the very words I have in the pending amendment, for a common carrier under the provisions of this act to do what? To engage in the business of mining, selling, and producing coal. That is simple, and I do not see how there can be any objection to this wording. It seems to me it is clear and to the point.

However, the Senator from Mississippi [Mr. McLAURIN] will, in due time, I believe, offer a substitute, when we will have an opportunity to further discuss the question. My aim and purpose is simply to correct evils and abuses that exist in the mining States and oppress the people. I did not, perhaps, understand the Senator from Pennsylvania [Mr. KNOX] in regard to the development of the lumber interests of the State of North Carolina. If he advocated the right of an interstate railroad to engage in the business of manufacturing lumber as against local operators of lumber mills in that country, I think he is mistaken. That would be an abuse, and, inasmuch as it would give an advantage to the railroad company over the independent operator, it should be prohibited.

Railroads in recent years have been chartered and organized primarily for one purpose—namely, to transport freight and passengers. Nothing else. Fifty years ago I admit that the Reading, the Lehigh Valley, the Pennsylvania, and other roads, under special acts of the legislature, had the power conferred upon them of owning coal lands and mining and selling coal, which they have exercised for all these years. I do not want to interfere with these powers, but for the future I want it to be clearly understood that all interstate roads shall refrain from engaging in such business.

I do not know of any intrastate roads. There may exist in a State a road 50 or 100 or 200 miles long, but all these roads do interstate business, and doing that, it has been decided they become interstate carriers and interstate roads. I believe in confining strictly and positively railroads to doing two things—the transportation of freight and the transportation of passengers, and engaging in no other business of any kind whatsoever, directly or indirectly.

Mr. FLINT. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from California?

Mr. ELKINS. Certainly.

Mr. FLINT. I should like to ask the Senator from West Virginia whether, in his opinion, private car lines should not be prohibited from engaging in other business?

Mr. ELKINS. Private car lines?

Mr. FLINT. Yes, sir. They are now engaged in buying and selling fruit, and also in operating private car lines.

Mr. ELKINS. Yes. I believe every common carrier should be prohibited from doing any other business than that for which it was incorporated and organized.

Now, as to the question of the Senator from California, these private car lines are, I believe, organized to provide facilities for transporting fruit. But whether they are common carriers under the statute and from the standpoint I am discussing this question I do not know, and I do not wish that question to be involved in the discussion of my amendment.

Mr. FLINT. Mr. President——

Mr. ELKINS. Allow me to say to the Senator from California that I lost my time yesterday by yielding and being graceful, and I do not want to be so unfortunate to-day.

Mr. FLINT. I want to ask the Senator from West Virginia one other question. In his opinion, should not the question as to private car lines engaged in business other than operating private car lines, and railroads engaged in business other than transporting freight and passengers, be left to a separate bill and this whole matter included in a bill other than the present bill? This is a very wide subject, and——

Mr. ELKINS. That is not a question. That is your opinion.

Mr. President, I know it is sought to sidetrack this amendment that corrects a great abuse and injustice. I know we are dealing with rates and trying to prohibit excessive rates, but there are abuses and evils produced by railroads far greater than excessive rates. The great evils and abuse are the kind I have mentioned. Rebates and discriminations are prohibited now by stringent laws. Now, another abuse by railroads is they refuse at times to give switches to shippers of interstate commerce. They will not give physical connection. If we are going to regulate railroads, if we are going to correct abuses, let us correct the real abuses that oppress the people and drive them out of business. What I complain of in this bill is that while it is a good bill as far as it goes, it does not go far enough. It does not correct the very abuse I am trying to bring to the attention of the Senate. It does not provide that where an interstate shipper is prepared to operate he shall have the right of switch connection. It does not provide that connecting lines shall have connections and fair, just, and reasonable prorating arrangements. Those are abuses of which the people of West Virginia complain, and they are evils which I should like to see corrected in this bill.

Mr. President, I think it is plain, in the words of the substitute offered by the Senator from North Dakota, that if common carriers are engaged in mining and selling coal or coke or other commodities along their lines in competition with shippers, it should be prohibited. That is a plain, simple proposition. It is an evil and an abuse, and if it is not checked it will enable the railroads of the country to absorb the mining business along their lines to any extent.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Oregon?

Mr. ELKINS. Some railroads now own forty or fifty or sixty thousand acres of coal lands. I am glad to see that lately the Baltimore and Ohio Railroad Company has determined—wisely, I think—to give up the business of mining and selling coal and engage only in the transportation of freight and passengers.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Oregon?

Mr. ELKINS. Just for a question.

Mr. FULTON. I observe that the Senator's proposition excludes from the operation of this amendment all railroads which by their charters are authorized to engage in mining coal.

Mr. ELKINS. Yes.

Mr. FULTON. I would ask the Senator what he means by their "charters?" Let him understand what I have in my mind. I call his attention to the fact that most of the railroads are organized under State laws, by which they can simply file articles of incorporation, setting forth the purpose for which they are organized and the business in which they propose to engage; and practically all of them propose to engage in business other than that simply of carriers. Does the Senator intend by his amendment to exclude from the operation of this law all railroads so organized and chartered?

Mr. ELKINS. I think under the general incorporation acts of the various State legislatures the power is only given to do the business of transporting freight and passengers, and no power is given under the general act to incorporate a railroad to buy and sell coal and engage in manufacturing.

Mr. FULTON. I call the Senator's attention to the fact that under many State laws a corporation may set out in its incorporation papers the purpose for which it is organized and the business in which it proposes to engage, and they include coal mining and various other pursuits in addition to mere transportation, in many instances.

Mr. ELKINS. I know that. I am perfectly familiar with that.

Mr. FULTON. The reason I state that to the Senator is this: His amendment will practically eliminate from the operation of the law he is seeking to have enacted every corporation whose articles of incorporation provide for engaging in business other than that of transportation.

Mr. ELKINS. No; I do not believe that——

Mr. FULTON. Therefore I suggest to the Senator the advisability of accepting the suggestion that this whole matter shall be treated in a separate bill.

Mr. ELKINS. I will answer your question. Under railroad charters taken out under the general incorporation acts of the States where extraordinary powers are attempted to be taken, I do not think the courts would hold that they can engage in anything but the transportation of freight and passengers.

In using the language or words "unless authorized by their charters" I meant only to protect the railroads chartered and organized fifty years ago under especial acts of the legislatures, and which have engaged in the business of mining and selling coal, and have bonds out on the coal property and improvements involving hundreds of millions of dollars. Perhaps it would not be right to disturb these vested rights. As to any future railroads I do not think that the Senator's question would apply at all.

The VICE-PRESIDENT. The Chair must inform the Senator from West Virginia that his time has expired.

Mr. BACON. Mr. President, I am very much inclined to the opinion, as has been expressed by several Senators, that this is a matter we should not attempt to deal with in the pending bill. It is a bill to regulate railroads in the matter of transportation rates and fares for passenger transportation. It is an impossibility to make it a cure-all for all the evils which may exist in the operation of railroads. This is an extremely difficult question, and one in which almost certainly there is an evil which should be remedied by legislation, but it is one which affects so many interests that it is extremely important that whatever is done should be done with the utmost care.

I have in my hand the opinion of the court in the Chesapeake and Ohio case. I have not had the opportunity to give it the very careful examination which one ought to give to attempt to discuss it or to predicate an argument upon its rulings. I had only seen heretofore the newspaper accounts, and I have had an opportunity to look at this decision only this morning, since the Senate has been in session. As I understand, though, in the hasty examination which I have been able to give it, the particular point ruled by the court was this: It was charged that the Chesapeake and Ohio Railroad Company sold and agreed to transport and deliver to the New York and New Haven Railroad Company coal at a rate which represented in the aggregate less than the cost of the coal and the rate of transportation as published by them as their regular rate, and that therefore it amounted to a system of rebates.

Mr. President, it will be seen how extremely difficult it will be to frame a law which shall correct that evil, because it relates not simply to a case where a railroad company buys property and where the market price in that way can be distinctly stated by being added to the transportation rate, and the proper aggregate can thus be ascertained, but it relates also to the case of a railroad that is producing property which it sells, and there comes in the difficulty of fixing what is the value of that property in such manner that it can be so added to the published rate as to indicate whether the railroad company is using it as a device for rebates.

That is an extremely difficult question, and it is one which not only will affect illegitimate enterprises, if I may so denominate them, but it is one which will affect legitimate enterprises, and therefore it should be regulated with great care, so as not in any manner to do unwanted injury to those legitimate enterprises.

I will give an illustration. Of course, in these matters the fact that it will affect industries in our particular localities naturally occurs to Senators. The Senator from Pennsylvania instanced the case of the lumber trade in North Carolina, and that is true also in the State of Georgia. The southern half of the State of Georgia is a timber-producing section. Very many railroads have been built in that section for no purpose except to develop the timber industry. Men owning large tracts of timber land remote from railroads have built railroads into those tracts of land for the purpose of being able to market the timber. After they have built the railroads, while they are engaged primarily and principally in the transportation of timber which they themselves cut, they also take some business from the public in the way of the carrying of passengers and freight, and however minor it may be compared with the main business of carrying the timber, it constitutes them as common carriers.

While it is true that those roads are located within the State entirely, beginning in the State and ending in the State, still when a railroad takes a shipment from a point within the State to a point out of the State, a part of the transportation to be effected through other carriers, it constitutes itself a

corporation engaged in interstate commerce, and becomes subject to the provisions of this bill.

To say, as is proposed in the amendment offered by the Senator from North Dakota——

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. BACON. If the Senator will let me finish the sentence, to say, as is proposed by the amendment offered by the Senator from North Dakota, that no carrier engaged in interstate commerce, which these common carriers become, as I have just stated, shall be engaged in marketing or selling any coal, coke, or other commodity entering into interstate commerce, is to lay the hand of prohibition, so far as Congress has the power to do it, upon all of that industry. Now I yield with pleasure to the Senator from Ohio.

Mr. FORAKER. I only wanted to inquire of the Senator whether or not, under the laws of the State of Georgia, railroads are incorporated with authority to engage in any other business than that of common carriers?

Mr. BACON. Ordinarily they are not, but there are instances, I think, in which they are. They are not incorporated by the legislature. We have a general railroad law which is sufficiently expansive, if I recall its provisions correctly, to permit a railroad company to engage in industries which immediately affect the purpose and business of the railroad.

Mr. FORAKER. I call the Senator's attention to the fact that when the Chesapeake and Ohio Railroad was incorporated, as stated by the Supreme Court decision to which the Senator has referred, there was no law of the State of Virginia prohibiting it from engaging in contracts of this kind. After that the State passed a law in 1895 prohibiting it, before this contract was entered into, and that cut a very important figure in the decision of the court.

Mr. BACON. But, if the Senator from Ohio will pardon me, if I have not incorrectly understood the decision, the main point in the case, as I gather it, is that the Chesapeake and Ohio Railroad Company bought coal and agreed to deliver it to the New York and New Haven Railroad Company at a price which did not represent the cost of the coal and the transportation of the coal at the published rates of transportation, and that therefore the conclusion was irresistible, as stated by the court, that they had undertaken this transaction with a view to the transportation of the coal at less rates than they were charging to the general public, and at less rates than the published rates for transportation, and therefore it was a violation of the interstate-commerce law. It would have been a violation of interstate-commerce law, even conceding that the company did have the authority under its charter to engage in the business of buying and selling coal. That is a great question with which we have to deal.

It is not the fact, Mr. President, that the corporations are engaged simply in the business of buying and selling coal, but it is the fact that they are in a position to violate the interstate-commerce law in a way that makes it extremely difficult to determine that such violation has been accomplished, because in order to ascertain the fact it must be mathematically shown that the aggregate as represented in the original cost of the article and the cost of transportation does not equal the original cost of the article and the published rate of transportation added thereto.

Mr. President, I repeat, I simply give that by way of illustration. I shall myself, unless there is some modification, or unless something is said to change my mind upon the subject, vote against this amendment and against the general proposition as contained in all of these amendments, not wishing it to be understood that in so doing I am opposed to legislation on this subject. I think there ought to be legislation on the subject, because it is a tremendous evil for these transportation companies to be permitted to enter into competition directly with others engaged in similar business to that in which they are engaged outside of their distinct occupation as common carriers. I think it is a great evil, but I am unable in any proposition which has yet been suggested to see that the legislation proposed by those propositions can be safely entered upon without endangering some legitimate enterprises, while endeavoring to reach others we deem to be illegitimate.

Therefore, I hope that the matter may be so deferred that we may legislate upon it in another connection and at a time when we will be able to have the subject carefully examined into by a committee. While we have here the benefit of the investigation made by the Interstate Commerce Committee on the subject of the bill, I understand this particular question has not had a thorough examination at the hands of the committee. I will ask the Senator from South Carolina whether I am correct in that statement?

Mr. TILLMAN. If the Senator will recall what is known as the "Tillman-Gillespie resolution," passed by the Senate some six or eight weeks ago, the Interstate Commerce Commission has been directed by a joint resolution of both Houses to investigate this question and it is now at work on it. It has not yet made any report.

Mr. BACON. That carries out the view which I had entertained that the matter has not been sufficiently investigated to enable Congress properly to legislate upon the subject. I think it is sufficiently great to be the subject of a separate and independent piece of legislation, and that it is too great to attempt to engraft it upon the pending bill with the imperfect investigation which has already been made.

I had more the purpose of giving my reasons why I may vote against it than the purpose of any general discussion. In the absence of modification by amendment I shall vote against it, I repeat, not because I desire that railroads shall have the opportunity to continue this kind of business, but because I think the legislation which is had upon it should be carefully considered and perfected, so that while illegitimate and improper practices may be condemned and prevented legitimate enterprises may not be interfered with and injured.

Mr. DOLLIVER. Mr. President, the Senator from West Virginia has introduced a very important practical question, probably a more far-reaching and difficult question than any with which the pending bill undertakes to deal. The pending bill seeks to confine our labors to the abuses of the rate-making power. It has been said from time to time that there are enormous holes in the bill, but an examination shows that the holes through which cars and other vehicles are supposed to move easily are not in the bill but outside of it, and arise from the fact that the bill does not undertake to do everything.

No more difficult railway proposition exists than this connection of the carriers with the productive enterprises of the country. That relation is in all forms. Some railroads own coal mines and undertake to engage in the distribution of coal, and curiously enough some coal mines own railroads, because it has become a favorite method in these days in organizing a coal corporation to anticipate in a way the probable attitude of Congress, and the public dreads a mixture of the two functions. So it is not uncommon to find great coal corporations having as a part of their charter rights the right to build and operate railroads.

Now, the question is so difficult, it involves so many questions of constitutional construction, that if I can get the attention of the Senator from West Virginia I want to make a suggestion. I think these amendments ought to be disagreed to, but it ought to be done with a distinct understanding that Congress will immediately undertake to deal with the problems involved in the questions the honorable Senator from West Virginia has suggested. We have already investigations ordered by Congress that will be fruitful, I think, in information in respect to these questions, and I am strongly of the opinion that it would be an act of folly to undertake to deal offhand with such problems as the Senator from West Virginia has so ably stated in the Senate.

I suggest, therefore, that these amendments be disagreed to, and that the Senator introduce as soon as may be a bill, because no one is more familiar than he is with the practical aspects of the question, and have it referred to the Committee on Interstate Commerce; and I feel certain that before the end of the session a well-matured measure, squared to the practical questions involved and squared as far as he may be able to do so to the legal questions involved, can be presented to the Senate and passed. I believe that treatment of the question would be infinitely better than an offhand undertaking to deal with it here.

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. DOLLIVER. Certainly.

Mr. ELKINS. Do I understand the Senator to make a motion to refer the amendment I offered as well as the substitute offered by the Senator from Mississippi?

Mr. DOLLIVER. I have made no motion, because I am advised that such a proceeding is at least questionable, if not irregular. I have suggested, however, that the Senator yield a mild acquiescence in the action which I propose, to dispose of these amendments with a common understanding that the nature of these problems is appreciated by the Senate, and that the Senate can deal with them and kindred problems in a separate measure.

Mr. OVERMAN. Mr. President, appreciating the difficulty surrounding the Senate in regard to this matter, which is practically a new matter before the Senate, I would move, if in order, that all these amendments be referred to the Com-

mittee on Interstate Commerce, with instructions to report a bill to the Senate at as early a moment as practicable.

Mr. ELKINS. What amendment? This amendment?

Mr. OVERMAN. Your amendment and the amendments incident to your amendment.

Mr. ELKINS. Yes; the substitute.

The VICE-PRESIDENT. The Chair will leave the question to the Senate to decide for itself whether or not the motion is in order. The Senator from North Carolina moves that the amendment of the Senator from West Virginia [Mr. ELKINS] and all amendments incident thereto be referred to the Committee on Interstate Commerce with instructions to report a bill to the Senate at as early a date as practicable.

Mr. KEAN. Mr. President, under the unanimous-consent agreement is that motion in order?

The VICE-PRESIDENT. The Chair leaves the question as to whether the motion is in order to the Senate to determine for itself.

Mr. KEAN. Let the unanimous-consent agreement be read, Mr. President

The VICE-PRESIDENT. The Secretary will read the unanimous-consent agreement.

The Secretary read as follows:

It is agreed by unanimous consent that on Friday, May 4, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill H. R. 12987, "'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission;" the bill to be read by sections for the purpose of amendment, the discussion upon amendments offered to proceed under a fifteen-minute rule, the amendments to be disposed of when the discussion thereon is concluded.

Mr. KEAN. I can not see anything except a violation of that agreement in the motion, and therefore I do not think the motion is in order.

Mr. FRYE. Does it not dispose of an amendment if it is referred to a committee?

Mr. CULLOM. Of course.

Mr. ALDRICH. Certainly.

Mr. KEAN. With instructions to report?

Mr. FRYE. Yes; with instructions to report.

Mr. CULLOM. Mr. President——

Mr. McLAURIN. Mr. President, I rather think——

The VICE-PRESIDENT. The Senator from Illinois was recognized by the Chair.

Mr. CULLOM. I did not rise to this question. I desire to offer an amendment.

The VICE-PRESIDENT. The Senator from Mississippi will proceed.

Mr. McLAURIN. I merely rose to suggest that the unanimous-consent rule itself can be changed by unanimous consent, and if the Senator from North Carolina would change his motion to a request for unanimous consent that the amendments be referred it might be done in that way.

Mr. OVERMAN. It is not necessary. It is one disposition of the amendments to refer them back to the committee.

Mr. DANIEL. Mr. President——

Mr. McLAURIN. I merely made the suggestion.

The VICE-PRESIDENT. The Senator from Virginia has the floor.

Mr. DANIEL. I understand the Senator from Illinois desires to offer an amendment, and out of courtesy to him I yield.

Mr. CULLOM. Mr. President, we expected the Senator from Iowa [Mr. ALLISON] to be present here to-day and offer an amendment to the pending bill. We are told that he is not quite so well this afternoon as he was this morning, and he sends me word that he desires that I shall offer an amendment to the bill in his behalf. I take very great pleasure in doing that, but greatly regret that he is not here to offer it himself. I desire to offer it.

Mr. MORGAN. Does the Senator offer an amendment now or submit it as a proposed amendment?

Mr. CULLOM. I simply offer the amendment to be printed and go over, hoping that the Senator from Iowa will be here to-morrow or very soon to take charge of the amendment himself.

The VICE-PRESIDENT. The amendment presented by the Senator from Illinois on behalf of the Senator from Iowa [Mr. ALLISON] will be printed and lie on the table.

Mr. FRYE. Let the amendment, please, be read.

The VICE-PRESIDENT. The Secretary will read the amendment at the request of the Senator from Maine.

Mr. RAYNER. As I desire to offer an amendment to that amendment, may I send it to the table and have it read in connection with the amendment?

The VICE-PRESIDENT. It may be read following the amendment proposed on behalf of the Senator from Iowa.

Mr. RAYNER. I will then send up the amendment to have it read.

The VICE-PRESIDENT. After the Secretary has finished the reading of the amendment presented by the Senator from Illinois the amendment of the Senator from Maryland will be read.

Mr. RAYNER. It comes in after the word "courts" in the present amendment.

The VICE-PRESIDENT. The Secretary will read the amendment presented by the Senator from Illinois on behalf of the Senator from Iowa [Mr. ALLISON].

The SECRETARY. On page 10, lines 20 and 21, strike out the words "and fairly remunerative."

On page 11, line 5, after the word "prescribed," strike out the remainder of said line and down to and including the word "carrier," in line 7, and insert in lieu thereof the following:

All orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time and shall continue in force for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission.

On page 14, line 20, after the word "proper," insert a period and strike out the remainder of line 20 down to and including the word "effect," on page 15, line 2.

On page 17, line 11, after the words "United States," insert the words "against the Commission."

On page 17, line 14, after the word "office," insert the following:

And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office, and if the carrier has its principal operating office in the District of Columbia, then the venue shall be in the district where said carrier has its principal office, and jurisdiction to hear and determine such suits is hereby vested in such courts.

On page 17, line 18, after the word "suits," insert the following: "including the hearing on an application for a preliminary injunction."

On page 18, line 6, after the word "causes," add the following proviso:

Provided, That no injunction, interlocutory order, or decree suspending or restraining the enforcement of an order of the Commission shall be granted except on hearing after not less than five days' notice to the Commission. An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: *Provided further*, That the appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes except causes of like character and criminal causes.

On page 19, line 22, after the word "order," strike out all of the remainder of the section.

Mr. ALDRICH. Mr. President, I suggest that we have a reprint of the bill with these amendments inserted in their proper places in italics.

The VICE-PRESIDENT. Without objection, it is so ordered. The Secretary will now read the amendment proposed by the Senator from Maryland [Mr. RAYNER] to the amendment just read.

Mr. BACON. I did not understand the Senator from Rhode Island. Does the Senator ask for a reprint of the bill?

Mr. ALDRICH. For a reprint of the bill with the amendments just read inserted in italics, in order to see the precise effect.

Mr. BACON. There are other amendments.

Mr. CULBERSON. Mr. President, I object to the suggestion of the Senator from Rhode Island. The proposed amendment is merely the individual proposition of a Senator and not that of a committee. I see no reason why those amendments should be printed in the bill and others not, and I object to the request for unanimous consent.

Mr. ALDRICH. The purpose of my suggestion must be perfectly apparent to the Senate. It is that we may have a better understanding of the effect of the amendments. It was not for any other purpose. I certainly had no ulterior purpose in making the suggestion.

Mr. CULBERSON. Certainly; I understand that, Mr. President.

Mr. ALDRICH. And I have never known a request of that kind to be denied before in the Senate. It is simply made for the convenience of Senators.

Mr. CULBERSON. I have been in the Senate a very short time in comparison with the Senator from Rhode Island, but I have never known before of a suggestion being made that a proposition of a single Senator should be printed in italics with the bill itself.

Mr. ALDRICH. I have no objection to all the other amendments being printed in that way.

Mr. CULBERSON. I will object to that as I would to the individual proposition of a Senator being so printed. If this were an amendment proposed by the Committee on Interstate

Commerce it would be an entirely different proposition, and I would have no objection.

Mr. ALDRICH. Then, I make the request that the sections which are proposed to be amended by these amendments may be printed for the use of the Senate with the amendments suggested in italics, that we may understand their full purport.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Rhode Island as modified?

Mr. CULBERSON. Will the Senator state it again?

Mr. ALDRICH. It is that the sections of the bill as proposed to be amended by the suggested amendment may be printed separately.

Mr. CULBERSON. Separately from the bill?

Mr. ALDRICH. Separately from the bill; for the use of the Senate.

Mr. CULBERSON. I have no objection to that.

The VICE-PRESIDENT. The Chair understands the request of the Senator from Rhode Island to embrace the amendment proposed by the Senator from Iowa [Mr. ALLISON] and also the amendment proposed by the Senator from Maryland [Mr. RAYNER].

Mr. ALDRICH. I have no objection to that, although my request was for the printing of the amendment suggested by the Senator from Iowa [Mr. ALLISON].

The VICE-PRESIDENT. The Secretary will now read the amendment proposed by the Senator from Maryland [Mr. RAYNER].

The SECRETARY. To the amendment on page 17, line 14, after the word "office," it is proposed to insert certain words, and then, after the words "vested in such court," it is proposed to insert the following:

But such jurisdiction shall not attach upon the bill or petition of a carrier for the purpose of enjoining, setting aside, annulling, or suspending any order or requirement of the Commission, unless the carrier alleges in its bill or petition that its property has been taken in violation of the fifth amendment of the Constitution of the United States, or that the Commission has exceeded the jurisdiction conferred upon it by law, and in the hearing and determination of such suit the court shall be limited to said allegations so set forth in said bill or petition.

Mr. ALDRICH. If the amendment just read is to be printed with the other amendment it ought to be printed in different type, so that we may understand which is which.

Mr. RAYNER. I have no objection to its being printed in different type, but I should like it printed with the other amendment. We might distinguish the two by calling the first amendment "the President's amendment."

Mr. TELLER. Mr. President, I think we ought to have those amendments sent to the Public Printer and printed at once. We have been in the habit of doing that, and we can get the amendments back here in a couple of hours. They are important amendments, and from the present outlook it is essential that they should be printed at once. I should think we ought to have them returned from the Printer this afternoon.

Mr. CULLOM. Mr. President, the only object which can possibly be desired in connection with the printing of the amendment which I have had the honor to offer in behalf of the Senator from Iowa [Mr. ALLISON] is so that we may understand what it means, where it belongs, and what connection it has with the bill as it now stands. The Senate will observe, or doubtless did observe in the reading of the amendment which I offered, that it refers to many places and many paragraphs in the bill, and consists of different items, so that reading the amendment alone, without having the bill to make comparisons and see where the amendment comes in, would be utterly useless, because one would not know what it meant. To avoid that difficulty was, therefore, the only purpose which the Senator from Rhode Island [Mr. ALDRICH] had in view, and it was for that which he desired the amendment printed in such a way as the Senate would understand exactly its relation to the bill as it now stands.

Mr. ALDRICH. I think the suggestion which I have made, and which I understand has been adopted, will answer all the requirements of the Senator from Illinois.

Mr. CULLOM. Yes; I think so.

The VICE-PRESIDENT. The Senator from Rhode Island [Mr. ALDRICH] requests that the amendments proposed which have just been stated, one having been offered on behalf of the Senator from Iowa [Mr. ALLISON] by the Senator from Illinois [Mr. CULLOM] and the other having been offered by the Senator from Maryland [Mr. RAYNER], be printed in connection with the sections of the bill to which they are respectively directed. Is there objection to the request? The Chair hears none. The Senator from Colorado [Mr. TELLER] requests that such printing be done immediately, and, in the absence of objection, the Chair will request that that also be done.

Mr. BAILEY. I hope that both the first and last editions of the amendment offered on behalf of the Senator from Iowa will be printed. I know as now offered it is an enlarged edition.

Mr. DANIEL. Mr. President——

Mr. KEAN. Mr. President, has the amendment proposed by the Senator from West Virginia [Mr. ELKINS] been disposed of?

The VICE-PRESIDENT. It has not been. The motion now pending before the Senate is the one made by the Senator from North Carolina [Mr. OVERMAN].

Mr. KEAN. Let it be reported, Mr. President.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Jersey yield to the Senator from Virginia?

Mr. DANIEL. I did not mean to interrupt the Senator from New Jersey [Mr. KEAN], who, I understand, simply rose to make an inquiry.

Mr. KEAN. Certainly, I yield. I only wanted to have the pending amendment disposed of, so that we might get along with the bill.

Mr. DANIEL. Mr. President, we have an opportunity at this time to greatly improve this bill, an opportunity to correct some of the evils that exist in the interstate commerce of this country.

I seriously doubt, Mr. President, if the motion of the Senator from North Carolina [Mr. OVERMAN] is in order, if it be so comprehensive as it seems to me on the one hearing of it which I have had. I suppose that it relates simply to the amendment of the Senator from West Virginia [Mr. ELKINS] and to the substitute offered therefor by the Senator from Mississippi [Mr. MCLAURIN], though it sounded to me, and I think was expressed in still broader terms, to refer all of the amendments which have been offered on this subject to the Committee on Interstate Commerce. I would ask that it may be read as it was taken down, so that I may apprehend exactly what is the motion of the Senator from North Carolina.

The VICE-PRESIDENT. The Reporter who took the notes at that time has retired to the Reporters' room, and the Chair will send for the transcript of the notes.

Mr. DANIEL. While waiting for that, Mr. President, I will say that I appreciate the suggestion of the Senator from South Carolina [Mr. TILLMAN] that we should not be hasty in adopting any amendment on this subject. It is a very grave matter to interfere with any existing order of things. At the same time, if the existing order of things be productive of mischief and of disadvantage to the general public, it ought to be corrected; and the opportunity is now. When this opportunity may come again, no man can say.

It is difficult to effect the concentration of the attention of both branches of Congress upon any subject. The attention of one branch of Congress has been fixed to this subject, and the fruit of its action is before us. We have an opportunity now, which we may never see again for a long, long time, to mature a measure for the general advantage of the people of the United States, and this fugitive opportunity should not be abandoned.

I am one of those, Mr. President, who think that the President of the United States acted wisely in bringing this vast subject to the attention of Congress. There are many things in which I differ from him; but, Mr. President, when I do agree with any public man who is in high and responsible position there is no reason why I should not express that opinion and applaud such action as, in my judgment, tends to the general public weal. I may not agree in all that he has done about it.

We seldom agree altogether with any other human being, such is the diversity and idiosyncrasy of the human mind; but this was a subject, Mr. President, which had arisen in the public mind, one in which the public made just complaint, one in which the party to which I have the honor to belong had called the attention of the public, and one which the party to which the President belongs had absolutely ignored in all of its public utterances. It took courage on the part of the President to bring this matter to the attention of the people of the United States as he did; and for his courage and for his wisdom in that regard I do applaud him, without saying that I agree in all the operations of his mind upon this subject.

One of the impediments to fair commercial intercourse between the different trading communities of the United States is the engaging by common carriers in the carriage of great masses of produce, not for the public benefit, but for their own behoof and advantage. This is a thing which Congress should be disposed to stop as rapidly as it reasonably can; and the opportunity is now.

There is nothing in the history of any rate bill or of any railroad legislation in this body to especially stimulate the hope that we will be nearer a solution of this problem by referring it to the Interstate Commerce Committee of this body. That com-

mittee consists of an able body of men. It can at least be said of them that they have been very patient in their deliberations and that they have not laid before the Senate as yet any full and complete report of the operations of their minds upon this subject such as its gravity and dignity seem to call for; neither has that committee indicated any disposition to speed any bill which has been referred to it.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. I do.

Mr. ALDRICH. I was about to suggest to the Senator from Virginia that this specific subject has never been referred to that committee and has never been before them officially.

Mr. DANIEL. That is true, Mr. President; but when the committee has been occupied for a year or more in investigating all of the questions which arise in interstate commerce, it would not have been impertinent to this subject if the committee had itself suggested an amendment.

I am not intending, Mr. President, to make any severe criticism on that committee. I know the difficulties which environ them and I am slow to censure any of my colleagues, as those who are not aware of their difficulties and environments might do; but I simply say that if these amendments be so referred and shall not move faster than other measures have moved, the Senator will be an older and wiser man when he sees the solution of this problem than he is now.

Mr. OVERMAN. May I ask the Senator a question?

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from North Carolina?

Mr. DANIEL. With pleasure.

Mr. OVERMAN. The Senator from Iowa [Mr. DOLLIVER], one of the leaders on the other side of the Chamber, rose in his place and asked the Senate to disagree to those amendments. After he had made that speech I preferred, rather than have those amendments voted down, that we send them to the Committee on Interstate Commerce, with the instruction of this body to report a bill carrying out the Senator's ideas at the earliest practicable moment. I want to say that I indorse what he says as to the necessity for this legislation, and I heartily approve of it.

Mr. DANIEL. If the Senator could add to his resolution an assurance that that bill would get the attention of both Houses of Congress within any reasonable time, I might appreciate its force more than I do under existing and well-known conditions.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. With pleasure.

Mr. ALDRICH. I happened to be out of the Chamber when the motion was made by the Senator from North Carolina. Do I understand him now to say that the committee is to be instructed to report a bill in accordance with the wishes of the Senator from Virginia? Is that the motion?

Mr. OVERMAN. No, sir.

Mr. ALDRICH. That is the statement made by the Senator from North Carolina, and so long as I was not advised as to what the views of the Senator from Virginia are, I did not know how such a motion could very well be made.

Mr. OVERMAN. I only spoke as to my own personal views on the subject, that the committee should be instructed to report a bill.

Mr. ALDRICH. You were not indorsing the views of the Senator from Virginia in instructing the committee?

Mr. OVERMAN. No, sir.

Mr. DANIEL. Mr. President, if that committee should report here a bill, who knows that it would ever be heard of? If a bill on this subject separate and to itself is reported to this body, who can give any assurance that it will ever get the attention of both branches of Congress? We have here a great measure on this subject, and it is at a time when the minds of this body are addressed to the study of the questions involved in that bill and all connate questions; and now, Mr. President, I repeat, is the opportunity for those who desire some remedies to be perfected and embodied in this measure to debate questions as they arise and to invite action thereupon. I do not know that any of these amendments will be voted down. I have not heard sufficient expression of opinion on that subject to form any judgment thereupon. We can not tell until the sense of this Chamber is taken, and we can only acquire that sense by debating the matter and by laying before our colleagues the considerations pro and con.

Now, Mr. President, I shall address myself briefly to the consideration of these amendments as they now stand. I do not think the amendment offered by the Senator from West Virginia [Mr. ELKINS] takes hold of this case by the right handle, and I do not think that any amendment which seeks to interdict the competition of carriers themselves with their customers ought to be involved with any other question that can be avoided. If there is a clear conception to subserve, put that conception separate to itself and let it stand on its own merits, without involving other questions which are not essential to the main issue.

I think, Mr. President, and with diffidence and deference I submit that the following amendment, which I had the honor to prepare and sent up to the Secretary's table on yesterday afternoon, will reach the main gravamen of the complaints of the people which have been so numerous. For the words used in the amendment of the Senator from West Virginia I would substitute the following:

It shall be unlawful for any common carrier to transport from one State, Territory, or District of the United States to another State, Territory, or District of the United States or to any foreign country any article or commodity whatever which may be owned by it or in which it has any interest, excepting such as are necessary for its own use in its business as a carrier and not intended for sale, barter, or commercial traffic of any sort.

The VICE-PRESIDENT. The Chair is obliged to inform the Senator that his fifteen minutes have expired.

Mr. McCUMBER. Mr. President, I think the Senator will find that the amendment which I offered this morning covers the same subject in very much fewer words and will reach everything that he seeks to reach.

I only desire now to call attention to the proposition that was made by the Senator from Pennsylvania [Mr. KNOX]. I believe the Senator from Pennsylvania in his very brief remarks challenged the authority of Congress, under the constitutional provision allowing Congress to regulate interstate commerce, to so regulate it as to interfere with the sale of any products lawfully accumulated in any State by any common carrier and transmitted to another State for sale. As an illustration, the Senator referred to the production of lumber by a railway company in the State of South Carolina, to be sold outside of the State of South Carolina, and, if I understood his position correctly, it was to the effect that Congress had no such power.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Pennsylvania?

Mr. McCUMBER. Certainly.

Mr. KNOX. With this important qualification, that the commerce as carried on shall be conducted under such circumstances as to do no injustice or injury to anyone else conducting the same business—in other words, that the power of Congress over the subject rests upon the right to regulate transportation between the States, and in the regulation of transportation between the States it may prescribe the rules by which that transportation is to be conducted, and among other rules that it may prescribe is the rule of freedom of competition and the rule of nondiscrimination. In the case of a carrier lawfully engaged under the laws of the State that chartered it, notwithstanding the charter of the State and notwithstanding its dealing with the products of the State, taken from the soil of the State, Congress could prohibit it from entering the channels of interstate trade if in the carrying on of that interstate trade it under any arrangement had an unlawful advantage over any of its competitors. That is the position I sought to make clear this morning. That is as far as I went.

Mr. McCUMBER. I thoroughly agree with that proposition, Mr. President, but I can not understand how it is possible for a railroad company mining its own coal and shipping it absolutely free, without any charge whatever—of course, it could not charge itself for moving its own products—can enter into the markets of another State on equal grounds with other producers of coal, whether in the other State or in the State from which the coal is transported. The very fact that it gets practically free transportation places it in a position where it has the power to sell cheaper than other producers, so that in the sale of its products it is not meeting its competitors upon equal grounds.

It clearly seems to me that Congress has power, under its authority to regulate commerce, to provide that no such advantage shall be held by the common carriers against their competitors. If that is true, then, under the illustration that was given by the Senator from Pennsylvania in the case from South Carolina, it would seem clear that the Congress could interdict the corporation created in the State from selling outside of the State or dealing in commodities of that character.

The Senator gave, as another illustration, the case referring to lottery tickets. Of course, that case was decided principally

upon the ground that lottery tickets themselves are not the subject of commerce; they are not a lawful product of any State; but, on the contrary, are unlawful. As against that, however, I call attention to the act of Congress to cure a defect in the law that was demonstrated in the Iowa liquor cases. The production of beer by the breweries in any State is considered at all times to be a perfectly legitimate business. Under the laws of the State of Iowa it was attempted to apply the local law as soon as the product should arrive in the State. As the Federal law then stood, it was held by the Supreme Court that the local laws of the State of Iowa could not operate upon the articles in original unbroken packages. Until the packages had been broken and the articles were distributed, they were subjects of interstate commerce. Congress passed a law to remedy that; and in that law it was provided simply that the moment any of these articles of interstate commerce—legal and proper articles in the State in which they were produced—entered into another State, they should immediately become subject to the police power of that State. So that, while the articles produced may be subjects of interstate commerce and while the laws of the State make them legally subjects of commerce, it seems to me clear, from that case, that Congress may step in and, under its authority to regulate commerce, may determine whether or not the corporation may deal in those particular articles as articles of interstate commerce.

Mr. SPOONER. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Wisconsin?

Mr. McCUMBER. Certainly.

Mr. SPOONER. Does the Senator contend that there is no limitation upon the power of Congress to regulate commerce?

Mr. McCUMBER. I do not think that Congress can so regulate commerce as to destroy property rights, for instance, entirely under the authority to regulate. There are quite a number of limitations. Regulation does not carry with it, in my opinion, the power absolutely to destroy.

Mr. KNOX. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Pennsylvania?

Mr. McCUMBER. Certainly.

Mr. KNOX. Does the Senator believe that Congress can regulate commerce in such a way as to regulate production within the borders of the States?

Mr. McCUMBER. It does indirectly in many ways.

Mr. KNOX. I admit it can indirectly.

Mr. McCUMBER. We can pass no direct law the effect of which would be to limit the production in the State; but a law of this kind certainly would not directly limit it. It simply regulates; and that regulation may indirectly limit the production.

Mr. SPOONER. Will the Senator permit me again?

Mr. McCUMBER. Yes.

Mr. SPOONER. Does the Senator think, then, that it is within the constitutional capacity of Congress to prohibit any manufacturing company or producer in a State from shipping its product from State to State without first getting a license from the Government of the United States?

Mr. McCUMBER. That is a very far-fetched question, it seems to me, as affecting this case.

Mr. SPOONER. What I want to get at is the limit, if there is one, to the power of Congress to regulate.

Mr. McCUMBER. I do not think that the power of Congress to regulate would include the power to prohibit the introduction from one State to another of goods that could legitimately be carried from one State to another—if that is what the Senator means. That would not be a regulation whatever.

Mr. President, I simply desire to say one word in reference to the amendment of the Senator from West Virginia. I think the substitute could be well adopted. It is clear and to the point, and, under the suggestion made by the Senator from New Jersey, it might be amended, if it is to be adopted, by inserting the time at which it shall take effect. If any danger should arise because of these companies having a large amount of coal or other products on hand, dealing in which the amendment prohibits, we could fix some future time at which the amendment should take effect.

Mr. SPOONER obtained the floor.

Mr. SIMMONS. Mr. President——

Mr. SPOONER. I yield to the Senator from North Carolina.

Mr. SIMMONS. Mr. President, I am in favor of legislation to remedy the evils denounced by the several amendments of the Senators from West Virginia, North Dakota, and Mississippi. But, Mr. President, it seems to me obvious that the Senate is not in possession of sufficient information upon this subject to enable us to wisely and safely legislate.

For more than two years the attention of the country and of the Senate has been focused upon the great question of rate legislation. During the past summer a committee of this body sat almost continuously, making investigations and gathering facts upon which to predicate legislation. For more than two months now this body has been discussing this great question. Senators are in possession of the great mass of information gathered by the committee. For months they have been studying the many and complex questions of law involved. Notwithstanding all of this investigation and study, we find ourselves, with respect to some features of the pending measure, troubled with perplexing doubts and divided views.

Now, suddenly there is injected into this legislation another question. If not equally as important, if not equally as far-reaching, certainly it is a big question and one which requires investigation and consideration for safe and wise solution. Only a few days ago the Senator from South Carolina [Mr. TILLMAN] for the first time brought this question before the Senate in a definite form. I think the Senator from Rhode Island [Mr. ALDRICH] stated, and stated correctly, that it has never yet been considered by any committee of this body. I repeat, the subject covered by these amendments is a big question, a question with many ramifications, and if we should to-day incorporate in this measure some hasty and ill-advised provisions upon this subject, we would be in danger in attempting to remedy one wrong of doing another wrong.

Who is prepared to say, upon the hasty consideration we have given this subject to-day, operating as we are under the fifteen-minute rule, without adequate data and information as to its effects upon the many and varied interests concerned, what would be the effect upon these interests in this country of the adoption of either one of the amendments proposed by the Senators? If we should adopt the amendment proposed by the Senator from West Virginia, I fear the effect would be to greatly embarrass and cripple certain important enterprises in my State.

Mr. DANIEL. What industry is that?

Mr. SIMMONS. Railroad building and the manufacture of lumber. There is, as I will show later, a very important connection between these in my State at this time.

I have no doubt that there are great evils growing out of the conditions which exist in Pennsylvania, Ohio, Illinois, and West Virginia by reason of the fact that some of the railroads in those States are also the owners of many of the coal mines and that they are operated conjointly. There is a just and powerful public sentiment that these evils should be remedied. But there is, I think, no demand for hasty or immature legislation.

The Senator from Pennsylvania [Mr. KNOX] has alluded to the conditions in my State. I do not refer to them for the purpose of using them as an argument against the proposed amendments, but for the purpose of showing what might be the effect upon these conditions if the amendment proposed by the Senator from West Virginia, for instance, should be adopted. There is to-day in my State an era of railroad construction. That is especially true in the eastern section of the State, in the great pine-tree region of the State. Nearly every railroad that is to-day in process of construction in that section of the State is being built by corporations that are interested in the manufacture of lumber. They have bought immense tracts of timber land; they have built great plants upon those lands, and they are now constructing railroads to and through them. Nearly every one of these railroads has its basing point outside of the State of North Carolina. The timber does not lie upon streams. The most of that has long since been cut. The timber that remains is in the interior, so to speak. It can only be reached by railroads. In some instances the railroad would be worth but little without the timber, and the timber but little without the railroad. There are at least 200 miles of railroad being constructed in my State to-day, much of it to develop timber lands owned by those who are building them, and the market for all of that timber is outside of the State, making this interstate business.

Mr. President, I am in favor of effective legislation by which the evil aimed at by the amendments can be reached. The evil is so great that I am free to say here to-day if it becomes necessary to destroy connections, such as I have spoken of as existing in my State, I am ready, if necessary, to destroy those connections and divorce these other interests, however embarrassing and repressive may be the consequences, in order that the people may have relief from the discrimination and oppressions of monopoly.

But we have had this subject before us for only a short

time; it was injected here only yesterday evening as a proposed amendment to this bill, and I submit that we are not in a condition to take final action to-day upon this question. I want it understood that, if necessary, I am willing to go as far as any other Senator upon this floor to accomplish the end and result these amendments have in view. The question I wish to raise is whether we are ready and prepared at this time to legislate, and whether, if we shall proceed hastily and without fuller discussion and consideration, we are not in danger of making a mistake and of injuring interests that might be protected and yet the people given the relief which they demand and to which they are entitled.

Mr. BAILEY. Mr. President, I would regard it as an unmixed misfortune for the Senate to recommit this matter to the Committee on Interstate Commerce. If it should take that committee—and I mean no reflection on it—as long to report a bill on this subject as it did to report the bill upon the main subject, the people would lose heart before the Congress could take action. The Senator from North Carolina [Mr. SIMMONS] suggests that this question is as important as the main question, and measuring it by its importance we might expect an almost interminable delay.

I know there is no Senator in this body more earnestly in favor of efficient and prompt action upon this subject than the distinguished Senator from North Carolina [Mr. OVERMAN] who made this motion. But I sincerely hope he will be convinced that if this matter goes back to the committee it may not be brought into the Senate, as already suggested, until the next session, and the next session, being a short one, is apt to adjourn without any relief being afforded to the people from these very oppressive and indefensible practices.

I believe, Mr. President, that in the history of legislation no greater good was ever sought to be accomplished than the good which will be accomplished by the less than eight lines of this amendment. As I understand, the Senator from West Virginia, accepting the suggestion that was made to him yesterday, has provided that this prohibition shall rest against the carrier from engaging in interstate commerce when he engages in these prohibited transactions. With that correction, I do not myself feel the least doubt as to the constitutionality of the provision. We are not required to defend a total prohibition of commerce under this amendment.

Mr. SPOONER. Which is that?

Mr. BAILEY. This is the amendment of the Senator from West Virginia [Mr. ELKINS] as amended by the Senator from Minnesota. This is only a regulation of interstate commerce. The carrier can relieve itself from the prohibition by simply conforming to what every man admits to be a wholesome public policy. In the Lottery case, to which I referred yesterday, it was an absolute, total prohibition against interstate commerce in that article. Here the prohibition rests only against a carrier who does certain forbidden things, and that carrier relieves himself of the prohibition and resumes his normal and proper business of transporting goods from State to State whenever he surrenders the doing of that which it is not the business of any common carrier to do.

If you take the sense of the Senate, I do not believe there is a single Senator who will write in the RECORD—and they would not be afraid to record it there if it was their judgment—as his deliberate judgment that a common carrier ought to engage in business except that for which a common carrier is intended. A common carrier is given great rights and privileges; it exercises a power and a faculty of government; it appropriates to its use a citizen's property; and no person, natural or artificial, who exercises a faculty and a power like that ought to be permitted to engage in the ordinary vocations of life.

We must take the common carrier and segregate him from the balance of the community. We must recognize that rules and limitations apply to him which apply to no other citizen or corporation, and we can never properly deal with this question unless we keep that steadily and always in our mind.

With a Senate that is practically unanimous in favor of excluding a carrier who exercises the privileges and seeks the profits of a merchant, manufacturer, or a miner from interstate commerce, it looks to me like there is wisdom enough in the Senate to draft in its open session a provision to carry that deliberate and unanimous judgment into effect. For my part I am willing to go on record that the amendment now pending is sufficient to accomplish its object. If it be not, then, when this bill goes to a conference committee, it being a matter in controversy between the two Houses, the conference committee, in the quiet of its room and at such leisure as both Houses will cheerfully accord it, can prepare this provision so that it will be clear, so that it will be constitutional, and so that it will be effective.

I would regard it as an admission of incompetence on the part of the Senate for us to say that though we all agree a given thing ought to be done, we are unable to do it for ourselves, and we, therefore refer it back to a committee for their long and patient consideration. I sincerely hope that the Senate will deal with this question now, deal with it for itself, and deal with it in a fashion that no common carrier will ever again attempt to engage in any business except its proper and legitimate one.

I would suggest, Mr. President, and then I will yield, that it might be fair and just, in order to give the common carriers an opportunity and time to adjust themselves to this new and proper condition, that the amendment should take effect on the 1st day of January, 1908. I hardly think a common carrier could ask time in order that he might quit doing what he ought never to have done in the first place; but in dealing with it as a condition, I am willing to afford them a reasonable time in which to dispose of their improper and illegal possessions, and in order that there may be no serious interruption of interstate transportation and travel, I will vote for that kind of a provision.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. Certainly.

Mr. LA FOLLETTE. I should like to ask the Senator from Texas whether it would not be possible to include with the proposition which he now suggests this, in addition, that in the meantime they shall not go on acquiring coal lands and oil lands?

I noted but a few days ago that one of the railroads in the southwestern part of this country had invested some $15,000,000 in coal lands in New Mexico. If we are to wait for legislation to become operative, I suggest we ought to find some means to put the bars up against corporations acquiring vast holdings of coal and oil lands and other products that they are to transport.

Mr. BAILEY. I thoroughly agree with the statement of the Senator from Wisconsin, and if it is believed that the knowledge that they can not hold such property will not prevent them from acquiring it between the passage of this law and the time when the provision shall take effect it would undoubtedly be right to include such a provision as the Senator from Wisconsin has suggested.

My own idea was that if you provided expressly that after the 1st of January, 1908, they should not be permitted to engage in interstate commerce if they also engaged in the prohibited industries, that itself would be sufficient to restrain them. But surely the suggestion of the Senator from Wisconsin can do no harm, and it might do good. Therefore I should be very willing to support it.

Mr. OVERMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from North Carolina?

Mr. BAILEY. I do.

Mr. OVERMAN. Mr. President, I shall not allow myself to be put in the position of delaying this matter. If there is so much distrust of the committee itself and there is such doubt expressed as to whether or not we will have a report from that committee, I will withdraw my motion.

I made the motion, sir, because I knew that the Senate had passed a joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies in coal and oil, and report on the same from time to time. I wish to read from the joint resolution:

> Fifth. That said Commission be also required to investigate and report the system of car supply and distribution in effect upon the several railway lines engaged in the transportation of coal or oil as aforesaid, and whether said systems are fair and equitable, and whether the same are carried out fairly and properly; and whether said carriers, or any of them, discriminate against shippers or parties wishing to become shippers over their several lines, either in the matter of distribution of cars or in furnishing facilities or instrumentalities connected with receiving, forwarding, or carrying coal or oil as aforesaid.
>
> Sixth. That said Commission be also required to report as to what remedy it can suggest to cure the evils above set forth, if they exist.
>
> Seventh. That said Commission be also required to report any facts or conclusions which it may think pertinent to the general inquiry above set forth.

I knew that the Commission had been investigating these matters; I knew they had the testimony before them, and following the Senator from Iowa, the author of this bill and the leader, when he asked the Senate to disagree to the amendments, I thought it better, sir, to have this matter referred back to the committee, with instructions to report forthwith upon this subject, and give us a bill that was sensible and wise and would destroy no property and would give the relief that the people seek. But since so much doubt has been ex-

pressed that there will be delay and that we will not get the report even at the next session, I withdraw the motion.

Mr. BAILEY. I am gratified that the Senator from North Carolina refuses to allow a motion of his to be used for the purpose of delay. I am sure that that Senator knows that I would be the last man in this body to believe that he would intend anything of the kind. I know him well enough to know that his purpose is to deal with everything in the open. I know that his purpose is to protect the people.

No provision, in my judgment, touching the regulation of commerce is more important than this. If we could adopt an amendment which would keep the rates established by the Commission in effect until the final judgment of the court, and if we could divorce the business of transportation from the business of production and distribution, we would earn the gratitude of this country for a thousand years to come. If we can not do both, let us at least do one, and if we do neither, the people of this country will, and the people of this country ought to, settle with us for our failure to do that which plainly we ought to do.

Mr. DRYDEN. Mr. President, I am very glad to know that the Senator from Texas agrees with the principle of a suggested amendment which I mentioned this morning, and I have no criticism to make upon what the Senator says upon that point except that in my judgment the time proposed by him——

The VICE-PRESIDENT. The Chair suggests to the Senator from New Jersey that he understands that the Senator has already spoken once upon this subject, and, if the Chair is correct——

Mr. DRYDEN. I am going to offer an amendment. I offer the amendment now.

The VICE-PRESIDENT. The Senator's amendment would not be in order now, the question being on the amendment proposed by the Senator from Mississippi to the amendment of the Senator from West Virginia.

Mr. DRYDEN. Can I submit an amendment to lie upon the table until it can properly be acted upon?

The VICE-PRESIDENT. The Senator can do that.

Mr. DRYDEN. I will ask, then, whether, if the substitute of the Senator from North Dakota is adopted in lieu of the amendment of the Senator from West Virginia, the amendment of the Senator from North Dakota so adopted would then be open to amendment?

The VICE-PRESIDENT. The Chair would prefer to decide that question when it properly arises.

Mr. DRYDEN. It is a very important matter for me, Mr. President, to know whether I shall be in a position to offer an amendment later on or not. May I ask what is the real question now before the Senate?

The VICE-PRESIDENT. The question is upon the amendment offered by the Senator from Mississippi in the nature of a substitute for the amendment proposed by the Senator from West Virginia.

Mr. SCOTT. Let us have it read.

The VICE-PRESIDENT. At the request of the junior Senator from West Virginia, the amendment proposed by the Senator from Mississippi will be again read.

The SECRETARY. In lieu of the amendment proposed by the Senator from West Virginia [Mr. ELKINS] insert:

It shall be unlawful for any corporation that mines or manufactures or produces any article or commodity of commerce for sale to engage in the business of interstate commerce as a carrier of any of its own products, mining, or manufacture; and it shall be unlawful for such corporation to charge, demand, collect, or receive any money or other thing for the carriage, as a carrier of interstate commerce, of any of the like kind of articles or commodities produced, mined, or manufactured by any other person, company, or corporation, and for a violation of this provision the person paying such charge or demand may recover in any State or Federal court having jurisdiction of the subject-matter an amount triple the amount so collected or paid, together with all costs of collection, including attorney's fees and costs of travel to and from and attendance upon court. If any such corporation shall engage in the business of a carrier of such articles or commodities as intrastate carrier it shall be unlawful for such corporation to engage in interstate commerce as a carrier of any kind of commerce.

Mr. DRYDEN. Mr. President, when I addressed the Senate before it was my intention to speak, and I supposed I was speaking, to the amendment of the Senator from West Virginia. I did not intend to speak to the amendment proposed by the Senator from Mississippi.

The VICE-PRESIDENT. The Chair would ask the Senator from New Jersey if his amendment, which has not been reported, and which he contemplates introducing, is an amendment to the amendment of the Senator from West Virginia, as modified?

Mr. DRYDEN. I understand the amendment which I propose at the proper time to offer would at this time be out of order, as there is an amendment to an amendment now pending before the Senate, and therefore it would not be parliamentary for me now to offer another amendment.

The VICE-PRESIDENT. The Chair does not know the character of the amendment proposed by the Senator or the particular subject to which it is addressed, and therefore he inquires for information.

Mr. FORAKER. As I understand it, the Senator spoke before the amendment was offered by the Senator from Mississippi.

The VICE-PRESIDENT. If so——

Mr. FORAKER. And he spoke only to the amendment offered by the Senator from West Virginia. It is his clear right to speak to the substitute offered by the Senator from Mississippi.

The VICE-PRESIDENT. If so, the Senator would clearly be in order on the amendment proposed by the Senator from Mississippi.

Mr. DRYDEN. That was my position, as I understood it.

The VICE-PRESIDENT. The Senator is entirely in order.

Mr. DRYDEN. I am sorry I have already consumed a good deal more of the time of the Senate in trying to ascertain my position than I shall now consume in stating it.

The VICE-PRESIDENT. The time so consumed will not count against the Senator.

Mr. DRYDEN. Mr. President, the principle involved in the remarks of the Senator from Texas, which I very briefly outlined this morning in a few remarks of my own, I think are most important, and it is of the greatest necessity to incorporate it in this amendment if it is to pass the Senate.

Senators, consider for a moment the situation. Here are these great coal-carrying companies supplying 80,000,000 people with the products of their mines. They furnish what to-day is the only facility for getting this necessary product to market. Their arrangement, whether by ownership, by leasing these properties, or by any other contract, is such that the properties to a very large extent are under the control of these companies.

Now it is proposed, as the amendment now stands, to wrench the management and control of the properties furnishing this great necessity suddenly out of their places, and what disposition is it proposed to make of them?

Is there a single line in the amendment which has been proposed here, or in any one of the amendments which have been proposed as substitutes, that deals with this important phase of the question? Who is going to mine the coal owned now by these great railroad companies? Who is going to carry it to market? When the people want coal, of whom are they to get it? Is there any proposition for supplying them? I have heard none. I have not heard any even intimated in the discussions here. Yet without warning, without a single hour in which to readjust these momentous matters, it is proposed to legislate here and to revolutionize one of the greatest interests and one of the most important lines of business in this country.

I say to Senators a step like this would be fatal to the American people, and it would bring on this country a calamity which has never been paralleled in our whole history. I ask Senators to pause in the face of this tremendous matter and give it due consideration. I propose for the consideration of the Senate an amendment to the amendment of the Senator from West Virginia. I understand that it can not be formally received now, but I ask that it may lie upon the table. I wish the Secretary to take it down:

That on and after July 1, in the year 1911.

It comes in previous to the beginning of the proposed amendment of the Senator from West Virginia, and I am sure that even a most superficial consideration of this great matter will cause Senators to pause and give due weight to its importance.

The VICE-PRESIDENT. The Chair will state to the Senator from New Jersey that his amendment as now stated by him is in the direction of perfecting the amendment of the Senator from West Virginia, and is therefore perfectly in order. The amendment in the nature of a substitute can only be in order after the original amendment of the Senator from West Virginia is perfected. The question, therefore, is upon the amendment proposed by the Senator from New Jersey to the amendment of the Senator from West Virginia.

Mr. DRYDEN. I thank the President of the Senate, and am glad to know the amendment is in order now.

Mr. BAILEY. Will the Senator from New Jersey, before he resumes his seat, permit me to answer a question he asked and which I did not interrupt him to answer at that time?

Mr. DRYDEN. Certainly.

Mr. BAILEY. The Senator asked where the people would get their coal if Congress passed a law like this. I answer that the railroads would give the independent coal operators some-

thing like the number of cars to which they were entitled when they could not use them themselves.

Mr. DRYDEN. Does the Senator from Texas think that the independent coal operators of this country, with their organization as it is to-day, with their facilities for getting coal to market as they exist to-day, could begin to supply the demand of the American people?

Mr. BAILEY. Mr. President, I answer by saying that if that is true, the extent of railroad manipulation of the coal supply is greater than I suspected it to be, and shows the necessity for prompt and vigorous action. If the people of this country can not be supplied with coal without permitting the common carriers to violate the plainest and soundest public policy, then I am sure this ought not to be referred to any committee, but it ought to be passed promptly.

Mr. McCUMBER. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Jersey yield to the Senator from North Dakota?

Mr. DRYDEN. Certainly.

Mr. McCUMBER. May I ask the Senator a question right here?

Mr. DRYDEN. Certainly.

Mr. McCUMBER. In a very short time could not a coal company be incorporated and organized that would go right on with these mines and conduct them in the same way, with the exception that they would have to pay the freight on the coal that any private producer would have to pay? Would not that be the immediate result of the proposed law?

Mr. GALLINGER. Would not that be a trust?

Mr. DRYDEN. Mr. President, there are two matters proposed here for me to comment upon. In the first place, in reply to the Senator from Texas, if it is not the gravamen of the complaint against these great carrying companies that they monopolize the markets, that they hold the public by the throat, then what does all the denunciation we have been hearing amount to? If the independent operators can supply the public, why this outcry against the railroads—against an evil which does not exist?

Mr. BAILEY. They can not supply them because they can not get cars. The railroads now use their cars in hauling their own coal, and, according to the repeated declarations made here, they decline to supply independent operators with sufficient cars.

Mr. DRYDEN. What the Senator from Texas needs, then, is more railroads.

Mr. BAILEY. Not of the kind which misuse their customers and oppress their competitors.

Mr. DRYDEN. The Senator from North Dakota [Mr. McCUMBER] has asked me a question. It is a very easy thing in theory to talk about what may be done with enormous interests and enormous properties, but every practical man knows that you can not take great properties, involving hundreds of millions of dollars, and regulate them by a rule of thumb. These vast interests ramifying into every portion of the country, involving, as they do, sacred trusts, can not be turned over in the twinkling of an eye. These great property interests must be managed conservatively and carefully or they will bring on conditions which will inflict irreparable injury upon every part of the country.

I say it would be utterly impossible to take these great properties, if they began to be of the magnitude which has been stated here and elsewhere, and turn them over without sufficient time to do it. My proposition allows five years, and that is a short time in which to readjust the conditions which would result from the passage of this amendment.

I want it to be understood here and now that I am not opposing the amendment. I am not opposing any fair, reasonable, and workable plan which will bring about the result sought to be accomplished by the amendment. I do not think it is the wisest way to legislate to bring a matter of great national importance of this kind on the floor of the Senate for debate without the careful scrutiny and deliberation of the committee to whom it may be committed; but if it is to be passed, let us at least adopt those measures which it must be obvious to every reflecting man are necessary for the security of the people and of the great interests involved.

Mr. McLAURIN. Mr. President, I desire to add a proviso, in pursuance of what has been suggested, to the amendment that I offered.

The VICE-PRESIDENT. The Senator has a right to perfect his own amendment. The proviso will be read by the Secretary.

The SECRETARY. Add at the end of the proposed amendment the following words:

Provided, That the provisions of this amendment shall not take effect until the 1st day of May, 1908.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New Jersey to the amendment of the Senator from West Virginia.

Mr. ALDRICH. Mr. President, I think there is a practical agreement in the Senate that the business of transportation by interstate carriers ought to be divorced from the business of production by the same carriers. But these amendments raise a large number of novel, intricate, and very important questions—questions as to the right of Congress, the standard of the power of Congress, to regulate commerce. I think the suggestion of the Senator from West Virginia [Mr. ELKINS] involves for the first time in the history of this country a proposition to forbid a common carrier to engage in interstate commerce, or to prevent a common carrier from engaging in interstate commerce, as a penalty for doing something in a State which is absolutely and perfectly lawful in that State and which the carrier is authorized to do by its charter and by the State authority.

Mr. TILLMAN. In some instances; not always.

Mr. ALDRICH. In an instance.

Mr. TILLMAN. I say in some instances that is the case.

Mr. ALDRICH. I say it is the first time that any such attempt as that has ever been made, I think, in our history as a country, and whether we can do it or ought to do it I suggest to the Senator is a very grave matter. I myself do not believe that it is necessary to go to that extent to prevent this evil, because I conceive it to be an evil.

The Senator from Texas says that if this amendment should go to the Committee on Interstate Commerce—and that opinion seemed to be shared by some other Senators—it would probably never be heard from again, judging from our experience in the consideration of the bill which is now before the Senate. It is true that the Committee on Interstate Commerce was engaged in the consideration of this bill for a number of weeks and that it failed to arrive at a conclusion as to any amendments which it would recommend to the bill; but I suggest to the Senator from Texas and to other Senators that the experience of the Senate in this regard might perhaps be an excuse for not affording a prompt relief or making a prompt report upon a measure of this kind.

I suggest that no Senator has any right to say that the Interstate Commerce Committee would not consider this matter fairly and promptly. The subject-matter of the amendment does not belong to the legislation which we are now considering. It is a kind of discrimination, if it has any place at all or has been legislated upon at all, which is affected by the so-called "Elkins law" and by the provisions of the existing interstate-commerce law, which forbid discriminations.

The recent decision of the Supreme Court in the Chesapeake and Ohio case points clearly to a remedy by Congress for this condition of affairs.

The number and the character of the amendments which are now before the Senate show conclusively that this matter can not properly be acted upon in this manner. The very amendment which the Senator from Texas commends as a model provision is remarkably full of holes, if I am any judge of legislation or of the English language.

It says that no carrier engaged in manufacturing shall engage in interstate commerce; but no penalty is provided, except the penalty that engaging in interstate commerce must cease. Who is to be punished by that penalty?

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. ALDRICH. Certainly.

Mr. BAILEY. The Senator from Rhode Island knows that the general penalty clause of the bill would apply to this.

Mr. ALDRICH. But the penalty in this case is an absolute prohibition of engaging in interstate commerce.

Mr. BAILEY. That is true. That is an additional penalty.

Mr. ALDRICH. How is that to be enforced and against whom is it to be enforced?

Mr. BAILEY. I thought the Senator from Rhode Island——

Mr. ALDRICH. Who is to suffer by this penalty? Not the carrier itself, but the people of the country through which the road runs.

Mr. BAILEY. I thought the Senator from Rhode Island was complaining that there was nobody to suffer. Of course, if he now wants to say that everybody suffers, that is all right.

Mr. ALDRICH. The trouble is that everybody is to suffer——

Mr. BAILEY. Well, if everybody is to suffer——

Mr. ALDRICH. But perhaps the carrier least of all.

Mr. BAILEY. If everybody——

Mr. ALDRICH. The party which is the guilty party is to suffer least of all.

Mr. BAILEY. It is a little remarkable that the carrier, who

is to suffer least of all, is complaining most about this legislation.

Mr. ALDRICH. I do not know that the carrier is complaining, unless the Senator says that I am a carrier. I am complaining.

Mr. BAILEY. Oh, no, Mr. President; I am not one of those who are always insinuating that the Senator from Rhode Island is actuated by a bad motive. I think the Senator from Rhode Island is just as good as the Republican party. He generally votes the same way that all other orthodox Republicans vote, and, like all of his party associates, he "gets together," and when he can not make the other man surrender, he claims that the other man has surrendered. He has an illustrious example of that, however, in the head of his party, who makes a virtue of his surrender by claiming a victory. I am not one of those who are always impugning the motives of the Senator from Rhode Island, and I do not mean to insinuate that he is a carrier; but I do say he is the carrier's "next best friend" in this legislation. [Laughter.]

Mr. ALDRICH. Mr. President, what I am trying to point out to the Senate in this case is that this provision, which has the commendation of the Senator from Texas as a perfected piece of legislation which he is asking us to vote upon now and not to refer to a committee, contains no penalty, except to exclude the carrier if he is guilty of manufacturing an engine or of repairing a car, except the exclusion——

Mr. BAILEY. The Senator is mistaken. There was an express exception in the amendment which the Senator from Minnesota [Mr. CLAPP] sent to the desk.

Mr. ALDRICH. But the exception is——

Mr. BAILEY. It permits a carrier to mine coal for its own use.

Mr. ALDRICH. It permits the carrier to mine coal and to produce other commodities. Does that mean the repairing of a car?

Mr. BAILEY. For their own use; yes.

Mr. ALDRICH. Why? How?

Mr. BAILEY. Because that is for its own use.

Mr. ALDRICH. Well, but it is manufacturing.

Mr. BAILEY. I understand; but if a man manufactures for his own use he is not interfering with——

Mr. ALDRICH. But the amendment does not state that.

Mr. BAILEY. The Senator has the wrong amendment; that is all.

Mr. ALDRICH. I have the amendment as to which I asked the Senator from Texas if it was the amendment he had in view, and he said it was.

Mr. BAILEY. I supposed the Senator from Rhode Island was accurate enough to get the amendment which I described as the amendment which the Senator from West Virginia [Mr. ELKINS] accepted from the Senator from Minnesota [Mr. CLAPP].

Mr. ALDRICH. This is an amendment intended to be proposed by Mr. ELKINS, as modified. I do not know what amendment the Senator refers to. I should be glad to have it.

Mr. BAILEY. The Senator from Minnesota [Mr. CLAPP] will hand the Senator from Rhode Island what I have approved.

Mr. CLAPP. Here it is [handing paper to Mr. ALDRICH].

Mr. ALDRICH. The Senator from West Virginia [Mr. ELKINS] seems to have seven or eight different amendments and modifications here; and it is not at all strange that any Senator should be somewhat confused as to which particular amendment it was that the Senator from Texas commended.

Mr. BAILEY. Nothing would please me better than to see the Senator from Rhode Island and the Senator from West Virginia engage in "a fight to a finish on this question." [Laughter.]

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from West Virginia?

Mr. ALDRICH. The amendment handed me by the Senator from Minnesota [Mr. CLAPP] purports to be, on its face, an amendment intended to be proposed by Mr. DANIEL as a substitute for the amendment. [Laughter.]

Mr. TILLMAN. Will the Senator from Rhode Island yield to me for a moment?

Mr. ALDRICH. I would lose my time if I should do so.

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from West Virginia?

Mr. TILLMAN. I was asking the Senator from Rhode Island to yield to me.

The VICE-PRESIDENT. The Senator from West Virginia [Mr. ELKINS] first rose. Does the Senator from Rhode Island yield to him?

Mr. TILLMAN. It is for the Senator from Rhode Island to decide as to which Senator he will yield.

Mr. ALDRICH. Wait a moment. The amendment which is now given me by the Senator from Minnesota [Mr. CLAPP] is the precise amendment that I had in my hand and from which I was reading. [Laughter.]

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from South Carolina?

Mr. ALDRICH. And that shows the utter confusion which has arisen in regard to this matter.

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from South Carolina?

Mr. ALDRICH. I will yield to anybody who can explain this matter. [Laughter.]

Mr. CLAPP. Mr. President, I rise to a question of personal privilege.

The VICE-PRESIDENT. The Senator from Minnesota will state his question of privilege.

Mr. CLAPP. It is that the amendment which the Senator from Rhode Island [Mr. ALDRICH] first read from was not the same as the one I subsequently handed him. [Laughter.]

Mr. ALDRICH. I will ask that it be read from the desk by the Secretary to see if he can discover any difference between the two. I can not.

Mr. TILLMAN. Will the Senator from Rhode Island yield to me?

Mr. ALDRICH. I will after the amendment has been read.

Mr. BAILEY. Let us have this question settled.

Mr. ALDRICH. The Senator from Minnesota [Mr. CLAPP] informs me that the written words in the print do not belong there.

Mr. CLAPP. The written words do not belong there.

Mr. ALDRICH. I should like to have it read.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. Amendment intended to be proposed by——

Mr. ALDRICH. Let the Secretary just read the language of the amendments without the headings.

The Secretary read as follows:

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. ALDRICH. Now I yield to the Senator from South Carolina [Mr. TILLMAN].

Mr. BAILEY. Before that——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. ALDRICH. I do.

Mr. BAILEY. The Senator from Rhode Island, then, was mistaken when he said that the amendment which he had in his hand did not provide for that exception. I was taking the word of the Senator from Rhode Islnad that he had the right amendment.

Mr. ALDRICH. I beg the Senator's pardon. It did provide for producing various commodities; but not in relation to the thing that I was asking about, the repairs of cars, manufacturing, etc.

Mr. TILLMAN. Will the Senator from Rhode Island yield to me?

Mr. ALDRICH. I will; but my time is passing.

Mr. DANIEL. Will the Senator yield to me for a moment?

The VICE-PRESIDENT. The Chair will state that interruptions will be taken from the fifteen minutes belonging to the Senator from Rhode Island.

Mr. ALDRICH. I will yield to the Senator from South Carolina for a question.

Mr. TILLMAN. The Senator mentioned a moment ago that there were several amendments offered by the Senator from West Virginia [Mr. ELKINS].

Mr. ALDRICH. Yes.

Mr. TILLMAN. I have the whole catalogue of the amendments which have been offered, which my clerk has prepared; and I notice that the Senator from West Virginia has one on page 7, one on page 29, one on page 33, one on page 35, one on page 87, one on page 101, one on page 127, one on page 129, one on page 145, one on page 147, and one on page 161. So he has got a pretty good flock of them. [Laughter.]

Mr. ELKINS. Mr. President——

Mr. ALDRICH. I was not talking about the amendments of——

Mr. ELKINS. Will the Senator allow me?

Mr. ALDRICH. No; I have not the time. I have but a minute left.

The VICE-PRESIDENT. The Senator from Rhode Island declines to yield.

Mr. ALDRICH. I was not discussing the amendments of the Senator from West Virginia as offered to this bill generally, but there are some half a dozen amendments or modifications of amendments on this particular subject offered by the Senator from West Virginia with the assistance of various Senators on both sides of the Chamber.

Mr. ELKINS. Now, Mr. President, will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from West Virginia?

Mr. ALDRICH. I do.

Mr. ELKINS. I want to correct the Senator from Rhode Island. He stated that there were a half dozen amendments offered by the Senator from West Virginia on this subject. There is but one amendment offered by the Senator from West Virginia now before the Senate, and that is the one pending. Why, then, does he go to search for a lot of other amendments which I have not offered?

Mr. ALDRICH. The Senator did offer an amendment, which was in printed form, which he has certainly modified two or three different times.

Mr. ELKINS. I have not——

Mr. ALDRICH. And which has been printed two or three different times.

Mr. ELKINS. I had two amendments on this subject, but offered only one of them. So the Senator is entirely incorrect in his statement when he says that I have offered six or seven amendments. I have not done so. I have offered but one.

Mr. ALDRICH. I admit that there is but one amendment that is now pending before the Senate, because there could be but one. If there had been within the range of parliamentary law any possibility of having more than one pending, the Senator would have had them pending. [Laughter.]

Mr. ELKINS. The Senator did me an injustice in saying that I had five or six amendments on this subject. I will be entirely satisfied if the Senator will vote for this one.

The VICE-PRESIDENT. The Chair is obliged to announce that the time of the Senator from Rhode Island [Mr. ALDRICH] has expired.

Mr. ALDRICH. Then I will speak later upon some other amendment.

Mr. LODGE. Mr. President, I think it is fairly demonstrated that there is a good deal of confusion in regard to these amendments. All I desire to say is that it seems to me that the best way to deal with this most important question would be to send it to the committee and have a proper bill presented to the Senate. I personally should not care to vote for that disposition of the subject, unless I could be assured beyond any reasonable peradventure that the matter would be disposed of at this session of Congress.

I think the question involved in this amendment is more important by far than all the local discriminations which this bill undertakes to cure. I do not think that, having given the whole winter to this subject, we can afford to adjourn this session without acting on it.

The ownership by the railroad companies of these great properties which comprise the necessities of life is an admitted evil. The attitude of the Supreme Court in the Chesapeake and Ohio case recognizes such ownership as contrary to sound public policy. It is idle to say that we are unable to deal with it or to stop it. If we are to be paralyzed in dealing with such an evil as this, then the interstate-commerce clause in the Constitution is utterly vain.

I should much prefer, as I have said, to see this matter referred to the committee if we can be assured that we shall deal with it conclusively and finally at this session; but, without that assurance and without that understanding, I think the Senate had better deal with it here to-day and to-morrow and for a week, if necessary, until we shall have secured suitable legislation that shall put an end to the operation by the railroads of great natural productions, which are absolutely vital to the well-being of the people of this country.

Mr. CLAPP. Mr. President, I shall detain the Senate but a moment. The question of the relation between the ownership and the production of coal and other commodities is not a new question. We had it before our committee a year ago this very month. We took testimony on it, and it was the testimony of railroad men. The greatest manager of transportation in the world to-day candidly stated that they ought to be absolutely divorced.

This subject has been considered, not by reference to the committee, but certainly by members of the committee, and it must have been considered by everyone who has contemplated the ultimate dealing with this question at this session of Congress.

Personally I have always insisted to the Senator from West Virginia that this measure belonged properly in the bill as an amendment to the law of 1903; but he felt during all this time that it would be impossible to get this measure through as a separate provision of law, and therefore was anxious to have it adopted as an amendment to this bill.

I fully agree with the Senator from Virginia [Mr. DANIEL] that now is the proper time to dispose of this question. The fact that when we act we may interfere with people who have engaged in this business jointly will always confront Congress when Congress shall seek to act upon this question.

There never can be a solution of a great question designed to cure a great evil but that it may perhaps operate as a hardship upon some one. I believe a reasonable time given for the operation of this bill would be sufficient to relieve it of that objection.

I agree with the Senator from Massachusetts that if there could be an assurance that we could deal with this subject and dispose of it at this session it might be well to consider it in the committee; but we should have not only the delay incident to committee investigation, but we should have the delay incident to legislation in both Houses of Congress, and at a time when both Houses are being crowded with the current business as it approaches the closing hours of the session. Therefore, Mr. President, realizing the importance of this question, nevertheless I for one shall feel constrained to vote to dispose of it at this time as an amendment to the pending bill.

Mr. BEVERIDGE. Mr. President, before the Senator takes his seat——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. CLAPP. With pleasure.

Mr. BEVERIDGE. Does the Senator think, if this were in the form of an independent bill, that the Senate should give it considerable time in legislating upon it and passing it?

Mr. CLAPP. Only so far as considering the details of the provision. The fact that this is an evil is a recognized fact; the fact that production and transportation should be divorced is a recognized fact; and the fact that hardship will flow from that divorcement for the time being must be a conceded fact.

Mr. BEVERIDGE. All of those things there is no question about; but what I am asking the Senator now is a practical question of legislation. He said that if the bill were reported from the committee it would take considerable time in the process of legislation.

Mr. CLAPP. Certainly.

Mr. BEVERIDGE. That, I assume the Senator means, would be because it is an important subject which should have the patient consideration of the Senate before it is passed?

Mr. CLAPP. Not necessarily. It would be for this reason——

Mr. BEVERIDGE. Well, for any reason.

Mr. CLAPP. Ninety Senators would have ninety opinions that would have to be thrashed out, just as they have to be thrashed out to-day.

Mr. BEVERIDGE. That brings me to the question that I finally wanted to ask the Senator. If he thinks it would consume time to deal with this subject properly if it were an independent bill, does he think that it will take less time to deal properly with this subject as an amendment to this bill?

Mr. CLAPP. It may take no less time; but dealing with it as an amendment to this bill assures its being dealt with and passed at this session of Congress.

Mr. BEVERIDGE. I am quite willing to do that, but I wanted the Senator's opinion upon that subject. That it is very important that we should not presently act upon it seems to me to be clear.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from South Carolina [Mr. TILLMAN].

Mr. FORAKER. I want to ask the Senator from Minnesota [Mr. CLAPP] a question, if I may, before he takes his seat. The Senator says that he desires a vote upon this proposition now. I want to know whether or not he has determined yet in what form he thinks this amendment should be adopted? When the Senator from West Virginia [Mr. ELKINS] offered the amendment the Senator from Minnesota drafted it in a different form, expressing what is understood to be the same proposition; but I do not know whether that is before the Senate or not. Can the Senator tell me?

Mr. CLAPP. I understand that it is before the Senate on the motion of the Senator from West Virginia.

Answering the Senator's first inquiry, I will say that I know just what I would vote for if I were framing the amendment, but I have no pride of opinion. The same object is covered substantially by the amendment of the Senator from Virginia [Mr. DANIEL]—that is, to put a stop to the union of transportation and production. The only way we can reach it is to prohibit the producer from engaging in interstate traffic.

Mr. FORAKER. I hope the Senator will not take his seat for a moment. I am quite as earnest about accomplishing that purpose as the Senator can be. I have repeatedly stated that on the floor of the Senate; but I am at a loss, in view of the many propositions that have been presented, to know to which one to give preference; and the Senator has given so much attention to this subject that I have great confidence in his judgment about it, and I want to get the benefit of his opinion.

Mr. CLAPP. If the Senator has such confidence in my judgment, it is my deliberate judgment that the Senate can spend time to no better advantage than by taking up now, at this time, and reconciling these views and working out an amendment to this bill.

Mr. FORAKER. I agree with the Senator about that; but I want to know which one of these propositions the Senator is advocating, if he can tell me, and if he is advocating any one in particular——

Mr. CLAPP. Will the Senator vote for the one I advocate?

Mr. FORAKER. I do not know whether I will or not.

Mr. CLAPP. Then what difference does it make to the Senator which one I advocate?

Mr. FORAKER. I probably would vote for it, because I think my mind runs very much as the Senator's does; but if the Senator can not tell me which one he advocates, he has no right to ask me if I will vote for the one he advocates. I am asking him in good faith. The Senator from West Virginia [Mr. ELKINS] offered an amendment. It was printed, and it was read to the Senate. We all understand what it provided. He offered only one amendment. Then the Senator from Minnesota [Mr. CLAPP], not being satisfied with that or for some reason—I do not know what the reason was—made a draft of an amendment to take the place, as a substitute, of the amendment offered by the Senator from West Virginia. That was read, and it is printed in the RECORD; but I do not know whether it is before the Senate or not. Nobody seems to know whether it is or not. I saw a while ago that the Senator from New Jersey offered an amendment to the amendment of the Senator from West Virginia as printed.

Mr. CLAPP. I thought the Senator desired to ask me a question.

Mr. FORAKER. The Senator had yielded the floor.

Mr. CLAPP. I beg the Senator's pardon. He insisted that I should retain the floor.

Mr. FORAKER. I insisted that the Senator should retain the floor until I could get an answer to a question.

Mr. CLAPP. I want to answer if I can get an opportunity to do so.

Mr. FORAKER. I want to try to find out in good faith what we are considering.

Mr. CLAPP. Give me a moment.

Mr. FORAKER. If the Senator will wait until I get ready, I will give him a moment. The Senator from New Jersey offered his amendment, not to the substitute that was prepared by the Senator from Minnesota and which the Senator from West Virginia had read from the desk as a substitute, as I understood, but to the original amendment of the Senator from West Virginia, and we have been proceeding here as though this original amendment was still before the Senate. I wanted to know to what amendment the Senator was speaking, if he could tell me. I do not know whether it is this one, or the other one, or the amendment offered by the Senator from Virginia [Mr. DANIEL], or the amendment offered by the Senator from Mississippi [Mr. MCLAURIN].

Mr. CLAPP. Mr. President, in answer to the Senator's question, my own personal choice of an amendment would be as follows:

> It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or other commodity to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. FORAKER rose.

Mr. CLAPP. One moment. It has been suggested—and perhaps the suggestion is a wise one—to limit that prohibition to the articles produced by the carrier. It has further been suggested—and no doubt that suggestion is a wise one—that a time be fixed in the future when the provision shall take effect. Those are all matters that follow the general central thought of the prohibition, and upon which it does seem to me the Senate ought to be able to come to some rational agreement.

Mr. FORAKER. I am very much obliged to the Senator, for he has answered just about as I supposed he would; but still I do not know what is before the Senate as the amendment that is being considered. By that I mean, Mr. President, that I do not know whether the Senator from West Virginia is still insisting upon his original amendment or whether we are considering the amendment that was drafted by the Senator from Minnesota, which he has just now read from the RECORD, which I understood the Senator from West Virginia to offer as a modification of his amendment yesterday.

Mr. LODGE. As a means of solving these doubts, I suggest that the Secretary read the pending amendment.

The VICE-PRESIDENT. The pending amendment is the one proposed by the Senator from West Virginia [Mr. ELKINS], which the Secretary will state.

Mr. FORAKER. I make this inquiry, Mr. President: Certainly the Senator from West Virginia yesterday offered as a modification of his own amendment the amendment that has just now been read by the Senator from Minnesota——

Mr. ELKINS. If the Senator will allow me to interrupt him, I did not accept that substitute.

Mr. FORAKER. Oh, then, it is all cleared up. I understood that the Senator did accept it.

Mr. ELKINS. No; I said if it reached the purpose at which I aimed, which was the correcting of this evil and abuse, then I would accept it.

Mr. LODGE. Mr. President——

Mr. FORAKER. I did not yield the floor. I want to speak briefly.

Mr. LODGE. I ask that the pending amendment be read.

The VICE-PRESIDENT. At the request of the Senator from Massachusetts, the amendment of the Senator from West Virginia will be stated.

Mr. ELKINS. I desire to say that on motion of the Senator from New Hampshire [Mr. GALLINGER] the words "authorized by its charter to do so" were stricken out. The amendment will stand now with those words stricken out.

The SECRETARY. The Senator from West Virginia originally offered the following——

Mr. LODGE. Mr. President, the amendment I desire to have read is the amendment that is pending, not what the Senator from West Virginia originally offered.

The VICE-PRESIDENT. The Secretary will state the amendment that is pending.

The SECRETARY. The amendment proposed by the Senator from New Jersey——

Mr. LODGE. I do not mean the amendment to the amendment. I know there is an amendment to the amendment. I asked for the reading of the amendment, not the amendment to the amendment.

The VICE-PRESIDENT. The Secretary will read the amendment of the Senator from West Virginia.

Mr. DANIEL. Mr. President, the substantive proposition now before the Senate, as I understand, is the substitute offered by the Senator from Mississippi [Mr. MCLAURIN].

The VICE-PRESIDENT. The Chair would suggest that the amendment before the Senate now is an amendment to further perfect the amendment of the Senator from West Virginia.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. I still adhere to my belief that the best way to find out what amendment is pending is to have the pending amendment read; and I ask that it be read.

The VICE-PRESIDENT. The Secretary will read as requested.

Mr. TILLMAN. Will the Senator from Massachusetts yield to me for a moment?

Mr. LODGE. Mr. President, I want the amendment read. I do not want some other Senator to tell me what is the pending amendment, but I want the Secretary to read it.

Mr. TILLMAN. I did not want to tell the Senator what the pending amendment was.

The VICE-PRESIDENT. The Secretary will read.

The SECRETARY. The pending amendment is the amendment of the Senator from New Jersey——

Mr. LODGE. That is an amendment to the amendment.

Mr. TILLMAN. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from South Carolina will state his parliamentary inquiry.

Mr. TILLMAN. We have had so many amendments, substi-

tutes, and amendments to amendments, and so many speeches by Senators who have no right, under the unanimous-consent agreement, to get on their feet any more, that we are "all balled up," if I may use the expression; and, if I am in order, I move to lay the pending amendment and all amendments thereto and substitutes therefor on the table, because I want to offer one myself and get started over again.

Mr. FORAKER. Mr. President——

Mr. LODGE. That motion is not debatable.

The Secretary proceeded to read as follows:

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce.

Mr. ALDRICH. I rise to a question of order, Mr. President.

The VICE-PRESIDENT. The Senator from Rhode Island will please state his question of order.

Mr. ALDRICH. I understood the Senator from South Carolina [Mr. TILLMAN] to move that the pending amendment and the amendment to which it is offered as an amendment lie upon the table.

The VICE-PRESIDENT. That is the motion.

Mr. LODGE. That does not cut off reporting the amendment.

The VICE-PRESIDENT. The Chair so understands, and intended to present the motion of the Senator from South Carolina to the Senate after the amendment had been stated.

Mr. FORAKER. Before we undertake to lay the amendment on the table, we ought to know what the amendment is.

Mr. LODGE. If the Senator will allow the Secretary to report the amendment, which is the only thing in order, we shall know.

Mr. FORAKER. That is what I am waiting for.

The VICE-PRESIDENT. In order that the Senate may clearly understand the question, the Chair will restate it. The Senator from South Carolina moves to lay on the table the pending amendment and amendments incident thereto.

Mr. DANIEL. I rise to a parliamentary question.

The VICE-PRESIDENT. The Senator from Virginia will state his parliamentary inquiry.

Mr. DANIEL. A point of order was made against the motion of the Senator from South Carolina to lay on the table—that he made a speech before making the motion, which was not in order.

The VICE-PRESIDENT. The Chair will submit the question to the Senate.

Mr. BACON. Does the Chair propose to submit to the Senate the question whether a motion to lay on the table is in order?

The VICE-PRESIDENT. That is precisely the question.

Mr. BACON. The Chair will pardon me for a moment.

The VICE-PRESIDENT. Yes.

Mr. BACON. Upon the particular ground stated by the Senator from Virginia, or whether it is generally in order? The reason I ask the question is if the latter——

Mr. ALDRICH. Mr. President, this is debate.

Mr. BACON. I desire to make a point of order. A motion to lay on the table is not in order——

The VICE-PRESIDENT. The Chair is going to submit to the Senate the question whether the motion is in order.

Mr. LODGE and Mr. ALDRICH. This is debate.

Mr. BACON. I desire to say a word on that subject.

Mr. LODGE. I understood the Chair to say that he proposed to submit the question of order to the Senate.

The VICE-PRESIDENT. The Chair does.

Mr. LODGE. That is not debatable.

The VICE-PRESIDENT. The Chair so understands and will recognize no Senator for debate until that question is disposed of.

Mr. BACON. Mr. President——

The VICE-PRESIDENT. The Senate will recall that on Thursday or Friday last the Chair submitted to its consideration whether, under the unanimous-consent agreement, a motion to lay an amendment on the table before the close of the debate under the fifteen-minute rule was in order. The Senate did not then decide the question brought to its attention by the Chair. The question now rises in a distinct and parliamentary way. Therefore the Chair will submit to the Senate the question whether the motion of the Senator from South Carolina to lay on the table is in order.

Mr. BACON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia rise to a point of order?

Mr. BACON. I do.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. BACON. The point I make is that a question of order is always debatable, at least to the extent of stating the grounds on which it is based.

Mr. HALE. Not a motion to lay on the table.

Mr. BACON. The question whether the motion to lay on the table is in order is a debatable question, undoubtedly. The motion to lay on the table itself is not debatable, but whether or not, as a matter of order, that motion is in order is undoubtedly debatable. Every question of order is debatable, and the question of order which I raise is whether or not, under the consent agreement, a motion to lay on the table is in order, and I am in order, I think, Mr. President, to submit reasons why that point of order is good. If there is any rule or practice under which under any circumstances a point of order is not debatable to the extent indicated, unless it is pending some other question which does not permit of it, I do not know of it.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. The twentieth rule, section 1, reads as follows:

A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the presiding officer without debate, subject to an appeal to the Senate.

Section 2 of that rule——

Mr. BACON. Mr. President——

Mr. HALE. Let us hear the Chair.

Mr. BACON. I ask the Chair's pardon.

Mr. HALE. Let the Chair complete his statement.

The VICE-PRESIDENT. Section 2 of Rule XX provides:

The presiding officer may submit any question of order for the decision of the Senate.

Mr. BACON. Undoubtedly, Mr. President——

The VICE-PRESIDENT. The Chair submits the question of order to the determination of the Senate, and he is of the opinion that neither the order nor the propriety of its submission to the Senate is debatable.

Mr. HALE. I ask, Mr. President, whether in all logic, and for the purpose of completing any business before the Senate, the submission by the Chair to the Senate of a proposition of order should not be subject to a different rule from that which would apply if the Chair ruled on the point of order. Otherwise, Mr. President, we may as well go on, because if this can be debated, then any motion to lay on the table may just as well be debated. But the stringency that is intended to follow a motion to lay on the table and which is intended to bring a conclusion, and the purpose for which it is inserted in the rule, must be followed out in its result to the question that is submitted to the Senate by the Chair on a motion to lay on the table. If not, then there is no avail in submitting it.

Mr. BACON. Mr. President, I do not for a moment question the contention of the Senator that so far as the motion to lay on the table itself is concerned, it is not debatable. The quesion which I raise is whether, under the terms of the particular consent order under which we are proceeding, which says that amendments shall be discussed, and after discussion shall be disposed of, a motion to lay on the table is in order before the discussion of an amendment is ended. That is my point; and I say it is undoubtedly a correct one, if the consent order means anything at all. I freely grant that after the discussion of an amendment which has been proposed it is in order for the Senate to dispose of it under the consent rule, either by voting directly upon it or upon a motion to lay on the table. But the consent order is that we shall dispose of amendments after discussion, and a motion to lay on the table is in direct contravention of and antagonism to that consent until the amendment is so discussed. Without the consent order no vote of any kind would now be in order upon these amendments. I have stated the point.

Mr. ALDRICH. Mr. President, it has been well settled here, and, I think, everywhere else, that pending a motion which is not debatable in itself all subordinate and collateral questions must be settled without debate. Otherwise, under the guise of raising questions of order, debate might be continued forever. I think the Chair is entirely right and that no discussion ought to be permitted.

Mr. BACON. The Senator would be correct if we were proceeding under the ordinary rules, but we are proceeding under a consent agreement which is in conflict with the rules.

The VICE-PRESIDENT. The question is, Is the motion of the Senator from South Carolina in order?

Mr. CULBERSON. I rise to a parliamentary inquiry. What is the motion?

Mr. LODGE. To lay on the table.

The VICE-PRESIDENT. To lay on the table the amendment

of the Senator from West Virginia and all amendments incident thereto.

Mr. CULBERSON. I make the point of order that a motion to lay all of the amendments on the table at one time can not be made. There are different amendments pending here.

The VICE-PRESIDENT. The Chair is going to leave the question to the Senate.

Mr. TILLMAN. Will the Chair indulge me for a moment? I had no purpose or desire to do other than to get the Senate out of the tangle into which we have gotten.

Mr. LODGE. Mr. President, debate is out of order.

Mr. TILLMAN. We have an amendment and an amendment to it and a substitute, and I have moved to lay them on the table.

The VICE-PRESIDENT. The Chair decides that all debate is out of order. The only question before the Senate is this: Is the motion of the Senator from South Carolina in order?

Mr. HALE. Question!

The VICE-PRESIDENT. Those who are of opinion that the motion is in order will say "aye;" the contrary "no." In the *opinion of* the Chair——

Mr. LODGE. I do not think that was understood.

Mr. HALE. Will the Chair again state the question, and let us have a division upon it?

The VICE-PRESIDENT. Is the motion of the Senator from South Carolina in order?

Mr. HALE. That is it. Let the Chair put that. I do not think the Chair was understood.

The VICE-PRESIDENT. Is the motion of the Senator from South Carolina in order?

Mr. CULLOM and Mr. TELLER. A division.

Mr. HALE. We may as well have the yeas and nays.

The yeas and nays were ordered.

The VICE-PRESIDENT. Those who are of opinion that the motion is in order will answer "yea" as their names are called, and those who are opposed will answer "nay."

Mr. DANIEL. I ask that the motion——

The Secretary proceeded to call the roll, and called the name of Mr. ALDRICH.

Mr. LODGE. It is impossible to hear the Secretary or anybody else.

The VICE-PRESIDENT. The Senate will be in order.

Mr. DANIEL. I ask that the motion of the Senator from South Carolina may be read for the information of the Senate.

Mr. LODGE. The first name had been called on the roll call.

Mr. DANIEL. Not when I spoke. It had not been before I addressed the Senate.

The VICE-PRESIDENT. It was not called when the Senator addressed the Chair.

Mr. DANIEL. May I be permitted to make a statement?

Several SENATORS. No! No!

Mr. LODGE. Statements are out of order.

Mr. DANIEL. I had addressed the Chair before a name was read, and the Chair referred to the fact that order should be restored.

The VICE-PRESIDENT. The Chair understands that debate is not in order, regardless of the question whether or not the roll call had been commenced.

Mr. HALE. Question!

Mr. BURKETT. May I ask a parliamentary inquiry? There is some discussion here as to what we are voting on. We are voting on the ability to entertain the motion to lay on the table, and not on the motion to lay on the table.

The VICE-PRESIDENT. Not on the motion to lay on the table, but upon the question whether the Chair shall entertain the motion.

The Secretary resumed the calling of the roll.

Mr. GALLINGER. I rise to a point of order. There is so much confusion that the responses can not possibly be heard.

The VICE-PRESIDENT. The Senate will be in order, and the roll call will be suspended until it is in order. [After a pause.] The Secretary will resume the calling of the roll.

The Secretary resumed and concluded the calling of the roll.

The result was announced—yeas 51, nays 29, as follows:

YEAS—51.

Aldrich	Dick	Kittredge	Piles
Allee	Dolliver	Knox	Platt
Ankeny	Dryden	La Follette	Rayner
Bailey	Flint	Latimer	Scott
Berry	Frye	Lodge	Smoot
Bulkeley	Fulton	Long	Spooner
Burkett	Gamble	McCreary	Stone
Carter	Gearin	Millard	Sutherland
Clapp	Hale	Morgan	Teller
Clark, Mont.	Hansbrough	Nelson	Tillman
Clark, Wyo.	Hemenway	Newlands	Warren
Crane	Hopkins	Nixon	Wetmore
Cullom	Kean	Penrose	

NAYS—29.

Alger	Clay	Frazier	Perkins
Bacon	Culberson	Gallinger	Pettus
Beveridge	Daniel	McCumber	Simmons
Blackburn	Dillingham	McEnery	Taliaferro
Brandegee	Dubois	McLaurin	Warner
Burnham	Elkins	Martin	
Burrows	Foraker	Money	
Clarke, Ark.	Foster	Overman	

NOT VOTING—9.

Allison	Depew	Heyburn	Patterson
Burton	Gorman	Mallory	Proctor
Carmack			

The VICE-PRESIDENT. The Chair understands that under the interpretation of the Senate the motion to lay on the table is in order. The question, therefore, is on agreeing to the motion of the Senator from South Carolina [Mr. TILLMAN] that the amendment of the Senator from West Virginia [Mr. ELKINS] and amendments incident thereto be laid upon the table. [Putting the question.] In the opinion of the Chair the "noes" have it.

Mr. HALE. Let us have the yeas and nays.

The VICE-PRESIDENT. Is there a second to the demand for the yeas and nays? In the opinion of the Chair there is not.

Mr. LODGE. A parliamentary inquiry, Mr. President.

The VICE-PRESIDENT. The Senator from Massachusetts will state his parliamentary inquiry.

Mr. LODGE. I understand the motion is to lay upon the table the pending amendment and the amendments pending thereto. Nothing else can be laid upon the table.

Mr. CULBERSON. Mr. President, a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Texas will state his parliamentary inquiry.

Mr. CULBERSON. The motion of the Senator from South Carolina is to lay on the table the pending amendment and all other amendments upon this question.

Mr. TILLMAN. The Senator is entirely wrong. I did not make any such motion.

The VICE-PRESIDENT. The Chair will ask the Senator from South Carolina to restate his motion.

Mr. TILLMAN. My motion was to lay on the table the amendment of the Senator from West Virginia and amendments thereto or substitutes therefor.

Mr. CULBERSON. That is about as I understand it.

Mr. TILLMAN. There can be but two.

Mr. CULBERSON. If it is more than one, it is in the plural.

The VICE-PRESIDENT. The Chair put the question to the Senate, and understood it to refuse to lay on the table the amendment and pending amendments thereto.

Mr. HALE. There has been so much confusion——

The VICE-PRESIDENT. The Senate will be in order. The Chair must request Senators to refrain from audible conversation in the Chamber, and the business of the Senate will be suspended until there is order.

Mr. HALE. The Senate has been so noisy it is impossible to know what has been done. I do not know what has become of the call for the yeas and nays.

The VICE-PRESIDENT. The Chair asked if there was a second to the demand of the Senator from Maine for the yeas and nays upon the question of agreeing to the motion of the Senator from South Carolina.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. The Chair was of opinion that there was not a second, as not one-fifth of the Senators present seconded the call.

Mr. HALE. There was so much confusion that nobody knew that. I did not.

Mr. CULLOM. Neither did I.

The VICE-PRESIDENT. If there is doubt about it, the Chair will again ask whether there is a second to the demand of the Senator from Maine for the call of the roll? [Putting the question.] In the opinion of the Chair there is.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON].

The roll call having been concluded, the result was announced—yeas 29, nays 49, as follows:

YEAS—29.

Aldrich	Cullom	Lodge	Spooner
Allee	Dick	Long	Sutherland
Ankeny	Frye	McEnery	Tillman
Bulkeley	Hale	Millard	Warren
Burkett	Hopkins	Nelson	Wetmore
Burnham	Kean	Penrose	
Carter	Knox	Piles	
Clark, Wyo.	Latimer	Platt	

NAYS—49.

Alger	Daniel	Gearin	Perkins
Bacon	Dillingham	Hansbrough	Pettus
Bailey	Dolliver	Hemenway	Rayner
Berry	Dryden	Kittredge	Scott
Beveridge	Dubois	La Follette	Simmons
Blackburn	Elkins	McCreary	Smoot
Brandegee	Flint	McCumber	Stone
Burrows	Foraker	McLaurin	Taliaferro
Clapp	Foster	Martin	Teller
Clark, Mont.	Frazier	Money	Warner
Clarke, Ark.	Fulton	Newlands	
Clay	Gallinger	Nixon	
Culberson	Gamble	Overman	

NOT VOTING—11.

Allison	Crane	Heyburn	Patterson
Burton	Depew	Mallory	Proctor
Carmack	Gorman	Morgan	

So the motion to lay on the table was rejected.

Mr. HALE. We have now got back to just where we started. I move that the Senate proceed to the consideration of executive business.

Mr. ALDRICH. Before that is done, I wish to state that I voted to lay these amendments on the table, because I believed that the proposition of the Senator from South Carolina [Mr. TILLMAN] was much better than the pending proposition; not that I cared to dispose of the question in that way.

I ask unanimous consent that the proposition of the Senator from South Carolina be now read, in order that it may appear in the RECORD and be taken up for consideration in the morning.

Mr. LODGE. And printed.

Mr. ALDRICH. And printed.

Mr. TELLER. Let it be printed.

Mr. GALLINGER. Mr. President, before that is done I desire to say that I voted against the motion of the Senator from South Carolina because I believed it was distinctly in violation of the unanimous-consent agreement, and for the further reason that I never had heard of the amendment to which the Senator from Rhode Island [Mr. ALDRICH] seems to have had access. I do not know what it is, and even if I had thought that we could adopt, under the unanimous-consent agreement, the motion of the Senator from South Carolina, I would not have voted for it on the ground that there was an amendment better than those pending. I think the Senate is fully capable of proceeding under the unanimous-consent agreement and disposing of this business, if it will be patient in its work.

Mr. BEVERIDGE. Before the Senator takes his seat——

Mr. HALE. I must insist, as this gives rise to debate——

Mr. TELLER. Mr. President, I want to say only one word.

Mr. BEVERIDGE. I should like to ask the Senator from New Hampshire——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Indiana?

Mr. TELLER. I do.

Mr. BEVERIDGE. I will wait.

The VICE-PRESIDENT. Does the Senator from Maine withhold his motion?

Mr. TILLMAN. I hope the Senator from Maine will permit the amendment to be printed.

Mr. SCOTT. Let the amendment be read.

The VICE-PRESIDENT. The Senator from Indiana rose to ask a question of the Senator from New Hampshire.

Mr. BEVERIDGE. I will wait.

Mr. TILLMAN. I wish the Senator from Maine would allow this proposed amendment to be printed.

Mr. HALE. I will do so.

Mr. GALLINGER. Let it be read.

Mr. HALE. Very well; let it be read. I will withhold my motion for that purpose.

Mr. TELLER. Mr. President, I wish to say, in answer to the statement made by the Senator from New Hampshire, that according to the precedents and usages laying on the table is not a violation of the consent rule in this case.

Mr. TILLMAN. Mr. President——

Mr. GALLINGER. Mr. President, that is news to me.

Mr. FORAKER. Mr. President——

Mr. HALE. I must——

Mr. GALLINGER. Where a unanimous-consent agreement specifically says that we shall dispose of an amendment after the discussion closes, and some Senator desires to discuss it, I confess it is news to me that it may be overridden by any parliamentary procedure.

Mr. TELLER. When we have agreed on a particular time to vote, that presents another question. We only agreed that the discussion should proceed in this way. I made the statement when the question was before the Senate the other day that if anybody abused the consent agreement, or we thought it was abused, we would still have a right to move to lay an amendment on the table, for such was already the rule.

Mr. GALLINGER. But the Senator's statement does not make a rule.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Ohio?

Mr. HALE. I think it is in the interest of good legislation that the Senate should let this matter depart from its mind for the present and think of it over night. We will be in better condition to legislate to-morrow than now.

Mr. TILLMAN. Will the Senator from Maine yield to me to make a statement?

Mr. HALE. Half a dozen Senators have asked me to yield.

Mr. TILLMAN. Then I rise to a question of personal privilege.

The VICE-PRESIDENT. The Senator from South Carolina will state his question of personal privilege.

Mr. TILLMAN. When I moved half an hour ago to lay the amendment on the table I had no purpose of trying to force the Senate to consider something of my own, because it is not my own. I stated yesterday very frankly the perplexities and the magnitude of this question as it has presented itself to my mind, and I also stated that I had asked half a dozen or more great lawyers to give me the benefit of their legal ability and experience to try to frame something which would meet the difficulty.

I have here four suggested amendments, and I have three or four in my desk. None of them have ever satisfied me, because there are perplexities about this question that Senators are just beginning to realize, and the further it is discussed and the more effort is made to destroy the evil which we all recognize, without doing great harm to other interests, the greater difficulty will be found of using language and putting in provisions that will protect such cases as were instanced by the Senator from North Carolina in the lumber road and others that I have indicated.

Therefore, I hope the Senate will not consider that in moving to lay this amendment on the table it was for the purpose of exploiting myself at all, because this is not my work. I have amended it a little, but it does not satisfy me yet, and it will not satisfy the Senate. But I found the Senate had reached a point where we were, as I said, "balled up." We had an amendment, an amendment to the amendment, and a substitute for the amendment, and we apparently had got to a point where we could not do anything but talk. Senators were breaking the unanimous-consent agreement by speaking twice on the amendment of the Senator from West Virginia, when under the agreement they could not do it. So I tried to untie the knot, or to cut it; that is all. I hope Senators will not undertake to accuse me of egotism in their hearts or in other ways because I took this action. That is all there is about it. Now, I want to present the amendment, and I ask to have it printed. It is to come in at the end of section 1.

Mr. ALDRICH and Mr. GALLINGER. Let it be read.

The VICE-PRESIDENT. At the request of the Senator from Rhode Island, the amendment will be read.

Mr. HALE. The motion for an executive session is in order. Nothing else is in order.

The VICE-PRESIDENT. It is, if the Senator from Maine insists upon it.

Mr. ALDRICH. I ask that the amendment be read, so that it may go into the RECORD.

Mr. HALE. The Senator asks that and another Senator asks for another thing. I will consent that the amendment be read. After that I will insist upon the motion, and the Senate can decide as it chooses on the motion.

The VICE-PRESIDENT. Without objection, the Secretary will read the amendment sent to the desk by the Senator from South Carolina.

The Secretary read as follows:

At the end of section 1 add:

"From and after the 1st day of January, 1908, it shall be unlawful for any carrier owning or operating any railroad used in interstate commerce to engage in interstate commerce when it can be shown that such railroad, directly or indirectly, by stock ownership or otherwise, has or holds any control, part ownership, or interest in the business of mining or manufacturing or trading in any commodity transported over such railroad as interstate commerce; nor shall any such common carrier, after the date aforesaid, directly or indirectly, engage in any other business than that of a common carrier, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business as a common carrier.

"Any violation of this provision shall subject the offending common carrier to a forfeiture of $2,000 for each offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture or forfeitures shall be recovered in a civil suit in the name of the United States, brought under the direction of the Attorney-General, in the United States circuit court for the district wherein

the carrier has its principal operating office, or in any district through which the road of the carrier may be operated."

The VICE-PRESIDENT. Will the Senator from Maine withhold his motion for an executive session until the Chair lays before the Senate a message from the President of the United States and some messages from the House of Representatives?

Mr. HALE. And for nothing else.

The VICE-PRESIDENT. And for nothing else.

ARMY SUPPLIES AT SAN FRANCISCO.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, on motion of Mr. HALE, was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I herewith transmit a letter from the Secretary of War in respect to the situation as to the Army supplies at San Francisco. His letter contains appendices showing the supplies which have been transmitted to San Francisco and their cost, and set forth the necessity for an additional appropriation of $500,000, which I recommend be made at once. This is to meet the requirements of the immediate future.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 8, 1906.*

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 14397) making appropriations for the support of the Army for the fiscal year ending June 30, 1907, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HULL, Mr. CAPRON, and Mr. SULZER managers at the conference on the part of the House.

ARMY APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 14397) making appropriations for the support of the Army for the fiscal year ending June 30, 1907, and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist upon its amendments, that the request for a conference by the House be granted, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and Mr. WARREN, Mr. FORAKER, and Mr. BLACKBURN were appointed.

REGULATION OF MOTOR BOATS.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 4094) to amend section 4426 of the Revised Statutes of the United States, regulation of motor boats, which was, on page 3, line 2, after the word "hire," to insert "but not engaged in fishing as a regular business."

Mr. FRYE. I move that the Senate concur in the amendment of the House.

Mr. ALDRICH. I ask that the bill, with the amendment, be referred to the Committee on Commerce. I shall have to do that. I established a precedent the other day and I will have to ask that this amendment take that course. I move that it be referred to the Committee on Commerce.

The motion was agreed to.

MARY E. DUGGER.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 1975) granting an increase of pension to Mary E. Dugger, which was, in line 6, after the name "Jefferson," to insert the initial "L."

Mr. McCUMBER. I move that the Senate concur in the House amendment.

The motion was agreed to.

FORT DOUGLAS MILITARY RESERVATION.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 5498) granting additional lands from the Fort Douglas Military Reservation to the University of Utah, which was, on page 2, line 16, to strike out all after the word "further," down to and including "Utah," line 20, and insert:

That there is reserved to the United States the perpetual right to maintain, alter, rebuild, and enlarge the sewer which runs from the Fort Douglas military post across said tract of land, or to construct and maintain a new sewer system across the same should it be desirable so to do.

Mr. SUTHERLAND. I move that the Senate concur in the House amendment.

Mr. ALDRICH. I move that it be referred to the Committee on Public Lands or whatever committee it came from.

Mr. CULLOM. It came from the Committee on Military Affairs.

Mr. ALDRICH. They can report it back to-morrow.

The VICE-PRESIDENT. The bill originally was reported from the Committee on Military Affairs.

Mr. WARREN. The matter has the full indorsement of the War Department. It has passed the Senate both as a separate bill and in the Army appropriation bill. The Senate bill now has passed the House with an amendment. I hope that the bill may receive final action here, so that the provision can be stricken out of the Army appropriation bill when it is considered by the conferees.

Mr. ALDRICH. Very well.

The VICE-PRESIDENT. The Senator from Rhode Island withdraws his motion to refer. The Senator from Utah moves that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

NORTHERN PACIFIC RAILWAY LAND GRANT.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2292) for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant, which was on page 2, line 8, after the word "abandoned" to insert:

Provided, That all lieu selections made under this act shall be confined to lands within the State where the private holdings are situated.

SEC. 2. That this act shall become effective upon an acceptance thereof by the Northern Pacific Railway Company being filed with the Secretary of the Interior.

Mr. ALDRICH. I think I will have to ask that that go to the Committee on Public Lands.

The VICE-PRESIDENT. The bill and amendment will be referred to the Committee on Public Lands.

EXECUTIVE SESSION.

Mr. HALE. Mr. President, I call for the regular order. The rest of these matters can wait.

The VICE-PRESIDENT. The Senator from Maine moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned until to-morrow, Wednesday, May 9, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 8, 1906.

REGISTER OF LAND OFFICE.

Truman G. Daniells, of Alameda, Cal., to be register of the land office at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906), vice Aaron B. Hunt, term expired.

RECEIVER OF PUBLIC MONEYS.

Sargent S. Morton, of California, to be receiver of public moneys at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906), for the unexpired part of his term of four years from February 4, 1903, as receiver at San Francisco.

PROMOTIONS IN THE NAVY.

Ensign Charles T. Wade to be a lieutenant (junior grade) in the Navy from the 1st day of July, 1905, after having completed three years' service in that grade.

Lieut. (Junior Grade) Charles T. Wade to be a lieutenant in the Navy from the 1st day of July, 1905, vice Lieut. Archibald H. Davis, promoted.

PROMOTIONS IN THE ARMY.

Lieut. Col. James E. Macklin, Third Infantry, to be colonel from May 8, 1906, vice Ray, Fourth Infantry, retired from active service.

Maj. Lea Febiger, detailed inspector-general, to be lieutenant-colonel of infantry from May 8, 1906, vice Macklin, Third Infantry, promoted.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 8, 1906.

ASSOCIATE JUSTICE OF OKLAHOMA.

Frank E. Gillette, of Oklahoma, to be associate justice of the supreme court of the Territory of Oklahoma.

MARSHAL.

Harmon L. Remmel, of Arkansas, to be United States marshal for the eastern district of Arkansas.

PROMOTIONS IN THE ARMY.

Corps of Engineers.

Capt. E. Eveleth Winslow, Corps of Engineers, to be major from April 2, 1906.

First Lieut. Edward M. Adams, Corps of Engineers, to be captain from April 2, 1906.

Second Lieut. John J. Kingman, Corps of Engineers, to be first lieutenant from April 2, 1906.

Infantry arm.

Second Lieut. Wallace McNamara, Twenty-seventh Infantry, to be first lieutenant from June 17, 1905.

Second Lieut. William J. Schmidt, Twenty-sixth Infantry, to be first lieutenant from June 30, 1905.

Second Lieut. David A. Henkes, Twenty-eighth Infantry, to be first lieutenant from July 17, 1905.

Second Lieut. Guy E. Bucker, Second Infantry, to be first lieutenant from July 20, 1905.

Second Lieut. Robert G. Peck, Twenty-seventh Infantry, to be first lieutenant from July 28, 1905.

Second Lieut. Robert J. Binford, Fifteenth Infantry, to be first lieutenant from July 28, 1905.

Second Lieut. John A. Brockman, Seventh Infantry, to be first lieutenant from July 28, 1905.

Second Lieut. Robert W. Adams, Second Infantry, to be first lieutenant from July 29, 1905.

Second Lieut. Sheldon W. Anding, Eighth Infantry, to be first lieutenant from August 8, 1905.

Second Lieut. William G. Murchison, Eighth Infantry, to be first lieutenant from August 8, 1905.

Second Lieut. Charles C. Finch, Eleventh Infantry, to be first lieutenant from August 11, 1905.

Second Lieut. John S. McCleery, Twentieth Infantry, to be first lieutenant from August 15, 1905.

Second Lieut. Elvin H. Wagner, Seventeenth Infantry, to be first lieutenant from August 21, 1905.

Second Lieut. Thomas W. Brown, Twenty-seventh Infantry, to be first lieutenant from August 30, 1905.

Second Lieut. Otis R. Cole, Nineteenth Infantry, to be first lieutenant from September 2, 1905.

Second Lieut. Shelby C. Leasure, Fourteenth Infantry, to be first lieutenant from September 10, 1905.

Second Lieut. Daniel E. Shean, Sixteenth Infantry, to be first lieutenant from September 12, 1905.

Second Lieut. Charles F. Herr, Nineteenth Infantry, to be first lieutenant from September 22, 1905.

POSTMASTERS.

ARKANSAS.

R. S. Coffman to be postmaster at Searcy, in the county of White and State of Arkansas.

INDIAN TERRITORY.

John McFall, jr., to be postmaster at Ramona, in District Four, Indian Territory.

NEW YORK.

Edward Bolard to be postmaster at Salamanca, in the county of Cattaraugus and State of New York.

OHIO.

William H. Antram to be postmaster at Lebanon, in the county of Warren and State of Ohio.

W. B. Bryson to be postmaster at Wooster, in the county of Wayne and State of Ohio.

Gilbert D. McIntyre to be postmaster at Orrville, in the county of Wayne and State of Ohio.

PENNSYLVANIA.

Edgar J. Graff to be postmaster at Blairsville, in the county of Indiana and State of Pennsylvania.

WEST VIRGINIA.

Mathew A. Jackson to be postmaster at Lewisburg, in the county of Greenbrier and State of West Virginia.

Horatio S. Whetsell to be postmaster at Kingwood, in the county of Preston and State of West Virginia.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 8, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

ZEBULON MONTGOMERY PIKE MONUMENT ASSOCIATION.

The SPEAKER laid before the House the bill (H. R. 13743) to provide souvenir medallions for the Zebulon Montgomery Pike Monument Association, with a Senate amendment thereto.

The Senate amendment was read.

Mr. BROOKS of Colorado. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from Colorado, that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

BRIDGE ACROSS MISSOURI RIVER.

The SPEAKER laid before the House from the Speaker's table the bill (S. 5796) to authorize the construction of a bridge across the Missouri River and establish it as a post-road.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Kansas City, St. Joseph and Excelsior Springs Railway Company, a corporation organized under the laws of the State of Missouri, its successors and assigns, be, and they are hereby, authorized to construct a railroad, wagon, and foot bridge and approaches thereto across the Missouri River at a point on the north boundary line of Kansas City, Mo., to a point opposite the said Kansas City, Mo., on the north side of said river, in Clay County, in the State of Missouri, said bridge to be so placed as to be erected between what is known as Delaware street and Lydia avenue, in Kansas City, Mo., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, read the third time, and passed.

On motion of Mr. ELLIS, a motion to reconsider the last vote was laid on the table.

Mr. ELLIS. Mr. Speaker, I move that the bill H. R. 18532, a similar bill to the one just passed, on the House Calendar, be laid upon the table.

The SPEAKER. The question is on the motion of the gentleman from Missouri that a similar House bill be laid upon the table.

The question was taken; and the motion was agreed to.

OFFENSES AGAINST ELECTIVE FRANCHISE.

Mr. BROOKS of Colorado. Mr. Speaker, I present herewith for filing the report of the majority on the bill (H. R. 224) in relation to the elective franchise, defining offenses against the same and prescribing punishments therefor, and I ask unanimous consent that the minority may have ten days in which to submit a minority report.

The SPEAKER. The gentleman from Colorado asks unanimous consent that the minority may have ten days in which to file a minority report on the bill just referred to. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

ARMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I am instructed by the Committee on Military Affairs to report back the bill (H. R. 14397) making appropriation for the support of the Army for the fiscal year ending June 30, 1907, with Senate amendments thereto, with the recommendation that all Senate amendments be disagreed to and that the House request a conference thereon; and I now move that the House resolve itself into the Committee of the Whole House for the purpose of considering the Senate amendments.

The SPEAKER. The gentleman from Iowa, by direction of the Committee on Military Affairs, reports back the Army appropriation bill with Senate amendments thereto, which is referred to the Committee of the Whole House on the state of the Union, and the question is on the motion of the gentleman from Iowa that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering the Senate amendments thereto.

The question was taken; and on a division (demanded by Mr. WILLIAMS) there were—ayes 151, noes 3.

Mr. WILLIAMS. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The gentleman from Mississippi makes the point of no quorum. The Chair will count. [After counting.] Two hundred and three gentlemen present—a quorum.

So the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of Senate amendments to the military appropriation bill, with Mr. BOUTELL in the chair.

The CHAIRMAN. The Clerk will report the first amendment.

The Clerk read as follows:

Page 2, line 3, strike out "fifteen" and insert "twenty."

Mr. HULL. Mr. Chairman, I move that the committee recommend that the House nonconcur in the amendment just reported.

The CHAIRMAN. The question is on the motion of the gen-

tleman from Iowa, that the committee recommend that the House nonconcur in the amendment just reported.

The question was taken; and the motion was agreed to.

Mr. HULL. Mr. Chairman, I will say to the committee that the unanimous vote of the Committee on Military Affairs was nonconcurrence in all the Senate amendments, and that a conference be asked for. I therefore ask unanimous consent that a motion to nonconcur in all the amendments en bloc be now entertained.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the remaining amendments may be considered in gross. Is there objection?

There was no objection.

Mr. HULL. Mr. Chairman, I now move that the committee recommend that all the amendments of the Senate to the Army appropriation bill be disagreed to, and that a conference be asked for.

The CHAIRMAN. The gentleman from Iowa moves that the committee recommend nonconcurrence in all the Senate amendments and ask for a conference.

The question was taken; and the motion was agreed to.

Mr. HULL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BOUTELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration Senate amendments to the Army appropriation bill and had directed him to report the same back with the recommendation that the amendments be nonconcurred in and a conference requested.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the vote will be taken on the amendments as a whole.

Mr. HULL. I move the adoption of the report.

Mr. PRINCE. Mr. Speaker, there is one amendment to which I desire in some form or other to object.

The SPEAKER. The gentleman demands a separate vote upon what amendment?

Mr. PRINCE. I think it is number 27—at the proper time.

The SPEAKER. This is the proper time.

Mr. HULL. Does the gentleman desire to concur in the amendment?

Mr. PRINCE. I do not.

Mr. HULL. If he does, of course it is the proper time; but my understanding is, he desires to nonconcur in the amendment, and that is the recommendation of the Committee of the Whole on all of them.

Mr. PRINCE. I desire to nonconcur in this amendment and would like to have the House conferees instructed to insist on refusing to concur in amendment No. 27, which will give a cadet who serves in West Point an opportunity to retire with the rank, pay, and allowance of a major-general.

Mr. HULL. Mr. Speaker, I hope there will be no action by members of the committee to instruct the conferees before they have had a free conference. We have had that trouble once or twice and it seems to me like very bad policy to do so.

The SPEAKER. If the House should vote to nonconcur in any or all of the amendments, that is a matter with which the House would express its will. If the House should not concur, then, as the Chair understands, when the conferees are appointed, or just before they are appointed, the gentleman could offer any resolution that he saw proper touching the sense of the House as to any or all amendments.

Mr. PRINCE. Mr. Speaker, then I want to make the motion that the House instruct the conferees to nonconcur——

The SPEAKER. That is not in order just at this time. The question is on the motion that the House disagree to the Senate amendments.

The question was taken; and the motion was agreed to.

Mr. HULL. Mr. Speaker, I move that a conference be requested on the part of the House, and that the Chair appoint conferees.

The SPEAKER. The gentleman moves that the House ask for a conference with the Senate.

The question was taken; and the motion was agreed to.

Mr. PRINCE. Mr. Speaker, I do not desire to embarrass my colleagues on the committee in the conference in any way, but I am unalterably opposed, and I believe when the House hears the facts that the House will likewise be unalterably opposed, to concurring in amendment No. 27, offered by the other body. The amendment is this: "That officers who served creditably during the civil war and who now hold the rank of brigadier-general on the active list of the Army, having previously held that rank for two years or more, shall, when retired from active service, have the rank and retired pay of major-general." Now, when we analyze this and bring it before the House it will show that captains, first lieutenants——

Mr. PAYNE. I think the amendment ought to be read, so the House will understand it.

Mr. PRINCE. I tried to read it——

The SPEAKER. Up to this time we are proceeding by unanimous consent, inasmuch as the gentleman from Illinois has made no motion.

Mr. PRINCE. Mr. Speaker, I move that the conferees be instructed to nonconcur in Senate amendment No. 27.

Mr. KEIFER. That has already been done.

Mr. HULL. I understand that we have nonconcurred in all of them.

The SPEAKER. We have nonconcurred in all of them. The Chair might suggest to the gentleman that he can probably reach what he desires to reach by resolution, if he wishes to test the sense of the House. That will register the opinion of the House that the conferees ought not to recede from the House disagreement to the amendment.

Mr. PRINCE. Mr. Speaker, I make that proper motion.

The SPEAKER. The Clerk will first report the amendment.

The Clerk read as follows:

(27) *Provided further*, That officers who served creditably during the civil war and who now hold the rank of brigadier-general on the active list of the Army, having previously held that rank for two years or more, shall, when retired from active service, have the rank and retired pay of major-general.

The SPEAKER. The Clerk will report the resolution offered by the gentleman from Illinois [Mr. PRINCE].

The Clerk read as follows:

Resolved, That it is the sense of the House of Representatives that the House conferees should not recede from the House disagreement to Senate amendment No. 27 to the bill (H. R. 14397) making appropriations for the support of the Army.

Mr. PRINCE. Mr. Speaker, the purpose of this amendment is to allow officers on the active list of the Army and holding the rank of brigadier-general, having previously held that rank for two years, who had service in the civil war, when they are retired from active service to be retired upon the rank and pay of major-general. The purpose is to retire with the rank of major-general men who have served in the civil war, and the credit for this rank is due to their service during the civil war. If that be true for civil-war service, we ought to put upon the retired list all of the splendid men who fought in the civil war and have been retired at a lower grade than that of major-general; not only those who are on the retired list of the Regular Army, but all of the men, officers and privates, who served in the civil war as volunteers and are to-day in civil life in this country.

Here is an instance of pure and simple personal legislation. The House did not pass it. It has come to us from another body, and it picks out six or seven men on whom to bestow the rank and distinction of major-general for service in the civil war. Now, what was their service in the civil war? One of them was a captain. He entered the service as a second lieutenant on September 16, 1861, and was honorably mustered out as a captain in 1865. Another entered the service as a private October 12, 1861, and was mustered out as a first lieutenant September 30, 1864; another as a private November 13, 1861, and mustered out as a captain July 17, 1865; another as a private and mustered out as a captain; another as a private and mustered out as a captain; two more as privates and mustered out as first lieutenants; another entered as a sergeant and was mustered out as a second lieutenant; another as a private and mustered out as a sergeant; another as a medical cadet of about one year's service, and he is to be made a major-general for that one year's service as a steward or a surgeon in a hospital. Another who was mustered out as a first lieutenant is to be made a major-general. And, not satisfied with that, Mr. Speaker, they have even gone so far, if this amendment becomes a law, as to take in a young man who entered West Point as a cadet in 1861 and graduated in 1865, and said that he shall become a major-general under this amendment, if the House approves of it.

Mr. SULZER. What is his name?

Mr. PRINCE. His name is Gen. George H. Burton, inspector-general; cadet in the Military Academy July 1, 1861; graduated from the Military Academy June 23, 1865; made a second lieutenant of that date.

If this amendment passes, gentlemen of the House, you take a cadet that entered West Point in 1861, that received his commission after the war closed, in 1865, and make him a major-general for services rendered during the civil war. Why do I say that? Because it has been held under the law that a cadet at West Point was in the line of the Army, was subject to military control and discipline; and if he entered the Military

Academy before peace was declared, he is a soldier in the line of the Army, and under the provision of this amendment he is made a major-general on the retired list.

Now, I am willing to go a long way toward placing men on the retired list, but I can not sit still in my seat and allow this kind of work in this House without informing the country.

Mr. SULZER. Mr. Speaker, will the gentleman allow me to ask him a question?

Mr. PRINCE. Certainly.

Mr. SULZER. Does not the gentleman think that it is inadvisable for the House to instruct the conferees, its own conferees, before they go into conference? Would it not be premature and tend to establish a faulty precedent?

Mr. PRINCE. If I felt sure in my own mind that the conferees will go and resist to the uttermost this amendment; if they will come back to this House before concurring in the amendment and permit us to instruct them later and stand by the instruction, I would be perfectly willing to withdraw it now, if it is inadvisable.

Mr. SULZER. Has the gentleman any reason to assume to the contrary?

Mr. PRINCE. I have so long been a Member of this House that I have found time and time again in the closing days this House takes a good many amendments and concurs in them when in its judgment, and the judgment of the people, they ought not to be accepted. My colleague has seen the same thing done.

Mr. SULZER. If, however, the conferees appointed by the House should take any action in the conference contrary to the views of the gentleman from Illinois, when the conference report comes before the House the gentleman can then move to disagree and instruct the conferees. Under the rules the gentleman's rights are amply protected, and that is the usual procedure under the rules of this House. It has been followed ever since I have been a Member.

Mr. PRINCE. There are two methods of procedure; the one I have adopted, and the one that you suggest.

Now, let me say to the House, and to the country as well, that from the day the first shot was fired at Lexington down to 1861 there was no such thing as a retired list. The men who followed Washington during all of that struggle were patriotic enough not to ask to be put upon the retired list.

The army of men that fought under Jackson, under Ripley and Scott and Brown, in the war of 1812 never asked to be put upon the retired list. Nor was there a retired list in this country for the men that fought and gave us the great country from Mexico. They were never put upon the retired list, nor was there any such retired list of the Army until the beginning of the struggle between the North and the South in the days from 1861 to 1865.

Now the retired list has got to be a place for men to be put to draw salaries. That is what it is for. It has ceased to be a haven of rest for honorable and distinguished battle-scarred old warriors. It has passed the purpose for which it was originated, and to-day we have one-fifth of the Army officers of the United States upon the retired list, drawing $2,700,000, where their predecessors, moved by patriotic motives, never asked for a cent and were never placed upon the retired list of the Army of this country; and when 903 are on the retired list, one-fifth of the officers of the United States Army, it is time that we should put these men on the retired list under a law of the grade that they held at the time they were retired. And what is it? It is three-fourths pay. These men who hardly did anything during the struggle of 1861 to 1865 are now to be put on the retired list with a pension of $5,625 a year, while the splendid men that fought in the volunteer service, many of them to-day are starving in their homes and receiving the pitiful pension of six and eight and ten and twelve dollars a month. [Loud applause.]

I call upon my colleagues to call a halt upon this kind of business. It is time for the country and those in authority to know that they should not put men upon the retired list in the absence of good and sufficient reasons and put the burden upon the people along these lines. [Applause.]

If you want to economize, here is a place for a little economy. Ever since I have had a seat on this floor I have been in opposition to this sort of a proposition. I would not detract in the slightest degree from the character of the Army of the United States, but I would like to see a bill passed through this House that would take it out of the anomalous condition that it is placed in to-day, where, in effect, a brigadier-general is giving command to major-generals, and giving command to a Lieutenant-General of the Army, when he is commanding a division somewhere in this country. That is an anomalous condition, that the Lieutenant-General is to receive orders from his subordinate, a brigadier-general. We no more need a Lieutenant-General than a cat needs two tails. [Laughter and applause.]

Now, if the chairman of the committee having this matter in charge, my colleague, for whom I have the greatest respect and confidence, says that this motion and the action of the House will embarrass him in standing by this in any way, I am willing, if the House permits, to withdraw it. If not, I ask for the sense of the House upon this question. I do not want to embarrass my colleague or any Member of this House in any way, shape, form, or manner.

Mr. HULL. Mr. Speaker, the gentleman from Illinois [Mr. PRINCE], my colleague on the Military Committee, has certainly sprung a surprise upon the committee by his motion. We knew something about the speech, but had no idea that it would come upon the floor until the time came to pass upon this question.

The gentleman from Illinois, in my judgment, had no right to assume that the conferees would agree to an amendment of this kind without first submitting it to the House of Representatives. It is a question that has been thrashed over here in other bills and in other ways until I think both he and the members of the committee largely realize that the House is impatient of this character of legislation, and as the gentleman knows I would have hesitated a long time before consenting to incorporate in the conference report a final agreement which would have deprived the House of the right to pass upon this measure. But if I had known that the gentleman proposed to engage in this kind of legislation, I would have hesitated about taking the time of the House to-day and interfering with the Committee on Naval Affairs. Ordinarily, the House of Representatives permits one conference without instructions. Ordinarily, when we ask for a free conference, we go to the Senate with all matters in dispute to be discussed by the conferees. It is a very rare thing that the House of Representatives in one breath asks for a free conference and in the next breath ties the hands of the conferees on any proposition. The House is never bound. I have known it to turn down conference report after conference report where a single item in the report was not satisfactory to the House. I have had that happen with me on the military bill so often that I am getting cautious about trying it when there is even a doubt about it. So that we could to-day pass a motion for a full and free conference, appoint our conferees, let them go forth and make their report to the House without any danger whatever of any snap judgment being taken upon the membership. Not only that, Mr. Speaker——

Mr. PRINCE. Does my colleague yield, just for a moment?

Mr. HULL. Oh, certainly.

Mr. PRINCE. Then I understand my colleague to say that before this matter is finally disposed of opportunity will be given—full, free, frank, and fair opportunity will be given—the House to determine its sense upon this question?

Mr. HULL. Well, Mr. Speaker, I said that as far as I was concerned that was my feeling. Now, I feel this way about it: Since this offer has been made here, why, we might just as well pass it as to get up on the floor of the House and say in advance what we are going to do in conference.

Mr. PRINCE. Very well.

Mr. HULL. But I do protest that in courtesy to the Committee on Military Affairs the able member of that committee from Illinois, who has always been conferred with, and whose advice is always sought after and gladly followed when possible, should have taken the members of the committee into his confidence this morning, and have let us know that he proposed to inject this kind of a discussion on the floor of the House.

Mr. KEIFER, Mr. SULZER, and Mr. PRINCE rose.

The SPEAKER. The gentleman from New York. The Chair will recognize the gentleman from Ohio a little later.

Mr. SULZER. Mr. Speaker, just a few words to say I trust the motion of the gentleman from Illinois will not prevail. As a member of the Committee on Military Affairs, I desire to say that, in my opinion, it would be inadvisable and unprecedented for the House now to instruct its conferees what to do when they go into conference. It would be practically like a judge telling a jury what to do before the jury hears the testimony. The House, it seems to me, can trust its own conferees. The House can rest assured that its conferees will do their duty, will carry out the will of the House; and if the conferees do not do that, then the House can disagree and instruct the conferees, or appoint new conferees who will carry out the wishes of the House. It seems to me that to do what the gentleman from Illinois requests is to prejudge the whole question and embarrass the conferees on the part of the House, and the chances are that it will preclude the accomplishment of just what the House wants.

The motion, I think, of the gentleman is entirely premature and uncalled for and unnecessary. I think it is a mistake. It

should be withdrawn. This is not the proper time to instruct the conferees. I think my colleague on the committee, the gentleman from Illinois, should withdraw his motion and let this be a free and full and open conference between the Senators and the Members of the House, and then if the conference report is not to the satisfaction of the gentleman he can move a nonconcurrence in the Senate amendment. That will then be the time for him to make a speech about the matter. That will then be the time for the House to determine the question on all the facts and on the merits. I trust that the gentleman from Illinois will not insist on his motion, but withdraw it, and give the conferees appointed by the House an opportunity to go into a free and fair conference without strings of instruction.

Mr. KEIFER. Mr. Speaker, I do not understand that the gentleman from Illinois withdraws his resolution. I think a wrong impression is given by some remarks he has made with reference to the Senate amendment No. 27 to this bill.

The gentleman says that it will provide for the retirement of cadets who served at the Military Academy from 1861 to 1865, or rather during the period of the civil war. I am not by any means certain that under any decision we have had the language of this amendment would be subject to any such construction. The amendment reads in part thus:

> That officers who served creditably during the civil war and who now hold the rank of brigadier-general on the active list of the Army, having previously held that rank for two years or more, shall, when retired from active service, have the rank and retired pay of a major-general.

I think it is clearly meant by this language that they must have served in the Army, and regularly mustered in, other than being mere cadets at the academy.

Mr. HULL. It does not take in any cadets at all.

Mr. KEIFER. That is the claim, and I presume it does not; and, Mr. Speaker, if the gentleman from Illinois is right, this conference committee can take that into account, if they should accede to the substance of the Senate amendment and make it explicit that it does not mean that those who served solely as cadets during the civil war. So much for that. That is a matter that ought to be provided for by the use of proper language, which the conferees can put in if it is a good objection.

The gentleman seems to ignore the fact that an officer would be retired under this clause if he served not only in the civil war, but who would have had two years of active service in the United States Army as a brigadier-general. The officers are not mere accidents that come to be brigadier-generals a few days or weeks or months before their retirement, but they must be officers of this rank who have had two full years on the active list of the United States Army before enforced retirement. No officer is retired absolutely until he is 64 years of age, and then it is not his fault that he is retired at all. It is the fault of the law of the United States, which prohibits his service on the active list a single day after he is 64 years of age. This first became the law, as I recollect, in 1882.

But the eloquent gentleman from Illinois appeals to the House and says that those who served under Washington in the Revolution, those who served in the war of 1812, and those who served in the Mexican war (1846–1848) did not ask to go on the retired list. No, Mr. Speaker, they did not ask to go on the retired list, because they never could get there, and of course they never went there. They served in the Army, in the regular line, to the day of their death, no matter how old they were, and drew full pay. [Applause.] That was the condition exactly. That great old soldier Winfield Scott was about 80 years of age in 1861 and in the civil war, and he was then on the active list drawing full pay. General Scott was born June 13, 1786. There was then no time fixed by law for enforced retirement by reason of age. Congress is responsible for such rule of law. So much for that point.

I think the eminent officers who served in the period of the civil war creditably and who have served their country faithfully forty years or more, meeting all the exigencies of the service, and have had two full years of active service with the high rank of brigadier-general, might well be retired as major-generals for the few remaining years of their life. I am in favor of the principle of this amendment. [Applause.]

Mr. GROSVENOR. Mr. Speaker, I want to call the attention of the House to a criticism made by the gentleman from Illinois [Mr. PRINCE] about the present condition of the Army in the United States. Congress very recently passed this system of military organization, and it was done after a great deal of consideration and study. The outline of it was furnished from the War Department and it was acted upon in both Houses and became the law of the land, and it is unfortunate that anyone in the House of Representatives should attempt to teach the people that there is an anomalous and absurd condition growing out of that statute.

The gentleman referred to the fact that a brigadier-general issues orders to a lieutenant-general and to major-generals. But the gentleman omits to state that under the system it is the President of the United States who issues the order. He, as the Commander in Chief, issues his orders through the Chief of Staff by virtue of the statute, and the Chief of Staff by direction of the President issues the order to the superior officers, as stated by the gentleman from Illinois. That same thing happens in all military organizations.

The adjutant of a regiment issues orders to the captains and to the majors and to the lieutenant-colonels. So there is nothing anomalous about it. It is done in every civilized country in the world and it is a part of our military system in the United States which came out of the long consideration and study which the War Department and both Houses of Congress gave to the construction of that statute. [Applause.]

Mr. PARKER. Mr. Speaker, it is much to be regretted that this question should come up before the House at this time and in exactly this way. It is to be regretted because there may be many Members of the House who are in favor of rejecting the Senate amendment, but who are not in favor of embarrassing the committee by placing them under instructions before they go into a full and free conference. The gentleman from Illinois [Mr. PRINCE], who offers the resolution, will not get the full sentiment of the House which may exist against this amendment of the Senate, because a great many Members would vote against this motion simply because it is untimely, and we are likely to get a false impression of the real opinion of the House by voting upon the resolution at this time. Under the circumstances, I appeal to the gentleman to withdraw his resolution, and if the gentleman is not willing to do that, then, I think, the only way to bring the matter to a real decision is to move, as I shall, to lay the resolution upon the table. I shall, however, withhold that motion for the present.

Mr. PRINCE. Mr. Speaker, in the military laws of the United States, on page 318, in a footnote, I find the following:

> Before the passing of the act of July 8, 1866, as well as afterwards, the corps of cadets of the Military Academy was a part of the Army of the United States, and a person serving as a cadet was serving in the Army, and the time during which a person has served as a cadet was therefore actual time of service by him in the line of the Army. (Morton *v.* United States, 112 U. S.)

So there can be no question upon that point, that if this amendment be passed in the shape it is and becomes a law, a cadet at West Point during the war from 1861 to 1865, if he happens to hold a position here in Washington in some of the staff departments as a brigadier-general, by virtue of that becomes a major-general on the retired list. My good friend the honorable gentleman from Ohio [Mr. KEIFER] says they must have had active service for two years or more and have held the rank of brigadier-general. Most of these men who will avail themselves of this law have had active service in the departments here in Washington.

Mr. SULZER. And do they not work pretty hard?

Mr. PRINCE. Work hard, yes; but so do a thousand other men work hard in the clerical departments of this Government who do not receive the pay that these men do. That is no fault of theirs. They are detailed there. If this amendment said "active duty with troops in the field" it would be far different; but it is here in the departments, and it is so worded that it largely affects men here in the departments. It is another evidence of the fact that if you want legislation you must be assigned to duty at Washington, and then you have an opportunity to see to it in such a way that you will get on the retired list; but the poor fellows out on the fighting line, the men that have been retired for wounds received in the line of duty, for sickness, such as second lieutenants, captains, majors, lieutenant-colonels, and colonels, who fought in a thousand engagements from 1861 to 1865, are not considered by this class of legislation.

Now, as to the reflection of the gentleman from Ohio [Mr. GROSVENOR] on the question of the Commander in Chief, I have this to say: Our Commander in Chief, the President of the United States, is an extremely busy man, as we have heard from some of the "hit dogs that yelp," as the expression is, judging from some of the answers they have made to him in which they say that he is looking after all matters from the regulation of the family up to criticising the judges of the United States courts. Now, he is very busy doing his duty under his oath—a splendid executive officer. He can not possibly know of these various orders. Under him is the Secretary of War, who is busy with the Panama Canal, with the Philippine affairs, and with the great affairs of this country. Resolve it right down, and what have you? A brigadier-general as Chief of Staff, giving orders to major-generals and to the Lieutenant-General of the Army. I make no reflection upon the Army. It is a splendid Army, made up of splendid men and well officered, but what I

said stands out yet as a truth—that from the firing of the first shot at Lexington down to the firing of the first shot at Fort Sumter there was no retired list in the Army of this country. The splendid men who have gone before were not here, as men now are, seeking to be put upon the retired list, not for the glory of it, but for the pay of it, and we have sixty-four brigadier-generals to-day on the retired list who served but one day as brigadier-generals. What a condition it presents to our country! I am opposed to it, but if the gentleman thinks it will embarrass the committee in any way, then I shall content myself with the knowledge that I have sounded the note of warning. I have been assured by gentlemen, my colleagues on the committee, that they will give the House an opportunity to be heard at the proper time.

Now, as to the criticism of my colleague. I gave notice in the committee that on the floor of the House I would object to this amendment, that I would resist it to the end; and I shall do it, if I am permitted, on the floor of the House, and if my people in my district approve of it, I shall come back, and if they are opposed to my doing this I shall stay at home; but I want the entire country to know how we are legislating here, passing personal legislation for six or seven men, to make of them major-generals for services—good, it is true, but not within a thousand points as good as that of 10,000 men who are to-day drawing a pension of $6 or $8 or $10 a month.

Mr. Speaker, with the consent of the House, I will withdraw the resolution. [Applause.]

The SPEAKER pro tempore (Mr. LITTLEFIELD). The gentleman from Illinois withdraws his motion, and if there be no objection, the Speaker pro tempore will appoint the following conferees.

The Clerk read as follows:

Mr. HULL of Iowa, Mr. CAPRON of Rhode Island, and Mr. SULZER of New York.

The SPEAKER pro tempore. The Chair hears no objection, and it is so ordered.

NAVAL APPROPRIATION BILL.

On motion of Mr. Foss, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18750—the naval appropriation bill—Mr. CRUMPACKER in the chair.

Mr. WOOD of Missouri. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out, on page 3, beginning at line 21, the following: "*Provided*, That hereafter, in cases where orders for travel are given to officers of the Navy or the Marine Corps, the Secretary of the Navy, in his discretion, may direct that either mileage or else their actual and necessary expenses only shall be allowed," and insert in lieu thereof the following: "*Provided*, That hereafter, in cases where orders for travel are given to officers of the Navy or Marine Corps, no mileage shall be allowed, but that such officers shall be paid their actual and necessary expenses."

Mr. FOSS. Mr. Chairman, I make the point of order against that. We have passed that section already.

Mr. WOOD of Missouri. I ask unanimous consent——

Mr. FOSS. But I will reserve the point of order if the gentleman desires to say something.

Mr. WOOD of Missouri. I will state now if the gentleman makes the point of order against that amendment, then I shall make the point of order against the three lines.

Mr. Chairman, the paragraph which I have moved to strike out, on the bottom of page 3, certainly might give rise to favoritism. Why should one officer be allowed mileage and another officer his "actual and necessary traveling expenses only?" As everybody knows, the mileage that is allowed under the present law is very much greater than the actual and necessary traveling expenses.

Certainly there should be no favoritism as between officers of the Navy. If one officer is entitled to mileage when traveling under orders, then all officers ought to be allowed mileage. One of the first principles of the Army and Navy is that all the officers are accorded equal privileges. No officer because he may have some special political "pull" or be a favorite of the Department, or have some friend in power, should be allowed, for any of those reasons, to have favors over and above other officers who may not be so fortunately situated. The provision in the bill at the bottom of page 3 lets down the bars and gives an unlimited opportunity for special privilege to some of the officers.

As everybody knows, the Secretary of the Navy does not give his personal attention to such small matters as this. There will be hundreds of officers who will travel. Their accounts are not settled by the Secretary of the Navy himself, but rather by some clerk specially designated for that purpose. Now, that clerk, whoever he may be, by this provision is given a whip which he may hold over all of the officers of the Navy. The discretion which is given by this paragraph to the Secretary of the Navy will, as a matter of fact, be exercised entirely, completely, and in every instance by some clerk in the Department, and will not be exercised in any case by the Secretary of the Navy himself.

Now, suppose that a certain officer of the Navy must travel under orders. Of course he will want to be allowed Government mileage rather than his actual expenses; that will be natural because his mileage as allowed by law is much greater than his actual expenses. He must then go to this clerk and humbly bow and say, "Mr. Clerk, please allow me to have mileage instead of my actual expenses." And all the officers of the Navy will have to do the same.

It is easy to see that this clerk will be placed in a position where, if he sees fit, he may exercise a petty tyranny over these officers. He will be in the position of handing out to them favors, if he sees fit, and if he does not see fit, to withhold these favors. Every officer to whom he allows mileage instead of actual expenses will certainly be under obligations to him just as much as if he had presented him with so much money, and our experience with mankind leads us to believe that most of the clerks will want favors from the officers in return.

There is a "little joker" in those three or four lines that might be passed over unless examined with care.

Certainly that clause giving the discretion is unnecessary and improper. The discretion would only be exercised against some officer who did not stand in the good graces of the clerk holding this discretionary power. And besides, why should the discretion be exercised? Where would the line be drawn, and why should there be a rule for one that does not apply to all? Sauce for the goose should be sauce for the gander in this case. If an officer is traveling under orders, he should be allowed exactly what other officers get, and some of them should not be allowed more than others.

But, Mr. Chairman, my idea is that this mileage should be done away with entirely. Why should a mileage be allowed? Why not pay the actual expenses and stop there?

The officers of our Navy are well paid; better paid, Mr. Chairman, than the officers of any other navy in the world. They occupy an easy, enviable position with comparatively little to do.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. WOOD of Missouri. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that he may proceed for five minutes more. Is there objection?

There was no objection.

Mr. WOOD of Missouri. If their pay is not sufficient, then let us raise it.

Mr. Chairman, there is scarcely an officer in the Navy who is not glad of the opportunity of traveling at the Government's expense. His pay for his time goes on just the same, and when he is allowed to see the world, or to travel, at the Government's expense, he is certainly glad to do so, as anybody else would be; and he certainly ought to be satisfied at having his actual expenses paid. Now, since he would be glad of the opportunity of traveling and having his expenses paid by the Government, why should a bonus in addition thereto be given? Officers who are fortunate enough to be detailed to travel under orders and have their expenses paid should not, in addition thereto, be given an extra sum.

A great deal of abuse has grown out of this mileage business. We find officers riding on passes and not only getting their expenses, but mileage in addition. It runs into a large sum of money, which ought to be curtailed.

As an illustration of the abuse of this system, we find Gen. Leonard Wood, who recently went from the Philippine Islands for his health to the city of Boston to get special surgical advice and assistance, attempting to charge the Government of the United States mileage clear around the world, as he went from the Philippine Islands via one route and went back around the world on the other side. Thirty-six hundred dollars he charged, although I am informed that he rode a large part of the distance free on a Government ship, while all that time he was drawing a large salary from the Government, although he was not going on official business, as far as my information goes, but simply for medical treatment for himself. Now, what the necessity of his going to Boston for medical treatment was I do not know. I am informed that the hospitals and physicians of the city of Manila are among the best in the world. Of this sum of $3,600 charged, I am informed that $1,100 was allowed, and that sum, as we all know, is a much larger sum than "actual traveling expenses" from the Philippine Islands.

Mr. Chairman, this is only one instance. There is no end to

the graft that has been perpetrated on the Government by officers traveling under this mileage system. We have been told of many instances where officers in traveling between two points went long distances out of their route and charged the Government mileage for the same—very much as Gen. Leonard Wood did when he traveled around the world.

Mr. Chairman, we have heard a great deal at this session about economy. We have seen attempts made to curtail in this direction and in that, and now here is a splendid opportunity for economy. Here is a chance, Mr. Chairman, where we can not only exercise economy, but where we can put a stop to a large amount of graft that has been going on year after year.

I offer the amendment, Mr. Chairman. [Applause on the Democratic side.]

Mr. FOSS. Mr. Chairman, I insist upon my point of order; first, that the section has been passed, and, second, that it changes existing law.

The CHAIRMAN. Let the Chair understand the gentleman from Illinois. The amendment is a substitute for the proviso contained in the paragraph. The proviso itself appears to be new legislation. I will ask the gentleman from Illinois if that is true?

Mr. FOSS. It is.

Mr. WOOD of Missouri. Mr. Chairman——

The CHAIRMAN. That being the case, the only question in relation to this amendment would be, Is it germane? Because the rule is, where a bill contains new legislation and no objection is made to it, it may be amended by anything that is germane to the subject contained in the paragraph. The Chair is of the opinion that this amendment is in order, because it is germane to the proviso.

Mr. FOSS. What does the Chair say to my first point of order, that we had passed the section?

The CHAIRMAN. The section had not been passed. The committee rose on the previous day immediately after the paragraph was read, and a paragraph is not passed for purposes of amendment until the reading of the next one is entered upon. So the Chair overrules the point of order.

Mr. FOSS. Mr. Chairman, I have only a word to say, and that is, I trust that this amendment will be voted down. The provision which is inserted in this bill was a provision that was recommended by the Secretary of the Navy and received the unanimous support of the Committee on Naval Affairs, both on that side of the House and upon this. I would call for a vote.

Mr. RIXEY. Mr. Chairman, I would like to be heard just for a moment on this amendment. I move to strike out the last word.

Mr. Chairman, as I understand it, the old law provided for mileage to the officer, and the amendment provides, in the discretion of the Secretary, he may have his actual expenses. The reason for the amendment grew out of some cases in which the officer had not been paid his actual expenses. One of these officers was a constituent of mine. He was detailed for recruiting duty, and his service was in several cities in the West, very close to each other. The mileage practically amounted to nothing to this officer on this recruiting duty. He had to stay for a considerable length of time in the cities in the discharge of his duty, the result being that his hotel bills and other proper expenses were more than the sum of his mileage. There can be no question, therefore, to my mind, but that it is justice to the officer himself that the Secretary of the Navy shall have the discretion, where the mileage does not pay the actual expenses, to allow these actual expenses in place of mileage. The officer is there on special duty; the mileage does not pay his actual expenses; and this amendment simply authorizes the Secretary, in a proper case, to allow the actual expenses in place of the mileage. I believe under ordinary circumstances the mileage system is probably the best, as it saves a great deal of trouble at the Department, but I know, as stated, of one instance where the actual expenses exceeded the mileage by two or three hundred dollars in two or three months' services.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WOOD of Missouri. Division!

The committee divided; and there were—ayes 14, noes 45.

So the amendment was rejected.

Mr. WOOD of Missouri. Mr. Chairman, I make the point of order against the section beginning with line 21, that it is new legislation.

Mr. FOSS. The point of order comes too late.

The CHAIRMAN. It comes too late.

Mr. FITZGERALD. Mr. Chairman, some statements made during the debate on this bill impel me to discuss the relative cost of building naval vessels in navy-yards and in private establishments, as shown by the reports regarding the *Connecticut* and the *Louisiana*.

During the Fifty-sixth Congress I urged the initiation of the policy of utilizing the navy-yards for construction purposes. The agitation then began continued until in the act making appropriations for the naval service, approved July 1, 1902, the Secretary of the Navy was directed to build one of the battle ships authorized in that act in such navy-yard as he designated.

Two battle ships were authorized in that act, since named *Connecticut* and *Louisiana*. They were to carry the heaviest armor of their class upon a trial displacement of not more than 16,000 tons, and to have the highest practical speed and great radius of action, and to cost, exclusive of armor and armament, not exceeding $4,212,000 each. The navy-yard at Brooklyn, N. Y., was designated by the Secretary of the Navy as the place for the construction of the vessel to be built at a navy-yard.

In order that Congress might know definitely the cost of construction at navy-yards and by contract the act contained the following provision:

> The Secretary of the Navy is hereby instructed to keep an accurate account of the cost of inspection and construction of vessels provided for in this act, whether built in Government yards or by contract, and report thereon to Congress, at each session, the progress of the work and cost thereof, including the inspection of all material going into the construction of said vessels, and, upon the completion thereof, to report a full and detailed statement showing the relative cost of inspection and construction in Government yards and by contract.

The Navy Department selected September 30 of each year as the date upon which the accounts of the two vessels should be made up for transmission thereafter as speedily as possible to Congress.

HOW ACCOUNT OF COST MADE UP.

The scheme adopted for making up the cost accounts, as stated by the Secretary of the Navy in a communication addressed to the Speaker of the House, under date of December 29, 1902, and found in House Document No. 235, Fifty-seventh Congress, second session, was intended to include the pay and allowances of all officers of the Navy as well as all employees exclusively employed upon the inspection or construction of these vessels, and also a portion of the pay and allowances of all officers employed at the shipyards and navy-yards or on inspection duties, a portion of whose time is given to these vessels, among others, under construction.

In making up the cost of the *Connecticut*, the vessel being built in the navy-yard, part of the maintenance charges of the yard are charged to the cost of the *Connecticut*.

As the Secretary of the Navy said in the document just mentioned:

> In making up the final cost of the *Connecticut*, building in the navy-yard, New York, the Department intends to include a proper charge for the use of the existing facilities of Government property in the way of building slip, buildings, machinery, wharves, dry docks, etc., which are unquestionably a portion of the actual cost of production, and as similar charges undoubtedly enter, in some measure, into the cost of contract-built vessels.

As a matter of fact, these charges would be incurred regardless of whether the facilities of the yard were utilized for construction purposes.

LOUISIANA CONTRACT.

The contract for the construction of the *Louisiana* was made with the Newport News Shipbuilding and Dry Dock Company, at the stipulated price of $3,990,000. The contract is dated October 15, 1902, and the contract period of construction is forty-one months.

The building of these sister ships, one by contract, the other in a Government yard, has been regarded as a test of the merits of the two systems, and has been keenly followed by everybody interested in naval shipbuilding.

The Newport News company had considerable advantage at the outset. It had built battle ships prior to its contract for the *Louisiana*. It had a well-equipped plant and all the facilities required for such work, while the navy-yard selected had not constructed a vessel of any kind in about fifteen years and was not fully equipped for the test. This necessitated the installation of equipment, which took time, that was utilized by the Newport News company in actual work on the *Louisiana*.

ADVANTAGES CLAIMED FOR CONSTRUCTION AT NAVY-YARDS.

It may be well to recall at this time the advantages claimed at the time the building of a battle ship at a navy-yard was authorized by those who favored the policy.

It was urged that the Government would thus have a check upon the contractor and be able to prevent extortionate charges; that a trained force of mechanics would be assembled, competent to undertake any work the Government desired done; that the navy-yards would be equipped so as to enable work of any character to be done therein, so that in the time of emergency the Government would not be at the mercy of private concerns;

that a basis of comparison would be established whereby the Government could ascertain whether the work of the contractors was up to the desired standard, and that by the continued employment, assured by a certain amount of work always at hand, the skilled force of mechanics and the organization of the yard could be easily and economically maintained.

These reasons are repeated at this time since those who opposed the policy at the beginning are attempting to disparage the work on the *Connecticut* by emphatic declarations that the cost of the navy-yard work is greatly in excess of the work done by contract.

RESULT OF POLICY THUS FAR KNOWN.

What has resulted from the initiation of this policy? Has any excess of cost, if any, of the building in a navy-yard been offset by other advantages? Handicapped as it was at the outset, yet the navy-yard has set such a rapid pace that the result has been the fastest construction known in the history of naval shipbuilding in this country. I call attention to the following statement taken from the report of the Hon. Victor H. Metcalf, Secretary of the Department of Commerce and Labor, in response to a resolution of the Committee on Labor of the House of Representatives, April 13, 1904, from which it appears that in elapsed time the work of the Newport News Company on the *Louisiana*, with far greater displacement, surpasses that of all others, with the *Connecticut* only two days behind. To be more specific, the keel of the *Louisiana* was laid February 7, 1903, and the ship was launched August 27, 1904. Five hundred and sixty-eight days elapsed from the laying of the keel to the date of launching. The keel of the *Connecticut* was laid March 10, 1903, and the launching was September 29, 1904, a period of five hundred and seventy days intervening. The displacement of these two vessels is 16,000 tons each. When the *Louisiana* was launched 54.5 per cent of its hull work had been completed; the *Connecticut*, 53.59 per cent.

The significance of these figures rests in the fact that the elapsed time between the days on which the keels were laid and the vessels launched was shorter than the time between similar dates in the construction of fifteen other first-class battle ships, although all of the fifteen were vessels of lesser displacement. But one first-class battle ship has been launched in quicker time; that was the *Alabama*, a vessel of 11,565 tons displacement, as compared with the 16,000 tons of the *Connecticut* and *Louisiana*. The time elapsing between the laying of the keel of the *Alabama* and its launching was five hundred and thirty-three days—almost as long as the *Louisiana*—and yet the *Alabama* was not completed until twelve months and twenty-seven days beyond the time fixed in the contract.

Days of elapsed time from laying of keel to launching in building of first-class battle ships.

First-class battle ship.	Date of laying of keel.	Date of launching.	Elapsed time, days.	Displacement.
				Tons.
Oregon	Nov. 19, 1891	Oct. 26, 1893	706	10,242
Indiana	May 7, 1891	Feb. 28, 1893	662	10,288
Massachusetts	June 25, 1891	June 10, 1893	715	10,288
Iowa	Aug. 5, 1893	Mar. 28, 1896	965	11,340
Wisconsin	Feb. 9, 1897	Nov. 26, 1898	654	11,564
Kearsarge	June 30, 1896	Mar. 24, 1898	632	11,540
Kentucky	....do....	....do....	632	11,540
Alabama	Dec. 1, 1896	May 18, 1898	a533	11,565
Illinois	Feb. 10, 1897	Oct. 4, 1898	600	11,565
Missouri	Feb. 7, 1900	Dec. 28, 1901	688	12,240
Maine	Feb. 15, 1899	July 27, 1901	891	12,300
Ohio	Apr. 22, 1899	May 18, 1901	755	12,508
Rhode Island	May 1, 1902	May 17, 1904	746	14,932
New Jersey	Apr. 2, 1902	Nov. 10, 1904	951	14,948
Georgia	Aug. 31, 1901	Oct. 11, 1904	1,135	14,948
Virginia	May 21, 1902	Apr. 5, 1904	684	14,948
Louisiana	Feb. 7, 1903	Aug. 27, 1904	568	16,000
Connecticut	Mar. 10, 1903	Sept. 29, 1904	570	16,000

a The Alabama was launched in 533 days, but her tonnage was 11,565 as against the 16,000 tons of the Louisiana and Connecticut.

NAVY-YARD DEMONSTRATES THAT SHIPS CAN BE BUILT WITHIN CONTRACT TIME.

Thus the first notable result of navy-yard construction is the demonstration that naval vessels can be constructed within the time fixed in the contracts if the Government work be not subordinated to other work. My colleague [Mr. CALDER] has submitted a list of sixty-eight naval vessels constructed by contract which were delayed beyond the contract time from one to thirty-nine months. He also submitted a list of twelve battle ships now under construction in private yards, eight of which will not be completed within the time fixed by the contracts, and four of which, it is estimated, will be completed within the contract period. If the past be a fair criterion, however, of what the future will bring forth, it is a safe hazard that none of these vessels will be finished within the time fixed in the contracts.

CONNECTICUT NOT FINISHED WITHIN TIME LIMIT BECAUSE OF DELAYED DELIVERIES OF ARMOR.

The vessels to which I have referred by no means exhausted the list of those delayed beyond the time fixed for their completion. Indeed, with the exception of a few small boats, no vessel for the Navy has ever been completed within the time allotted.

It is true that it is estimated that the *Connecticut* will be delayed about four months beyond the time fixed for completion, but that can not be charged to the navy-yard, the employees, or the officers in charge of the work. It is due entirely to the failure of the armor-plate manufacturers to supply the armor required as speedily as it should have been furnished. This assertion is sustained by the responses made by the Navy Department to two resolutions of inquiry introduced by me, one on January 31, 1905, in the third session of the Fifty-eighth Congress, and one on January 15, 1906, the present session of the Fifty-ninth Congress.

The Chief Constructor of the Navy, in his report for the last fiscal year (see p. 538, Annual Reports of the Navy Department for 1905), says:

Work on the U. S. S. *Connecticut* is progressing very satisfactorily, and but for delays in the delivery of armor *it is more than probable that this vessel would have been completed within the contract time, in which case it would have been the first battle ship to have been completed within the contract time of completion since the reconstruction of the Navy began, in 1883.*

To place where it may be available to all interested in this question, I shall read from the letter of the Chief Constructor, dated February 8, 1906, transmitted to the House by the Secretary of the Navy in response to the latest resolution of inquiry which I introduced on this subject. The complete response is found in House Document No. 510, first session Fifty-ninth Congress, of which the following are extracts:

* * * The first actual delivery of armor for the *Connecticut* was January 9, 1904, and for the *Louisiana*, October 16, 1903. On May 27, 1904, this Bureau was informed by the naval constructor at the navy-yard, New York, that the Carnegie Steel Company had informed him by letter that they were unable to state, even within a reasonable time, as to when the armor for the *Connecticut* might be expected, and the naval constructor stated that the condition of the work on the *Connecticut* was such as to render it liable to be delayed unless the armor was delivered at or near the dates mentioned.

* * * * * * *

This information was furnished the Bureau of Ordnance.

Referring to item (*a*), it is noted that the 8-inch barbettes and tubes were delivered for the *Connecticut* between November 23, 1904, and February 8, 1905, and for the *Louisiana* between November 11, 1903, and September 10, 1904. The 12-inch barbette lower plates were delivered for the *Connecticut* in August, 1904, and October, 1904, and for the *Louisiana* during October, 1903.

Referring to item (*b*), conning-tower tubes for the *Connecticut* were delivered in July, 1904, and for the *Louisiana* during the same month. The 12-inch barbette upper plates were delivered for the *Connecticut* December, 1904, and January, 1905, and for the *Louisiana* during October, 1903.

Referring to item (*c*), the side-belt armor for the *Connecticut* was delivered between February, 1905, and September, 1905, and for the *Louisiana* between March, 1904, and September, 1904.

Referring to item (*d*), the lower casemate armor for the *Connecticut* was delivered during March, 1905, and for the *Louisiana* during May, 1904.

Referring to item (*e*), upper-casemate armor, 8-inch barbettes, and 12-inch and 8-inch turret armor for the *Connecticut* was delivered between February, 1905, and the present date, a considerable part of the turret armor not yet being received, and for the *Louisiana* between November, 1903, and the present date, practically all of which has been received.

In September, 1904, the naval constructor invited particular attention to the absolute necessity for early delivery of the armor and stated that a recent inspection of the *Louisiana* indicated that all her 8-inch and 12-inch lower barbettes, conning tower, and a considerable amount of belt armor had been received, and by way of comparison stated that none of the above had been received for the *Connecticut*. A table was inclosed with this letter indicating the comparative condition of armor installation and receipt. This letter was referred to the Bureau of Ordnance September 14, 1904.

On October 7 the naval constructor invited attention to the fact that the *Connecticut* was launched with considerably less armor than the *Louisiana*, owing to its not being in the yard, and urged the necessity of the early delivery of the *Connecticut's* armor. This letter was referred to the Bureau of Ordnance with request that it expedite the delivery of the armor, so that the delivery should be equal in character and quantity for the *Connecticut* and *Louisiana*.

* * * * * * *

The naval constructor on August 29, 1905, commented on the work in the turrets and stated that unless the turret armor was delivered before the middle of next winter—i. e., about January, 1906—the final completion of the vessel would be delayed. This letter was referred to the Bureau of Ordnance, and it stated that the Bethlehem Steel Company had been instructed to give no preference in the matter of delivery of the turrets of the *Louisiana* and *Connecticut*. However, the *Louisiana's* turrets were delivered between November, 1905, and the present data, and the *Connecticut's* are practically undelivered at the present time.

The naval constructor, on December 26, 1905, called attention to the nondelivery of the turret armor, which letter was referred to the Bureau of Ordnance and returned, stating that the *Connecticut's* turret armor would be delivered before the end of February, 1906.

The monthly progress reports of the *Connecticut* for September, 1904, stated the nondelivery of armor as a cause for delay in the completion of the vessel. This was referred to the Bureau of Ordnance, and that Bureau stated that it had exhausted all practicable means to hasten the delivery of the armor for this vessel without very seriously interfering with the delivery of armor urgently needed for other vessels.

It may be noted in this connection that all armor plans were completed for *Louisiana* and sent to the Bureau of Ordnance in June, 1903, and *Connecticut* in July of the same year.

No one can read these extracts without realizing the tremendous handicap the navy-yard has been under in the contest with the contractor, and it is emphasized from this additional extract from the same report:

1. The ship contractors, on August 25, 1905, stated that the turret work was being delayed by the nonreceipt of armor for this vessel. This letter was referred to the Bureau of Ordnance, and the armor has since been delivered, between October 20 and the present date.

2. In the progress report for this vessel up to November, 1905, no delay was attributed to the nondelivery of armor. The ship contractors, however, in their letter referred to above, made claim for delay, owing to nondelivery of turret armor. There is no other record of delay claimed by the contractor for the *Louisiana* or attributed by the superintending constructor to nondelivery of armor.

Neither the *Connecticut* nor the *Louisiana* is yet completed, but it is expected that they will be shortly.

VIRGINIA, JUST COMPLETED BY NEWPORT NEWS COMPANY, TWO YEARS OVERDUE.

At this point let me call attention to the fact, so well stated the other day by the gentleman from California [Mr. KNOWLAND], that the *Virginia*, a first-class battle ship built by the same company that is building the *Louisiana*, only turned over to the Government within the past few weeks, was more than two years behind the time fixed for completion. For more than two years the Government has had invested in the neighborhood of $3,000,000 unable to derive benefit therefrom. At the rate paid by the Government for money—2 per cent—this means, in effect, that the *Virginia* has practically cost the Government $120,000 in interest which will never be counted in its cost.

Of course penalties are fixed in the contract for such delays. If I recall correctly, $300 a day for the first six months that the vessel is delayed beyond the contract time and $600 a day thereafter. But such penalty clauses do not promise much, since they have never been enforced.

INCREASE IN LIMIT OF COST FOR CONNECTICUT.

The Naval Committee recommends that the limit of cost of the *Connecticut* be increased from $4,212,000 to $4,600,000. This recommendation is based upon the request of the Chief Constructor. The chairman of the committee [Mr. Foss] admitted in reply to an inquiry made by me that the committee had not obtained a detailed statement as to the necessity for this increase. As I have been unable to obtain a copy of the testimony of the Chief Constructor I am unable to state upon what his request is based.

I am informed, however, that it is not claimed that the entire $4,600,000 will be required to complete the *Connecticut*, but that such a sum will be ample beyond all question. So that the hull and machinery of the *Connecticut* will be completed within the sum of $4,600,000, which includes, as I have already pointed out, charges for the use of the facilities of the navy-yard, including the building slip, buildings, machinery, wharves, dry docks, etc. In other words, part of the maintenance charges of the navy-yard are charged to the cost of the *Connecticut*.

COST OF LOUISIANA STILL UNCERTAIN.

But what of the cost of the *Louisiana*? Until it is completed the cost can not be definitely ascertained. The contract price is $3,990,000. Under date of February 19, 1906, in response to a resolution of inquiry which I introduced in this House, the Secretary of the Navy reported that certain modifications and alterations in the plans of the *Louisiana* cost $132,986, while similar work on the *Connecticut* cost $112,009; and this difference is further emphasized from the fact that certain additional work required on the *Connecticut* and not on the *Louisiana* added $4,791 to the cost of the *Connecticut* and saved $6,800 on the *Louisiana*.

Taking the contract price of the *Louisiana*, $3,990,000, and the cost of alterations made up to February 9, 1906, the date to which they were estimated, to wit, $132,986, the cost of the *Louisiana* is brought up to $4,122,986.

NEWPORT NEWS COMPANY RELEASED FROM CERTAIN WORK.

More than that, I desire to call specific attention to the fact that in response to a resolution introduced by me on January 15, 1906, it appears that the Navy Department has released the Newport News Shipbuilding Company, under certain contingencies, from the obligation of doing certain work required by the contract. So that there may be no questions raised as to the accuracy of this statement, I shall read from the report of the Chief Constructor, dated February 8, 1906, transmitted by the Secretary of the Navy to the House on February 12, 1906, and found in House Document No. 510, first session Fifty-ninth Congress:

On November 21, 1905, the contractors called attention to the nondelivery of the 12-inch guns. The Bureau of Ordnance stated in reply that the gun factory had been directed to expedite the delivery. On January 5, 1906, the contractors called attention to the nondelivery of turret-elevating motors for 12-inch and 8-inch turrets. Upon reference to the Department via the Bureau of Ordnance the Department approved the recommendation of this Bureau that the contractors be not required to install the above if not delivered at the contractors' works prior to the expiration of the contract period, provided the vessel is otherwise completed under the terms of the contract.

In their letter of December 28, 1905, the contractors submitted formal claim for extension of the contract time, due to nondelivery of 12-inch guns, the Bureau of Ordnance having stated that the last pair of these guns would not be ready for proof before February or March, 1906. This Bureau therefore recommended to the Department that the contractors be not required to install these guns provided the ship was otherwise completed on the expiration of the contract time, which recommendation was approved.

* * * * * * *

It also appears from the foregoing that the Government has taken suitable steps to prevent such delays on the *Louisiana* operating to the detriment of the contractors, the Government in this instance releasing the contractor from such work of installation of armament and accessories as would otherwise delay the delivery of the vessel after completion of all other work required by the terms of the contract.

Until this ship is delivered to the Government, and it is definitely ascertained whether the Government must do work originally required of the contractor, and from which it may be released, and what it will cost to do this work, the final cost of the *Louisiana* can not be accurately stated, and no comparison with the cost of the *Connecticut*, yet undetermined, can be made.

But there is even more to be taken into account when the statement of the final cost of the *Louisiana* is prepared. The figures thus far given, to wit, $4,122,986, include only the contract price and the cost of alteration up to February 9, 1906. There are many other elements of cost, however, which must be included in the account. As stated by the Secretary of the Navy in his communication to the Speaker of the House, under date of December 29, 1902 (H. Doc. No. 235, 57th Cong., 2d sess.):

The scheme adopted for making up these cost accounts is intended to include the pay and allowances of all officers of the Navy as well as all employees exclusively employed upon the inspection or construction of these vessels, and also a portion of the pay and allowances of all officers employed at the shipyards and navy-yards or on inspection duties a portion of whose time is given to these vessels among others under construction.

So that these additional expenses must be added to the contract price—the cost of alterations, the cost, if any, of doing work from which the contractor has been released, and some other expenses, not inconsiderable charges, to which I shall now refer.

The latest statement of expenditures submitted to Congress by the Secretary of the Navy, under the provisions of the act of July 2, 1902, is dated February 7, 1906, and is contained in House Document No. 478, Fifty-ninth Congress, first session.

I have examined that statement with the utmost care, and I challenge any Member of this House to point out the expenditures therein stated to have been made on the *Louisiana*, which were made under the provisions of the contract, and those which are made in addition to the terms of the contract. One item of $18,979.35, under the title "Cost of inspection at works of contractors," is clearly in addition to the contract price, and it is the only item that can be so segregated. Where are the other charges buried?

In Senate Document No. 175, first session Fifty-seventh Congress, entitled "Letter from the Secretary of the Navy, showing the amounts authorized for new vessels under 'Increase of the Navy' in each act of Congress since and including the act of March 3, 1883, in response to Senate resolution of February 21, 1901," there is information that suggests the question that I ask.

I find in that document, and as the letter is dated February 7, 1902, it has no data upon the two ships now the subject of discussion, that the plans, etc., for the first-class battle ship *Alabama*, of 11,565 tons displacement, cost $113,739.43. These figures and those that follow include the expense to both the Bureau of Construction and Repair and to the Bureau of Steam Engineering. The first-class battle ship *Illinois*, 11,565 tons, $77,611.06; the *Indiana*, 10,288 tons, $74,899.64; the *Iowa*, 11,340 tons, $75,168.87; the *Kearsarge*, 11,540 tons, $108,597.90; the *Kentucky*, 11,540 tons, $106,962.77; the *Missouri*, 12,240 tons, $26,984.50.

Some of the vessels appear to have had comparatively small amounts spent for such purposes, but whether that is due to the fact that the plans of previously authorized vessels had been used, or that such vessels had not reached such a stage of completion, being practically just begun, I am unable to say. The fact is, however, that large expenditures are made for such

purposes, and the probability is that a large sum in addition to the contract price of the *Louisiana* must be expended.

The contract price is	$3,990,000.00
Alterations to February 9, 1906	132,986.00
Inspection at works of contractors	18,979.35
Total expenditures possible to estimate definitely from data at hand	4,141,965.35
Limit of cost	4,212,000.00
Available for all other purposes	70,034.65

This merely demonstrates that until the vessels are completed and the accounts accurately and definitely cast, that it does not lie with anyone to assert that the cost of the *Connecticut* will be any appreciable amount greater than that of the *Louisiana*.

EIGHT-HOUR DAY IN NAVY-YARDS ADVANTAGEOUS TO GOVERNMENT.

That was the chief purpose I had in speaking upon this bill. One other phase of the question I desire to refer to briefly before I conclude.

It is continuously asserted that the cost of building in Government yards is increased because an eight-hour day prevails there against a nine-hour day in private yards. The chairman of the Naval Committee asserted that the committee's recommendation for increasing the limit of cost of the *Connecticut* and the two colliers authorized by the act of April 27, 1904, was due practically entirely to the increased cost of building in navy-yards.

The gentleman from California [Mr. KNOWLAND] has conclusively shown that the increased cost of the colliers is due to the elaborate changes and alteration made in the plans since the original estimate was made. The result is that vessels never in contemplation when the estimate was made have been planned. The Chief Constructor in his report for the fiscal year 1905, speaking of the recommendation, does not base it upon the increased cost of construction in navy-yards. He says:

Since the construction of the *Prometheus* and *Vestal* at navy-yards is mandatory, and since the original estimates for these vessels contemplated building by contract, at the comparatively low rates then prevailing, and since their construction at navy-yards under present conditions can not be completed without exceeding the limit of cost, it is recommended that Congress be requested to extend the limit of cost of each of these vessels to $1,550,000.

The Chief Constructor, however, is one of those who continually assert that the cost of construction in navy-yards is greater because of the eight-hour day that prevails there.

He says in his report for 1905:

In this connection the Bureau desires to invite attention to the following extract from its last annual report in reference to the desirability and cost of building vessels in Government yards:

"Although every possible precaution is being taken to reduce the cost of the *Connecticut* to the most economical basis, it can hardly be hoped that the work will be done as cheaply as when performed in private shipbuilding yards, whose rates of pay for nine hours' work are in many cases less than those being paid for eight hours' work at the navy-yard, New York. It may also be noted that private shipyards do not pay their "per diem" employees for holidays or when on leave, whereas a very large proportion of the "per diem" employees on the *Connecticut* receive pay for fifteen days' leave and seven public holidays during the calendar year without any work being done in return therefor.

"One of the principal objects to be attained in the building of vessels in Government yards is the maintenance of the organization of the yard and the provision of suitable work for experienced mechanics during the absence of the fleet. * * *"

Mr. Chairman, it has been conclusively demonstrated that the Government suffers no inconvenience nor disadvantage from its eight-hour day. In fact, the mechanics employed on the *Connecticut* have done one-tenth more work in eight hours than the mechanics employed on the *Louisiana* have done in nine hours. This is no idle boast. It is not the invention of my imagination. It is the deliberate conclusion of the Department of Commerce and Labor, after an investigation directed by a committee of this House. After a thorough investigation it reported "that the average production per man per hour on the *Connecticut* exceeded by 24.48 per cent the average production per man per hour on the *Louisiana*, which explains why the progress on the *Connecticut*, as shown in the reports of percentage of work completed to the Bureau of Construction and Repair, has kept pace with the percentage reports of the work completed on the *Louisiana*."

This means that practically a man on the *Connecticut* has done as much in eight hours as would take the mechanic on the *Louisiana* to do in ten hours, so that, I repeat, the navy-yard employees have done in eight hours one-tenth more work than the mechanics on the *Louisiana* in nine hours.

COMPARISON OF COST OF BUILDING HERE AND IN ENGLAND.

It has been frequently asserted that vessels of all kinds are built much more cheaply in England than in this country. For that reason I desire to insert here, as of special interest, a table giving certain comparative data in regard to the U. S. battle ship *Connecticut* and His Majesty's battle ship *King Edward VII*, the figures for the latter being taken from the 1905 copy of Brassey's Naval Annual.

From this table it will be seen that in size, armor, armament, speed, type of machinery and boilers, and other features that go to make up offensive and defensive qualities, and which affect the cost of the two vessels in a like manner, the *Connecticut* and the *King Edward VII* compare very closely. The cost of the latter, as given in an article by Sir William White, late chief constructor of the British admiralty (as outlined in the February 23d number of London Engineering), is as follows (exclusive of armor and guns): Hull, £400,000; gun mountings, mechanism, etc., £200,000; machinery, £200,000; incidental dock-yard charges, £90,000; total of above, £890,000 (about $4,331,000). The limit cost as set by Congress for the *Connecticut* (exclusive of armor and armament) is $4,212,000; it will thus be seen that this limit of cost does not equal the cost of the *King Edward VII* by $119,000.

Item.	Connecticut.	King Edward VII.
Displacement	16,000 tons	16,350 tons.
Length	456 feet 4 inches	425 feet.
Beam	76 feet 10 inches	78 feet.
Draft	24 feet 6 inches	26 feet 9 inches.
Speed	18 knots	19.04 knots.
Coal carried	2,200 tons	950 tons.
Indicated horsepower	16,500	18,138.
Boilers	B. & W.	B. & W.
Engines	Reciprocating	Reciprocating.
Armor, thickness in inches:		
Belt	11 to 9	9.
Side above belt	7 to 6	8 to 7.
Gun positions	12 to 6	12 to 6.
Protective deck	3 to 1½	2 to 1.
Submerged torpedo tubes	4	4.
Battery—number of guns, with caliber in inches.	4 12-inch, 8 8-inch, 12 7-inch, 36 smaller.	4 12-inch, 4 9.2-inch, 10 6-inch, 28 smaller.
Complement in officers and men	899	776.

RESULTS JUSTIFY CONTINUANCE OF NAVY-YARD CONSTRUCTION.

The results thus far attained in the contest between the navy-yard and the private yard demonstrate the wisdom of limited construction at navy-yards.

The navy-yard has been severely handicapped in the test. I might recall that extraordinary action taken by the Department at a critical time. With so much depending upon the issue, it was the duty of those in charge of the Government interests to be especially careful in what was done. And yet, when the *Connecticut* was about half completed, the constructor in immediate charge of the work was transferred and another put in his place. I do not say a less able man, but certainly one lacking in that particular and minute knowledge of the work under way possessed by the officer transferred.

Despite the keen rivalry between the navy-yard and the private yard, the constructor in charge at the Brooklyn yard, against the protests of his subordinates, never hesitated to shift mechanics from the *Connecticut* to the ordinary repair work of the yard. And yet, although, as I am reliably informed, the Newport News Company worked its men overtime and exerted every energy on the *Louisiana*, and although the delays of armor deliveries were a severe handicap, the vessels are practically at the same stage of completion.

In my opinion, Mr. Chairman, this policy of navy-yard construction should be continued. A short time ago I urged the Secretary of the Navy to direct the officials of the navy-yards to submit bids upon new vessels in competition with private builders, but without results so far. This plan was tried some years ago in California on certain repair work, and the navy-yard not only underbid the contractors, but did the work for less than the estimate.

To have direct competition between the navy-yards and private yards would be of undoubted benefit to the Government. Even the opponents of navy-yard construction could not fairly object to this plan. It would result in better prices for the Government, better ships for the Navy, and, in my judgment, a fuller use of the facilities of the Government yards.

The navy-yard, in the pending contest, has justified every claim made on behalf of the policy of limited construction in navy-yards, and the welfare of the country demands that the policy be not abandoned as its fruits are about to be gathered. [Applause.]

The Clerk read as follows:

Contingent, Navy: For all emergencies and extraordinary expenses, exclusive of personal services in the Navy Department, or any of its subordinate bureaus or offices at Washington, D. C., arising at home or abroad, but impossible to be anticipated or classified, to be expended on the approval and authority of the Secretary of the Navy, and for

such purposes as he may deem proper, $65,000: *Provided,* That the accounting officers of the Treasury are hereby authorized and directed to allow, in the settlement of accounts of disbursing officers involved, payments made under the appropriation "Contingent, Navy," to civilian employees appointed by the Navy Department for duty in and serving at naval stations maintained in the island possessions during the fiscal year 1907: *And provided further,* That a sum not to exceed $5,000 may be expended by the Secretary of the Navy for legal advice out of this appropriation.

Mr. TAWNEY. I reserve the point of order against the proviso, for the purpose of asking the chairman of the committee a question in regard to that proviso. The Navy Department has a Judge-Advocate-General, and in addition to that a solicitor, and I am unable to understand why it is necessary to appropriate $5,000 to be expended for legal advice, or legal advice in addition to that which the Secretary of the Navy may now obtain from the Judge-Advocate-General and from the Solicitor of the Navy Department.

Mr. FOSS. I will state to the gentleman that the Secretary of the Navy especially requested that of this contingent fund of the Navy $5,000 might be expended for legal advice. It is true that the Navy Department has a corps, presided over by the Judge-Advocate-General of the Navy, but he is not a civil lawyer. He is an officer of the Navy, and he supervises military justice.

Mr. TAWNEY. In addition to the Judge-Advocate-General, if I may interrupt the gentleman, they have a solicitor, or legal officer of the Navy Department, independent of the Attorney-General's Office, which by law is an office to which the Secretary of the Navy may apply, and to which he has very frequently in the past applied, for legal advice and counsel in respect to any legal question which may arise in the administration of his Department. I speak of this, because this proposition looks to me as if it is simply for the purpose of creating a place for some other officer under the guise of legal advice.

Mr. FOSS. I will say to the gentleman from Minnesota that certain Departments of the Government have assistant attorney-generals, specially delegated to them—for instance, the Post-Office Department and the Interior Department, but in the case of the Navy Department there is no such officer who is especially charged to and who is especially delegated and assigned to the Navy Department.

Mr. TAWNEY. Will the gentleman permit me? The Judge-Advocate-General of the Navy is assigned to the Navy Department, and is supposed to be peculiarly fitted for giving any advice that the Secretary of the Navy may require in the administration of the Department, and in addition to that——

Mr. FOSS. The gentleman, I feel sure, is mistaken about that. The Judge-Advocate-General of the Navy is an officer of the Navy.

Mr. TAWNEY. I understand.

Mr. FOSS. He is no lawyer whatever, but simply looks after military justice.

Mr. TAWNEY. I am afraid that the gentleman is not stating quite the fact about that.

Mr. FOSS. That is absolutely true. That is what the Secretary says in his hearing. He says:

> While the very necessity of the case has caused that work to be thrown on the office of the Judge-Advocate-General, it was not originally organized with any such idea, but was organized to supervise military justice.

And then he says "he could have just asked the opinion of the Attorney-General, but it is a very cumbersome process," and there is no special officer from the Department of Justice delegated to the Navy to perform this work.

Now, as to creating a new office, the Secretary says:

> I do not want a permanent official, because the chances are that if you appointed one there you would not be able to pay him a salary which would secure a first-class lawyer, and he would have practically little or nothing to do for nineteen-twentieths of the time. But now and then in half a dozen different cases, perhaps, since I have been in the office, it would have been a decided convenience to me if I could have telephoned to one or two or three, or perhaps half a dozen I know here, and asked them to come up there, saying that I would like to get their opinion on this question.

There are many contracts in connection with the work of the Navy Department, drawn up in that Department, involving large sums of money, upon which the Secretary of the Navy frequently desires legal advice.

Mr. TAWNEY. Will the gentleman from Illinois permit a question?

Mr. FOSS. Oh, certainly.

Mr. TAWNEY. Is it not a fact that in addition to the Judge-Advocate-General the Navy Department has in its employ lawyers for the purpose of passing on all contracts?

Mr. FOSS. Not outside of the Judge-Advocate-General's corps.

Mr. TAWNEY. They have lawyers that pass upon the legality and form of all contracts.

Mr. FITZGERALD. They are called law clerks.

Mr. TAWNEY. They have their law clerks for that purpose.

Mr. FOSS. But the head of the Judge-Advocate's Department is a naval officer. Mr. Hanna is a civil lawyer, an able one, who went into the Department a number of years ago and who is a part of the force. He receives a salary, I think, of about $2,500 a year.

Mr. TAWNEY. If the gentleman will permit me, I wish to say that if the Secretary of the Navy needs an additional solicitor or an assistant attorney-general, and can satisfy the Committee on Naval Affairs that that office is necessary, I would not object; but I do not think we are justified in providing for a place under the guise of appropriating for legal advice to the extent of $5,000 a year. That being the case, Mr. Chairman, I insist upon the point of order, on the ground that it is new legislation, not authorized by law.

Mr. SPARKMAN. I should like to ask the gentleman if this is the first appearance of a provision like this in the bill?

Mr. FOSS. Yes; this is the first appearance of a provision like this. It is in the contingent fund of the Navy, amounting to $65,000, which can be expended within the discretion of the Secretary of the Navy.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. FOSS. Mr. Chairman, I desire to say nothing upon the point of order. I think it is a question of doubt, though, as to whether it is subject to the point of order, whether it is not a limitation on the appropriation. It is under the contingent fund of the Navy, which is expended on the approval and authority of the Secretary of the Navy.

The CHAIRMAN. If it may be expended out of the contingent fund, of course the proviso is unnecessary. The Chair is of the opinion that it is new legislation, and therefore the Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

> Recruiting: Expenses of recruiting for the naval service; rent of rendezvous and expenses of maintaining the same; advertising for and obtaining men and apprentice seamen; actual and necessary expenses in lieu of mileage to officers on duty with traveling recruiting parties, $121,340.

Mr. KELIHER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

> On page 5, in line 16, after the word "dollars," add: "*Provided,* That no part of this appropriation shall be expended in recruiting seamen, ordinary seamen or apprenticed seamen, unless a certificate of birth, or other satisfactory evidence showing the applicant to be of the age required by naval regulations, shall be presented with the application for enlistment."

Mr. FOSS. I reserve the point of order.

Mr. KELIHER. Mr. Chairman, this amendment is offered in the hope of remedying an evil in the naval service that is a source of sorrow to a vast number of families of the country and the cause of no end of troubles to Members, particularly those who represent seaport districts. It aims to correct the abuse of enlistment by minors, who, unable to obtain the consent of their parents, resort to perjury to obtain admission into the naval service.

I do not attach blame to the recruiting officers, though I'm constrained to declare that they do not always exercise due discretion. It is a fact which can not be disputed that the number of these vexatious cases is far too large, and have been increasing at a rate which demands the immediate attention of Congress. In a moment of pique, following a quarrel at home, or discouraged over the failure to obtain employment, these lads, mere striplings, turn toward the recruiting offices.

Being under age and with parents who would never agree to their entering the service, these unthinking, foolish youths declare themselves 21, make oath to the misstatement, and are accepted. What happens? When they come to their better senses, when the heat of anger has cooled and the depression of disappointment worn off, and they realize their predicament, they write in piteous terms for release to their parents. The broken-hearted mother appeals to the Congressman of her district, confident that he has but to say the word and her erring offspring will be restored to liberty and his parents.

Of course, Mr. Chairman, the Congressman is powerless in the matter, but has to submit to the appeals and prayers of the distracted parents. I have in mind a case where I plainly told the mother of a young scamp, who had fraudulently enlisted, that nothing could be done. I advised her to leave him in the Navy, pointing out that if the authorities discovered that her boy had committed perjury they would order a court-martial, which would result in his being sentenced to a naval prison for a long term. She persisted, claiming that her boy would get but one year in a prison, where she could visit him frequently, while his service in the Navy would call for three years.

No thought of the disgrace that his sentence would bring to

her son, no consideration of the lasting stigma upon his character this imprisonment would brand—only the desire to get him out. Mr. Chairman, I aim by this amendment to put barriers in the way of these juvenile evildoers. The Navy Department does not want them. The law governing enlistments fixes the minimum age of enlistment at 15, but is elastic so far as the authority of the Secretary of the Navy is concerned.

The Secretary has the power to fix the age so long as 15 years is the minimum and 35 the maximum. In a general order promulgated on November 29, 1904, the minimum was increased from 15 to 17 years, showing conclusively that the naval authorities did not want these young lads. They are scarcely enlisted before they begin to pine for home and mother. They are no good to the service. There is growing up in the country a powerful sentiment of hostility to the Army and Navy, and this sentiment is drawing heavily from the resentment of mothers and fathers of the land whose minor children have fallen into the meshes of the recruiting officer. Attention should be given and legislation enacted, Mr. Chairman, which will minimize, if not arrest, this abuse. It would seem as if no great amount of thought or ingenuity would be required to draft an amendment that will accomplish a reform along this line. I believe in the efficacy of my amendment. It will be argued that the element of impracticability too strongly enters; that it is not possible in all cases for an applicant to produce a certificate of birth, having possibly been born in a western city and wishing to enlist in an eastern station.

Mr. Chairman, if this be so, let him produce letters from those for whom he was employed, or a statement from neighbors. He must, indeed, be a queer member of society who can not furnish a line of evidence of some character to show that he has reached his majority. Not in a spirit of jocosity, I would say, by way of illustration, that an applicant for enlistment whose face bore a set of full-grown whiskers, which clearly indicated the owner to be a full-grown man, would be sufficient evidence. It is to halt the enlistment of the mere youth that this restriction seeks. The amendment is so drawn, Mr. Chairman, as to allow plenty of latitude for the recruiting officer. It will permit of broad construction, and all an officer need do is to exercise ordinary common sense and some degree of discretion and desirable results will follow. It will not involve additional expense upon the Government or work any hardship to the recruiting officer, but will save many a careless boy from starting his life wrong and prevent many a mother suffering heartache as the result of a son's waywardness. [Applause.]

Mr. BUTLER of Pennsylvania. Mr. Chairman, I was not inattentive when the gentleman's amendment was offered, but I ask unanimous consent that it may be read again.

The CHAIRMAN. If there be no objection, the Clerk will read.

The Clerk again reported the amendment.

Mr. COOPER of Wisconsin. Mr. Chairman, if I may be permitted to make a suggestion to the gentleman from Massachusetts, I want to say that as I understood from hearing his amendment read, it would, under the ordinary rule of statutory construction, require in every case written evidence of some character. The amendment provides that he must bring a certificate of birth "or other evidence." The ordinary rule is that "other" means evidence of the same character.

Mr. KELIHER. If the gentleman will read the amendment carefully, he will see that it says "other satisfactory evidence." That allows all kinds of evidence.

Mr. TAWNEY. If the gentleman from Massachusetts will permit me an interruption?

Mr. KELIHER. Certainly.

Mr. TAWNEY. The recruit must now furnish evidence of his age, must he not, and that evidence must be under oath?

Mr. PALMER. And must be satisfactory.

Mr. TAWNEY. And it must be satisfactory to the recruiting officer.

Mr. KELIHER. Yes.

Mr. TAWNEY. Therefore the gentleman's amendment would not accomplish the purpose he intends, provided the boy did not bring a certificate of birth; then he would bring the same evidence he is now required to bring.

Mr. KELIHER. I think where the gentleman from Minnesota [Mr. TAWNEY] errs is that when they enlist they bring no evidence whatsoever. They simply say they are over 21 years of age.

Mr. TAWNEY. They are made to take the oath.

Mr. KELIHER. Oh, they make them swear to it. I admit there is perjury, and I want to put barriers in the way of these youthful transgressors.

Mr. TAWNEY. I think what the gentleman intends to do is commendable. The only fear I have is that he will leave the door so wide open in the language that follows the words "certificate of birth" that the young men can get in under his proposed amendment just the same as they are doing now.

Mr. KELIHER. I desire to state to the gentleman that under the existing law these boys take oath. We do not change what already exists. The law is just as tight and just as loose under this amendment as it is to-day, but in addition to that a recruiting officer who recruits a boy 15 years of age when his attention is called to it is asked upon what evidence he recruited the boy, and he must produce a certificate of the boy's birth or some evidence that is of a satisfactory character. Now, will the gentleman contend that a simple statement signed by the boy——

Mr. TAWNEY. And sworn to.

Mr. KELIHER. The boy perjures himself. We admit that.

Mr. TAWNEY. Would not that be satisfactory?

Mr. KELIHER. No.

Mr. TAWNEY. I agree with the gentleman. I have had two cases of this kind in my own home city where I thought the recruiting officer was probably imposed upon by two boys who had fallen out with their parents and who submitted evidence, under oath, as to their age and were admitted into the Navy without knowledge on the part of their mothers, and it caused a great deal of distress on the part of their mothers, and a great deal of trouble on the part of their Representatives; but I fail to see how the gentleman is going to remedy the evil in the use of the language that he employs following the words "certificate of birth."

Mr. KELIHER. I would ask the gentleman if, in his opinion, the amendment would be strengthened if I were to insert the words "other than his own statement?"

Mr. TAWNEY. I think that would add very materially to the amendment.

Mr. FOSS. Mr. Chairman, I do not want to accept any amendment such as has been suggested by the gentleman unless it is thoroughly and carefully prepared. I would withdraw the point of order if this matter could be carefully considered and revised.

Mr KELIHER. Mr. Chairman, I am perfectly willing to confer with the gentleman.

Mr. FOSS. I would suggest that we pass over this for the time being, and in the meantime, I think, we could prepare such an amendment as would meet with the approval of a great many gentlemen who have had more or less bother with this provision of the law.

Mr. KELIHER. I am perfectly willing to have it passed without prejudice.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the paragraph may be passed without prejudice.

Mr. RIXEY. Mr. Chairman, before that request is put I desire to say a word or two as to the amendment. The present law provides that a boy under 18 years of age shall not be enlisted without the consent of his parent or guardian. That is the present law, and I will read the first section of it:

> Minors between the age of 16 and 18 shall not be enlisted for the naval service without the consent of their parents or guardians.

Mr. FOSS. Well, it is 17 now.

Mr. RIXEY. Well, whatever the law is. It is really 14, but the Navy Department does not enlist them under 17. There is also a provision—I saw it a few days ago—which provides that where a naval officer enlists boys under 18 years of age it shall be cause for his dismissal from the service, and it seems to me that the law as it exists at present, applying to persons under 18 years of age, is as explicit as it can be, except I would require that the consent of the parent or guardian should be in writing.

Mr. TIRRELL. Mr. Chairman, I would like to ask the gentleman from Virginia whether he ever knew of a case or could cite a case where a recruiting officer was dismissed from the service.

Mr. RIXEY. Suppose I do not know of any such case; I am not responsible for the failure of the Department to enforce the statute in that respect.

Mr. PERKINS. Mr. Chairman, the Department can not enforce the provision, because the trouble, of course, is with the boy. He makes the statement that he is over 18 years of age. That being so, there is no necessity for getting the consent of the parents or the guardian, because the boy says he is over 18 years of age. It appears afterwards that he was under 18 years of age, and the recruiting officer says, "Here comes in some big tall fellow who says that he is over 18 years of age, and I am to be dismissed because I take the statement of a great tall fellow like that." It has been said there is no way to have him retired, because the authorities uniformly say if such an application is made they will punish the boy for perjury, and

the provision of the gentleman from Massachusetts, it seems to me, is an eminently fair and just one that can do no harm and will cure quite a considerable evil.

Mr. PALMER. Cure nothing.

Mr. RIXEY. Mr. Chairman, in addition to what I referred to a moment ago, there is a special penalty on the officer.

Any officer who knowingly enlists into the naval service any deserter from the naval or military service of the United States, or any insane or intoxicated person, or any minor between the ages of 16 and 18 years without the consent of his parents or guardian, or any minor under the age of 16 years, shall be dishonorably dismissed from the service of the United States.

Mr. PERKINS. Will the gentleman yield for a question?

Mr. RIXEY. Certainly.

Mr. PERKINS. I call attention to the clause which says, "Any officer who knowingly."

Mr. RIXEY. The gentleman surely would not want to change the statute in this respect. The officer should not be dismissed in disgrace unless he knew the boy to be under the proper age.

Mr. PERKINS. That is why the statute does not cure the evil. The statute is all right.

Mr. RIXEY. The statute is all right. Then if the boy is 17 years of age and swears he is over 18 your only remedy is to prosecute the boy.

Mr. PERKINS. That is a very harsh remedy.

Mr. RIXEY. That may be, but it is the only remedy.

Mr. CAMPBELL of Kansas. Mr. Chairman, may I suggest that if the Navy Department would recede from the rule of giving the boy's parents the alternative of having the boy remaining under his enlistment or to be prosecuted for perjury the amendment offered by the gentleman from Massachusetts and all discussion upon this would be wholly unnecessary, for the Department would, upon proper showing made by the parent or guardian or their representatives that the boy was enlisted under age, give him an honorable discharge from the service.

Mr. RIXEY. I think the trouble about this whole matter is——

Mr. CAMPBELL of Kansas. But they will not do that.

Mr. PALMER. A boy of 16 or 17 years of age is as guilty of committing perjury as well as a boy of 27, and giving him an honorable discharge is simply to permit perjury.

Mr. CAMPBELL of Kansas. In all probability the youth is out with his brothers, out with his parents, and maybe ran away from home.

Mr. RIXEY. I would say to the gentleman if the boy has had the matter properly explained to him, and he deliberately swears falsely to his age he ought to be responsible. He ought to have the matter fairly explained to him, and if he does not, then the officer himself is liable. This depends, as in every other case, upon the facts. Now, I think the trouble is that boys are taken into the Navy between 18 and 21 years old without the consent of their parents. I do not believe that the Navy Department has the right to enlist boys between 18 and 21 years without the consent of the parents without express statute to that effect, and there does not seem to be an express statute. On Saturday I asked the gentleman from Massachusetts [Mr. TIRRELL] the question whether or not between the ages of 18 and 21 a boy was required to present with his application for enlistment the written consent of his parents, and the gentleman from Massachusetts was under the same impression that I was, and stated that he did have to present that written request. Upon information from the Department I find that the Department does not require the written consent of the parents where the minor is between the years of 18 and 21.

Mr. FITZGERALD. Mr. Chairman, will the gentleman yield?

Mr. RIXEY. Yes.

Mr. FITZGERALD. I have a case now in mind which occurred within two weeks where a young man attempted to enlist. He was over 18, but under 21. The parents were dead, and he was living with a married sister. He went to a gentleman who seems to make a business of it and had him appointed as his guardian in a court of competent jurisdiction, and was enlisted in the Navy with the consent of his legally appointed guardian. This young man was a youth who had been a sickly child and a cause of great worry to his relatives. His brother died of consumption, and this boy had the same characteristics that he did. Yet a physical examination discloses the fact that apparently he is in good health, and he will not be discharged from the service.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. RIXEY. Mr. Chairman, I would like to have two minutes more.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent for two more minutes. Is there objection?

There was no objection.

Mr. BARTLETT. Will the gentleman yield a moment for a question?

Mr. RIXEY. I will.

Mr. BARTLETT. Mr. Chairman, I would like to ask the gentleman from Virginia this question: If he has stated it correctly, the law of the United States is that over the age of 18 a young man has a right to enlist, regardless of his parents' or guardian's consent?

Mr. RIXEY. I did not state that that was the law. I said that was the practice.

Mr. BARTLETT. Is it not the statute?

Mr. RIXEY. No. I would like to see the statute. I do not think there is any statute on the subject.

Mr. BARTLETT. I would like to ask the gentleman what he thinks of this proposition. I call his attention to it because I had a discussion with Mr. Moody when he was Secretary of the Navy, and he took the position—at least was inclined to take the position—that even those who were over 18 and under 21 years, in those States that required the child to be subservient to the directions of the parent, would require the consent of the parents. And I can recall a case, but not the name or the court, where the court had discharged upon habeas corpus one or two young men who had been enlisted when over 18 and under 21, because under the laws of the State the parents were entitled to the service of the child until he became 21 years old. Now, while I am on my feet, I will say that I have investigated this matter, but not very carefully, in a case which I had, and I found that the Navy Department had, in my judgment—and in this I was sustained by the then Secretary of the Navy, Mr. Moody—given a wrong construction to an opinion rendered by former Attorney-General Harmon in a certain case referred to him by the Navy Department. And the Secretary of the Navy, Mr. Moody, concluded such construction was not authorized by the opinion, and that until a boy arrived at the age of 21 he was subject to the control of his parents, though it had been the practice of the Navy Department to take such enlistments of boys over 18 years of age without the consent of the parents.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. RIXEY] has expired.

Mr. BARTLETT. I ask that the gentleman have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RIXEY. Mr. Chairman, I agree with the gentleman from Georgia [Mr. BARTLETT] in what he states about his own opinion and that of Attorney-General Moody. In the absence of express statute from Congress I think unquestionably the Navy Department has no right to say it will enlist boys between 18 and 21 years in a State where the parent is entitled to the services of the boy and to the custody of the boy until he is 21 years of age. But the Navy Department, I am informed by the Department, proceeds upon the other theory, that it has a right to enlist boys between 18 and 21 without the consent of parent or guardian, and it is now doing that.

I know of one instance of a very poor man in a county in my district whose boy went away from home and enlisted. The old man needed his services at home in the cultivation of his farm and for the support of the family and appealed to me. I went to the Department, and the Department said that the boy was over 18. We admitted that, and the Department would not surrender the boy unless it was compelled to do so by law. The father of this boy was a very poor man, as I have said. He was not in a condition to go to law, and he had to give up the services of his son in this way. I shall insist, if any amendment goes on this bill, that an amendment ought to go on that will protect the right of the parent until the child becomes 21 years of age. No minor should be enlisted, under 21 years of age, without the consent of the parent or guardian.

Mr. DAWSON. Does not the gentleman think the difficulty might be cured if they required the written consent of the parents?

Mr. RIXEY. I agree with you. I said that it ought to be with the written consent of the parents or guardian in any case where the boy is under 21 years of age.

Mr. WANGER. I would ask my friend from Virginia whether or not cases have come to his notice where young men have forged the consent of their parents?

Mr. RIXEY. That may be. There are other cases that have come to my knowledge where people, not minors, have forged papers, and they are responsible.

Mr. WANGER. If the consent of the parent is to be required, ought it not to be required in such form that there will be no temptation to forge it?

Mr. RIXEY. I agree with the gentleman as to that.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois that the paragraph under consideration, with the point of order pending thereto, be passed without prejudice? [After a pause.] The Chair hears no objection; and it is so ordered.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GREENE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had agreed to the amendments of the House of Representatives to the bills of the following titles:

S. 5683. An act to provide for the removal of derelicts and other floating dangers to navigation;

S. 4976. An act to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives; and

S. 2296. An act restoring to the public domain certain lands in the State of Minnesota.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution No. 25.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 3454) entitled "An act granting an increase of pension to William Wilson."

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 14397) making appropriation for the support of the Army for the fiscal year ending June 30, 1907, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. WARREN, Mr. FORAKER, and Mr. BLACKBURN as the conferees on the part of the Senate.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Contingent: Advertising, telegraphing on public business, postage on letters sent abroad, ferriage, ice, continuous-service certificates, discharges, good-conduct badges, and medals for men and boys; transportation of effects of deceased officers and enlisted men of the Navy; books for training apprentice seamen and landsmen; maintenance of gunnery and other training classes; packing boxes and materials, and other contingent expenses and emergencies arising under cognizance of the Bureau of Navigation, unforeseen and impossible to classify, $15,000.

Mr. MANN. I move to strike out the last word. The enlistment of boys under age is not the only difficulty about enlistment in the Navy, according to the experience which I have had. I suppose the truth is that the Navy, through the fraudulent and false advertisements and pictures which it puts out, enlists a great many young men who become patriotic and enlist under a kind of supposition that they will have a fine time in the Navy, and when once in the Government is as inexorable and cold-blooded as anything ever could be in the world, at the North Pole or elsewhere. I have one case here, which is only an instance of a great many that constantly occur, to which I am going to call the attention of the House. A young fellow named Harry Ex, aged 20, in a moment of desperation and discouragement, enlisted in the Navy January 9 of this year. He is the oldest boy of a family of seven children, his father being an invalid and unable to earn any money. A younger brother is the only other wage-earner of the family, and his wages are about $3 a week as errand boy. The father and younger brother were sick and the mother about to be confined of the seventh child. The boy was very depressed, and evidently wishing to be rid of the worry and discouragement, being out of employment, enlisted in the Navy. We have a great deal of talk at times about the desirability of large families in the country and the need of young children growing up. But when this boy is needed at home much more than he is by his country in the Navy; when he ought to be helping to take care of the family of which he is a part, taking care of his invalid father, of his six brothers and sisters, oh, no, the Navy can not part with him, because an order of the President stands in the way.

I forwarded this letter to the Secretary of the Navy:

CHICAGO, *January 30, 1906.*

Hon. JAMES R. MANN,
Representative Second District of Illinois,
Washington, D. C.

DEAR SIR: I have a very pitiful case in which I would like you to interest yourself, if you can. A young fellow named Harry Ex, aged 20 years, in a moment of desperation and discouragement, enlisted in the Navy on January 9 of this year. He is the eldest boy of a family of seven children, his father being an invalid and unable to earn any money. A younger brother is the only other wage-earner in the family, and his wages are about $3 a week as an errand boy.

Harry, the boy who enlisted, was out of employment, and because of the strike of the union printers here had been unable for some time to work regularly. The father and a younger brother were sick and his mother was about to be confined of her seventh child; the boy was very much depressed, evidently anxious to be rid of his worries, and so enlisted, and now regrets it very sincerely. The family, as you may imagine, is in very poor circumstances; the mother is broken-hearted, and unless she gets her boy back the neighbors fear the consequences. The boy himself, never very strong, now realizes that he made a serious mistake and grievously wronged his family by deserting them in their hour of need, and is very anxious to get back home—so much so that he does not sleep, and is said to be losing in flesh. He is now at the Norfolk Navy-Yard.

I presume it will be a matter of some difficulty to secure this boy's discharge from the Navy, but it certainly would be an act of the greatest possible charity if he could be sent home to his family. If you will kindly set the machinery in motion and get the boy released you will win the parents' everlasting gratitude and my own sincere thanks.

Trusting to have your very early reply.

Yours, sincerely, GABRIEL J. NORDEN.

They are not constituents of mine. They live in the city of Chicago—the boy and his family—because it seems to me that anybody with a spark of patriotism in his soul would say that boy could do more good taking care of his mother and her children and his invalid father than he could helping on a battle ship floating in the water in time of peace. The Secretary of the Navy sent me the following response:

NAVY DEPARTMENT,
Washington, February 21, 1906.

DEAR SIR: I am in receipt of your letter in reference to the desired discharge of Harry Ex from the Navy. It would be a source of pleasure to me if I could comply with your request, but I am prevented from so doing by the Executive order on the subject of the discharge of enlisted men, a copy of which I inclose, and by which you will see that discharge can only be granted for unfitness or disability and upon the recommendation of the commanding officer. I regret the circumstances stated in this case, but there is really no action that I can take in the matter. I can only suggest that the young man should be able to make an allotment each month from his pay for the assistance of his family—

It is so large in the Navy, you know—

and, if it is so desired, his attention will be called to the method by which this allotment may be made. I wish that I might give you a more favorable answer, but the order of the President is mandatory on the Department and leaves no opportunity for discretionary action on my part.

Very truly, yours,

CHARLES J. BONAPARTE, *Secretary.*

Hon. JAMES R. MANN, M. C.,
House of Representatives.

The order of the President is as follows:

GENERAL ORDER } NAVY DEPARTMENT,
No. 104. } *Washington, August 16, 1902.*

The following Executive Order, superseding the Executive Order of July 10, 1902, which was promulgated in General Order No. 98, is published for the information and guidance of the service:

WHITE HOUSE,
Washington, August 13, 1902.

No enlisted person serving in the Navy or Marine Corps of the United States shall be discharged therefrom prior to the completion of his term of enlistment except for one of the following causes: Undesirablity, inaptitude, physical or mental disability, or unfitness.

In every case the recommendation for such discharge must be made by the immediate commanding officer under whom the man may be serving.

Applications for discharges which reach the Department in any way except through said commanding officers shall be, without exception, disregarded.

THEODORE ROOSEVELT.

CHAS. H. DARLING, *Acting Secretary.*

Nothing that could happen at home could get the boy discharged; nothing could get him out of the Navy except his unfitness, or that he commit some act which ought to fire him out. The bowels of compassion were removed from that order. So that we have the President of the United States one minute telling the people to raise large families and the next minute issuing an order forbidding under any circumstances the discharge of a boy from the Navy. [Laughter and applause.] Now, the responsibility of this does not rest upon the President, but upon the Secretary of the Navy, for we all know how these orders are issued by the President. They are issued because the Secretary of the Navy, or the naval officers under him, demand that such order be issued. I say that that order is an outrage on common decency. It ought to be removed by the President; it ought to be removed by law, if necessary. To say that under no circumstances can a boy in the Navy be discharged for cause at home, if his father dies, if his mother has passed away, leaving a family of children that he ought to support—to say that his country needs him in time of peace more than he is needed at home under such circumstances is an insult to partiotism and intelligence.

[Here the hammer fell.]

Mr. ALEXANDER. I move to strike out the last word that I may ask the gentleman from Illinois a question. Has the gentleman from Illinois prepared an amendment to the bill that will reach such a case as he cites?

Mr. MANN. I have not.

Mr. ALEXANDER. Do you propose to do it?

Mr. MANN. I do not.

Mr. ALEXANDER. Then for what purpose have you stirred us up, until we want to help your boy and other boys, if you do not propose an amendment upon which we can vote?

Mr. MANN. I know very well that if I presented an amendment to that effect it would promptly be met by my distinguished colleague from Illinois with a point of order. I was endeavoring to reach the hearts of the members of the Committee on Naval Affairs of the House, and the Navy Department itself, hoping that there might be an amendment either of the law or of the order, to change the present harsh condition.

Mr. ALEXANDER. I think the gentleman from Illinois has not only reached the hearts of his colleagues in the House, but similar letters which have come to his colleagues in the House have also reached their hearts.

Mr. MANN. I have no doubt of that.

Mr. ALEXANDER. I have had several such cases, and I think the time has come when Congress ought in some way to provide that the only boy in a large family relying upon his services might, when the father is taken away and the family becomes dependent upon the son, in time of peace be let out from the Navy.

Mr. BATES. I would like to ask the gentleman if he does not believe that more care should be exercised by the recruiting officers before the contract is entered into? The remarks of the gentleman from Illinois [Mr. MANN] would lead to the violation of all contracts entered into by the young man under the circumstances.

Mr. MANN. A boy 20 years old could not enter into any other kind of a contract which would bind him, except the one with the Government.

Mr. BATES. Mr. Chairman, if the remarks directed to our hearts, as the gentleman says, by the gentleman from Illinois were followed out in the Army and Navy every time the papas and mammas of the country wanted to see their boys, we would have no Army and no Navy left.

Mr. STANLEY. Mr. Chairman, I move to strike out the last word.

I wish to say, in connection with what the gentleman from Illinois [Mr. MANN] has so well said, that the overeagerness of the recruiting officers very often gets boys into the Navy under circumstances that are exceedingly reprehensible. I know of one instance where a young man who ought to have been at home, whose services were demanded there by those absolutely dependent upon him, and who had no business in the Navy, enlisted while he was intoxicated. Those matters where brought before the authorities, and they said: "It does not make any difference. He is here, and we need him." And all efforts to secure his release were absolutely unavailing. It is a common thing for young men to be dragged into this service by the overzeal of recruiting officers, and the Department ought, at least under circumstances of that kind, to take the manner of the enlistment under consideration.

I know of another instance where a young man was engaged to be married to a young lady. Shortly before the marriage was to take place, after a lovers' quarrel, in a fit of desperation the young man enlisted in the Navy. It was reported that he had attempted to escape from his obligation to marry his sweetheart. When the boy heard that his conduct had compromised the woman he loved, he was frantic to return and correct the cruel and erroneous report. The family were anxious for him to return, but it took half the people in one end of the State of Kentucky to get that boy home long enough to marry that girl. [Laughter.] These ironclad regulations, this grim visaged war that frowns on us all the time and everywhere, blind and deaf to every character of compassion, is growing intolerable. [Applause.]

The CHAIRMAN. If there be no objection, the pro forma amendment will be considered as withdrawn.

Mr. FITZGERALD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FITZGERALD. Has this paragraph been passed without prejudice?

Mr. FOSS. Yes; it has been passed.

The CHAIRMAN. The Chair is advised that the paragraph has, by unanimous consent, been passed without prejudice.

The Clerk read as follows:

Naval training station, Great Lakes: Maintenance of naval training station: Labor and material; general care; repairs and improvements to grounds, buildings, and pier; street-car fare; purchase and maintenance of live stock, and attendance on same; wagons, carts, implements, and tools, and repairs to same; fire extinguishers; heating, lighting, and furniture; stationery, books, and periodicals; ice, and washing; expressage; packing boxes and materials; postage, telegraphing, and telephoning, and all other contingent expenses, $20,000.

Mr. COOPER of Wisconsin. Mr. Chairman, I reserve a point of order against that paragraph that the appropriation is not authorized by law and that it changes existing law.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I understand the gentleman has made a point of order against this paragraph.

Mr. COOPER of Wisconsin. I reserved the point of order.

Mr. BUTLER of Pennsylvania. The gentleman has reserved the point of order against the section.

Mr. COOPER of Wisconsin. I have reserved the point of order against the paragraph beginning on line 7 and ending on line 16, page 8.

Mr. BUTLER of Pennsylvania. The gentleman from Wisconsin bases his objection upon the ground that there is no law authorizing the appropriation proposed to be made. I call the attention of the Chair to the act of Congress which was passed during the last term. It was proposed that there should be established somewhere in the West at some convenient point a station where young men enlisting in the Navy might be trained, a place convenient to his home, a place where he might be taught. After a good deal of discussion Congress passed the act and authorized a commission to select a site for this station. The commission acted and selected the site for which the appropriation is to be made. I further call the attention of the Chair to the fact that appropriations have already been made for the maintenance of this station. If the Chair desires to examine the act of Congress of 1904, he will find that under the heading of "Naval training station for the Great Lakes" an appropriation of $250,000 was made, and the purpose was to purchase land. The President by that act of Congress was authorized and empowered to appoint a board, and the appropriation asked for in this bill has no other purpose than to maintain the station and to provide for such conveniences as the Navy may require. Therefore, I submit that the necessary legislation has already been passed, and these appropriations are in order.

Mr. COOPER of Wisconsin. I have always understood that no portion of the $250,000 was expended. I understood that the board accepted a gift of a site, and I did not suppose there was any law which authorized the expenditure of the $250,000 except for the purchase of a site. I have always understood that the site was given and that no part of this money was expended.

Mr. FOSS. Mr. Chairman, I desire to say a word on this proposition. In the Navy appropriation bill approved April 27, 1904, appears this provision:

Naval training station, Great Lakes: The purchase of land and the establishment of a naval training station on the Great Lakes, $250,000.

I am reading from Pulsifer's Compilation of the Naval Laws, page 444. The Chairman will mark the words "the purchase of land and the establishment." Then it goes on:

The President is hereby authorized and empowered to appoint such a board, consisting of not less than three members, none of whom shall be a resident of any State bordering on the Great Lakes, whose duty it shall be to select the most available site for such naval training station on the Great Lakes, and having selected such site, to ascertain and report its probable cost and the probable expenditure which will be necessary for improving the same, including lake shore protection and construction of necessary harbor facilities, and to make a detailed report of their findings and proceedings to the President, who, upon approval of such report, shall authorize the purchase of such site and the establishment of such naval training station.

All of these provisions have been carried out in the establishment for this naval training station. The board has reported to the President, and the President has ordered the establishment of it, and did it more than a year ago. The station has been established at Lake Bluff. The citizens of Chicago contributed $172,000, bought the land, and turned it over to the United States Government. It is to-day, and has been for many months, expending out of this appropriation of $250,000, which Congress authorized two years ago, such moneys as are necessary to make the improvements which are being made on that site to-day.

So there is no question as to the propriety of our providing here for the maintenance of this training station. A little further on in the bill is a provision for the construction of buildings, but as to the establishment of it and as to the propriety of this legislation there is no question in my mind, and I am sure there is no question in the mind of the Chair.

The CHAIRMAN (Mr. OLMSTED). The Chair finds that by an act approved April 27, 1904, Congress authorized and appropriated $250,000 for the purchase of land and the establishment of a naval training station on the Great Lakes. It gave the necessary authority for the selection of a site and the establishment of such naval training station.

It appears from the statements that have been made that the site or a portion of land for the site was contributed by the citizens, but that does not seem to the Chair to impair the fact that the establishment of the station was authorized. The paragraph to which the point of order is urged appropriates for the maintenance of the naval training station thus authorized. It seems to the Chair that it is clearly in continuance of a Gov-

ernment work authorized and in progress, and therefore in order.

Mr. COOPER of Wisconsin. Mr. Chairman, will the Chair permit one more suggestion? The law which the Chair has been reading provides that the board shall select the most available site for such naval training station on the Great Lakes, and, having selected such site, ascertain and report its probable cost and the probable expenditure which would be necessary for improving the same, including lake-shore protection and construction of necessary harbor facilities, and to make a detailed report of their findings and proceedings to the President, who, upon approval of such report, to wit, a detailed report, etc. It is my understanding that this was approved without any such report being submitted. There may have been some months after the first approval a report filed, but the selection was approved without there having been any such estimates, any such investigation reported—no details as to the probable expenditure submitted, because I asked the secretary of the President what communications, if any, had come from that board, and he submitted a letter or a copy of a letter written by the then Secretary of the Navy, Mr. Paul Morton, saying that the site was all right, and ought to be approved, and it was approved. There may have been since that time estimates submitted, detailed plans drawn, and likewise submitted. As to that I do not know, and will ask the chairman of the committee in respect to that.

Mr. FOSS. Mr. Chairman, the report of this Commission was submitted to the President. The Commission unanimously selected a certain site, and that report was submitted to the President, and the President approved the selection of the site and ordered the establishment of a naval training station. The report of the commission was brought out in the hearings of last year before the Committee on Naval Affairs, and is a part of the hearings of that committee, and estimates have been made by the Department for this station. It came up in the regular Book of Estimates this year.

The CHAIRMAN (Mr. OLMSTED). The act specifically provides that the President, upon approval of such report, shall authorize the purchase of such a site and the establishment of such naval training station. The Chair understands from the chairman of the Naval Committee that the President approved the report, that the site had been secured, and the naval training station established. The paragraph in question appropriates for the maintenance of that naval training station, and the Chair is constrained, therefore, to hold that it is in order.

Mr. COOPER of Wisconsin. Mr. Chairman, I move to strike out the paragraph, and on that I desire to be heard. Members, upon consulting the report of the Committee on Naval Affairs, will observe that it recommends that an appropriation of $750,000 be made toward improvements contemplated upon the site of the naval training station at Lake Bluff, and declares that an eventual expenditure of $2,000,000 will be necessary for the completion of buildings and other improvements. This proposed large expenditure in and of itself alone makes this paragraph of importance.

I now ask the attention of Members of the House to another matter of great importance in connection with this proposed appropriation. On the 17th of October last the Chicago Tribune, one of the great newspapers of the country—I think that it is not indulging in superlatives to say one of the great newspapers of the world—contained, on the front page, an article concerning the Lake Bluff site, which I will read. Lake Bluff is located about 30 miles from the city of Chicago. The article is headed: "New war on naval school—Senator ALGER reopens fight on the Lake Bluff site—Claims water is polluted—State board of health aids at request of Lake Forest."

Before reading the article I wish to remind Members that Lake Forest is on the shore of Lake Michigan, about 6 miles south of the city of Waukegan, and that between these two cities is Lake Bluff. It must be borne in mind also that in the Government's published request for proposals for sites, one of the requirements was that the site should have a bathing beach.

The Tribune article is as follows:

ALGER STARTS THE CRUSADE.

Senator ALGER visited Lake Forest last summer, and learned from Doctor Haven, the health officer of Lake Forest, of the sanitary agitation that was being carried on in an effort to secure relief from the polluted waters incident to the tannery at Kenosha and the glucose factory at Waukegan, and in company with Doctor Haven made an automobile trip to Lake Bluff, and found from the engineering staff there that similar sanitary conditions existed. It was supposed at the time that Senator ALGER was merely a summer visitor at Lake Forest, but in view of recent developments it is thought that his real object was to learn the truth of the rumors regarding bad sanitary conditions at Lake Bluff, and to use his influence to secure a reopening of the question of the location of the site when the next Congress convenes.

APPEAL TO BOARD OF HEALTH.

It seems that the *pollution of the waters of Lake Michigan has been a source of great annoyance to the residents of Lake Forest for many months.* Recently a number of residents employed the legal firm of Scott, Bancroft, Lord & Stevens to take the matter up and secure what relief they could in the premises.

This firm had an analysis made of the water in question by *Professor Long, of Northwestern University,* also a chemist for the Illinois State board of health, which *confirmed the contentions of the residents of Lake Forest regarding the discoloration of the water, its polluted condition, and the noxious odors.*

The next action of the attorneys was to appeal to the State board of health. As a result of the appeal, Dr. E. F. Baker, of Jacksonville, *special officer of the State board of health,* went to Lake Forest last Saturday and spent two days there. *He also visited Lake Bluff. His report was filed with Doctor Egan, head of the State board of health, and shows the contention to be practically as shown by the analysis of Professor Long.*

Doctor Baker stated that the polluted conditions existed and that they undoubtedly were caused by the *immense quantities of sewage and refuse matter dumped into Lake Michigan by the cities above Lake Forest* within a distance of 25 of 30 miles.

The *glucose factory at Waukegan* dumps into the lake from their plant an average of over *9,000,000,000 gallons of refuse a day.* A percentage of the refuse is gluten, and from this substance gases are given off, forming *the noxious odors complained of by the residents of Lake Forest.* The *tannery located at Kenosha is one of the largest in the world, and large quantities of refuse from this source is a serious factor in the polluted conditions.* * * *

Then follows a statement of Doctor Haven, health officer of Lake Forest, 2 miles farther south of Waukegan than is Lake Bluff, in which he says that there is nothing the matter with the water and that there is no objection to the location of the naval training school there. But this statement does not answer the plain facts set forth in the official report of the chemist of the State board of health of Illinois——

The CHAIRMAN. The time of the gentleman has expired.

Mr. COOPER of Wisconsin. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that he may proceed for five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. COOPER of Wisconsin. Nor does the statement of the Lake Forest physician at all meet the analysis made by Professor Long, of the Northwestern University. But even Doctor Haven himself says:

It is true that the water sometimes emits an unpleasant odor, caused by the organic deposits thrown into it from the glucose factory at Waukegan. At times when there is a northeast wind we can smell those glucose deposits, but they are not injurious to the health, and the people living along the shore get along notwithstanding the odor.

That may be, but is it possible that the young men at the proposed naval training school will enjoy bathing in water so polluted and foul smelling that the people of Lake Forest employed lawyers and called upon the State board of health to secure relief from the nuisance?

It will be said that two boards have decided in favor of Lake Bluff. Two years ago, in the debate here, I said that the first board never made what could be called an "inspection" of the site near my home at Racine and that the senior member of the first board never visited that site at all. This statement of mine was contradicted by a letter written by a member of that board, which was read to the House. Not expecting to hear any such extraordinary statement as was contained in that letter, I was then unprepared with written or documentary evidence to reply to it. I am now prepared to demonstrate the truth of what I then asserted as to the alleged visits of the first board. This may not be entirely germane at the present time, but nevertheless it shows how this thing has been done, and is therefore instructive. It is admitted by everybody that the first board came to Racine only on August 4 and October 31, 1902—two visits only.

I now reiterate my statement that they did not on their first visit go within a mile and a half of the Racine site, and I have here now the documentary proof to establish my contention.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. COOPER of Wisconsin. Mr. Chairman, I ask that I may have fifteen minutes in which to conclude. It is a matter of importance, I think, to the committee that they should know the facts in connection with the selection of the site at Lake Bluff.

The CHAIRMAN. The gentleman from Wisconsin [Mr. COOPER] asks that he may have fifteen minutes in which to conclude his remarks. Is there objection?

There was no objection.

Mr. RIXEY. I would like to ask the gentleman a question.

Mr. COOPER of Wisconsin. Will the gentleman allow me to conclude my statement? Then I think there will be opportunity for questions.

Mr. RIXEY. Does not the gentleman consider that this ques-

tion of the site is closed? That is the whole question, as I understand it. Now, when this matter was up a year ago——

Mr. COOPER of Wisconsin. I understand. You have asked the question. I do not think that it ought to be deemed closed, in view of the fact that the State board of health has been examining the water there through their official chemist and find it polluted by the great amount of sewage dumped into the lake by the glucose factory at Waukegan and by the large tanneries at Kenosha, the odor being so vile that the people of Lake Forest made formal complaint.

Mr. Chairman, on August 17, 1902, I wrote this letter to Admiral Taylor. I read from page 198 of the copy book:

I am in receipt of your letter. As I wrote you in my last letter, I hope very much that your board will not fail again to visit Kenosha and Racine. Your previous visits were too brief to permit of anything like an examination. This is specially true of the site at Racine. *You will recall that your board did not go nearer than a mile and a half to the proposed site in this city on North Point.*

Mr. LILLEY of Connecticut. May I ask the gentleman a question?

Mr. COOPER of Wisconsin. Yes.

Mr. LILLEY of Connecticut. Has the gentleman received a reply to that letter?

Mr. COOPER of Wisconsin. They never replied to it.

Mr. LILLEY of Connecticut. Then how does the gentleman know that they did not go within a mile and a half?

Mr. COOPER of Wisconsin. They made only two visits to Racine, and both times I was with them constantly from their arrival until their departure. On the first visit we stopped a mile and a half from the site because it was so late in the day, the board promising to come again and make a thorough examination of the site.

Mr. LILLEY of Connecticut. They never admitted that they had not been within a mile and a half of the site?

Mr. COOPER of Wisconsin. Is it possible that so soon after that first visit I would write a letter like this, and embody in it a deliberate falsehood about their failure to go to the site at North Point?

Mr. LILLEY of Connecticut. How does the gentleman know they had not been within a mile and a half of it?

Mr. COOPER of Wisconsin. Because the first board made only two visits to Racine—one on August 4 and one on October 31. Everybody admits that.

Mr. LILLEY of Connecticut. Do they say in those statements that they did not visit these points that the gentleman speaks of?

Mr. COOPER of Wisconsin. Why, one of the board says that they made a visit to a site in Racine in August. As a matter of fact, we went simply to the foot of High street and stopped a mile and a half from North Point site.

Mr. LILLEY of Connecticut. The question occurred to me, that might possibly occur to other members of the committee, that the gentleman might be mistaken.

Mr. COOPER of Wisconsin. It is not possible for me to be mistaken at all, as the gentleman can see and as I shall demonstrate.

Mr. LILLEY of Connecticut. It is possible for the gentleman to be mistaken.

Mr. COOPER of Wisconsin. I was with them all of the time on both visits. I met them there and went with them. They notified me that they were coming. The proof of the truth of my statement is here. Besides my letters I have affidavits of business men of Racine.

Mr. LILLEY of Connecticut. There was afterwards another commission, was there not?

Mr. COOPER of Wisconsin. If the gentleman is referring to the second board, he is talking about another and entirely different subject

Mr. LILLEY of Connecticut. There was another commission that visited there?

Mr. COOPER of Wisconsin. Yes; and I will speak of them a little later. I wish now to present the evidence concerning the visits of the first board.

In support of my statement I shall offer two kinds of evidence, namely: First, my letter written to the board immediately after their respective visits to Racine; second, affidavits of members of the citizens' committee who accompanied the board during these visits.

I have here my letter-press book containing copies of all letters dictated by me from July 5, 1902, to November 26, 1902. On page 198 of this book I find a letter dated August 17—two weeks after the first visit of the board. This letter shows conclusively that the board did not visit any site in or near the city of Racine on August 4, 1902.

RACINE, WIS., *August 17, 1902.*

Admiral H. C. TAYLOR, *United States Navy,*
Navy Department, Washington, D. C.

MY DEAR SIR: I am in receipt of your Cleveland letter of the 14th instant.

As I wrote you in my last letter, I hope very much that your board will not fail again to visit Kenosha and Racine. Your previous visits were too brief to permit of anything like a thorough examination of the sites. This is especially true of the site at Racine.

You will recall that your board did not go nearer than a mile and a half to the proposed site in this city, on North Point.

The House will observe that in this letter I spoke of "the site at Racine," and of "the proposed site in this city, on North Point," thus showing clearly that there was then only one site—the site at North Point—which that city had to offer. And not only did I speak of this site, but *I took occasion in this letter to remind the board that during their visit of August 4 they had not been nearer than a mile and a half of it.*

The whole letter is as follows:

RACINE, WIS., *August 17, 1902.*

Admiral H. C. TAYLOR, U. S. N.,
Navy Department, Washington, D. C.

MY DEAR SIR: I am in receipt of your Cleveland letter of the 14th instant.

As I wrote you in my last letter, I hope very much that your board will not fail again to visit Kenosha and Racine. Your previous visits were too brief to permit of anything like a thorough examination of the sites. This is especially true of the site at Racine. You *will recall that your board did not go nearer than a mile and a half to the proposed site in this city on North Point.* This site is a peninsula from one-half to three-quarters of a mile in width, projecting into the lake about 1 mile, and forming a bay perfectly protected from northeast storms—the only severe storms of this locality. The ground is all level and from 30 to 50 feet above the lake, excepting a ravine and a slough, which can be easily converted into a commodious harbor. The site is also a short distance from the main line of the Northwestern Railroad between Chicago and Milwaukee.

While your board made a more thorough examination of the Kenosha site, I am sure that the people of that city will be much pleased to have you make another and more complete inspection of it. As requested in your letter, I will be pleased to convey your message to the mayors and committees on sites of the respective cities.

Hoping that you will not fail again to visit Racine and Kenosha,

I am, very respectfully,

H. A. COOPER, M. C.,
First District of Wisconsin.

A little later, under date of September 5, 1902, I wrote the board another letter, a copy of which is found on page 241 of this letter-press book. This letter constitutes absolutely conclusive evidence that the board did not inspect any site at Racine on their visit of August 4, 1902. In this letter I distinctly reminded the board that there were only two sites in my Congressional district, one at Racine and the other at Kenosha, and that the board had "not as yet made any inspection of the site at Racine."

The letter is as follows:

RACINE, WIS., *September 5, 1902.*

Admiral H. C. TAYLOR, U. S. N.,
Navy Department, Washington, D. C.

SIR: I have the honor to acknowledge the receipt of your communication of August 27.

I note with pleasure the statement that your board expects to complete its preliminary examination of sites some time during the present month of September, and that it will be pleased to make a personal examination of any sites suggested by me. In this connection I desire to say that there are but two sites in my district—*one at Racine* and the other at Kenosha. Either of these would make an admirable location for the Great Lakes naval training station. Your board made a partial examination of the Kenosha site, *but has not as yet made any inspection of the site at Racine.* As you will recall, these two sites are but 10 miles apart. Permit me, therefore, to urge that your board visit both of them on your September visit.

I shall be greatly obliged if in reply to this you will kindly inform me as to when your board will visit this locality.

Awaiting your reply, I am, very respectfully,

H. A. COOPER, M. C.,
First District of Wisconsin.

Mr. Chairman, the board did not again visit Racine until October 31, 1902. Only four days later (November 4, 1902) I wrote the board another letter, a copy of which appears on page 425 of this letter-press book.

In this letter *I reminded the president of the board that he had never personally made an examination of the North Point site,* and *distinctly informed him* that the *two other members of the board on their visit of October 31, 1902, arrived at so late an hour as to make it impossible for them to see the site by daylight.*

The letter reads as follows:

RACINE, WIS., *November 4, 1902.*

Admiral H. C. TAYLOR, *United States Navy,*
Navy Department, Washington, D. C.

SIR: Permit me to say an additional word concerning the site for the naval training station.

Your full board has already visited the fine site at Kenosha, and two of your members have made a second visit. I shall not, therefore, refer to it in detail at this time. *Inasmuch, however, as you personally have never made an examination of the North Point site near this city,* I desire now to call attention to its very great merits.

It is to be regretted *that Lieutenant-Commander Winslow and Engineer Rousseau on their visit here last week arrived at so late an hour (4.30 p. m.) as to make it impossible for them to see the site by daylight.* It was after 5 o'clock before we arrived on the ground, too late to make a satisfactory inspection.

The North Point site can not be excelled anywhere. The ground is from 30 to 35 feet above the lake, very fertile, generally level, and in every way peculiarly adapted to the requirements of the proposed naval training station. There is ample opportunity to make a harbor, which could be easily kept in good condition. The fine harbor of the city of

Racine, with a channel depth of 21 feet, is also available. Without great expense the site could easily be made an island by dredging the ravine which extends across the point. There is a beautiful beach more than a mile in length. The point itself furnishes absolutely perfect protection from northeast storms, the only troublesome storms in this section. From the north side of the site Milwaukee is visible, 20 miles away, and from the south side there is a fine view of the bay and harbor of the city of Racine.

This shore of Lake Michigan has the lowest death rate of any portion of the United States, and it would be impossible to find a more healthful locality than North Point.

Located between Chicago and Milwaukee, the site is near the center of a great population, to which it is easily accessible.

In locality, eligibility, healthfulness, and every other essential the site at North Point is ideal.

I have the honor to remain, very respectfully,

H. A. COOPER, M. C.,
First District of Wisconsin.

Mr. Chairman, these letters were written when the incidents were fresh in my mind, and at a time when there was no thought of the controversy which has arisen.

But, Mr. Chairman, in addition to these letters I have affidavits which I desire to present. I secured these affidavits in this way: Two years ago, immediately after the gentleman from Illinois read the letter from the member of the board, I mailed a copy of it to Mr. R. M. Boyd, one of the committee of citizens who accompanied the board during its visits to Racine, together with a letter from myself requesting him to forward me affidavits of the members of the committee setting forth the facts as to these visits. I will insert in the RECORD a copy of my letter to Mr. Boyd, although it would have been in somewhat different form if originally intended for publication. In it there is no suggestion of what I had said during the debate, but only a request for affidavits showing the exact facts.

My letter to Mr. Boyd is as follows:

FEBRUARY 24, 1904.

Mr. R. M. BOYD, *Racine, Wis.*

MY DEAR MR. BOYD: Before this reaches you you will know of the two days' fight in the House and of the defeat of the naval-training-school proposition.

I never was more astonished in a debate than when to-day Mr. Foss read a letter written by Commander Winslow, saying that on the first visit of the board (August 4, 1902) they were met at the station in Racine and proceeded in carriages to examine a site a short distance north of the city; that the board inspected this site and afterwards returned to the city and to the railway station. They say that the site at North Point was not presented to the board except in a casual way, and therefore they only visited the site which the committee had to offer.

Did you ever hear of anything to surpass that? I can not imagine how Winslow came to make such a statement. I herewith inclose a copy of the Winslow letter above referred to.

I wish that you would get an affidavit from each man who was with the escort party on that day, setting forth the exact facts as to where the board were driven and how near they came to reaching either of the proposed sites. Have each affiant give his business and state his official position, either the one he at present occupies or the one he occupied on the day of the visit. Have these affidavits made before a notary public, who shall affix his seal to each one of them, or before a judge or some other court officer having a seal. Have each affidavit cover the necessary points, and send to me by earliest possible mail.

Please show this letter to Mr. Walker and other interested friends. I prefer that it shall not be made public until after I have presented the affidavits.

Very truly, yours, H. A. COOPER.

A few days after mailing this letter I received an affidavit of each member of the citizens' committee. One of the affiants is Hon. Michael Higgins, a leading manufacturer of my city, who was at that time its mayor. Other affiants are W. A. Walker and R. M. Boyd, for the last thirty years citizens of Racine and prominently identified with its business interests. Another affiant is Mr. Henry J. Schroff, now and for several years past city clerk in the city of Racine.

Mayor Higgins accompanied the board on only its first visit, August 4, 1902. In his affidavit he swears that the board, accompanied by the citizens' committee, were driven to the lake shore at High street; that no naval training station site was offered to the board in that vicinity; but that while standing there on the bank North Point was pointed out and the statement made that on the south side of it there was a large slough or creek where a splendid harbor could be secured with comparatively little cost.

He swears that the board declined to drive up there, a distance of about 2 miles from where they then stood, assigning as a reason that they had not sufficient time. He adds that they remained at that place a few minutes and were then driven back to the railway station. He also swears that at the first visit of the board to Racine there was positively no site inspected or visited by the board, as the point where they stopped is in a densly populated portion of the city, and that no site was mentioned to them except the North Point site.

The affidavit of Mayor Higgins is as follows:

HIGGINS SPRING AND AXLE COMPANY,
MANUFACTURERS OF WAGON AND CARRIAGE SPRINGS AND AXLES,
Racine, Wis., February 25, 1904.

M. Higgins, jr., being first duly sworn, deposes and says that in the year 1902 he was mayor of the city of Racine, and that on or about the 4th day of August, 1902, he was informed by Mr. Lloyd, agent for the Chicago and Northwestern Railway Company in this city, that the board for the selection of a site for a naval training station on the Great Lakes was on their line of road and would reach the city of Racine along in the afternoon and would stop off here for a short time if desired to do so. The board arrived at the Chicago and Northwestern depot during the afternoon, was met there by carriages and driven over to Hotel Racine, where they were introduced to myself and to a number of other persons.

That after a few moments conversation a member of the board made the statement that they were limited for time and had but a very short time, possibly thirty minutes, to remain in the city, and that while here they desired to obtain as much information as possible in reference to our harbor and harbor facilities.

That the board, together with several citizens, including Congressman H. A. COOPER, entered the carriages and were driven up North Main street to High street and from there east to the lake bank, from which point a splendid view of Racine Bay and Harbor can be obtained. There was no naval training station offered to them at that point, but while standing there North Point was pointed out to them and the statement made that at the south side of the point there was a large slough or creek entering the lake, known locally as "Duck Creek," where a splendid harbor could be obtained with comparatively small cost. The board declined to drive up there, a distance of about 2 miles from where we stood, assigning as the reason that they had not sufficient time. We remained at that point possibly from ten to fifteen minutes. The board was then driven back to the Chicago and Northwestern depot by the way of High street and Milwaukee road. That at the first visit of the board to this city there was positively no site inspected nor visited by the board, as the point where we stopped is in a densely populated portion of the city and no site was mentioned to them except the North Point site.

Upon the visit of the board at a later period, I believe some time in October, I was absent from the city.

MICHAEL HIGGINS, Jr., *Ex-Mayor.*

Subscribed and sworn to before me this 26th of February, 1904.
[SEAL.] R. M. BOYD, *Notary Public.*

Notarial commission expires August 15, 1904.

In Mr. Walker's affidavit he swears that on the first visit of the board they were met at the station and driven to Hotel Racine; proceeded from the hotel to the east end of High street, where the entire company left the carriages and walked to the edge of the bluff to view Racine Harbor and the bay lying between the harbor and North Point. *He adds that a distinct statement was made by Admiral Taylor that he could not allow Racine but one-half an hour. He says that the board alighted from their carriages at the end of High street, where there was no possible location for a naval training station;* that that vicinity was never suggested as a site, and that the visit of the board to the place where they alighted from the carriages was only for the purpose of getting a view of the harbor and the general surroundings, it being understood that one-half an hour was all the time they could give Racine and that *it would be impossible for them to visit North Point at that time.*

He adds, however, that *a promise was then made that the board would visit the proposed site at their earliest possible convenience.* Mr. Walker swears that on their second visit—*October 31*—the board was met at the railway station at about *4.30 p. m.* and driven to North Point. He says that before starting the gentlemen of the receiving party took out their watches, *expressed the opinion that it would be impossible to reach the site before dusk,* and asked if the board could not await a more favorable opportunity to visit it, to which they replied that it would not be possible for them to come again. Mr. Walker says that under these unfavorable conditions the party drove as rapidly as possible to North Point, *arriving after the lights had been lit in the farmhouses.*

The affidavit of Mr. Walker is as follows:

RACINE, WIS., *February 26, 1904.*

To whom it may concern:

I, W. A. Walker, a citizen of Racine for the past thirty years, at present and for twenty years past have been a manufacturer, hereby certify that as a member of the Racine Business Men's Association, I, with the mayor, city clerk, and others, met Rear-Admiral Taylor, Commander C. McR. Winslow, and Civil Engineer H. H. Rousseau, as representatives of the United States Navy, constituting an examining board for the purpose of selecting a site for the proposed naval station on the Great Lakes, on or about August 4, 1902. The said naval committee were met at the Chicago Northwestern Railway station with carriages and driven to the Hotel Racine and proceeded from the hotel to the north side of Racine, at the east end of High street, where the entire party got out of the carriages, walked to the edge of the bluff, and viewed the Racine Harbor and the beautiful bay lying between the harbor and Wind Point; that the distinct statement was made by Admiral Taylor that he could not allow us but one-half hour at that time, and in view of that fact a member of our committee pointed out our proposed site at Wind Point, stating that there was a small stream entering the lake on the south side of said site, which was splendidly protected from all of the heavy storms, and that this location at Wind Point was the only site for the proposed naval station that we had to offer at Racine, so far as I know. Where the committee alighted from the carriages, at the end of High street, there was no suitable location for a naval station; it was never suggested as such, and the visit of the committee to the place where we did alight from the carriages was solely for the purpose of getting a view of the harbor and the general surroundings, it being distinctly understood that one-half hour was all the time they could give us on that first visit and it would be impossible for the committee to visit Wind Point at that time, a promise, however, being made that they would visit our proposed site at their earliest possible convenience.

I also state that on the second visit of two members of the committee, Commander C. McR. Winslow and Chief Engineer H. H. Rousseau, about

October 31, 1902, they were met at the Northwestern Railway station at about 4.30 p. m. by a committee and driven direct from the station to Wind Point. At that time Hon H. A. COOPER, M. C.; W. H. Kranz, president of our Business Men's Association; myself, and other persons present, took out our watches and expressed the opinion that as the proposed site was 3 miles from the station, it would be impossible to arrive on the grounds before dusk, and asked if the committee could give us a more favorable opportunity to show them the proposed site, to which they replied that they did not think that it was possible for them to call again; that therefore, under these unfavorable conditions, we drove as fast as possible to the proposed site, and arrived after the lights had been lit in the farmhouses.

After this very meager examination by the board of our proposed site, the Business Men's Association felt that sufficient information was not in the hands of the committee, and therefore, at a very great expense, engineers were sent to Wind Point, and also photographers, and by photographs, maps, and drawings our Business Men's Association has endeavored to place before the naval board information that we believed necessary to prove that Wind Point and the beautiful bay lying between the Racine Harbor and Wind Point was the best possible site for the proposed naval training station on the west shore of Lake Michigan. The above statements are true and correct.

Respectfully submitted.

WILLIAM ALLEN WALKER.

STATE OF WISCONSIN,
County of Racine, ss:

Subscribed and sworn to before me this —— day of February, 1904, by William A. Walker, who states upon oath that all of the within statements are correct and true.

C. R. CARPENTER,
Notary Public, Wisconsin.

Mr. Boyd in his affidavit swears that Admiral Taylor informed the receiving party that the board had only about thirty minutes to spend at Racine on August 4; that they were driven to the lake shore at the east end of High street, and that while standing there he (Mr. Boyd) called the attention of Admiral Taylor to North Point; that the board declined to drive to the point, which was about 1½ miles distant, assigning as a reason that they had not sufficient time, but adding that they would return later in the season and devote as much time as necessary to make a complete investigation of the site. Mr. Boyd swears that on their first visit to Racine the board inspected no site, and that there was no site offered except only the North Point site. He adds that there was positively no site offered or inspected at the point on the lake shore where the board stopped, as it is in a thickly settled portion of the city.

Mr. Boyd swears that when he mentioned the North Point site to Admiral Taylor the latter called the attention of Engineer Rousseau, the recorder of the board, to the statement which he (Mr. Boyd) had made, and requested Rousseau to make a memorandum of the same, promising to devote ample time for an inspection of the site when the board returned later in the season. Mr. Boyd swears that on their second visit (October 31) the board did not reach the station until 4.30 o'clock in the afternoon, when they were informed that because of the lateness of their arrival it would be impossible to reach North Point and thoroughly inspect the site on that day; that the board were invited to remain at the hotel overnight and make an inspection in the morning; that they declined to do this for the reason that they were traveling on schedule time and were to inspect a site at Sheboygan early the next morning; that thereupon, as fast as possible, the drive was made to North Point, but that when the board arrived there the lamps were lighted in the farmhouses.

Mr. Boyd swears that it was upon this occasion that he called the attention of the board to another possible site lying east of the highway on which the party traveled going to North Point, and beginning about three-quarters of a mile north of the city limits; that the members of the board did not stop or alight from their carriages and inspect the site, but merely looked at it as they drove along the road. It is known in their report as "North Point Site B." Mr. Boyd swears that this was the only time (October 31, 1902) that the attention of the board was called to this site, except through correspondence. As I have before said, Mr. Chairman, it is also a fact that this "Site B" was never seriously considered.

The affidavit of Mr. Boyd is as follows:

STATE OF WISCONSIN, *Racine County, ss:*

I, R. M. Boyd, the undersigned, being first duly sworn, on oath state that for more than thirty years past I have been a resident of the city of Racine and State of Wisconsin and that for the past ten years I have been engaged in the real estate and insurance business in this city. On or about the 4th day of August, 1902, I met in front of my office Hon. M. Higgins, jr., then mayor of this city, and Henry J. Schroff, city clerk. They stated to me that the board created for the purpose of selecting a site for a naval training station on the Great Lakes would arrive at Hotel Racine in a few moments; that carriages were then over at the station for them. In about five minutes the carriages drove up, containing Admiral H. C. Taylor, Lieut. Commander Winslow, Civil Engineer H. H. Rousseau, and, I think, a Captain Young, together with W. H. Kranz, president of the Business Men's Association of this city, and Mr. Lloyd, agent for the Chicago and Northwestern Railway. The parties alighted, but did not go into the hotel. They were introduced to his honor the mayor, City Clerk Schroff, and myself, and about this time we were joined by Congressman H. A. COOPER and Clarence Snyder, of this city, who had just returned from Kenosha. After chatting a few moments on general subjects, the question came up as to how much time could be devoted to Racine.

I think that the remark was made by Admiral Taylor that they had only about thirty minutes to spend here, and that he would like to get a definite idea of our harbor and harbor facilities. The party then entered the carriages and was driven up North Main street to High and from High street east to the lake shore, from which point a splendid view of Racine Bay and harbor may be obtained. While standing there I pointed out to Admiral Taylor North Point, and called his attention to the fact that on the south side of the point there was a large slough or creek which empties into the lake and where a splendid inland harbor could be constructed at a comparatively small cost. The party declined to drive up there, which was about a mile and a half distant, and inspect the premises, assigning as a reason that they had not sufficient time, but that they would return later in the season and devote as much time as was necessary in order to make a complete and thorough investigation of the site. On their first trip to this city there was no site inspected, and there was no site mentioned or offered excepting the "North Point" site. There positively was no site offered or inspected at the point where we stopped, it being in a thickly settled portion of the city. When I mentioned the North Point site to Admiral Taylor, he called the attention of H. H. Rousseau, the recorder of the board, to the statements which I had made and requested him to make a memorandum of the same, and promised to devote ample time for the inspection of the site when they returned later in the season.

On the 31st day of October, 1902, I received the following telegram from Lake Forest, Ill.: "R. M. Boyd: Naval Training Station board will reach Racine about 3 o'clock to-day." We had carriages waiting at the Northwestern Depot at 3 o'clock. The members of the board were detained, and my recollection is did not reach the Northwestern Depot until about 4.30. It was represented to them that on account of the lateness of their arrival it would be impossible to reach the site at North Point and thoroughly inspect it, and they were requested to come over to the hotel, remain all night, and make the inspection the next morning. They declined to do so absolutely, for the reason that they were traveling on schedule time and must be in Sheboygan that night; that they were to inspect a site at Sheboygan early the next morning and leave for some other destination. The drive was made to North Point as fast as could possibly be done. When we arrived there the lamps were lighted in the farmhouses. We stopped a moment at the bridge that crosses the creek or slough on the south line of North Point, and then proceeded up to a point a little north of the light-house, and then drove on the highway to a point nearly to the west line of the proposed site. Turning there, we retraced our steps and returned to the city.

From a point near the light-house the electric lights in the city and the harbor lights were plainly visible. Upon this occasion I called the attention of the board to a site lying east of the highway on which we traveled going to North Point and beginning about three-quarters of a mile north of the city limits, and extending up to what is known as the "Three-mile road." The members of the board did not stop or alight from the carriages to inspect this site, but looked at it as they drove along the highway. It is known on their report as "North Point Site B." On this occasion is the only time that the attention of the board was called to that site, except through correspondence.

R. M. BOYD.

Subscribed and sworn to before me this 26th day of February, A. D. 1904.

ESTELLE J. GLASS,
Notary Public, Racine County, Wis.

My commission expires February 4, 1906.

City Clerk Henry J. Schroff swears that on August 4, 1902, he was a member of the committee which accompanied the board to the lake bank at the east end of High street, from which point the site recommended to the board by the committee was pointed out as lying just west of North Point light-house; that no other site than the North Point site was referred to or recommended on that day; that after a few minutes spent in conversation the board were driven to the station, and that, to the best of his belief, not more than forty-five minutes were consumed from the arrival of the board in Racine until their departure. Mr. Schroff swears that on their second visit, the board being late in arriving, they were informed by the citizens' committee that to visit the site at such an hour would be doing injustice to it and to the citizens of Racine; that the board were invited to remain over night and view the site by daylight, but informed the citizens' committee that it would be impossible for them to do so, as they had to be in Milwaukee that evening to leave for some point farther north. Mr. Schroff adds that the board were then driven to North Point as speedily as possible, but arrived there when it was too dark to make an inspection of the site.

The affidavit of Mr. Schroff is as follows:

CITY CLERK'S OFFICE,
Racine, Wis., February 25, 1904.

STATE OF WISCONSIN, *Racine County, ss:*

Henry J. Schroff, city clerk of the city of Racine, deposeth and says that on or about August 4, 1902, he was one of the said officers which received the committee which was appointed by the naval board to select a site for a naval training school on the west shore of Lake Michigan, said committee being composed of Admiral Taylor, Lieutenant-Commander Winslow, and H. H. Rousseau.

The said committee on their arrival were taken in carriages from Hotel Racine across Main Street Bridge, up North Main street to High street, east on High street to the lake bank, from which point they viewed the Racine Harbor, and the site recommended to the board by the citizens' committee was pointed out to them as lying just west of Wind Point light-house. No other site than the one referred to was recommended outside of the one just mentioned. That possibly ten or fifteen minutes were spent in conversation, after which the visiting party were taken west on High street, south on Milwaukee avenue, west on State street to the Northwestern Depot, where the citizens' committee bade farewell to the visiting committee, and were promised that said board would return to Racine at a later date and give the proposition a thorough consideration. That to the best of my belief no

more than forty-five minutes were consumed from the time the said committee arrived until their departure.

That on the second visit the committee were several hours late in arriving, and were informed by the citizens' committee that to go and view the site at so late an hour in the day would be doing an injustice to the site proposed and to the citizens of Racine. They were requested to remain over night and view the site in daylight. The citizens' committee, however, were informed that that would be impossible, as the said visiting committee must be in Milwaukee that evening to leave for some point farther north.

Under these conditions the citizens' committee with the visiting committee drove out to North Point, and the trip was made as speedily as the horses could possibly make it. The horses were of a superior quality to those usually found in a first-class livery stable. In this respect there was no time lost.

It was too dark to see sufficiently to do justice to the citizens of Racine or the committee appointed to select a naval training school site for the United States Government.

HENRY J. SCHROFF, *City Clerk.*

Subscribed and sworn to before me this 26th day of February, 1904.
[SEAL.] WM. H. ARMSTRONG,
Clerk Municipal Court Racine County, Notary Public.

Mr. Chairman, there is one other bit of evidence of great significance to which I wish now to refer. It is a letter indicating with certainty *that the board had selected the Lake Bluff site before it made its second visit to Racine.* I have here a copy of the letter which was written by the president of the board on *October 24, 1902, one week prior to their last visit to Racine. I procured it at the United States Geological Survey.*

The letter is as follows:

BOARD OF GREAT LAKES NAVAL TRAINING STATION,
NAVY DEPARTMENT ANNEX,
Washington, D. C., October 24, 1902.

SIR: I have the honor to inclose a copy of the board's letter, No. 275, of September 29, to the Department, and of a letter from the Comptroller of the Treasury of August 15, forwarded with the Department's first indorsement of October 17; and, with the Department's approval, to request that the authority of the honorable the Secretary of the Interior be asked for the United States Geological Survey to make, if convenient, a topographical survey of a tract of land about 360 acres, south of Waukegan, Ill., shown on the inclosed blueprint, and referred to in the inclosed letters, all expenses in connection therewith to be defrayed by the Navy Department from the special appropriation at its disposal for this purpose, and in the method outlined in the inclosed letter, if the latter is approved by the Department. The survey is desired as soon as possible. Five-foot contours should be shown on the map, which should be drawn on a scale of not less than 500 feet to an inch. The cleared and wooded portions should be distinguished, and it is also desired to have the map show the location of the 10, 20, and 30 foot contours below the level of the lake surface in front of this property.

Very respectfully,
H. C. TAYLOR,
Rear-Admiral, United States Navy, Senior Member of Board.

THE SECRETARY OF THE NAVY,
Navy Department.

The request contained in this letter was complied with. Experts from the Office of the Geological Survey made a topographical survey of the Lake Bluff site. This survey was drawn to a scale, and showed contours of the site and of those below the level of the lake surface in front of it, the clear and wooded portions, and all other details. It was not an ordinary survey, but a topographical survey made by Government experts. These experts informed me that it was the only survey made by that Office upon the request of this board.

Mr. Chairman, there is only one conclusion to be drawn from this letter and the making of this survey, and that is that the Lake Bluff site had been selected at least one week before the board last visited the city of Racine. Concerning this I have no further comments to make.

So much for the first board. Congress directed that another board be appointed. This board visited the various sites. Afterwards it had a hearing in this city, at which it was announced that the Lake Bluff site, about 170 acres, would be donated to the Government. If they believed that Lake Bluff was the best site, why was it necessary to give it to the Government? The Government had appropriated the money to buy what it wanted. Why not submit to a fair competition? That second board told us repeatedly at Racine that they wanted from 350 to 500 acres. They took 170 acres. The station must eventually have more land, and the people who have it to sell will get what they ask. Who donated this site? Only last week one of the daily papers in my city contained an item about the annual report of the Chicago and Milwaukee Electric Railroad, from which I read as follows:

It is interesting to know that the railroad company gave $25,000 toward the purchase of the site for the Naval Training Station in North Chicago, a fact which up to this time has never been made public.

I knew nothing about Senator ALGER being down there. I had only a short time before returned from a trip to the Orient when I read this Tribune article. I have since conversed with the Senator, and he has told me of his being in Lake Forest and going to Lake Bluff. He declared that the odor from the lake at Lake Bluff and at Lake Forest was exceedingly disagreeable during his visits.

I wish to call attention to the fact that one of the original specifications was that the site should be capable of being easily isolated, and also that it should not be in a manufacturing district. This site can not be isolated at all. The north line of it joins the south line of North Chicago, a suburb devoted largely to manufacturers and that more and more will be a manufacturing district. There is no possible way to isolate the Lake Bluff site.

The new board has selected Lake Bluff. Instead of its being bought with the money appropriated by Congress, certain people, including an electric railroad company, presented it to the Government. Though only 170 acres, it cost a good deal more than a hundred thousand dollars. I do not know how much, but the query that naturally comes to a disinterested man is, Why, if Lake Bluff is such a superior site, was it necessary to make a donation of it to the United States Government?

Mr. VREELAND. I only desire to use two or three minutes in referring to the matter now before the committee. We all admire a good fighter, and I am sure my friend from Wisconsin [Mr. COOPER] has shown that he belongs in the front row of that class. A good many Members of the House at present were not in the last Congress and are not familiar with the controversy which has existed in relation to this matter for the last few years. Several years ago Congress determined that it ought to have a naval training station upon the Great Lakes. We had one in Rhode Island; we had a small one down the coast. We found that we were getting the best material for the Navy from the Middle States of the great West. It was decided by Congress that we should have a naval station somewhere upon the chain of Great Lakes. The gentlemen will see at a glance that there would be many places competing for the establishment of the plant. I suppose there were eight or ten, and perhaps more, places brought to the attention of the Navy Department as suitable sites for this training station. I offered one, lying upon the shores of Lake Erie, in the district which I have the honor to represent; I think the very best site in the lot; and if the question is to be reopened I want to call attention again to the merits of that place.

A commission was appointed in the regular way by the Secretary of the Navy to look over the different sites and determine which was the best one for the Government to purchase. They decided that the site at Lake Bluff, all things considered, was the best one to buy.

They reported back to the Secretary of the Navy, and the report was approved and the matter came before Congress. It was brought here by those interested in some of the other sites. Congress, after a full hearing in the matter, decided that a new board should be appointed and that the matter should be gone over again. So a new board was appointed, and again the board of officers, presumably impartial, presumably interested as much as we in the welfare of the United States and its Navy, again decided that this site at Lake Bluff was the best one offered for this purpose.

The people of Chicago contributed the land, worth nearly $200,000. The Government of the United States has taken title to the property and a commandant has been appointed there. In the naval bill of last year we find the same appropriation of $20,000 for maintenance that we find in this bill. It would seem to me, Mr. Chairman, that it is a closed incident as far as the location is concerned.

It seems to me that all that is left to the gentleman from Wisconsin is the time-honored right of every citizen of the United States that when the verdict goes against him he has a right to swear at the court. [Laughter.]

Mr. COOPER of Wisconsin. Will the gentleman from New York permit a question?

Mr. VREELAND. Certainly.

Mr. COOPER of Wisconsin. What does the gentleman think of the report in the Chicago Tribune of the official investigation by the State board of health, and Professor Long, of the Northwestern University, both reporting the pollution of the water from a glucose factory and the great tanneries, and the disagreeable odor that it has? That's all I know about it.

Mr. FOSS. Mr. Chairman, I desire to state that there was some trouble from a glucose factory, but the matter was called to the attention of the officials of the State, and it has been remedied.

Mr. VREELAND. Mr. Chairman, the Committee on Naval Affairs had before it the commandant of this proposed naval station. We went into the question of the water supply and the pollution of the water, and it is true that there was some contamination caused by a factory adjacent to the naval station at, however, a considerable distance. But the State authorities, we found, had promptly taken up the matter, and my understanding is that the nuisance has been abated, and that there

is no trouble whatever, and that there is an abundant and unlimited supply of pure water for the use of this station.

Gentlemen, during the last Congress many of us will remember that my friend from Wisconsin occupied some two hours of the time of this House going into this matter thoroughly, going into it in detail, exhausting the subject, and that the matter was at that time brought before the House and considered settled. He went into it ably, as he always does everything which he undertakes. He presented all the merits of the case in favor of some other station being selected than Lake Bluff. It seems to me, Mr. Chairman, that after all this care and examination, after we have entered into possession of these premises, after we have spent many thousand dollars in putting them into perfect shape, it is too late to go back and again consider the question of where this station shall be located.

Mr. FITZGERALD. Mr. Chairman, I am in favor of striking this paragraph from the bill, but from different reasons than those urged by the gentleman from Wisconsin. There is at this station a farm with a barn and a few wooden buildings upon it, and there is asked $20,000 for maintenance for the coming fiscal year. There was no detailed estimate submitted to the Naval Committee, but in preparing the recommendation the officers took the language found in the bill for another training station and had that language inserted in this bill. So we find this paragraph authorizing expenditures for fire extinguishers, heat, lighting, furniture, stationery, books, periodicals, ice, expressage, packing boxes and materials, postage, telephone, and street-car fares. There is an architect employed up there designing and laying out a plan for this proposed naval training station.

Mr. VREELAND. May I interrupt my colleague?

Mr. FITZGERALD. Certainly.

Mr. VREELAND. I want to say to my colleague that elsewhere in this bill is an appropriation for the purpose of entering upon the designs for which this site was intended, namely, the building of the necessary buildings, the equipping of it for the use for which the Government purchased it, for taking care of the men who are waiting to enter the service of the United States; that all of these things will, before the end of the year, and even at the present time, be necessary for the work that is to be carried on there for the Government.

Mr. FITZGERALD. They have an architect employed up there, unauthorized, as far as I can find any provision of law, preparing a general scheme for laying out this place. As the gentleman from New York says, further on in the bill there is a provision carrying $750,000 toward the completion of buildings which are to cost $2,000,000.

These buildings are to be used in training landsmen, as they are called, or apprentice seamen, who are not kept in the buildings more than six months. After that period of training they are sent to sea. In the provision authorizing the buildings there is no restriction upon the compensation to be paid to an architect, no adequate provision to prevent the extravagance such as we have had in connection with the building of the Naval Academy and Military Academy, nothing but this general authorization to expend $2,000,000 for buildings at the naval training station. Mr. Chairman, the least the House has the right to expect from a great committee when it comes in with a recommendation that $20,000 be appropriated for some purpose is that some adequate excuse be given for the appropriation. The only thing that I can find in the hearings before the Committee on Naval Affairs bearing upon this subject is the statement made by the Chief of the Bureau of Navigation, and it is contained on one page of the printed hearings of the Naval Committee, and on that insignificant testimony they not only recommend $20,000 for maintenance, but they recommend $6,940 for clerks and other help in the office of the commandant. Where his office is to be established, and where these men are to do work and what their work is to be at a place where there are no buildings, no training station, in the correct sense of the term, it is difficult to find out. If there be money needed for the maintenance of this station during the coming year, I have no doubt that it should be appropriated, but it is customary to have some specific recommendation, some definite information upon which the House can act.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, I will read the testimony upon which these recommendations are submitted to the House.

Admiral CONVERSE. We have been working on that fund of $250,000. We have a naval captain there supervising the preparation of the general plans, and an architect preparing plans for buildings, and several engineers laying out the roads and the drainage. This appropriation is only for maintenance. There is nothing for buildings.

Mr. BUTLER. Beginning with July 1, 1906, this force will be absolutely necessary at this point?

Admiral CONVERSE. Yes, sir.

Mr. BUTLER. And the men provided for in this section will be employed regularly?

Admiral CONVERSE. Yes, sir; under civil-service rules.

Mr. BUTLER. And will there be sufficient business to keep them occupied during business hours?

Admiral CONVERSE. Yes, sir.

Mr. RIXEY. Is it intended to confine this station to a recruiting station?

Admiral CONVERSE. Yes, sir.

Mr. RIXEY. It is not intended for a navy-yard?

Admiral CONVERSE. No, sir; simply for receiving recruits there preliminary to going on ships. We get a good many recruits from the Lakes now when the steamers are laid up, and Detroit, Cleveland, Chicago, Milwaukee, Duluth, and Superior are furnishing men all the time.

Mr. RIXEY. Is that used now as a recruiting station?

Admiral CONVERSE. No, sir; we have no accommodations for housing them.

Mr. RIXEY. When will it be ready?

Admiral CONVERSE. It depends upon what you will give us to put up the buildings.

Mr. KITCHIN. How far is that station from Chicago?

The CHAIRMAN. It is about 35 miles, I think. You say you will need these men there this coming year?

Admiral CONVERSE. Yes, sir.

The CHAIRMAN. Can we safely reduce this estimate?

Admiral CONVERSE. We put in the estimate exactly as asked for by Captain Ross.

Mr. VREELAND. Is there an appropriation for buildings?

Admiral CONVERSE. Not yet; it is to be submitted. It is to be estimated for.

The CHAIRMAN. You have submitted it on page 87 of the bill.

Mr. BUTLER. What Department will that come under, the Bureau of Navigation?

Admiral CONVERSE. Yes, sir; but not in my time. After my successor has been appointed.

The CHAIRMAN. Who is the commandant?

Admiral CONVERSE. Captain Ross. He is in town and can appear before the committee if you so desire.

Mr. VREELAND. Where are you going to keep this live stock?

Admiral CONVERSE. We have a barn there. There were two or three buildings there when the property was transferred; it was quite a farm.

Now, I did not find any testimony of Captain Ross in such of the hearings as I have been able to obtain. I may have overlooked it; but if it be no more specific than this testimony, or if there be no more definite information than this testimony indicates, I should like to know upon what the House is asked to appropriate $20,000 for "ice and periodicals and stationery, fire extinguishers, and the like, for street-car fare," and also $6,940 "for clerical and other help."

Mr. VREELAND. Mr. Chairman, as I understand the gentleman, he offers criticism of the Naval Committee for making an appropriation based upon one page of the hearings. I desire to call the gentleman's attention to the fact that if he will look at page 167 of the hearings he will find for each of the next twenty-seven pages continual hearings upon this subject by the commandant at this station.

Mr. FITZGERALD. Well, Mr. Chairman, very much to my misfortune, upon applying at the Committee on Naval Affairs for a copy of the hearings on this bill the pages to which the gentleman refers were among those the committee were unable to furnish to me; so that Members of the House are not to be criticised for not finding all of the testimony submitted to the committee; but the fact is that there are there on this farm a barn and two or three wooden buildings, and $20,000 is asked for maintenance, while for the maintenance of the naval training station at Rhode Island, where they have men under training and where they are doing effective work, the total appropriation for maintenance is $71,000, and the total appropriation for maintenance at the California station is $50,000.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, it may be necessary to appropriate $26,940 for maintenance and clerical help at this place before they have even commenced to erect a building; but if it be, I would like the House to consider how much will be required after the erection of the contemplated buildings, to cost not to exceed $2,000,000. I should like to know what provision the committee has made to prevent the exorbitant fees and charges of architects in the erection of this establishment. We had some experience in connection with the Naval Academy. In order to prevent a repetition of it when it was proposed to reconstruct the Military Academy at West Point, a specific sum was appropriated for architects' fees. Nobody has complained that the Government suffered particularly from that practice, although there was considerable discontent upon the part of

the architects throughout the country. This is the time when these appropriations must be carefully scrutinized, because when it is started, as Members of the House well know, it will be impossible ever to cut them down.

Mr. PALMER. What is the use of expending $2,000,000 for a naval training station where recruits are to be received and kept for a few weeks and then forwarded to the service? What is the use of spending that large amount of money for a place like that?

Mr. FITZGERALD. Oh, the gentleman is in great error. They are to be kept there for about six months.

Mr. PALMER. How many will be there at a time?

Mr. ROBERTS. Ultimately about 2,000.

Mr. FITZGERALD. And they evidently intend to have very palatial quarters, and when they are trained and sent on board a ship and confined in the quarters they will be compelled to live in on board I predict that the desertions will increase at a rate that will astound the House and the country.

These training stations should be very simple affairs. We are not establishing a great university—that is, nobody imagined that such was the intention of Congress. I suppose, though, that we will have a magnificent granite and marble building in which men who are to be given a few months' preparatory training for life on board a ship as ordinary seamen or as landsmen are to be equipped for that work.

Mr. LILLEY of Connecticut. Will the gentleman permit an interruption?

Mr. FITZGERALD. Yes.

Mr. LILLEY of Connecticut. There are practically 25 per cent more men here than at Annapolis. The buildings there cost $10,000,000, and this whole outfit will cost two millions, so we are only spending 20 per cent of the money on the men who do the real work of the Navy as against what we are spending for the training of cadets at Annapolis, and it seems to me that it is out of proportion.

Mr. FITZGERALD. At the Naval Academy we have the most highly scientific course of any institution in the world. Men are being trained to officer the Navy, to spend their lives in it. They spend four or five years at the academy. The men who are to receive this preliminary training are enlisted for three or five years, and the rule is that after one term of enlistment they look for some other more congenial occupation. If the only defense for expending $2,000,000 for a training station is that Congress in some way or another was prevailed upon to expend $10,000,000 upon the Naval Academy, then it is the poorest defense I have ever heard urged for an appropriation.

Mr. LILLEY of Connecticut. Nevertheless is it not a fact that the percentage of reenlistments of the American Navy is greater than any other navy in the world?

Mr. FITZGERALD. Well, I do not know; but I do know this, that up to this time, with the exception, I think, of the training station at Newport, R. I., all of the men and the apprentice boys, who have reflected such glory and credit upon themselves and upon the Navy, have been trained on training ships, ships which were useless for any other purpose. Under this new dispensation, however, it is necessary to give them better accommodations than I or many other man had when we were attending college, and I am opposed to such a scheme because I think it is an unjustifiable extravagance.

Mr. LILLEY of Connecticut. May I say——

Mr. FITZGERALD. Yes.

Mr. LILLEY of Connecticut. Do you not think taking these green boys, landsmen, and putting them aboard these ships has been the cause of desertions very largely?

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. I do not; and I say, moreover, that after you get them out of this palatial training school and put them on board ship they will quit the first time they get to land, and you can not hold them. [Applause.]

Mr. LILLEY of Connecticut. No; they quit because they are in these old hulks being trained; they quit before they are trained.

Mr. RIXEY. Mr. Chairman, I agree with much the gentleman from New York has stated, and I will do him the credit to state that he is one of the few men on this proposition who is consistent. He opposed it in the beginning. I remember very well when this proposition first came up. I opposed it in the Committee on Naval Affairs and opposed it on the floor. It first went out on a point of order, raised, I believe, by the gentleman from Ohio. The provision for the naval training station was then placed in the bill by the Senate. When it came to the House there was a motion made to concur in the Senate amendment with an amendment. I was opposed to the whole proposition, and was one of those who voted in the negative, as was the gentleman from Wisconsin [Mr. COOPER], and the motion was defeated and the amendment was rejected. The matter then went to conference, and, while pending in conference, some amendment was made, which was satisfactory, not to everybody, because, so far as I was concerned, I was opposed to it upon principle, believing that there was no necessity for a naval training station on the Great Lakes, where you could not have, under the treaty with Great Britain, any battle ships; but my recollection is that when that compromise proposition came from the committee of conference the gentleman from Wisconsin [Mr. COOPER] supported it, and it seems to me that he should abide by his agreement. Now, the proposition which he supported—and if I am incorrect he can correct me—provided as follows:

Naval Training Station, Great Lakes: The purchase of land and the establishment of a naval training station on the Great Lakes, $250,000. The President is hereby authorized and empowered to appoint a board consisting of not less than three members, none of whom shall be a resident of any State bordering on the Great Lakes, whose duty it shall be to select the most available site for such naval training station on the Great Lakes, and having selected such a site, to ascertain and report its probable cost and the probable expenditure which will be necessary for improving the same, including lake shore protection and construction of necessary harbor facilities, and make a detail report of the findings and proceedings to the President, who, on approval of such report, shall authorize the purchase of such site and establishment of such naval training station.

Now, the gentleman from Wisconsin [Mr. COOPER] supported that proposition. He took his chances on it, and because he is defeated he now comes to attack this whole provision. So far as I am concerned, I am opposed to the provision upon principle——

Mr. COOPER of Wisconsin. Will the gentleman permit a suggestion right there?

Mr. RIXEY. I will.

Mr. COOPER of Wisconsin. I had no thought of opposing it at all, until I saw in the Chicago Tribune on the front page the report of the examinations of these expert chemists as to the pollution of the water, that the odor was unbearable and declared a nuisance. Then, inasmuch as you wanted a bathing place at the training site, I supposed if anything smelled so bad that you could not live near it, it would not be a pleasant place in which to bathe.

Mr. RIXEY. I will state to the gentleman that so far as I am concerned I do not believe in a naval station or a bathing place on the Great Lakes. I believe the recruits ought to be sent to the coast and have their training in the ships in which they are to serve. But the House thought differently, and Congress ordered differently, and the gentleman from Wisconsin [Mr. COOPER] had his opportunity to present the advantages of the site which he advocated; and he is here complaining to-day because that site was not selected by the Board.

Mr. SPARKMAN. How many of these naval training schools have we?

Mr. RIXEY. We have two or three. We have one in California, one in Rhode Island, and then one at Norfolk, or rather it is used as such.

Mr. SPARKMAN. In what particular do these training schools differ from the training on the training ships?

Mr. RIXEY. I presume it is the same thing. My view was that they ought to be sent to the ships where they could get that training. But Congress thought differently. Congress, after an elaborate discussion and consideration, decided in favor of establishing this station on the Great Lakes, and at this particular point, as I understand.

Now, as to whether any money will be appropriated for it, that is another matter; but I do think, so far as the gentleman from Wisconsin [Mr. COOPER] is concerned, he has had his day, he has taken his chances, and it now ill becomes him to complain of the selection of this site.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MEYER. Mr. Chairman, I am one of the Members of this House who voted for the establishment of a training station on the shore of the Great Lakes, because I believed that by such an establishment the Navy would secure recruits of a character most likely to do good service—men from the sturdy West, many of them accustomed to the water from youth, and who would prove efficient in the service. It is important to encourage enlistments from that section of the country, the breeding place of hardy, patriotic Americans.

Now, as to the advantage of training these young men on shore rather than in ships, that is a controversy which has been considered in Congress time and again, but in recent years it has been conceded that the first training of these recruits should be on land, for reasons which it is not necessary for me to mention now. As has been stated by my colleague from Virginia, the question was fully considered by Congress as to whether such training station should be established at Lake

Bluff, in Illinois, or at some other point on the Great Lakes. I do not think, sir, that there has been a matter brought before this Congress that was discussed more fully and more thoroughly and with more heat than was this one, two or three years ago. The gentleman from Wisconsin [Mr. COOPER] occupied a great deal of time in this connection, and with his usual vigor and persistency brought before the House every argument that was available in favor of the establishment at some other point, within the limits of his own State. Two commissions were appointed to investigate the relative merits of the various competing places.

There is no reason to believe that these commissions were in any way partial to any of these particular sites. The first was headed by Admiral Taylor, now deceased, an officer of the very highest character and ability, a man who would scorn to show preference unless that preference was justified. The President approved the findings of the second commission, also in favor of Lake Bluff, doubtless after a careful review of the reports connected therewith. There is certainly no reason to suppose the President acted without full consideration of the merits of the various places. In my judgment, the entire matter has been settled, and I can not conceive why the gentleman from Wisconsin comes now and seeks to overturn what has been so thoroughly discussed and, to my mind and to the mind of most of the Members who are familiar with the history of this legislation, established beyond the peradventure of further useful discussion.

I hope, Mr. Chairman, that the motion to "strike out" the paragraph will be voted down. The interest of the Navy will be best promoted by such action.

[Mr. KINKAID addressed the committee. See Appendix.]

Mr. MANN. Mr. Chairman, I have not taken any special interest in the subject of the naval station except in a very general way; but the remarks of my distinguished friend from Wisconsin [Mr. COOPER] in reference to the contamination of the water at Lake Bluff opened a new channel of thought. I regret very much that he did not make this speech some time ago. The United States Supreme Court has been engaged for several years in considering the question as to the contamination of the water supply in St. Louis by reason of the flow of water down the Illinois River, which comes through the drainage canal at Chicago. If the distinguished gentleman from Wisconsin had made his discovery and announced it to the world before that case was closed, it would have been possible for the city of Chicago in its controversy with St. Louis to prove that the contamination of the water supply of St. Louis came from Waukegan and Kenosha, because the water which he has complained of at Lake Bluff, which he says is so contaminated and has such vile odor, is water that goes down the western shore of Lake Michigan until it reaches Chicago and then goes down the Chicago River and then down the drainage canal and Illinois River to St. Louis. It would have been a remarkable discovery to have brought to the attention of the Supreme Court of the United States. St. Louis and the State of Missouri, thinking that it was the sewage from Chicago which was contaminating the water there, would have learned that the great discoverer from Wisconsin had brought to the attention of the world the fact that the supply of contaminated water came from Lake Bluff.

Mr. COOPER of Wisconsin. Mr. Chairman, I ask unanimous consent to say a word or two in reply to the gentleman from Illinois. I ask three minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. I hope he will have all the time he wants.

Mr. COOPER of Wisconsin. Mr. Chairman, in reply to the elaborate argument of the distinguished gentleman, the constitutional argument, which he has seen fit to submit to the House, I desire to say that the "gentleman from Wisconsin" has not made any "discovery," except to have found on the front page of the Chicago Tribune what purported to be a statement of a member of the State board of health, and also a statement of a professor of the Northwestern University as to the pollution of the water at Lake Bluff, caused by the gluten that came from the glucose factory, the only glucose factory in that vicinity, at Waukegan, 4 miles distant. It is not a discovery of the "gentleman from Wisconsin," but a plain statement of two unbiased, professional experts as to the pollution of the water at Lake Bluff. It is not a discovery on my part, but a statement of facts by chemists. So that the gentleman's eloquent, elaborate, and profound discussion of the Constitution and the law, when he alluded to me, was merely an airing of his own wisdom in reference to this matter, and wholly irrelevant.

Mr. MANN. I do not know how the gentleman could think of it as an argument on constitutional law. Probably he would not recognize it.

Mr. COOPER of Wisconsin. The gentleman spoke of something that was done in the Supreme Court. I will say law and strike out the "Constitution."

Mr. FOSS. Mr. Chairman, I would like to say a word about this proposition, and only a word. This matter was very thoroughly discussed two years ago on the floor of this House, and every objection which has been made here as to the site selected by the different boards was made then, and, I think, made a great deal better then than now. There have been two commissions appointed for the purpose, and they have unanimously selected the site. The Navy of the United States wanted another training station. They have one on the Pacific coast; they have got another at Newport, R. I., and they wanted one in the Great Lakes somewhere. So a naval board was first commissioned to examine and select the site. Then a second commission was appointed, Mr. Chairman, which consisted of a majority of civilians, and they unanimously selected this site, and the President of the United States has approved of it, the title has been taken to the property, and the work has been going on. Admiral Converse, in his report, says that "the work should be expedited on the new training station about to be established at Lake Bluff, near Chicago, and when it is completed a present pressing want will be relieved."

Now, we all know that one of the most pressing questions in the Navy to-day is securing a good personnel and the training of the personnel. We propose to make this as good a station as the one at Newport. We sent a commission over to Europe a few years ago to visit the different training stations and the methods of training men in the foreign navies. It is proposed to make this a model training station for the men behind the guns—the enlisted men. It is the only naval institution which we have or will have out on the Great Lakes.

We have navy-yards along the Atlantic coast, along the Gulf, and along the Pacific coast, and we will have but this one naval station on the Great Lakes, and I think it ought to be a good station. I think it ought to be a first-class station in every respect. It is located near the heart of the great center of our country, from which to-day come the best men who enter the American Navy.

Something has been said here to-day because the citizens of Chicago subscribed $172,000 and gave this site to the United States Government. They are patriotic people in Chicago, and a number of years ago, when it was proposed to locate there an Army post, the citizens of Chicago went down into their pockets and subscribed more than $300,000 and purchased the land and gave it to the United States Government. With the same degree of patriotism, from no other motive than a sentiment of love for the Navy and devotion to the flag, they have in this case already contributed this large sum of money and turned the property over to the United States Government. [Applause.]

Now, the Government of the United States having agreed to establish a station of this sort and having taken the property subscribed and paid for by the citizens of Chicago, I say to you that it would be unjust for it not to go ahead and establish and build this naval training station. [Applause.]

I call for a vote.

The CHAIRMAN. The question is on the motion of the gentleman from Wisconsin to strike out the paragraph.

The question being taken; and the motion was rejected.

Mr. FITZGERALD. In line 16, I move to strike out "twenty thousand dollars" and insert "ten;" so that it will read "ten thousand dollars." I do this, Mr. Chairman, in view of the very elaborate and apparently satisfactory explanation of the necessity for this particular appropriation by the gentlemen who have spoken in behalf of this establishment. They have convinced me, at least, that probably they can get along with $10,000 a year at this station for these incidental expenses, including "periodicals, stationery, books, street-car fares," and other matters, when so far as we are aware there is practically no necessity for any more.

Mr. LOUDENSLAGER. I want to say for the benefit of the committee that this item of $20,000 does not altogether refer to the items mentioned by the gentleman from New York, but it also includes labor and materials and the preparation of the ground, and it would seem to me that this is a very small amount of money to be appropriated in that way, and it would, in my judgment, cripple the expenditure of the item further on in the bill as well as that which was appropriated last year.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. LOUDENSLAGER. Yes.

Mr. FITZGERALD. Does the gentleman think it proper to make any very great expenditure in preparing these grounds

until the plans have been approved for the buildings that are to be erected there?

Mr. LOUDENSLAGER. The plans are prepared.

Mr. FITZGERALD. I beg the gentleman's pardon. The language here does not indicate that.

Mr. LOUDENSLAGER. Not on that appropriation, but on the other they are, and the need there is for the improvement of the grounds.

Mr. FITZGERALD. But I call the gentleman's attention to the statement that the architect at this place is preparing the plans; and if he is preparing them, they certainly are not prepared. They can not be approved until they are prepared, and until that happens it seems to me very indiscreet to attempt to lay out the grounds.

Mr. LOUDENSLAGER. The grounds must necessarily be laid out with a view to the construction of certain buildings, and so far as the actual laying out on paper is concerned that has been done, for I have seen it myself, and, as I understand, some of this appropriation is to be made use of in that connection.

Mr. LILLEY of Connecticut. This appropriation will not be available until July 1.

Mr. FITZGERALD. Let me ask the gentleman from Connecticut for what has the $250,000 already appropriated been expended? The gentleman is on the committee and gave this a great deal of attention.

Mr. LILLEY of Connecticut. I have not that information.

Mr. FITZGERALD. I should like to know somebody who has that information and can give it.

Mr. FOSS. In Captain Ross's testimony before the committee, which the gentleman can have——

Mr. FITZGERALD. The gentleman knows that he gave me all the testimony I could get in the committee, and that was not among it. I applied to the gentleman personally.

Mr. FOSS. I gave the gentleman the testimony that he wanted, the testimony of the bureau chief.

Mr. FITZGERALD. No; I wanted the testimony taken on this bill.

Mr. FOSS. I think the gentleman must be mistaken. Here is the statement of the expenditures in the testimony of Captain Ross.

Mr. FITZGERALD. I will ask the gentleman how much has been expended.

Mr. FOSS. Up to January 1, 1906, $11,912.

Mr. FITZGERALD. And so they had left $239,000.

Mr. FOSS. That was on January 1, 1906.

Mr. FITZGERALD. They had $239,000 left, and that is in addition to the $20,000 that is appropriated. Now, I hope, Mr. Chairman, in view of the fact that $250,000 was appropriated in the act of 1904, and the balance, amounting on the 1st of January of this year to $239,000, is still available, that the committee will join me in reducing this appropriation by $10,000, because all of this other money is available for the same purpose.

The CHAIRMAN. The question is on agreeing to the motion made by the gentleman from New York.

The question was taken; and the motion was not agreed to.

The Clerk read as follows:

For clerical force in the office of commandant as follows: One clerk, at $1,200; one clerk, at $1,000; one draftsman, at $1,500; one subinspector, at $1,500; one foreman of laborers, at $1,200; one messenger, at $540; in all, $6,940. In all, naval training station, Great Lakes, $26,940.

Mr. FITZGERALD. Mr. Chairman, I suppose there is no claim on the part of the members of the committee that two clerks, a draftsman, and subinspector could be overworked at this place inasmuch as of that $250,000, which has been available for over a year, they have only been able to expend $11,000. The amount of supervision that will be necessary at this station and the necessary clerical help that will be required will hardly need an appropriation of over $6,000. It may be necessary in view of what it is contemplated will eventually be done there; but it seems to me to be unnecessary to authorize the entire office equipment before the erection of the buildings has been commenced. Under these conditions I move that this provision be stricken from the bill.

Mr. FOSS. Mr. Chairman, the gentleman has unintentionally misstated the whole question. The proposition here is simply a provision for the maintenance of the station—$20,000. That is separate and apart from the $250,000, which goes toward the construction and equipment of the station—an entirely different proposition. The gentleman is trying to throw in here, from lack of information, the idea that we are trying in some way to secure more money than is absolutely necessary.

Mr. FITZGERALD. Mr. Chairman, the gentleman charges me with an attempt to mislead the committee. That statement is hardly accurate. In the law, if the gentleman will read it, he will find an appropriation of $250,000 which is available for the purpose of preparing and equipping this station. I challenge the gentleman to read the law and see if I am not correct. The appropriation that has been passed for maintenance "includes repairs and improvements of the ground," and if the $250,000 that was appropriated was not available for that purpose I will ask the gentleman from Illinois to state from what fund they have obtained the money with which they have been doing the identical work for which this $20,000 is granted.

The gentleman does not answer the reasons urged for striking out the appropriation for clerical help. I stated that the committee had provided an office equipment here for a place not in existence. The gentleman charges me with having attempted to mislead the House into the belief that the appropriation already made and passed was available for a purpose for which it was not. I call the gentleman's attention to this fact, that at least the House has a right to expect, when a motion is made to strike out an appropriation for clerical help, which is new in this bill, that the gentleman give one substantial reason for incorporating the provision in the bill. It may be that he has done so, but if he has it has escaped my observation.

Mr. FOSS. Evidently it has escaped the gentleman's observation. In the statement of Admiral Converse, Chief of the Bureau of Navigation, in the latter part of it—page 121 of the hearings—is inserted the report of the commandant of the station. It says: "One clerk at $1,200; this clerk is required in the construction, records, general office work, including all work under the engineer's direction. One stenographer at $1,000; this is needed not only in the office of the commandant, but for all correspondence, and for the correspondence of any other officers stationed here—also as a file and record clerk. One draftsman at $1,500; this draftsman is absolutely necessary, and will be needed after the construction of the building is completed;" and so it goes on all through. There is a reason for everything given here, and the only trouble is that the gentleman has not been able to make himself familiar with the facts.

Mr. FITZGERALD. Mr. Chairman, the gentleman is reading from the estimate that was submitted. If the gentleman's committee is in the habit of accepting the estimates transmitted from a Department as sufficient justification for appropriations, and if that practice was followed by every other committee that has jurisdiction over appropriation bills, the Government of the United States would be bankrupt in one year. I ask the gentleman not to read from the estimates, but to give one good, substantial reason for the appropriation for a clerical force at a place where there is to-day only a barn and two or three wooden buildings, although it is contemplated in this bill to authorize the construction of new buildings.

Mr. FOSS. Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York to strike out the paragraph.

The question was taken; and the amendment was rejected.

The Clerk read as follows:

Ordnance and ordnance stores: For procuring, producing, preserving, and handling ordnance material for the armament of ships; for fuel, material, and labor to be used in the general work of the Ordnance Department; for watchmen at magazines, powder factories, and powder depots; for furniture in ordnance buildings at navy-yards and stations; for maintenance of the proving ground and powder factory, and for target practice, $3,500,000.

Mr. TAWNEY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read:

The Clerk read as follows:

Amend by inserting after the word "dollars," in line 6, page 11, the following: "*Provided*, That no part of this appropriation shall be expended for shells and projectiles, except for shells and projectiles purchased in accordance with the terms and conditions of proposals submitted by the Secretary of the Navy to all the manufacturers of such shells and projectiles and upon bids received and accepted in accordance with the terms and requirements of such proposals."

Mr. TAWNEY. Mr. Chairman, I am advised by the Secretary of the Navy that there is expended annually about $500,000 out of this appropriation for shells and projectiles, and that it has not been the practice of the Department heretofore to invite bids or submit proposals to the various establishments manufacturing projectiles and shells; that these contracts are let to the establishment which, in the judgment of the Department, it seems best and advisable that the contract should be given. I think, with all due respect to the Committee on Naval Affairs, that Congress should place some limitation upon this discretion which has heretofore been invested in and exercised by the Navy Department. There are different manufacturing establishments engaged in the manufacture of these projectiles,

and it is but reasonable to suppose that if the Navy Department is required to invite bids or to submit proposals upon which bids are invited for the manufacture of these projectiles, the Government will pay less than we are paying now under the present system, which is to give the contract to any establishment that may be able to secure the favor of the Department. There is no reason why an exception should be made in the matter of the purchase of an item involving an expenditure of half a million of dollars annually from the practice which is pursued in the purchase of any other item that is necessary in the administration of any of the other Departments of the Government. I regret that I do not have at hand the letter which I received from the Secretary of the Navy upon this subject, but I have stated in substance what it is, and I can see no reason why an exception should be made, as I say, in this particular item, the purchase of which involves so much money as the purchase of projectiles.

Mr. FOSS. Mr. Chairman, will the gentleman yield for a question?

Mr. TAWNEY. Certainly.

Mr. FOSS. Did the Secretary of the Navy write the gentleman a letter approving this provision?

Mr. TAWNEY. No; he did not, because "the gentleman" did not ask for his approval. I merely asked for information. There are two classes of projectiles. Proposals for the one are submitted and bids are invited. Under that class about $46,000, if my memory serves me right, was expended during the last fiscal year; but under the other class, for which there was expended during the last fiscal year something like $446,000, no proposals were submitted and no bids were invited, although the Secretary of the Navy, who admits that there are several manufacturing establishments engaged in the manufacture of these projectiles, refused to award the contract to any one of them.

Mr. ROBERTS. Mr. Chairman, will the gentleman permit a question?

Mr. TAWNEY. Yes.

Mr. ROBERTS. What is the nature of the projectiles for which the large sum is expended?

Mr. TAWNEY. The large projectiles.

Mr. BUTLER of Pennsylvania. Manufactured by what concern?

Mr. TAWNEY. I do not know. The Secretary of the Navy does not state the firm that is manufacturing them for the Government, although he does state in his letter that there are several establishments engaged in their manufacture. I can see no objection to the amendment. I think it is a reasonable proposition.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS. Mr. Chairman, I ask unanimous consent that the gentleman may be permitted to proceed for five minutes.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the gentleman from Minnesota proceed for five minutes. Is there objection?

There was no objection.

Mr. ROBERTS. Mr. Chairman, I would ask the gentleman if any part of this half million dollars is expended for torpedoes?

Mr. TAWNEY. No.

Mr. ROBERTS. Only for projectiles used in the guns?

Mr. TAWNEY. Yes; for the shells and projectiles; and if this limitation is placed upon this provision it also ought to be placed on the provision on the same page, which is a new provision, providing for the purchase of a certain amount of reserve shells and projectiles.

Mr. ROBERTS. I would like to ask the gentleman one other question. Has he heard or does he know of any complaints from manufacturers of these projectiles that they do not have the opportunity to furnish the Government with their own manufacture?

Mr. TAWNEY. I have none; I have no complaint. This is not in the interest of any manufacturing establishment. I do not offer this amendment at the request of anybody; but in looking over the appropriations I saw this large sum appropriated for this purpose, and I sought information from the Secretary of the Navy as to how these expenditures were made and learned from him, as I have stated, that the purchases were made, except in one particular class of projectiles, for which we expended $46,000 last year, in the discretion of the Department, regardless of the price and without inviting bids.

Mr. HULL. Without any bids?

Mr. TAWNEY. Without any bids whatever.

Mr. LOUDENSLAGER. As I understood you, you made the statement that several other firms were engaged in the manufacture of these kinds of shells.

Mr. TAWNEY. That was the information which the Secretary communicated to me in his letter, which I had here, but somebody must have picked it up.

Mr. LOUDENSLAGER. Do you know who the purchasers are from the other firms?

Mr. TAWNEY. I do not.

Mr. BUTLER of Pennsylvania. Will the gentleman from Minnesota permit me to ask a question?

Mr. TAWNEY. I will.

Mr. BUTLER of Pennsylvania. Is the gentleman perfectly satisfied to have this item passed over until to-morrow morning at 12 o'clock?

Mr. TAWNEY. Certainly; I have no objection.

Mr. BUTLER of Pennsylvania. I am sure the gentleman will not have any objection.

Mr. TAWNEY. I have no objection.

Mr. BUTLER of Pennsylvania. We may be better informed by to-morrow.

Mr. ADAMS of Pennsylvania. In reply to the gentleman from Massachusetts as to whether any firms have complained that they had not an opportunity to enter into a competition, I would say the Midvale Works, of Philadelphia, have so complained, that under the practice they had not the opportunity, the discretion being lodged in the Secretary, to enter competitive bids.

Mr. BUTLER of Pennsylvania. Mr. Chairman, may I renew my request that this item go over until to-morrow morning at 12 o'clock? The gentleman offering the amendment says it will be satisfactory to him.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the paragraph with amendment pending be passed without prejudice until to-morrow after the House goes into committee. Is there objection?

Mr. TAWNEY. I have no objection, Mr. Chairman, to that.

The CHAIRMAN. The Chair hears no objection.

The Clerk read as follows:

Purchase and manufacture of smokeless powder, $500,000.

Mr. RIXEY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

After the word "dollars," in line 11, add the following: "*Provided*, That no part of this appropriation shall be used for the purchase of smokeless powder at a greater price than 60 cents per pound."

Mr. RIXEY. Mr. Chairman, the hearings before the Committee on Naval Affairs disclosed the fact that no bids are called for when the Government has to purchase its powder. The course adopted is a most unsatisfactory one. The Department notifies the powder manufacturer to furnish so much powder upon the general and continuing understanding that it will pay 70 cents a pound. Admiral Mason, head of the Ordnance Bureau, stated that there was practically no competition in regard to the furnishing of smokeless powder; that the Department fixed the price at which this powder was to be furnished, and that the factories furnished the powder at the price which the Department said was reasonable.

Now, this amendment simply provides that the Department, instead of paying what it has been, 70 cents a pound, shall not pay in excess of 60 cents a pound. I hope that there will be no trouble in the committee in accepting this amendment, because it is manifestly just in the light of the evidence which we have recently had. The question as to the price of powder has recently been investigated by the Committee on Military Affairs of the Senate. That committee had hearings, and, as I understand it, the result of those hearings is that smokeless powder can be manufactured at 35 or 40 cents a pound. The cost to manufacture powder at the Government plant at Indian Head, Admiral Mason says, is 60 cents a pound, which includes an allowance of 10 per cent for depreciation of plant and 6 per cent insurance. This is a most liberal allowance for depreciation and for insurance. I understand that insurance can be secured for 2 per cent, and there is no reason why the land should depreciate at all, much less 10 per cent.

Again, Mr. Chairman, the demand for navy-yard construction is always met with the statement that the private contractors can build cheaper than the Government, so much cheaper that the private contractors can build for the same price that it costs the Government and have a good profit besides. That is a contention we hear every year when the naval bill comes up and we reach the question of the increase of the Navy. If this contention of the private contractors is approximately true, why not apply it to the question of powder? With the Government plant at Indian Head run to only one-half to two-thirds its capacity and with allowances for depreciation and insurance, it would seem that the cost to the Government would be a liberal allowance to a private contractor. In addition, if we adopt this amendment limiting the price to 60 cents a pound, the Department will furnish the acid, which costs from 4 to 5 cents,

and the powder will thus cost the Government 65 cents, instead of 75 cents, as it now does, while the Government can manufacture it for 60 cents.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RIXEY. Mr. Chairman, I would like to have five minutes more on this proposition.

The CHAIRMAN. The gentleman from Virginia [Mr. RIXEY] asks unanimous consent that he may proceed for five minutes. Is there objection?

There was no objection.

Mr. RIXEY. Admiral Mason in his statement said:

We have not asked for bids for some time in the Navy. We place the order with the different companies at the price of 70 cents, this price having been fixed by us as a result of our experience at Indian Head and accepted by the manufacturers.

Mr. RIXEY. You pay wherever you place the order 70 cents?

Admiral MASON. That is the price at present.

Mr. RIXEY. I understood that we had a provision which required that when powder or anything else was to be purchased for the supply of the Navy that it must be put out to the lowest bidder.

Admiral MASON. Ordnance and ammunition are exempt by law.

Mr. RIXEY. Don't you think it would be a wise course to pursue?

Admiral MASON. For the lowest bidder?

Mr. RIXEY. To call for bids.

Admiral MASON. I do not think anything would be gained by this. There are no other firms in the country which manufacture smokeless powder for large guns. The present manufacturers have very close business relations with one another and have always been willing to meet us in fixing the price of their product and to give us full facilities for examining their plants and keeping ourselves posted with regard to advances in methods of manufacture which might tend to cheapen production. We have once, at least, cut down the price, after conferring with the manufacturers, and they accepted our decision, though naturally not without some reluctance. It would be bad policy in connection with a matter so essentially military as this one of powder manufacture to accept anything but the very best that can be made, and we have felt that the only way to get this is to set the highest possible standard and hold the manufacturers up to this by rejecting without hesitation every pound of their product which does not come up to the requirements.

We can not do all this unless we are fair in the matter of price, and this is one of the greatest advantages about having a Government plant. We can follow up the cost of production at our own plant, and then, by allowing what seems a fair margin of profit for the outside manufacturers, we can agree on a price which will justify them in using the most improved methods at every point. The cost of production at Indian Head at present averages 60 cents a pound. This takes account of the capital invested—that is, the estimated cost of the plant—and allows for deterioration of plant, and insurance, the Government insuring itself.

It is stated in another place——

Mr. BUTLER of Pennsylvania. How much does it cost the Government?

Mr. RIXEY. Sixty cents, and that is after allowing 10 per cent for deterioration of plant and 6 per cent for insurance.

Mr. TAWNEY. Will the gentleman permit me to ask him a question right there?

Mr. RIXEY. Yes.

Mr. TAWNEY. Is there any competition in the manufacture of smokeless powder whatever, and can there be competition?

Mr. RIXEY. Admiral Mason states there is very little competition.

Mr. TAWNEY. Has not your committee ascertained the fact that smokeless powder is manufactured under the terms and specifications of a patent obtained for its manufacture?

Mr. RIXEY. I think not. There is no such evidence.

Mr. TAWNEY. I will say to the gentleman that I have the certified copies of the patents obtained by two naval officers, and those patents have been assigned to one of the constituent companies that generally manufactures smokeless powder, and in that assignment the patentee has reserved to the Navy Department a license to manufacture smokeless powder, and the Navy Department is the only establishment, or the Government itself can be the only competitor, in the United States for the manufacture of smokeless powder, for the reason that it is being manufactured under these two patents obtained by two naval officers, whose experiments were conducted out of appropriations made for the maintenance, or made for the torpedo station, I think, at Newport, R. I.

Mr. RIXEY. Smokeless powder is made down at Indian Head. There was no testimony whatever before the Committee on Naval Affairs in regard to any patents on smokeless powder.

Mr. TAWNEY. I have certified copies of them.

Mr. RIXEY. I know nothing of these patents, never saw them, and that question is not material to what we are considering. Admiral Mason was asked the question, "How many factories for smokeless powder have we in this country?" He answered, "We have a factory of our own at Indian Head. We have the International Smokeless Powder Company, the Du Pont Company, the Laflin & Rand Company, and the California Powder Company."

He then states that they have "very close business relations." The fact is that they have an agreement in regard to prices. It is for all practical purposes a trust. It controls the output and price on the sale of smokeless powder. The only protection the Government has is to place a limit on the price, and that is what the amendment proposes. It is a liberal allowance, and nothing but a monopoly would likely be dissatisfied with the price named. I shall be surprised if this committee shall indicate its unwillingness to place a limit upon the price to be charged by this monopoly. There ought not to be any objection to the adoption of the amendment. It is claimed elsewhere that the powder can be manufactured and sold at 35 to 40 cents. But giving the companies the benefit of all doubt, giving them the benefit of the statement made by the Chief of Ordnance, these companies can make smokeless powder and sell it to the Government at a profit at 60 cents a pound; and the amendment limits it to that price.

Mr. FOSS. Mr. Chairman, I think most of this appropriation goes toward the manufacture by the Government of smokeless powder. I think it is stated somewhere in the hearings, and I was trying to find it.

Mr. RIXEY. I want the limitation here; the provision is for "purchase and manufacture."

Mr. FOSS. I think some portion of it does go to the purchase. I should not want to agree to any action here that would entirely shut the Government out of powder. I hardly think it would be wise to agree to the gentleman's amendment, and I hope that it will be voted down.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WILLIAMS. Division, Mr. Chairman.

The committee divided; and there were—ayes 29, noes 40.

Mr. WILLIAMS. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Mississippi makes the point of order that there is no quorum present. The Chair will proceed to count. [After counting.] One hundred and two Members present. So the point is overruled.

Mr. WILLIAMS. I call for tellers on the amendment.

The question was taken; and tellers were ordered.

The CHAIRMAN. The gentleman from Illinois [Mr. Foss] and the gentleman from Virginia [Mr. RIXEY] will take their places as tellers.

The committee divided; and tellers reported—ayes 44, noes 63.

So the amendment was rejected.

The Clerk read as follows:

Reserve powder and shell: Toward the accumulation of a reserve supply of powder and shell, $1,000,000.

Mr. TAWNEY. Mr. Chairman, it was my purpose to offer the same amendment to this paragraph that I offered to the paragraph at the head of this page. But that has gone over, and I ask unanimous consent that this be passed in the same way, without prejudice.

Mr. FOSS. I agree to that.

The CHAIRMAN. The gentleman from Minnesota asks that the paragraph just read be passed without prejudice, to be considered at the same time as the other paragraph which went over under like agreement. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Arming and equipping Naval Militia: For arms, accouterments, signal outfits, boats and their equipment, repairs to vessels loaned to States in accordance with law, coal and clothing, and the printing or purchasing of necessary books of instruction for the Naval Militia of the various States, under such regulations as the Secretary of the Navy may prescribe, $60,000.

Mr. MEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Page 12, line 6, after the word "law," strike out the word "coal" and insert the word "fuel."

Mr. FOSS. I accept the amendment if the gentleman will put in the letter from the Secretary.

Mr. MEYER. This change is recommended by the Navy Department. Many of the launches used in the service of the Naval Militia of the different States require oil instead of coal for fuel. The change does not increase the appropriation.

The Secretary of the Navy approves it, as will appear from the following letter:

NAVY DEPARTMENT,
Washington, May 2, 1906.

DEAR GENERAL: I respectfully invite your attention to the word "coal" as it appears in line 6, page 12, of H. R. 18750, making appropriations for the naval service for the fiscal year ending June 30, 1907.

As several of the States are using launches which require oil instead of coal for fuel, I beg to suggest that the word "fuel" be substituted for the word "coal," so that paragraph will read: * * * "fuel and clothing" * * * instead of * * * "coal and clothing" * * *.

This affects the States of Louisiana, Missouri, California, Illinois, and Connecticut.

Very respectfully, TRUMAN H. NEWBURY,
Acting Secretary.

Hon. ADOLPH MEYER, M. C.,
United States House of Representatives, Washington, D. C.

The question was taken; and the amendment was agreed to.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. COOPER of Wisconsin having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On May 7, 1906:

H. R. 1340. An act granting a pension to Robert Kennish;
H. R. 2796. An act granting a pension to Benjamin T. Odiorne;
H. R. 3333. An act granting a pension to William Simmons;
H. R. 4264. An act granting a pension to Frances E. Maloon;
H. R. 4669. An act granting a pension to Joseph E. Green;
H. R. 6949. An act granting a pension to Alice W. Powers;
H. R. 6985. An act granting a pension to Susan C. Smith;
H. R. 7232. An act granting a pension to Alba B. Bean;
H. R. 7737. An act granting a pension to William H. Winters;
H. R. 7844. An act granting a pension to Phoebe Keith;
H. R. 8475. An act granting a pension to John F. Tathem;
H. R. 8687. An act granting a pension to William I. Lusch;
H. R. 8820. An act granting a pension to Inez Talkington;
H. R. 9046. An act granting a pension to William Berry;
H. R. 9287. An act granting a pension to Eliza Byron;
H. R. 9441. An act granting a pension to Clara N. Scranton;
H. R. 9442. An act granting a pension to Dora C. Walter;
H. R. 9606. An act granting a pension to Martha Jewell;
H. R. 9993. An act granting a pension to George W. Warren;
H. R. 10408. An act granting a pension to Anna E. Middleton;
H. R. 10424. An act granting a pension to Emanuel S. Thompson;
H. R. 10775. An act granting a pension to Ellen S. Cushman;
H. R. 11565. An act granting a pension to Sarah A. Brinker;
H. R. 11654. An act granting a pension to Emma A. Smith;
H. R. 11703. An act granting a pension to Laura McNulta;
H. R. 11898. An act granting a pension to Lars F. Wadsten, alias Frederick Wadsten;
H. R. 11918. An act granting a pension to Mary A. Weigand;
H. R. 12099. An act granting a pension to Charlotte A. McCormick;
H. R. 12715. An act granting a pension to George B. Kirk;
H. R. 12803. An act granting a pension to Emma C. Waldron;
H. R. 13217. An act granting a pension to Joshua Barnes;
H. R. 13726. An act granting a pension to Sarah J. Manson;
H. R. 14677. An act granting a pension to Reuben R. Ballenger;
H. R. 15321. An act granting a pension to Charles Skaden, jr.;
H. R. 15431. An act granting a pension to Theresa Creiss;
H. R. 15569. An act granting a pension to Harriet A. Duvall;
H. R. 15895. An act granting a pension to Harry D. McFarland;
H. R. 16520. An act granting a pension to Edward Farrell;
H. R. 16582. An act granting a pension to Ellen T. Sivels;
H. R. 16930. An act granting a pension to Virginia A. Hilburn;
H. R. 16972. An act granting a pension to Harriett L. Morrison;
H. R. 17151. An act granting a pension to William T. Morgan;
H. R. 17273. An act granting a pension to Mary B. Watson;
H. R. 517. An act granting an increase of pension to Luke Waldron;
H. R. 531. An act granting an increase of pension to Ebenezer Rickett;
H. R. 601. An act granting an increase of pension to Israel E. Munger;
H. R. 667. An act granting an increase of pension to George H. Gaskill;
H. R. 1018. An act granting an increase of pension to Silas Flournoy;
H. R. 1138. An act granting an increase of pension to Joseph S. Rice;
H. R. 1151. An act granting an increase of pension to Valentine Bartley;
H. R. 1245. An act granting an increase of pension to David Rankin;
H. R. 1375. An act granting an increase of pension to Silas Mosher;
H. R. 1567. An act granting an increase of pension to Edward Duffy;
H. R. 1734. An act granting an increase of pension to William H. Lee;
H. R. 1858. An act granting an increase of pension to James Jacobs;
H. R. 1893. An act granting an increase of pension to Henry C. Maxwell;
H. R. 1910. An act granting an increase of pension to Andrew H. Nichols;
H. R. 1953. An act granting an increase of pension to Susan S. Theall;
H. R. 2102. An act granting an increase of pension to Eugenie Tilburn;
H. R. 2173. An act granting an increase of pension to Thomas H. Padgett;
H. R. 2721. An act granting an increase of pension to Ashford R. Matheny;
H. R. 2731. An act granting an increase of pension to James M. Eddy;
H. R. 2778. An act granting an increase of pension to Patrick Mahoney;
H. R. 2794. An act granting an increase of pension to Richard E. Davis;
H. R. 2801. An act granting an increase of pension to Alexander M. Lowry;
H. R. 2852. An act granting an increase of pension to James Dayton;
H. R. 3347. An act granting an increase of pension to Orestes B. Wright;
H. R. 3419. An act granting an increase of pension to John Biddle;
H. R. 3430. An act granting an increase of pension to Peter M. Culins;
H. R. 3456. An act granting an increase of pension to David B. Ott;
H. R. 3689. An act granting an increase of pension to Charles W. Lyons;
H. R. 3738. An act granting an increase of pension to Daniel Boughman;
H. R. 3979. An act granting an increase of pension to Paul Stang;
H. R. 4230. An act granting an increase of pension to William H. Miles;
H. R. 4242. An act granting an increase of pension to Mary A. Foster;
H. R. 4294. An act granting an increase of pension to Annie R. E. Nesbitt;
H. R. 4350. An act granting an increase of pension to Joseph W. Vance;
H. R. 4679. An act granting an increase of pension to Franklin D. Clark;
H. R. 4763. An act granting an increase of pension to John C. Matheny;
H. R. 5044. An act granting an increase of pension to Hiram G. Hoke;
H. R. 5178. An act granting an increase of pension to Elijah Pantall;
H. R. 5274. An act granting an increase of pension to William T. Branam;
H. R. 5822. An act granting an increase of pension to Miner L. Braden;
H. R. 5853. An act granting an increase of pension to Quincy Corwin;
H. R. 5956. An act granting an increase of pension to Joseph H. Wagoner;
H. R. 6213. An act granting an increase of pension to Hiram Linn;
H. R. 6238. An act granting an increase of pension to Jesse Woods;
H. R. 6256. An act granting an increase of pension to Solomon Riddell;
H. R. 6450. An act granting an increase of pension to Nannie L. Schmitt;
H. R. 6452. An act granting an increase of pension to William H. Doherty;
H. R. 6804. An act granting an increase of pension to Henry Good;
H. R. 6919. An act granting an increase of pension to Joseph A. C. Curtis;
H. R. 7540. An act granting an increase of pension to William F. Griffith;
H. R. 7687. An act granting an increase of pension to Charles Hammond, alias Hiram W. Kirkpatrick;
H. R. 7720. An act granting an increase of pension to Stephen M. Sexton;
H. R. 7745. An act granting an increase of pension to Wheeler Lindenbower;

H. R. 7821. An act granting an increase of pension to Mathias Brady;
H. R. 7837. An act granting an increase of pension to Mary J. McKim;
H. R. 7902. An act granting an increase of pension to Eugene Orr, alias Charles Southard;
H. R. 7968. An act granting an increase of pension to Palmetto Dodson;
H. R. 8046. An act granting an increase of pension to James Thompson Brown;
H. R. 8157. An act granting an increase of pension to Milton H. Wayne;
H. R. 8277. An act granting an increase of pension to Samuel S. Garst;
H. R. 8290. An act granting an increase of pension to Lloyd D. Bennett;
H. R. 8518. An act granting an increase of pension to Samuel Meadows;
H. R. 8711. An act granting an increase of pension to James F. Howard;
H. R. 8778. An act granting an increase of pension to George Henderson;
H. R. 8780. An act granting an increase of pension to Abraham M. Barr;
H. R. 9257. An act granting an increase of pension to Nathaniel M. Stukes;
H. R. 9261. An act granting an increase of pension to William C. Herridge;
H. R. 9288. An act granting an increase of pension to Catherine E. Bragg;
H. R. 9415. An act granting an increase of pension to John E. Murphy;
H. R. 9417. An act granting an increase of pension to George A. Havel;
H. R. 9556. An act granting an increase of pension to Thomas C. Jackson;
H. R. 9578. An act granting an increase of pension to Alfred B. Menard;
H. R. 9601. An act granting an increase of pension to John B. Page;
H. R. 9627. An act granting an increase of pension to Daniel Craig;
H. R. 9791. An act granting an increase of pension to Amelia E. Grimsley;
H. R. 9829. An act granting an increase of pension to William J. Thompson;
H. R. 9833. An act granting an increase of pension to James C. Miller;
H. R. 10030. An act granting an increase of pension to Arby Frier;
H. R. 10161. An act granting an increase of pension to Benjamin R. South;
H. R. 10173. An act granting an increase of pension to John H. Lockhart;
H. R. 10250. An act granting an increase of pension to Ephraim Marble;
H. R. 10358. An act granting an increase of pension to Charles Dorin;
H. R. 10456. An act granting an increase of pension to William T. Edgemon;
H. R. 10473. An act granting an increase of pension to John B. Gerard;
H. R. 10494. An act granting an increase of pension to Hannah C. Reese;
H. R. 10580. An act granting an increase of pension to Samuel Fish;
H. R. 10591. An act granting an increase of pension to Sarah A. Scott;
H. R. 10686. An act granting an increase of pension to George W. Adams;
H. R. 10727. An act granting an increase of pension to Aquilla M. Hizar;
H. R. 10881. An act granting an increase of pension to Jerry Edwards;
H. R. 10924. An act granting an increase of pension to Thomas J. Sizer;
H. R. 11143. An act granting an increase of pension to Levi B. Noulton;
H. R. 11306. An act granting an increase of pension to John C. Parkinson;
H. R. 11348. An act granting an increase of pension to Cynthia Cordial, now Vernon;
H. R. 11361. An act granting an increase of pension to Thomas Hughes;
H. R. 11367. An act granting an increase of pension to Manning Abbott;
H. R. 11374. An act granting an increase of pension to Fanny L. Conine;
H. R. 11532. An act granting an increase of pension to Andrew J. Speed;
H. R. 11538. An act granting an increase of pension to Eli Duvall;
H. R. 11591. An act granting an increase of pension to John B. Hall;
H. R. 11593. An act granting an increase of pension to Evans Blake;
H. R. 11606. An act granting an increase of pension to Edmund W. Bixby;
H. R. 11692. An act granting an increase of pension to John P. Wishart;
H. R. 11824. An act granting an increase of pension to Jennie P. Starkins;
H. R. 11907. An act granting an increase of pension to August Danieldson;
H. R. 12017. An act granting an increase of pension to James B. Simkins;
H. R. 12019. An act granting an increase of pension to Henry Jacob Fox;
H. R. 12059. An act granting an increase of pension to Mildred W. Mitchell;
H. R. 12389. An act granting an increase of pension to Isaiah B. McDonald;
H. R. 12390. An act granting an increase of pension to John W. Raynor;
H. R. 12407. An act granting an increase of pension to Robert Bivans;
H. R. 12415. An act granting an increase of pension to Elizabeth Bodkin;
H. R. 12521. An act granting an increase of pension to Alice Eddy Potter;
H. R. 12526. An act granting an increase of pension to Solomon Johnson;
H. R. 12534. An act granting an increase of pension to Richard Reynolds;
H. R. 12556. An act granting an increase of pension to Joseph W. Coppage;
H. R. 12663. An act granting an increase of pension to Frederick Friebele;
H. R. 12755. An act granting an increase of pension to Nathaniel W. Plymate;
H. R. 12888. An act granting an increase of pension to Jacob Sannar;
H. R. 12996. An act granting an increase of pension to Eugene B. McDonald;
H. R. 13139. An act granting an increase of pension to William Walrod;
H. R. 13171. An act granting an increase of pension to Jonathan K. Porter;
H. R. 13345. An act granting an increase of pension to Frank Clendenin;
H. R. 13437. An act granting an increase of pension to Samuel R. Lowry;
H. R. 13445. An act granting an increase of pension to Thomas T. Blanchard;
H. R. 13504. An act granting an increase of pension to Elizabeth Thompson;
H. R. 13730. An act granting an increase of pension to Joseph Shroyer;
H. R. 13738. An act granting an increase of pension to Henry Hahn;
H. R. 13741. An act granting an increase of pension to George R. Scott;
H. R. 13823. An act granting an increase of pension to William Van Keuren;
H. R. 13840. An act granting an increase of pension to Absalom Shell;
H. R. 13852. An act granting an increase of pension to Luther S. Holly;
H. R. 13871. An act granting an increase of pension to William Delaney;
H. R. 13881. An act granting an increase of pension to Amos Dyke;
H. R. 13928. An act granting an increase of pension to Harvey Foster;
H. R. 13961. An act granting an increase of pension to Julius Buxbaum;
H. R. 14001. An act granting an increase of pension to Nathan S. Ruddock;

H. R. 14116. An act granting an increase of pension to John P. Rains;
H. R. 14117. An act granting an increase of pension to William H. H. Fellows;
H. R. 14227. An act granting an increase of pension to Anna C. Bassford;
H. R. 14299. An act granting an increase of pension to Rose V. Mullin;
H. R. 14374. An act granting an increase of pension to Benjamin B. Cahoon;
H. R. 14442. An act granting an increase of pension to Esther M. Lowe;
H. R. 14498. An act granting an increase of pension to Eliza Davidson;
H. R. 14534. An act granting an increase of pension to Jasper N. Harrelson;
H. R. 14552. An act granting an increase of pension to Henry Davey;
H. R. 14553. An act granting an increase of pension to Jesse Lienallen;
H. R. 14566. An act granting an increase of pension to Robert E. McKiernan;
H. R. 14657. An act granting an increase of pension to David W. West;
H. R. 14688. An act granting an increase of pension to Robert Timmons;
H. R. 14698. An act granting an increase of pension to William F. Drake;
H. R. 14780. An act granting an increase of pension to John A. Royer;
H. R. 14782. An act granting an increase of pension to Michael Manahan;
H. R. 14853. An act granting an increase of pension to Helen C. Sanderson;
H. R. 14915. An act granting an increase of pension to Andrew W. Tracy;
H. R. 14989. An act granting an increase of pension to Arcatie E. Thompson;
H. R. 14990. An act granting an increase of pension to Lucius D. Whaley;
H. R. 14993. An act granting an increase of pension to Riley M. Smiley;
H. R. 15007. An act granting an increase of pension to Henry Hares;
H. R. 15011. An act granting an increase of pension to John Eldridge, jr.;
H. R. 15024. An act granting an increase of pension to Henry C. Keyser;
H. R. 15050. An act granting an increase of pension to William H. Near;
H. R. 15061. An act granting an increase of pension to Ethan Allen;
H. R. 15119. An act granting an increase of pension to Cornelius Westman;
H. R. 15216. An act granting an increase of pension to Truman C. Stevens;
H. R. 15240. An act granting an increase of pension to James W. Fowler;
H. R. 15256. An act granting an increase of pension to Benjamin F. Greer;
H. R. 15277. An act granting an increase of pension to George W. Pierce;
H. R. 15380. An act granting an increase of pension to Valentine Gunselman;
H. R. 15396. An act granting an increase of pension to John T. Jacobs;
H. R. 15415. An act granting an increase of pension to Ann R. Nelson;
H. R. 15484. An act granting an increase of pension to Robert Dick;
H. R. 15487. An act granting an increase of pension to Truman Aldrich;
H. R. 15548. An act granting an increase of pension to Jacob Ferber;
H. R. 15616. An act granting an increase of pension to Pleasant Calor;
H. R. 15621. An act granting an increase of pension to Caleb M. Tartar;
H. R. 15670. An act granting an increase of pension to Daniel E. Durgin;
H. R. 15683. An act granting an increase of pension to Thomas Brown;
H. R. 15701. An act granting an increase of pension to William Brown;
H. R. 15717. An act granting an increase of pension to Ebenezer A. Rice;
H. R. 15780. An act granting an increase of pension to Peter Cole;
H. R. 15794. An act granting an increase of pension to Samuel Pepper;
H. R. 15835. An act granting an increase of pension to George M. Thompson;
H. R. 15840. An act granting an increase of pension to Edgar B. Hughson;
H. R. 15863. An act granting an increase of pension to William Louther;
H. R. 15894. An act granting an increase of pension to Alma L. Wells;
H. R. 15928. An act granting an increase of pension to Herbert D. Ingersoll;
H. R. 15956. An act granting an increase of pension to Walter F. Bean;
H. R. 15982. An act granting an increase of pension to Henrietta W. Wilson;
H. R. 16023. An act granting an increase of pension to Sheldon B. Fargo;
H. R. 16024. An act granting an increase of pension to Katie B. Meister;
H. R. 16179. An act granting an increase of pension to William N. J. Burns;
H. R. 16182. An act granting an increase of pension to Samuel F. Williams;
H. R. 16190. An act granting an increase of pension to James T. Caskey;
H. R. 16210. An act granting an increase of pension to Abraham G. Long;
H. R. 16250. An act granting an increase of pension to Augustus J. Morey;
H. R. 16266. An act granting an increase of pension to Margaret A. Rucker;
H. R. 16296. An act granting an increase of pension to Henry C. Coffin;
H. R. 16334. An act granting an increase of pension to Enos Day;
H. R. 16376. An act granting an increase of pension to Joseph Muncher;
H. R. 16428. An act granting an increase of pension to Edwin Hicks;
H. R. 16433. An act granting an increase of pension to Marius S. Cooley;
H. R. 16437. An act granting an increase of pension to Samuel H. Frazier;
H. R. 16442. An act granting an increase of pension to John A. Powell;
H. R. 16445. An act granting an increase of pension to Henry H. Sibley;
H. R. 16454. An act granting an increase of pension to Samuel E. Carlton;
H. R. 16455. An act granting an increase of pension to John Long;
H. R. 16504. An act granting an increase of pension to Thomas W. Barnum;
H. R. 16514. An act granting an increase of pension to John W. Barton;
H. R. 16523. An act granting an increase of pension to Charles P. Hopkins;
H. R. 16578. An act granting an increase of pension to Edward Lilley;
H. R. 16583. An act granting an increase of pension to David R. Walden;
H. R. 16650. An act granting an increase of pension to Robert B. Williby;
H. R. 16985. An act granting an increase of pension to Gilson Lawrence;
H. R. 17028. An act granting an increase of pension to Lorenzo D. Hartwell;
H. R. 17194. An act granting an increase of pension to Jennie White;
H. R. 17235. An act granting an increase of pension to Martha Howard;
H. R. 17274. An act granting an increase of pension to Andrew J. Mosier;
H. R. 17589. An act granting an increase of pension to Sidney A. Lawrence; and
H. R. 17608. An act granting an increase of pension to Sidney S. Brewerton.

NAVAL APPROPRIATION BILL.

The committee resumed its session.
The Clerk read as follows:

BUREAU OF EQUIPMENT.

Equipment of vessels: For hemp, wire, iron, and other materials for the manufacture of cordage, anchors, cables, galleys, and chains; canvas

for the manufacture of sails, awnings, hammocks, and other work; water for all purposes on board naval vessels, including the expenses of transportation and storage of the same; stationery for chaplains and for commanding and navigating officers of ships, equipment officers on shore and afloat, and for the use of courts-martial on board ship; the removal and transportation of ashes from ships of war; interior appliances and tools for equipment buildings in navy-yards and naval stations; supplies for seamen's quarters; and for the purchase of all other articles of equipment at home and abroad, and for the payment of labor in equipping vessels and manufacture of equipment articles in the several navy-yards; all pilotage and towage of ships of war; canal tolls, wharfage, dock and port charges, and other necessary incidental expenses of a similar nature; services and materials in repairing, correcting, adjusting, and testing compasses on shore and on board ship; nautical and astronomical instruments, and repairs to same; libraries for ships of war, professional books and papers, and drawings and engravings for signal books; naval signals and apparatus, namely, signals, lights, lanterns, rockets, and running lights; compass fittings, including binnacles, tripods, and other appendages of ships' compasses; logs and other appliances for measuring the ship's way, and leads and other appliances for sounding; lanterns and lamps, and their appendages for general use on board ship for illuminating purposes, and oil and candles used in connection therewith; service and supplies for coast-signal service; bunting and other materials for making and repairing flags of all kinds; photographs, photographic instruments, and materials; musical instruments and music; installing, maintaining, and repairing interior and exterior signal communications and all electrical appliances of whatsoever nature on board naval vessels, except range finders, battle order and range transmitters and indicators, and motors and their controlling apparatus used to operate the machinery belonging to other bureaus, $3,000,000.

Mr. GROSVENOR. I move to strike out the last word, but I yield to the gentleman from Michigan [Mr. LOUD].

Mr. LOUD. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

On page 14, line 20, after the word "chains," insert "specifications for purchase thereof to be so prepared as shall give fair and free competition."

Mr. LOUD. In explanation of this amendment I will say that an investigation of the purchase of the material used at the Boston Navy-Yard for the manufacture of anchors and cables shows that an excessive price is being paid, owing to the unnecessary specifications, which absolutely rule out competition. For the last two years the materials purchased for the making of chains in that yard have been purchased invariably from one concern, to the amount of $244,000. Upon a reasonable specification, whereby fair competition could be had, at least $100,000 could be saved in this item, and the wording of the amendment only tends to give fair and free competition.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

Mr. RIXEY. Will you allow the amendment to be reported again?

The CHAIRMAN. Without objection, the Clerk will report the amendment again.

The amendment was again reported, and was then agreed to.

Mr. LOUD. I have another amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan offers the following amendment.

The Clerk read as follows:

On page 15, in line 7, after the words "navy-yards," insert "*Provided*, That anchors, chains, and cordage required shall be purchased in open market, unless all or any part of such material can be manufactured at equal or less cost in the Government shops."

Mr. FITZGERALD. I reserve the point of order on that amendment.

Mr. GROSVENOR. Mr. Chairman, what is the point of order?

Mr. FITZGERALD. That it changes existing law. This is for the manufacture and equipment of articles in the several navy-yards. There is no provision for the purchase in open market.

Mr. GROSVENOR. Mr. Chairman, the navy-yards are running, going enterprises, and this is an appropriation for the purchase of the equipment of the navy-yards under the existing law. It is a limitation upon the expenditure of the money provided in the bill itself. Unfortunately I have not the amendment before me, and I should like to have it read again, if there is no objection.

Mr. TAWNEY. Does the gentleman from Ohio know of any law which requires these things to be constructed in the navy-yards?

Mr. GROSVENOR. I do not.

Mr. TAWNEY. Then how can it change existing law?

Mr. GROSVENOR. It does not change any existing law, and it is simply a limitation upon this expenditure.

Mr. FITZGERALD. There is no law authorizing this to be purchased in open market. This provision will make that law.

Mr. GROSVENOR. It has been suggested that the law of common honesty requires that fairness shall be manifested in the expenditure of this vast sum of money. Here are $3,000,000 appropriated, and it is very strange if Congress may not put a limitation upon the manner of its expenditure. Will the Chair accede to my proposition that this amendment be read again?

The CHAIRMAN. If there be no objection, the amendment will be again read.

The Clerk read the amendment again.

Mr. GROSVENOR. Now, Mr. Chairman, I suggest that that amendment should be placed after the word "dollars," in line 6 on the next page. Then it would apply to the entire expenditure of the appropriation. The gentleman from Michigan can make the change, if he sees fit to do so.

Mr. LOUD. I accept the suggestion of the gentleman.

The CHAIRMAN. If there be no objection, the correction will be made in the amendment.

Mr. GROSVENOR. Now, Mr. Chairman, there is no law that requires that these articles shall be manufactured in the navy-yards. It is an annual appropriation of money and this is a direction how it shall be expended. There is, therefore, no change of existing law, for there is no law on the subject, and it is simply a direction or limitation upon the expenditure of this vast sum of money.

Mr. FITZGERALD. Mr. Chairman, I simply desire to call the attention of the Chair to a number of rulings that have been made in which it was attempted to restrict certain expenditures. It has been held that the limitation of the language directing ships to be built in navy-yards or that they be built by contract was new legislation and obnoxious to the rule. If there is no law existing now, this language creates new law, and that is not in order against the objection. If there be a law this changes the law, and that is equally objectionable. This language is mandatory and compels the purchase to be made under certain conditions at certain places, and that is new legislation within the rule.

Mr. TAWNEY. Mr. Chairman, as I understand it, there is no law now directing that these various articles mentioned in this paragraph should be manufactured at any place or in any factory or navy-yard owned by the Government of the United States. Therefore this provision is a limitation—that is, they can not pay any more for these articles than the cost of manufacturing these articles in the factories owned by the Government itself, and to that extent it is a limitation.

Mr. COOPER of Wisconsin. Will the gentleman explain how the Government can tell whether it can make these articles more cheaply than it can purchase them?

Mr. TAWNEY. The Government can ascertain that fact just as any business man can ascertain the cost of any product turned out of any kind of a manufacturing establishment.

Mr. GROSVENOR. If the point of order is overruled we will show you.

Mr. TAWNEY. The point I make is that the expenditure of the appropriation is limited by the proposed amendment—that is, the Government can not manufacture unless it can manufacture them as cheap or cheaper than the Government can go out in the open market and buy them. Without this limitation, and to prove that this is a limitation, if the cost of the manufacture of these articles in the United States Navy-Yard is 25 per cent greater than the cost of them in the open market, they could be purchased or manufactured in the navy-yard at that additional cost. Now, then, if the amendment is adopted the cost is limited either in the navy-yard or in the open market to the price at which these articles can be purchased in the open market.

Mr. COOPER of Wisconsin. Suppose that they wanted to purchase some article of equipment that the Government never manufactured. How can the Government tell that it could make it more cheaply than it could be purchased in the open market?

Mr. TAWNEY. There is no provision in this bill for any article the purchase of which is authorized in this paragraph that the Government has not heretofore purchased and has not heretofore manufactured. Therefore the hypothetical case that the gentleman suggests does not exist.

The CHAIRMAN. The Chair desires to ask the gentleman from Minnesota the question whether this amendment is limited to articles purchased under this appropriation or whether it be not permanent in its character?

Mr. TAWNEY. If the Chair will pardon me, I did not notice from the reading of the amendment whether the language made it permanent law or whether it was a limitation upon this appropriation. Of course if it is in the nature of permanent law it would be subject to a point of order. I inferred that it was a mere limitation.

Mr. GROSVENOR. Mr. Chairman, with the consent of the gentleman from Michigan, I will substitute another amendment for the one that has been submitted that will meet the suggestion of the Chair.

The Clerk read as follows:

Provided, That no part of said sum shall be expended in the manufacture in any Government navy-yard of any article of a standard to be fixed by the Department by bids at the solicitation of the Department or by any other means that the Department desire which can be obtained in the free market at a less cost than the cost of manufacture in such navy-yard.

The CHAIRMAN. Does the gentleman from Ohio offer this as a substitute?

Mr. GROSVENOR. I did offer it as a substitute for the amendment offered by the gentleman from Michigan.

Mr. LOUD. Mr. Chairman, I ask unanimous consent to withdraw my amendment and substitute the amendment offered by the gentleman from Ohio.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent to withdraw his amendment and offer in place of it the amendment suggested by the gentleman from Ohio. Is there objection? [After a pause.] The Chair hears none.

Mr. ROBERTS. Mr. Chairman, I certainly hope that the amendment offered by the gentleman from Michigan will not prevail. The question of relative cost of chains and so on was gone into quite minutely in the committee, and the testimony of Admiral Manney, the head of the Bureau of Equipment, which Bureau has the making of chains and cables and so on——

Mr. GROSVENOR. Mr. Chairman, the gentleman from Massachusetts is debating the merits of the amendment.

Mr. ROBERTS. I understood that there was no point of order against this amendment.

Mr. GROSVENOR. Then the gentleman is debating the merits of the amendment?

The CHAIRMAN. There is no point of order against the amendment.

Mr. FITZGERALD. Mr. Chairman, I assumed that the point of order that I made to the other amendment applied to this.

Mr. ROBERTS. I desire to speak in opposition to the amendment. If the gentleman from Michigan desires to address the committee in favor of it first, I am willing.

Mr. FITZGERALD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FITZGERALD. The point of order has not been withdrawn, Mr. Chairman, to any amendment that was offered.

The CHAIRMAN. But the amendment was withdrawn.

Mr. FITZGERALD. But an amendment was substituted in its place, and the point of order was made against the amendment which was offered at that time.

The CHAIRMAN. The amendment substituted was a different amendment and was made without objection and submitted to the House. The Chair is of opinion that under the circumstances it did not carry with it the point of order which was made to the original amendment.

Mr. FITZGERALD. But I call the attention of the Chair to the fact that under the rule a Member of the House has a right to perfect his amendment before it is acted upon without unanimous consent, and if the gentleman change or attempt to perfect his amendment it is not necessary to renew the point of order every time he modifies his amendment.

The CHAIRMAN. The practice in the Committee of the Whole is that an amendment can not be withdrawn without unanimous consent, and when the amendment is withdrawn and a point of order is pending, that is withdrawn likewise, and a Member may withdraw an amendment for the purpose of offering another covering the same subject, but that does not keep alive the point of order.

Mr. WILLIAMS. But, Mr. Chairman, this amendment was not withdrawn. The question submitted to the House was whether the gentleman would be permitted to amend his amendment by accepting a substitute. The original amendment is before the House amended by a substitute, and the meaning of the two propositions is the same.

Mr. GROSVENOR. The gentleman from Mississippi [Mr. WILLIAMS] did not hear the language of the gentleman from Michigan [Mr. LOUD], who distinctly withdrew his first amendment.

Mr. WILLIAMS. I beg the gentleman's pardon. The RECORD will show that the gentleman asked unanimous consent to substitute for his amendment the language which the gentleman from Ohio [Mr. GROSVENOR] handed up to the Clerk's desk.

The CHAIRMAN. The question submitted to the committee by the Chair was whether the gentleman from Michigan should have unanimous consent to withdraw the amendment and offer another one in its place.

Mr. WILLIAMS. That may have been the question submitted by the Chair. I did not catch that.

The CHAIRMAN. That was the one that the consent of the committee was obtained to—that proposition.

Mr. WILLIAMS. I did not catch what the Chair submitted, but I either caught or thought I caught a request submitted by the gentleman from Michigan [Mr. LOUD], which was not to withdraw, but to amend.

The CHAIRMAN. The Chair rules that there is no point of order pending to the amendment.

Mr. GROSVENOR. Mr. Chairman, I would now like to suggest to the gentleman from Illinois [Mr. Foss] that this is an important matter which will likely take quite a lengthy time, and in view of that I think the gentleman ought to move that the committee do now rise.

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

Mr. POU. Mr. Chairman, I ask unanimous consent to extend in the RECORD remarks which I made in the House of Representatives on the post-office appropriation bill on April 12.

The CHAIRMAN. The gentleman would have to get consent from the House for that. The Committee of the Whole House would have no authority to grant that request.

The question is on the motion of the gentleman from Illinois, that the committee do now rise.

The question was taken; and the motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the naval appropriation bill and had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 13783. An act to provide souvenir medallions for The Zebulon Montgomery Pike Monument Association.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, also, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 8226. An act granting an increase of pension to Laura B. Ihrie;

H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;

H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;

H. R. 15397. An act granting an increase of pension to Edward Gillespie;

H. R. 15687. An act granting an increase of pension to William F. M. Rice;

H. R. 15907. An act granting an increase of pension to Lewis De Laittre;

H. R. 16215. An act granting an increase of pension to Mary Dagenfield;

H. R. 15435. An act to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands to be used for flowage purposes; and

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo.

ARMY SUPPLIES AT SAN FRANCISCO.

The SPEAKER laid before the House the following message from the President of the United States; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on Appropriations:

To the Senate and House of Representatives:

I herewith transmit a letter from the Secretary of War in respect to the situation as to the Army supplies at San Francisco. This letter contains appendices showing the supplies which have been transmitted to San Francisco and their cost, and sets forth the necessity for an additional appropriation of $500,000, which I recommend be made at once. This is to meet the requirements of the immediate future.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 8, 1906.*

ADJOURNMENT.

Then, on motion of Mr. Foss (at 5 o'clock and 1 minute p. m.), the House adjourned until to-morrow, at 12 o'clock m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. TAYLOR of Ohio, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 17133) to amend section 558 of the Code of Law for the District

of Columbia, reported the same with amendment, accompanied by a report (No. 3924); which said bill and report were referred to the House Calendar.

Mr. POWERS, from the Committee on the Territories, to which was referred the bill of the House (H. R. 19037) to extend the time for the completion of the Alaska Central Railway, and for other purposes, reported the same without amendment, accompanied by a report (No. 3926); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BROOKS of Colorado, from the Committee on Election of President, Vice-President, and Representatives in Congress, to which was referred the bill of the House (H. R. 224) in relation to the elective franchise, defining offenses against the same, and prescribing punishments therefor, reported the same with amendment, accompanied by a report (No. 3927); which said bill and report were referred to the House Calendar.

Mr. McGUIRE, from the Committee on the Territories, to which was referred the bill of the House (H. R. 17981) to ratify and confirm the act of the legislative assembly of the Territory of Oklahoma passed in the year 1901, authorizing the board of county commissioners of Kay County, Oklahoma Territory, to change the course of Spring Creek, reported the same without amendment, accompanied by a report (No. 3929); which said bill and report were referred to the House Calendar.

Mr. WILEY of New Jersey, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 9748) to provide for the further purification of the water supply of the District of Columbia, reported the same with amendment, accompanied by a report (No. 3930); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18959) granting an increase of pension to Albert G. Packer, reported the same with amendment, accompanied by a report (No. 3876); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18678) granting an increase of pension to Evans P. Hoover, reported the same with amendment, accompanied by a report (No. 3877); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18236) granting an increase of pension to Thomas Garrett, reported the same with amendment, accompanied by a report (No. 3878); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18038) granting an increase of pension to E. W. Briggs, reported the same with amendment, accompanied by a report (No. 3879); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18355) granting an increase of pension to Rachel A. Webster, reported the same with amendment, accompanied by a report (No. 3880); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 19005) granting a pension to Gideon M. Burriss, reported the same with amendment, accompanied by a report (No. 3881); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17528) granting an increase of pension to Edgar Slater, reported the same with amendment, accompanied by a report (No. 3882); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17346) granting an increase of pension to Newton S. Davis, reported the same with amendment, accompanied by a report (No. 3883); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18125) granting an increase of pension to William Griasa, reported the same with amendment, accompanied by a report (No. 3884); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18310) granting an increase of pension to Virgil A. Bayley, reported the same with amendment, accompanied by a report (No. 3885); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18509) granting an increase of pension to Ellen L. Stone, reported the same with amendment, accompanied by a report (No. 3886); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18976) granting an increase of pension to Nelson S. Preston, reported the same with amendment, accompanied by a report (No. 3887); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17476) granting an increase of pension to Henry Ballard, reported the same with amendment, accompanied by a report (No. 3888); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18121) granting an increase of pension to John W. Jones, reported the same without amendment, accompanied by a report (No. 3889); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18702) granting an increase of pension to Edward B. Prime, reported the same with amendment, accompanied by a report (No. 3890); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16188) granting a pension to Edward C. Bowers, reported the same with amendment, accompanied by a report (No. 3891); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3495) granting an increase of pension to Charles F. Tower, reported the same without amendment, accompanied by a report (No. 3892); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was the referred the bill of the House (H. R. 5911) granting a pension to Edward D. Lockwood, reported the same with amendment, accompanied by a report (No. 3893); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16842) granting an increase of pension to Thomas H. Thornburgh, reported the same with amendment, accompanied by a report (No. 3894); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16496) granting an increase of pension to Thomas Daily, reported the same with amendment, accompanied by a report (No. 3895); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16682) granting an increase of pension to William Hammond, reported the same without amendment, accompanied by a report (No. 3896); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15288) granting an increase of pension to Benjamin F. Finical, reported the same with amendment, accompanied by a report (No. 3897); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15613) granting an increase of pension to William W. Combs, reported the same with amendment, accompanied by a report (No. 3898); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16073) granting an increase of pension to John Ginther, reported the same without amendment, accompanied by a report (No. 3899); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13443) granting an increase of pension to James E. Hammontree, reported the same with amendment, accompanied by a report (No. 3900); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11457) granting

an increase of pension to Cyrus Van Matre, reported the same with amendment, accompanied by a report (No. 3901); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10828) granting a pension to Michael Lennon, reported the same with amendment, accompanied by a report (No. 3902); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12418) granting an increase of pension to Thomas P. Crandall, reported the same without amendment, accompanied by a report (No. 3903); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 12336) granting an increase of pension to Margaret A. Montgomery, reported the same with amendment, accompanied by a report (No. 3904); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11057), granting an increase of pension to Lewis J. Post, reported the same with amendment, accompanied by a report (No. 3905); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12249) granting an increase of pension to John T. Wise, reported the same with amendment, accompanied by a report (No. 3906); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 8894) granting an increase of pension to James C. Strong, reported the same with amendment, accompanied by a report (No. 3907); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 8817) granting an increase of pension to Calvin Latham, reported the same with amendment, accompanied by a report (No. 3908); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8232) granting an increase of pension to James M. Jared, reported the same with amendment, accompanied by a report (No. 3909); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7402) granting an increase of pension to Edwin M. Todd, reported the same without amendment, accompanied by a report (No. 3910); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 8155) granting an increase of pension to Henry E. Seelye, reported the same without amendment, accompanied by a report (No. 3911); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18628) granting an increase of pension to William E. Chambers, reported the same with amendment, accompanied by a report (No. 3912); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17934) granting an increase of pension to Thomas J. Byrd, reported the same without amendment, accompanied by a report (No. 3913); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6596) granting an increase of pension to A. O. Huffman, reported the same with amendment, accompanied by a report (No. 3914); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 5040) granting an increase of pension to Joseph Montgomery, reported the same with amendment, accompanied by a report (No. 3915); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6505) granting an increase of pension to Mary C. Chapman, reported the same with amendment, accompanied by a report (No. 3916); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5958) granting an increase of pension to Allen L. Garwood, reported the same with amendment, accompanied by a report (No. 3917); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6059) granting an increase of pension to Elias Hanes, reported the same with amendment, accompanied by a report (No. 3918); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1614) granting an increase of pension to Jacob H. Lynch, reported the same with amendment, accompanied by a report (No. 3919); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1736) granting an increase of pension to Charles A. Walker, reported the same with amendment, accompanied by a report (No. 3920); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2265) granting an increase of pension to Hudson J. Van Scoter, reported the same with amendment, accompanied by a report (No. 3921); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2247) granting an increase of pension to Anthony Sanspeur, reported the same with amendment, accompanied by a report (No. 3922); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3488) granting an increase of pension to Egbert J. Olds, reported the same without amendment, accompanied by a report (No. 3923); which said bill and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 19003) for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the Bowman Act, and to provide for the payment of French spoliation claims recommended by the Court of Claims, under the provisions of the acts approved January 20, 1885, and March 3, 1891, and for other purposes, reported the same with amendment, accompanied by a report (No. 3925); which said bill and report were referred to the Private Calendar.

Mr. WILEY of Alabama, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 9238) for the relief of William Saphar, reported the same without amendment, accompanied by a report (No. 2928); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. JENKINS: A bill (H. R. 19074) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898—to the Committee on the Judiciary.

By Mr. SULZER: A bill (H. R. 19075) to remove the duty on hides—to the Committee on Ways and Means.

By Mr. GREENE: A bill (H. R. 19076) to regulate the salaries of letter carriers in free-delivery offices—to the Committee on the Post-Office and Post-Roads.

By Mr. SHERMAN: A bill (H. R. 19077) authorizing the Commissioners of the District of Columbia to permit the extension and construction of railroad sidings in the District of Columbia—to the Committee on the District of Columbia.

By Mr. RUCKER: A bill (H. R. 19078) requiring and providing for publicity of all contributions hereafter made to political committees to aid or promote the success or defeat of candidates for the office of Representative in or Delegate to the Congress of the United States or to be used at or in connection with any general election at which such candidates are to be voted for—to the Committee on Election of President, Vice-President, and Representatives in Congress.

By Mr. CAMPBELL of Kansas: A resolution (H. Res. 424) directing the Secretary of Commerce and Labor to inquire into the cause of fatal railway accidents within the past four years—to the Committee on Interstate and Foreign Commerce.

By Mr. HOWELL of New Jersey: A resolution (H. Res. 425) authorizing the appointment of a clerk to the Committee on Immigration and Naturalization—to the Committee on Accounts.

By Mr. BROWNLOW: A resolution (H. Res. 426) authorizing the appointment of a clerk to the House document room—to the Committee on Accounts.

By Mr. LITTLEFIELD: A resolution (H. Res. 427) referring to the Court of Claims the bill H. R. 15810—to the Committee on Claims.

By Mr. WILLIAMS: A memorial of the legislature of the State of Mississippi, memorializing Congress to broaden and extend foreign markets for cotton and cotton goods—to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AMES: A bill (H. R. 19079) granting a pension to Phoebe Templeton—to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 19080) granting an increase of pension to Frederick Fienop—to the Committee on Invalid Pensions.

By Mr. BENNETT of Kentucky: A bill (H. R. 19081) granting an increase of pension to Eliza J. Scott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19082) granting an increase of pension to John H. Grisson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19083) granting an increase of pension to William Glenn—to the Commitee on Invalid Pensions.

By Mr. BRUNDIDGE: A bill (H. R. 19084) granting an increase of pension to Charles S. Anderson—to the Committee on Pensions.

Also, a bill (H. R. 19085) granting an increase of pension to W. F. Shoemate—to the Committee on Invalid Pensions.

By Mr. CLARK of Florida: A bill (H. R. 19086) granting an increase of pension to Charles Eiserman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19087) granting an increase of pension to Charles Haggett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19088) granting an increase of pension to Nesbit Wiggins—to the Committee on Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 19089) granting an increase of pension to Anna E. Hughes—to the Committee on Invalid Pensions.

By Mr. DE ARMOND: A bill (H. R. 19090) granting an increase of pension to James L. Rowden—to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 19091) granting an increase of pension to Ernst Langeneck—to the Committee on Invalid Pensions.

By Mr. GAINES of West Virginia: A bill (H. R. 19092) granting an increase of pension to Jonathan M. Riffle—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 19093) granting an increase of pension to Barnard J. Erwin—to the Committee on Pensions.

By Mr. HEPBURN: A bill (H. R. 19094) granting an increase of pension to John Henry—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: A bill (H. R. 19095) granting an increase of pension to Benjamin Hains—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19096) granting an increase of pension to Joseph Goddard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19097) granting an increase of pension to Samuel N. Pethick—to the Committee on Invalid Pensions.

By Mr. JOHNSON: A bill (H. R. 19098) granting an increase of pension to Sarah Young—to the Committee on Pensions.

By Mr. WILLIAM W. KITCHIN: A bill (H. R. 19099) granting an increase of pension to Columbus Cox—to the Committee on Pensions.

By Mr. KINKAID: A bill (H. R. 19100) granting an increase of pension to Asa G. Brooks—to the Committee on Invalid Pensions.

By Mr. LEVER: A bill (H. R. 19101) granting an increase of pension to Sarah C. A. Scott—to the Committee on Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 19102) for the relief of Samuel Y. B. Williams, of Chattanooga, Tenn.—to the Committee on War Claims.

By Mr. OLMSTED: A bill (H. R. 19103) granting an increase of pension to William Presley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19104) granting an increase of pension to Jacob Witmer—to the Committee on Invalid Pensions.

By Mr. SAMUEL: A bill (H. R. 19105) granting an increase of pension to William Moser—to the Committee on Pensions.

By Mr. SHERLEY: A bill (H. R. 19106) granting an increase of pension to Margaret Epperson—to the Committee on Pensions.

By Mr. WEBB: A bill (H. R. 19107) granting an increase of pension to Mary Ann Cody—to the Committee on Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Military Affairs was discharged from the consideration of the bill (H. R. 14634) for the relief of George H. Chase, and it was referred to the Committee on Naval Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BURTON of Delaware: Petition of Capital Grange, Dover, Del., for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. FLOYD: Petition of Giles E. Miller, Times-Echo, Arkansas, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. GROSVENOR: Petition of the United Boiler Makers and Iron-ship Builders of North America, for the Merchant Marine Commission shipping bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. HAMILTON: Petition of citizens of Dowling, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HARDWICK: Paper to accompany bill for relief of Mary Navy—to the Committee on Pensions.

By Mr. HEFLIN: Petition of the Interdenominational Missionary Union of Washington, D. C., against Sunday opening of the Jamestown Exposition, by contract, as at St. Louis—to the Select Committee on Industrial Arts and Expositions.

Also, petition of the Woman's Interdenominational Missionary Union, for the Wadsworth bill, amended with the provisions of the Heflin bill, to protect the first day of the week as a day of rest in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the East Brookland Citizen's Association, favoring the separate car system for Washington, D. C.—to the Committee on the District of Columbia.

By Mr. LAMB: Petition of Goodwill Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of Y. B. Williams—to the Committee on War Claims.

By Mr. OLMSTED: Petition of citizens of Mechanicsburg, Cumberland County, Md., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. REYNOLDS: Petition of the Sinking Valley Presbyterian Church, Arch Spring, Pa., for prohibition of polygamy—to the Committee on the Judiciary.

By Mr. THOMAS of Ohio: Petition of the United Commercial Travelers, against consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Ohio, against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. TOWNSEND: Petition of citizens of Michigan, against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

SENATE.

WEDNESDAY, *May 9, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. TELLER, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

STATUE OF THOMAS JEFFERSON.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, on behalf of the Commission created by the sundry civil appropriation act of April 28, 1904, reporting that the selection of a site in the District of Columbia for the statue of Thomas Jefferson and the procuring of plans and designs have been delayed by the death of the late Secretary of State, Mr. Hay, but that the Commission has secured the consent of Mr. Augustus St. Gaudens to make designs for the proposed statue as soon as engagements permit, and that they will be transmitted to Congress without any unavoidable delay thereafter; which was referred to the Committee on the Library, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Public Lands:

H. R. 4546. An act ceding to the city of Canon City, Colo., certain lands for park purposes;

H. R. 8976. An act to change the line of the reservation at Hot Springs, Ark., and of Reserve avenue;

H. R. 14410. An act to amend an act approved August 3, 1894, entitled "An act concerning leases in the Yellowstone National Park;"

H. R. 16307. An act authorizing the Secretary of the Interior to have a survey made of unsurveyed public lands in the State of Louisiana;

H. R. 16672. An act to punish cutting, chipping, or boxing trees on the public lands;

H. R. 17114. An act to provide for the disposition under the public-land laws of the lands in the abandoned Fort Shaw Military Reservation, Mont.;

H. R. 17127. An act to provide for the subdivision and sale of certain lands in the State of Washington; and

H. R. 17411. An act for the resurvey of certain townships in the State of Nebraska.

The following bills were severally read twice by their titles, and referred to the Committee on Indian Affairs:

H. R. 5290. An act providing for the allotment and distribution of Indian tribal funds; and

H. R. 10133. An act to provide for the annual pro rata distribution of the annuities of the Sac and Fox Indians of the Mississippi between the two branches of the tribe, and to adjust the existing claims between the two branches as to said annuities.

The following bills were severally read twice by their titles, and referred to the Committee on Pacific Islands and Porto Rico:

H. R. 10106. An act providing for the setting aside for governmental purposes of certain ground in Hilo, Hawaii;

H. R. 18443. An act to amend the act to provide a government for the Territory of Hawaii, approved April 30, 1900; and

H. R. 18502. An act to empower the Secretary of War, under certain restrictions, to authorize the construction, extension, and maintenance of wharves, piers, and other structures on lands underlying harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto.

H. R. 11787. An act ratifying and approving an act to appropriate money for the purpose of building additional buildings for the Northwestern Normal School, at Alva, in Oklahoma Territory, passed by the legislative assembly of Oklahoma Territory, and approved the 15th day of March, 1905; was read twice by its title, and referred to the Committee on Territories.

The following bills were severally read twice by their titles, and referred to the Committee on Fisheries:

H. R. 13543. An act for the protection and regulation of the fisheries of Alaska; and

H. R. 18435. An act to authorize the Secretary of Commerce and Labor to cooperate, through the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries, with the shellfish commissioners of the State of Maryland in making surveys of the natural oyster beds, bars, and rocks in the waters within the State of Maryland.

The following bills were severally read twice by their titles, and referred to the Committee on the Judiciary:

H. R. 7065. An act to amend section 858 of the Revised Statutes of the United States;

H. R. 17948. An act restricting in certain cases the right of appeal to the Supreme Court in habeas corpus proceedings;

H. R. 18328. An act to regulate the practice in certain civil and criminal cases in the western district of Arkansas;

H. R. 18330. An act entitled "An act transferring the county of Clinton, in the State of Iowa, from the northern judicial district of Iowa to the southern judicial district of Iowa;"

H. R. 18713. An act to validate certain certificates of naturalization; and

H. R. 14968. An act to amend the internal-revenue laws, so as to provide publicity of its records, was read twice by its title, and referred to the Committee on Finance.

The following bills and joint resolution were severally read twice by their titles, and referred to the Committee on Commerce:

H. R. 15078. An act granting to the Ocean Shore Railroad Company a right of way for railroad purposes across Pigeon Point Light-House Reservation, in San Mateo County, Cal.;

H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvements at the expense of persons, companies, or corporations;

H. R. 17982. An act to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across the Niobrara River, on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation;

H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across the Roanoke River at or near Weldon, N. C.;

H. R. 18439. An act to authorize the construction of a bridge across the Tallahatchie River, in Tallahatchie County, Miss.; and

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan adjoining certain lands in Lake County, Ind.

H. J. Res. 118. Joint resolution accepting the recession by the State of California of the Yosemite Valley grant and the Mariposa Big Tree Grove, and including the same, together with fractional sections 5 and 6, township 5 south, range 22 east, Mount Diablo meridian, California, within the metes and bounds of the Yosemite National Park, and changing the boundaries thereof was read twice by its title, and referred to the Committee on Forest Reservations and the Protection of Game.

JOHN W. HAMMOND.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was considered by unanimous consent, and agreed to:

Resolved, etc., That the President be requested to return the bill (H. R. 8948) entitled "An act granting an increase of pension to John W. Hammond."

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 13783) to provide souvenir medallions for the Zebulon Montgomery Pike Mounment Association; and it was thereupon signed by the Vice-President.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the National Society, Daughters of the American Revolution, praying for the enactment of legislation to authorize the publication of the roster of those who served in the war of the Revolution, as is now being done by the War Department of those who served in the civil war and in the Spanish-American war; which was referred to the Committee on Military Affairs.

He also presented a petition of the National Society, Daughters of the American Revolution, praying for an investigation into the industrial conditions of women and child workers in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of the United States, praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. GALLINGER presented a petition of the Monday Club, of Rochester, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of the eastern section of the District of Columbia and of Prince George County, Md., praying for the enactment of legislation to authorize the Marlboro Electric Railway Company to extend its lines into the District of Columbia and also to incorporate the East Washington Heights Railroad Company; which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Thompson & Hoague Company, of Concord, N. H., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Rev. George L. Mason and George A. Sanborn, of Rochester, N. H., and the petition of E. A. Chase, of Plymouth, N. H., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. PLATT presented petitions of sundry citizens of Rome, Brooklyn, Blackwells Island, and Auburn, and of Local Council No. 125, Junior Order United American Mechanics, of Lockport, all in the State of New York, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of Caton Grange, No. 248, Patrons of Husbandry, of Corning, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the board of aldermen of New York City, N. Y., praying for the enactment of legislation granting relief to the victims of the *General Slocum* disaster; which was referred to the Committee on Claims.

Mr. DILLINGHAM presented a petition of the Vermont Federation of Women's Clubs, praying for an investigation into the

industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a petition of Green Mountain Council, No. 5, Daughters of Liberty, of Newport, Vt., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. DRYDEN presented petitions of Washington Camp, No. 39, Patriotic Order Sons of America, of Atlantic City, and of sundry citizens of Plainfield and Newark, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of sundry citizens of Montclair, N. J., praying for the establishment of a national bureau in behalf of the children of the country; which were referred to the Committee on Education and Labor.

He also presented a petition of the Woman's Home and Foreign Missionary Society of the Presbyterian Church of Rutherford, N. J., and a petition of Colony No. 6, National Society of New England Women, of New Jersey, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

Mr. McCUMBER presented the petition of George W. Davison and sundry other inmates of the National Military Home in the State of Ohio, praying for the enactment of legislation increasing the pensions of dependent soldiers and sailors who served ninety days or more in the civil war; which was referred to the Committee on Pensions.

Mr. PENROSE presented petitions of Valley Grange, No. 52, of Millville; of Local Grange, No. 1277, of Glen; of Steuben Grange, No. 858, of Townville; of sundry citizens of Erie; of North Elk Run Grange, No. 913, of Mansfield; of sundry citizens of Philadelphia; of German Grange, No. 785, of Smithfield; of Local Grange No. 952, of Hopbottom; of West Nicholson Grange, No. 321, of Tioga County; of Elk Creek Grange, No. 997, of Lundys Lane; of Randolph Grange, No. 190, of Guys Mills; of Lehman Grange, No. 229, of Overton; of Leonard Grange, No. 779, of Leonard; of Local Grange No. 800, of Mayfield; of sundry citizens of Fulton County; of Local Grange No. 66, of Fulton; of South Branch Grange, No. 1288, of Coudersport, and of Local Grange No. 1225, of Frackville, all Patrons of Husbandry, in the State of Pennsylvania, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. BURROWS presented the memorial of George P. Codd, mayor of Detroit, Mich., remonstrating against the enactment of legislation providing that the inspector of asphalt and cements in the District of Columbia shall not receive or accept compensation of any kind from, or perform any work, or render any services of a character required by him officially by the District of Columbia to, any person, firm, corporation, or municipality other than the District of Columbia; which was referred to the Committee on Appropriations.

Mr. NELSON presented a petition of sundry citizens of Luverne, Minn., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. PROCTOR presented a petition of General Sherman Council, No. 31, Junior Order United American Mechanics, of Lyndon, Vt., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented petitions of Progressive Grange, No. 283, of Hartland, and Green Mountain Grange, No. 1, of St. Johnsbury, Patrons of Husbandry, and of the Woman's Christian Temperance Union of Enosburg Falls, all in the State of Vermont, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Vermont Federation of Women's Clubs, praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

Mr. FRYE presented a petition of Franklin Grange, No. 124, Patrons of Husbandry, of Bryants Pond, Me., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

REGULATION OF OSTEOPATHY IN THE DISTRICT OF COLUMBIA.

Mr. FRYE. I present a memorial of the Medical Society of the District of Columbia, remonstrating against the enactment of legislation to regulate the practice of osteopathy, to license osteopathic physicians, and to punish persons violating the provisions thereof in the District of Columbia. I move that the memorial lie on the table, and that it be printed as a document.

The motion was agreed to.

MISSOURI RIVER BRIDGE IN MONTANA.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (S. 5989) to authorize the construction of a bridge across the Missouri River in Broadwater and Gallatin counties, Mont., reported it with amendments, and submitted a report thereon.

Mr. CARTER subsequently said: I ask unanimous consent for the present consideration of the bill (S. 5989) to authorize the construction of a bridge across the Missouri River in Broadwater and Gallatin counties, Mont., which was reported from the Committee on Commerce by the Senator from Arkansas [Mr. BERRY].

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments of the Committee on Commerce were, on page 1, line 5, to strike out the words "and maintain a railroad bridge" and insert "maintain and operate a railroad bridge and approaches thereto;" and in line 8, after the word "Montana," to strike out the period and the remainder of the bill and insert:

In accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

So as to make the bill read:

Be it enacted, etc., That the Chicago, Milwaukee and St. Paul Railway Company, of Montana, its successors or assigns, be, and are hereby, authorized to construct, maintain, and operate a railroad bridge and approaches thereto across the Missouri River at some convenient and practicable point within the limits of Broadwater County, or between Broadwater and Gallatin counties, in the State of Montana, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REGULATION OF MOTOR BOATS.

Mr. FRYE. I am directed by the Committee on Commerce, to whom was referred the amendment of the House of Representatives to the bill (S. 4094) to amend section 4426 of the Revised Statutes of the United States—regulation of motor boats—to report it back favorably, and to move that the Senate concur in the amendment of the House of Representatives.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 3, line 2, after "hire," insert "but not engaged in fishing as a regular business."

The VICE-PRESIDENT. The Senator from Maine moves that the Senate concur in the amendment of the House.

The motion was agreed to.

NORTHERN PACIFIC RAILWAY LAND GRANT.

Mr. FULTON. From the Committee on Public Lands I report back favorably the amendment of the House of Representatives to the bill (S. 2292) for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 2, line 8, after the word "abandoned," insert:

Provided, That all lieu selections made under this act shall be confined to lands within the State where the private holdings are situated.

SEC. 2. That this act shall become effective upon an acceptance thereof by the Northern Pacific Railway Company being filed with the Secretary of the Interior.

Mr. FULTON. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

CHARLES L. ALLEN.

Mr. PENROSE. I am directed by the Committee on Finance, to whom was referred the bill (H. R. 13946) for the relief of Charles L. Allen, to report it favorably without amendment. I call the attention of the senior Senator from New York [Mr. PLATT] to the bill.

Mr. PLATT. I ask to have the bill put upon its passage at the present time.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to issue to Charles L. Allen, of New York, a duplicate in lieu of United

States 4 per cent registered bond of the funded loan of 1907, No. 141694, for $100, inscribed in his name, and alleged to have been lost after having been assigned in blank.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WEIGHING OF MAILS.

Mr. PENROSE. I am directed by the Committee on Post-Offices and Post-Roads, to whom was referred the joint resolution (S. R. 54) authorizing a change in the weighing of the mails in the fourth section, to report it favorably without amendment, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Resolved, etc., That on account of the earthquake calamity in California on April 18, 1906, authority is hereby given to the Postmaster-General to use the average daily weight of mails for a period not less than thirty successive working days ascertained during the period from February 20 to April 17, 1906, in adjusting the compensation, according to law, on all railroad routes in the fourth section for the transportation of mails during the quadrennial term beginning July 1, 1906, notwithstanding the provision of the act of Congress approved March 3, 1905, requiring that the average daily weight shall be ascertained by the weighing of the mails for such a number of successive working days not less than ninety.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM B. ASHTON.

Mr. BURKETT. By direction of the Committee on Pensions I reported back favorably the other day the bill (S. 5871) granting an increase of pension to William B. Ashton. I am informed of the death of the pensioner, and I move the indefinite postponement of the bill.

The motion was agreed to.

BILLS INTRODUCED.

Mr. DICK introduced a bill (S. 6090) to furnish bronze medals of honor to surviving soldiers who responded to President Lincoln's first call for troops; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. LODGE (by request) introduced a bill (S. 6091) to regulate the issuing of licenses to plumbers, gas fitters, and fixture hangers in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. BURROWS introduced a bill (S. 6092) to correct the military record of David Chrisman; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

He also introduced a bill (S. 6093) granting a pension to Hester A. Coller; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 6094) granting an increase of pension to James H. Clayton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TELLER introduced a bill (S. 6095) granting an increase of pension to Hugh Marshall; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PROCTOR introduced a bill (S. 6096) granting a pension to John Little; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FLINT introduced a joint resolution (S. R. 55) for the further relief of sufferers from earthquake and conflagration in the State of California; which was read twice by its title, and referred to the Committee on Appropriations.

CONSTITUTIONAL AMENDMENT AGAINST POLYGAMY.

Mr. PLATT. I introduce a joint resolution proposing an amendment to the Constitution of the United States. I ask that it may be read, and that it lie on the table.

The joint resolution (S. R. 56) proposing an amendment to the Constitution of the United States prohibiting polygamy and polygamous cohabitation within the United States was read the first time by its title, and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment be proposed to the legislatures of the several States, which, when ratified by three-fourths of said legislatures, shall become and be a part of the Constitution of the United States, to be numbered and to read as follows, to wit:

"ARTICLE XVI.

"SEC. 1. Neither polygamy nor polygamous cohabitation shall exist in the United States or any place subject to its jurisdiction.

"SEC. 2. The practice of polygamy or polygamous cohabitation within the bounds of a State or Territory of the United States, or any place subject to its jurisdiction, shall be treated as a crime against the United States.

"SEC. 3. Congress shall have power to enforce the provisions of this article by appropriate legislation, but nothing in this article shall be construed to deny to any State the exclusive power, subject to the provisions of this article, to make and enforce all laws concerning marriage and divorce within its jurisdiction or to vest in the United States any power respecting the same within any State."

The VICE-PRESIDENT. The joint resolution will lie on the table and be printed.

AMENDMENTS TO RAILROAD RATE BILL.

Mr. LA FOLLETTE submitted four amendments intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which were ordered to lie on the table, and be printed.

Mr. KEAN submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. RAYNER (for Mr. GORMAN) submitted an amendment proposing to appropriate $4,427.44 to pay the administrator de bonis non of the estate of Albert Seekamp the amount found due him by the Court of Claims, intended to be proposed by Mr. GORMAN to the general deficiency appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Claims.

Mr. HALE submitted an amendment proposing to appropriate $15,000 for the publication of an edition of 10,000 copies of a memorial volume commemorative of the final interment of the body of John Paul Jones at the United States Naval Academy, Annapolis, Md., intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. KNOX submitted an amendment proposing to appropriate a sum sufficient to pay the legal representatives of the late Thomas H. Carpenter, captain, United States Army, retired, the difference between the pay of a captain on the retired list from March 1, 1866, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to increase the compensation of three telephone operators for the Metropolitan police, District of Columbia, from $600 to $720 per annum, intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On May 8:

S. 591. An act granting a pension to William C. Banks;
S. 1692. An act granting a pension to Ellen H. Swayne;
S. 1818. An act granting a pension to Edward T. White;
S. 1913. An act granting a pension to Clara F. Leslie;
S. 2021. An act granting a pension to Juliet K. Phillips;
S. 2767. An act granting a pension to Sarah S. Etue;
S. 3308. An act granting a pension to Sarah Lovell;
S. 3555. An act granting a pension to Alice A. Fray;
S. 5095. An act granting a pension to Jeremiah McKenzie;
S. 5146. An act granting a pension to Mary J. McLeod;
S. 5192. An act granting a pension to John H. Stacey;
S. 5455. An act granting a pension to Emily J. Alden;
S. 13. An act granting an increase of pension to Hautville A. Johnson;
S. 556. An act granting an increase of pension to William H. Egolf;
S. 834. An act granting an increase of pension to Lucian W. French;
S. 918. An act granting an increase of pension to Edwin N. Baker;
S. 971. An act granting an increase of pension to William H. Hackney;
S. 1013. An act granting an increase of pension to William H. Odear;
S. 1260. An act granting an increase of pension to Frank Pugsley;
S. 1514. An act granting an increase of pension to George W. Wicks;

S. 1564. An act granting an increase of pension to Leander C. Reeve;
S. 1605. An act granting an increase of pension to Richard H. Lee;
S. 1628. An act granting an increase of pension to Christian H. Goebel;
S. 1691. An act granting an increase of pension to Alice S. Shepard;
S. 1728. An act granting an increase of pension to Joseph H. Allen;
S. 2759. An act granting an increase of pension to William B. Mitchell;
S. 2799. An act granting an increase of pension to Willis H. Watson;
S. 2886. An act granting an increase of pension to Martha Hoffman;
S. 2959. An act granting an increase of pension to William R. Gallion;
S. 2977. An act granting an increase of pension to David B. Neafus;
S. 2985. An act granting an increase of pension to George W. Bodenhamer;
S. 3119. An act granting an increase of pension to Francis A. Beranek;
S. 3130. An act granting an increase of pension to George B. Vallandigham;
S. 3178. An act granting an increase of pension to Daniel Shelly;
S. 3230. An act granting an increase of pension to William C. Bourke;
S. 3272. An act granting an increase of pension to John Hirth;
S. 3273. An act granting an increase of pension to Abisha Risk;
S. 3415. An act granting an increase of pension to William Triplett;
S. 3468. An act granting an increase of pension to Myra R. Daniels;
S. 3549. An act granting an increase of pension to Martha H. Ten Eyck;
S. 3551. An act granting an increase of pension to Solomon Jackson;
S. 3655. An act granting an increase of pension to Mary A. Good;
S. 3720. An act granting an increase of pension to Smith Vaughan;
S. 3759. An act granting an increase of pension to Henry D. Miller;
S. 3765. An act granting an increase of pension to Charles R. Frost;
S. 3883. An act granting an increase of pension to Ferdinand Hercher;
S. 4010. An act granting an increase of pension to Bridget Egan;
S. 4018. An act granting an increase of pension to Ebenezer Lusk;
S. 4112. An act granting an increase of pension to Henry Swigart;
S. 4126. An act granting an increase of pension to Willard Farrington;
S. 4193. An act granting an increase of pension to Calvin D. Wilber;
S. 4231. An act granting an increase of pension to Owen Martin;
S. 4359. An act granting an increase of pension to Mary E. Lincoln;
S. 4392. An act granting an increase of pension to Cornelia A. Mobley;
S. 4511. An act granting an increase of pension to William Hoaglin;
S. 4576. An act granting an increase of pension to William Monks;
S. 4582. An act granting an increase of pension to Seth H. Cooper;
S. 4688. An act granting an increase of pension to Noel J. Burgess;
S. 4739. An act granting an increase of pension to Benjamin F. Burgess;
S. 4745. An act granting an increase of pension to Susan J. F. Joslyn;
S. 4759. An act granting an increase of pension to Oliver M. Stone;
S. 4760. An act granting an increase of pension to John B. Lee;
S. 4763. An act granting an increase of pension to Harrison Randolph;
S. 4901. An act granting an increase of pension to Joshua M. Lounsberry;
S. 5055. An act granting an increase of pension to Melvin Grandy;
S. 5077. An act granting an increase of pension to Gabriel Cody;
S. 5091. An act granting an increase of pension to Sallie Tyrrell;
S. 5092. An act granting an increase of pension to Mary C. Feigley;
S. 5093. An act granting an increase of pension to Josiah F. Staubs;
S. 5094. An act granting an increase of pension to Samuel F. Baublitz;
S. 5114. An act granting an increase of pension to Lizzie B. Cusick;
S. 5173. An act granting an increase of pension to William S. Garrett;
S. 5186. An act granting an increase of pension to Robert Staplins;
S. 5189. An act granting an increase of pension to Margaret F. Joyce;
S. 5205. An act granting an increase of pension to John F. Alsup;
S. 5219. An act granting an increase of pension to David N. Morland;
S. 5255. An act granting an increase of pension to John D. Cutler;
S. 5291. An act granting an increase of pension to Elijah A. Smith;
S. 5337. An act granting an increase of pension to Samuel M. Tow;
S. 5338. An act granting an increase of pension to David Buckner;
S. 5342. An act granting an increase of pension to Mary E. Johnson;
S. 5344. An act granting an increase of pension to Sophronia Roberts;
S. 5355. An act granting an increase of pension to Annie M. Walker;
S. 5366. An act granting an increase of pension to John Beatty;
S. 5375. An act granting an increase of pension to Frances L. Porter;
S. 5439. An act granting an increase of pension to George W. Dunlap;
S. 5453. An act granting an increase of pension to Jacob M. Pickle;
S. 5515. An act granting an increase of pension to Matilda C. Frizelle; and
S. 5517. An act granting an increase of pension to William H. H. Shaffer.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. If there are no concurrent or other resolutions, the Chair lays before the Senate the unfinished business, which is House bill 12987.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The VICE-PRESIDENT. The pending question is on the amendment offered by the Senator from New Jersey [Mr. DRYDEN] to the amendment of the Senator from West Virginia [Mr. ELKINS]. The amendment and the amendment to the amendment will be stated.

The SECRETARY. It is proposed to amend the amendment submitted by the Senator from West Virginia [Mr. ELKINS] by inserting before the first word—the word "It"—in the amendment the following words:

That on and after July 1, 1911.

So that if amended the amendment will read:

That on and after July 1, 1911, it shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. LODGE. The pending question is on an amendment to the amendment, is it not?

The VICE-PRESIDENT. It is.

Mr. LODGE. Therefore, it is not open to further amendment

at this stage. If adopted, will it be open to amendment? I think the date is altogether too remote.

The VICE-PRESIDENT. The Senator proposing the amendment to the amendment can modify it, if he sees fit.

Mr. LODGE. If adopted now, it can not be amended until it reaches the Senate stage?

The VICE-PRESIDENT. The Chair so understands.

Mr. McCUMBER. I simply wish to ask as a parliamentary matter whether a substitute would be in order for the amendment as amended after it has been amended?

The VICE-PRESIDENT. The Chair understands that a substitute would be in order. There has been a substitute proposed by the Senator from Mississippi [Mr. McLAURIN].

Mr. McCUMBER. But it would not be in order at this time?

The VICE-PRESIDENT. A substitute would not be in order until after the amendment has been perfected.

Mr. GALLINGER and others. Question.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New Jersey [Mr. DRYDEN] to the amendment of the Senator from West Virginia [Mr. ELKINS]. [Putting the question.] In the opinion of the Chair the ayes have it.

Mr. CULBERSON. I ask for a division.

Mr. GALLINGER. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. FRYE. I should like to ask the Senator from New Jersey if he can not modify his amendment by reducing the time somewhat?

Mr. DRYDEN. I should like to inquire what the proposed modification is?

Mr. FRYE. I should like to have it 1908 or 1909.

Mr. LODGE. 1908.

Mr. DRYDEN. I will agree to a modification making it 1909.

Mr. LODGE. That is lengthening it out too much.

Mr. DRYDEN. It gives but two years and a half to readjust interests involving hundreds of millions of dollars. I think it is a very short time.

The VICE-PRESIDENT. The Senator from New Jersey modifies his proposed amendment to the amendment as follows.

The SECRETARY. By striking out the word "eleven" and inserting in lieu the word "nine;" so that it will read:

That on and after July 1, 1909.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment.

Mr. BACON. I understand that the provision in the substitute is for May, 1908. Am I correct?

The VICE-PRESIDENT. Does the Senator inquire what is the date under the modified amendment of the Senator from New Jersey to the amendment?

Mr. BACON. That is offered as an amendment to the substitute proposed by the Senator from Mississippi, is it not?

The VICE-PRESIDENT. It is offered as an amendment to the amendment of the Senator from West Virginia [Mr. ELKINS] and is not directed to the proposed substitute.

Mr. BACON. In the amendment offered by the Senator from West Virginia there is no time limit, I understand.

The VICE-PRESIDENT. The Chair understands that there is no limit in the amendment proposed by the Senator from West Virginia.

Mr. BACON. But there is a time limit suggested in the substitute which will be proposed by the Senator from Mississippi, which I understand to be May, 1908. So there are practically those two propositions before us.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from New Jersey [Mr. DRYDEN] as modified by him to the amendment of the Senator from West Virginia [Mr. ELKINS], on which the yeas and nays have been ordered.

Mr. SPOONER. I ask that the amendment to the amendment be read.

The VICE-PRESIDENT. The amendment to the amendment will be again read.

Mr. DOLLIVER. I should like to have the whole amendment reported as modified.

The VICE-PRESIDENT. Without objection, the Secretary will read the entire amendment as it will stand if amended.

The SECRETARY. The amendment proposed by the Senator from New Jersey [Mr. DRYDEN] is to insert before the first word—the word "It"—in the amendment of the Senator from West Virginia the following words:

That on and after July 1, 1909.

So that if amended the proposition will read:

That on and after July 1, 1909, it shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

The VICE-PRESIDENT. The Chair understands that the yeas and nays are still desired upon the amendment to the amendment as modified.

Mr. BEVERIDGE. Is the question before the Senate on which we are about to vote the amendment of the Senator from New Jersey to the amendment of the Senator from West Virginia, or is it upon the whole proposition?

The VICE-PRESIDENT. It is only upon the amendment proposed by the Senator from New Jersey to the amendment proposed by the Senator from West Virginia.

Mr. BEVERIDGE. So the subject upon which the Senate is now about to vote is the question as to whether three years or two and a half years' time shall be given for the disposition of the property.

The VICE-PRESIDENT. As to whether the time mentioned in the amendment to the amendment shall be given. The Secretary will call the roll on agreeing to the amendment to the amendment.

The Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON].

Mr. PROCTOR (when his name was called). I am paired with the senior Senator from Florida [Mr. MALLORY] on all votes upon the pending bill. I therefore withhold my vote, and I will make no further announcement of the pair.

The roll call was concluded.

Mr. SPOONER. I have a general pair with the Senator from Tennessee [Mr. CARMACK], who is absent. I understand that he would vote against this amendment if present.

Mr. TILLMAN. He would.

Mr. SPOONER. I am therefore not at liberty to vote. If I were at liberty to vote, I should vote "yea."

The result was announced—yeas 44, nays 29—as follows:

YEAS—44.

Aldrich	Clarke, Ark.	Gallinger	Nixon
Alger	Crane	Hale	Penrose
Allee	Cullom	Hansbrough	Perkins
Ankeny	Dick	Hemenway	Piles
Beveridge	Dillingham	Hopkins	Platt
Brandegee	Dryden	Kean	Scott
Bulkeley	Elkins	Kittredge	Smoot
Burnham	Flint	Knox	Sutherland
Carter	Foraker	Long	Warner
Clark, Mont.	Frye	McCumber	Warren
Clark, Wyo.	Fulton	Nelson	Wetmore

NAYS—29.

Bacon	Dolliver	McCreary	Simmons
Bailey	Dubois	McLaurin	Stone
Berry	Foster	Martin	Taliaferro
Blackburn	Frazier	Money	Teller
Burkett	Gamble	Newlands	Tillman
Clapp	Gearin	Overman	
Clay	La Follette	Pettus	
Culberson	Lodge	Rayner	

NOT VOTING—16.

Allison	Daniel	Latimer	Morgan
Burrows	Depew	McEnery	Patterson
Burton	Gorman	Mallory	Proctor
Carmack	Heyburn	Millard	Spooner

So the amendment to the amendment was agreed to.

Mr. HOPKINS. Mr. President, I move to refer the amendment proposed by the Senator from West Virginia [Mr. ELKINS] as just amended by the amendment of the Senator from New Jersey [Mr. DRYDEN] and all pending amendments relating to this subject and the proposed substitute to the Committee on Interstate Commerce.

The reason I am constrained to make that motion is on account of the experience we have had during all day yesterday and up to this time to-day. The vote that has just been taken shows that there is a wide division of sentiment among the members of the Senate as to the wisdom of the last amendment which has been adopted. I think, however, there is no division of sentiment that this subject should be treated, and that we should have legislation which would forever divorce transportation companies from mining and marketing coal and other natural products. For one I am exceedingly anxious that this question should receive careful consideration at the hands of the committee; that a bill should be reported to the Senate; that the Senate and the House of Representatives should speedily pass it, and that it should be enacted into law; but it is too grave a question to be settled on the floor of the Senate by amendments. In my judgment it is not second in importance to the subject we are now considering, where we propose to give the Interstate Commerce Commission the power to fix rates. That is a marvelous advance in legislation upon this great subject.

In the coal question we meet a subject that is entirely dif-

ferent from the one of rates relating to railroads, but it is a subject which equally interests all sections of our common country and which equally interests all classes of people in the United States. Hence it is important that it should not be combined with this question and that it should have the careful consideration of a committee and of the Senate itself.

Senators will remember that during this session of Congress a resolution has been passed authorizing the Interstate Commerce Commission to investigate this very subject; and if my motion prevails and the subject-matter of this amendment shall be sent to this committee of the Senate the committee will have the benefit of the investigation which has already been made and which is now being made by the Commission to formulate proper legislation on this great and important matter.

Mr. BAILEY. Mr. President, I make the point of order that it is not in order to move to commit an amendment to a committee.

Mr. ALDRICH. Under what rule?

Mr. BAILEY. It is in order to move to commit a bill, but there is no rule authorizing a motion to commit an amendment.

Mr. ALDRICH. I ask that the twenty-second rule be read.

Mr. BAILEY. The Senate can dispose of an amendment by voting it down, but there is no authority for a motion to commit an amendment to a committee.

Mr. ALDRICH. I ask that the twenty-second rule may be read, and perhaps the Senator will then change his mind.

The VICE-PRESIDENT. The Secretary will read the rule, as requested by the Senator from Rhode Island [Mr. ALDRICH].

The Secretary read as follows:

RULE XXII.—*Precedents of motions.*

When a question is pending, no motion shall be received but—
To adjourn.
To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.
To take a recess.
To proceed to the consideration of executive business.
To lay on the table.
To postpone indefinitely.
To postpone to a day certain.
To commit.
To amend.
Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

Mr. ALDRICH. I ask the Chair to decide as to what is the pending question. What question is pending before the Senate, Mr. President?

The VICE-PRESIDENT. The pending question is on the motion made by the Senator from Illinois [Mr. HOPKINS].

Mr. ALDRICH. It seems to me very clear, then, that the pending amendment can be committed under the twenty-second rule.

Mr. BAILEY. There is no bill pending before that committee to which this amendment would be in order. The rule clearly contemplated that the bill itself might be committed, but not an amendment to the bill.

Mr. ALDRICH. The bill itself is not pending, and will not be until the question comes up on its final passage.

Mr. BAILEY. If this bill is not now pending before this Committee of the Whole, then I confess my inability to understand the situation.

Mr. ALDRICH. The bill is pending before the Senate; but the pending question is on the amendment of the Senator from West Virginia [Mr. ELKINS] as modified or sought to be amended by other Senators.

Mr. BAILEY. In a sense, Mr. President, the pending amendment is the question immediately before the Senate.

Mr. GALLINGER. If the Senator will permit me——

Mr. BAILEY. Certainly.

Mr. GALLINGER. It seems to me very clear that the clause of the rule which has been read presupposes that the bill has been reported from a committee and that it may be committed again to the committee.

Mr. BAILEY. I think that is true; and I have no kind of question in my mind that it would be entirely in order to move to commit the bill.

Mr. GALLINGER. There is no doubt about that.

Mr. BAILEY. But it is not in order to move to commit an amendment offered to the bill. The question pending in the Senate is the bill in its broad and true meaning.

Mr. GALLINGER. Certainly.

Mr. BAILEY. And the immediate question pending to that bill, of course, is this amendment.

Of course, Mr. President, I understand that the majority of the Senate can, on a question of this kind, make a rule to suit itself; but I do not believe in a matter of this importance that is the best way to dispose of it. If the majority think it proper to vote this down and then with their majority in committee to take it up again, or to introduce and refer a bill to the committee, it would seem that the committee could deal with it and could report. But I suggest——

Mr. McLAURIN. Will the Senator yield to me for a moment?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Mississippi?

Mr. BAILEY. Certainly.

Mr. McLAURIN. How could the Committee on Interstate Commerce consider an amendment to a bill when they did not have the bill before them?

Mr. BAILEY. That is precisely the suggestion I was going to make in addition to the intimation I had given of that before. As I understand, a committee can only consider bills or resolutions referred to it. This is neither a bill nor a resolution. Probably in some cases which relate to an appropriation bill we have a rule under which amendments may be introduced to such a bill, referred to a committee, and reported, but that is under a peculiar or, at least, under a special provision of the rules.

Mr. BACON. Mr. President, I think the point of order raised by the Senator from Texas [Mr. BAILEY] is undoubtedly correct. It rests upon a very fundamental proposition known to general parliamenary law, and that is that when a parliamentary body is considering a proposition an amendment to that proposition can not be considered for final disposition separately from the main proposition and can not be disposed of under any general rule of parliamentary law independently of the original bill or the main proposition.

I desire to call the attention of the Chair to one feature which grows out of that general proposition and which is recognized as a universal rule in general parliamentary law. Under general parliamentary law the motion to lay an amendment upon the table can not be received and adopted without carrying the main proposition with it, and that is based upon the general proposition which I have just suggested, that to adopt a motion to lay an amendment upon the table would recognize the propriety of the disposition of an amendment in a manner independently of the disposition of the original proposition. Therefore it is that it is only when there is a special rule, such as we have in the Senate, which varies the general proposition that to that extent an amendment can be disposed of otherwise than by a direct vote either adopting or rejecting it.

It is manifest, Mr. President, that that general rule is a proper one, and for myself I have always regretted that we have a rule in the Senate which permits an amendment to be laid on the table independently of the original proposition. The purpose of laying a matter on the table is to temporarily pass from its consideration with the expectation thereafter of returning to its consideration, a purpose which manifestly can not be carried out in the case of an amendment, because when you lay an amendment on the table and pass on to other matters it is impracticable thereafter to return to its consideration. Therefore it is that the purpose under our rules of laying an amendment on the table is not the general purpose which is sought to be subserved in the laying of any matter on the table, but it is for the purpose of its permanent disposition, which is a perversion of the original purpose of the motion. That is so treated here, so that when an amendment is laid on the table it is permanently disposed of. The only difference between that and any other proceeding in reference to an amendment is that it allows the Senate to come to a vote without further debate upon it.

I only mention that for the purpose of illustrating the general proposition that an amendment to a proposition can not be disposed of by being referred to an independent body, or by any other disposition in any other manner than either by its adoption or its rejection, unless there is a special rule which authorizes it, as we have in the special rule of the Senate under which it can be laid upon the table.

Mr. President, the general proposition which I submit to the Chair as a sound one, and which I think can not be safely assailed, is that in the case of an amendment to a substantive proposition there is no way in which that amendment can be disposed of independently of the original proposition except by its rejection or its adoption, unless there is a specific rule which authorizes a different disposition, as is the case in our rules where a motion to lay upon the table is permitted.

I say, Mr. President, that is a fundamental proposition, and Senators may search the books and they may search the commentators on parliamentary law, and they will find no exception to it.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from New Hampshire?

Mr. BACON. I do.

Mr. GALLINGER. If the Senator will pardon me, a motion to commit or to recommit a bill would carry with it all amendments.

Mr. BACON. Undoubtedly.

Mr. ALDRICH. Mr. President——

Mr. BACON. If the Senator will pardon me, unless he desires to ask me a question——

Mr. ALDRICH. I was going to ask a question.

Mr. BACON. I hope the Senator will pardon me for a moment.

Mr. President, the intimate connection between an amendment and the original proposition is not only illustrated by the general rule, as I have endeavored to state it, but it is further illustrated by the practice which is recognized in all parliamentary jurisdictions that a motion to dispose of amendments in any other way, as by a motion to lay it on the table, will carry with it in the same direction the original proposition. There are two ways in which the question of a motion to indirectly dispose of an amendment can be treated. One is to say it is out of order, as is practiced in some jurisdictions, and not to consider it; and the other is to say that it is in order, as, in fact, the regular rule; but if it prevails it carries with it the original proposition. In other words, the nexus between the two is so intimate that parliamentary law does not recognize the possibility of their severance, and one must go with the other. It is the unborn child which can have no life when sundered from the mother.

Mr. HOPKINS. Mr. President, the Senate, as well as the House of Representatives, is acting under a code of rules that has been adopted for its guidance. Such rules are paramount to any general parliamentary law or even to Jefferson's Manual, which was originally adopted by the Senate.

Under the rules of the House of Representatives this proposed amendment of the Senator from West Virginia would be ruled out of order, because under the rules of the House an amendment that is proposed to a pending bill must be germane. The bill that is pending here before the Senate is a bill that relates to the regulation of the rates of railroads—a subject that is entirely separate and distinct from the question that is raised by the amendment that was originally offered by the Senator from West Virginia [Mr. ELKINS].

I do not care, Mr. President, whether you call that amendment a question or an amendment. The name does not make the difference. It is a separate and distinct question from the proposition that is presented here in the bill that was reported by the Senator from South Carolina [Mr. TILLMAN]. If it is a separate question, the fact that the Senator from West Virginia calls it an amendment can not change the rules of the Senate. What is the rule of the Senate on that matter? It says:

> When a question is pending no motion shall be received but * * * a motion to commit.

The question that is pending before us under the amendments covered by the motion I have made is nothing that relates to the fixing of rates or any question that is incident to the completion and perfection of the bill upon that subject; but, as I have observed, it is something separate and distinct and of such grave importance that the members of the Senate have been kept here for two days without being able to reach any conclusion whatever upon the subject. It seems to me that, with the rule before us, it is just as reasonable and as pertinent to adopt the motion here as it is to take the construction of the Senator from Texas. If this motion is adopted, we are simply giving a reasonable and pertinent construction to the rule itself. According to the argument of the Senator from Texas, he must give a construction to the rule in order to have his conclusions adopted, and the language is as open to the construction for which I contend as it is for that of the Senator from Texas. In view of the paramount importance of the question, it seems to me that the construction that this is a new question and that the committee can take jurisdiction of it under this motion should prevail.

Mr. LODGE. Mr. President, I am as anxious as anybody could possibly be to have this subject, which I think a large and complicated one, referred to a committee, so that before the conclusion of the session we may act upon it intelligently and better than we possibly can now; but I can not vote, Mr. President, to attain that result, which is easily attainable in an orderly manner and in conformity with what I believe to be parliamentary law, in a manner which I believe to be contrary to parliamentary law and contrary to the practice of the Senate.

An amendment has no existence except in connection with the measure to which it is proposed. When we send amendments to a committee to consider it is because the bill to which they are proposed is in a committee in a state of preparation; but this bill is before the Senate; it is not before the committee; and there is no bill before the committee relating to this subject. If there were a bill before the committee relating to this matter—the divorcing of railroads from the ownership of coal lands—it would be then perfectly proper to refer these amendments for the consideration of the committee in connection with that bill. But to take the amendment away from the bill by which alone it can have parliamentary existence, I do not believe can possibly be done.

I have looked as well as a very brief time would permit me to do so at the very full collection of precedents of the House which were prepared for the House, and there is not a suggestion in all the innumerable questions that have arisen about amendments and committal that a motion to commit could ever be applied to an amendment by itself. A motion to commit invariably applies—and every decision in this great work shows that it applies—to the bill, to the subject before the House, and not to an amendment to the subject or the proposition before the House. The first words of the eighteenth chapter on amendments are:

> Under the rule relating to amendments the following motions are in order: To amend; to amend that amendment; for a substitute; and to amend the substitute.

These are all the motions that are in order in regard to an amendment.

Our standing rule simply establishes the order of motions. It does not say what we can commit. Those are the motions, in their order, which may apply to the proposition before the Senate, or, like a motion to adjourn, apply only to the action of the body and not to the proposition then pending.

Mr. SPOONER. The motion to commit must apply to the substantive proposition.

Mr. LODGE. The motion to commit, the Senator from Wisconsin suggests, must apply to some substantive proposition. The substantive proposition before the Senate is the bill, and nothing else. The amendment is a mere attachment proposed to the bill, which may come into existence, or may have no existence; but it is here only because the bill is here. If there was no bill here, nobody would suggest that an amendment could be discussed when no bill existed to which it could apply.

Mr. President, I can find nothing in the general parliamentary law that refers to anything but the committal of the subject before the body. There is an utter absence of any suggestion, in any volume of rules at which I have been able to look, that it was ever contemplated that an amendment by itself could be committed to a committee or referred separtely from the main proposition.

I want to see this whole subject committed to a committee, with the understanding that it shall be reported on in proper form and dealt with before this session adjourns; but I think it ought to be done in an orderly way, and in conformity with the universal practice of the Senate and with the general principles of parliamentary law. If we want to commit these amendments to a committee, we have nothing to do but to introduce a resolution or a bill covering this subject, and then refer all the amendments as relating to that bill; but to refer amendments alone I do not think can possibly be done.

Mr. ALDRICH. The weakness of the contention of the Senator from Massachusetts is disclosed upon its statement. He says that if a bill were offered in the Senate and referred to the Committee on Interstate Commerce having reference to this subject, then these amendments could be taken out of the Senate and referred to that committee.

Mr. LODGE. An amendment to a bill pending in the committee could be referred, of course, to the committee. That is our practice.

Mr. ALDRICH. It seems to me that the Senator in conceding that gives away his whole case.

Mr. LODGE. Not the least in the world. There is no bill in the committee to refer the amendments to. You can not have amendments without a bill.

Mr. ALDRICH. It is not necessary to have any subject before the Committee on Interstate Commerce to refer another subject to that committee, I take it.

Mr. LODGE. If the Senator will excuse me, it is not a subject; it is an amendment you are proposing.

Mr. ALDRICH. What is an amendment but a subject, and what is an amendment but a motion, and what is an amendment but a question? If anybody can distinguish between a motion and an amendment and a question, as treated by parliamentary law, I should be very glad to have somebody discuss that point.

Mr. CULBERSON. Mr. President, will the Senator permit me to interrupt him?

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. ALDRICH. Certainly.

Mr. CULBERSON. On page 115 of Jefferson's Manual it is said:

1. It would be absurd to postpone the previous question, commitment, or amendment, alone, and thus separate the appendage from its principal; yet it must be postponed separately from its original, if at all; because the eighth rule of Senate says that when a main question is before the House—

The main question here is the bill to regulate commerce—

no motion shall be received but to commit, amend, or prequestion the original question, which is the parliamentary doctrine also.

Mr. ALDRICH. Those are questions pertaining to the original question, which is the bill itself, but I am discussing this question from the standpoint of the twenty-second rule, which says that any question pending—which in this case is simply an amendment—can be committed, and that a motion to commit is in order.

The Senator from Georgia [Mr. BACON] claims that because the Senate has provided in its rules that an amendment can be laid upon the table without carrying the main question, therefore, that is a reason why this motion can not be made.

Mr. BACON. The Senator entirely misunderstands me.

Mr. ALDRICH. By inference that is what the Senator said.

Mr. BACON. Oh, no; that is not the reasoning at all.

Mr. ALDRICH. Then I did not understand the Senator and I could not understand him. Of course the reason why a motion to lay on the table is made——

Mr. BACON. Will the Senator permit me to state it? He says he did not understand it.

Mr. ALDRICH. Certainly.

Mr. BACON. I was simply using that by way of illustration——

Mr. ALDRICH. That is what I understood.

Mr. BACON. Pardon me a moment—by way of illustration showing that that particular thing itself could not be done, it being made an exception by special rule of the Senate.

Mr. ALDRICH. Why?

Mr. BACON. And that, in the absence of a special rule of the Senate, no such disposition under general parliamentary law could be made of an amendment. Under general parliamentary law a motion to lay an amendment on the table is practically not in order.

Mr. ALDRICH. The Senator is mistaken about that.

Mr. BACON. I am not.

Mr. ALDRICH. The Senator is mistaken about it.

Mr. BACON. Pardon me a moment. I stated to the Senate that——

Mr. ALDRICH. I will yield to a question, but I do not care about the Senator's enunciation of general parliamentary law. It would take too long, and he can do that in his own time.

Mr. BACON. I do not desire to do it in my own time. The Senator said he did not understand me. Of course, if he does not wish to allow me to go on, I will not obtrude.

Mr. ALDRICH. I understood the Senator merely wanted to ask a question. The Senator says that under general parliamentary law a motion to lay an amendment upon the table is not in order. The Senator is entirely mistaken about that.

Mr. BACON. I started to say to the Senator——

Mr. ALDRICH. If the Senator will permit me——

Mr. BACON. The Senator will certainly permit me to set myself correct.

Mr. ALDRICH. Very well.

Mr. BACON. I said distinctly, when I was on the floor before, that there were two modes of procedure. One practice was to rule it out of order altogether, and the other was, in other parliamentary schools, to hold it to be in order, but that it carried the original proposition with it if it prevailed. I distinctly stated that before.

Mr. ALDRICH. I never heard of any parliamentary school that said a motion to lay an amendment upon the table was not in order. There is no such parliamentary school.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from New Hampshire?

Mr. ALDRICH. Not now.

There is a general rule—I might say a universal rule—of parliamentary law that when an amendment is laid upon the table it carries the main question with it; and it was necessary, in order that the action could be otherwise here, that a special rule should be adopted for that purpose. That is all there is of that question.

Mr. BACON. The Senator is mistaken in saying that that is all there is of it, from the fact that there are parliamentary schools and practices in which the opposite is done, where simply, instead of ruling that it carries the original proposition with it, they adopt the device of saying it is not in order at all.

Mr. ALDRICH. I know of no such school.

Mr. BACON. I do.

Mr. ALDRICH. If the Senator will present some papers or documents or statements or books here that will carry out that idea, I shall be very glad to see them; but I never heard that question raised before.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from New Hampshire?

Mr. ALDRICH. Not just now.

The VICE-PRESIDENT. The Senator from Rhode Island declines to yield.

Mr. ALDRICH. It seems to me perfectly plain that this is a substantive proposition, which has to be disposed of in some way. It can be disposed of by being laid upon the table, it can be disposed of by postponement, it can be disposed of by committal, not only under the rules of the Senate, but under ordinary parliamentary law.

The Senator from Massachusetts says he has looked through the books, and the Senator from Georgia has said that there is nothing of the kind in the books. They must have overlooked the question itself, because the parliamentary law as understood in the Senate is Jefferson's Manual, which was made years ago the authority of the Senate upon all questions of parliamentary law not included within the Senate rules. I call attention to page 106, where it is said in terms:

A particular clause of a bill may be committed without the whole bill.

Mr. LODGE. But not an amendment.

Mr. ALDRICH. If we can commit a clause, we certainly can commit an amendment or a proposed clause. The only difference is that one is a clause and the other is a proposed clause. In the wide search of the Senator from Massachusetts and the Senator from Georgia they seem to have overlooked that.

Mr. LODGE. I read it yesterday when I was looking up this question, but it has no bearing upon it whatever.

Mr. ALDRICH. It has every bearing.

Mr. LODGE. Nobody denies that you can commit a bill or a part of a bill. But that is not an amendment.

Mr. ALDRICH. If you can commit a clause of the bill, you certainly can commit an amendment, by inference; at least it seems to me so.

I am only anxious for this question to be decided. So far, up to this time, at least, there has been no rule or precedent of parliamentary law cited by either of the Senators against the proposition as laid down by the Senator from Illinois.

Mr. GALLINGER. Mr. President, I simply rose to ask the Senator from Rhode Island a question. On page 4, commencing at line 18, the bill reads:

Any common carrier subject to the provisions of this act receiving freight in the United States, etc.

If I should move to amend by inserting after the words "United States" the words "except freight from the Republic of Cuba or the Philippine Islands," I will ask the Senator from Rhode Island whether he thinks he could move to commit that either to the Committee on Interstate Commerce or the Committee on Relations with Cuba?

Mr. ALDRICH. My contention is that the Senate, by a majority vote, can commit any pending question, whether it is great or small, to a committee of this body.

Mr. GALLINGER. I have only this to say: I am so clear that the contention of the Senator from Rhode Island is wrong that if I have an opportunity I shall vote against it. I think the point of order made by the Senator from Texas is absolutely sound, both under our own rules and general parliamentary law; and, while I am just as anxious as any Senator possibly can be to have this matter disposed of as speedily as possible, I shall not, for the purpose of expediting the work of the Senate even on so important a bill as this, vote to violate what I think is clearly both the rule of this body and of general parliamentary law.

Mr. ALDRICH. Will the Senator from New Hampshire allow me?

Mr. GALLINGER. Certainly.

Mr. ALDRICH. I am just as anxious as is the Senator from New Hampshire that this question shall be decided properly. I have no feeling about whichever way it may be decided. I should like to ask the Senator whether, in his judgment, the first section of this bill could be recommitted to the Committee on Interstate Commerce without the remaining portion of the bill?

Mr. GALLINGER. Yes, under Jefferson's Manual; and that is the only authority I have discovered. I believe Jefferson's Manual is a portion of our rules, although it is not very often observed or referred to, and if it were referred to and observed it would cut off a good deal of debate in the Senate. I think

I will in the future call attention to two or three provisions in Jefferson's Manual which, if observed, will expedite our business.

Mr. ALDRICH. Then the Senator does think the Senate can refer a particular clause——

Mr. GALLINGER. Yes, of the original bill, under Jefferson's Manual. That is the English rule. But it is rarely ever enforced or observed.

Mr. ALDRICH. Suppose we adopt this amendment. Then it could be immediately taken from the bill and referred to the Committee on Interstate Commerce.

Mr. GALLINGER. I have no idea that the Senate would do that.

Mr. LODGE. Not until it has passed all its stages.

The VICE-PRESIDENT. The Senator from New Hampshire has the floor.

Mr. ALDRICH. The interjection of the Senator from Massachusetts renders this matter even more absurd, because if it can not be done until it has passed all its stages, then it can not be done, because the rules of the Senate and general parliamentary law——

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. The Senator from New Hampshire is entitled to the floor.

Mr. GALLINGER. I simply want to add a word. The Senator from Rhode Island declined even to allow me a question. I hope he will not take all my time. I am not going to occupy much time in this debate. I think ten minutes will cover all the time I have occupied.

I will say to the Senator from Rhode Island that under Jefferson's Manual the first section of the bill could be referred to the committee if the Senate in its wisdom concluded to do so, but I have not any idea that the Senate ever would do that. It is an English system which we have never invoked in our legislation, so far as I know. There may have been isolated cases——

Mr. ALDRICH. Will the Senator allow me one further question?

Mr. GALLINGER. Yes.

Mr. ALDRICH. If the amendment offered by the Senator from West Virginia should be adopted and become a part of the bill, could we recommit it?

Mr. GALLINGER. The bill?

Mr. ALDRICH. Not the bill; but this clause.

Mr. GALLINGER. Under Jefferson's Manual we could recommit section 1, I think, but that rule has never been invoked in this body during the fifteen years of my membership, and I do not think the Senate would think it was a wise procedure.

Mr. President, I simply wish to say a word. If we can commit the pending amendment, we can commit any amendment that may be offered to this bill, and it would be an absurd procedure for this body or any body to commit amendments to a committee when the proposition itself was not before that committee. I do not believe the Senate is going to sustain a contention of that kind.

Mr. BACON. Mr. President, I wish to say just one word in response to the suggestion of the Senator from Rhode Island as to what is meant by the clause which he finds on page 106. Anyone who has any familiarity with the construction of opinions rendered by courts will readily recall the fact that you can take an isolated sentence and prove almost anything unless you examine the context or unless you look to the particular subject-matter under consideration at the time of the decision. All courts recognize that in the construction either of statutes or of judicial opinions those matters have to be looked into in order to arrive at the correct meaning.

I have no doubt that the rule as laid down on page 106 is a correct rule so far as it is applicable, and it is a very easy matter to give an illustration which will show how that rule may be construed broadly and still be very limited in its application. Suppose we had no general Appropriations Committee and that the appropriations which relate to all of the various Departments of the Government were in a single bill, in which provision was made for the Army, and provision for the Navy, and also provision for the Post-Office Department. When it came before the Senate it would be perfectly in order, under such a rule as that, to distribute the part of the appropriation bill which related to the Army to the Committee on Military Affairs, the part of the bill which related to the Navy to the Committee on Naval Affairs, and the part of the bill which related to the Post-Office Department to the Committee on Post-Offices and Post-Roads. That is an entirely simple matter, and it is matters of that kind which are contemplated by this rule which he cites from page 106. The Senator can not find, and I issue the challenge broadly to him, in any reputable work any authority for the proposition that when a substantive proposition—a concrete proposition—is before a body and an amendment is offered to that proposition it is in order for the body to proceed with the consideration of the original proposition and send the amendment to the consideration of a committee.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Indiana?

Mr. BEVERIDGE. I thought the Senator from Georgia was through.

Mr. BACON. I am through.

Mr. ALDRICH. I should like to make a suggestion to the Senator from Georgia.

Mr. BEVERIDGE. Go ahead.

Mr. ALDRICH. It seems to me he is laying down a proposition here for which he ought to furnish some authority. I will say that he can not find in the whole range of parliamentary law or the whole range of parliamentary precedents any rule or precedent which will sustain his contention.

Mr. BACON. It is very hard to find rules which prove a negative.

Mr. BEVERIDGE. Mr. President, this question was settled yesterday when the Senate voted upon the proposition whether a motion to lay on the table was in order. They held that it was in order. I did not vote that way and thought that the conclusion of the Senate was erroneous. But the majority was overwhelming, and of course it is decisive. What was that? The whole question here is whether or not an amendment is a question. The rule reads:

> When a question is pending no motion shall be received but—
>
> Among others—
>
> To lay on the table.
>
> * * * * * * *
>
> To commit.

Yesterday the Senate decided, by a vote of 49 to 29, that an amendment is a question for the purpose of moving to lay it on the table within this rule. If yesterday an amendment was a question for the purpose of moving to lay it on the table within this rule, why is it not to-day a question for the purpose of moving to commit it under the rule? Unless the decision of the Senate yesterday, which I then thought and still think was wrong and revolutionary, was wrong and revolutionary, the action of the Senate yesterday by an overwhelming majority must conclude the Senate to-day. Yesterday when the question was whether the motion to lay on the table was in order, I voted "nay," and I still maintain that view; but I will ask the Senator from Massachusetts or the Senator from Georgia why, if an amendment on yesterday was a question within this rule for the purpose of moving to lay it on the table, it is not to-day a question for the purpose of moving to commit it?

Mr. LODGE. If the Senator wants me to answer I will.

Mr. BEVERIDGE. I do.

Mr. LODGE. I do not think it has any bearing on the question we are discussing.

Mr. BEVERIDGE. Of course that is a very lucid answer. I trust it is conclusive to the Senator from Massachusetts——

Mr. LODGE. I very much hope the Senator from Indiana understood it. I tried to make it lucid.

Mr. BEVERIDGE. I trust it is conclusive to the Senator if not to anybody else. He can not solve this question or convert anyone by mere impatience.

Rule XXII reads:

> When a question is pending, no motion shall be received but—
>
> To do what?
>
> To lay on the table.

To lay what on the table? To lay the question on the table. What was it the Senate agreed that it was in order to lay on the table yesterday? The question. What was the question? This particular amendment. The rule simply says that when a question is pending a motion to commit is in order. To commit what? The question? What is the question? The amendment which yesterday we held that it was in order to move to lay on the table. So, if the action of the Senate yesterday was correct, the motion to commit must necessarily be in order now.

Mr. McLAURIN. Mr. President, I think the Senator from Indiana [Mr. BEVERIDGE] is mistaken when he says the only thing we have to determine is whether this is a question, and I think he is mistaken in the reading of Rule XXII. The rule reads:

> When a question is pending, no motion shall be received but—
> To adjourn, etc.

It does not say that when a question is pending it shall be in order to move to adjourn, to commit, etc. But—

No motion shall be received but—
To adjourn.
To adjourn to a day certain. * * *
To take a recess, etc.

Now, this must be construed reasonably. It never was intended that the rule should require the doing of an idle thing, and it never was supposed that the Senate would so construe the rule. It may be there are clauses in bills which can with propriety be separately committed to a committee; but when it speaks of a motion to commit, it must be a motion to commit a question that is referable, not a question that is not referable, not a question that may not be committed without doing an idle thing.

If an amendment to a bill or to a section of a bill is committed to a committee, it must carry with it the bill, unless the commitment is supposed to do an idle thing. For how could the committee consider an amendment to the bill without having the bill before the committee? Suppose these amendments were committed by this motion to the Committee on Interstate Commerce, and suppose that the committee starts out to consider the amendments. How is the committee going to give any intelligent consideration to the amendments without the bill being before the committee to consider in connection with the amendments and to consider how the amendments would affect the bill or would affect the sections they are intended to amend? It would be an idle ceremony to commit these amendments to the committee without the bill for their consideration, because when you got them into the committee there would be no amendment to anything so far as the committee is concerned. It would not be an amendment to the bill, because the committee would not have the bill to consider. The committee would have no amendment to any bill.

Mr. ALDRICH. Will the Senator from Mississippi allow me to ask him a question?

Mr. McLAURIN. Certainly; with pleasure.

Mr. ALDRICH. Does the Senator agree that the amendment of the Senator from West Virginia involves an entirely distinct and separate proposition from anything contained in the bill?

Mr. McLAURIN. It does not.

Mr. ALDRICH. Oh, it certainly does.

Mr. McLAURIN. It is an amendment to the bill.

Mr. ALDRICH. It is an amendment to the bill technically, but it involves the consideration of a new proposition entirely; absolutely distinct and separate from anything that is now in the bill.

Mr. McLAURIN. Will the Senator let me ask him a question? How is the committee to know that without having the bill before it?

Mr. ALDRICH. I think they would know it by reading the proposition itself.

Mr. McLAURIN. I do not think it is to be presumed that they would know it intuitively.

Mr. ALDRICH. I think, unless they are lacking in intelligence, they would understand that.

Mr. McLAURIN. They would know it was an entirely different proposition from anything——

Mr. BEVERIDGE. Will the Senator from Mississippi allow me to ask him a question?

Mr. McLAURIN. Certainly.

Mr. BEVERIDGE. Does the Senator think that this amendment, which involves the question of preventing railroads from indulging in mining coal, or transporting it, as their own, is a question? Does the Senator think the amendment states a question to the Senate?

Mr. McLAURIN. It states a question, but not a question that is referable without the bill.

Mr. BEVERIDGE. I wish to follow that question by another one. If it does state a question, and that question is, under the rule, such a one as anyone may move to lay on the table, why is it not also a question, under the rule which names them both, which anyone may move to commit?

Mr. McLAURIN. Whenever a question is before the Senate that can be committed, it must be a question which it would be reasonable to commit; it must be a referable question.

Mr. BEVERIDGE. But, Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield further to the Senator from Indiana?

Mr. McLAURIN. Yes; if the Senator will let me finish answering his question.

Mr. BEVERIDGE. Yes; I will.

Mr. McLAURIN. I do not think a motion to lay an amendment on the table is permissible, so far as that is concerned——

Mr. BERRY. Will the Senator permit me for a moment?

Mr. McLAURIN. Certainly.

Mr. BERRY. If precedent has anything to do with it, I suggest to the Senator that he will find a thousand precedents where amendments have been laid on the table; and he can not, I think, find one where an amendment was ever committed to a committee by the Senate.

Mr. McLAURIN. That is a complete answer to the Senator's question.

Mr. BERRY. It is universal to table amendments—at least, it has been the practice for the last twenty years; but I do not think the Senator from Rhode Island can find a single precedent where an amendment has ever been committed to a committee without the bill being committed also.

Mr. BEVERIDGE. But, Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield further to the Senator from Indiana?

Mr. McLAURIN. Certainly.

Mr. BEVERIDGE. One sentence is sufficient. We yesterday established a precedent which brings this within the rule. I ask the Senator whether it is a question of discretion, under the interpretation put upon this rule by the Senate, by an overwhelming vote, when the rule says "when a question is pending no motion shall be received but," and then names exceptions, thus permitting those motions to be made, and among those exceptions are "to lay on the table" and "to commit?" Those two motions are in order. To commit what? A question. Is not an amendment a question? Yesterday the Senate decided it was, for that purpose.

Mr. McLAURIN. The Senator asked permission to ask me a question. I hope he will not make a speech in my time.

Mr. BEVERIDGE. Yesterday the Senate decided that it was a question for the purpose of making one of the motions named in the rule. Why is it not to-day also a question for making another motion named in the rule?

Mr. McLAURIN. I have tried to answer the Senator. The Senator made a mistake in the reading of this originally, but now comes back to the correct reading. This does not presuppose that all of these motions may be made under any circumstances, or that any one of these motions may be made under all circumstances. But "when a question is pending, no motion shall be received but," etc.; that is, if the amendment itself is pertinent and permissible, then it may be made when the question is pending. It does not follow, simply because when they are pertinent and when they are logical and when they are permissible, they may be made, that, therefore, under all circumstances, or under any circumstances, they may be made. It would be an idle thing, it would be an absurd thing—I do not say it offensively, but it seems to me it would be an absurd thing—to refer an amendment to a committee without referring the bill, or to refer an amendment to a section without referring the section.

Now, I put it to any Senator, how could a committee consider an amendment to a bill without having the bill before it for consideration? Can it be done? If it can not be done, then would it not be an idle thing to undertake to compel the committee to consider an amendment—and that is what it means when it is referred to the committee—to the bill without the committee having the bill before it so that it could see what application the amendment had to the bill?

Mr. BEVERIDGE. I do not want to take all of the Senator's time. In the Senate it is competent to offer any kind of an amendment. It is not as it is in the House, where the amendment must be germane.

Mr. McLAURIN. I understand that an amendment ought to be germane, or it is not permissible.

Mr. BEVERIDGE. No; I will ask my question. Suppose some Senator was to propose an amendment upon an absolutely different subject, something which had to do with our foreign affairs or something of that kind. It would be proper to offer such an amendment in the Senate, within the discretion of any Senator. But it would involve a subject which had nothing whatever to do with the pending bill. Does the Senator mean to say that the Senate could not refer that amendment to a committee without committing the bill with which it had nothing to do?

Mr. McLAURIN. I mean to say that I do not admit the premises of the Senator from Indiana.

Mr. GALLINGER. If the Senator will refer to the rules, he will observe that an amendment of that nature would be submitted by the Chair to the Senate for determination as to whether it is germane. We have a specific rule on that point.

Mr. McLAURIN. That is correct, and it is a complete answer to the Senator from Indiana. I do not admit his premises.

Mr. President, I rose merely to say a few words in reference to the reasonableness or idleness of referring an amendment

without the bill, and the impossibility of the consideration of the amendment by the committee without the bill, and to say that if there is any disposition to kill the amendment, the best way to do it is to vote it down. It can be voted down, if Senators desire to do so, and it can be gotten rid of in a direct way without doing a thing which would be utterly idle and a thing which it would be impossible for the committee to do.

Mr. LODGE. Mr. President, I desire to make clear what perhaps I did not make clear when I first addressed the Senate on this point. Under our rules, or under our practice, at least, an amendment to a bill pending before a committee can be referred to that committee for consideration during the pendency of the bill in the committee. If this bill were before the Committee on Interstate Commerce, we could refer an amendment to that committee to consider it in connection with the bill. It is a voluntary proceeding, and proceeds usually by unanimous consent, or the introducer may ask to have the amendment lie on the table. If a bill relating to the subject was now before the Interstate Commerce Committee, we could refer amendments to it on request in the usual way.

My point, and my sole point, here is that the bill to which is offered this amendment, which it is now proposed to refer, is here in the Senate, and no amendment can be detached and sent off into the air where no bill exists. The amendment draws its whole vitality from the bill, the main proposition, to which it is offered.

Now, under the old rules of the Senate a motion to lay on the table was always in order, but so closely were bill and amendment united that it was of no value in shortening debate on amendments, because it was held that the motion to lay on the table, applied to an amendment, carried the bill with it; and we owe it to the Senator from Maine that we read in our rules to-day—

Any amendment to a general appropriation bill may be laid on the table without prejudice to the bill.

And, again—

When an amendment proposed to any pending measure is laid on the table, it shall not carry with it or prejudice such measure.

Now, that, and that alone, is what has made the motion to lay an amendment on the table effective in shortening debate, because under the old rule the motion to lay the amendment on the table carried the entire subject with it, the amendment was so wholly a part of the bill before the Senate.

Mr. President, in reference to the suggestion of laying a question on the table, I will say we are not laying a question on the table. We are laying an amendment on the table, or we are laying the bill on the table. There are questions which come before the Senate, like the motion to adjourn or the motion to take a recess to a time certain, which are not open to the motion to commit. This rule of precedence of motions has nothing whatever to do with the question that is before us here, and that question is simply this: Can you commit to a committee an amendment to a bill when the bill is not before the committee, but is here in the Senate? Can you detach an amendment and send it to a committee? Would it be suggested that any Senator, under our practice, could introduce an amendment—not to any bill, just an amendment—and send it to committee? Of course, it has to have a bill in order to exist.

Mr. ALDRICH. I remember very many times in the history of the Senate when amendments have been offered to a bill which could be sent to another committee than the one from which the bill came or to a committee without any reference to the bill itself. For instance, I remember that on the Army appropriation bill the so-called "Platt amendment" was offered in reference to affairs in Cuba, involving a code of laws practically for the government of the Republic of Cuba. Does any Senator say that that could not have been sent to the Committee on Foreign Relations?

Mr. TELLER. It was not, was it?

Mr. ALDRICH. It was not; but it was considered by unanimous consent because of the overwhelming necessity for action. I think neither the Senator from Colorado nor any other Senator would contend that it would not have been in order to move to refer that amendment to the Committee on Foreign Relations or the Committee on Cuban Relations.

Mr. BEVERIDGE. We can not hear the Senator's interesting remarks here.

Mr. ALDRICH. I have known of a great many other cases where bills that were not in any sense germane to a pending bill were offered as amendments.

Mr. TELLER. And adopted?

Mr. ALDRICH. Sometimes adopted and sometimes otherwise.

Mr. TELLER. Did the Senator ever know of an isolated amendment being sent alone to a committee? If he did, I wish he would tell us when it was done.

Mr. ALDRICH. I think this is a question of power and not a question of precedent.

Mr. BAILEY. If the Senator from Massachusetts will permit me, I wish to ask the Senator from Rhode Island a question. Suppose a committee——

Mr. LODGE. I wish the Senator from Texas, who is going to direct a question to the Senator from Rhode Island, would let me finisn first what I have to say.

Mr. BAILEY. Then I will direct my question to the Senator from Massachusetts.

Mr. LODGE. I will yield to the Senator.

Mr. BAILEY. Suppose a committee having in charge a bill were to report to the Senate an amendment, plainly that would not be in order; and so it seems to me neither would it be in order for the Senate to send to the committee having no bill an amendment to it.

Mr. LODGE. Mr. President, the Senator from New Hampshire [Mr. GALLINGER] has just called my attention to a passage in Jefferson's Manual which I did not notice yesterday, and which occurs at a point where I had not looked, but which seems to me to indicate the principle which we have been discussing.

Mr. BURROWS. On what page?

Mr. LODGE. On page 115:

Suppose a motion for the previous question——

Mr. ALDRICH. That has already been read by the Senator from Georgia.

Mr. GALLINGER. Let it be read again. It was not heard.

Mr. LODGE (reading)—

or commitment, or amendment of the main question, and that it be then moved to postpone the motion for the previous question, or for commitment or amendment of the main question—

I did not hear the Senator from Georgia read it.

Mr. GALLINGER. The Senator from Texas read it

Mr. BACON. It was the Senator from Texas.

Mr. LODGE (reading)—

it would be absurd to postpone the previous question—

Which of course we do not have here—

commitment, or amendment alone, and thus separate the appendage from its principal.

That is the whole point in this question. The amendment is an appendage. The point is not to lay a question on the table; it is to lay an amendment or a bill or a motion on the table. Here the point is to commit an amendment separately from the bill, and that is the only point involved.

Mr. GALLINGER. It is an appendage.

Mr. LODGE. I have been utterly unable to find that the matter has even had enough standing in any parliamentary body to have ever been considered.

Mr. BAILEY. Mr. President, I wish to make merely one suggestion. While the Senate is considering this matter in Committee of the Whole the Senate must report to the Senate, and the Senate in Committee of the Whole can not refer this or any other matter to another committee. I find on page 107 of the Manual a statement that—

A committee, even of the whole, can not refer any matter to another committee.

That probably refers to the rule of the House; but it would seem to me a rather anomalous procedure for a Committee of the Whole to take action referring a given subject to a committee of the Senate instead of to the Senate itself.

Mr. ALDRICH. But, Mr. President, the Committee of the Whole, as the words Committee of the Whole are used there, have no reference to the Committee of the Whole in the Senate, but to the Committee of the Whole in the House. The purpose, I assume, of the Senator from Illinois in making the motion was that we might be brought to some conclusion upon this question. It looks to me as though we are liable to have more discussion on the preliminary question than perhaps on the main question.

Mr. McLAURIN. Mr. President, I would like to make one further suggestion. If by Rule XXII, "when a question is pending, no motion shall be received but," it is intended to say that all these motions may be made in reference to the question, could a motion be made to commit a motion to take a recess, or to commit a motion to lay on the table, or to commit a motion to postpone indefinitely, or to commit a motion to adjourn?

The VICE-PRESIDENT. The Senator from Texas raises a point of order against the motion of the Senator from Illinois to the effect that the motion is not in order under the rules of the Senate. The Chair finds no sanction for the motion in the well-recognized practice and usage of the Senate. The Chair

will, therefore, leave the question to the determination of the Senate itself, as it is entirely within its competency to decide whether the motion is in order or not.

Mr. LODGE. On that question let us have a roll call.

The VICE-PRESIDENT. All who are of opinion that the motion of the Senator from Illinois is in order—no, those who are of opinion that the point of order of the Senator from Texas is well taken will vote "aye," and those opposed "no." Upon this proposition the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. BERRY. How is the proposition to be put?

The VICE-PRESIDENT. Is the point of order of the Senator from Texas well taken?

Mr. ALDRICH. I would suggest that it is the usual practice to submit to the Senate the question whether the motion is in order.

The VICE-PRESIDENT. It can be put in either form. It may be better understood if it is put as the Chair first suggested, Is the motion of the Senator from Illinois in order?

Mr. HALE. Yes; that is better.

The VICE-PRESIDENT. Those who are of opinion that the motion is in order will vote "yea" as their names are called, and those opposed "nay." The Secretary will call the roll.

The Secretary called the roll; and the result was—yeas 25, nays 48, as follows:

YEAS—25.

Aldrich	Dick	Hopkins	Sutherland
Ankeny	Dolliver	Knox	Warner
Beveridge	Dryden	McCumber	Warren
Carter	Flint	Millard	Wetmore
Clark, Wyo.	Foraker	Nelson	
Crane	Fulton	Nixon	
Cullom	Hansbrough	Piles	

NAYS—48.

Allee	Clay	Kean	Overman
Bacon	Culberson	Kittredge	Perkins
Bailey	Daniel	La Follette	Pettus
Berry	Dubois	Latimer	Platt
Brandegee	Elkins	Lodge	Rayner
Bulkeley	Foster	McCreary	Scott
Burkett	Frazier	McEnery	Simmons
Burnham	Frye	McLaurin	Spooner
Burrows	Gallinger	Martin	Stone
Clapp	Gamble	Money	Taliaferro
Clark, Mont.	Gearin	Morgan	Teller
Clarke, Ark.	Hale	Newlands	Tillman

NOT VOTING—16.

Alger	Carmack	Hemenway	Patterson
Allison	Depew	Heyburn	Penrose
Blackburn	Dillingham	Long	Proctor
Burton	Gorman	Mallory	Smoot

The VICE-PRESIDENT. Upon the question as to whether the motion of the Senator from Illinois [Mr. HOPKINS] is in order the yeas are 25 and the nays 48. The Senate decides that the motion is not in order. Do the friends of the amendment of the Senator from West Virginia [Mr. ELKINS] desire to make further amendment thereto? [A pause.] The question recurs on the amendment in the nature of a substitute proposed by the Senator from Mississippi [Mr. MCLAURIN].

Mr. MCLAURIN. Mr. President, if I am at liberty to modify it——

The VICE-PRESIDENT. The Senator has such privilege.

Mr. MCLAURIN. I will ask that the amendment be withdrawn and that what I send to the desk be substituted.

The VICE-PRESIDENT. The Secretary will read the amendment of the Senator from Mississippi as modified.

The SECRETARY. In lieu of the amendment proposed by the Senator from West Virginia [Mr. ELKINS] insert:

From and after May 1, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or District of the United States to any other State, Territory, or District of the United States or to any foreign country any article or commodity manufactured, mined, or produced by it or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary or used in the conduct of its business as a common carrier.

Mr. HALE. Mr. President, I move to lay the amendment on the table.

The VICE-PRESIDENT. The Senator from Maine moves to lay the amendment just read on the table.

Mr. CLAY. Will the Senator withhold that motion for just a minute? I wish to call the attention of the Senate to the fact that this amendment is a great improvement on the amendment of the Senator from West Virginia. That amendment provides that—

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity to engage in interstate commerce.

In other words, it provides that the carrier engaged in this business shall not engage in interstate commerce. That is a very serious matter to the public.

The VICE-PRESIDENT. The Chair will state that unless the Senator from Maine withholds his motion debate is not in order.

Mr. CLAY. I understood the Senator to yield.

The VICE-PRESIDENT. The Chair did not so understand.

Mr. CLAY. Will the Senator withhold his motion just two minutes? It will not take me two minutes.

Mr. BACON. Mr. President——

Mr. HALE. Mr. President, it is very apparent to me that we shall make no progress unless we dispose of these amendments.

Mr. ALDRICH. Mr. President, I rise to a question of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his question of order.

Mr. ALDRICH. I should like to inquire whether an amendment to an amendment can be laid on the table without carrying the amendment?

The VICE-PRESIDENT. The Chair understands that it can. The question is on agreeing to the motion of the Senator from Maine to lay the amendment of the Senator from Mississippi [Mr. MCLAURIN] to the amendment on the table.

Mr. BACON. Mr. President, I wish to submit a point of order.

The VICE-PRESIDENT. The Senator from Georgia will state his point of order.

Mr. BACON. My point of order is that, while the motion to lay upon the table may be in order under certain circumstances, it is not in order as long as any Senator desires to speak upon this subject. I will state the reason.

Mr. ALDRICH. I made another point of order, and——

Mr. BACON. I have not stated the point yet. My point of order is that we are not proceeding under the general rules of the Senate, but we are proceeding under a special-consent agreement, and in the absence of that special consent there will be nothing in order with reference to amendments except to debate them. Any authority for voting upon an amendment now is found in the consent order and in that alone. Otherwise an amendment would not be in order to be voted on until the bill came up for final disposition. Being a part of the consent order, all of the consent order must be taken, which provides that it is to be disposed of after debate, fifteen minutes to each Senator. That is the consent order, and the order is absolutely nullified if this ruling is sustained.

The VICE-PRESIDENT. The Chair is of opinion that the Senate construed the unanimous-consent agreement yesterday.

Mr. BACON. Will the Chair permit me?

The VICE-PRESIDENT. Certainly.

Mr. BACON. I suggest to the Chair that yesterday there was no question as to whether any Senator desired to speak.

The VICE-PRESIDENT. The Chair understands that the Senate decided yesterday that a motion to lay an amendment on the table was in order under the unanimous-consent agreement; and the Chair construes the motion to lay on the table as a nondebatable question under the well-recognized rules of the Senate. Therefore the Chair will not entertain debate if the Senator from Maine insists upon his motion.

Mr. HALE. I do insist upon it.

Mr. BAILEY. Mr. President——

Mr. ALDRICH. I rise to a point of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his point of order.

Mr. ALDRICH. It is not possible to lay an amendment to an amendment on the table without laying the entire amendment on the table.

Mr. BAILEY. It will save all that trouble if the Senator from Maine will withhold his motion and let the Senator from Mississippi [Mr. MCLAURIN] withdraw his substitute. We will then vote directly on the Elkins amendment and save all trouble.

Mr. MCLAURIN. Before doing that I desire to make a parliamentary inquiry. Should the amendment of the Senator from West Virginia be voted down, will the amendment that I have offered then be in order if it should be withdrawn now?

The VICE-PRESIDENT. Any amendment would be in order as an independent proposition if the amendment of the Senator from West Virginia should be voted down.

Mr. MCLAURIN. Then, to save the point of order of the Senator from Rhode Island, I withdraw the amendment and will allow a vote to be taken on the amendment of the Senator from West Virginia.

Mr. HALE. Then I withdraw the motion to lay the amendment on the table.

The VICE-PRESIDENT. The Senator from Maine withdraws his motion and the Senator from Mississippi withdraws his amendment.

Mr. MONEY. Mr. President, I rise——

The VICE-PRESIDENT. Let the Chair state the parlia-

mentary status of the question before the Senate. The junior Senator from Mississippi [Mr. MCLAURIN] withdraws his amendment in the nature of a substitute to the amendment of the Senator from West Virginia [Mr. ELKINS]. The Senator from Maine [Mr. HALE] has withdrawn his motion to lay the same on the table.

Mr. MONEY. I wish to ask a parliamentary question.

The VICE-PRESIDENT. The senior Senator from Mississippi will state his parliamentary question.

Mr. MONEY. I understood a moment ago—I will be corrected by the Chair if mistaken—that the Chair stated that the action of the Senate yesterday was that when a motion was made to table an amendment that motion was in order under the general-consent agreement. I wish to ask this question of the Chair: If that is true, will there be any debate at all on any amendment if any Senator chooses to make a motion to table? And how can the consent to debate this question be enforced if any Senator can rise in his place and move to table an amendment when it is presented? It certainly cuts off all debate. The intention of this general consent, it must be admitted by every Senator here, was to have an agreement for a fair debate on this question and all amendments pending and that may be offered. The motion of the Senator from Maine [Mr. HALE] was, in my opinion, clearly out of order; otherwise it closes debate on this whole question.

Mr. HALE. I have just withdrawn the motion.

The VICE-PRESIDENT. The Senator from Maine has withdrawn the motion.

Mr. MONEY. I was asking for information of the Chair, if the rule as he stated it was correct, what becomes, then, of the power of debate? What was the object of the unanimous-consent agreement?

The VICE-PRESIDENT. The Chair will state that the unanimous-consent agreement apparently arrested the regular rule of the Senate with respect to moving to lay amendments upon the table, and that the construction put upon the unanimous-consent agreement by the Senate yesterday does not change the ordinary rule.

Mr. FRYE. Mr. President, I understand that the Senate yesterday determined that a motion to lay on the table is in order after discussion. I do not understand that it went any further. I do not understand that the Senate has determined that now a motion to lay on the table may be in order the moment an amendment is offered.

Mr. TELLER. Mr. President, I think the Senate yesterday, simply as suggested by the Senator from Maine [Mr. FRYE], decided that the question of determining when debate should close was with the Senate; and that is all that there was of it. The vote on the motion to lay on the table shows that the question was determined without reference to the particular amendment then pending. It was simply reserving to the Senate the right, after proper debate—which, of course, the Senate must determine—to lay on the table. If any Senator moves to lay an amendment on the table before the discussion has taken place or before the Senate thinks a sufficient amount of discussion has taken place, it is certainly within the power of the Senate to refuse to lay it on the table. I think it could be safely left to the Senate to determine those questions.

Mr. President, this rule has been in force in the Senate ever since I have been a member of it, and I have never known it to be abused. I recall no instance where a motion has been made when any Senator appealed to the Senator making it to withhold it that he might make some remarks and he was not allowed to proceed, except, perhaps, in one or two cases some years ago, where, for particular reasons apparent to everybody in the Senate, it was desired that the Senator who was proposing to make remarks should be taken off the floor.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from West Virginia [Mr. ELKINS] as modified by the adoption of the amendment to it proposed by the Senator from New Jersey [Mr. DRYDEN].

Mr. ALDRICH. I hope the Senator from Mississippi [Mr. MCLAURIN] will reoffer his substitute. If he does not, I will; because it seems to me that the amendment of the Senator from Mississippi is a very carefully prepared and conservative proposition.

Mr. CLAY. The amendment of the Senator from Mississippi is certainly a great improvement on the pending amendment; and I do not see how it can be improved.

Mr. MCCUMBER. Mr. President, I rise to a parliamentary inquiry. I introduced a substitute yesterday for the amendment of the Senator from West Virginia, and I want to know the position of that substitute. It was placed before the Senate by the Chair and discussion was started on it. Now that the substitute offered by the Senator from Mississippi has been withdrawn, I desire to offer the substitute which I offered yesterday and on which debate was partially had.

Mr. ALDRICH. I suggest to the Senator from West Virginia that if he will look carefully at this amendment he will be quite willing to accept it in place of his own.

Mr. MCCUMBER. I think he will accept the one I proposed, and it is much shorter. I simply wish to know whether it can be offered now as a substitute?

The VICE-PRESIDENT. It is in order.

Mr. MCCUMBER. I ask that it be read.

The VICE-PRESIDENT. It is in order unless the Senator from Rhode Island has offered the one that was withdrawn by the Senator from Mississippi.

Mr. MCCUMBER. I should like to know, then, what became of the one offered yesterday and which was partially under discussion?

Mr. GALLINGER. It was read for the information of the Senate.

Mr. MCCUMBER. No.

The VICE-PRESIDENT. The Chair did not hear the Senator from Rhode Island distinctly as to whether he proposes to offer the amendment withdrawn by the Senator from Mississippi?

Mr. ALDRICH. I did not formally offer it.

The VICE-PRESIDENT. Then the substitute proposed by the Senator from North Dakota is in order.

Mr. MCCUMBER. I should like to have it read.

The VICE-PRESIDENT. The Secretary will read it.

The Secretary read as follows:

From and after July 1, 1908, any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

Mr. MCCUMBER. Mr. President, that is a very simple proposition, and I would ask any Senator to challenge its covering the whole subject in a very few words. It does not deal with commerce wholly within a State. It simply prohibits any common carrier, after a given time, July 1, 1908, not from engaging in interstate commerce, but from dealing in coal, coke, and other articles of commerce in interstate commerce, not from dealing within the State, but from dealing in interstate commerce.

Mr. BAILEY. Does the Senator from North Dakota believe that Congress could prohibit a railroad company from selling within a State commodities which it produces in that State?

Mr. MCCUMBER. No; and that is the object of my amendment. The amendment as drafted by the Senator from West Virginia penalizes the company itself if it should attempt to do that. This amendment does not attempt to do that. I will say to the Senator from Texas that I do not consider that Congress has power to say to a corporation that it can not do wholly within a State what the State laws authorize it to do, and that it can prescribe a penalty against its doing those things. That is the object of the amendment.

Mr. BAILEY. The Senator, I think, is entirely right in saying that Congress can not prohibit a corporation from doing within a State a lawful act. But the trouble with the Senator's amendment is he describes it as an article that enters into interstate commerce. Almost every article enters at some time into interstate commerce.

Mr. MCCUMBER. No.

Mr. BAILEY. But the article itself may be carried from one State to another, and after being carried, it may be sold within the State. The description is not accurate.

Mr. MCCUMBER. I beg pardon of the Senator. The only thing the company is prohibited from selling is the article owned by itself which enters into interstate commerce. Before it enters into interstate commerce it can sell it under the laws of the State; but it can not the moment that it enters into interstate commerce, and it can not enter into interstate commerce until it has changed from one State to another or has been loaded for the purpose of going from one State to another. So the prohibition is simply against the selling of the article which it must ship from one State to another or to a foreign country; in other words, the article which must go into interstate commerce before it can be sold, because that is the limit of our authority.

We can not reach the company buying and selling in the State in which it is lawful to buy and sell, and I think if the Senator will read that very short amendment again he will find that it clearly expresses that.

Mr. SPOONER. Mr. President, is it not clear enough from the Senator's amendment——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Wisconsin?

Mr. MCCUMBER. I yield to the Senator from Wisconsin.

Mr. SPOONER. Is it not clear that the language of the

Senator's amendment is broad enough to prohibit the carrier from selling his commodity in the State?

Mr. McCUMBER. Not under the amendment which I offered.

Mr. SPOONER. I think it is.

Mr. McCUMBER. I think not.

Mr. SPOONER. The amendment reads:

Any common carrier, under the provisions of this act, is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

Mr. McCUMBER. What commodity? The commodity which it sells entering into interstate commerce—not like articles.

Mr. SPOONER. Suppose a corporation—a transportation company engaged in interstate commerce, if you please—under the authority of the laws of a State engages in mining coal; under the Senator's amendment may it not sell that coal in the State, to be put into the channels of interstate commerce by the purchaser, who may not be a transportation carrier at all?

Mr. McCUMBER. Certainly not.

Mr. SPOONER. I think the Senator, if he will carefully read the amendment, will see that I am right.

Mr. McCUMBER. If the Senator will hand me the amendment, I will read it again.

Mr. SPOONER. The Senator from North Dakota does not deal with the question whether the carrier which produces the commodity shall be permitted to put it into interstate commerce or not; he deals with the power to sell the article if it is to enter into interstate commerce, which is clearly beyond the power of Congress.

Mr. McCUMBER. Let us see what the amendment means upon a fair and simple construction.

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity—

What kind of coal or coke or other commodity and how marketed? That coal or coke or other commodity which enters into interstate commerce?

Mr. SPOONER. Suppose a corporation is engaged in interstate commerce as a carrier and is also lawfully engaged in mining coal in the State of Pennsylvania, for instance, and it sells that coal in the State of Pennsylvania, and the purchaser of that coal in the State of Pennsylvania consigns it to New York over a line not owned or operated by the carrier which produced it?

Mr. McCUMBER. This provision would not in the slightest degree touch that. Therefore it is not the person then selling it, the man who purchases within the State; he can, of course, ship it into any other State. It is not the carrier, therefore, that is shipping it; it is a private individual or whomsoever he sells it to. The common carrier, under the provisions of this bill, is simply prohibited from selling those articles which will enter into interstate commerce before they can be sold or disposed of in another State.

Mr. ELKINS. Mr. President, I propose to modify the amendment which I offered by offering what I send to the desk as a substitute for it.

Mr. ALDRICH (to Mr. ELKINS). Modify the amendment.

Mr. ELKINS. Well, I will modify the amendment.

The VICE-PRESIDENT. The Senator from West Virginia proposes to modify his amendment. The proposed modification will be read.

Mr. GALLINGER. Let the amendment as proposed to be modified be read.

The VICE-PRESIDENT. The amendment as proposed to be modified will be read by the Secretary.

The Secretary read as follows:

From and after May 1, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or district of the United States to any other State, Territory, or district of the United States, or to any foreign country, any article or commodity manufactured, mined, or produced by it or under its authority, or which it may own in whole or in part or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary or used in the conduct of its business as a common carrier.

Mr. GALLINGER (to Mr. ELKINS). Make the date 1909.

Mr. McCUMBER. I will say in reference to that amendment, that if it be adopted, I should have no objection to it, and I am perfectly willing that it shall take precedence over the substitute I have offered.

Mr. CULBERSON. I should like to ask if there is any substitute pending in the Senate at this time? If there is not, I desire to offer one.

The VICE-PRESIDENT. There is a substitute offered by the Senator from North Dakota [Mr. McCUMBER].

Mr. McCUMBER. I will withdraw my substitute temporarily for the purpose of allowing the substitute offered by the Senator from West Virginia [Mr. ELKINS] to be acted upon.

Mr. CULBERSON. Mr. President, if the Senator withdraws his substitute I should like to know it, because I desire to offer one.

Mr. DANIEL. I ask that the amendment of the Senator from West Virginia be again read.

Mr. CULBERSON. I offer what I send to the desk as a substitute for the pending amendment of the Senator from West Virginia.

Mr. GALLINGER. Mr. President, before the proposed substitute is read—I have suggested to the Senator from West Virginia that this morning by a very large majority the Senate voted that the date should be 1909, and I trust the Senator will modify his amendment accordingly.

Mr. ELKINS. I will accept that.

The SECRETARY. The proposed substitute is modified so as to read:

From and after May 1, 1909, etc.

The VICE-PRESIDENT. Is there objection? If not——

Mr. BAILEY. I want to say to the Senator from West Virginia that if he agrees to over two years in which these gentlemen may readjust themselves, he will get no vote for his proposition on this side of the Chamber.

Mr. ELKINS. Then I am willing to make it 1908.

Mr. CULBERSON. Mr. President, I desire to state that the substitute which I have offered——

The VICE-PRESIDENT. Will the Senator from Texas please suspend until the proposed modification of the Senator from West Virginia is disposed of?

Mr. CULBERSON. No, Mr. President——

The VICE-PRESIDENT. Until it is perfected.

Mr. CULBERSON. The Senator from West Virginia has modified his amendment, and it is now before the Senate. I offer a substitute for it, which is in order, as I understand.

The VICE-PRESIDENT. Is there objection to the modification proposed to be made by the Senator from West Virginia?

Mr. HOPKINS. I object until I can have an opportunity to examine it.

Mr. HALE. The Senator from West Virginia has a right to modify it.

The VICE-PRESIDENT. The Chair thinks the Senator from West Virginia would have that right up to the time of the adoption of an amendment to his amendment or the ordering of the yeas and nays. An amendment was agreed to this morning——

Mr. McCUMBER. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from North Dakota will state his point of order.

Mr. McCUMBER. The point of order is that the substitute offered by the Senator from Texas [Mr. CULBERSON] is not in order until the amendment offered by the Senator from West Virginia has been disposed of.

Mr. BERRY. Mr. President, with the permission of the Senator, I wish to say that the Senator from West Virginia did not offer an amendment, but he modified his original amendment.

Mr. ELKINS. That is right.

Mr. BERRY. Now, it is the pending amendment as modified, and the Senator has a right to modify his amendment at any time before it is amended or the yeas and nays have been ordered; and the amendment of the Senator from Texas [Mr. CULBERSON] to that amendment would be in order.

Mr. CULBERSON. Mr. President, I understand——

The VICE-PRESIDENT. One moment, if the Senator please. The Chair will inquire whether the Senator from West Virginia [Mr. ELKINS] modified his amendment in accordance with the suggestion of the Senator from New Jersey [Mr. DRYDEN]?

Mr. ELKINS. No. This is modifying the original amendment.

Mr. TELLER. Mr. President, can we not have the amendment as it now stands read?

The VICE-PRESIDENT. The Chair referred not to the recent proposed modification. The Senator from West Virginia [Mr. ELKINS] proposed an amendment, and the Senator from New Jersey [Mr. DRYDEN] proposed an amendment to that amendment.

Mr. ELKINS. Yes, sir.

The VICE-PRESIDENT. Was that amendment acted upon?

Mr. ELKINS. I think not.

Mr. FRYE. Mr. President, the Senator from West Virginia can ask unanimous consent to modify his amendment, notwithstanding the amendment. Of course the rule is as the Chair states it, that after an amendment has been made to an amendment a Senator can not, except by unanimous consent, withdraw the amendment.

Mr. BERRY. Has the original amendment been amended?

Mr. FRYE. It has been amended.

The VICE-PRESIDENT. The modification can now be made only by unanimous consent.

Mr. GALLINGER. But the amendment that was inserted in the amendment has the date "1909," and now the Senator from West Virginia proposes to modify the amendment by making it "1908."

Mr. FRYE. The Senator from West Virginia took that back.

Mr. ELKINS. I withdrew it.

Mr. GALLINGER. I do not think the Senator withdrew that. The Senator from New Jersey [Mr. DRYDEN], after making a very convincing speech, as I thought, offered an amendment making the date 1909. That was adopted by a very large vote of the Senate, and the Senator from West Virginia can not modify his amendment so as to change that date. He can not possibly do it, except by unanimous consent.

The VICE-PRESIDENT. The rule says that amendments may be withdrawn or modified at any time before an amendment has been adopted or the yeas and nays have been ordered.

Mr. GALLINGER. But this has been amended.

The VICE-PRESIDENT. The Chair is of the opinion that the present proposed modification can only be made by unanimous consent.

Mr. HALE. Let the Chair ask that consent.

The VICE-PRESIDENT. Is there objection to the request?

Mr. HOPKINS. I said that I should object until I had an opportunity to thoroughly examine the amendment. I may approve it after examination, but I do not propose to give my consent until I know the full effect of it.

The VICE-PRESIDENT. Objection is made.

Mr. McCUMBER. Referring again to my point of order, is not the motion of the Senator from West Virginia to amend his original amendment the question now before the Senate?

Mr. CULBERSON. I submit that the Chair has properly declared that to be out of order, and of course it is not pending.

Mr. McCUMBER. The Senator from West Virginia offers to modify the amendment and that is not accepted. Then is not that the question before the Senate?

Mr. ELKINS. I can offer it now, Mr. President, and I do so.

The VICE-PRESIDENT. The Senator from West Virginia proposes to amend his original proposition——

Mr. ELKINS. To modify it.

The VICE-PRESIDENT. The Chair is of the opinion that that is not in order.

Mr. ELKINS. Does the Chair decide that that is not in order?

The VICE-PRESIDENT. The Chair is of the opinion that it is not in order.

Mr. FRYE. If the Senate desires to do so, it can promptly vote down the amendment which is pending, which was offered by the Senator from West Virginia; and it being voted down, the Senator from West Virginia then can offer such an amendment as he pleases.

Mr. ALDRICH. He can offer an amendment in his own right.

The VICE-PRESIDENT. The Chair is of the opinion that that would be in order.

Mr. CULBERSON. Mr. President, I desire to ask, in view of the present situation, if a substitute for the pending amendment of the Senator from West Virginia is in order?

The VICE-PRESIDENT. It is in order.

Mr. CULBERSON. Then I offer the one I have sent to the desk as a substitute. Mr. President, before the substitute is read, I desire to say that it is based upon——

Mr. ALDRICH. I have been trying to get the attention of the Chair, but I do not seem to have succeeded.

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Rhode Island?

Mr. CULBERSON. Certainly.

Mr. ALDRICH. I was about to ask the Chair if the Senator from West Virginia can not move to amend his own amendment?

The VICE-PRESIDENT. The Chair has decided that the Senator from West Virginia might move to perfect his amendment.

Mr. ALDRICH. He had better offer it, then, as an amendment.

The VICE-PRESIDENT. The Senator from North Dakota [Mr. McCUMBER] has a proposed substitute. Does the Chair understand him to withdraw it?

Mr. McCUMBER. I withdrew it simply for the purpose of allowing the Senator from West Virginia, if he could, to offer what I understood was an amendment.

The VICE-PRESIDENT. The Chair would understand that the withdrawal is an absolute and final withdrawal, so far as the present parliamentary situation of the question is concerned.

Mr. ALDRICH. Mr. President——

Mr. CULBERSON. Mr. President, before——

The VICE-PRESIDENT. The Senator from Texas [Mr. CULBERSON] proposes an amendment in the nature of a substitute for the amendment of the Senator from West Virginia [Mr. ELKINS], which will be stated.

Mr. ELKINS. I will then offer it in accordance with the ruling of the Chair to perfect the amendment.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Before the Senator from West Virginia——

Mr. CULBERSON. I submit that the Senator from West Virginia and the Senator from Rhode Island can not take me off the floor when I am offering an amendment.

Mr. ELKINS. There is no disposition to do so. What is the substitute proposed by the Senator from Texas?

Mr. CULBERSON. It will be read in a moment, if you will only be quiet.

Mr. President, the chief evil which we desire to eradicate in this matter is the ownership of coal mines by railroad companies engaged in interstate commerce. A great many Senators believe that an absolute prohibition against the ownership, production, and manufacture of coal by such corporations can not be legitimately made by the Congress of the United States. Without going into that question—and as to its general effect I agree—the question before the Senate is, How, if at all, we may reach that evil without undertaking to prohibit such ownership and production absolutely? That is the point—not to prohibit these companies from carrying coal from one State to another necessarily, because that will not reach the evil. The evil is the ownership and the production by the corporations themselves aside from their legitimate business of transportation.

I grant that there are two or three sentences in the decision of the Supreme Court of the United States in the Chesapeake and Ohio case which indicate that, in the unanimous opinion of that court, the very fact of the ownership of coal which may pass into interstate commerce by transportation over the lines of the owner of the coal is in itself a violation of the regulations provided by Congress in the interstate-commerce act. Let me read those two or three sentences:

> And the considerations previously stated serve also to demonstrate that the prohibitions of the act to regulate commerce concerning "undue or unreasonable preference or advantage," "undue or unreasonable prejudice or disadvantage," and "unjust discrimination" are in conflict with the asserted right of a carrier to become a dealer in commodities which it transports, and as such dealer to sell at a price less than the cost and the published rates.

Indicating, Mr. President, as I have already suggested, that, in the opinion of the Supreme Court, it is at least a serious question whether the ownership and production by a company engaged in transportation is not in itself a violation of the interstate-commerce act and the power of Congress to regulate interstate commerce.

Going back to the case of the Addyston Pipe and Steel Company against the United States, which is reported in 175 U. S., I invite the attention of the Senate to the decision of that court to the effect that such an evil as that may be reached when the companies engage in the production and manufacture for the purpose of transporting it from the State of the manufacture and production and entering, therefore, into interstate commerce. I want to read a sentence or two from that opinion.

Mr. CLAY. From what page does the Senator read?

Mr. CULBERSON. I read from the Addyston Pipe case (175 U. S., pp. 170–240):

> The direct and immediate result of the combination was therefore necessarily a restraint upon interstate commerce in respect of articles manufactured by any of the parties to it to be transported beyond the State in which they were made.

The amendment or substitute which I propose, Mr. President, is based upon this decision of the Supreme Court of the United States, and I ask now that it be read.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. In lieu of the amendment of the Senator from West Virginia [Mr. ELKINS] it is proposed to insert the following:

> It shall be unlawful for any corporation, association, or joint stock company engaged as a common carrier in foreign or interstate commerce to engage directly or indirectly through its officers, agents, representatives, employees, directors, or corporations organized for the purpose or otherwise in the production, manufacture, buying, furnishing, or selling of coal, coke, or other commodity of commerce to be transported by it beyond the State or Territory where such coal, coke, or other commodity of commerce is produced, manufactured, bought, or the possession thereof is obtained by said corporation, association, or joint stock company. Any violation of this provision shall be deemed a misdemeanor and the corporation, association, or joint stock company found guilty thereof shall be fined $500 per day for each day it shall unlawfully engage in the production, manufacture, buying, furnishing, or selling as aforesaid: *Provided*, That when any coal, coke, or other commodity of commerce which is produced, manufactured, bought, fur-

nished, or sold by such corporation, association, or joint stock company is transported by it beyond the State or Territory where it is produced, manufactured, bought, furnished, or sold it shall be conclusively presumed that it was produced, manufactured, bought, furnished, or sold for such transportation: *Provided further*, That this provision shall not be construed to prohibit such corporation, association, or joint stock company from mining fuel exclusively for its own use: *Provided further*, That this provision shall take effect from and after July 1, 1908.

Mr. BAILEY. Mr. President, as I can not vote for that amendment, I think it fair to myself to state my reason for voting against it. The same reason which would have compelled me to vote against the amendment originally proposed by the Senator from West Virginia [Mr. ELKINS] will compel me to vote against this one, because this, like the other, undertakes to prohibit what Congress has no power to prohibit, and thus introduces a question which can be and ought to be avoided.

That Congress can prohibit a corporation engaged in certain enterprises from engaging in interstate commerce, I do not think subject to a reasonable doubt; but if, under its jurisdiction to regulate interstate commerce, it can enter the States and forbid the manufacture, production, or sale of commodities, then, sir, the power of the Federal Government is greater than our fathers ever dreamed. The Federal Government can say that a State corporation can not, while engaged in certain industries under the law of the State, extend its operations to other States; but if in assuming jurisdiction over interstate commerce the Federal Government can enter into a State and there control the processes of production, the enterprise of merchants, and the business of the farmer, simply because they are producing something that may enter into interstate commerce, then, indeed, the commerce power of the Federal Government destroys all of the reserved powers of the States.

I have not had the time to examine the Addyston Pipe case, but my recollection is that in that case several manufacturers of certain commodities agreed among themselves upon a division of territory; in other words, one manufacturer was to sell in one group of States, another manufacturer to sell in another, and still a third manufacturer in a third group. My recollection further is that the Supreme Court held that an agreement of that kind was contrary to the antitrust law of the United States. That the Supreme Court could well hold that all gentlemen on this side will readily agree; but the basis of that decision, extending the power of the Government over a contract of that kind, was that it was to be executed in the various States and therefore constituted an unlawful restraint of interstate commerce. I am not sure that I recall the facts in that case, but if I do—and I think I do—the case itself affords no warrant for saying that because an article is manufactured for sale through interstate commerce the Federal Government possesses a power over that article before it becomes the subject of interstate commerce. As I recall the old case of Coe *v.* Erroll, certain logs had been cut in the State of New Hampshire for transportation to the State of Maine, and yet the court held that those logs did not become the subject of interstate commerce when they first came from the lumber camp to the depot, but that they only passed under the jurisdiction and control of the Federal Government in its regulation of interstate commerce when they reached the depot to begin their journey to their point of destination in another State.

So they held in the Knight case that it was not sufficient that the sugar trust was manufacturing sugar to become afterwards the subject of interstate commerce, and that the Federal Government's control over the sugar manufactured by the sugar trust only attached when the sugar itself became the subject of interstate commerce.

So, Mr. President, it seems to me that we incur a great risk if we put the power of the Federal Government to deal with this question upon the doctrine that it may prohibit what the States may permit, instead of resting it upon the acknowledged power of the Federal Government to determine who shall engage in commerce among the States and what articles can be the subject of interstate commerce. If we put it upon that authority we incur no risk, whereas if we put it upon the other, in my judgment the Supreme Court of the United States will hold that Congress has exceeded its constitutional authority.

For that reason I can not myself vote for any amendment that assumes a power in the Federal Government to control those who may engage in the business of manufacturing, producing, or selling commodities entirely within a State of this Union. It seems to me, even if I am wrong about that, nobody doubts that it is safer to put it on the other ground. Will we not accomplish the same purpose by putting it on the undisputed and indisputable ground?

I prefer myself the original amendment of the Senator from West Virginia, when properly worded in that respect, because it is the broadest, and annihilates either the common carrier's participation in interstate commerce or compels it to desist from the business which does not belong properly to a common carrier. My own opinion is, however, that an amendment as broad as that proposed by the Senator from West Virginia can not pass this body, and that the utmost we can hope for is the amendment prepared by the Senator from Mississippi and the Senator from Georgia and now proposed by the Senator from West Virginia as his substitute. It is almost in the very line of the amendment hastily offered by the Senator from Virginia on the day before yesterday. While it seems to represent as nearly as possible what can be done, I frankly say it does not go as far as I want to go, and I prefer the broadest and most absolute prohibition that can be drawn; but I want it drawn in a way which I think will enable it to stand scrutiny in the courts. The connection between production and transportation can be destroyed without destroying the reserved rights of the States.

Mr. CARTER. Mr. President, on a former occasion I expressed grave doubt as to the propriety of engaging in departures from the main purpose of the pending bill. The shippers of this country have demanded in and out of season that the power to fix a rate should be vested in the Interstate Commerce Commission. The purpose of the pending bill is to vest that power in the Interstate Commerce Commission.

In connection with the laudable effort in that direction, responsive to a well-defined and long-continued public demand, we encounter Senators possessed of a variety of views with reference to the proper method of curing other evils incident to interstate commerce and even State commerce. I think it has been clearly demonstrated upon this floor within the last forty-eight hours that this subject, contemplating the restriction of interstate-commerce railroads or common carriers to their legitimate business, constitutes quite as prolific a subject of discussion as the principal question covered by the bill itself.

The proposed amendment of the Senator from West Virginia [Mr. ELKINS] has led to a protracted debate and to numerous amendments and substitutes, and we now have the two distinguished lawyers from Texas taking direct issue with each other upon this floor, not only as to the details of a proposed substitute, but as to the constitutionality of the manner in which it is proposed to deal with the question.

This body, representing all the States, is happily constructed for the purpose of furnishing illustrations instructive on an occasion of this kind, and I rose merely to show from a practical condition existing in the State of Montana how utterly mischievous this amendment would be if adopted. The amendment proposes to prohibit any common carrier from engaging in interstate commerce if such carrier is directly or indirectly engaged in the production, manufacture, buying, furnishing, or selling of coal or coke or any other commodity or commodities of commerce.

Let me cite the case. We have one enterprise in the State of Montana in which there are to-day over 20,000 men engaged at good wages in the production of copper. It constitutes the great industrial enterprise of our State. This copper is reduced 20 miles from the mines. The mines are chiefly in and about the city of Butte. The largest copper smelter in the world is located at Anaconda, some twenty-odd miles distant. For many years the great mining companies undertook to have their ores transported from Butte to Anaconda through the agency of an independent railroad company.

They found the rolling stock inadequate; the cars were not suited to the purpose; the service was fitful and uncertain, and rates were often prohibitive.

In order that this work might proceed, the copper companies on their own account built a railroad from the copper mines to the copper smelter, a distance of 20 miles. In actual operation this intervening piece of track between the mine and the smelter is as essential to the operation of the general business as the tracks within the levels themselves, upon which run the small cars filled with ore.

This railroad, running from Butte to Anaconda, was constructed principally to carry the copper ore from the mine to the smelter. Incidentally passengers are carried over it also. The Great Northern uses that track for 20 miles, because Anaconda is the terminal of the Great Northern passenger trains which reach there from St. Paul and Puget Sound. It is therefore partly engaged in interstate commerce. The supplies shipped in to the citizens of Anaconda are billed from Philadelphia, New York, and Chicago over this road to Anaconda, and whatsoever the body of the people have to ship out from the town of Anaconda must be shipped over this road, and billed to distant points in the country. The coal needed to run the smelter at Anaconda is shipped from Wyoming very largely, and to a considerable extent the coke is shipped from British

Columbia, and to a considerable degree from Connellsville, in the State of Pennsylvania.

Therefore this line of road, only 20 miles in length, primarily constructed to haul ore, splendidly equipped, with a magnificent roadbed, 90-pound steel rails, ponderous locomotives, equipment unexcelled in any part of the country for a road of like length, is engaged in interstate commerce.

Now, what would be the effect of the amendment of the Senator from West Virginia? This company would be compelled to dismember itself. The effect would be to disrupt and disorganize and devitalize the best and largest industry and enterprise in that State. The enterprise can not be successfully conducted without the railroad, and the railroad can not be operated successfully by an outside company. That I say because I speak from the experience which compelled this company to invest millions upon millions of money in providing this intermediate transportation system between the smelter and the mines.

Now, I objected on a former occasion to the use of the very general term "or other commodities." I am amazed at the inability of Senators to draw amendments intended to cure evils. Failing to comprehend the exact disease, in the midst of a period of excitement in the Senate, they throw in the words "or other commodities," so that everything in creation may be included, regardless of consequences. Go to the great Northwest where iron ore is mined in large quantities, where the tracks of a railroad are shifted about from time to time in such manner that no railroad company would go in there to operate, and the mine must own the means of transportation or quit the business. And yet, Mr. President, this amendment would so far dismember the enterprise that we would bring about idleness where busy men are now engaged. We would drive capital out of employment and drive men into idleness and destitution.

Let this subject-matter, clear and distinct, in and of itself a subject to be treated, be taken up by the Interstate Commerce Committee, carefully considered and finally reported. The chief purpose of the amendment is to cure an evil which has become well known to the country at large—the control of coal by the railroads in the anthracite region in Pennsylvania. That is the main purpose of the amendment. Of course the evil extends to West Virginia and contiguous territory. But therein rests the point to which most of the discussion is directed, and that is the evil sought to be corrected. It will require the best thought of the Interstate Commerce Committee to apply a general law to that existing evil and at the same time avoid touching a vital point in the industrial life of the country in many other sections.

I shall vote against every amendment relating to this subject, not because I have little sympathy with those who seek to escape from the evils in Pennsylvania, but because I do not wish to be a party to enacting a law which, while curing an evil at one point, will produce infinitely greater evils at other points.

Mr. DANIEL. Mr. President, there is an inherent incompatibility in the engagement by a common carrier on its own account in business other than that which the public have authorized it to engage in for public purposes. It is not in order that a carrier may make money by selling commodities that the people accord to them rights to condemn their lands. There are an abundance of people who are ready to engage in commerce who can not be given for such purposes the right to take the property of others against their will. The practice has grown up, however, in some States of so intermingling private business with public concerns that large capital has been invested in some corporations which run a competitive line against their own customers, to the great disparagement and disadvantage of all small traders and of small business men. When, however, we are dealing with an evil which has grown and in which many perfectly honest and correct interests have been commingled, we are dealing with a subject somewhat like the confusion of goods, and we should seek not to spoil the goods in extricating and in refining the rights of the parties.

For that reason the Senate has been impressed with the views set forth by the Senator from New Jersey, and has responded thereto in a reasonable degree.

Mr. President, until 1909, as it would seem to me, is a little longer than necessary. Two years is full time for all the new dispensations to take place in an orderly and in a patient way, without distracting and upsetting the business of the country which is being conducted on present plans. Therefore, I have taken the amendment which I offered day before yesterday and inserted as a prefix the words:

That it shall be unlawful after the 1st day of July, 1908, for a carrier engaged in interstate commerce to carry its own articles in traffic.

If the amendment of the Senator from Texas [Mr. CULBERSON] shall be voted down, I shall then offer this amendment, with a few verbal changes, in lieu of the then pending amendment which would be before the Senate.

Let me say as to the amendment of the senior Senator from Texas, I share the opinions of his colleague, the junior Senator from Texas, on that subject. I believe it would be exceedingly unwise to mingle one clear and beneficial thought with another, as to which there may be question, not that I do not share also fully the sentiments of both the senior and the junior Senator from Texas, that we ought to obviate this evil just as rapidly and just as thoroughly as the Constitution and laws of the United States will permit.

I object to the amendment as it has been offered by the senior Senator from Texas simply upon the ground which ought, in my opinion, to be decisive against it, whatever may be the merits of its separate parts, that it intermingles and confuses the clear line of thought which is in the amendment the Senator from West Virginia will offer or has prepared to offer if his pending amendment shall be reached in such way that he can do so.

I regret to see, Mr. President, such a persistent effort made in this body to sidetrack the greatest single question with respect to interstate commerce which has come before it. I say the greatest single question, for there is no other proposition in the bill now pending which is of greater dignity and of greater weight commercially, legally, or in any other wise than is the one now pending.

While I appreciate fully, too, the cautions which were given to us by the Senator from South Carolina [Mr. TILLMAN], I would remind that Senator that he was himself the Senator who brought before this body, in letters and in petitions, the great evil that is being done by carriers, which refuse cars to private citizens and to business men who are dependent upon these public agencies, and which employ their own cars in their own personal business for their own profit and behoof. And while I would be cautious and prudent with respect to all chartered companies that have been authorized by legislatures to mingle private and public business together, I would move with as firm and intrepid a step to correct the evil as a fair and conscionable and equitable regard to the interests of all would permit.

I regret to see, Mr. President, so much time taken up in the Senate in seeking most extraordinary and astonishing moves to sidetrack and get in committee or anywhere else but here a leading and most important proposition which is essential to the utility of this bill. I hope that the Senator from West Virginia, if I shall have the opportunity to offer it, will accept the substitute which I shall submit if the amendment of the Senator from Texas shall be voted down. Let me suggest to the Senator from Texas, who has more than one idea in his amendment, that as a prudent and wise legislator and a most learned lawyer, as I know him to be, he take one idea at a time. If this idea shall be ingrafted upon this bill it does not stand in the way of his drawing another amendment which will put his own separate ideas in clear and distinct shape. But when he has so commingled them he concentrates against a single proposition thus compounded those who may oppose either of them, and only weakens the cause by the doubt which may be honestly entertained in one mind or another as to one proposition or another.

Mr. CLARK of Montana. Mr. President, I have listened with a great deal of interest to the discussion of the measure now before this body. I have followed the discussions from day to day, but have never heretofore participated in them, as they related chiefly to questions of a legal character, concerning which I preferred to listen and to learn. I am prepared, when we get to the point, to support a reasonable rate bill, and I am confident that a conclusion will be reached in the near future that will be fairly satisfactory to all the people.

I am as much in favor of the regulation and restriction of the railroads of the country in all of their efforts to deal unfairly with the people as any Senator in this Chamber. I am particularly in favor of the prevention of rebates and discriminations against individuals, companies, and localities, which are the principal evils complained of, and I will go as far as any other member of the Senate to adopt a penal provision for the punishment of such offenses.

We have now reached the consideration of some practical questions involved in this great discussion, and I feel it my duty to myself and to my constituents and to the great West, which I in part represent in this Chamber, to submit some observations upon the pending amendment.

As I understand it, the suggestion of this amendment was an investigation demanded by the Senator from South Carolina [Mr. TILLMAN] concerning the operations of railroads in West Virginia.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from South Carolina?

Mr. CLARK of Montana. I do.

Mr. TILLMAN. If the Senator will permit me, I will correct him in that particular. The investigation now being made by the Interstate Commerce Commission deals with the general subject of coal monopoly and of the merger or pooling of railroads in dealing with coal. But this particular issue of divorcing coal production and transportation grew out of the petitions sent in from the Red Rock Fuel Company and a half dozen or more other private operators in Pennsylvania and in West Virginia. I have possibly twenty more up at my committee room, which I did not present. I put in ten or twelve here—one every morning.

But the exposition of the iniquity and the outrage of this system of squeezing out private citizens and corporations and having the roads monopolize the production and the transportation and the marketing of coal resulted from these memorials and not from the investigation which is going on. When we get the facts which that investigation will doubtless give us, the cry for relief will be so loud and strong that the Senate can not put it off; and I do not say that the Senate is now desiring to put it off, although some Senators, realizing the difficulties, appear to want to postpone action. I myself would be glad to have immediate action, if it takes us a month to discuss and so limit it that we will not do any section or any interest harm while giving protection and relief to those interests which are now being squeezed to death.

Mr. CLARK of Montana. I stated, Mr. President, that I believe the amendment offered by the Senator from West Virginia [Mr. ELKINS] grew out of the complaints that were sent from West Virginia. So far as I know, there have been no complaints from any other part of the country.

Mr. TILLMAN. If the Senator will permit me, I have just had a complaint——

Mr. CLARK of Montana. As my time is limited, I will ask the Senator to wait until I get through.

Mr. TILLMAN. I beg the Senator's pardon.

Mr. CLARK of Montana. So far as that locality is concerned, and possibly in other localities in the eastern coal regions, there are grievances which are properly complained of and which should be dealt with promptly in some other manner, but, in my judgment, such legislation does not properly belong in this rate bill. The difficulties referred to are local in their character, and legislation of a general character like the proposed bill would not be applicable where the conditions are entirely different, as I will endeavor to show.

I am fully in accord with my colleague [Mr. CARTER] as to what he stated concerning the operations of great mining companies in the State of Montana. I wish to say, further, there was not a transcontinental railroad constructed across this continent that was not obliged to open up coal mines for its own use, and not only for its use, but for the use of the people settling along the lines of these roads to build up homes and open farms and mines. I know it was so in Montana, and in Montana to-day three-fourths of the coal consumed in that State and in the city in which I live, having a population of some 80,000 people, where several thousand tons of coal are burned each day in the various mining and smelting enterprises and for domestic purposes, is supplied by the railroad companies. Were it not for the railroads that have made it possible to open up mines all through that western country, supplying fuel not only for domestic, but industrial purposes, those great industries could not have reached the marvelous stage of development which we find there.

The Northern Pacific Railway Company were obliged to go into coal mining for their own protection, and they are to-day employing in the State of Montana 3,000 coal miners and have built up a large town at Red Lodge, in the eastern part of the State. The Great Northern Railroad Company likewise opened coal mines in northern Montana. These roads were not only obliged to do this to meet their own requirements, but they, and the Oregon Short Line operating from the south, were called upon to furnish at least three-fourths of all the coal consumed in the State. There were times there when, notwithstanding the greatest efforts of those companies to supply the people with coal, owing to a congestion of business, there were coal famines in all the towns of Montana; and what would have been the condition of the people of that State had it not been for the railroads owning and mining and shipping supplies of coal to meet their requirements?

I wish to say, further, that in no instance in my experience of over thirty years in Butte, no matter how scarce that commodity has been, have they ever raised the price of coal to the consumer. The railroads have been an essential factor in the development of the western country which we should not overlook in our desire to protect a few shippers in West Virginia.

There is another feature of this question which I want to present to the Senate. All over that western part of this continent, as has been shown by the development of a half century, discoveries of great mines have been made and are still being made everywhere. In many instances mines are found containing base metals, lead and copper, at points many miles away from any railroad. Persons who own those mines of base metals can not work them unless they have railroad facilities. Butte was kept back for fifteen years for want of railroad facilities, and I know of a number of instances where mines have been discovered and developed and found to be big mines, but being owned by individuals or perhaps by a single company there was no railroad company that would undertake to build a line to them for the reason that it would be hazardous, as they might shut down the mines at any time. What was the result? The owners of the mines—the individuals or the company, as the case might be—have been obliged to build a branch road themselves to the nearest road, in order to secure access to the markets of the world for the products of their mines.

There is an instance of this kind in southern Arizona. The Copper Queen Mining Company is owned by Phelps, Dodge & Co., and they have a number of the greatest mines in that wonderful Territory. They were obliged for their own protection to build a road about 200 miles in length, and to-day it is in operation. When that road was constructed it became a common carrier, subject to the rules and regulations of the Interstate Commerce Commission. Now, what are you going to do under this amendment with such a proposition as that? I myself was obliged to build a road shorter than that—but 28 miles in length—before I could get the products of a copper mine to the market. When I completed that road, some fifteen years ago, it became an interstate-commerce road, because all the products went out and supplies came in through other States and Territories.

By this provision how am I to proceed? I am between the devil and the deep sea. I will either have to stop the operations of the mine or the railroad.

There are a number of other instances of this same character all over the mighty West. I should like to know, as I inquired before, what disposition are you going to make of such enterprises? Are you going to throttle them on account of some imaginary or actual grievance against roads elsewhere? I say "imaginary," because a good deal of it is imaginary, although there are localities where evils do exist. Wherever a railroad company, owning its own coal mines, undertakes to mine coal and ship it out in competition with other coal-mine operators and refuses to furnish them ample facilities for transportation of their products to the markets, I would be in favor of legislation as strict and radical as anyone here to prevent grievances of that kind. But I believe, Mr. President, that the consideration of this question should be had separate and apart from the great proposition with which we are now dealing. Let us endeavor to establish interstate commerce with such restrictions and prohibitions as will result in fair and equitable treatment in protection of the interests of both shipper and carrier, but in doing this we should not incur the risk of destroying or crippling legitimate enterprises. Therefore, as I said before, I am in every respect in sympathy with and in favor of stringent legislation, but I shall oppose every amendment of this character which, in my opinion, will work a great injustice to a great number of people and result in harm to some of the great enterprises throughout the western country.

Mr. TELLER. Mr. President, I presume we may safely say that every railroad in the United States is engaged in interstate commerce. In dealing with this question we are dealing with practically the entire railroad system of the United States. I made some remarks yesterday on this proposition, but in a different form, on the amendment which was then pending—the amendment of the Senator from West Virginia. This is somewhat a different proposition. I was then impressed, and I am still impressed, with the fact that it is exceedingly difficult to deal with this question here and now and that it is a question which ought to have been dealt with by a committee. But I am somewhat loath to admit that the Senate, after a discussion of a few days, can not pass some reasonable and satisfactory bill touching that evil which is most conspicuous in connection with the transportation particularly of coal.

The case decided by the Supreme Court in February last was decided under the existing law, and it would appear from an examination of that case that there is ample law to deal with this subject. What I want to call the attention of the Senate

to is simply that the complaint there was with reference to the transportation of coal. The Senator from West Virginia [Mr. ELKINS] who has introduced this subject is making his complaint simply because of the unfair treatment of the coal miners and coal dealers of that State. The Senator from Montana who first spoke [Mr. CARTER] has told us something of the difficulty of dealing with this question, and so has the Senator from Montana [Mr. CLARK] who spoke last. With some knowledge of the condition not only in Montana, but in Arizona, what both Senators have presented here satisfies me that there is danger of this legislation going very much beyond the point we ought to go. We are very liable to do more harm than good. If we could confine it entirely to the coal business for the time being, I think perhaps it would be better than to include all commodities and all kinds of service.

I have no hesitation in saying that I am a firm believer that those who do transportation business should do nothing else. But, as I said yesterday, I wish to repeat, it is a matter which is not absolutely under our control. The States charter these companies and create these corporations and they declare what their powers shall be. When the product of a mine, in the case of coal, passes into interstate transportation it becomes subject to our control. It is absolutely without control on our part unless we assume a control that we never have assumed until it does reach that stage. Practically one may say that all the coal product of Pennsylvania enters into the interstate commerce of the country. New York and all New England and all the West are supplied with the anthracite coal mined in Pennsylvania. Anthracite coal reaches even as far west as the Missouri River. It was in the earlier days sent clear into the State of Colorado. Just now we are mining sufficient anthracite coal in Colorado. Of the 76,000,000 tons of anthracite coal mined in Pennsylvania last year the great majority of it went outside of the State. It is all of it the subject of interstate commerce. Yet there are corporations in Pennsylvania which are authorized by the law of Pennsylvania to mine coal and to transport it. It is not an illegal act; it is not a crime; it is not an offense against the law either moral or legal.

I do not know but Senators may think it is easy to deal with these subjects. For myself, Mr. President, I find it exceedingly difficult to determine just what would be legal and then what at the same time would be just. Perhaps, under the circumstances, we have made such an exhibition of the conditions and of the offenses of some of the railroad companies that we ought to do something, if possible, toward completing this legislation on the pending bill; but I am still of the opinion that it would have been better if we had dropped this subject in the beginning and remitted the whole subject to the committee of the Senate authorized to deal with it.

Mr. President, taking the case that I spoke of, the case of the Chesapeake Coal Company, which the court decided in February last, there is no pretense of an offense on the part of the company except that they had violated a statute which declared, as to the rates, that it should not lower the rates. The whole question is in a nutshell right here. I am not going to read much from the opinion, but I want to call attention for a moment to it. The court said:

> The question, therefore, to be decided is this: Has a carrier engaged in interstate commerce the power to contract to sell and transport in completion of the contract the commodity sold—

Now, here is the gist of the whole thing—

> when the price stipulated in the contract does not pay the cost of purchase, the cost of delivery, and the published freight rates?

Whenever the railroad company proposes by such a proceeding to violate the statute, as the court considered they did by making the sum total of those things less, so that the published rate is not maintained, then it becomes an offense, and then the court says without any further statute they can deal with this subject. The court said:

> It can not be challenged that the great purpose of the act to regulate commerce, whilst seeking to prevent unjust and unreasonable rates, was to secure equality of rates as to all and to destroy favoritism, these last being accomplished by requiring the publication of tariffs and by prohibiting secret departures from such tariffs, and forbidding rebates, preferences, and all other forms of undue discrimination. To this extent and for these purposes the statute was remedial and is, therefore, entitled to receive that interpretation which reasonably accomplishes the great public purpose which it was enacted to subserve. That a carrier engaged in interstate commerce becomes subject as to such commerce to the commands of the statute and may not set its provisions at naught, whatever otherwise may be its power when carrying on commerce not interstate in character, can not in reason be denied.

That is a recognition, Mr. President, that the carrier may carry on that commerce within the bounds of the State that authorized him to do it, and yet he does not come within the provision of the statute; but whenever he engages in interstate commerce in the transportation of the coal he comes within the provision of the statute. Then the court go on—it is too long to read—to say that in that way the railroad company may discard the published rates, and they declare that he can not.

Now, Mr. President, that is the evil you want to deal with here. You do not want to deal with a proper road. You do not want to deal with a railroad that has been built to carry lumber from the forest to any community, because there has been no question here of its improper use that I know of. It may be that we ought to adopt a general system that no public carrier engaged in interstate commerce shall engage in anything else, but to do that you must wait and take time, and it must be done carefully and in such way that the interests which are already involved and legally involved, the money already invested according to law, may be properly protected.

I doubt very much, Mr. President, whether you can do that with all the different interests unless you shall confine this to one or two articles. If the evil is so great touching coal—and I do not know but that it is—then it would be well to put a stop to it by dealing with that subject and dealing with that subject alone, dealing with the other subjects as the complaint arises and as the opportunity is presented.

Mr. President, I fear myself, as do the Senators from Montana, that a sweeping provision of this character may materially affect the industries of the great West. We have had a hard time to settle up the West. We are in a very prosperous condition to-day, and I believe as a general rule there is not much complaint in the great West against railroad companies engaging in commerce or anything of this kind. As a rule they do not. There may be some exceptions where they are engaged in such production and distribution as ought to be prohibited, but the vice of their production and distribution is not the production and distribution but the abuse they make of it by attempting to avoid and get rid of the statute which declares that they shall publish their rates and adhere to their rates. Punish them, Mr. President, if they do not adhere to the rates. Punish them in some way if they engage in interstate commerce and then make that an excuse for an undue and unjust competition on their part. If they by that system select a man to whom to sell and give him a price they do not give to somebody else, or if they go into the market and buy articles and transport them and give the seller an opportunity they do not give somebody else, that is a violation of existing law, a law the Supreme Court of the United States says is sufficient now to deal with it; but if it is not, we might readily amend it in that particular and leave these other questions until such time as we shall have an opportunity to do so with less danger of doing something out of the way.

Mr. CULBERSON. Mr. President, under the rule, as I understand it, I am not entitled to say anything further on the substitute; but I desire to modify it in one or two particulars.

The VICE-PRESIDENT. The Senator may modify his proposed amendment. The Secretary will state the modifications.

The SECRETARY. As proposed to be modified the amendment reads:

> It shall be unlawful for any corporation, association, or joint stock company engaged as a common carrier in foreign or interstate commerce to engage, directly or indirectly, through its officers, agents, representatives, employees, directors, or corporations organized for the purpose or otherwise, in the production, manufacture, buying, furnishing or selling of coal, coke, or other commodity of commerce to be transported by and for it as a common carrier beyond the State or Territory where such coal, coke, or other commodity of commerce is produced, manufactured, bought, or the possession thereof is obtained by said corporation, association, or joint stock company. Any violation of this provision shall be deemed a misdemeanor, and the corporation, association, or joint stock company found guilty thereof shall be fined $500 per day for each day it shall unlawfully engage in the production, manufacture, buying, furnishing, or selling as aforesaid: *Provided*, That when any coal, coke, or other commodity of commerce which is produced, manufactured, bought, furnished, or sold by such corporation, association, or joint stock company is transported by and for it as a common carrier beyond the State or Territory where it is produced, manufactured, bought, furnished, or sold, it shall be prima facie evidence that it was produced, manufactured, bought, furnished, or sold for such transportation: *Provided further*, That this provision shall not be construed to prohibit such corporation, association, or joint stock company from mining fuel or other commodity exclusively for its own use: *Provided further*, That this provision shall take effect from and after July 1, 1908.

Mr. FULTON. Mr. President, I voted for the motion to refer this whole subject to a committee. I did so not because I am opposed to whatever legislation is necessary to correct the evils which we all admit exist in some instances and localities, but the difficulty I discover here is, we have not given the subject that careful thought and investigation which is necessary in order to deal with it intelligently, in order to prohibit only that which is wrong and do no injustice to those who are engaged in legitimate enterprises.

All over the West, as the Senator from Colorado [Mr. TELLER] has said, there are little railroads which have been built to

connect with coal mines and sawmills, that have been built simply to get the product from the mills and the mines. In such cases mining and milling are the principal enterprises. The railroading is merely incidental thereto, and yet those railroads connect with interstate lines, or with other railroads connecting with transcontinental or interstate lines. Hence these small roads doubtless would be held to be engaged in interstate commerce. It seems to me, Mr. President, that a distinction should be made and that proper exceptions should be provided in any legislation that shall be enacted on this subject in order to protect such enterprises. Just what those exceptions should be and just how they should be framed I am not prepared at this moment to say, and it does not seem to me that any other Senator is prepared to say.

It is also apparent that most of the Senators who have discussed this question realize the existence of these difficulties. Just what language is requisite to protect the nonoffending roads, I repeat, I am not able at this moment to state; and, therefore, it occurs to me that the wiser plan will be to refer this matter to a committee, and charge that committee with the duty of investigating the subject and reporting some suitable measure for the Senate to consider.

I know of railroads which have been built to coal mines for the sole purpose of developing them. If this amendment shall become a law the owners of such will be compelled either to dispose of the mines or of the roads, and neither would be of any value without the other.

It is my conviction that legislation of this character should be directed against those transportation lines only that are engaged principally in carrying interstate commerce, and with which mining or other enterprises are merely incidental. It ought not to be applicable to those carriers with whom railroading is merely incidental to the business of their mills or mines. I think Senators will generally agree with me on that proposition.

The question is how this legislation should be framed in order to preserve and protect these rights, the rights of the unoffending, and provide against the evils which we all admit do exist. This brings me back to the proposition that we have not given this subject that consideration necessary to enable us to legislate without great danger of doing a very grave injustice to many industries and enterprises. We can better afford to defer action for a few months than we can afford to do irreparable injury and injustice to numerous legitimate enterprises which have grown up under present conditions.

We have been giving our attention, Mr. President, during the last two or three months almost exclusively to the work of framing a bill designed to empower the Interstate Commerce Commission to prescribe rates and practices for transportation lines engaged in interstate commerce. The attention and thought of the Senate have been given almost entirely to that subject. Now, suddenly this subject is sprung, a subject which, in my judgment, is far more complicated than the main subject of this bill. There has been no proposition brought before the Senate during the present session that is more replete with complications and difficult problems than this one of regulating the relations between transportation and mining and manufacturing industries—none. Yet Senators seem to think that we ought to be able to properly treat a matter of this vast importance and of so complicated a nature and character here on the floor of the Senate without the advice or assistance of a committee that has given it careful investigation.

I am very desirous of supporting some law that will correct the evils which we know exist, but in correcting those evils I do not wish to be a party to perpetrating a great injustice.

I admit that no injury can result if we postpone action on this subject a short time, until a committee has had an opportunity to investigate it. I think if it were referred to a committee it is quite probable a report could be made during the present session. If not, and if the matter should go over until the next session, I think we can bear up under present conditions for a few months longer and would far better do so than do the injustice which I think is very likely to result from hasty and ill-considered action.

I hope, therefore, that no legislation will be enacted unless the subject shall be first referred to a committee that will carefully investigate existing conditions, in order to determine accurately what exceptions are necessary in order to protect those industries which are not offending against the rights or the interests of the people in any respect.

Consider the effect of the proposed legislation on one of the small railroads out West, of which I have spoken, having, we will say, a coal mine in the State of Idaho and a railroad extending therefrom into Washington or Oregon. Such a railroad would be an interstate-commerce line and subject to the prohibitions of the amendments which have been proposed here. This legislation would ruin all such industries and deprive thousands of men of employment. Yet they are offending against no man; they are doing no person and no community an injury or an injustice. They are necessary to and are powerful factors in the development of the resources of the great West. Shall they be stricken down simply because we realize that there are great evils elsewhere which we wish to remedy? Is it necessary to destroy the good in order to correct and restrain the evil? Why must we indulge in this hasty and ill-considered legislation? I sincerely trust the Senate will be disposed to move slowly in this matter. Let us have time to consider it. Let whatever measure which shall be adopted be carefully considered and the proper and necessary exceptions made.

Mr. TILLMAN. Mr. President, the Senate having twice refused by a large majority to refer this matter back to the committee and to postpone some sort of action upon it, it seems to me that——

Mr. LODGE. Will the Senator from South Carolina yield to me?

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Massachusetts?

Mr. TILLMAN. Certainly.

Mr. LODGE. I do not think the Senate has refused to refer. The Senate held that a certain motion was out of order. That was not passing an opinion on the question of the merits of reference.

Mr. TILLMAN. Well——

Mr. LODGE. I did not myself vote on it on that basis.

Mr. TILLMAN. Mr. President, if we have reached a point in debate here where we can not do what a majority of us want to do, we are in a very deplorable fix, and as the Senate, as I said, has twice refused to entertain those points of order and we have a unanimous-consent agreement which obstructs us from doing what some Senators here want to do, I am especially anxious to reach some modus vivendi by which we can do business and can vote on something.

Mr. LODGE. Why not move to lay the amendment on the table?

Mr. TILLMAN. We have refused to lay the amendment on the table, for I made that motion yesterday afternoon, and I could not get a majority vote for the motion.

Mr. LODGE. Why not try it again?

Mr. TILLMAN. I am afraid to do so after my experience yesterday, because when I have been run over once I am not in a great hurry to be run over again. Moreover, I do not want to lay this matter on the table. It is too serious and vital an issue, and the people of this country are watching to see whether the Senate, knowing that the evil exists, has not got either the sense or the courage to deal with it. That is my understanding of the situation. We all know there are grave abuses and outrageous conditions not only in West Virginia, but in Pennsylvania, in East Tennessee, in the Indian Territory, and I do not know where else. I will read, for the information of the Senate, what very few Senators have ever read since I introduced my report here, some observations I made on this very topic in the brief report which I presented.

The necessity for granting, at some time, relief to producers and shippers in several important particulars not provided for in this bill may be wisely considered in connection with the pending discussion—

I am speaking of the rate making—

There is no provision, except a most vague and indefinite one, for the anomalous and outrageous condition of affairs disclosed as existing in West Virginia. The letter of Governor Dawson, of that State, published in the CONGRESSIONAL RECORD of February 8, and the memorial of the Red Rock Fuel Company, published in the RECORD of January 29, taken together, disclose a situation that is almost beyond belief. The railroads have seized on the vast mineral wealth of the State in its extensive coal fields and have created a monopoly in that prime necessity of life, fuel.

Landowners who wish to mine and ship their coal are denied access to market, while the roads themselves are engaged extensively in mining and shipping coal; and when private individuals or companies seek to develop their coal lands and send their product to market, the railroads deny or refuse to grant them the privilege of engaging in interstate commerce. In the case of the Red Rock Fuel Company physical connection was refused. They would not permit this coal-mining company to join its track with a switch to the track of the Baltimore and Ohio Railroad and thus obtain an outlet. In other cases mines have had to shut down because of the denial of cars by the railroads. The coal output, in effect, is controlled absolutely by the railroads in their own interest, and in the case of this particular State the infamy of the situation is aggravated by the fact, which is practically proven—

And has since been absolutely proven—

that the three railroad systems entering West Virginia are controlled by an outside road, the Pennsylvania.

There are many other instances in which the proof has been furnished of even more outrageous abuse of power than in the instance cited of the Red Rock Fuel Company case. Where connections between the mines of private companies were already in existence under arrangements made some years ago, the tracks have been torn up and virtual confiscation of the property is threatened. Vested with the rights of

eminent domain to construct their lines and granted liberal franchises and charters, the railroads, designed to be public carriers for the benefit of the whole people, in the last few years have become rapidly transformed into the veriest band of robbers—highwaymen who do not thrust their pistols in the faces of their victims and demand money or their lives, but who levy tribute in freight rates which are as high as the traffic will bear, deny access to market, monopolize with brazen effrontery one of the prime necessaries of life—coal—and in every way show their absolute contempt for the people and the people's rights.

The condition of affairs in West Virginia is even worse in Pennsylvania, and from every point of the country come reports that the railroads have practically already obtained control of almost all the coal lands, and where they have not bought the land itself they have obtained mineral leases and are rapidly carrying out the scheme of monopolizing the fuel supply of 85,000,000 people. In Pennsylvania it is charged that they have for years controlled absolutely the State government, and they snap their fingers in contempt at any and every effort to enforce the law and the constitution which prohibits the ownership of coal mines by public carriers. It will be a task of immense difficulty to undo the incalculable mischief and wrong that has already been done.

The plea of vested rights and the complications from the secret transfers, the purchase by holding companies and trust companies, the ramifications of partnerships and of trusteeships, and of other subtle agencies contrived by hundreds of the best legal minds in the country, whose services are at the command of these gigantic corporations, will require firmness, perseverence, and patience by Congress, to grant relief from existing conditions and safeguard the public interests in the future. It is our bounden duty to amend this bill so as to compel every public carrier to give the freest possible access to market to every producer who wishes to engage in interstate commerce.

We should incorporate an amendment in the bill which will compel all railroads to make connections with any and every other railroad, public or private, and grant just and fair traffic arrangements, so as to put every producer upon an equal footing with every other producer. There should also be a provision incorporated in this bill to divorce absolutely the business of transporting freight as a public carrier and the business of producing freight to be transported. The temptation to discriminate against competitors on the part of a public carrier is too great, and it stands to reason that a producer who controls the means of transportation to market at the same time will discriminate against and will in the end destroy every competitor who is in the same business with him.

Now, Senators, we had just as well understand that if we dodge this question and return it to the committee or refuse to do something in regard to it, the people will hold us to account. It is not my business to warn you, but I beg you to do something here.

The VICE-PRESIDENT. The question is on agreeing to the amendment, in the nature of a substitute, proposed by the Senator from Texas [Mr. CULBERSON] to the amendment of the Senator from West Virginia [Mr. ELKINS].

Mr. ALDRICH. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BEVERIDGE. Let the amendment be stated.

Mr. LODGE. Oh, no; it is very long.

Mr. BEVERIDGE. I want to know what it is.

Mr. FRYE. It has been read four times.

The VICE-PRESIDENT. Does the Senator from Indiana withdraw his request?

Mr. BEVERIDGE. If, as I understand, the amendment is very long, I withdraw the request.

Mr. CLARK of Montana. I should like to have the amendment read.

The VICE-PRESIDENT. The Secretary will again read the amendment to the amendment.

The Secretary read the proposed amendment to the amendment, as follows:

It shall be unlawful for any corporation, association, or joint stock company engaged as a common carrier in foreign or interstate commerce to engage, directly or indirectly, through its officers, agents, representatives, employees, directors, or corporations organized for the purpose, or otherwise, in the production, manufacture, buying, furnishing, or selling of coal, coke, or other commodity of commerce to be transported by and for it as a common carrier beyond the State or Territory where such coal, coke, or other commodity of commerce is produced, manufactured, bought, or the possession thereof is obtained by said corporation, association, or joint stock company. Any violation of this provision shall be deemed a misdemeanor, and the corporation, association, or joint stock company found guilty thereof shall be fined $500 per day for each day it shall unlawfully engage in the production, manufacture, buying, furnishing, or selling as aforesaid: *Provided*, That when any coal, coke, or other commodity of commerce which is produced, manufactured, bought, furnished, or sold by such corporation, association, or joint stock company is transported by and for it as a common carrier beyond the State or Territory where it is produced, manufactured, bought, furnished, or sold, it shall be prima facie evidence that it was produced, manufactured, bought, furnished, or sold for such transportation: *Provided further*, That this provision shall not be construed to prohibit such corporation, association, or joint stock company from mining fuel or other commodities exclusively for its own use: *Provided further*, That this provision shall take effect from and after July 1, 1908.

The Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON], and therefore withhold my vote.

The roll call was concluded.

Mr. SPOONER. I have a general pair with the Senator from Tennessee [Mr. CARMACK], who is absent. He is in accord with the Senator from South Carolina [Mr. TILLMAN] on all questions arising under this bill. I therefore can not tell whether I can vote or not until after the Senator from South Carolina has voted. In this instance, if agreeable to him, I vote "nay."

Mr. GAMBLE. I inquire whether the senior Senator from Nevada [Mr. NEWLANDS] has voted?

The VICE-PRESIDENT. The Chair is informed that he has not voted.

Mr. GAMBLE. I have a general pair with that Senator, and therefore withhold my vote. If he were present, I should vote "nay."

Mr. GAMBLE subsequently said: I observe that the Senator from Nevada [Mr. NEWLANDS] is now present, and I desire to vote. I vote "nay."

The result was announced—yeas 11, nays 62, as follows:

YEAS—11.

Bacon	Culberson	La Follette	Taliaferro
Berry	Dubois	McEnery	Warren
Clarke, Ark.	Gearin	Money	

NAYS—62.

Aldrich	Cullom	Hansbrough	Perkins
Allee	Daniel	Hopkins	Pettus
Ankeny	Dick	Kean	Piles
Bailey	Dillingham	Kittredge	Rayner
Beveridge	Dolliver	Knox	Scott
Blackburn	Dryden	Latimer	Simmons
Brandegee	Elkins	Lodge	Smoot
Bulkeley	Flint	Long	Spooner
Burkett	Foraker	McCreary	Stone
Burnham	Foster	McCumber	Sutherland
Burrows	Frazier	McLaurin	Teller
Carter	Frye	Martin	Tillman
Clapp	Fulton	Millard	Warner
Clark, Mont.	Gallinger	Nelson	Wetmore
Clark, Wyo.	Gamble	Nixon	
Crane	Hale	Overman	

NOT VOTING—16.

Alger	Clay	Heyburn	Patterson
Allison	Depew	Mallory	Penrose
Burton	Gorman	Morgan	Platt
Carmack	Hemenway	Newlands	Proctor

So the amendment of Mr. CULBERSON, in the nature of a substitute, to the amendment of Mr. ELKINS was rejected.

Mr. ELKINS. I now offer a substitute for the original amendment I introduced.

Mr. BAILEY. If the Senator from West Virginia will allow the vote to be taken on his original motion, I think we can take it without debate. I wish myself to vote for it, although I believe it will be voted down. Then the vote can be taken on the suggestion of the Senator from Mississippi, and that will allow every Senator to express his opinion on both. I think it can be disposed of more readily in that way than it can in any other. I make that suggestion in the interest of a prompt disposition of the matter.

Mr. ELKINS. I hope the Senator will not press that suggestion, because I want a vote on the substitute.

Mr. BAILEY. I am going to have a vote on the most drastic proposition, and I shall offer the Senator's abandoned proposition in lieu of the one he now offers.

Mr. ELKINS. Does the Senator mean the amendment as amended by the Senator from New Jersey?

Mr. BAILEY. If the Senator will allow us to vote on the original proposition, as corrected in accordance with my suggestion, and that is voted down, then the Senator from Mississippi has a proposition, and we will vote on it, and I believe we can do it all without debate.

Mr. ELKINS. I have offered that as a substitute now.

Mr. GALLINGER. Let the substitute be read.

Mr. ELKINS. Let it be read.

The VICE-PRESIDENT. The substitute proposed by the Senator from West Virginia will be read.

The SECRETARY. In lieu of the amendment proposed by the Senator from West Virginia as amended, it is proposed to insert the following:

From and after May, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or district of the United States to any other State, Territory, or district of the United States, or to any foreign country, any article or commodity manufactured, mined, or produced by it or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary or used in the conduct of its business as a common carrier.

Mr. BACON. Mr. President, I wish to say a word. I do not think the amendment will be effective. The evil sought to be remedied, as I understand, is that railroad companies own coal mines and monopolize the production and the carriage of this property. The substitute does not in any manner prevent their continuing to own the coal mines or continuing to transport the coal, so long as that transportation is limited to the particular State in which the coal mines are located and the railroad is situated. We will take, for illustration, the coal

mines in the State of Pennsylvania, in which State, I believe, most of them are that would be reached by this proposed legislation. So long as those companies have the coal mines in the State of Pennsylvania and their railroads within the State of Pennsylvania, they can still own the mines and still transport the coal to the termini of those railroads inside the State of Pennsylvania. In other words, the railroad companies will still own the coal mines and still monopolize the transportation, say to the port of Philadelphia; and so long as they limit themselves to that and do not transport beyond the limits of the State of Pennsylvania the proposed amendment will not touch them.

Now, in what manner will that cure the evil? I repeat, so long as they continue to own the mines and to operate the mines and to monopolize the transportation, exclusively monopolize the transportation of coal, limiting themselves to the carriage simply to the port of Philadelphia, unless it is intended thereafter to be carried to other points, this proposed legislation will not touch them. In other words, they will go on just as they are now.

For that reason I think the original amendment proposed by the Senator from West Virginia is very much more effective than this, and I do not think this will be effective in any degree if my construction of it is correct.

Mr. BAILEY. Mr. President, no law of Congress can control the transportation of any article taken up inside and put down inside of a State. But no carrier can be or will be permitted to withdraw its interstate commerce from the jurisdiction of the Federal Government by consigning it twice, because if it starts from one State and finally goes into another State or into a foreign country the Federal Government's jurisdiction attaches.

As for my part, I do not believe this amendment, although it meets the approval of some of the most earnest friends of this legislation and some of the most distinguished lawyers on this side, goes far enough. I want to make an absolute prohibition against any common carrier engaging in interstate commerce, if it likewise engages in these prohibited industries. But I recognize that we have no power to prohibit anybody within a State engaging in those industries, and therefore I want the prohibition directed against participation in interstate commerce by any carrier who engages in those prohibited industries.

But, Mr. President, if the Senate does not agree with me, and if this substitute goes as far as the Congress at this time is willing to go, I shall not consume any time in a fruitless debate. But I do believe that the Senator from West Virginia, and all other Senators, ought to be willing to take the sense of this body as to which of these propositions shall prevail. There are more than several of us who believe that the absolute, complete, and full prohibition against the common carrier ought to be enacted. There are others, I fear a majority, who feel that in striving to separate the common carrier from the business of mining and other forms of production we might seriously interrupt the commerce of the country. Those represent, as I believe, the two views in the Senate. The Senator from West Virginia proposes the second view as a substitute for the first, and if it is adopted, then those who believe in the first have no opportunity for taking the sense of the Senate. I appeal to him and to the Senate that as they are the two propositions we may have a fair vote on each of them.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Virginia?

Mr. BAILEY. Certainly.

Mr. DANIEL. It is for a question. Does the Senator consider that both propositions are in the amendment originally offered by the Senator from West Virginia?

Mr. BAILEY. I do not. I think——

Mr. DANIEL. I hardly thought so, and I want to suggest this to the Senator from Texas: There will be no trouble in offering the separate idea, whereas if you put the two ideas together, you direct against the amendment the antagonism to both which might not exist as to one of them. Therefore there can be no trouble in adopting the amendment of the Senator from West Virginia, and that and the amendment of the Senator from Mississippi are both identical with an amendment of which I gave notice day before yesterday, and which I have not had the opportunity to offer.

I am glad to see that on both sides of the Chamber the views which I had the honor to present are being practically adopted. I do not wish to confuse by any effort of my own or by mingling with another idea the chance to get through one good thing. I suggest to the Senator would it not be better to let this amendment be adopted, with any verbal alterations he may desire to make, and then put the other idea separately and for itself.

Mr. GALLINGER rose.

Mr. BAILEY. Of course I can reach my end, and I will reach it. The Senator from West Virginia can have a vote on the proposition now, and when we go into the Senate I can offer a substitute for what we adopt now.

Mr. ALDRICH. That is right.

Mr. GALLINGER. That is what I rose to suggest.

Mr. BAILEY. With notice that I shall do that, I will not further delay a vote.

The VICE-PRESIDENT. The question is on agreeing to the substitute proposed by the Senator from West Virginia.

Mr. DANIEL. I ask that it may be read.

Mr. CARTER. Let it be read.

The VICE-PRESIDENT. At the request of the Senators from Virginia and Montana, it will be again reported by the Secretary.

The SECRETARY. In lieu of the amendment proposed by the Senator from West Virginia as amended it is proposed to insert the following:

> From and after May, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or district of the United States to any other State, Territory, or district of the United States or to any foreign country any article or commodity manufactured, mined, or produced by it or under its authority or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary or used in the conduct of its business as a common carrier.

Mr. BACON. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Georgia will state his parliamentary inquiry.

Mr. BACON. This, as I understand, it is proposed to substitute for the pending amendment?

The VICE-PRESIDENT. It is.

Mr. BACON. The inquiry I desire to make of the Chair is this: In case the substitute is adopted, will the Chair still hold that there is a vote to be had on the amendment as amended?

The VICE-PRESIDENT. The Chair understands that it is equivalent to a motion to strike out and insert, and that the substitute if adopted will stand in lieu of the original amendment.

Mr. BACON. And then be put to a vote?

Mr. ALDRICH. Yes; of course.

The VICE-PRESIDENT. It will not require an additional vote.

Mr. ALDRICH. It will require an additional vote.

The VICE-PRESIDENT. As it is a complete substitute——

Mr. ALDRICH. The question will be first on the substitution of this for the other amendment, and then upon the adoption of the amendment as amended.

Mr. BACON. The reason I propounded the inquiry is that there are some who would oppose it as a substitute who would vote for it if it were a final proposition. Therefore I desired to know in advance how that would be.

Mr. LA FOLLETTE. My attention was distracted for the moment while the proposition was being read by the Secretary, and in order to identify it without calling again for its reading, I should like to inquire whether it is the same proposition that was offered by the Senator from Mississippi [Mr. MCLAURIN]?

The VICE-PRESIDENT. The Chair understands it is precisely the same.

Mr. CLAY. I may have misunderstood the ruling of the Chair, but, as I understand, it was this: If a majority of the Senate shall vote in favor of adopting the substitute in lieu of the amendment, that is equivalent to agreeing to the amendment as amended. As I understand, the parliamentary situation is this: Senators may prefer this amendment in lieu of the original amendment, and at the same time Senators may be opposed to either amendment. As I understand, after this amendment is voted on, if it is accepted in lieu of the original amendment, then the first amendment must be put to the Senate for its approval.

The VICE-PRESIDENT. If it is the desire, the Chair will, of course, put the question on the amendment as amended. Yet it seems useless, as the substitute is to stand in lieu of the original amendment.

Mr. GALLINGER. But it might be rejected.

The VICE-PRESIDENT. The question is on agreeing to the substitute proposed by the Senator from West Virginia.

The substitute was agreed to.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from West Virginia as amended.

Mr. TILLMAN. Let us have the yeas and nays, please.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON].

The roll call having been concluded, the result was announced—yeas 67, nays 6, as follows:

YEAS—67.

Aldrich	Culberson	Hansbrough	Nixon
Allee	Cullom	Hemenway	Overman
Bacon	Daniel	Hopkins	Perkins
Bailey	Dick	Kean	Piles
Berry	Dillingham	Kittredge	Rayner
Beveridge	Dolliver	Knox	Scott
Blackburn	Dryden	La Follette	Simmons
Brandegee	Dubois	Latimer	Smoot
Burkett	Elkins	Lodge	Spooner
Burnham	Flint	Long	Stone
Burrows	Foraker	McCreary	Sutherland
Carter	Foster	McCumber	Tallaferro
Clapp	Frazier	McEnery	Teller
Clark, Mont.	Frye	McLaurin	Tillman
Clarke, Ark.	Gallinger	Martin	Warner
Clay	Gamble	Money	Wetmore
Crane	Hale	Nelson	

NAYS—6.

Ankeny	Clark, Wyo.	Pettus	Warren
Bulkeley	Millard		

NOT VOTING—16

Alger	Depew	Heyburn	Patterson
Allison	Fulton	Mallory	Penrose
Burton	Gearin	Morgan	Platt
Carmack	Gorman	Newlands	Proctor

So the amendment of Mr. ELKINS as amended was agreed to.

Mr. ELKINS. I offer an amendment to come in after section 1.

The VICE-PRESIDENT. The Senator from West Virginia proposes an amendment, which will be stated.

The SECRETARY. It is proposed to insert at the end of section 1 the following:

Any common carrier subject to the provisions of this act shall promptly, upon application of any shipper tendering interstate traffic for transportation, construct, maintain, and operate upon reasonable terms a switch connection with any private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same; and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against any such shipper.

The VICE-PRESIDENT. The question is on agreeing to the amendment which has just been read.

The amendment was agreed to.

Mr. BAILEY. I submit the amendment which I send to the desk.

The VICE-PRESIDENT. The Senator from Texas offers an amendment, which will be stated.

The SECRETARY. On page 2, line 18, before the word "The," insert:

The term common carrier as used in this act shall include express companies and sleeping car companies.

The amendment was agreed to.

Mr. WARNER. I offer the amendment I send to the desk.

The SECRETARY. In the print of May 8——

Mr. LODGE. Where does it come in?

The SECRETARY. It reads:

After the last line of the substitute of the senior Senator from Texas to the amendment of the senior Senator from Ohio.

The VICE-PRESIDENT. To what point in the bill does the Senator from Missouri address his amendment?

Mr. WARNER. It is not in the printed bill. It comes in after the last line of the substitute of the Senator from Texas to the amendment of the Senator from Ohio. I can not give the line.

The SECRETARY. It is proposed to insert:

It shall be the duty of carriers engaged in interstate commerce to give like accommodations to all persons paying the same compensation for interstate transportation of passengers.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read.

Mr. DANIEL. Is the amendment offered to a pending section?

The VICE-PRESIDENT. The Chair understands that it is offered as an independent proposition to come in at the end of section 1.

Mr. DANIEL. I ask that it may be read once more.

The VICE-PRESIDENT. The Secretary will again read the amendment, at the request of the Senator from Virginia.

The SECRETARY. At the end of section 1, after the amendment already agreed to at that place, insert:

It shall be the duty of carriers engaged in interstate commerce to give like accommodations to all persons paying the same compensation for interstate transportation of passengers.

Mr. FORAKER. I move to amend the amendment as offered by the Senator from Missouri by striking out the word "like," in line 2 of his amendment, and inserting in lieu thereof "equally good service and;" so as to read, "to give equally good service and accommodations."

Mr. MONEY. That is right.

Mr. WARNER. I have no objection to that amendment.

The VICE-PRESIDENT. The Senator from Missouri modifies his amendment as suggested by the Senator from Ohio. The modification will be stated.

The SECRETARY. Strike out the word "like," in line 2, and insert "equally good service and."

Mr. BACON. So as to read?

The SECRETARY. So as to read:

It shall be the duty of carriers engaged in interstate commerce to give equally good service and accommodations to all persons paying the same compensation for interstate transportation of passengers.

Mr. BACON. Mr. President, we had some discussion on this question a few days ago. I desire to say for myself—I have had no opportunity to confer with others, but the amendment now offered by the Senator from Ohio is a very great improvement on the one offered before, and so far as I know it is unobjectionable.

The VICE-PRESIDENT. The question is on agreeing to the amendment as modified.

The amendment as modified was agreed to.

Mr. ELKINS. I offer an amendment, found on page 161 of the printed amendments.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. Add the following as a separate paragraph at the end of section 1, after the amendments already agreed to at that place:

That any common carrier subject to the provisions of this act shall promptly, upon application of any connecting lateral or branch line, and upon reasonable terms, make connections and fair, just, and reasonable prorating arrangements and division of joint or through rates with such connecting branch or lateral lines.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read.

Mr. DOLLIVER. It seems to me that that is already in the bill. There is a provision in the bill which provides for the order of the Commission making through rates and just and reasonable rates applicable to them.

Mr. ELKINS. It is not covered by the bill. I differ from the Senator.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read. [Putting the question.] By the sound the noes seem to have it.

Mr. ELKINS. I ask for the yeas and nays.

The yeas and nays were not ordered.

The VICE-PRESIDENT. The amendment is rejected.

Mr. McCUMBER. I offer an amendment found on page 27 of the printed amendments.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 3, line 13, after the word "thereto," insert:

That on and after January 1, 1909, every railroad company doing an interstate-commerce business shall furnish all freight cars, whether refrigerator, cold-storage, or other specially constructed or designed cars for the carriage of special merchandise, necessary for the conduct of its business as a common carrier, and shall furnish at just and reasonable rates all icing and other service necessary or proper for the protection of any goods in transit; and on and after such date no such railroad company shall enter into any contract with the owner or shipper of any goods to ship the same in the cars of such owner or shipper or pay any rental for such cars.

Mr. McCUMBER. Mr. President, all I have to say is that the amendment is aimed at the destruction finally of the private car system. It gives time enough, two years and a half or three years, in which to make the change, and after the expiration of three years then the railroads must furnish their own cars and not use the cars of private companies. It will abolish that system after the year 1908. I do not care about making any argument upon it. I would just as soon have a vote now.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from North Dakota.

The amendment was rejected.

Mr. McLAURIN. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 1 of the bill, line 8——

Mr. LODGE. What is the page in the printed amendments?

The VICE-PRESIDENT. It is not among the printed amendments. The amendment will be stated.

The SECRETARY. Strike out on page 1 all between the word "property," in line 8, and the word "from," in line 11.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Mississippi.

Mr. GALLINGER. Let the provision be read as it would read if amended.

The VICE-PRESIDENT. The Secretary will read the provision as it would stand if amended.

Mr. McLAURIN. I ask that the clause beginning with the

word "wholly," in line 8, to the word "shipment," in line 11, may be read, and then that that part of the section shall be read as it will stand if this amendment shall be adopted.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. After the word "property," in line 8, it is proposed to strike out the following words:

Wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment).

So as to read:

SEC. 1. That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, etc.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Mississippi.

The amendment was rejected.

Mr. HOPKINS. Let the Secretary proceed with the reading of the bill.

The VICE-PRESIDENT. The Secretary will proceed with the reading of the bill.

The Secretary proceeded to read section 2 of the bill, beginning on page 3.

Mr. LA FOLLETTE. I did not understand that we had left section 1.

The VICE-PRESIDENT. We have left section 1.

Mr. LA FOLLETTE. There is an amendment which I desire to offer to follow section 1.

The VICE-PRESIDENT. Strictly speaking, the amendment would not be in order, but if there is no objection the Chair will entertain the motion to amend.

Mr. LODGE. Where is it proposed to insert the amendment?

Mr. LA FOLLETTE. At the end of section 1.

The VICE-PRESIDENT. Following the last amendment adopted at the foot of section 1?

Mr. LA FOLLETTE. Yes, sir.

Mr. LODGE. Before section 2?

Mr. LA FOLLETTE. Before section 2.

Mr. BACON. Mr. President, I simply rose because I understand the Chair to have ruled in a way which might affect future proceedings. The Chair will, perhaps, recall that a few days ago we discussed the very question whether or not if a section were passed it would be in order for a Senator thereafter who might for any reason have failed to offer his amendment at that time to return and offer it. It was then the general consensus of opinion that such would be the case.

The VICE-PRESIDENT. The Chair's interpretation of the rule is that after the bill is read by sections for amendment, in the manner in which it is being read now, before it leaves the Committee of the Whole the bill will still be in Committee of the Whole and open to amendment.

Mr. BACON. To any section?

The VICE-PRESIDENT. To any section. The Secretary will read the amendment proposed by the junior Senator from Wisconsin.

Mr. KEAN. Before the Secretary reads the amendment, I have an amendment to this whole section that I will offer and have printed. I will say to the Senate that it is practically the section that was in the Interstate Commerce Commission bill. It is not entirely, but very nearly that section.

The VICE-PRESIDENT. The amendment will be printed. The Secretary will read the amendment offered by the junior Senator from Wisconsin [Mr. LA FOLLETTE].

The SECRETARY. After the last amendment, just agreed to, insert the following, to be known as section 1a:

SECTION 1a. That section 4 of said act be amended so as to read as follows:

"SEC. 4. The Commission created by this act may, in its discretion, upon notice and hearing, prohibit any common carrier subject to the provisions of this act from charging or receiving any greater compensation in the aggregate for the transportation of passengers or like kind of property for a shorter than for a longer distance, over the same line in the same direction, the shorter being included within the longer distance, or may, upon such notice and hearing, prescribe the extent to which such greater compensation may be received; but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance."

Mr. LA FOLLETTE. Mr. President, I only wish to say a word in support of the amendment which I have offered. The long and short haul section of the law of 1887 was designed to prevent discriminations as between places. As construed by the Supreme Court it is in the power of the railroad companies to create and maintain conditions which nullify the law. This they have done until every State suffers on account of discriminations which the section as originally enacted was intended to prohibit. Every section of our country offers examples of higher charges for a short haul than for hauls that are much longer—the shorter haul being within and a part of the longer haul.

The amendment proposes to invest the Commission with authority to determine under what conditions the long and short haul principle shall be applied. If adopted as a part of this bill, it will be enforced only upon complaint and investigation which convinces the Commission that justice requires that it should be enforced. Precisely this amendment was recommended by the Commission in 1897, and that recommendation has been reaffirmed and repeated in every report which the Commission has submitted to Congress from 1897 to the present time.

The bill presented to the Senate by the Committee on Interstate Commerce, and now under consideration, reenacts the old law, and reenacts in section 4 the provision which as construed by the Supreme Court, as I said a moment ago, enables a railroad company to nullify the purpose of Congress when it enacted that section in the law of 1887.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the junior Senator from Wisconsin. [Putting the question.] The noes seem to have it.

Mr. LA FOLLETTE. I should like to have the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON].

Mr. SPOONER (when his name was called). I transfer my pair with the Senator from Tennessee [Mr. CARMACK] to the Senator from Michigan [Mr. ALGER], and I vote "nay."

The roll call was concluded.

Mr. GAMBLE. Has the senior Senator from Nevada [Mr. NEWLANDS] voted?

The VICE-PRESIDENT. He did not vote.

Mr. GAMBLE. I have a general pair with the senior Senator from Nevada, and therefore withhold my vote.

The result was announced—yeas 25, nays 46, as follows:

YEAS—25.

Bacon	Cullom	McLaurin	Stone
Bailey	Daniel	Martin	Taliaferro
Berry	Dubois	Money	Teller
Blackburn	Frazier	Overman	Tillman
Clarke, Ark.	La Follette	Pettus	
Clay	Latimer	Rayner	
Culberson	McCreary	Simmons	

NAYS—46.

Aldrich	Clark, Wyo.	Hale	Nixon
Allee	Crane	Hansbrough	Perkins
Ankeny	Dick	Hemenway	Piles
Beveridge	Dillingham	Hopkins	Scott
Brandegee	Dolliver	Kean	Smoot
Bulkeley	Dryden.	Kittredge	Spooner
Burkett	Elkins	Knox	Sutherland
Burnham	Flint	Lodge	Warner
Burrows	Foraker	Long	Warren
Carter	Fulton	McCumber	Wetmore
Clapp	Gallinger	Millard	
Clark, Mont.	Gearin	Nelson	

NOT VOTING—18.

Alger	Foster	McEnery	Penrose
Allison	Frye	Mallory	Platt
Burton	Gamble	Morgan	Proctor
Carmack	Gorman	Newlands	
Depew	Heyburn	Patterson	

So Mr. LA FOLLETTE'S amendment was rejected.

EXECUTIVE SESSION.

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Thursday, May 10, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 9, 1906.

CONSULS-GENERAL AT LARGE.

George H. Murphy, of North Carolina, to be consul-general at large of the United States, to take effect July 1, 1906, to fill an original vacancy.

Charles M. Dickinson, of New York, now consul-general at Constantinople, to be consul-general at large of the United States, to take effect July 1, 1906, to fill an original vacancy.

Fleming D. Cheshire, of New York, now consul-general at

Mukden, to be consul-general at large of the United States, to take effect July 1, 1906, to fill an original vacancy.

Richard M. Bartleman, of Massachusetts, now consul at Seville, to be consul-general at large of the United States, to take effect July 1, 1906, to fill an original vacancy.

Horace Lee Washington, of the District of Columbia, now consul-general at Cape Town, to be consul-general at large of the United States, to take effect July 1, 1906, to fill an original vacancy.

POSTMASTERS.

ILLINOIS.

James Bromilow to be postmaster at Chillicothe, in the county of Peoria and State of Illinois, in place of James Bromilow. Incumbent's commission expires June 4, 1906.

Samuel S. Dingel to be postmaster at Wilmette, in the county of Cook and State of Illinois, in place of Samuel S. Dingel. Incumbent's commission expires June 25, 1906.

J. P. Overholser to be postmaster at Sterling, in the county of Whiteside and State of Illinois, in place of Thomas Diller. Incumbent's commission expired March 14, 1906.

Alexander B. Sproul to be postmaster at Sparta, in the county of Randolph and State of Illinois, in place of Alexander B. Sproul. Incumbent's commission expires July 1, 1906.

INDIAN TERRITORY.

William H. Hilton to be postmaster at Durant, in District 25, Indian Territory, in place of William H. Hilton. Incumbent's commission expires June 10, 1906.

IOWA.

Hans Keiser to be postmaster at Elgin, in the county of Fayette and State of Iowa, in place of Hans Keiser. Incumbent's commission expired March 1, 1906.

KANSAS.

William E. Menoher to be postmaster at Lincoln, in the county of Lincoln and State of Kansas, in place of William E. Menoher. Incumbent's commission expires June 24, 1906.

MISSOURI.

Frederick W. Deuser to be postmaster at Clayton, in the county of St. Louis and State of Missouri. Office became Presidential April 1, 1906.

NEW JERSEY.

Frederic B. Taylor to be postmaster at South Orange, in the county of Essex and State of New Jersey, in place of Frederic B. Taylor. Incumbent's commission expires May 16, 1906.

NEW YORK.

Reuben F. Hoff to be postmaster at Union Springs, in the county of Cayuga and State of New York, in place of Reuben F. Hoff. Incumbent's commission expires May 14, 1906.

J. Fenton Olive to be postmaster at Cuba, in the county of Allegany and State of New York, in place of J. Fenton Olive. Incumbent's commission expired April 22, 1906.

OHIO.

James D. Carpenter to be postmaster at Lodi, in the county of Medina and State of Ohio, in place of Henry C. Turner. Incumbent's commission expired April 30, 1906.

Eliza B. Lockwood to be postmaster at Bedford, in the county of Cuyahoga and State of Ohio, in place of Eliza B. Lockwood. Incumbent's commission expires June 30, 1906.

Charles A. Moodey to be postmaster at Painesville, in the county of Lake and State of Ohio, in place of John P. Barden. Incumbent's commission expires June 9, 1906.

James H. Rabbitts to be postmaster at Springfield, in the county of Clark and State of Ohio, in place of James H. Rabbitts. Incumbent's commission expires May 16, 1906.

OREGON.

David L. Moomaw to be postmaster at Baker City, in the county of Baker and State of Oregon, in place of David L. Moomaw. Incumbent's commission expired January 21, 1906.

PENNSYLVANIA.

William H. Davis to be postmaster at Pittsburg, in the county of Allegheny and State of Pennsylvania, in place of George L. Holliday. Incumbent's commission expired May 2, 1906.

David W. Morgan to be postmaster at Franklin, in the county of Venango and State of Pennsylvania, in place of David W. Morgan. Incumbent's commission expires June 19, 1906.

TEXAS.

George W. Hill to be postmaster at Saratoga, in the county of Hardin and State of Texas. Office became Presidential April 1, 1906.

William M. Nagle to be postmaster at Denison, in the county of Grayson and State of Texas, in place of William M. Nagle. Incumbent's commission expired April 30, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 9, 1906.

APPOINTMENTS IN THE NAVY.

Abraham H. Allen, a citizen of Pennsylvania, to be an assistant surgeon in the Navy from the 2d day of May, 1906.

Gunner Conrad W. Ljungquist to be a chief gunner in the Navy from the 10th day of March, 1906, upon the completion of six years' service, in accordance with the provisions of an act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

PROMOTION IN THE NAVY.

Midshipman Bradford Barnette to be an ensign in the Navy from the 2d day of February, 1906.

POSTMASTERS.

GEORGIA.

Henry Blun, jr., to be postmaster at Savannah, in the county of Chatham and State of Georgia.

INDIANA.

Walter G. Bridges to be postmaster at Greenfield, in the county of Hancock and State of Indiana.

J. Albert Spekenhire to be postmaster at Richmond, in the county of Wayne and State of Indiana.

Luther Worl to be postmaster at Matthews, in the county of Grant and State of Indiana.

INDIAN TERRITORY.

John McL. Dorchester to be postmaster at Pauls Valley, District 17, Ind. T.

KANSAS.

Lavelle H. Boyd to be postmaster at Russell, in the county of Russell and State of Kansas.

KENTUCKY.

George M. Crider to be postmaster at Marion, in the county of Crittenden and State of Kentucky.

Samuel T. Moore to be postmaster at Princeton, in the county of Caldwell and State of Kentucky.

MASSACHUSETTS.

Louise G. Newton to be postmaster at South Ashburnham, in the county of Worcester and State of Massachusetts.

MINNESOTA.

Kee Wakefield to be postmaster at Hutchinson, in the county of McLeod and State of Minnesota.

MICHIGAN.

William S. Linton to be postmaster at Saginaw, in the county of Saginaw and State of Michigan.

Henry D. Northway to be postmaster at Midland, in the county of Midland and State of Michigan.

MISSOURI.

Joseph H. Smith to be postmaster at Warrensburg, in the county of Johnson and State of Missouri.

Isaac N. Strawn to be postmaster at Hopkins, in the county of Nodaway and State of Missouri.

NEBRASKA.

John R. Hays to be postmaster at Norfolk, in the county of Madison and State of Nebraska.

NEW HAMPSHIRE.

Addison H. Frizzell to be postmaster at Groveton, in the county of Coos and State of New Hampshire.

NEW JERSEY.

Henry B. Hagerman to be postmaster at Mahwah, in the county of Bergen and State of New Jersey.

Carl L. Richter to be postmaster at Fort Lee, in the county of Bergen and State of New Jersey.

NEW MEXICO.

Dora W. Howard to be postmaster at San Marcial, in the county of Socorro and Territory of New Mexico.

NEW YORK.

Edward T. Cole to be postmaster at Garrison, in the county of Putnam and State of New York.

NORTH CAROLINA.

John O. Burton to be postmaster at Weldon, in the county of Halifax and State of North Carolina.

Joshua P. Jessup to be postmaster at Hertford, in the county of Perquimans and State of North Carolina.

Patrick J. O'Brien to be postmaster at Durham, in the county of Durham and State of North Carolina.

Joseph G. Walser to be postmaster at Lexington, in the county of Davidson and State of North Carolina.

NORTH DAKOTA.

Henry F. Speiser to be postmaster at Fessenden, in the county of Wells and State of North Dakota.

PENNSYLVANIA.

David W. Morgan to be postmaster at Franklin, in the county of Venango and State of Pennsylvania.

WASHINGTON.

William T. Cavanaugh to be postmaster at Olympia, in the county of Thurston and State of Washington.

Daniel Crowley to be postmaster at Vancouver, in the county of Clarke and State of Washington.

REJECTION.

Executive nomination rejected by the Senate May 9, 1906.

RECEIVER OF PUBLIC MONEYS.

Edward A. Winstanley, of Montana, to be receiver of public moneys at Missoula, Mont., to take effect May 21, 1906.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May 9, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read.

Mr. PAYNE. Mr. Speaker, I move that the Journal be approved.

The SPEAKER. The gentleman from New York moves that the Journal be approved.

The question was taken; and the motion was agreed to.

CHANGE OF REFERENCE.

Mr. CASSEL. Mr. Speaker, I move the following change of reference.

The SPEAKER. The gentleman from Pennsylvania moves the following change of reference, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 18444) to prevent the loss of life through accidents to passengers at elevator shafts, from the Committee on Accounts to the Committee on Public Buildings and Grounds.

The question was taken; and the motion was agreed to.

COMMITTEE ON EXPENDITURES IN THE DEPARTMENT OF AGRICULTURE.

Mr. CASSEL. Mr. Speaker, I offer the following privileged report from the Committee on Accounts.

The SPEAKER. The Clerk will report the same.

The Clerk read as follows:

Resolution No. 419.

Whereas no examination of the expenditures in the Department of Agriculture has been made by the Committee on Expenditures in the Department of Agriculture for a number of years and such an examination is now necessary in the interest of the public service; and

Whereas said examination can not be had by said committee unless authority therefor is conferred upon said committee: Therefore

Resolved, That the Committee on Expenditures in the Department of Agriculture is hereby authorized to examine, so far as the Department of Agriculture is concerned, all of the matters referred to in paragraph 42 of Rule XI of the House of Representatives, and for that purpose it may send for persons and papers; and said committee is authorized to employ a competent stenographer while conducting said examination, and to sit during the sessions of the House, and to report the result of its examination with any recommendations to the House.

Any expenses incurred hereunder to be paid from the contingent fund of the House on the certificate of the chairman of the committee and approval of the Committee on Accounts.

Mr. WILLIAMS. Mr. Speaker, I desire to say a word concerning the resolution.

The SPEAKER. Does the gentleman from Pennsylvania yield?

Mr. CASSEL. For a question.

Mr. BARTLETT. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. CASSEL. Yes, sir.

Mr. BARTLETT. Then I yield to the gentleman from Mississippi the time yielded me by the gentleman from Pennsylvania.

The SPEAKER. How much time does the gentleman yield?

Mr. BARTLETT. Five minutes.

Mr. WILLIAMS. Mr. Speaker, I will not need five minutes. I want to say merely that I think this is a proper step to take and the right course to pursue for this Committee on Expenditures in the Department of Agriculture, and to express my hope that the other committees on expenditures in the several Departments will wake up to the fact that they have a very important work to do. The most important committees of this House, if they do their duty, for the purposes of economy and honesty of administration, are the committees on expenditures in the several Departments. I am glad that this particular Committee on Expenditures is taking this step, and I hope it will be imitated by the other committees on expenditures in the other Departments.

The question was taken; and the resolution was agreed to.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18750—the naval appropriation bill.

Mr. WILLIAMS. Mr. Speaker, to save the time of the House, and at the same time determine whether there be a quorum present, I call for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 242, nays 4, answered "present" 12, not voting 123, as follows:

YEAS—242.

Adams, Pa.	Davis, W. Va.	Kitchin, Wm. W.	Richardson, Ala.
Adams, Wis.	Dawes	Klepper	Rives
Aiken	Dawson	Kline	Rixey
Alexander	De Armond	Knopf	Roberts
Allen, Me.	Deemer	Knowland	Robertson, La.
Ames	Dickson, Ill.	Lacey	Robinson, Ark.
Andrus	Dixon, Ind.	Lafean	Rodenberg
Bannon	Draper	Lamb	Rucker
Barchfeld	Dresser	Landis, Chas. B.	Ruppert
Bartholdt	Dwight	Lawrence	Russell
Bartlett	Edwards	Lester	Samuel
Bates	Ellerbe	Lilley, Conn.	Schneebeli
Beall, Tex.	Ellis	Lindsay	Scott
Bede	Esch	Little	Sherman
Beidler	Finley	Livingston	Sims
Bell, Ga.	Fitzgerald	Lloyd	Slayden
Bennet, N. Y.	Flack	Lorimer	Slemp
Bennett, Ky.	Fletcher	Loud	Small
Birdsall	Floyd	Loudenslager	Smith, Cal.
Bishop	Fordney	Lovering	Smith, Iowa
Bonynge	Foss	McCall	Smith, Md.
Boutell	Foster, Vt.	McCarthy	Smith, Pa.
Bowers	Fowler	McCleary, Minn.	Smith, Tex.
Bowersock	French	McCreary, Pa.	Smyser
Bowie	Fulkerson	McKinley, Ill.	Snapp
Brantley	Gaines, Tenn.	McKinney	Southwick
Brick	Gardner, Mass.	McLachlan	Sperry
Broocks, Tex.	Gill	McMorran	Spight
Brooks, Colo.	Gillespie	McNary	Stafford
Broussard	Gillett, Cal.	Macon	Stanley
Brown	Glass	Mahon	Steenerson
Brownlow	Goldfogle	Maynard	Stephens, Tex.
Brundidge	Graff	Meyer	Sullivan, Mass.
Burgess	Graham	Miller	Sulloway
Burnett	Granger	Moon, Pa.	Tawney
Burton, Del.	Greene	Moon, Tenn.	Taylor, Ala.
Burton, Ohio	Gregg	Mouser	Taylor, Ohio
Butler, Pa.	Grosvenor	Mudd	Thomas, N. C.
Byrd	Hale	Murdock	Thomas, Ohio
Calder	Hamilton	Murphy	Tirrell
Calderhead	Hardwick	Needham	Townsend
Campbell, Kans.	Hay	Norris	Tyndall
Candler	Hedge	Olcott	Underwood
Cassel	Heflin	Olmsted	Volstead
Chaney	Hepburn	Overstreet	Vreeland
Clark, Fla.	Hermann	Page	Wachter
Clark, Mo.	Higgins	Parker	Waldo
Clayton	Hill, Conn.	Parsons	Wallace
Cocks	Hill, Miss.	Patterson, S. C.	Watkins
Cole	Howell, N. J.	Payne	Webb
Conner	Hubbard	Pearre	Weeks
Cooper, Pa.	Hughes	Perkins	Weems
Cooper, Wis.	Humphrey, Wash.	Pollard	Wiley, N. J.
Cousins	Humphreys, Miss.	Powers	Williams
Crumpacker	Hunt	Prince	Wilson
Currier	Jones, Wash.	Pujo	Wood, Mo.
Curtis	Keifer	Rainey	Wood, N. J.
Cushman	Kelliher	Randell, Tex.	Young
Dale	Kennedy, Nebr.	Reid	Zenor
Dalzell	Kinkaid	Reynolds	
Davis, Minn.	Kitchin, Claude	Rhodes	

NAYS—4.

Garner	Garrett	Henry, Tex.	James

ANSWERED "PRESENT"—12.

Chapman	Hoar	Lee	Sheppard
Davey, La.	Jenkins	Lever	Southall
Goulden	Johnson	Mann	Wanger

NOT VOTING—123.

Acheson	Field	Howard	Michalek
Adamson	Flood	Howell, Utah	Minor
Allen, N. J.	Foster, Ind.	Huff	Mondell
Babcock	Fuller	Hull	Moore
Bankhead	Gaines, W. Va.	Jones, Va.	Morrell
Bingham	Garber	Kahn	Nevin
Blackburn	Gardner, Mich.	Kennedy, Ohio	Otjen
Bradley	Gardner, N. J.	Ketcham	Padgett
Buckman	Gilbert, Ind.	Knapp	Palmer
Burke, Pa.	Gilbert, Ky.	Lamar	Patterson, N. C.
Burke, S. Dak.	Gillett, Mass.	Landis, Frederick	Patterson, Tenn.
Burleigh	Goebel	Law	Pou
Burleson	Griggs	Le Fevre	Ransdell, La.
Butler, Tenn.	Gronna	Legare	Reeder
Campbell, Ohio	Gudger	Lewis	Rhinock
Capron	Haskins	Lilley, Pa.	Richardson, Ky.
Cockran	Haugen	Littauer	Ryan
Cromer	Hayes	Littlefield	Scroggy
Darragh	Hearst	Longworth	Shackleford
Davidson	Henry, Conn.	McDermott	Shartel
Denby	Hinshaw	McGavin	Sherley
Dixon, Mont.	Hitt	McKinlay, Cal.	Sibley
Dovener	Hogg	McLain	Smith, Ill.
Driscoll	Holliday	Madden	Smith, Ky.
Dunwell	Hopkins	Marshall	Smith, Samuel W.
Fassett	Houston	Martin	Smith, Wm. Alden

Southard	Sulzer	Van Winkle	Welborn
Sparkman	Talbott	Wadsworth	Wharton
Sterling	Towne	Watson	Wiley, Ala.
Stevens, Minn.	Trimble	Webber	Woodyard
Sullivan, N. Y.	Van Duzer	Weisse	

So the motion was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. WANGER with Mr. ADAMSON.

Mr. BRADLEY with Mr. GOULDEN.

Until May 24, 1906:

Mr. FULLER with Mr. RICHARDSON of Kentucky.

Until 18th of May:

Mr. CHAPMAN with Mr. HOPKINS.

For one week:

Mr. CAMPBELL of Ohio with Mr. SOUTHALL.

For balance of week:

Mr. BURKE of Pennsylvania with Mr. JOHNSON.

For the day:

Mr. DIXON of Montana with Mr. FLOOD.

Mr. GILBERT of Indiana with Mr. LEWIS.

Mr. GILLETT of Massachusetts with Mr. TOWNE.

Mr. GRONNA with Mr. MCLAIN.

Mr. HAYES with Mr. PATTERSON of North Carolina.

Mr. KENNEDY of Ohio with Mr. POU.

Mr. KETCHAM with Mr. RHINOCK.

Mr. LE FEVRE with Mr. RYAN.

Mr. MADDEN with Mr. SHACKLEFORD.

Mr. SAMUEL W. SMITH with Mr. TALBOTT.

Mr. WOODYARD with Mr. TRIMBLE.

Mr. HUFF with Mr. WEISSE.

Mr. GARDNER of Michigan with Mr. WILEY of Alabama.

Mr. BURLEIGH with Mr. BUTLER of Tennessee.

Mr. BUCKMAN with Mr. BURLESON.

Mr. BABCOCK with Mr. COCKRAN.

Mr. ACHESON with Mr. BANKHEAD.

Mr. SIBLEY with Mr. SULZER.

Mr. LONGWORTH with Mr. JONES of Virginia.

Mr. HENRY of Connecticut with Mr. GRIGGS.

Mr. KAHN with Mr. GARBER.

Mr. DENBY with Mr. MCDERMOTT.

Mr. BINGHAM with Mr. HEARST.

Mr. KNAPP with Mr. LAMAR.

Until further notice:

Mr. HOAR with Mr. HOUSTON.

Mr. WM. ALDEN SMITH with Mr. SHEPPARD.

Mr. DAVIDSON with Mr. LEE.

Mr. MORRELL with Mr. SULLIVAN of New York.

Mr. WELBORN with Mr. GUDGER.

Mr. HITT with Mr. LEGARE.

Mr. BURKE of South Dakota with Mr. DAVEY of Louisiana.

Mr. SCHNEEBELI with Mr. PATTERSON of Tennessee.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. DOVENER with Mr. SPARKMAN.

Mr. HASKINS with Mr. LEVER.

Mr. MCGAVIN with Mr. SMITH of Maryland.

Mr. DRISCOLL with Mr. RANSDELL of Louisiana.

Mr. OTJEN with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. WATSON with Mr. SHERLEY.

Mr. NEVIN with Mr. FIELD.

Mr. LILLEY of Pennsylvania with Mr. GILBERT of Kentucky.

Mr. SOUTHARD with Mr. PATTERSON of South Carolina.

The result of the vote was announced as above recorded.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18750—the naval appropriation bill—with Mr. CRUMPACKER in the chair.

Mr. FORDNEY. Mr. Chairman, I ask unanimous consent that my colleague from Michigan [Mr. LOUD] have sufficient time in which to conclude his remarks.

The CHAIRMAN. The gentleman from Michigan [Mr. LOUD] is entitled to the floor in support of his motion to amend. His colleague from Michigan [Mr. FORDNEY] asks unanimous consent that he may be permitted to conclude his remarks in support of his amendment.

Mr. WILLIAMS. To conclude his remarks in the RECORD?

The CHAIRMAN. Upon the floor. Is there objection?

There was no objection.

Mr. FOSS. Mr. Chairman, I call for the reading of the amendment, in order that it may be recalled to the minds of the members of the committee.

The CHAIRMAN. The amendment will again be reported.

The amendment was again read.

Mr. LOUD. Mr. Chairman and gentlemen of the committee, I want to say at the outset that I yield to no one in my love for the American Navy, for the grand ships from the days of the *Ranger* and the *Bon Homme Richard* down to the days of the *Olympia* and the *Oregon*, and I yield to no one in my admiration for the gallant men of the Navy from the days of John Paul Jones down to our gallant Admiral Dewey.

But it is not of the Navy upon the sea of which I will talk to-day, but the business question of the administration of naval affairs upon land.

I have found in my study of this administration a concrete example of what it means to manufacture material in the Government navy-yards as compared with what it would cost to buy the same material of *equal quality* upon the open market, and this information I desire to present to each one of you, and I hope I may have your careful attention. It was my good fortune at one time, eight years ago, for a brief period to be attached to the United States Navy. But that brief time does not give me title to speak authoritatively as a naval man by any means, but all my life I have been engaged in business dealings with the two subjects which I shall take up. I have in my business shared in the ownership of twenty or thirty vessels, at the present time three, one of them the largest steel lumber carrier upon the Great Lakes, carrying twelve hundred thousand feet of lumber at a cargo. I only mention this that I may indicate I am not without some practical knowledge of the subject I shall take up, and that subject is the manufacture in the Boston Navy-Yard of anchors, chains, and cordage. The basis of my information will be found on page 7 of the Report of the Chief of the Bureau of Equipment for 1905 and hearing 49 of Rear-Admiral Manney before the Naval Committee.

The total amount of chain iron and billets rolled amounted to 2,991,600 pounds, costing $140,108.16.

The following table indicates the total output of the plant during the year, together with the cost thereof:

	Weight.	Cost.
	Pounds.	
¼-inch chain cable	2,628	$632.78
⅜-inch chain cable	2,887	792.01
½-inch chain cable	8,715	1,670.06
⅝-inch chain cable	4,400	249.03
¾-inch chain cable	44,208	6,569.84
1-inch chain cable	12,206	1,318.88
1¼-inch chain cable	17,973	311.91
1⅜-inch chain cable	7,900	1,254.00
1½-inch chain cable	14,029	1,707.51
1⅝-inch chain cable	33,950	4,378.24
1¾-inch chain cable	157,760	17,560.95
2-inch chain cable	227,148	22,004.43
2⅛-inch chain cable	30,200	3,624.00
2¼-inch chain cable	11,816	1,119.20
2⅜-inch chain cable	878,733	94,560.87
2½-inch chain cable	1,011,941	133,241.55
2¾-inch chain cable	218,422	20,805.90
Hang chains	8,994	842.97
Rudder chains	4,802	557.72
Boat chains	811	210.24
Grapnels	268	37.54
Chain hooks	106	7.50
Anchors	605,483	81,564.12
Shackles	39,656	10,971.50
Shank painters and ring stoppers	3,308	768.04
Dip rope	90	28.46
Clear hawse	356	49.37
Chain stoppers	2,088	1,277.72
Swivels	7,460	2,424.47
Club links and bending shackles	35,026	8,193.23
Club links and connecting shackles	31	12.67
Shackle pins and keys	71	8.03
Anchor balls	1,400	77.79
Anchor stock	1,405	166.46
Pelican hooks	368	173.95
Devil's claws	7,307	2,595.51
Sea-anchor thimbles	185	74.15
Sea-anchor rings	206	90.30
Sea-anchor links	31	5.28
Chain slings	2,332	324.86
Miscellaneous	496	124.15
Total	3,408,022	422,772.59

The following table shows the amount of cordage invoiced during the year:

	Weight.	Cost.
	Pounds.	
Manila rope	1,697,341	$265,536.72
Wire rope	327,347	36,292.41
Hemp rope	163,536	23,858.49
Marline	48,505	6,930.75
Cod line	22,968	4,400.33
Boltrope	137,571	21,481.89
Ratline	78,072	11,459.06
Spun yarn	38,093	4,917.29
House line	22,905	3,060.81
Cotton line	12,555	3,630.10

	Weight.	Cost.
	Pounds.	
Signal halliards	15,640	$6,012.76
Hemp seizing	27,538	4,435.68
Wire seizing	14,003	1,648.82
Round line	13,763	1,758.02
Lead lines	3,321	1,081.62
Distance line	2,221	843.98
Long line	2,403	675.58
Sounding wire	1,099	236.94
Fishing line	1,858	692.98
Match rope	333	116.11
Lighting conductor wire	233	54.69
Phosphor bronze rope	237	134.94
Copper wire rope	754	173.52
Total	2,632,298	399,433.49

I take, first, the subject of anchors manufactured during last year, and I find in the last item at the bottom of page 7 the output was 605,483 pounds, costing $81,564.12, or 13½ cents a pound. Please keep that figure in mind. Thirteen and one-half cents per pound by that report. On page 418 of the hearings you will find the cost of anchors of private make, according to a statement of Admiral Manney, as 5½ cents for anchors under 1,000 pounds, and 6 to 8½ cents for anchors over 1,000 pounds.

I have further information on this subject from the Department of Commerce and Labor, Light-House Establishment, who paid for forged fluke anchors 5¾ to 6 cents per pound; also that forged stockless anchors cost 6 cents a pound. The Newport News Shipbuilding Company, in a letter of March 9, state:

With regard to anchors, I beg to say that while the price varies with market conditions, from 7 to 7½ cents per pound would be a fair average to figure for forged anchors.

From a letter of the Treasury Department Revenue-Cutter Service, dated March 15, I am advised that they have paid from 4¾ to 6½ cents per pound for forged anchors.

I find that one of the largest shipbuilding companies in the United States, who lately constructed ships for the Light-House Service, furnished forged anchors weighing 11,925 pounds, costing $4.98 per hundred pounds, or practically 5 cents per pound, while the cost of anchors made by the Navy Department, shown by report of Bureau of Equipment, is 13½ cents per pound.

I find that Admiral Manney, on page 418 in the hearing No. 49, gives the cost of an 8,000-pound anchor of the factory at Boston at $17.65 a hundred; one of 14,500 pounds at $15.39 per hundred, which makes the relative cost in these instances 5 cents furnished the Government light-house boats as against 16 cents for the Government navy manufacture. As forged anchors have become nearly obsolete, because of steel stockless anchors being used instead, I have not very much data on the subject of forged anchors. The cost of steel anchors is shown to be about 4 cents a pound.

Mr. McNARY. I desire to ask the gentleman a question.

Mr. LOUD. I yield to the gentleman for a question.

Mr. McNARY. I would like to ask the gentleman whether anchors made by forging at Boston Navy-Yard would not cost a great deal more than the cast anchors made by private companies, and if the difference between the cost of the forged anchor and the cast anchor is because of the difference of the cost of the material and the method of manufacture from being forged and the other cast?

Mr. LOUD. I have not touched upon the subject of cast anchors at all, but only forged anchors, and I have made no comparison. I shall talk from first to last upon the subject of forged anchors alone. But if you touch upon the subject of cast anchors, I will only say that the *Minnesota*, which is the largest ship upon the Pacific, is furnished with cast anchors, and those cast anchors cost $3.65 a hundred, and the gentleman can have that as a comparison.

Mr. McNARY. The gentleman well knows that merchant ships do not have to anchor at sea in open roadsteads as the Government vessels have. The gentleman understands that very well.

Mr. LOUD. I can not understand what you say.

Mr. McNARY. Let me say that the gentleman understands very well the anchors used by merchant vessels differ materially from anchors for Government vessels, as the Government ships have to anchor in open roadsteads, while merchant ships go to a wharf. The men-of-war not only have to anchor in open roadsteads, but under conditions of warfare may be compelled to anchor at sea.

Mr. LOUD. I furnished the gentleman the price paid by the Government for anchors for the Revenue-Cutter Service and the Light-House Service.

Mr. McNARY. And the gentleman also gave the figure for the anchors of the *Minnesota*, which is a merchant vessel.

Mr. LOUD. That is a small part of the subject, so that I will pass on to the subject of cable chains. In the first item of the table given at the bottom of page 7 of the report of the Bureau of Equipment, I find that half-inch chain cable, 2,628 pounds, cost $632.78, showing a cost per pound of 24 cents; five-eighths-inch cable, 2,887 pounds, costing $793.01, showing a cost per pound of 27½ cents, the highest market quotation of these sizes running from the common chain, $3.60 per hundred, to the highest grade, $8.40 per 100 pounds, for half-inch chain; and in this connection I will say that the purchasing department of the isthmian canal, on April 28, purchased three-eighths-inch straight short-link iron chain at $3.94 per hundred pounds, delivered on the dock at Colon. The whole amount involved in the business of making these one-half and five-eighths inch chains is so small it is of little importance; nevertheless it shows the expense of Government manufacture to be abnormally large; that is, the cost at the Government factory being three times the market price of private-made chain of the very highest quality. I will add to the above information that the market price quoted is for best special handmade dredge chain——

Mr. GAINES of Tennessee. Right there I want to ask the gentleman a question for information. How much was the price of this product before the Government began to make it in the navy-yards?

Mr. LOUD. I do not know anything about that.

Mr. GROSVENOR. It has not fallen any.

Mr. YOUNG. The Government making it at the navy-yards certainly did not reduce the price to one-third of the cost at the Government navy-yards.

Mr. LOUD. The market price of best special dredge handmade chain is $8.40 per 100 pounds for half-inch and $7.40 for five-eighths-inch.

Mr. McNARY. I should like to ask the gentleman whether Admiral Manney has not stated to his committee that the Government chain is much superior to the chain made by private contractors—stronger and much superior? I should like to have the gentleman answer that question.

Mr. LOUD. If the gentleman will read it from the hearing, I will accept his reading.

Mr. McNARY. All right. I will read as regards wire rope first.

Mr. LOUD. I am not on the subject of wire rope, and I will not yield for that.

Mr. McNARY. All right. We will come right down to the question of chain:

Mr. LOUDENSLAGER. Now, you say that the contract work is not as good as that done in the yard?

Admiral MANNEY. Contract work that we have had done from the Lebanon Chain Works has shown up upon test to have the strength necessary to pass it. The method of welding the links is inferior to that employed at the yard. The yard uses the end weld; in the large commercial chains purchased the side weld is employed. This is objectionable, as the two sides of the link are then not symmetrical in strength. The part of the link which has been oftenest heated and pounded has not the same texture as the other part.

Mr. LOUDENSLAGER. Does your test show inferiority in the manufacture of chains?

Admiral MANNEY. The breaks show where the weakest part is, and the links having the end weld have been found the stronger.

Mr. LOUDENSLAGER. Will they not weld them at the end if you demand it?

Admiral MANNEY. No; they state that they can not. It would increase the cost.

Mr. LOUD. Admitting that Admiral Manney has so stated, we can not blame him for that, because it was his own factory of which he was speaking; and against that we have the evidence of all the consumers of chain in the United States, for dredges or great cranes, where the best chain is wanted. They find no difficulty, for the most severe service, in buying chain for any particular service that may be required. And I will say further that no comparison has been made. It is merely the statement of an interested witness in the matter.

Mr. GAINES of Tennessee. Is Admiral Manney interested in the manufacture of chain?

Mr. LOUD. The manufacture I am speaking of is carried on in a Government navy-yard under his supervision.

Mr. GAINES of Tennessee. Oh, well, he is simply an officer in charge of the work. I hope the gentleman does not mean to reflect upon the Admiral by making that statement. It is hard to believe that he does.

Mr. LOUD. I can not yield for anything more on that subject. Now, taking up the subject of the heavy anchor chains or cables——

Mr. ROBERTS. Will the gentleman yield for a question?

Mr. LOUD. I do not care to yield any further.

Mr. ROBERTS. I want to ask the gentleman——

Mr. LOUD. I do not yield any further at this time.

The CHAIRMAN. The gentleman from Michigan declines to yield.

Mr. LOUD. In the letter dated March 3, 1906, written me by the Industrial Works, Bay City, Mich., makers of the largest and highest grade locomotive and railroad wrecking cranes, on which only the choicest quality of chain is used, they say:

As to chains: The best quality, however, of handmade dredge chain is worth, in sizes from 1 to 1¼ inches diameter, 7½ cents per pound f. o. b. factory.

Taking up the subject of heavy anchor chains and cables, the same table, at the bottom of page 7, shows that—

1 3/16-inch costs 16 cents per pound.
1¼-inch costs 12⅛ cents per pound.
1⅜-inch costs 12½ cents per pound.
1⅝-inch costs 11⅛ cents per pound.

Or an average of 13 cents per pound. Keep that figure in your minds, gentlemen; 13 cents a pound for these sizes of chains made in the Government factories. A letter from one of the largest shipbuilding companies in the United States, for building ocean steamships, shows the cost of chain furnished in these sizes varies from $3.32 to $4.15 per hundred pounds. As to cables 2 inches and larger, referring to the table at the bottom of page 7, we find the following items of output and cost, to which I have added the cost per pound derived from the figures that are there given:

Noticing that these figures vary from 9½ cents per pound for 2⅞-inch to 13½ cents for 2⅝-inch cables, without apparent reason for the wide divergence in cost, I have put the figures together in these six items:

Size.	Output.	Cost.	Average cost per pound.
	Pounds.		
2 inches	227,148	$22,004.43	$0.0966
2 1/16 inches	30,200	3,624.00	.1200
2¼ inches	11,816	1,119.20	.1000
2½ inches	878,733	94,560.87	.1075
2⅝ inches	1,011,941	133,241.50	.1320
2¾ inches	218,422	20,805.90	.0950
Total	2,378,260	275,355.90	.1158

We therefore find that the average cost of all the cable manufactured, 2-inch and upward, was $11.58 per 100 pounds, the largest item being 2⅝-inch cable, shown above to have cost $13.20 per 100 pounds.

While Admiral Manney, in hearing No. 49, for comparison between Government cost and contract price paid to private manufacturers, has stated that the Government cost was 9½ cents, or $9.50 per 100 pounds, I believe that we must hold that the cost of this item is not to be considered as the average Government cost, but we must take the average cost of $11.58 per 100 pounds; or if we wish to be more particular, we must take jointly the last two items of 2⅝ inches and 2¾ inches in above table, which, if so considered, would make the average price of these two items $12.50 per 100 pounds.

While this indicates the cost of the output of the Government shops, it is not the actual or full cost. The first, second, and tenth items in table at bottom of page 5, Report of Bureau of Equipment, viz:

Office and store labor, handling coal, shipments, annual leave, etc	$103,428.82
Repairs and additions and maintenance of machinery plant	56,157.33
Miscellaneous articles	53,262.09
Total	212,848.24

This amount, $212,848.24, together with other items not given, must be spread to a more or less extent over the seven items of output shown in that table to give the real cost.

If spread evenly or pro rata, this increases by 12½ per cent or more the cost shown in tables on page 7. By adding 12½ per cent to $12.50 we have $14 per 100 pounds, or 14 cents per pound, the actual cost of the 2⅝-inch and 2¾-inch cable made in the Government shop.

From evidence given in the hearing we find the largest size battleship cables—2⅞ inch—have been made by contract by private firms—9¼ cents per pound for cables made by the Lebanon Chain Works and 8⅞ cents per pound for cables contracted for, but not delivered, by the Monongahela Iron and Steel Works.

I wish to state here that upon careful consideration of the subject it is my belief that all of the battle-ship cables desired of this specification, any size, can be purchased by contract at from 6 cents to 7 cents per pound under the same specification as to strength or breaking strain as now required, but eliminating the absurd and impossible chemical specification, especially as to sulphur content, which has the effect of ruling out competition and forcing the Government to pay a needlessly high price.

As to anchor cables larger than 2 inches, I can give you the following information: One of the largest ocean shipbuilding firms in the United States advises me that they pay $4.15 per 100 pounds for 2½-inch anchor cables, $4.30 per 100 pounds for 2¼ inch, and $3.85 per 100 pounds for 2 1/16 inch.

Large freighters on the Great Lakes, last built, for 2⅛-inch tested stud-link cable chains paid $3.30 per 100 pounds.

I am advised by Cramp & Sons Shipbuilding Company that the 2⅝-inch anchor cables furnished by them to the Russian cruiser *Retvizan*, British admiralty test, was $4.50 per 100 pounds, while the 2⅛-inch cable furnished the cruiser *Variag*, British admiralty test, was $3.70 per 100 pounds.

The Pacific Mail Steamship Company, in their letter of March 23, advise me that they pay for 1⅞-inch stud-link tested cable chain $4.50 per 100 pounds, f. o. b. Philadelphia, for steamship *Costa Rica;* also 1⅜-inch and 1¼-inch tested stud-link cable chain for steamship *City of Para* and steamship *Barracouta,* both at $3.60 per 100 pounds, delivered in New York; also 1⅞-inch tested stud-link cable chain for steamship *Acapulco* at $3.74 per 100 pounds, delivered in New York.

In a letter from the Upson-Walton Company, of Cleveland, Ohio, which I believe is the largest ship chandlery firm on the Great Lakes, we find the following paragraph relating to chains:

"We do not sell the chains for the new steamers that are fitting out on the Lakes, the margin being so close on these goods that the manufacturers sell them direct. Our cost price is the same, we are told, as the price charged the shipyards, and on the regular grade of chain, such as is used by these parties, the cost up to 2 inches to-day is $3.56 per 100 pounds, freight allowed to Cleveland from factory, and on the best quality of dredge chain the cost on the same sizes is $4.75 per 100 pounds, this being, however, a much finer quality of chain than is used on the Lakes."

From the American Ship Building Company, of Cleveland, Ohio, I have the following:

MARCH 17, 1906.

Hon. GEORGE A. LOUD, M. C.,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to your letter of the 14th instant, you of course know that we do comparatively nothing in the line of Government work here on the Lakes, and I am not therefore able to give you any idea as to the cost of chain cable made to Government specifications. It is my opinion, however, that your estimate of 6 cents ought not to be far out of the way.

We have purchased during the past five years somewhere between 2,000 and 3,000 tons (100 carloads) of stud link chain cable for use in merchant work, and an average price during that period would be a fraction under your estimate of 4 cents.

Hoping this will give you the information you desire, I am,
Yours, respectfully,

N. S. THRASHER,
Purchasing Agent.

It is perfectly understood by me that these cables for merchant service, costing from $3.30 to $4.30 per 100 pounds, are not up to the specifications of the United States Navy, and are not given for comparison, but are given to show that all vessels outside of the United States Navy are equipped with cables costing less than 5 cents per pound in size 2⅝ inches and under, this being the largest size brought to my notice, with the exception of the four steamers on the Pacific, the *Minnesota, Dakota, Manchuria,* and *Mongolia.*

The cables on the *Minnesota* and *Dakota* are 3 3/16 inches in diameter, and the price paid for them was $5.43 per 100 pounds delivered at New London, Conn.

Quoting from a letter of the Eastern Shipbuilding Company, under date of March 21, we find the following:

"You are right in assuming that the price which we paid for those chains was high, but you must realize that these were very difficult chains to make, the weight of each link being as much as one man could handle. Smaller size chain, of course cost very much less, as you note from my previous letter that the 1⅞-inch chain cost $3.75 per 100 pounds (this size chain being large enough for most ships built in this country). I wish to impress upon you, however, that Lloyd's inspection greatly increases the cost of the chain, as their test is very severe, involving much handling of same, cutting out of links, etc."

There was doubt expressed by Admiral Manney before the committee (see hearing No. 49) as to these cables being inspected. The cost of Lloyd's inspection adds one-half cent per pound to all chains so inspected. (Lebanon Chain Works, January 12.)

As to these particular chains being inspected, we find by letter from the Eastern Shipbuilding Company, under date of March 17, the following:

"These chain cables are 3 3/16 inch in diameter; they were the largest ever manufactured at that time, and it was deemed of great importance that same should have very careful inspection; therefore these chains were inspected by Lloyd's local inspector at the chain works by Lloyd's principal surveyor in this country, and again by Lloyd's surveyor after same had arrived at the works of the Eastern Shipbuilding Company."

The chain cables were manufactured by Lebanon Chain Works and the steel anchors were made by Seaboard Steel Casting Company. The 3 3/16-inch chain cost $5.43 per 100 pounds; the 1⅞-inch chain cost $3.75 per 100 pounds, and the anchors cost $3.65 per 100 pounds.

In conclusion, I wish to state that the S. S. *Minnesota* and *Dakota* were built under the rules of Lloyd's Register of Shipping, and all machinery, appliances, etc., pertaining to these ships were also classed by Lloyd's (who were very rigid in their inspection), and all received the highest certificates of classification issued by said society.

Of course you know that Lloyd's is a British Society. Owners find it necessary, owing to insurance of both ship and cargo, to have Lloyd's classification.

As to the cost of the cables furnished by the builders of the *Manchuria* and *Mongolia,* we find the size to be 3⅛ inches and price paid $5.36 per 100 pounds.

I am advised by the manufacturers of these cables that the same ratio of strength and breaking strain was given to these cables as is required for the 2⅞-inch Government battle-ship cables.

From all this data we find that the very best anchor cables supplied to any ship built in the United States outside of the United States Navy cost $5.45 per 100 pounds, the same being tested to the same breaking strain as required by the United States Navy, and as compared with this cost it has cost the Government $13 to $14 per 100 pounds for the same quality of cable.

It is presumable that the reply or explanation of why the Government cables cost so much more than cables made by private firms is that the material costs so much more. While in a small measure this is true, the difference in cost of material being about 2 cents per pound, sustaining this phase of the question, I find in a letter of April 20, from the Bureau of Equipment, the statement that the last three contracts made during the last two years with the Monongahela Iron and Steel Company covered 2,800 tons, at $87.36 per ton, showing that this company have sold to the Boston yard this amount of material, costing $244,608, the price per pound being $4.37 per 100 pounds.

Permit me to state my belief that this excessive price is solely due to the needless specification in the chemical analysis of the material, principally relating to sulphur content.

The specification that iron shall not contain more than one hundredth of 1 per cent sulphur rules out practically, and I believe effectively, all competition, giving this company an absolute monopoly and enabling them to maintain an unreasonably high price for their iron.

I am sustained in this opinion by the following letter from the chemist at the United States Navy-Yard:

UNITED STATES NAVY-YARD,
Washington, D. C., March 16, 1906.

Hon. GEORGE A. LOUD, M. C.,
House of Representatives, United States.

SIR: It gives me great pleasure to be able to comply with your request in letter of the 14th instant, received last night.

Samples of chain iron from Lebanon Chain Works, marked and reported as stated below, showed the following composition:

	July 21, 1904.		Aug. 9, 1904.	
	No. 1.	No. 2.	No. 3.	No. 4.
	Per cent.	*Per cent.*	*Per cent.*	*Per cent.*
Carbon	a 0.010	a 0.010	0.0196	0.019
Silicon	.150	.140	.1410	.131
Sulphur	.019	.018	.0200	.022
Phosphorus	.061	.062	.0550	.059
Manganese	.070	.075	.0820	.060

a Below.

While these results do not exactly agree with the specifications, it is my opinion that the iron is of very good quality. It is also my opinion that even for the best iron makers it will be a somewhat difficult proposition to always keep within the requirements of the specifications. A deviation, such as above results show, should, in my opinion, not be cause for rejection.

Trusting that this will answer your inquiry, and always ready to furnish any information which I possess and you should desire, I am,

Very respectfully, yours,

JOS. WESTISSON,
Chemist, N. G. F.

Permit me to call your attention further to the fact shown in your statement sent to me by the Bureau of Supplies and Accounts of bar iron purchased in the last two years, that out of all the contracts made by the Department, involving over 50 tons in any contract, that out of the eleven contracts so shown, eight of the contracts were made with this same firm, covering $120,133.13, while only three contracts in two years were given to other firms, the three contracts amounting to $15,261.45, or combining these two statements, we find that, in all, this company has furnished iron to the amount of $364,741.13, as against contracts to all other parties amounting to $15,261.45; and I am sure you will find on careful and candid investigation that this fact is solely due to the unnecessary chemical specification.

Cordage.—As to the subject of rope manufactured in the Government factory, we find that the amount of manila rope invoiced during the year (see first item, second table, page 7, Report Bureau of Equipment) was 1,697,341 pounds, costing $265,536.72, or 15⅝ cents per pound, to which 12½ per cent, at least, incidental and omitted expenses should be added.

In a letter from Mr. D. W. Ross, general purchasing officer of the Isthmian Canal Commission, under date of April 27, I note that they have paid for ordinary manila rope, 180 coils, from 10½ cents to 11 cents per pound delivered on dock at Colon. This, I understand, would not be up to the grade of best rope made in the ropewalk at the Boston yard; but I find an item in the same letter of 216,000 feet manila bolt rope, tallow laid, long fiber, smooth and hard finish, at 10¾ cents to 12¾ cents per pound delivered on dock at Colon.

As the price herein given includes not only the fixed charges incident to all manufacture, viz, cost of plant, deterioration, renewals, insurance, taxes, interest, and profits, but also delivery from the manufactory to Colon as well, and when we further consider that in figuring the cost of rope made by the Government that clerical work, work of the Pay Department, and other similar items will be found omitted in the make-up of cost, and further consider that in the item of rope the cost of material is large and the cost of labor should be relatively small, all point to the conclusion that the cost of the Government manufacture is very excessive, in fact, unreasonably so.

Now, to consider the results of this investigation. The output of material in question at Boston yard is as follows:

Anchor and chain shops, 3,408,022 pounds	$422,772.59
Add 12½ per cent for omitted material and expenses	52,846.57
Total	475,619.16
Cordage invoiced, 2,632,298 pounds	399,433.94
Add 12½ per cent for omitted material and expenses	49,929.24
Total	449,363.18

If bought in open market, quality being equal, there should be a saving of—

Anchor, chains, etc., 50 per cent	$237,809.58
Cordage, 20 per cent	89,872.63
Total	327,682.21

The foregoing sums up the facts and my estimates so far as I can at this time give them, and proceeding now to your question, what I would advise being done under such conditions as are shown, my answer would be that I would surely close one or the other or both of these manufactories as an object lesson to the other manufactories maintained by the Navy Department that the cost of the product must be kept within reasonable bounds.

[Applause.]

It is my opinion that while the hours worked under the Government are less per day than in private manufactories, and that it is universally conceded that labor is not as effective under Government management as in private institutions, nevertheless the elimination from the cost of Government output of the fixed charges heretofore mentioned, viz: cost of plant, deterioration, renewals, insurance, interest, taxes, and profits should make the conditions not far from even, and with such allowance and consideration of conditions it should not cost the Government any more to manufacture such material as we have in question than it would to buy in the open market, and if the cost can not be brought approximately equal the Government should cease to manufacture the material and buy in the open market.

I am, very sincerely, yours,

——— ———.

[Applause.]

Now, I want to say that while this may be worth looking at, and while I have mentioned the high, excessive cost, it was not my purpose in putting this material together simply to point to what it might mean in that one manufactory. What I have brought this together for is the concrete example of what it means to manufactured goods in Government institutions. I have taken this, which is, perhaps, a small item, but it appealed to me as something I knew something about. I know something about cordage; I know something about chains, as I have used them all my life in my business, and I know that I can buy in the open market the chain and the anchor and material of that kind and equal quality at one-half of what they cost in Government manufacture. Cordage can be bought at 20 per cent reduction. But this is immaterial as compared to what it might be in the great items used in the construction of these battle ships. The anchors and cables are a mere bagatelle, and while I invite your attention to this particular item I want to say that if we had business administration in the securing of supplies and the building of our ships and repairs on the ships we could save each year the cost of a battle ship to the Navy if the Department would run upon the closest business principles. And I want to say, while I honor the officer in the American Navy—a man of honor, honesty, and highest integrity—he has been educated for life upon the sea and for the handling of boats and fighting our country's battles and not to conduct business institutions.

You would not for a moment, if you wanted an officer for a battle ship, go up to the Bethlehem Steel Works and take the superintendent and put him on that ship. Then why should you take an officer of the Navy, who is trained in the academy for life upon the sea, out of that business and put him in charge of a manufacturing institution of which he absolutely knows nothing? [Applause.] I fear I have worried the committee, but I have made the fullest statement that I can upon this subject, and I sincerely hope, gentlemen, that you will permit my amendment to this bill to carry. [Applause.]

Mr. GRAHAM. Mr. Chairman, can I interrogate the gentleman?

The CHAIRMAN. Does the gentleman from Michigan yield to the gentleman from Pennsylvania?

Mr. LOUD. I do.

Mr. GRAHAM. Do I understand the gentleman to say that this will be a saving to the Government of over $100,000 if this amendment of his is adopted?

Mr. LOUD. Better than that, sir; far better; and this is but a little item, only the small ones, saving, as my estimate shows, $327,682.21, but when compared with the greater expenditures with which the Navy deals, this trifling matter of anchors, chains, and cordage is insignificant.

Mr. FITZGERALD. Will the gentleman allow me to ask him a question?

Mr. LOUD. Certainly.

Mr. FITZGERALD. I understood the gentleman to say toward the close of his remarks that it was universally conceded that the work of the mechanics in the navy-yards was not as efficient as that in the private yards.

Mr. LOUD. Do you dispute that?

Mr. FITZGERALD. I just wanted to get at what the gentleman said. If I understood him correctly, I understood him that the mechanics in the navy-yards are not as efficient as the mechanics in private yards.

Mr. LOUD. Generally speaking.

Mr. FITZGERALD. I will ask the gentleman if he has read the report of the Department of Commerce and Labor, made in response to the direction of the House, in which they report that the mechanics in the navy-yard now employed in building the battle ship being built in the Brooklyn yard turned out per man per hour 25.48 per cent more than the men building the battle ship at the Newport News shipbuilding yard?

Mr. LOUD. I did not read that. What first drew my attention to this subject was a visit that I made in my own time and at my own expense, visiting the navy-yards at New York, Boston, and at Portsmouth; and in that visit I went through the chain and anchor factory in the Boston Navy-Yard and saw the men wasting their time. I never saw men wasting their time as I saw them in that factory, and that was what drew my attention to that matter. I wanted to see the figures that resulted from it, and so in the next year, 1904, I found they gave some figures which gave the pound product and the cost of manufacture. I simply divided the amount and I found the cost of the

output of anchor and chain shops costing 14⅜ cents per pound, on an average—double what it should be—and that indicated what I had seen myself, that the labor was being wasted in that factory.

Mr. FITZGERALD. I would say to the gentleman that the Department of Commerce and Labor made the very same kind of a test between the Newport News Shipbuilding Company and the navy-yard at New York, and they report that the output of the men in the navy-yard per man per hour was 25.48 per cent more than the output in the Newport News yard.

Mr. LOUD. Figures sometimes lie. I would say to the gentleman that I have had for several years as many as 1,500 laboring men under me, and I yield to no one my judgment as to personally determining or estimating whether a laborer or body of laborers are doing reasonable or effective work or not.

Mr. FITZGERALD. I will call the attention of the gentleman to the fact that the mechanics in the navy-yard work eight hours a day and the mechanics in the Newport News Shipbuilding Company work nine hours a day, and, as a matter of fact, the private yard has been compelled to work their men overtime in order to keep up with the men in the navy-yards.

Mr. LOUD. I will tell you that they may work the men twelve and one-half and a great deal more to enable them to make an equal showing.

Mr. FITZGERALD. I will say to the gentleman that this investigation was conducted by a Department of the Government that had no interest except to get the facts, and I believe we are entitled to rely on the Administration.

Mr. LOUD. I have not prepared myself upon that Department, and if you desire to take that up, you can do so in a speech of your own.

Mr. FITZGERALD. I did not want the statement to go unchallenged that it was universally conceded that there was such a difference in the work in the different plants.

Mr. OLMSTED. I will ask the gentleman if, in the estimate of 14 cents as the cost of chains to the Government in the Government yards, he has included anything for interest on the plant and for depreciation of the plant?

Mr. LOUD. I have not, or for renewals of the machinery and taxes and insurance, profits, and other things which go into every business institution.

Mr. OLMSTED. If they were added, it would make the cost still greater?

Mr. LOUD. Certainly, by that amount. [Loud applause.]

Mr. ROBERTS. Mr. Chairman, as this is quite an important matter, and I am satisfied that I can not answer the argument of the gentleman from Michigan within the five minutes allowed me under the rule, I ask the indulgence of the committee that I may be permitted to conclude my remarks.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that he may continue his remarks until he shall have concluded them.

Mr. VREELAND. I should like to inquire how much time the gentleman will need. It seems to me we should have some definite time fixed. We wish to give all the time that is necessary.

Mr. ROBERTS. I can not tell how long, because I have no written speech and can not tell therefore how long it will take me to say what I have in mind to say.

Mr. VREELAND. I suggest to the gentleman that he ask for some definite amount of time, and if that is not sufficient then he can ask that the time be extended.

Mr. ROBERTS. I ask that I be allowed as much time as the gentleman from Michigan [Mr. LOUD] occupied.

Mr. WILLIAMS. The gentleman ought to be allowed as much time as the gentleman from Michigan had.

Mr. GAINES of Tennessee. The gentleman from Massachusetts is about to speak in reply to what seems to have been a well-prepared speech on the other side. It is a very important subject, and we should let him go ahead. We have more time than anything else. [Laughter.]

Mr. GOLDFOGLE. I ask unanimous consent that the same time that was allotted to the gentleman from Michigan [Mr. LOUD] be given to the gentleman from Massachusetts [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I will state that I have put a limit on my request. It is that I be allowed the same amount of time as that occupied by the gentleman from Michigan. If I can conclude sooner, I assure the gentleman from New York I will gladly do it.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts that he be permitted to continue for the same length of time as the gentleman from Michigan who spoke in favor of the amendment?

There was no objection.

Mr. ROBERTS. Mr. Chairman, at the outset I desire to say that I was very much interested in the argument of the gentleman from Michigan [Mr. LOUD]. While the matter has been gone over quite minutely in the committee, yet he has extended it considerably, and I was forcibly impressed by one statement made by him early in the course of his remarks. He told us that Admiral Manney, who was Chief of the Bureau of Equipment of the Navy Department at the time he was before the Naval Committee and made his statement, was an interested witness, and for that reason we should not give the statements of Admiral Manney the same amount of credence that we would give to those of a disinterested witness. That struck me as a very remarkable statement, that Admiral Manney, a man of the highest honor and integrity and efficiency, who was about to retire from the Navy by reason of age, was an interested witness before a great committee of this House. I hardly think many of the Members here will take that statement seriously or that they will attribute ulterior and sinister motives and purposes to the testimony of Admiral Manney. But when we come to the question of interest, the gentleman from Michigan [Mr. LOUD] at great length gives this committee information that he has obtained, from whom? From people in this country engaged in the manufacture of articles which they would like to supply to the Navy Department.

Now, on the question of the interest of the witnesses on both sides of this question, I leave it to the Members of this House whether the private manufacturers, who want to supply these hundreds of thousands of dollars' worth of material to the Navy Department, are disinterested in their statements.

Mr. HILL of Connecticut. I should like to ask the gentleman a question for my own information on the question of interest. My understanding is that there is a great shortage of officers for sea duty in the Navy. Will the gentleman kindly, in the course of his remarks—not necessarily right now, but before he concludes—inform the House about how many commissioned naval officers there are in the various navy-yards of the United States, technically on shore duty, but actually engaged in manufacturing operations for the various departments of the Navy?

Mr. ROBERTS. Mr. Chairman, I am not able to give the gentleman the information as to how many.

Mr. HILL of Connecticut. About how many?

Mr. ROBERTS. I am not even able to tell about how many of these officers are stationed in navy-yards; but I want to say to the gentleman that if these officers were not in the navy-yards superintending the manufacture of these things used by the Navy Department they would be at the private plants of the private manufacturers inspecting those articles made outside of the navy-yards. [Applause.]

Mr. HILL of Connecticut. At the expense of the Government.

Mr. ROBERTS. So there would be nothing saved in that. All articles manufactured in any quantity in private establishments are manufactured under the immediate inspection and supervision of naval officers, taken from sea duty for that purpose.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. ROBERTS. I will.

Mr. FITZGERALD. Are the constructors of the Navy educated to go to sea?

Mr. ROBERTS. They are not educated to go to sea; they are educated to remain on shore.

Mr. HILL of Connecticut. Is it not a fact that last year one officer of the Government supervised and attended to the inspection of all three of the large manufacturing concerns for the Government? And that, of course, would have been impossible if they had been in charge of the actual process of manufacturing. I am asking these questions for information, for I know nothing about it.

Mr. ROBERTS. That may be; if there had been enough inspectors there would have been one in charge of each establishment, if the output had been sufficient to warrant it. But, Mr. Chairman, this is entirely aside from the subject we have under discussion.

Mr. LOUD. Will the gentleman yield for a question?

Mr. ROBERTS. The gentleman from Michigan declined to yield to me, but I will gladly yield to him. I would like to say that if these interruptions are to come out of my time I wish gentlemen would be brief and not occupy too much time.

Mr. LOUD. I want to say that I made no allusion or insinuation against the honesty or integrity of Admiral Manney, for I believe him to be far above anything of that sort. I do think, however, that his information was not correct when he says that the cost of a battle ship's cable, two and three quarters,

was 9½ cents, and the next size, only one-eighth of an inch difference, cost 13⅛ cents a pound.

Mr. ROBERTS. Oh, I did not yield to the gentleman to continue his speech. I thought he wanted to ask me a question and not continue the remarks he began some time ago. I did not say that the gentleman imputed to Admiral Manney the full force and effect of his words. I do not think he realized the full force and effect of them, but if my ears did not deceive me he made a flat-footed statement that Admiral Manney was an interested witness.

Mr. GARDNER of Michigan. Will the gentleman from Massachusetts yield?

Mr. ROBERTS. Yes.

Mr. GARDNER of Michigan. The gentleman from Massachusetts left the impression on my mind that the private contractors were interested parties in a sinister way; that is, that they would have one set of books to sell by and another to bid by.

Mr. ROBERTS. Oh, no. I said in opposition to what was said by the gentleman from Michigan that if there was interest anywhere in the statements made on either side of the question it was just as likely, and more probable, that the private manufacturers had a greater interest in securing these Government contracts than had the head of one of the great bureaus in having the work done at the navy-yard. There was no sinister motive, no willful and deliberate misstatement of facts, perhaps, but the whole trend and tenor of the letters and communications was to create in the minds of Members of Congress the idea that the Government was paying more for articles than these same articles could be obtained for in the commercial walks of life, and that the Government should go out among the private manufacturers and purchase these articles.

Mr. GARDNER of Michigan. I am glad to have the gentleman from Massachusetts correct the impression on my mind and, I fear, the impression that was made on others, that the private contractors were not honest in their statements.

Mr. ROBERTS. I did not want to convey the idea that they are dishonest in those statements, but I still insist that, in my judgment, these private manufacturers are interested witnesses, and they put as favorable a phase on their statements as the facts will warrant.

Mr. GAINES of Tennessee. Will the gentleman yield?

Mr. ROBERTS. I will yield to the gentleman.

Mr. GAINES of Tennessee. Has not Admiral Manney been recently retired?

Mr. ROBERTS. I was about to finish that statement.

Mr. GAINES of Tennessee. Has he not shown himself a hero on several particular occasions?

Mr. ROBERTS. Oh, the record of Admiral Manney is one of the finest. I want to say to the members of the committee that since Admiral Manney appeared before the House Committee on Naval Affairs and gave his testimony in regard to the operations of this Bureau he has been retired for age, and we now have another gentleman at the head of the Bureau.

Mr. LOUD. Will the gentleman yield again?

Mr. ROBERTS. I will.

Mr. LOUD. Did not the gentleman notice that the letters I quoted from were nearly all of them from those who bought chains, from those who are consumers and not sellers?

Mr. ROBERTS. No; I did not notice that they were all from consumers. I noticed that some of them were from manufacturers, and unquestionably many of those consumers represented the manufacturers.

Mr. LOUD. Not a single manufacturer; they were all consumers.

Mr. McNARY. Will the gentleman from Massachusetts yield?

Mr. ROBERTS. I will; for a question.

Mr. McNARY. In reference to the question asked by the gentleman from Connecticut in regard to the detail of men for the navy-yard, I would like to ask the gentleman whether it is not a fact that the English navy, which is the superior navy of the world, not only manufactures these things specified here, but ships, powder, shot, guns, and everything else under the inspection of a naval official? And is it not regarded as the proper thing for the naval officers to be instructed in the highest possible way, to the highest point of perfection, and to oversee the manufacture of these articles in the Government yard?

Mr. ROBERTS. I so understand that, Mr. Chairman. I understand it is the policy of the English Government to keep a considerable proportion of its new construction under construction in its own navy-yards, and to make nearly everything that it requires for its military equipment in those yards under the immediate supervision of its own officers; and I want to say on that point, although it is somewhat of a digression, that our own Navy Department has insisted before the Committee on Naval Affairs time and again, even in the short time in which I have been a member, that it is absolutely necessary for the proper equipping of an officer to discharge his duties afloat on the ships that he understand fully all the details of the manufacture of everything that goes into the make-up of that ship when he goes on her decks, and that is one of the strong reasons why the Navy Department has always insisted that the education of a Navy officer would not be complete if he were kept at sea all the time and were not allowed to have information and understand how all the different things that enter into the make-up of a battle ship are constructed.

Mr. GROSVENOR. Mr. Chairman, upon the showing made here, is it not a rather expensive tuition?

Mr. ROBERTS. Oh, I am coming to that point, of the showing made here. I was just going to take that point up when the gentleman brought it to my attention.

Mr. GROSVENOR. Will the gentleman allow me? The gentleman does not wish to make any statements that are not correct.

Mr. ROBERTS. Oh, certainly not.

Mr. GROSVENOR. I am told by authority that I think is unquestionable that substantially all the chain made for the British navy is being made by private contractors.

Mr. ROBERTS. I take the gentleman's statement for it. I did not mean to say that in that particular instance the English Government made its own chains. I think they make a large proportion, but, generally speaking, the English Government manufactures much more extensively in its yards than does our Government.

Now, in regard to the cost of these articles that have been under discussion, the gentleman from Michigan, as near as I could follow his remarks, took as his basis the figures given him by the Chief of the Bureau of Equipment, being the cost per pound, and then to get at the true cost he says we must figure in the cost of the plant and the cost of the machinery and all those items, and in that way he built up the cost of the Government-made anchor chains, anchors, and cordage, and so on, away beyond the figures given us by Admiral Manney. Has the gentleman thought of and have the members of this committee for a moment considered this aspect, that if you buy all of these things from private manufacturers you must still add to the cost you pay to the private manufacturer substantially all the items named by the gentleman from Michigan [Mr. LOUD] because we have the money invested in the plants? There is the interest item, and we have got to keep the plants up whether we use them or not. That is a cost to the Government. It is just as much a cost to the Government if we buy the product outside as it is a cost to the Government if they are manufactured in those shops, so that that item goes into the question of cost whether the Government manufactures or does not manufacture. There is no escaping that conclusion. That argument of the gentleman makes a bad showing for the Department on this item of cost, but there are certain fixed, standing items of expense, if you are going to reckon them into the cost price, that must go on whether the plants are open or closed up.

There is another feature of the gentleman's statement to which I wish to call attention. I asked the gentleman a question, not to interrupt the flow of his speech or to disarrange the train of his ideas, but for information. He was telling us about the comparative cost of the half-inch and the three-quarter-inch chains. Now, it is my understanding, and if I am wrong I hope the gentleman will correct me, that these half-inch, three-quarter-inch, and all small-sized chains that are bought in the open market are machine-made chains.

Mr. LOUD. No; the gentleman is entirely wrong.

Mr. ROBERTS. Then the gentleman's comparison was of hand-made chains?

Mr. LOUD. Entirely so.

Mr. ROBERTS. Then I am wrong in respect to that; but the figures given us and the statements made by Admiral Manney are that they do not get the same quality of chain in the open market that they make in the Government yards. There is no question about that. Then when the gentleman came to take up the larger sized chains, he spoke of the breaking strain, the standard established by the Government. I do not think he went into that quite sufficiently to give the committee full information about it. It has been the policy of the Navy Department to make all of these cable chains in its own shops, but, owing to the rapid increase in the number of ships and the great demand for these cables, Admiral Manney told us that a year or so ago the Department found itself short some 11 miles of this cable, and it was impossible with the facilities at hand to catch up; so the Department was compelled to go out into the open market and try to get a chain there that was

the equal of the chain they were making, and what was the result? Why, Admiral Manney told us that time and time again in his testimony. They could not find a manufacturer in the United States that was making a cable chain in the manner in which it was being made in the navy-yard. Why? All the outside manufacturers were making what is called the "side weld." When they lapped the iron over to make a link, the weld came on the side, and when the strain comes on the ends, that side-welded link is weaker than the end weld, because when the end weld is made you carry into effect substantially what is known in marine parlance as the "sister-hook idea."

The two ends of the link are lapped in this fashion [illustrating], so that the strain comes on both parts, and there is no possibility of pulling the link open; but with the side weld that possibility always exists.

Mr. LOUD. Do you not know that the last six battle-ship cables, which are being made by the Monongahela Iron and Steel Company, are all side weld?

Mr. ROBERTS. I understand they are all side weld——

Mr. LOUD. I meant to say end weld.

Mr. ROBERTS. And the Admiral stated they have succeeded in getting one concern in the country to undertake the making of the end weld, but none of that chain has been delivered yet, and we do not know whether it is going to be a satisfactory chain or not. It has not been tested. Now, to go a little bit further in regard to this heavy cable chain. Admiral Manney tells us that the quality of the iron put into the commercial cable is not as high as that of the Government chain. It is not as good; it is a softer iron; and it will wear faster than the Government-made chain; it will rust out faster than the Government-made chain, and those two things are an important factor in the life of the cable.

Mr. LOUD. Will the gentleman yield?

Mr. ROBERTS. Yes.

Mr. LOUD. Are you not aware all the cables used in the English navy are side weld?

Mr. ROBERTS. Mr. Chairman, I do not know whether they are side weld, and I do not care whether they are side weld or not. The Navy Department of this country after full investigation has, with the idea of safeguarding the millions of dollars that are floating in the battle ships and the hundreds of lives there, established a standard superior to the commercial chains or the chains of the English navy, and I do not believe—while the whole tenor of the gentleman's argument was to a lowering of the standard of the United States Navy for its supplies—in it. I believe in keeping that standard just where it is, the very best of any country in the world.

Mr. LOUD. So do I.

Mr. ROBERTS. But your whole argument was on that line.

Mr. LOUD. Not at all.

Mr. ROBERTS. Your argument was to buy this cheap commercial stuff, because you could get it for less money. Now I am coming to another phase of the gentleman's argument. He spoke about cables that have been furnished for some of these big steamers on the Pacific coast—3¼ inches; I will not be exact, but the links are much larger than any cable we use in the Navy. Admiral Manney went into that feature in his hearing and he says that the cable 3¼ inches, if that is the size—it was over 3 inches—in his judgment, is not as strong as the 2¾-inch cable we are making in our own navy-yards. That is not the whole measure of the undesirability of the commercial cable. The weight of it is a very important factor in battle ships. Admiral Manney says:

> There are other points about the chain cables. The Boston chain, as I said, is of the highest-grade iron; it is better iron than is put in commercial chains. Much of the latter is unsuitable. Such chains are unduly heavy and liable to accident. The cables of the Pacific liners of which I spoke are, I believe, the largest ever made in this country—3 7/16 inches; cost, $0.543 per pound. There is no machine in the United States that can test that cable for strength if it is of the best cable iron. It is safe to say that it has never been tested. These chains would not meet the Navy Department specifications. The increase of weight above that of the largest navy cable is for two cables 34,000 pounds (17 tons), which would have to be paid for at whatever the price per pound might be.

Mr. LOUD. Will the gentleman permit me to interrupt him there?

Mr. ROBERTS. If the gentleman will permit me to read the paragraph I will.

> Such weight is objectionable in a battle ship, because, as she carries from three to four cables, the unnecessary weight would bar out from 25½ to 34 tons of armor, ammunition, or coal.

There is an item that has got to be considered in the equipment of a battle ship. Are you going to get a cheap commercial cable because it is cheap?

Mr. LOUD. Will the gentleman yield at that point?

Mr. ROBERTS. Go ahead.

Mr. LOUD. If your battle ship is twice as large as the battle ships you are using now, will you have a larger chain? These western steamers I am talking about are double the size of the battle ships we are using.

Mr. ROBERTS. When we increase the size of our battle ships, we may increase the size of the chains. That is a matter for the technical authorities of the Navy to determine, but all the evidence we have before us to-day is that the largest cable we are now making is strong enough or heavy enough for any of the battle ships that we now have, and it will be a technical error to put onto those battle ships commercial chain weighing, as I have shown you here, something like 34,000 pounds more than that which we now have, because you have got to take out just that much weight in something else—your armament, your ammunition, your supplies, your coal, or whatever it may be.

Mr. LOUD. May I suggest to the gentleman that these ships for which these chains were intended are double the size and that the battle ships now must have larger chains?

Mr. ROBERTS. That is no argument, it strikes me, in regard to this proposition—not the slightest. We are considering the efficiency of the chain. The gentleman stated not long ago in the course of his argument, if I gathered the full effect of it, that we can go into the market and buy all of the things that had been under discussion—our rope, our cable, and our anchors—much cheaper than we can make them. I want the committee to consider for just a moment what the possible, and I leave it to your judgment, if it is not the probable, effect of his amendment would be, should it pass. He has provided that no part of said sum shall be expended in the manufacture in any Government navy-yard of any article that can be obtained in the open market at less than the cost of manufacture in said navy-yard. What does that mean? Taking the idea, as I gather it, it fixes the cost of certain articles to that of manufacture in a Government yard. Does anybody believe for a moment that a private manufacturer is going to furnish the Government something that it wants and must have at a less price than the Government sets on that article? The whole effect of the gentleman's amendment, should it become law, would be to raise the price to the Government of all these supplies in the open market and could have no other effect. I notice that the gentleman from Ohio [Mr. GROSVENOR] smiles at that remark.

Mr. GROSVENOR. If the gentleman will allow me, I smile for this reason: I never heard before that creating competition increased prices.

Mr. ROBERTS. I am very glad the gentleman brought that up, because it shows his unfamiliarity with the whole subject. [Laughter.] The gentleman from Michigan [Mr. LOUD] has provided in this amendment that the open market govern the purchase and the price. I do not know, but I presume the gentleman from Michigan knows—I do not know that he does, however—that in the Navy Department "open market" has a peculiar significance. Open-market purchases in the Navy Department mean purchase without competition. It means that the proper officer goes into the market and buys wherever he sees fit, without any bid, proposal, or without any competition whatever, and that is one of the effects of the motion of the gentleman from Michigan [Mr. LOUD].

Mr. GROSVENOR. The word "open" is not in the amendment.

Mr. ROBERTS. I had the amendment right from the desk there, and the word "open" is in it, if the gentleman will pardon me.

Mr. GROSVENOR. It says in the "free" market.

Mr. ROBERTS. Oh, but the amendment as written up there at the desk is the one that we are considering—not something that appears in the RECORD. What we have before the House is the written amendment presented by the gentleman from Michigan. But I am willing to take that construction. What does a "free" market mean but an "open" market? How can you construe it as anything but that you are authorizing the Navy Department to go into a free market and purchase?

Mr. GROSVENOR. He has a free market to-day; and if he wanted to buy a hundred head of horses, would he be compelled to go and find the horses, or would he advertise for competition?

Mr. ROBERTS. The gentleman from Michigan [Mr. LOUD] earlier in this debate found fault with the procedure of the Navy Department in purchasing the material from which chains and ropes and anchors were manufactured, because he said the Department favored certain manufacturers.

They now get open and free competition as to materials to be furnished by his amendment which was accepted. Now, is there any reason why there will not be the same condition of affairs if the Department goes into the open market? They

know what an open market means up there. They want an open market, opened as broadly as possible, so that they will not be hampered by asking for bids, proposals, specifications, and all the rigamarole and red tape of making Government contracts as now exist.

Mr. KELIHER. Will my colleague allow me to ask how long, in his opinion, he thinks it would be, if the Government were to go into the open market and buy from concerns with a capacity to furnish the Government, before there would be a combination to fix prices and that they would soar up as in other cases—notably, for instance, in the matter of powder, that we discovered when the Army bill was up for consideration?

Mr. ROBERTS. I thank my colleague for bringing that matter to my attention. It was one that I proposed to refer to in the course of my remarks. That is one of the probable and almost inevitable results of the adoption of this amendment. If you by this amendment fix the price of the manufacture, and it will be fixed at the cost of the manufacture in the Government navy-yards, inevitably, as business is conducted throughout the country, it would produce not a trust, perhaps, not a combination, but a "gentleman's agreement," possibly, as to the prices that should be charged the Government for what it wants.

Mr. KNOWLAND. Will the gentleman allow me to ask him a question?

Mr. ROBERTS. Yes, sir.

Mr. KNOWLAND. You are a member of the Naval Committee, are you not?

Mr. ROBERTS. Yes, sir.

Mr. KNOWLAND. This matter was fully discussed by the Committee on Naval Affairs, was it not?

Mr. ROBERTS. I will state to the gentleman that the cost of production was thoroughly gone into before the committee—thoroughly discussed—but there was no motion made in the committee to prevent the Government from manufacturing in its own yards any of these articles, and this proposition as it appears on the floor was not discussed in the committee.

Mr. KNOWLAND. In other words, the matter of the cost of chain was thoroughly gone into in the committee, and the committee saw fit to make no recommendation after a full hearing.

Mr. ROBERTS. Oh, yes; as I have read from Admiral Manney's hearing, and as other gentlemen will later read, you will see that nearly every possible phase was carefully and extensively and exhaustively gone into. On the matter of these chains, particularly the heavy cables, Admiral Manney went into minutiæ. He says the chains made in the commercial world are not finished as well as the chains made in the Government yards. They are rough, and all that. They are of rough workmanship, and they will wear fast as they go in and out of the hawser holes. They are not as carefully made as the chains made in the navy-yards. And the life of a commercial chain, taking everything else, quality and breaking strain, and all that—the life of the chain would not be as great as the life of a navy-made chain.

Mr. KNOWLAND. What I wanted to get at is, that the committee has had the matter before them, and after hearing the testimony of Admiral Manney and discussing the matter among themselves, they did not see fit to change existing conditions.

Mr. ROBERTS. The gentleman has the correct idea of it. The committee considered all of these different things, and nobody made any motion to do anything different from what we have been doing all along. The committee did not consider there was any necessity for making any change; so that this matter, as it appears on the floor, is entirely new to the members of the committee as a committee.

Just one other thing that possibly I did not go into as exhaustively as I might, and that is the breaking strain of these chains. I will refer to it a little. Admiral Manney told the committee that in order to get the private manufacturers to make these cables at all the Government had to lower its standard, and, among other things, the breaking strain. Now, he says in regard to that—the breaking strain of the cable—the cable would just come within that limit; but he says the breaking strain of the navy-yard cable is much greater than the commercial-made cable. There is an item or element in that proposition that perhaps members of this committee should consider. While the private-made article may just barely get by the Government requirement, do you want to take it when you have a Government-made article that far exceeds the requirement? I think any reasonable man would take the superior article every time.

Mr. GAINES of Tennessee. Will the gentleman please inform the committee what paraphernalia is made at our Government yards that is now in question here? Give us the items, so that we will know what we are dealing with.

Mr. ROBERTS. That is another phase of the gentleman's amendment. As I understood him when he began he was aiming at the manufacture of cordage, both hemp and wire, and chains, cables, and anchors; but the amendment as he now has it is broadened out away beyond those limits, so that you can not manufacture anything under the Bureau of Equipment in any navy-yard in this country if that same article can be purchased outside for less money.

Now, what do we manufacture under equipment in the navy-yards? In the Boston yard we manufacture cordage, both hemp and wire, and cables and anchors, and that is the only place where we do manufacture them; but we have sail lofts in all the navy-yards, where the sails and the hammocks and all those things that are needed by the men in the Navy are manufactured. That is done in all the navy-yards of the country. Then in the New York yard we have a clothing manufactory, where they make the uniforms for the enlisted men. That would come within the sweeping prohibition of this clause. And there are many things. I can not recall at the moment all the things that are manufactured under the Bureau of Equipment in the different yards.

Mr. GAINES of Tennessee. This motion covers any article that is necessary to be used.

Mr. ROBERTS. That is exactly the idea I am trying to convey. This amendment started out as a blow at the Boston Navy-Yard, but it has been extended so it is a blow at every navy-yard in the country where there is any equipment manufacturing going on.

Mr. GAINES of Tennessee. Now, will the gentleman tell us what the price of the particular matter here in question was before the Government began to make it in the navy-yards?

Mr. ROBERTS. Oh, Mr. Chairman, I can not give the gentleman that information, because I have not gone into that detail of it. I should think the gentleman from Michigan [Mr. LOUD] might possibly inform the gentleman from Tennessee on that.

Mr. GAINES of Tennessee. I asked him, and he could not tell. I think it is a very important proposition.

Mr. ROBERTS. There is one great trouble in all the comparisons made by the gentleman from Michigan, and that is in the absolute difference in the premises. You might just as well try to compare a bluebird with a crow. They are both birds, but there the points of similarity end. So it is with these things manufactured for the Government by the Bureau of Equipment. They are chains and anchors and wire rope and hemp rope and those things, having the same names as similar articles manufactured outside, but those manufactured in the Navy Department are superior in every respect to anything they can get outside. The testimony has not been disputed that when the Government went outside to get that heavy cable, of which it could not manufacture enough to keep up with the needs of the service, the Government had to lower its standards—had to accept an inferior article—in order to get any that would come anywhere near meeting the requirements of the situation. And so, Mr. Chairman, it seems to me that one fact ought to be conclusive on this question.

But here is another phase of the situation that I would like to present to the committee and then I will close. If this amendment becomes a law and operates as the gentleman thinks it will, it will have only one effect, and that is to close up the Government factories manufacturing these different things. When those factories are closed up, then the Government loses its only means of keeping down the price of these articles. It loses its only means of protecting itself from extortionate prices. What will be the inevitable result? The manufacturers will put up their prices and they will keep putting up those prices, because the Government must have these things, and when that price goes up to the point where the Government can manufacture, then, under this law, the Government could rehabilitate its plant and could reach out into the industrial world and possibly get back the force of skilled men it had been employing and start again to manufacture these articles; but when it did that private enterprise would immediately drop the price of the article a trifle below the cost of the manufacture by the Government, and the Government would have to go out of business again, and so you would have that seesaw eternally and nothing conclusive. The Government would be paying as much and, I think, in the end, more than it pays now, because Admiral Manney told us repeatedly that, considering the quality, the Navy Department manufactures more cheaply than private manufacturers. And quality is the one thing we should keep our eye on when we are fitting out these great battle ships.

We want the best possible material that can be had; we do not want anything inferior, no matter if the people will give it to us, because in the end it is false economy. The few dollars

that might be saved by buying commercial articles, articles upon which the safety of millions of dollars depend, would be the poorest kind of economy if, through weakness or defect in that inferior article, a costly battle ship was lost with hundreds of lives. It would be the poorest kind of economy.

Another feature of this case also: They tell us about the size of cables used by commercial vessels. Now, it is well understood by those familiar with naval affairs, and I think it must be apparent to anybody whether he knows anything about the sea or not, that a naval vessel hoists and lowers its anchors twenty-five times where the commercial ship drops an anchor once. And then the naval vessel is sailing the sea in all waters of the world, anchoring, as she must do, on all kinds of bottoms. She must have the very best appliances to insure the safety of the ship.

Now, Mr. Chairman and gentleman, I have gone into this matter and have taken more time than I intended, but the Chief of the Bureau of Experiment, and, if I were permitted to quote, the Assistant Secretary of the Navy are opposed to any amendment of this sort, and it seems to me an unwise thing for this House to lower, deliberately lower, the standard of the materials to be used in our Navy, as will be done with such an amendment.

Mr. GOULDEN. Will the gentleman yield for a question?

Mr. ROBERTS. Certainly.

Mr. GOULDEN. The gentleman speaks of the Navy Department being obliged to lower the standard of various goods manufactured of this character for use in building and equipping ships in order to secure them from the outside manufacturer. Does that account for the fact that the Government itself keeps up this high standard and for the fact of the difference in cost as shown by the gentleman from Michigan [Mr. LOUD]?

Mr. ROBERTS. I will state that that accounts in part for the increase in cost. I am glad the gentleman from New York brought this up.

Mr. GOULDEN. There is quite a noticeable difference in the cost, as shown by the figures of the gentleman from Michigan, and I wanted to satisfy myself whether the lowering of the standard by the Department to the open shops brought about the difference of price mentioned by the gentleman.

Mr. ROBERTS. I want to show the gentleman just how much the lowering of the standard lowered the cost to the Government. Admiral Manney testified that the large cable now being made cost 9½ cents per pound. By lowering the standard and allowing a private concern to make a side weld instead of an end weld they saved one-quarter of a cent a pound. That was all of the saving to the Government by abandoning its standard, and the only reason it abandoned the standard was because of the great demand for cable and the inadequate facilities of the Government to make all it needed. They were not able to manufacture all they wanted. So you can see that when the Government for these reasons is compelled to go outside it will get an inferior article, and it is going to cost almost identically what the Government now pays for a superior article. It is a business proposition for each man to settle whether that is economy, whether that is a part of wisdom to drop the standard because you save a fraction of a cent a pound.

Mr. RIXEY. Will the gentleman yield?

Mr. ROBERTS. I will.

Mr. RIXEY. I would like to ask the gentleman this question. We are both on the Committee on Naval Affairs. I want to ask him if he concedes the contention of the gentleman from Michigan, that the chains which are made by the Boston Navy-Yard can be purchased any cheaper in the open market?

Mr. ROBERTS. Mr. Chairman, I do not concede that for a moment. I did not even hear the gentleman from Michigan [Mr. LOUD] make the statement that chains of the same quality as those made in the navy-yard at Boston can be purchased outside at any price. What the gentleman from Michigan did say was that cables of this diameter could be purchased in the open market at a less price than it cost us to make it, but he very carefully refrained from saying that it was cable just as good as that which was made at the navy-yard.

Mr. RIXEY. Is not the only fair comparison a comparison as to quality and whether they can come up to the specifications required by the Navy Department?

Mr. ROBERTS. Most assuredly, and that has been my attempt, throughout my argument, to demonstrate that we should keep up the quality. We should insist on the very highest standard and we should maintain that standard, and the cost over and above what the article could be bought for in the market is infinitesimal.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. I have listened with a great deal of pleasure to the debate on this question. This thought has occurred to me, and I think possibly the suggestion has been made heretofore, when we had up the question of the Government powder factory in the Fifty-fifth and Fifty-sixth Congresses. In April, 1900, Secretary Long reported to Congress that he needed—I think this is the substance of his report—more competition and better powder—smokeless powder. Congress at once made an appropriation to build a powder factory, and later on Secretary Long reports to Congress in these words:

> The powder factory at Indianhead is progressing favorably. It is neither expected nor desired to enter into competition at this work with private manufacturers, except as to *quality*.

"Quality" in hardware is the very point that has been here to-day accentuated, particularly by the gentleman from Massachusetts [Mr. ROBERTS], and that *regardless of the cost price* we are getting *exactly* what the Government needs in its Navy Department and a better "quality" than we can get from any private concern, and if I understood the gentleman from Massachusets correctly he said a few moments ago we are getting at the navy-yard an article that we can not get at private sale at all.

Mr. ROBERTS. That is the fact exactly.

Mr. GAINES of Tennessee. So it will be seen that we are not only getting a better quality of article which is indispensable, but we are getting an article that we could not get at all under private contract.

Mr. LILLEY of Connecticut. Oh, we are getting just the same article.

Mr. GAINES of Tennessee. The gentleman from Massachusetts disagrees with the gentleman from Connecticut.

Mr. LILLEY of Connecticut. I can not help it if he does. That is his privilege.

Mr. GAINES of Tennessee. Now, I stand by my friend from Massachusetts, because I asked him the question and he answered it. I do not want to disagree with the gentleman from Connecticut. I want to say this, as Secretary Long says about the question of powder, that we will, as he did, get a better *quality* if the Government makes it. Then there is another proposition. Suppose we have to pay a little more, if the Government makes it, and you can get the same article on the outside.

Mr. LILLEY of Connecticut. But this amendment has nothing to do with powder, has it?

Mr. GAINES of Tennessee. Oh, I am using that by way of analogy to show you exactly what has been done with powder. The principle is the same. We did not get the quality of powder we desired, and we did not get the amount and the price was exorbitant, because of a lack of "sufficient competition," as Secretary Long said about powder. This is why we put up that powder factory, and we need to enlarge it now. Suppose you were to close down making any public machinery in any of our Government factories of any kind, does the gentleman not know that the private factories would rise up and fleece the people and the Government?

Mr. LILLEY of Connecticut. No; I do not.

Mr. GAINES of Tennessee. Oh yes; that is the experience of the United States before.

Mr. LILLEY of Connecticut. Oh, there is a large number of factories that make chains.

Mr. GAINES of Tennessee. Yes, and about all are in a trust. They not only make chains, but they have got chains around the hands and the feet of the American people, including Uncle Sam. There is nothing but seed and air now which is not in a trust.

Mr. OLMSTED. Mr. Chairman, I would like to say to the gentleman from Tennessee that the Lebanon Chain Works, which makes these chains, is in my district and that it is not in a trust, but is opposed to every trust, and is doing an exceedingly good business.

Mr. GAINES of Tennessee. Then I hope my friend will vote for free alcohol, and then we will preserve that factory until Gabriel blows his trumpet. [Laughter.] I congratulate the country that there is something in the gentleman's State that is not in a trust. But my point is this, that if we stop making these articles we make in our Government factories—pistols, guns, powder, harness, military clothes, brass buttons, and the various things that we make—common sense would say that the manufacturers would put up the price on the Government of the United States as well as upon the people. Now, I think it is the height of wisdom—it is good common sense, it is a business proposition—that we continue to make a part of these articles and all others in Government factories.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. It is said that the manufacturers of the country are prospering as never before in the history of the world, but Uncle Sam is not, because we have had a deficit in the Treasury for about eighteen months. I would like to know who is nearer the pauper row, the manufacturers of the country or the Treasury of the United States? Isn't it our duty to keep up a healthy competition? And certainly we are doing it now. The Navy is hurting no one. Admiral Manney, a man of integrity, a man of splendid record, now retired, totally disinterested, having nothing privately on earth to do with this, has stated that we are getting exactly the article that we want, as I remember the testimony, and that we are getting an article that at the time he wanted it was not made by private citizens at all.

Now, let me go a step further. Admiral O'Neil—I am reading from one of my speeches, where I quoted from Admiral O'Neil (Secretary's Report, 1897, p. 295)—who then said:

> The Bureau is of opinion that, for national and economic reasons, the Department should own and operate a smokeless-powder factory, at which it could produce a part of the powder required for the naval service, and an item has been inserted in the annual estimates for this purpose. The property known as Bellevue Magazine, on the Potomac, just below Washington, would be an excellent site, and it is conveniently reached by water and by railroad, and it is but two hours' distance from the naval proving ground. The present price of the smokeless powder procured by purchase is very high, and the Bureau believes it can produce it in larger quantities at a greatly reduced price.

And if I understood the statement of the gentleman from Virginia [Mr. RIXEY], we are now doing that. Going on, he states:

> The success of the Bureau with its gun factory encourages it to believe that it would do equally well in the manufacture of other munitions of war.

President Lincoln recommended Government factories. We not only get a better quality, but get exactly what we want; and we have competition, we have it right now, and are about to stifle it by this change. Why, the proposition the gentleman [Mr. LOUD] makes shows that we have competition now; let us continue it; not that the Government wants to go into the manufacture of anything to sell it to its people, but to supply public wants—take care of itself.

Mr. LILLEY of Connecticut. Do I understand the gentleman to assert that there is no fair competition now in the Government supplies, such as steel and iron?

Mr. GAINES of Tennessee. Why, I do not think so.

Mr. LILLEY of Connecticut. You do not think there is fair competition?

Mr. GAINES of Tennessee. Oh, well, I mean between manufacturers as such. Between the Government, in making these articles, and steel concerns there is competition.

Mr. LILLEY of Connecticut. There are some bids, if you will let me read them.

Mr. GAINES of Tennessee. Anything to enlighten the subject.

Mr. LILLEY of Connecticut. And they run from two and three hundredths of a cent per pound up to 5½ cents. There are eight companies that bid on those, and if the gentleman will allow me I will read. The Bethlehem Steel Company's bid was 2.75.

Mr. ROBERTS. What is the gentleman talking about?

Mr. LILLEY of Connecticut. Bar steel: Berry & Aikens Company, 2.60; Carpenter Steel Company, 3.20; Crucible Steel Company, 2.20; J. B. Kendal, 2.03; they were the lowest bidders; Midvale Company, 5.50; Sanson & Roland, 3.16.

Mr. ROBERTS. To whom were these bids submitted?

Mr. LILLEY of Connecticut. To the Navy Department.

Mr. ROBERTS. What is the date of that?

Mr. LILLEY of Connecticut. March 6. There are a large number of other bids, ranging from 1.91 to 3.75. Here are thirteen bidders.

Mr. GAINES of Tennessee. Who are the concerns that are bidding?

Mr. LILLEY of Connecticut. The Bethlehem Company, Berry & Aikens, Carpenter Steel Company, the Carnegie Company, the Crucible Steel Company, I. G. Johnson, J. B. Kendal, the Midvale Company; Manning, Max & Moore; New Jersey Foundry and Machine Company; Edward A. Temple; Woodward, Wite & Co.

Mr. GAINES of Tennessee. Now, will the gentleman tell the House how many of these concerns are controlled by one great big trust?

Mr. LILLEY of Connecticut. With such prices it would be utterly——

Mr. GAINES of Tennessee. I understand you have named companies all over the country; but is there not a main company in control of the whole business by having directors in all the subsidiary companies?

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GAINES of Tennessee. Let me have three minutes more. I have not finished what I have to say, and my friends have interrupted me so much.

Mr. LILLEY of Connecticut. The bids would hardly vary.

Mr. GAINES of Tennessee. Wait a minute. Let me finish up. The gentleman can get five minutes. The gentleman from Connecticut [Mr. LILLEY], I dare say——

Mr. LILLEY of Connecticut. I just wanted to show you there was plenty of competition, and that there was no agreement as to prices.

Mr. GAINES of Tennessee. The gentleman from Connecticut, I dare say, will not be able to tell this House that all the companies whose bids he has read there are not controlled by one company.

Mr. LILLEY of Connecticut. The very figures show that they are not.

Mr. GAINES of Tennessee. I say that the Federal steel concern—I believe that is what it is called—or the steel trust, controls from 60 to 80 per cent of the output of steel in the United States.

Mr. BURTON of Delaware. What difference does it make to the Government, if the Government buys it cheaply, if they are all owned by one man? Here is a wide range of difference in the bids.

Mr. GAINES of Tennessee. If we did not keep up this factory, my dear sir, past history has shown, and my judgment compels me to believe, that these private companies would raise the price. Foreign governments, in the building of their war machinery, give part of the work to the private concerns and part of the work to the public, or government, factories. In that way they maintain and run both. So that if the private factories were to burn down, or if they were to be sold to the enemy, we would have Government factories, with lamps trimmed and burning, making paraphernalia not only in time of peace, but they would be in perfect condition in time of war. Now, all the great nations of the world give part of the work to private factories for the purpose of maintaining them, which is right and proper, and give the other part to the government factories for the purpose of keeping them in running order and serving the government in time of both war and peace. I investigated that matter in the Fifty-fifth and Fifty-sixth Congresses. I wrote letters to the representatives of foreign governments here, and that is the substance of the letters which they wrote back to me and which I published in the RECORD. Hence I shall oppose the proposition of the gentleman from Michigan. Suppose the Government gets all the articles we want from private concerns; that would close up the Government factories and stop their machinery. We would lose our best artisans, our fine labor, everything would be thrown into chaos, and inside of six months you would see the prices of all these articles, if we are to judge the future by the past, raised to exorbitant, oppressive, and monopolistic prices.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GROSVENOR. Mr. Chairman, this amendment stands in the RECORD as offered by myself. I think I ought to say to the committee that I was not the author of the amendment. It was drawn by the gentleman from Pennsylvania [Mr. OLMSTED], and I undertook to offer it in the name of and in behalf of my friend from Michigan [Mr. LOUD].

But that makes no difference in the merits of the case. I have no navy-yard in my district, and hence I am a distinterested witness. I have no doubt if I had one that I should be as zealous to upbuild the number of employees as the gentleman from Massachusetts [Mr. ROBERTS] seems to be. And I do not blame him for that. The gentleman from Tennessee [Mr. GAINES], however, has no navy-yard. He has been drawn into the toils of discussion here by the gentleman representing our navy-yards, and I want to remind him that he has got no navy-yard in his district——

Mr. GAINES of Tennessee. Hence I am partial to recognizing Uncle Sam.

Mr. GROSVENOR (continuing). And has a great lot of labor that ought not to be driven out of the greatest industries in the country by any act of Congress. The matter is not of importance to the gentleman from Tennessee [Mr. GAINES].

Now, I have listened with great interest to the remarks of the gentleman from Massachusetts [Mr. ROBERTS], and I am satisfied that the amendment which I nominally offered is not

in the form it ought to be, and the suggestions have come to me from the gentleman from Massachusetts, in his address, and I concede that upon two points, probably, there is wisdom in his suggestion, and I am glad to testify to it; and, at the proper time, I will offer two amendments to the amendment, the first one to follow the word "article," in the second line, as it is printed in the RECORD. And I want to remind my friend from Massachusetts [Mr. ROBERTS] that the word "open," before the word "market," does not appear in the amendment that is pending before the House.

Mr. ROBERTS. Will the gentleman pardon me?

Mr. GROSVENOR. Certainly.

Mr. ROBERTS. The reading clerk read the amendment from the paper he had before him, which contained the words "open market." He showed me the writing, and I read it "open market" just as he did.

Mr. GROSVENOR. It is printed in the RECORD——

Mr. ROBERTS. The gentleman knows that we do not go by what is printed in the RECORD. We go by written papers, that are in the hands of the Clerk, offered from the floor. I have heard the gentleman before get up and correct the RECORD because it was inaccurate.

Mr. GROSVENOR. I never saw the amendment until the gentleman sent it up by page. Now, will the Clerk send me that amendment? Now, is there anybody who will make it say that? You may poll this whole committee and there will be as many say "free" as there will say "open."

Mr. ROBERTS. Whose handwriting is that?

Mr. GROSVENOR. There is no "p" in it. It really does not say anything. It is not a word; it is a sign; but, as it is printed and as it will be voted upon, it is a "free market." But I am going to cure all that trouble, so that gentlemen will be relieved; and I shall offer this amendment to the pending amendment as it appears in the RECORD. After the word "article," in the second line, as it stands printed, I will offer this:

By bids at the solicitation of the Department, or in such other manner as the Department chooses.

Now, then, there is no squeezing out of anybody in that language. That gives the Navy Department the fullest possible opportunity to buy as best they can, either by soliciting bids or by going out and finding the article in any other way.

Mr. ROBERTS. If the gentleman will pardon me.

Mr. GROSVENOR. In the last line of the amendment——

The CHAIRMAN. The time of the gentleman has expired.

Mr. GROSVENOR. I hope the Chair will be a little patient, as I want to get this right.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that his time may be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GROSVENOR. I propose to offer a second amendment, as follows:

Of a standard of quality to be fixed by the Navy Department.

Mr. ROBERTS. Will the gentleman pardon me just a moment?

Mr. GROSVENOR. Oh, yes.

Mr. ROBERTS. I understood the gentleman to say that he was trying to obviate the objection pointed out by me to the use of the words "open market." Am I correct in that?

Mr. GROSVENOR. Oh, no; I do not care anything about that. My attention was called to this defect——

Mr. ROBERTS. I am rather surprised that the gentleman should take up so much time in correcting a defect, if it was one, that had not been pointed out.

Mr. GROSVENOR. I will take a great deal of pains to say to the gentleman, and he may send it home by special telegram if he chooses, that my attention was called to the defect in the amendment drawn by the gentleman from Pennsylvania, and the matter was shown by the learning and eloquence of the distinguished gentleman from Massachusetts.

Mr. ROBERTS. I thank the gentleman. Nobody is better qualified to distinguish those qualities than the gentleman from Ohio.

Mr. GROSVENOR. I can distinguish it, and now express it.

Mr. ROBERTS. The gentleman should not be surprised that I should agree with him.

Mr. GROSVENOR. Now, the amendment which I propose to offer I think gets rid of two objections which I have said I recognize as made by the gentleman from Massachusetts. First, that there may be a construction put upon the words "free market" that would limit the jurisdiction or the operation of the Navy Department in its purchases, and, second, the amendment as proposed is that the Navy Department if it solicits bids or contracts with any contractor for any of the articles shall fix the standard itself that the articles shall come up to. And then we have what? We have the competition of the whole United States in competition with this Bureau of the Navy Department, which is expending such enormous sums of money that, in my judgment, justify Congress in giving some attention to it. Certainly no harm can come to the Navy Department. They shall not be permitted to buy a chain that does not come up to their own standard of fitness; they shall not be compelled to buy an anchor that does not come up to their own standard of fitness, and they shall not be compelled to buy an article that does not correspond with the standard that the Navy itself shall create.

Now, Mr. Chairman, what have we here? We have a suggestion solemnly made, and it is repeated by the gentleman from Tennessee in the very words of the gentleman from Massachusetts, that this great Government of ours has got into the bad shape that we can not manufacture a log chain; that we have not got capacity enough in the United States outside of the Department to make a chain. Did anybody ever hear any such proposition as that? The greatest chains, the biggest chains, the best chains to-day, are not manufactured by the Navy Department. The best chains in use on this continent are the chains made use of by the great ocean-going ships. Is it possible that after all these years of experimentation and experience we find ourselves in this year, when we have brought ourselves to where we are the greatest manufacturing nation on earth, that we are incapable of making a chain? Did anybody ever hear the like of that?

Mr. ROBERTS. Will the gentleman pardon me?

Mr. GROSVENOR (continuing). Or say that we must pay this enormous and extravagant cost.

Mr. ROBERTS. Will the gentleman pardon me a moment?

Mr. GROSVENOR. Certainly.

Mr. ROBERTS. Is there any denial by the gentleman that the Navy Department have only succeeded in the last contract in inducing one firm in this country to make chains on the pattern that the Navy Department want?

Mr. GROSVENOR. Very well, and that, it appears, is a fad of somebody in the Bureau of Construction, and is not commended by the great naval constructors of the world. There is not such a chain made for the use of any navy on earth except ours. In the manufacture of that chain we are as far behind the other nations of the world as we are in a good many other things.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. FITZGERALD. I ask unanimous consent that the time of the gentleman be extended five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Ohio may continue for five minutes. Is there objection?

There was no objection.

Mr. GROSVENOR. I thank the gentleman from New York. I ought to say that the gentleman from New York was perfectly——

Mr. MCNARY. I should like to ask the gentleman a question. He has made a statement——

Mr. GROSVENOR. One moment. I ought to say that the gentleman from New York was perfectly fair in asking me where those amendments go together. If he will wait until I offer the amendment, I will point out to him exactly. Now, if the gentleman from Massachusetts wants to ask me a question, I shall be glad to listen.

Mr. MCNARY. The gentleman from Ohio stated that the cables used on the ocean liners were better than the chains used in the Navy Department.

Mr. GROSVENOR. I have not offered a comparison, but I said something about like that.

Mr. MCNARY. I venture to say that the RECORD will show that the gentleman did use substantially those words, and that that was the purport of his statement to the House.

Mr. GROSVENOR. What are the words that you say I used?

Mr. MCNARY. I desire to call the gentleman's attention to page 393, where Admiral Manney testified——

Mr. GROSVENOR. I have not yielded for that. What are the words that the gentleman says justify his statement? I refer to the words he says I used.

Mr. MCNARY. The gentleman said substantially that the chains made by private manufacturers were the best chains made in the world.

Mr. GROSVENOR. I did say so. Admiral Manney has been heard here repeatedly, and he has given his views about chains. He belongs to the Navy; he is on the retired list; and he would not under any circumstance permit a ship to be built outside

of a navy-yard if he could help it. He would not permit anything to be done outside of a navy-yard if he could help it. There is no doubt about that. I do not impugn his motives; but he is an old gentleman, with prejudices in favor of the arm of the Government that he has been such an ornament to during his long life. I say to-day that the skill of the best workmen in the world has been brought to bear in the construction of the chains that are used at New London, and which were furnished there for the two great ships that were sent out to the Pacific Ocean.

Mr. McNARY. Let me read the statement showing that they never were tested, and are not as good as the navy-yard chains.

Mr. GROSVENOR. I say they are.

Mr. McNARY. Admiral Manney knows more about it than you do.

Mr. GROSVENOR. I know just as much about it as you do, and neither one of us knows a thing in the world about it. [Laughter.]

Mr. McNARY. If I knew so many things that were not so as you do, I would not quote them so frequently.

Mr. GROSVENOR. I will state to the gentleman, before he makes any more mistakes of fact, that we have the certificate of the inspector who inspected the very chains that I was talking about.

Mr. McNARY. Read it.

Mr. GROSVENOR. I will not. I will put it in the RECORD in my speech.

Mr. McNARY. Read it.

Mr. GROSVENOR. And when I put it in the RECORD I hope the gentleman will take back what he has said.

Mr. McNARY. I do not believe you have it there.

Mr. GROSVENOR. I have the word of the gentleman from Michigan [Mr. LOUD]. He may state it for himself.

Mr. McNARY. I do not care anything about that. You said you had it. Read it.

Mr. GROSVENOR. I say we have it. I have read it. It is in the possession of the gentleman from Michigan [Mr. LOUD].

Mr. McNARY. Then read it. When the gentleman makes the statement that he has things in his possession, I think, when demanded, he ought to give them to the committee.

Mr. GROSVENOR. I haven't said that I had it in my possession.

Mr. McNARY. Where is it?

Mr. GROSVENOR. The gentleman from Michigan [Mr. LOUD] has it in his room at the hotel.

Mr. McNARY. Oh, yes!

Mr. GROSVENOR. Does the gentleman say that he has not?

Mr. McNARY. I have not said that he has not.

Mr. GROSVENOR. But the gentleman said that he knew that the chains put on the great ships at New London were not inspected.

Mr. McNARY. Who said so?

Mr. GROSVENOR. The gentleman from Massachusetts said so.

Mr. McNARY. I said that Admiral Manney said so.

Mr. GROSVENOR. Well, I am delighted to hear that the gentleman concedes that Admiral Manney made one mistake. Now, I said that the gentleman from Michigan [Mr. LOUD] has the statement at his room at the hotel.

Mr. McNARY. Now, if the gentleman will permit me, I will read what Admiral Manney said.

Mr. GROSVENOR. I now have in my possession, kindly handed to me by Mr. LOUD, who thought he did not have the statement with him, but which he has happily found among the accumulation of papers on his desk, the statement to which I referred when I denied the accuracy of Admiral Manney's statement and insisted that the chains used by the *Minnesota* and *Dakota* had all been tested by the highest possible test in the world, and it gives me great pleasure, for the benefit of the gentlemen of the committee and because my veracity in that respect was unfortunately challenged by the distinguished gentleman from Massachusetts, to put into the RECORD the letter upon which I have relied for the statement which I made, and which I now challenge contradiction of by any man living. Here it is:

LLOYD'S REGISTER OF SHIPPING,
Philadelphia, March 17, 1906.

GEORGE A. LOUD, M. C., Esq.

DEAR SIR: In reply to your letter of March 14 regarding a statement made by Admiral Manney that the 3⅞-inch cable chain supplied to the steamships *Minnesota* and *Dakota* were not tested, I have pleasure to inform you that this statement is incorrect, as the entire outfit of cables were tested by one of our staff both for breaking and proof tests at the works of the makers, the Lebanon Chain Works, Pennsylvania.

The Lebanon Chain Works, Pennsylvania, have a chain-testing machine capable of testing up to 600,000 pounds, which can deal with chain even of greater dimensions than in this case. I may further state that all vessels built to class with Lloyd's Register of Shipping must and do have their cables and anchors tested as required by the rules.

I have not the slightest objection of you quoting us in this matter.

Very faithfully, yours,

ROBERT HAIG.

The gentleman from Michigan [Mr. LOUD], a member of the Committee on Naval Affairs, is one of the most painstaking and careful Members of this House. He is a man of large experience in kindred business to the Navy. He was connected to some extent with the Navy when Admiral Dewey won his great battle and made his name immortal and stepped into the niche where will stand for all future time the John Paul Joneses, the Decaturs, the Dahlgrens, and other brilliant men of the American Navy side by side with the Nelsons and Togos and scores of others who might be named in the foreign navies. This gentleman [Mr. LOUD] has made an exhaustive study of this matter, and he has made it openly and above board, and he has kindly furnished to me a copy of a letter which he addressed to the Assistant Secretary of the Navy, in which all these defects of administration are shown. Here it is:

Mr. TRUMAN H. NEWBERRY,
Assistant Secretary of the Navy, Washington, D. C.

MY DEAR SIR: A few days ago when I had a personal conference with you relative to the manufacture of naval equipment at the Boston Navy-Yard you requested that I should put my information and views on the subject in writing, which I will now endeavor to do.

The largest items being manufactured at that yard are anchors, chains, wire rope, and cordage. The basis of my information is to be found on page 7, in the Report of the Chief of the Bureau of Equipment for 1905, and hearing No. 49, by Rear-Admiral Manney, before the Naval Committee of Congress, particularly on pages 418, 419, and 420 of said hearing.

Anchors.—Taking up first the subject of anchors manufactured during past year, you will notice the last item at the bottom of page 7, the output at this factory, was 605,483 pounds, costing $81,564.12, or 13½ cents per pound.

On page 418 of hearing No. 49 you will find cost of anchors of private make, according to statement of Admiral Manney, 5½ cents fo ranchors under 1,000 pounds and 6 cents to 8½ cents for anchors over 1,000 pounds.

I have further information on this subject from the Department of Commerce and Labor, Light-House Establishment, who advise me that they have paid for forged fluke anchors 5¾ cents to 6 cents per pound, also for forged stockless anchors 6 cents per pound.

The Newport News Shipbuilding Company, in their letter to me of March 9, state:

"With regard to anchors, I beg to say that while the price varies with market conditions, from 7 cents to 7½ cents per pound would be a fair average figure for forged anchors."

From the letter of the Treasury Department, Revenue-Cutter Service, dated March 15, I am advised that they have paid from 4¾ cents to 6½ cents per pound for forged anchors.

I find that a shipbuilding company which lately constructed light-house boats for the Light-House Service furnished forged anchors therefor weighing 11,925 pounds costing $4.98 per 100 pounds, or practically 5 cents per pound.

You will notice in Exhibit A of the hearing that the cost of 8,000-pound anchors at the factory in the Boston Navy-Yard was $17.65 per 100 pounds, and for 14,500-pound anchors, $15.39 per 100 pounds, which makes the relative cost in this instance of 5 cents for the forged anchors furnished to the Government light-ships, as against about 16 cents Government manufacture.

As forged anchors are now becoming nearly obsolete in the merchant service, cast-steel stockless being used instead, I have no further data on the subject of forged anchors; but, as to the cost of steel anchors, the American Shipbuilding Company on the Lakes are paying 4 cents per pound for cast steel anchors required for large lake freighters, and the Pacific Mail Steamship Company, in their letter to me under date of March 23, state that for 12,500 and 14,000 Baldt stockless anchors they paid 4½ cents per pound f. o. b. Chester, Pa.

The anchors furnished to the steamship *Minnesota* and *Dakota* weighed 16,800 pounds each, and cost $3.65 per 100 pounds.

Chain.—Taking up the second subject of manufacture, chains and anchor cables, in the first item of the table given at the bottom of page 7, Report of the Bureau of Equipment, we find one-half-inch chain cable, 2,628 pounds, $632.78, showing cost per pound is 24 cents; five-eighths-inch chain cable, 2,887 pounds, costing $793.01, showing cost per pound is 27½ cents.

The highest market quotations on these sizes run from common chain, at $3.60 per 100 pounds, to the highest grade, $8.40 per 100 pounds, for the one-half-inch chain, and in this connection I will say that the purchasing department of the Isthmian Canal Commission, in a letter of April 28, show purchases of three-eighths-inch straight short-link iron chain at $3.94 per 100 pounds delivered on dock at Colon.

While the amount involved in the above manufacture of chain is so small that it is of little importance, nevertheless it shows the expense of Government manufacture to be abnormally large—that is, the cost at the Government factory being three times the market price of private made chain of the very highest quality. Will add to above information that the market price of best special dredge hand-made chain is $8.40 per 100 pounds for one-half-inch and $7.40 for five-eighths-inch. (See price list from Lebanon Chain Works, dated January 12.)

Taking up the subject of heavy anchor cables, the same table at the bottom of page 7 shows that 1⅞-inch costs 16 cents per pound, 1¾-inch costs 12¾ cents, 1½-inch costs 12½ cents, 1⅝-inch costs 11⅛ cents, or an average of over 13 cents per pound.

A letter from one of the largest shipbuilding companies there is in the United States for building ocean steamships shows cost of chain furnished in these sizes from $3.32 to $4.15 per 100 pounds.

As to cables 2 inches and larger, referring to the table at the bottom of page 7, we find the following items of output and cost, to which I have added the cost per pound derived from figures that are given. Noticing that these figures vary from 9½ cents per pound for 2¾-inch to

13¼ cents for 2⅞-inch cables, without apparent reason for the wide divergence in cost, I have put the figures together in these six items.

Size.	Output.	Cost.	Average cost per pound.
	Pounds.		
2 inches	227,148	$22,004.43	$0.0966
2 1/16 inches	30,200	3,624.00	.1200
2⅛ inches	11,816	1,119.20	.1000
2¼ inches	878,733	94,560.87	.1075
2⅜ inches	1,011,941	133,241.55	.1320
2½ inches	218,422	20,805.90	.0950
Total	2,378,260	275,355.90	.1158

We therefore find that the average cost of all the cable manufactured, 2 inches and upward, was $11.58 per 100 pounds, the largest item being 2⅞-inch cable, shown above to have been $13.20 per 100 pounds.

While Admiral Manney, in hearing No. 49, for comparison between Government cost and contract price paid to private manufacturers, has stated that the Government cost was 9½ cents, or $9.50 per 100 pounds, I believe that we must hold that the cost of this item is not to be considered as the average Government cost, but we must take the average cost of $11.58 per 100 pounds; or if we wish to be more particular, we must take, jointly, the last two items of 2⅞ inches and 2¾ inches in above table, which if so considered, would make the average price of these two items $12.50 per 100 pounds.

While this indicates the cost of the output of the Government shops, it is not the actual or full cost. The first, second, and tenth items in table at bottom of page 5, Report of Bureau of Equipment, viz:

Office and store labor, handling coal, shipments, annual leave, etc	$103,428.82
Repairs and additions and maintenance of machinery plant	56,157.33
Miscellaneous articles	53,262.09
Total	212,848.24

This amount, $212,848.24, together with other items not given, must be spread to a more or less extent over the seven items of output shown in that table to give the real cost.

If spread evenly or pro rata, this increase by 12½ per cent or more the cost shown in tables on page 7. By adding 12½ per cent to $12.50, we have $14 per 100 pounds, or 14 cents per pound, the actual cost of the 2⅞-inch and 2¾-inch cable made in the Government shop.

From evidence given in the hearing we find the largest-sized battleship cables, 2¾ inches, have been made by contract by private firms: 9½ cents per pound for cables made by the Lebanon Chain Works, and 8⅝ cents per pound for cables contracted for, but not delivered, by the Monongahela Iron and Steel Works.

I wish to state here that upon careful consideration of the subject it is my belief that all of the battle-ship cables desired of this specification, any size, can be purchased by contract at from 6 to 7 cents per pound under the same specification as to strength or breaking strain as now required, but eliminating the absurd and impossible chemical specification, especially as to sulphur content, which has the effect of ruling out competition and forcing the Government to pay a needlessly high price.

As to anchor cables larger than 2 inches I can give you the following information: One of the largest ocean shipbuilding firms in the United States advises me that they pay $4.15 per 100 pounds for 2½-inch anchor cables, $4.30 per 100 pounds for 2¾-inch, and $3.85 per 100 pounds for two and one-sixteenth inches.

Large freighters on the Great Lakes, last built, for 2⅛-inch tested stud-link cable chains paid $3.30 per 100 pounds.

I am advised by Cramp & Sons Shipbuilding Company that the 2⅞-inch anchor cables furnished by them to the Russian crusier *Retvizan*, British Admiralty test, was $4.50 per 100 pounds, while the 2⅛-inch cable furnished the cruiser *Variag*, British Admiralty test, was $3.70 per 100 pounds.

The Pacific Mail Steamship Company in their letter of March 23 advise me that they pay for 1⅝-inch stud-link tested cable chain $4.50 per 100 pounds, f. o. b. Philadelphia for steamship *Costa Rica*, also 1¾-inch and 1⅞-inch tested stud-link cable chain for steamship *City of Para* and steamship *Barracouta*, both at $3.60 per 100 pounds delivered in New York, also 1⅞-inch tested stud-link cable chain for steamship *Acapulco* at $3.74 per 100 pounds delivered in New York.

In a letter from the Upson-Walton Company, of Cleveland, Ohio, which, I believe, is the largest ship-chandlery firm on the Great Lakes, we find the following paragraph relating to chains:

"We do not sell the chains for the new steamers that are fitting out on the Lakes, the margin being so close on these goods that the manufacturers sell them direct. Our cost price is the same, we are told, as the price charged the shipyards; and on the regular grade of chain, such as is used by these parties, the cost up to 2 inches to-day is $3.56 per hundred pounds, freight allowed to Cleveland from factory; and on the best quality of dredge chain the cost on the same sizes is $4.75 per hundred pounds, this being, however, a much finer quality of chain than is used on the Lakes."

From the American Shipbuilding Company, of Cleveland, Ohio, I have the following:

MARCH 17, 1906.

Hon. GEORGE A. LOUD, M. C.,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to your letter of the 14th instant, you of course know that we do comparatively nothing in the line of Government work here on the Lakes, and I am not, therefore, able to give you any idea as to the cost of chain cable made to Government specifications. It is my opinion, however, that your estimate of 6 cents ought not to be far out of the way.

We have purchased during the past five years somewhere between 2,000 and 3,000 tons of stud-link chain cable for use in merchant work, and an average price during that period would be a fraction under your estimate of 4 cents.

As to anchors, we use nothing but cast steel; consequently I am unable to give you a price on forged.

The average price on cast-steel anchors for the past five years would be, I judge, between 5 and 6 cents per pound.

Hoping this will give you the information you desire, I am,

Yours, respectfully,

N. S. THRASHER, *Purchasing Agent.*

It is perfectly understood by me that these cables for merchant service, costing from $3.30 to $4.30 per 100 pounds, are not up to the specifications of the United States Navy, and are not given for comparison, but are given to show that all vessels outside of the United States Navy are equipped with cables costing less than 5 cents per pound, in size 2⅝ inches and under, this being the largest size brought to my notice, with the exception of the four steamers on the Pacific, the *Minnesota, Dakota, Manchuria,* and *Mongolia.*

The cables on the *Minnesota* and *Dakota* are 3 1/16 inches in diameter, and the price paid for them was $5.43 per 100 pounds, delivered at New London, Conn.

Quoting from a letter of the Eastern Shipbuilding Company, under date of March 21, we find the following:

"You are right in assuming that the price which we paid for those chains was high, but you must realize that these were very difficult chains to make, the weight of each link being as much as one man could handle. Smaller size chain, of course, cost very much less, as you note from my previous letter that the 1⅞-inch chain cost $3.75 per 100 pounds (this size chain being large enough for most ships built in this country). I wish to impress upon you, however, that Lloyd's inspection greatly increases the cost of the chain, as their test is very severe, involving much handling of same, cutting out of links, etc."

There was doubt expressed by Admiral Manney before the committee (see hearing No. 49) as to these cables being inspected. The cost of Lloyd's inspection adds one-half cent per pound to all chains so inspected. (Lebanon Chain Works, January 12.)

As to these particular chains being inspected, we find by letter from the Eastern Shipbuilding Company, under date of March 17, the following:

"These chain cables are 3 1/16 inches in diameter; they were the largest ever manufactured at that time, and it was deemed of great importance that same should have very careful inspection. Therefore these chains were inspected by Lloyd's local inspector at the chain works, of Lloyd's principal surveyor in this country, and again by Lloyd's surveyor after same had arrived at the works of the Eastern Shipbuilding Company."

The chain cables were manufactured by Lebanon Chain Works, and the steel anchors were made by Seabord Steel Casting Company. The 3 1/16-inch chain cost $5.43 per 100 pounds; the 1⅞-inch chain cost $3.75 per 100 pounds, and the anchors cost $3.65 per 100 pounds.

In conclusion I wish to state that the steamships *Minnesota* and *Dakota* were built under the rules of Lloyd's Register of Shipping, and all machinery, appliances, etc., pertaining to these ships were also classed by Lloyd's (who were very rigid in their inspection), and all received the highest certificates of classification issued by said society.

Of course you know that Lloyd's is a British society. Owners find it necessary, owing to insurance of both ship and cargo, to have Lloyd's classification. (See page 13½.)

As to the cost of the cables furnished by the builders of the *Manchuria* and *Mongolia,* we find the size to be 3⅜ inches, and price paid $5.36 per 100 pounds.

I am advised by the manufacturers of these cables that the same ratio of strength and breaking strain was given to these cables as is required of the 2¾-inch Government battle-ship cables.

From all this data we find that the very best anchor cables supplied to any ship built in the United States, outside of the United States Navy, cost $5.45 per 100 pounds, the same being tested to the same breaking strain as required by the United States Navy, and as compared with this cost it has cost the Government $13 to $14 per 100 pounds for the same quality of cable.

It is presumable that the reply or explanation of why the Government cables cost so much more than cables made by private firms is that the material costs so much more. While in a small measure this is true, the difference in cost of material being about 2 cents per pound, sustaining this phase of the question, I find in letter of April 20, from the Bureau of Equipment, the statement that the last three contracts made during the last two years with the Monongahela Iron and Steel Company covered 2,800 tons, at $87.36 per ton, showing that this company have sold to the Boston yard this amount of material, costing $244.608, the price being $4.368 per hundred pounds.

Permit me to state my belief that this excessive price is solely due to the needless specification in the chemical analysis of the material, principally relating to sulphur content.

The specification that iron shall not contain more than one one-hundredth of 1 per cent sulphur rules out practically, and, I believe, effectively, all competition, giving this company an absolute monopoly and enabling them to maintain an unreasonably high price for their iron.

I am sustained in this opinion by the following letter from the chemist at the United States navy-yard:

UNITED STATES NAVY-YARD,
Washington, D. C., March 16, 1906.

Hon. GEORGE A. LOUD, M. C.,
House of Representatives, United States.

SIR: It gives me great pleasure to be able to comply with your request in letter of the 14th instant, received last night.

Samples of chain iron from Lebanon Chain Works, marked and reported as stated below, showed the following composition:

	July 21, 1904.		Aug. 9, 1904.	
	No. 1.	No. 2.	No. 3.	No. 4.
	Per cent.	*Per cent.*	*Per cent.*	*Per cent.*
Carbon	a 0.01	a 0.01	0.0196	0.019
Silicon	.15	.14	.141	.131
Sulphur	.019	.018	.020	.022
Phosphorus	.061	.062	.055	.059
Manganese	.070	.075	.082	.060

a Below.

While these results do not exactly agree with the specifications it is my opinion that the iron is of very good quality. It is also my opinion that even for the best iron makers it will be a somewhat diffi-

cult proposition to always keep within the requirements of the specifications. A deviation, such as above results show, should, in my opinion, not be cause for rejection.

Trusting that this will answer your inquiry, and always ready to furnish any information which I possess and you should desire, I am,

Very respectfully, yours,

JOS. WESTISSON, *Chemist N. G. F.*

Permit me to call your attention further to the fact shown in your statement sent to me by the Bureau of Supplies and Accounts of bar iron purchased in the last two years that out of all the contracts made by the Department, involving over fifty tons in any contract, that out of the eleven contracts so shown eight of the contracts were made with this same firm, covering $120,133.13, while only three contracts in two years were given to other firms, the three contracts amounting to $15,261.45, or combining these two statements we find that in all this company has furnished iron to the amount of $364,741.13, as against contracts to other parties amounting to $15,261.45, and I am sure your Department will find on careful and candid investigation that this fact is solely due to the unnecessary chemical specification.

Cordage.—As to the subject of rope manufactured in the Government factory, we find that the amount of Manila rope invoiced during the year (see first item, second table, page 7, Report Bureau of Equipment) was 1,697,341 pounds, costing $265,536.72, or 15⅝ cents per pound, to which 12½ per cent at least, incidental and omitted expense, should be added.

In a letter from Mr. D. W. Ross, general purchasing officer of the Isthmian Canal Commission, under date of April 27, I note that they have paid for ordinary Manila rope, 180 coils, from 10½ cents to 11 cents per pound delivered at Colon. This, I understand, would not be up to the grade of best rope made, in the ropewalk at the Boston yard, but I find an item in the same letter of 216,000 feet Manila bolt rope, tallow laid, long fiber, smooth and hard finish, at 10¾ cents to 12¾ cents per pound, delivered on dock at Colon.

As the price herein given includes not only the fixed charges incident to all manufacure, viz, cost of plant, deterioration, renewals, insurance, taxes, interest, and profits, but also delivery from the manufactory to Colon as well, and when we further consider that in figuring the cost of rope made by the Government that clerical work, work of the pay department, and other similar items will be found omited in the make-up of cost, and further consider that in the item of rope the cost of material is large, and the cost of labor should be relatively small, all point to the conclusion that the cost of the Government manufacture is very excessive, in fact, unreasonably so.

The output of material in question at the Boston yard is as follows:

Anchor and chain shops, 3,408,022 pounds	$422, 772. 59
Add 12½ per cent for omitted material and expenses	52, 846. 57
Total	475, 619. 16
Cordage invoiced, 2,632,298 pounds	399, 433. 94
Add 12½ per cent for omitted material and expenses	49, 929. 24
Total	449, 363. 18

If bought in open market, quality being equal, there should be a saving of:

Anchor, chains, etc., 50 per cent	$237, 809. 58
Cordage, 20 per cent	89, 872. 63
Total	327, 682. 21

The foregoing sums up the facts, and my estimates so far as I can at this time give them, and proceeding now to your question, what I would advise being done under such conditions as are shown, my answer would be that I would surely close one or the other or both of these manufactories as an object lesson to the other manufactories maintained by the Navy Department that the cost of the product must be kept within reasonable bounds.

It is my opinion that while the hours worked under the Government are less per day than in private manufactories, and that it is universally conceded that labor is not as effective under Government management, as in private institutions, nevertheless the elimination from the cost of Government output of the fixed charges heretofore mentioned, viz, cost of plant, deterioration, renewals, insurance, interest, taxes, and profits, should make the conditions not far from even, and with such allowance and consideration of conditions it should not cost the Government any more to manufacture such material as we have in question than it would to buy in the open market, and if the cost can not be brought approximately equal, the Government should cease to manufacture the material and buy in the open market.

I am, very sincerely, yours, GEO. A. LOUD.

It is left to the Congress of the United States to right these errors of administration. The officers of our Navy are men of very high character as naval officers, but I have never believed, and I do not now, and I say it with all respect for those gentlemen, that the school of the Navy necessarily fits an officer for the business administration of the construction department of the Navy. There is too much of routine, too much of antiquity, too much of respect for precedent, and the Navy Department of this Government that is expending on an average a hundred million dollars a year, ought to be administered by the highest type of business capacity—such men as handle the great steel manufactories; such men as handle the great railroad industries. How that can be brought about I do not know, but here is an opportunity, without any disparagement of the officers of the Navy, to introduce one reform into the administration.

I offer the following as an amendment for the pending amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Provided, That no part of said sum shall be expended in the manufacturing in any Government navy-yard of any chains, anchors, or cordage which can be obtained in the free markets of the country at a less cost than the manufacture of the same article will cost in the navy-yards by bids at the solicitation of the Department or in such other manner as the Department may choose: *And provided further*, That all such articles shall be of a standard of quality to be fixed by the Navy Department.

Mr. GROSVENOR. I hope this amendment may be agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. OLMSTED having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills and joint resolution of the following titles; in which the concurrence of the House of Representatives was requested:

S. R. 47. Joint resolution granting condemned cannon for a statue to Governor Stevens T. Mason, of Michigan; and

S. 4956. An act to provide for the purchase of a site and the erection of a building thereon at Versailles, in the State of Kentucky.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 4094. An act to amend section 4426 of the Revised Statutes of the United States—regulation of motor boats;

S. 2292. An act for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant;

S. 1975. An act granting an increase of pension to Mary E. Dugger; and

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 13946. An act for the relief of Charles L. Allen.

The message also announced that the Senate had passed without amendment the following resolution:

House concurrent resolution No. 31.

Resolved by the House of Representatives (the Senate concurring), That the President be requested to return the bill (H. R. 8948) entitled "An act granting an increase of pension to John W. Hammond."

NAVAL APPROPRIATION BILL.

The committee resumed its session.

Mr. VREELAND was recognized.

Mr. FOSS. Mr. Chairman, I shall move to close debate in ten minutes.

Mr. ROBERTS. Oh, I hope that motion will not prevail, Mr. Chairman.

The CHAIRMAN. The gentleman from New York has the floor.

Mr. VREELAND. Mr. Chairman, I am now and have always been in this body opposed to the Government manufacture of articles needed by it. If this were a new proposition before the House, namely, that we should establish a plant at Boston or elsewhere for the manufacture of chains, I should be opposed to it. I should be opposed to an original proposition for the establishment of a plant by the Government of the United States for making chains, because my observation on the committee and elsewhere has led me invariably to the conclusion that it costs the Government of the United States much more to manufacture for itself than it does to buy in the market of private manufacturers.

The Government has this plant on hand. It has the plant at Boston that has been paid for and is equipped with machinery to make chains, is equipped with skilled workmen to carry on the plant.

Mr. KELIHER. Will the gentleman yield for a question?

Mr. VREELAND. I will yield to the gentleman from Massachusetts.

Mr. KELIHER. I would like to ask the gentleman if it is not a fact that it was developed in the discussion of the Army appropriation bill that the Government was forced by the powder trust to pay much more than it ought for powder, owing to the fact that there was a trust, the Dupont powder trust; and did not the chairman of the committee, the gentleman from Iowa [Mr. HULL], make the statement on the floor that if the proposition came before the House that would provide for the manufacture of powder by the Government he would vote for the proposition; and is it not likely that a similar condition might develop in this line?

Mr. VREELAND. I do not care to go off into that question, Mr. Chairman, any more than to say that where the Government finds itself confronted by a trust which puts up the price beyond a fair profit, and it finds that no competition enters to break the price, I think it would be justified in establishing a plant of its own.

I was saying, Mr. Chairman, that we have the plant at Boston, on which the Government has spent a great deal of money, equipped with the necessary machinery and with skilled workmen to carry it on. I think, Mr. Chairman, that the amendment proposed by the gentleman from Ohio, namely, that in competing for these chains in the open market the standard now fixed by the Government shall be required, makes this

amendment a proper one to be adopted by this committee. At the same time, I do not think the committee ought to have an exaggerated notion of the difference of expense in making the chains in the Government plant and in the outside market. I understand my friend from Michigan [Mr. LOUD], who has given this subject a great deal of attention and who is entitled to a great deal of credit therefor—I think the difference he states to the House is a little larger than ought to be stated with due regard to the truth. I think he claims that these chains for battle ships can be bought for 6 or 7 cents a pound in the open market, but I have here a letter from the Monongahela Iron Company, which now has the contract for building chains for the Government battle ships, in which they state the contract price is 8½ cents a pound. They state, in addition to that, that they must purchase the swivels, shackles, and jew's-harps of outside parties and that they are much more expensive than the balance of the chains.

They say, in conclusion, that they do not know yet whether they can get out even on their contract with the Government for making these chains at 8½ cents. I think it is fair to state from their letter, which I will put in the RECORD, that they expect it will cost them more than 8½ cents to make these chains and complete them. Perhaps it will cost them 10 cents, and that brings it up very close to the price that it is alleged we pay for making them in the Government plant at Boston.

Mr. Chairman, the making of these chains for battle ships is not so simple a matter as my friend from Ohio [Mr. GROSVENOR] would have us believe. I want to state further that my information is that the Lloyd test, talked about before the committee, is a test for the breaking strength of the chain, the tensile strength of the chain. Now, the experts on this subject say that that is not the great trouble; that chains which are made of steel and scrap iron and muck iron, as they call it, will show a very high resisting or tensile strength, but the trouble is unless they are made of first-class material, as provided by Government specifications, the chain rapidly wears away. The battle ship starts off to be gone for three or four years on the China station, and the anchor is in constant use. The chain constantly rubs away, because it is not of the quality to resist the friction, and pretty soon the battle ship finds itself with a chain much weakened and unable to stand the test.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LOUDENSLAGER. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended for five minutes.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent that the time of the gentleman from New York may be extended for five minutes. Is there objection?

There was no objection.

Mr. GROSVENOR. Mr. Chairman, I would like to read this letter that I have in my hand for the benefit of all the members of the committee.

Mr. VREELAND. Oh, I wish the gentleman from Ohio would wait until I am through.

Mr. GROSVENOR. Certainly; I thought the gentleman was through.

Mr. VREELAND. Unless it is something that I ought to know.

Mr. GROSVENOR. Well, it is something that the gentleman ought to know.

Mr. VREELAND. Well, perhaps when I get through the gentleman will have so much information that he will not find it necessary to read the letter. The committee having given me additional time, I desire to read this letter from the Monongahela Iron Works, which, it appears, has the contract for making these chains for battle ships for the Government. I think the information in it is such that the committee will be glad to hear it, now we are on this subject. It is as follows:

FEBRUARY 28, 1906.

Hon. GEORGE LOUD,
Washington, D. C.

DEAR SIR: Your letter, with a copy of the hearing before the Naval Committee, received, in which you desire us to give you some information in regard to same.

In reply would say that we do not agree with you that good chain can be made for 4 cents per pound, as the price on the best chain iron made, both foreign and domestic, can not be had for less than 4 to 6½ cents per pound. Then add to this the cost of labor, waste in manufacture (which includes the samples made necessary for testing), and the swivels, shackles, and jew's-harps, which are more expensive in making than the ordinary links.

At present we are making a cable chain for the Government at 8½ cents per pound, but we are forced to give out the swivels, jew's-harps, and shackles to other parties to make, as it is especial work and can not be made by the same workmen. We are quoted 24 cents per pound for the labor on the swivels and jew's-harps, and we furnish the iron, and 12 cents per pound for the labor on the shackles. This, you see, adds to the expense of the chain.

We think from our experience that no material is too good for any place where life and property are in danger, and we are sorry to say that most all chain manufacturers in this country make about 90 per cent of the chain from steel and scrap iron, both qualities of which are treacherous and dangerous and lack uniformity and reliability. We very much regret that chains are not tested and inspected the same as steam boilers are, both on land and water. We all know that it is necessary to test steam boilers, and it should be equally so in regard to chain, as we believe that more people are injured and lives lost by the use of poor chain than by all the steam boilers. In addition to the poor quality of material in chain, people use chains too long and allow them to wear away, which they naturally do, and do not replace them until they are broken. This is unfortunate and should be corrected, and a national law should be passed to prevent people using such chains that are dangerous on account of the quality and of the excessive wear on the chain when in use.

There is no comparison between the Government chain and the ordinary chain made for merchant vessels. Chains made for merchant vessels are made from material that will stand low tensile strength only, and no elongation or reduction of area or chemical analysis is required. This has been the practice for many years, and shipbuilders do not desire it changed as it will only add to the cost, and they purchase whatever is cheapest, not what is best. The chains which they purchase are made from steel or scrap iron, sometimes with an admixture of muck iron, and can be purchased very low on account of the very poor material in them.

We all know that chain iron made from more than one quality of material lacks uniformity and reliability, and it is always the case where scrap iron is used, and is more liable to break than chain made from a uniform quality of material. Chains made from steel are not uniform on account of the process by which the steel is made, as all ingots of steel have segregation in them which can not be overcome by the makers.

Anchor chains used in merchant vessels are tested by Lloyd's Association, and are only required to stand low tensile strength. Ordinary iron will answer for the test, but for actual use it is very dangerous. Shipbuilders do not want to buy what is best, but what is cheapest.

Lloyd's Association did not make out the specification for chain iron, as the writer was informed by its officers while in Europe some three years ago. This matter was left entirely to the shipbuilders.

We have bid upon chains for merchant vessels, and have lost the orders every time on account of the price and poor iron put in by our competitors.

In conclusion, we beg to state that we are now working on a process that has reduced the cost of making chain fully 50 per cent. This has been accomplished by experimenting almost continuously for over three years. The machine that shears and bends the links performs its work perfectly, and leaves very little more for the welder to accomplish. The links are sheared and formed for end welding, which is the most desirable to make, as it enables the workmen to have sufficient material for making a perfect weld, and at the same time allows him to distribute it equally on both sides of the links, thereby making uniform quality and size on both sides of the links. Side welding will not permit this, as it forces the links out of shape and changes the quality and size on the side of the links on which the weld is made.

In addition to this, there is more danger in side welding than in end welding. This has been proven by many tests made during our experience. We have sheared the iron at the angle ready for welding, and bent it for side welding. We have also sheared the iron and bent it ready for end welding, and have tested both before welding, and found that the links bent for end welding would stand double the test of those bent for side welding. This, you see, is a decided advantage—that the end welding should be the only one made. Some of the leading chain makers of the country have stated that end welding could not be made in large sizes. This is a mistake, as they have only followed the old method and belief which is practiced in Europe.

The welding by this process can be done with a less number of heats on the links, as repeated heats always deteriorate and weaken quality of all kinds of material.

On referring to the order which we have taken at 8½ cents per pound, we beg to state that we can not tell at present just what this chain will cost us, and that it may prove more or less than the price at which we took it. Nevertheless we are satisfied that it will be a perfect chain, made from the best iron, and will give the best satisfaction where safety, durability, and reliability are required.

MONONGAHELA IRON AND STEEL CO.,
R. A. CARTER, *President.*

Mr. GROSVENOR rose.

The CHAIRMAN. Does the gentleman yield?

Mr. VREELAND. I yield to the gentleman from Ohio.

Mr. GROSVENOR. Mr. Chairman, I would like to ask the gentleman if this letter is not written by a gentleman who has the monopoly of furnishing the iron to the Navy Department for these chains?

Mr. VREELAND. I understand not.

Mr. GROSVENOR. I am told that he furnishes it all.

Mr. VREELAND. I understand that another firm has furnished more chains for the Government than this firm has.

Mr. GROSVENOR. I understand what the gentleman furnishes is the iron, and he has a peculiar test made which gives him the entire monopoly against the bids of everybody else.

Mr. VREELAND. That may be. I do not think it is material whether that is so or not.

Mr. GROSVENOR. I do not think it is, but I want to get at the facts.

Mr. VREELAND. Now, Mr. Chairman, we can hardly assume that the tests made by the Navy Department are made for any other purpose than that of obtaining chains which are proper for use upon battle ships. It is certainly the case that when we build a battle ship worth seven, eight, or nine million dollars, when we put seven or eight hundred men in it, we want

the very best chain and anchor that can be built by human skill. I call your attention to another difference between battle ships and merchant vessels. The merchant vessels nearly always go to docks, and they are tied up there, whereas your battle ships always anchor out in the open roadstead, and therefore have to have a stronger chain and one that will stand a great deal of use and a greater test than those in use in the merchant marine. Now, Mr. Chairman, I believe that with the amendment proposed by the gentleman from Ohio, that these chains must come up to the test as fixed by the Navy Department, it is proper to adopt this resolution. If the Navy people in charge of the plant at Boston, furnished with complete equipment, furnished with a plant free of cost, charged with nothing but the material that goes into the chain and with the labor that makes it—if with all those advantages they can not make the chain as cheap as we can buy it in the market, then I am free to say I am willing to go into the open market and buy it. [Applause.]

I will print as part of my remarks the following letters:

NAVY DEPARTMENT,
Washington, May 9, 1906.

SIR: My attention has been called to an amendment proposed by Mr. LOUD, as it appears in the CONGRESSIONAL RECORD of May 8, 1906, on page 6728, which would, in the bill, on page 15, in line 7, after the word "navy-yards," insert: *"Provided*, That anchors, chains, and cordage shall be purchased in open market, unless all or any part of such material can be manufactured at equal or less cost in the Government shops."

In this connection I beg to inclose—

First. A communication addressed to the Department by the Chief of the Bureau of Equipment, May 9, 1906.

Second. Letter, February 28, 1906, from the Monongahela Iron and Steel Company to Hon. GEORGE LOUD.

Third. Several other letters in connection with this matter, beginning with the one addressed to Mr. Carter by the manager of the Monongahela Iron and Steel Company.

The question of the enactment of this amendment into law is one that affects the general policy of the Government with reference to its navy-yards in all parts of the country, and that is whether or not the Government shall manufacture anything which can be manufactured at equal or less cost by private enterprise.

The Government never has nor can it manufacture in small quantities articles of equipment such as mentioned in this amendment at a price to compete with corporations which manufacture but one article alone, and that in large quantities; but up to the present time Congress has deemed it wise that the Government should be in position to manufacture these and similar articles itself if at any time the combinations in regard to price by the manufacturers should become oppressive, and the fact that these shops of the Government are in existence certainly tends to prevent improper charges by manufacturers for articles which the Government can itself manufacture.

A careful reading of the letter addressed to Mr. LOUD by the Monongahela Iron and Steel Company will indicate, in a measure, the reasons why chain is more expensive under Government specifications than elsewhere, and I believe that you will realize that no reasonable requirements can be too great for the chains and anchors which, under stress of weather, may be required to save the lives of, say, 900 officers and men and six or seven million dollars' worth of Government property. I sincerely hope that Congress will approve of the great care and caution exercised by the officers of the Navy Department to secure for the Government the greatest possible factor of safety in the manufacture of materials above mentioned.

I have the honor to be,
Very respectfully, yours,

TRUMAN H. NEWBERRY,
Acting Secretary.

Hon. GEORGE EDMUND FOSS,
Chairman Committee on Naval Affairs,
United States House of Representatives,
Washington, D. C.

DEPARTMENT OF THE NAVY, BUREAU OF EQUIPMENT,
Washington, D. C., May 9, 1906.

SIR: 1. The Bureau notes from the CONGRESSIONAL RECORD, containing the proceedings of the House of Representatives of May 8, on page 6728, there was introduced by Mr. LOUD an amendment to the appropriation "Equipment of vessels," under this Bureau, which amendment was afterwards modified by an amendment submitted by Mr. GROSVENOR providing "that no part of said sum shall be expended in the manufacture in any Government navy-yard of any article which can be obtained in the free market at a less cost than the cost to manufacture in such navy-yard."

2. This amendment has been brought forth by consideration of the question of cost to manufacture anchors and anchor cables and their appurtenances at the Boston Navy-Yard, which has been the subject of general discussion, the Bureau understands, since the naval bill was originally reported.

3. So far as this Bureau is aware, the claim has not been made, nor is it believed that it has ever been claimed, that anchors and chains can be manufactured by the Government as cheaply as they may be manufactured by outside commercial institutions; nor is such a claim made by this Bureau with regard to any other articles of ship's equipment that are manufactured in navy-yards, when the question of cost only is considered. The Bureau does claim, however, that, considering the quality of articles manufactured in navy-yards, which must be maintained at any cost (this is especially true with regard to anchors and anchor cables, upon which the safety of the ship and her crew depends), the Government can produce any article for which it has facilities at as low a cost, if not lower, than they can be produced in commercial establishments.

4. The effect of the proposed amendment would be disastrous to the manufacturing plants at all of the navy-yards, so far as the Bureau of Equipment is concerned, and will make it necessary for the Bureau to go into the market to buy the articles that it now manufactures, with the result of a marked depreciation in quality, and what will ultimately result in a considerable loss to the Government, if not in disasters of great magnitude, resulting from defective anchors or cables.

5. As bearing on the subject of the relative cost to manufacture anchor cables in the Government and in private establishments, the Bureau forwards herewith copy of a letter written by Mr. R. A. Carter, president of the Monongahela Iron and Steel Company, of Pittsburg, Pa., one of the large establishments manufacturing chain cables in this country, to the Hon. Mr. LOUD. It will be noted that Mr. Carter states in this communication, in paragraph 3, that they are manufacturing chain cables for the Government at 8½ cents per pound, and that they were forced to give out the manufacture of the swivels, etc., to other parties.

The Bureau incloses another communication from the Monongahela Iron and Steel Company to Mr. Carter, showing the difficulty encountered by that concern in getting these swivels and shackles manufactured.

If the Navy is required to depend on private establishments for its equipment, and especially its chain cables, it is not difficult to see what may be expected. The comments in this communication are commended to you for your earnest consideration.

The Bureau hopes that no effort will be spared to cause the rejection of the proposed amendment.

Very respectfully,

WM. S. COWLES,
Chief of Bureau of Equipment.

The SECRETARY OF THE NAVY.

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa., April 26, 1906.

R. A. CARTER,
President, Monongahela Iron and Steel Company,
Pittsburg, Pa.

DEAR SIR: Referring to your request for information as to what has been done regarding our efforts to get the swivels, shackles, etc., for the 2¾-inch cable chain which we are making for the United States Navy Department, on contract No. 7918, would advise we took the matter up with C. E. Dixon & Son, of this city, last December, and they quoted us price of 10 cents and 16 cents per pound, respectively, for shackles and swivels, which we accepted, but they, after examining the B/P's which we submitted, concluded the work was too heavy for them, and refused to go any further with it; then under date of January 17, wrote Bradlee & Co., of Philadelphia, Pa., and they replied, "were not in position to make." We then wrote William Barker & Son, of Cuyahoga Falls, Ohio, under date of January 24, and in reply they quoted us, respectively, 10 cents and 20 cents per pound for shackles and swivels, and we accordingly submitted B/P's, and their letter of February 5 states, after examining drawings they could not start making them under sixty days, and we replied the time required was too long. After these failures we learned through Mr. R. Zirpel that the M. H. Treadwell Company, of Lebanon, Pa., could make shackles, swivels, etc., and we immediately wrote them after receiving this information, under date of March 1, and they answered March 2, quoting us 9½ cents per pound for shackles, middle swivels 22 cents per pound, swivel shackles 22 cents per pound, and jew's-harp bending shackles 9½ cents per pound, and promised to complete within three to four weeks. We wrote them March 3, accepting these prices, also asking them to specify sizes they would require, which they did under date of March 6, and specified 32 hammered slabs averaging 9 inches wide by 6 inches thick by 18 inches long, which necessitated our rolling special iron, and same was submitted to the United States Engineering Department for testing and was accepted by them, and then shipped 9,528 pounds of 1⅞ inches square to the Cleveland City Forge and Iron Company, to forge into blooms required by the Treadwell Company, and may also say at an extra cost of 2 cents per pound, with freight both ways to Cleveland, and also same to Lebanon. In the meantime we rolled the few other sizes required, and considered we were out of our troubles, when we received a letter from the Treadwell Company, under date of March 31, saying their only smiths capable of doing this work were offered considerably more money than they could afford to pay, and then left their employ at once.

I learned from good authority that the man who took the smiths from Treadwell & Co. was Mr. Eli Atwood, of Lebanon, Pa., who some way or other learned that the Treadwell company had taken the contract to make the swivels, etc., for us, and immediately proceeded to hire the smiths at $5 per day, which he (Atwood) tells as follows: "I found out that the Treadwell people had contracted with the Monongahela Iron and Steel Company to make their swivels, etc., so I just sent my man over to see them and to offer them $5 per day each if they would come to work at my factory the following morning, so as to put the Monongahela against it, and the smiths accepted."

This method of doing business may be all right according to the Atwood standard, as he certainly has attained his end in this case, and it certainly has caused us great delay, with no immediate prospect of relief.

We wrote Treadwell & Co., asking them to give us names of firms that could make the swivels, etc., in question, and they mentioned Bradlee & Co., of Philadelphia (with whom we had previous correspondence), and the writer made a special trip East to get the work done, but was entirely unsuccessful. I visited the Atlantic Works, of East Boston, April 16, and they positively refused to do the work; also the Boston Forge Company, although prevailed upon Mr. Copeland, the manager, to accompany me to the Boston Navy-Yard and see the process of manufacture, but could not get him to do the work, although I impressed upon him it was not a matter of price. I learned in Boston of Mr. Conlin, foreman for Bradlee & Co., of Philadelphia, who could likely put me in touch with some firm, and called upon them the 18th instant with no result.

Appended you will find copies of correspondence with the various parties in question, and have done everything in our power to get the swivels, etc., made, but are unable.

Under the circumstances, I think it would be best for us to place the matter of making the swivels, etc., before the board, with a view of getting them made at the Boston Navy-Yard, as they have all the necessary tools and apparently nearly all the skilled workmen. It would be a very small matter for them to make the few swivels, shackles, etc., that we require and would be of great service to us, if the board should consider our request favorably, and of course we would pay whatever price is agreed upon. Could you arrange to visit the board and put our case before them?

Yours, respectfully,

MONONGAHELA IRON AND STEEL CO.
W. C. JOHNSTON.

JANUARY 17, 1906.

Messrs. BRADLEE & CO., *Philadelphia, Pa.*

GENTLEMEN: We would greatly appreciate your quoting us price for making 24 connecting shackles, 8 middle swivels, 4 swivel shackles,

and 4 straight bending shackles for the 2¾-inch cables which we are now making in accordance with Government requirements, we to furnish the iron after it has passed inspection at our mills for the above.

If you can not make us the connecting shackles, we could get these made elsewhere, but would prefer to have you make all and hope you can arrange to do so for us.

Your early reply will oblige,

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

PHILADELPHIA, PA., *January 18, 1906.*

MONONGAHELA IRON AND STEEL COMPANY, *Pittsburg, Pa.*

GENTLEMEN: Replying to your favor of the 17th instant, we very much regret our inability to quote you on the shackles, swivels, etc., for the 2¾-inch chain.

Our capacity for special forgings is very limited, and we have now so much work on hand and booked ahead for our regular trade that we could not possibly undertake this.

Yours, very truly,

BRADLEE & CO.

JANUARY 24, 1906.

Messrs. WILLIAM BARKER & SON,
Cuyahoga Falls, Ohio.

GENTLEMEN: We learn from Mr. Powers, of the Seneca Chain Company, that you are making swivels and shackles for them, and we shall be pleased to have you quote us a price for making twenty-four shackles, eight middle swivels, four connecting swivels, and four jew's-harps for 2¾-inch chain cables that we are to make for the United States Navy Department.

The iron will be inspected and tested at our works, and we wish you would name us a price for the work only, as we will prepay the freight to Cuyahoga Falls, and you can return it freight collect.

If you can do the work, we shall be pleased to forward you blueprints showing details of shackles, etc.

Please answer at once, and oblige,

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

CUYAHOGA FALLS, OHIO, *January 29, 1906.*

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa.

GENTLEMEN: We have your inquiry of the 24th instant at hand, and will say we can make the shackles for 10 cents per pound and the common swivels at 20 cents per pound, and if you will kindly send me drawings of the other swivels, etc., will name you a price on same.

Thanking you for the inquiry and trusting we will receive a part of your work at least, we remain,

Yours, truly,

WM. BARKER & SON.

JANUARY 31, 1906.

Messrs. WILLIAM BARKER & SON,
Cuyahoga Falls, Ohio.

GENTLEMEN: Yours of the 29th instant received, and send herewith drawings for shackles, etc. We shall require for the four chain cables, twenty-four connecting shackles (drawing 3995–25), eight middle swivels (drawing 3631–31), four swivel shackles (drawing 3630–31), and four jew's-harp bending shackles club and links (two drawings, 3875–25), and shall also require for testing one extra swivel and one extra shackle, and we will notify you as soon as the United States Navy inspector tells us which he will want.

We wish you would figure on size of iron wanted for each lot, and we will add one-sixteenth inch to iron we propose to send, as it will waste more or less in heating and working.

Our chain factory superintendent, Mr. C. Fellenbaum, will call on you and tell you anything he knows about making swivels, etc., if you so desire.

Let us hear from you in reply as soon as possible, and oblige,

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

CUYAHOGA FALLS, OHIO,
February 5, 1906.

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa.

GENTLEMEN: In looking over the blueprints sent us by you, we find the swivels altogether different from what we are making for the Seneca Chain Company, of Kent, Ohio, and as we would have to make dies to form the different parts, it would be at least sixty days before we could start them, as we now have enough to run us that long, and which we must get out.

Trusting we have not put you to any delay, we remain,

Yours, truly,

WM. BARKER & SON.

FEBRUARY 6, 1906.

Messrs. WILLIAM BARKER & SON,
Cuyahoga Falls, Ohio.

GENTLEMEN: Yours of the 5th instant received, and we regret to learn that you can not commence making the swivels and shackles before sixty days. It is impossible for us to wait that long, as our contract expires in about thirty days, and we must get them sooner.

Please return us the blueprints at once, and oblige,

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

MARCH 1, 1906.

Messrs. M. H. TREADWELL & CO.,
Lebanon, Pa.

GENTLEMEN: We have learned incidentally that you are forgers of shackles and swivels for large chains, and would ask you to kindly give us a price for forging twenty-four connecting shackles, eight middle swivels, four swivel shackles, and four jew's-harp bending shackle club and links for 2¾-inch cable. We are making four cables for the United States Navy Department, and would furnish you the iron f. o. b. Lebanon, you to return forgings to us freight charges collect.

Kindly advise us price per pound that you would furnish these forgings for, as it is very likely you know just what is required, as you have made plenty of them heretofore.

Your early reply will oblige.

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

LEBANON, PA., *March 2, 1906.*

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa.

GENTLEMEN: Your letter of the 1st instant received relative to shackles and swivels, etc. We are right in that line and are making a great many of them from time to time.

We could furnish same at the following prices:

Twenty-four connecting shackles, 9½ cents a pound.
Eight middle swivels, 22 cents a pound.
Four swivel shackles, 22 cents a pound.
Four jew's-harp bending shackles, 9½ cents a pound.

All for 2¾-inch cable, you to furnish the iron suitable for this work f. o. b. our works; our price is f. o. b. our works for the material complete. In case the iron breaks in testing you will have to reimburse us for replacing same, and you must also furnish the iron. If the break should occur at a weld we will fix same up at our expense.

If these prices are satisfactory, and you send us the order, we should have sketches or blueprints of what you require. We understand that these shackles and swivels are one-quarter inch heavier than the chain.

We could commence work as soon as we receive the iron, and probably complete them in about three or four weeks.

Yours, very truly,

M. H. TREADWELL & CO. OF PENNSYLVANIA.
JOHN HUNSICKER, *Treasurer.*

MARCH 3, 1906.

Messrs. M. H. TREADWELL & CO. (INCORPORATED),
Lebanon, Pa.

GENTLEMEN: Your favor of the 2d instant received, and we accept prices for forging the swivels and shackles, and send herewith blue prints covering same. You will let us know the size of material you will require for making the different forgings, and think it would be better if you add one-sixteenth inch to the finished size to allow for waste in making.

We shall require one extra shackle and one extra swivel which must be tested to destruction, but can not tell you just yet which one of the swivels the Government inspector will choose, but will explain the situation and ask him to designate what swivel he wants.

The minimum break for the cable is to be 443,000 pounds, and 5 per cent greater for swivels and shackles, which will bring the minimum breaking strain up to 465,000 pounds for the shackles and swivels. We assume you know a great deal more about it than we do, but think the welds will have to be brought around as if the eyes were punched in the solid iron and the shanks worked down; are doubtful if it would stand the high strain.

Kindly let us hear from you at your very early convenience, giving us sizes required, and we will make partial shipment so as not to delay the work.

Thanking you for prompt attention, we remain,

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

LEBANON, PA., *March 6, 1906.*

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa.

GENTLEMEN: Your letter of the 3d instant received, containing order for swivels and shackles covered by your B/P, as follows:

Twenty-four connecting shackles.
Eight middle swivels.
Four swivel shackles.
Four jew's-harp bending shackles, club, and links for 2¾-inch cable.

You also state there will probably be one or two that will have to be tested to destruction, and will have to make extra ones for that purpose. Kindly let us know by return mail how many of each kind we shall make extra for testing to destruction.

It will require the following iron for twenty-four connecting shackles:

Twenty-four pieces, 3½ inches round by 4 feet 9 inches long.
Twenty-four pieces, 4 inches round by 12 inches long.
Twenty-four pieces, five-eighths inch round by 8 inches long.

For the bending shackles:

Four pieces, 9 inches by 6¾ inches by 26 inches.
Four pieces, 9 inches by 4 inches by 12 inches.
Four pieces, 4½ inches by 2⅛ inches by 19 inches.
Four pieces, 3 inches by 2 inches by 15 inches.

For eight swivels:

Eight pieces, 4½ inches by 9 inches by 15 inches.
Eight pieces, 6 inches by 9½ inches by 13½ inches.
Eight pieces, 1⅛ inches by 2 inches by 16 inches.

For the combination shackles and swivels:

Four pieces, 4½ inches by 9 inches by 15½ inches.
Four pieces, 6 inches by 9½ inches by 18 inches.
Four pieces, 3⅜ inches round by 12 inches.
Four pieces, 1⅛ inches by 2 inches by 16 inches.

Whatever kind you will want to test to destruction you will have to ship the additional iron along accordingly.

M. H. TREADWELL & CO. (INCORPORATED).

MARCH 7, 1906.

M. A. TREADWELL & CO.,
Lebanon, Pa.

GENTLEMEN: Yours of the 6th instant received, and in reply would advise that the iron will be inspected here by the Government inspector prior to shipment, and this will be final as regards tests.

The specifications call for one connecting shackle and one swivel, whether a swivel shackle or a middle swivel we do not know, but will find out definitely, and only one of each is required to be tested to destruction to pass the entire lot.

We will endeavor to get the iron for the connecting shackles, twenty-five pieces of each, as per your requisition, out first, and for the others we shall have to get hammered slabs for six of the sizes for bending shackles and swivels, and will place this in the hands of the forge at once.

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

MARCH 31, 1906.

CLEVELAND CITY FORGE AND IRON COMPANY,
Cleveland, Ohio.

GENTLEMEN: We have shipped you in C. & N. W. car No. 33246, eighty-five bars 1⅜ inches square billets, weight 9,528 pounds, which

have passed Government inspection here and which you will please forge into—

Four pieces 9 by 6¾ by 2 feet 2 inches.
Four pieces 9 by 4 by 1 foot.
Eight pieces 9 by 4¾ by 1 foot 3 inches.
Eight pieces 9¼ by 6 by 1 foot 1½ inches.
Four pieces 9 by 4½ by 1 foot 3½ inches.
Four pieces 9¼ by 6 by 1 foot 6 inches.
Four pieces 4¼ by 2⅞ by 1 foot 7 inches.
Four pieces 3 by 2 by 1 foot 3 inches.

Applying on order of the 19th instant.

We have notified the Bureau of Equipment that we have forwarded this material to you for forging on account of U. S. A. contract No. 7918.

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

LEBANON, PA., *March 31, 1906.*

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa.

GENTLEMEN: We regret to have to advise you that we shall not be able to make the shackles and swivels covered by our correspondence the first of this month.

We to-day learned that the only smiths we had who were capable of making this class of work have been offered considerably more wages than we could possibly afford to pay them. This leaves us without competent men to put upon such high-grade forgings. Under the circumstances we are forced to ask you to cancel your order.

Yours, very truly,

M. H. TREADWELL & CO., OF PENNSYLVANIA.
W. E. FARRELL,
Vice-President and General Manager.

APRIL 2, 1906.

M. H. TREADWELL & CO., OF PENNSYLVANIA,
Lebanon, Pa.

GENTLEMEN: Yours of the 31st ultimo received, and we are greatly surprised to learn that you are unable to make the shackles, etc., as the iron to forge into sizes you gave us is now in process of manufacture and the other sizes have been passed by inspector and ready for shipment.

Kindly give us the names of some other manufacturers of this class of material, as we are behind in our contract now and this means a greater delay.

Your prompt attention will oblige.

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

LEBANON, PA., *April 8, 1906.*

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa.

GENTLEMEN: Replying to your favor of the 2d instant, we regret that we can not tell you positively who can make the shackles and swivels for you, but we believe that Bradley & Co., of Philadelphia, Pa., can make them, and possibly the American Iron and Steel Manufacturing Company, of Lebanon, Pa.

Yours, very truly,

M. H. TREADWELL & CO., OF PENNSYLVANIA.

APRIL 6, 1906.

M. H. TREADWELL & CO.,
Lebanon, Pa.

GENTLEMEN: Please return all B/P furnished you for the shackles, swivels, etc., that you are not in position to make, and oblige,

Yours, very truly,

MONONGAHELA IRON AND STEEL CO.

LEBANON, PA., *April 7, 1906.*

MONONGAHELA IRON AND STEEL COMPANY,
Pittsburg, Pa.

GENTLEMEN: In compliance with your request of the 6th instant we are inclosing herewith B/P's 3631–31, 3630–31, 3995–25, and 3875–25, showing large swivels and shackles, etc.

Yours, very truly,

M. H. TREADWELL & CO., OF PENNSYLVANIA.

Mr. FOSS. Mr. Chairman, I move to close debate on this paragraph and amendments in ten minutes.

Mr. OLMSTED. I would like to have five minutes of that time.

Mr. ROBERTS. There is a new point that has been brought out by the amendment to the amendment of the gentleman from Ohio which is an entirely new point in regard to the whole question, and I would like five minutes at least to point that out. Make it half an hour.

Mr. FOSS. I will make it half past 3.

The CHAIRMAN. The gentleman from Illinois moves that debate upon the pending paragraph and amendments thereto be closed in twenty-five minutes.

The question was taken; and the motion was agreed to.

Mr. McNARY. Mr. Chairman, I desire to say I think that motion is an unfair motion, even though it has been carried. The gentleman from Illinois, the chairman of the committee, and practically nobody but members of this committee have been allowed to say a word upon this matter, and yet now, when the time comes when somebody else desires to say something on the subject, they put up a time limit on debate; but let me in the short time I have call the attention of the House to the fact that again and again, through Admiral Manney's testimony on anchors, on wire rope, on chains, and on cordage, he stated that the quality made in the Boston Navy-Yard was superior to any manufactured outside, and that the outside products could not meet the Navy Department's tests. Now, in relation to those chains which have been specified on Pacific liners by the gentleman from Michigan and the gentleman from Ohio, let me read on page 393 of Admiral Manney's testimony:

Mr. ROBERTS asked the Admiral if he could not get any end-weld chains made outside, and Admiral Manney replied:

Not on the larger chains. There are other points about the chain cables. The Boston chain, as I said, is of the highest-grade iron; it is better iron than is put in commercial chains. Much of the latter is unsuitable. Such chains are unduly heavy and liable to accident. The cables of the Pacific liners of which I spoke are, I believe, the largest ever made in this country—3⅞ inches; cost, $0.543 per pound. There is no machine in the United States that can test that cable for strength if it is of the best cable iron. It is safe to say that it has never been tested. These chains would not meet the Navy Department specifications. The increase of weight above that of the largest navy cable is for two cables 34,000 pounds (17 tons), which would have to be paid for at whatever the price per pound might be. Such weight is objectionable in a battle ship, because, as she carries from three to four cables, the unnecessary weight would bar out from 25½ to 34 tons of armor, ammunition, or coal. Two cables, the least number a merchant ship would carry, would have an unnecessary weight of 34,000 pounds, which would have to be paid for at the rate of 5½ cents per pound at least. High-grade chain of a smaller size costs even more per pound than the larger cable. The latest contract made by the Bureau for 2¾-inch chain is with a Pittsburg firm for 8½ cents; 2¾-inch chain at Boston costs between 9 and 10 cents.

Mr. ROBERTS. Are you familiar with the size and quality of the chain that Mr. LOUD says is sold in the markets at 4 cents?

Admiral MANNEY. I do not know of first-class chain cables of first-class iron at such a price. The Lawson's cables and those of Hill's Pacific Line are more than 3 inches in diameter, larger than the navy chain cables. I am sure they cost more than 4 cents a pound. The *Minnesota's*, of that line, cost 5.43 cents per pound. I believe the statement that "the very best chain that can be bought in this country for use in the highest class ships is for about 4 cents per pound," is in error.

I submit, in consideration of the quality of the chain required for naval purposes, it ought to be manufactured in the Government yards, as is clearly proven by Admiral Manney's statement in reply to questions of the committee on pages 387 and 388, as follows:

Mr. LOUDENSLAGER. Now, you say that the contract work is not as good as that done in the yard?

Admiral MANNEY. Contract work that we have had done from the Lebanon Chain Works has shown up upon test to have the strength necessary to pass it. The method of welding the links is inferior to that employed at the yard. The yard uses the end weld; in the large commercial chains purchased the side weld is employed. This is objectionable, as the two sides of the link are then not symmetrical in strength. The part of the link which has been oftenest heated and pounded has not the same texture as the other part.

Mr. LOUDENSLAGER. Does your test show inferiority in the manufacture of chains?

Admiral MANNEY. The breaks show where the weakest part is, and the links having the end weld have been found the stronger.

Mr. LOUDENSLAGER. Will they not weld them at the end if you demand it?

Admiral MANNEY. No; they state that they can not. It would increase the cost.

And further on the same page he replied as follows:

Mr. LOUD. I find in the last report that when they were short last year they went outside and bought large chains. They can be bought outside?

Admiral MANNEY. Those chains were made by contract. They were 2¾-inch cables. The method of making was inferior to the Government method, because a side weld was employed. The contractors would not undertake to make an end weld, and never have made an end weld; specifications had to be waived on the manufacture and material.

A similar statement in regard to the superior quality and price of manila rope as well as chains made in Government yards is made by Admiral Manney on page 389, in response to questions by the committee, as follows:

Mr. RIXEY. I understood you to say in the first part of your hearing that these chains were made at the Boston yard by the Government cheaper than outside.

Admiral MANNEY. Cheaper, in one sense, than can be bought outside and better finished—more durable. The 2¾-inch cables made in Boston cost 9½ cents per pound; the same sized cable made by contract costs 9¼ cents per pound.

Mr. RIXEY. I understood you to say "cheaper and better."

Admiral MANNEY. I did. Commercial chains to be equally strong will cost almost as much as the Government-made chain, and can not be expected to be as serviceable. The rope also is cheaper and better than private-made rope.

Mr. RIXEY. You say now that you make the rope cheaper?

Admiral MANNEY. We make all kinds of rope—wire, hemp, and manila. Our rope we consider better than outside rope. We know what it is. Quality considered, it is cheaper.

Mr. RIXEY. You say now that you can make rope cheaper than outside?

Admiral MANNEY. Of the same quality; yes.

Mr. RIXEY. Why is it that you can make rope cheaper than outside, but can not make the chains?

Admiral MANNEY. We buy material in each case. The rope is machine made; the chain cables are made by hand. They are especially heavy, difficult, and expensive to handle. Handmade articles are more expensive than similar ones made by machinery. The best chain iron in the market is bought to make cables. It is expensive, not only because of quality, but because of high cost of transportation. As to ropes, only the very highest grade of hemp and manila is bought by the Navy, and it is carefully inspected. Much of the manila and hemp that is sold in the market is not of the first quality, and especially is that the case with manila. The grade of manila used in the Boston-made rope is not put in commercial rope nor quoted unless "special grade" is asked for. Under the circumstances the ropes made at the

Boston yard are believed to be superior, but although the material is of the best, freight and handling do not cost so much.

Mr. RIXEY. Still, Admiral, I do not see that that is a reason why you can make the rope cheaper and yet can not make the chain cheaper.

Admiral MANNEY. A principal reason for that is, as I stated, that the making of the rope is done by machinery and the making of the chain cables is hand work, and labor is expensive in the United States, and especially expensive in navy-yards. The difference of cost between the iron used for cables at Boston and that used in commercial cables is greater than the difference in cost between rope material used by the Government and private makers; also, there is a greater proportionate amount of labor employed in making cable than in making rope.

Also a similar statement in regard to wire rope, on page 384, as follows:

Mr. VREELAND. Are you making wire rope?
Admiral MANNEY. Yes, sir.
Mr. VREELAND. Where?
Admiral MANNEY. Boston.
Mr. VREELAND. Are you buying your wire rope, too?
Admiral MANNEY. No; we have not bought any wire rope, except possibly some special rope in an emergency.
Mr. VREELAND. Do you think you can manufacture it as cheaply as you can buy?
Admiral MANNEY. Cheaper, when quality is considered.
Mr. VREELAND. That is taking into consideration the investment in your plant. You do not take that into account, do you?
Admiral MANNEY. We consider it.

Admiral Manney also makes a similar statement as to anchors, on page 386, as follows:

The larger anchors made for the Government by outside parties are cast; the anchors made in the yard are of wrought iron. When you compare commercial anchors with chains or anchors made in the yard you are comparing cast with wrought metal. The heavy anchors which are made outside are of cast steel.

It is admitted that the cost of manufacturing in the navy-yard is somewhat higher. The reason for this is set forth in the Admiral's testimony, on page 388, as follows:

Admiral MANNEY. The labor is paid differently. In the private shops labor is paid by the hour, and in the naval shops the labor is paid by the day; and then there are allowances for leaves for employees that enormously increase the cost over what private establishments would have to pay. However, the cost of 2¾-inch cables at Boston is 9⅛ cents, and the cheapest contract chains yet received of the same size, 9¼ cents.

Therefore, if you propose to adopt this amendment, you are going to substitute lower standards. Now, let me point out that the last amendment, as offered by the gentleman from Ohio, puts the Department in this position, that if it is adopted it will close up the Government yards on the lines of material specified, because it provides that the Government can not manufacture unless they shall ask for bids, receive them, open, and award contracts and then receive and test the material. The Government must do all that, and it is only when that material can not be purchased lower than the present price of manufacture in the Government yards that the Government can proceed to manufacture at all. In other words, the amendment would close up the Government yard as far as manufacturing its own equipment is concerned, until the Government had received the bids.

Mr. LILLEY of Connecticut. It only refers to chains and anchors.

Mr. McNARY. Not originally. It was a general amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McNARY. Mr. Chairman, I ask for a few minutes more.

The CHAIRMAN. The gentleman from Massachusetts [Mr. McNARY] asks unanimous consent to continue his remarks. Is there objection?

Mr. OLMSTED. I have no objection to that, Mr. Chairman, except I have a word to say on the subject, and I know that members of the committee want opportunity to say something, and do not want to be cut out.

Mr. McNARY. Mr. Chairman, it is not my fault that they have not had an opportunity to speak. I will only take a few minutes, however. I want to say that the debate started originally on chains and anchors. Then it was made under the amendment, if I read it aright, to include everything in the way of equipment manufactured in the Government yards.

Mr. GROSVENOR. It is fair to the gentleman to say that the amendment has modified——

Mr. McNARY. This is coming out of my time, and I can not afford it. If I had the time I would hear the gentleman. I say that under the original amendment of the gentleman from Ohio the Government can manufacture nothing, but must wait until it receives bids and tests the quality of the purchases. As modified it means to close up the Government yards on every article included in that amendment, and leaves it to the mercy of the private manufacturers to put up the price to any point they please after the Government yards are closed. Even if the private manufacturers bid low at first, experience teaches that when they have succeeded in closing the Government shops up will go the price and down will go the quality. This amendment means, if adopted, the closing of the shops at Boston, equipped at an expense of $103,000, and with additions and maintenance costing $56,000 more, and the dispersal of the trained force of skilled workmen who now turn out the finest goods made in this country.

Mr. OLMSTED. Mr. Chairman, I desire to say a few words upon this subject. The gentleman from Michigan [Mr. LOUD] has referred to the fact that in the past some of the orders of the Government for chains have been filled by the Lebanon Chain Works. My friend from Tennessee [Mr. GAINES] has made the assertion that these chains are made by a trust, and that if this amendment should be adopted the trust will put up the price to any figure it pleases. Now, Mr. Chairman, if there is anything on earth that is not a trust it is the Lebanon Chain Works. It has but a single plant and is not connected with any other. It does not own or control any other corporation and no other corporation owns or controls it. This concern operates rather in opposition to any and every trust. As I understand it, the bill as it now stands would prevent the Government from buying chains from the Lebanon Chain Works. The amendment of the gentleman from Michigan, if adopted, will permit the purchase of chains from this concern, provided it shall, as in the past, underbid its competitors. The gentlemen from Massachusetts who so strenuously oppose this amendment naturally desire to have the chains all manufactured at Boston, but what kind of a place is Boston to make iron or the products of iron as compared with Lebanon?

The Lebanon Chain Works are located within 5 miles of the famous Cornwall ore banks, and they are not owned or operated by any trust, either. They stand out there most strikingly in the midst of one of the most beautiful and fertile valleys in the world. The view from the summit reminds me something of the view from Stirling Castle. Then, again, these works are almost within sight of splendid limestone quarries and within 30 or 40 miles of the finest anthracite coal. I have not a dollar's worth of interest personally either in the ore banks or in the chain works, but I know something about them.

In these works the making of chains is a specialty, and they are admirably adapted to that purpose. Reference has been made here to the relative merits of side weld and end weld. Well, the Lebanon Chain Works can make side weld, end weld, or any other weld that anybody desires. They can produce as good chains as any other factory on earth. If I am not mistaken, they have turned out the longest and largest chain ever produced anywhere. I have seen it so stated. They have the best known chain-testing apparatus. The chains they have heretofore made for the Government have passed every Government test, and secured by chains from the Lebanon Chain Works the largest man-of-war may securely rest at anchor anywhere, either in or outside the harbor.

The laboring population of Lebanon is as sober, industrious, intelligent, and competent as can be found. The Lebanon Chain Works has no watered stock upon which to pay dividends; and with all these advantages can, of course, produce chains more cheaply than they can be produced in Boston. No private purchaser would think of going past Lebanon to Boston to buy chains. The item of freight alone in hauling the ore from the mines to Boston and the chains from Boston to the place where they are to be used would be very considerable. If the Government can buy chains cheaper at Lebanon than anywhere else, sound business economy requires that it shall not be deprived of that advantage.

Mr. RIXEY. Mr. Chairman, the anchors and chains made for the use of the Navy are made in the Boston Navy-Yard. The effect of this amendment, if it is adopted, will be to stop the work in the Government navy-yard until it can be ascertained at what price the private factories will furnish these chains.

Mr. LILLEY of Connecticut. It does not affect anything but the chains?

Mr. RIXEY. It would stop everything that the amendment proposes to affect. Now, I can not yield just at this moment.

Mr. VREELAND. Will the gentleman allow me to ask him one question?

Mr. RIXEY. After a moment, but not now.

Mr. Chairman, as I understand it, the result would be that possibly for the first year the private factories would underbid the Government in actual cost. The private factories could afford to make the chains for the first year or the first two years or the first three years at 50 per cent of their actual cost in order to force the Government out of the work. The effect of this amendment, if it prevails, will be to break up the manufacture of these chains at the Government navy-yard at Boston—not because they can be manufactured at less price, but because it is to the interest of the private factories to drive the Government out of the work, even if the private factories lose money for the first year or two.

Mr. GROSVENOR. I would like to ask the gentleman this question: If this bill goes into effect, it will not go into effect for sixty days. Can not the Government advertise for bids in sixty days to find out whether we can make a log chain?

Mr. RIXEY. I have not time to reply to that at present. The effect of the adoption of this amendment can be seen when you understand the case to which the gentleman from Connecticut [Mr. LILLEY] referred some time ago. He asked what analogy the purchase of powder had to the purchase of chains. I will tell him what it has. The Government has a very small factory at Indian Head. It can make 20 per cent of the powder the Navy uses, and it is compelled to buy powder from the private factories.

Mr. LILLEY of Connecticut. Mr. Chairman——

Mr. RIXEY. I can not yield.

Mr. LILLEY of Connecticut. The gentleman quotes me.

Mr. RIXEY. If I can have additional time I will yield. The Government can only make 20 per cent of the powder we use and is compelled to go into the market to get the balance of it. While it costs at Indan Head 60 cents a pound, it costs to buy powder from the private factories 74 to 75 cents, and this committee yesterday refused to reduce it to 65 cents.

Stop the work at the Boston yard, put it out of the power of the Government to make its own chains, and you will be, in regard to chains, where we are to-day with reference to powder—at the mercy of the private factories. Just as soon as you take from the Government the power to protect itself you will see that the prices of these articles will begin to go up. In my opinion, Mr. Chairman, it would be an unwise policy for us to shut up this shop. I heard all the testimony before the Naval Committee that the gentleman from Michigan [Mr. LOUD] heard, and that testimony did not impress me that there was any great difference in the matter of price; but I do know that the chief of that Bureau stated emphatically that the work done by the Government was better than anything that he could purchase in the open market. He said it would be unfortunate if we undertook to cripple the establishment at Boston, that it ought to be maintained, and that the Government had the right to have the very best material for its warships.

The gentleman from Michigan [Mr. LOUD] did not offer any amendment before the committee such as he has offered to-day on this subject. It may be that he has received additional information since, but so far as the Naval Committee was concerned, there was no testimony which threw doubt upon the wisdom of continuing this work at the Boston Navy-Yard.

[The time of Mr. RIXEY having expired, by unanimous consent it was extended for one minute.]

Mr. RIXEY. Now, Mr. Chairman, I should regret the adoption of this amendment, because I should regard it as a step backward. For years we have been contending, not that the Government should do all its work in a navy-yard, not that it should build all its ships in navy-yards, but simply that it should have the proper plants to protect itself against the great combinations which are being formed almost every month in this country.

Mr. GROSVENOR. But the gentleman's committee has already reported against building an armor-plate factory, has it not?

Mr. RIXEY. I think not. I have always voted in favor of building an armor-plate factory whenever the question was raised.

Mr. GROSVENOR. But the committee has voted against it.

Mr. RIXEY. And I would vote for it to-day, in order that the Government might protect itself against the trust which controls the armor plate. [Applause.]

Mr. GROSVENOR. But the committee has always refused to adopt that recommendation, and the House has refused to adopt it.

Mr. RIXEY. That is correct.

Mr. GROSVENOR. So they say that armor plate, the finest work in the world, should be built in private plants, and log chains should be built in the Navy Department, because they are of a peculiar character.

Mr. ROBERTS. The Secretary of the Navy was authorized to establish an armor-plate factory if he could not get the armor at a price that suited him, and that brought the price down.

Mr. RIXEY. Ever since I have been a Member of Congress this House has been under the control of the Republican party, and it has refused to authorize an armor-plate factory, though it has been demonstrated here time and time again that the price charged was grossly excessive and the armor plate controlled by a trust.

[Here the hammer fell.]

Mr. ROBERTS. Mr Chairman, I desire to call the attention of the committee to the amendment to the amendment offered by the gentleman from Ohio [Mr. GROSVENOR]. It seems to me he has introduced two entirely new features into the discussion. Now, he provides by his amendment as perfected, that the Department can not expend any of this appropriation in the manufacture of wire rope, cable, or anchors, until the Department ascertains whether it can purchase these same articles outside at a less price than it costs to make them in the navy-yards. The only effect of that amendment would be to close the rope walk, the wire mill, the anchor shop, and the chain shop on the 1st day of July, when this bill goes into effect, and keep those plants closed until the Government prepares its specifications, makes its advertisement for bids, inspects those bids, and finds whether it can or can not purchase this material outside cheaper than it can be made in the navy-yards. Now, what happens?

Mr. LILLEY of Connecticut. Will the gentleman yield for a question?

Mr. ROBERTS. I can not yield. Pardon me, I do not wish to be discourteous, but I have only five minutes.

Now, what happens? The skilled force that the Government has gathered together, some of the very men that the gentleman from New York told us in that letter would have to be employed by outside people to make this Government chain, will leave the navy-yards. The Government loses them. Then suppose that three or four months afterwards it is discovered that the outside people can not make these articles up to the Government standard at less than it costs to make them in the yards. Then the Government tries to get together that force of skilled men, which it formerly had, to go on with the manufacture of those articles.

Now, what is the result of that? You stop the production of these chain cables and ropes that are needed to equip the ships that are now going into commission. As I said a little while ago, we are 11 miles behind in the matter of cables, and if you adopt this amendment, you will stop the production of cables for three or four months. But there is another alternative the Department can adopt under that amendment. The Naval Committee and Congress has, since I have had any knowledge of it, been endeavoring to prevent the Departemnts of this Government from going into the open market and making purchases without competitive bids being offered, and yet under the amendment offered by the gentleman from Ohio those in charge of the Navy Department, on the 1st day of July, can go into the open market, because he says they can get the materials "by any other means they see fit." You are going to allow the Department to go in without competitive bids and make contracts for all those articles.

But suppose it is demonstrated as a result of the competitive bids that these chains can be purchased at an equal cost to those made in the Department, what result follows? These chains can not be delivered to the Government at the time the bids are opened. These private concerns have got to get equipped, they have got to go ahead and manufacture the chains; so that in any event if the amendment is adopted you are bound to stop the equipment of battle ships that are now going into commission, you are bound to stop the furnishing of the equipment of the ships that go into the yards from time to time, for four or five months and perhaps longer; longer if private manufacturers get the contract to furnish them, and four or five months anyway. I submit to this committee that it is not a wise thing to do because we are way behind now in the furnishing of these articles and there should not be one moment's delay if ships of the Nevy are to be equipped in a manner equal to the present state of efficiency.

Mr. LOUD. Mr. Chairman, in response to the gentleman from Massachusetts, who challenged us to produce a certificate of efficiency, I hope he is satisfied with the proof of Lloyd's test that I have sent to the desk.

Mr. MCNARY. I am not satisfied, I will state to the gentleman. It does not show that it was made of the best iron, and Admiral Manney said that it would not come up to the satisfaction of the Navy Department.

Mr. LOUD. I call the gentleman's attention to the letter of the Eastern Ship Building Company, in which they say that all these things were tested to the full strength of Lloyd's inspection.

Mr. MCNARY. That is not up to the navy-yard standard.

Mr. LOUD. Now, Mr. Chairman, I have not attempted to lower the standard of material that goes into the ships of the Navy. I would not do it for a moment. I only say that material of the same strength and utility can be bought in the open market for one-half of what it is costing now.

As to superiority claimed for chain made in naval shops in

Boston yard, the following letter will explain itself, and shows a deplorable weakness in quality of the 2¾-inch cables on U. S. battle ship *Maine:*

U. S. S. MAINE,
North River, New York, N. Y., May 9, 1906.

SIR: 1. In reference to your letter of May 3, 1906, to the Chief of the Bureau of Navigation, asking for an excerpt from the log of this ship covering the subject of losing anchors, I have the honor to state that the records of the ship show that the following-mentioned cases of chain or triplet links parting had occurred prior to my taking command:

(*a*) In letting go the anchor on March 23, 1904, on the target range at Pensacola, Fla., one link of the "triplet" broke, and the anchor was recovered.

(*b*) While heaving in the starboard bower chain on July 8, 1904, at anchor off Corfu, Greece, it parted, and the anchor and 26 fathoms of chain were afterwards recovered. This was due to a defective link at about 26 fathoms.

(*c*) While heaving in at Marthas Vineyard on September 9, 1904, the chain came in without the anchor. The examination showed that the middle link of the bending-shackle triplet had broken across the weld. This anchor was lost, and no trace of its buoy could be found.

(*d*) While heaving in off Cape Henry, Va., on June 1, 1905, it was found that the second link of the port triplet had parted. The anchor was recovered.

2. Since I have taken command of the *Maine* the following-mentioned cases have occurred:

(*e*) In letting go the port anchor on the target range off Barnstable, Mass., on September 22, 1905, the chain parted at the outboard link of the triplet. The anchor was recovered.

(*f*) In letting go the port anchor in North River on May 4, 1906, the middle link of the triplet parted almost immediately after letting go and before the anchor had touched the bottom. The anchor has been recovered.

3. The anchor chain of this ship was manufactured at the Boston Navy-Yard.

Very respectfully,
N. A. NILES,
Captain, U. S. Navy, Commanding.

Hon. GEORGE A. LOUD, M. C.,
Tenth District, Michigan,
Committee on Naval Affairs, Washington, D. C.

Mr. GRAHAM. I want to call the gentleman's attention to the fact, as developed by the debate, that there are three independent concerns outside of the steel trust now making chains for private consumers and will probably be able to supply the Government with chains. There is one at Lebanon, one at Pittsburg, and another elsewhere.

Mr. LOUD. My investigation has been exhaustive, and I find a great number of chain factories that are able to compete in this matter and which are not tied up in any combination. I want to say further in regard to what has been said about chains about the end weld and the side weld——

Mr. VREELAND. If the gentleman will pardon me, I want to suggest that the bill as amended provides for the same standard as the Navy is now building, therefore that point is taken out; but I would be glad to hear the gentleman as to the effect it would have on the plant at Boston—whether or not it would close it up, as suggested by the gentleman from Massachusetts?

Mr. LOUD. In answer to that question I will say that they have the advantage of the outside manufacturer, because they have a plant costing half a million dollars furnished them, with nothing for deterioration, renewals, interest, taxes, insurance, or profits to charge against their output, while other firms have to allow for all these fixed charges against their output, and I can not understand why the naval shops can not, under these favoring conditions, compete on an even basis with the outside parties. If they can not compete on an even basis with the outside factory they ought to be closed up and let it be a lesson to other manufacturing interests supported by the Navy that they must get the cost down within a reasonable limit.

Mr. LILLEY of Connecticut. Will the gentleman yield?

Mr. LOUD. I will yield to the gentleman from Connecticut.

Mr. LILLEY of Connecticut. I would like to ask the gentleman from Michigan if he does not think that the gentleman from Massachusetts has taken a little too seriously the position that the factory would have to stop on the 1st of July if this amendment was passed? Would not there be ample time between now and July 1 to get bids and let contracts?

Mr. LOUD. I want to say that there is no reason why that magnificent plant, furnished with all the latest machinery for making these articles, with skilled mechanics who can make them if they want to, has not plenty of time within which to make the test, and if they can make it equally cheap they are at perfect liberty to do so. In closing I desire to say that I have here the highest published authority upon chain making which can be found anywhere in the world, and that advocates the side welding of the chain, and I have here three letters upon the same subject from experts, all saying that the side-welded chain is the best. Those letters are as follows:

LEBANON, PA., *March 28, 1906.*

Hon. GEORGE A. LOUD,
House of Representatives, Washington, D. C.

DEAR SIR: I understand that you are interested in information concerning the manufacture of chain as made in the Boston Navy-Yard. The writer is a practical chain maker, and during the year 1904 was employed in the Boston Navy-Yard making chain. I do not consider that the iron furnished by the Monongahela Iron and Steel Company, of Pittsburg, is the proper iron to use for chain making, for the reason that it is very hard to weld and does not run uniform. During the latter period of the time that I was employed there I made all of the chain samples for testing. The method of testing chain at the Boston Navy-Yard is entirely different from the way it is done in outside shops. In Boston the chain maker has the privilege of cutting out his own samples for testing.

I am at present employed by a chain manufacturing concern which has furnished large quantities of this chain to the United States Navy, part of which chain I have made. In this shop the test pieces are cut out of the chain at random by the Government inspector and pulled to destruction, and unless these test pieces stand the required strains the entire piece of chain from which the test piece was taken would be rejected. In the Boston Navy-Yard the chain was all welded on the end, whereas in this shop it was side welded, and in my opinion side-welded chain is superior to the end welded.

Yours, respectfully,
EDWARD MELLMAN.

LEBANON, PA., *March 28, 1906.*

Hon. GEORGE A. LOUD,
House of Representatives, Washington, D. C.

DEAR SIR: I understand that you are interested in the subject of side-welded chain, and desire to give you some information on the subject.

In the year 1816 Sir Samuel Brown, a lieutenant in the royal navy of England, first invented the process of welding chain on the side. Ever since that time chain has been made successfully by the side-welding process, and the British Admiralty will not use any other but side-welded, as it has proven far superior to end-welded chain on larger sizes. In the year 1840 it was first made in Staffordshire, England, by the late Henry Pershouse Parkes, and since that time all the chain made there of large sizes for ship cables have been side-welded.

Yours, respectfully,
SYDNEY JOHNSON.

LEBANON, PA., *March 28, 1906.*

Hon. GEORGE A. LOUD,
House of Representatives, Washington, D. C.

DEAR SIR: I have recently received information which leads me to believe that a statement by myself in regard to the difference between welding chain on the end and on the side would be of interest to you. I am a practical chain maker, having been engaged in this business in England, as well as this country, for the past thirty years, and have had a wide experience.

Side-welded chains are far superior to end-welded chains for the reasons that end-welded chain is not so pliable, not so neat, and not so strong as the side-welded. I can remember when Brown & Lenox, in Wales, England, used to make all the side-welded chain for the British navy. Staffordshire, England, which is a noted place for chain making, could not compete with Wales, for the reason that they were welding their chain on the end and were compelled to change to the side-welding process, which has been demonstrated as superior to the end-welded. Since making this change, nearly all of the British navy cable chain is made in Staffordshire, and the British navy will not have any chain welded on the end over 1¾-inch size. Side-welded chain has been made in England for more than fifty years, and during that period has proven to be far superior to end-welded.

Yours, truly,
HERBERT FORREST.

I have approached this business proposition from a wholly unprejudiced and unbiased standpoint, for I am one of the fortunate members of the Naval Committee having no navy-yard, naval station, or naval interest; nor any manufactory of any material under discussion in my district or my State.

I have no relatives, friends, or acquaintances interested in any such manufactory, and all the information which I have given to you in unstinted measure has been obtained upon my own initiative from absolute strangers.

My only motive in taking up the subject is to call to your attention this illustration of extravagant and needless expenditure of a large sum of money yearly, thereby diverting and wasting a portion of the large and generous appropriation by Congress of about $100,000,000 annually, which should be used in the economical upbuilding and maintenance of a grand navy, which I hope shall be second to that of no other nation in the world, save England. I trust the amendment under discussion will prevail. [Great applause.]

The CHAIRMAN. The time for general debate has expired.

Mr. GROSVENOR. Mr. Chairman, I offer the following substitute for the pending amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Provided, That no part of said sum shall be expended in the manufacturing in any Government navy-yard of any chains, anchors, or cordage which can be obtained in the free markets of the country at a less cost than the manufacture of the same article will cost in the navy-yards by bids at the solicitation of the Department or in such other manner as the Department may choose: *And provided further,* That all such articles shall be of a standard of quality to be fixed by the Navy Department.

The CHAIRMAN. The question is on agreeing to the substitute for the pending amendment offered by the gentleman from Ohio.

The question was taken; and on a division (demanded by Mr. LOUD) there were—ayes 76, noes 72.

Mr. ROBERTS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. LOUD and Mr. ROBERTS were appointed tellers.

The committee again divided; and the tellers reported—ayes 78, noes 73.

So the substitute was agreed to.

The CHAIRMAN. The question is now on the original amendment as amended by the substitute.

The question was taken; and on a division (demanded by Mr. ROBERTS) there were—ayes 71, noes 66.

Mr. ROBERTS. Mr. Chairman, I demand tellers.

Tellers were ordered; and Mr. LOUD and Mr. ROBERTS were appointed tellers.

The committee again divided; and the tellers reported—ayes 85, noes 76.

So the amendment was agreed to.

The Clerk read as follows:

Coal and transportation: Purchase of coal and other fuel for steamers and ships' use, and other equipment purposes, including expenses of transportation, storage, and handling the same, and for the general maintenance of naval coaling depots and coaling plants, $3,750,000.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word. I do this for the purpose of asking the gentleman in charge of the bill a question. I observe that this appropriation has been increased over the appropriation for the current appropriation $1,000,000. The Navy Department at the beginning of this session estimated a deficiency of $1,250,000 for the current year.

Mr. FOSS. Yes.

Mr. TAWNEY. And Congress has allowed them $50,000 in addition to what was appropriated. I obtained the impression in the hearings on the urgent deficiency bill that it was the policy of the Navy Department to stock up to the maximum limit all of the coaling stations that the Government owned, and that that was the reason they felt there would be such a deficiency in the current appropriation for coal. I desire to ask the gentleman whether this increase of $1,000,000 is for the purpose of carrying out that policy, or whether this increase is necessary to maintain only a reasonable necessary quantity of coal at these different coaling stations for necessary current consumption?

Mr. FOSS. Mr. Chairman, that is my understanding, that this is simply for the Navy during the coming fiscal year and not to stock up a large amount of coal at any of these coaling stations. Of course there will have to be more or less reserve in the Philippines, because we have the Asiatic fleet over there. The reason why there is an increase this year is due to the fact that we have more vessels in commission, and, as the gentleman will see, from the fact that the Department is asking for a deficiency this year, if the same number of vessels are kept in commission it will require a larger appropriation for coal. I may say that this item is made larger by reason of the fact that the shipping of our coal has been done in American bottoms. That is costing from $350,000 to $400,000 a year more than if the coal were shipped in foreign bottoms. That was done in pursuance of an act of Congress approved April 28, 1904, compelling all naval supplies to be shipped in American bottoms. I think that this appropriation is needed this year and that we can not safely reduce it.

Mr. TAWNEY. I will say, Mr. Chairman, my only purpose was to ascertain whether or not the committee, of which the gentleman is at the head—the Naval Committee—agreed with the Navy Department in respect to the necessity of stocking up our coaling stations to their maximum capacity——

Mr. FOSS. Oh, no——

Mr. TAWNEY. The coaling stations in the United States. If that was so, I should have moved to reduce this amount. I withdraw the pro forma amendment.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 16, line 12, after the word "dollars," insert: "*Provided*, That no part of the amount hereby appropriated shall be expended for transportation of coal between ports in the United States on the Atlantic coast and on the Gulf of Mexico and ports in the Philippine Islands at a greater rate than $5 a ton."

Mr. FITZGERALD. In the hearings on the urgent deficiency bill it was ascertained that prior to the passage of the act of April 28, 1904, the highest price paid for the transportation of coal to the Philippine Islands was $4.87½ a ton. Since the passage of the act of April 28, 1904, which required coal and supplies for the Navy to be transported in American vessels, the price has gone up to about $7.50 a ton. In that act provision is made that, in case the prices are excessive or unreasonable, the President of the United States may direct that coal and supplies be transported in other vessels than American vessels. The Secretary of the Navy, in his report for the present year, speaking of the law requiring the transportation of coal especially in American vessels, says:

That the statute requiring the transportation of naval stores in American bottoms, however, tends to none of these ends—

That is, to the building up of the merchant marine and training of seamen—

and, in fact, seems only to cause trouble and expense to the Government, with no offsetting advantage. I strongly recommend its repeal.

The Secretary of the Navy, in his statement before the Committee on Naval Affairs, speaking of the necessity of repealing this act—that is, the act requiring the transportation of naval supplies in American bottoms—says this:

That is pretty well stated in my report. I have only to say this: I can not see any good excepting to owners of ships. I do not think it promotes the building of any American ship or the training of any American sailor. It has very largely increased the cost of the transportation of our coal. So far as the transportation of naval stores is concerned, the law is almost ineffective. It is difficult to get, very frequently, the American ship to transport them. Of course you can do that with coal, because it is not an urgent matter—not a matter of extreme urgency to get it there at a fixed date; but the increased cost is something very startling—something like double.

Then, after an interruption as to where the law originated, the Secretary of the Navy continues:

They are for everything excepting coal, and they are very high and mighty on the coal question. They fix rates that are practically—well, not prohibitory, because we have to get the coal, but which are enormously high. All I want to say in this connection is that I don't want it to be assumed from my recommendation in that report that I am opposed to a measure which would tend to promote the merchant marine. I have only to deal with the so-called "ship-subsidy" measures or proposals from a naval standpoint, and from a purely naval standpoint there is a great deal to be said in favor of some such bill as that; but I don't see that this bill amounts to anything excepting a heavy increase of expense.

The hearings developed that coal costing $360,000 to purchase in this country cost over $900,000 to transport to the Philippine Islands. In this appropriation bill an increase of $1,000,000 is recommended for the purchase of coal and transportation. The Secretary of the Navy says that the requirement to carry this coal in American bottoms has resulted merely in doubling the cost of transportation. I wish to call attention to the fact that it seems very extraordinary that the Secretary should continue to use American bottoms for this purpose. He says that while the price is not prohibitory it is very excessive, and yet in the law passed April 28, 1904, it is specifically provided that—

American bottoms shall be used unless the President shall find that the rate of freight charges by said vessels are excessive and unreasonable, in which case contract shall be made under the law as it now exists.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RIXEY. Mr. Chairman, I move that the gentleman's time may be extended for five minutes.

The CHAIRMAN. Is there objection to the request? [After a pause.] The Chair hears none.

Mr. FITZGERALD. Mr. Chairman, the purpose of this amendment is not only to permit the payment of a reasonable and a fair charge for the transportation of coal for the Navy from this country to the Philippine Islands, but it is also designed to prevent the extortionate prices that now prevail. I know of no better authority upon this question than the Secretary of the Navy. It is not possible to repeal on this appropriation bill the law to which he refers, but it is possible to so limit the price to be paid for the transportation of coal as to effect practically the same result. The fact that prior to the passage of this law, as was shown in the hearings to which I have called attention, coal could be transported, at the outside, at $4.87 a ton makes it seem that $5 is a reasonable price to fix.

Mr. UNDERWOOD. Will the gentleman allow me to ask him a question?

Mr. FITZGERALD. Yes.

Mr. UNDERWOOD. Under this law as it is now on the statute books, is it not in the power of the Secretary of the Navy, if extortionate prices are asked, to send the coal in foreign bottoms?

Mr. FITZGERALD. It gives that power to the President; but the President is a busy man. He has a great many duties. He can not have knowledge of all of these things, and it seems to me, in view of the Secretary's statement that the prices are enormously high, that that law has resulted in nothing except in a heavy increase in expense, and that the increased cost is something very startling, something like double, and that despite all the coal is transported in these vessels, it is necessary for us to do something to relieve the situation.

Mr. UNDERWOOD. The object of my question was this: If we adopt this amendment it will not shut off the opportunity for carrying coal, but it is merely declaratory of the opinion of this House that more than $5 would be exorbitant, and if American bottoms charge more than that, the Secretary of the Navy then could send it in foreign ships.

Mr. FITZGERALD. That is true.

Mr. FOSS. I have the law right here.

Mr. FITZGERALD. I have it right here, too.

Mr. FOSS it says:

Provided, That no greater charges be made by such vessels for transportation of articles for the use of said Army and Navy than are made by such vessels for transportation of like goods for private parties or companies.

Mr. FITZGERALD. And that if the prices are excessive or unreasonable, the President can direct that the coal or supplies can be carried in foreign bottoms. But in spite of the existence of that law, the coal for the Navy has been carried in American bottoms; and the Secretary of the Navy, both in his report and in his testimony before the gentleman's committee, insists that the increase in cost has been "startling;" that the prices, while not prohibitory, because they have had the coal carried, is yet "enormously high," and that the law should be repealed. Yet in the face of those statements and expressions of opinion of the Secretary of the Navy, no action has been taken by the Executive to remedy the conditions. I believe it is due to the fact that the President, as I have already stated, has a multitude of duties. He can not keep informed of all these different matters.

Mr. FOSS. I understand that the Navy Department is going to take this matter up, and they will not pay any such exorbitant charges.

Mr. FITZGERALD. Now, the gentleman has no objection to some limitation upon the price. I am not particular about——

Mr. FOSS. We can not repeal this law here on this bill in this way.

Mr. FITZGERALD. We can fix the limit of price, and if the gentleman from Illinois [Mr. Foss] will suggest some other price than $5 I am willing to accept it.

Mr. SLAYDEN. Will the gentleman permit me a question?

Mr. FITZGERALD. I will.

Mr. SLAYDEN. I would like to ask him and the other gentlemen of the committee what has been the history of this transportation? Have excessive prices been charged?

Mr. FITZGERALD. That is what the Secretary of the Navy says, and the fact is that prior to the passage of the law the highest price, according to the statement made to the Committee on Appropriations, was $4.87½ per ton. After the passage of the law it has gone as high as $7.50 a ton.

The CHAIRMAN. The time of the gentleman from New York [Mr. FITZGERALD] has expired.

Mr. SLAYDEN. Mr. Chairman, I was interrogating the gentleman from New York [Mr. FITZGERALD] and the gentleman from Illinois [Mr. Foss], the chairman of the committee, with the view of getting some information as to these charges. The gentleman from New York states that prior to the limitation fixed in the law the charges were less than $5 a ton, namely, $4.87½. I understood him to say that since then the charges have been advanced until they are $7 or more per ton.

Mr. FITZGERALD. It has gone as high as $7, but has varied.

Mr. SLAYDEN. Has gone as high as $7 a ton?

Mr. FOSS. That is, in American bottoms.

Mr. SLAYDEN. Does not that strike the gentleman as, if the charge was reasonable and fairly remunerative, that the advance to $7 a ton, more than 40 per cent, is extortion?

Mr. LOUDENSLAGER. Will the gentleman permit a question?

Mr. SLAYDEN. Yes.

Mr. LOUDENSLAGER. What was the rate charged the Government when carried in foreign bottoms?

Mr. SLAYDEN. I am trying to elicit information from the chairman of the committee on that very point.

Mr. LOUDENSLAGER. I would say to the gentleman that it was not only in excess of $7, but in excess of $8 in 1901.

Mr. SLAYDEN. Then, if that be true, Mr. Chairman, we want some limitation that will protect the interest of the Government both from the foreign and American ships, it seems. We ought to have a competition that comes from the encouragement of American ships, but puts a limitation upon their greed.

Mr. FITZGERALD. I think that the gentleman from New Jersey has confounded two facts. I believe what he said applies to the transportation of other supplies. This item relates to coal. Prices for carrying other supplies were quite high in 1901. But my recollection is that for carrying coal, for which there were a greater number of vessels available, that it did not reach the prices mentioned by him. This amendment merely applies to coal, the transportation of coal, and not the transportation of other supplies.

Mr. LOUDENSLAGER. I will just say, for the benefit of the gentleman from New York, that the statement he made is based upon the same authority as the statement made by me.

Mr. FITZGERALD. Well, I suppose it is the chief of the Bureau, but I do not know. He gives in his report the average price in 1901. I do know this, however, that the Secretary of the Navy has stated to the gentleman's committee that extortionate prices are now being charged.

Mr. LOUDENSLAGER. Extortionate?

Mr. FITZGERALD. He says practically that: "They fix rates that are practically, while not prohibitory, because we have got the coal, but they are enormously high." And he said at another place: "The cost is something very startling, something like double." And he said in another place: "I do not see that this bill amounts to anything except a heavy increase in expense." I submit that whatever would be the proper reasonable price, we should limit the Department to that price. The President has under the law the power to use foreign bottoms when the prices are unreasonable or excessive in American bottoms. Not having exercised that power in the past, it seems to me that we should fix a price beyond which the Department should not go in the use of American bottoms.

Mr. FOSS. Now, I would like to ask the gentleman, in view of the fact that the President has that power, in the case of excessive charges or unreasonable charges, to ship coal under the law as it previously existed, why is that not sufficient? Why put in this limitation when you have a limitation by law?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. FOSS. Mr. Chairman, I desire to be recognized.

Mr. FITZGERALD. In the time of the gentleman from Illinois, I will say this.

The CHAIRMAN. The gentleman from Illinois moves to strike out the last word.

Mr. FOSS. If we could put a limitation upon them there, we might put it by a law for the coming year, so as to practically prevent the shipping of coal to the Philippine Islands.

Mr. FITZGERALD. We would only fix a reasonable limitation and regulate the price of transportation.

Mr. FOSS. If you put any limitation whatever upon it, as the gentleman from New Jersey said, like in 1901, in foreign bottoms it was $8, if I remember aright.

Mr. SLAYDEN. Will the gentleman yield?

Mr. FOSS. Now, what we want is to get the coal out there for the ships, and we do not want to put any limitation that will shut that possibility out. I have no particular love for this line of business.

Mr. SLAYDEN. I do not want to cripple the naval service in any way, but I understood the gentleman from New York to read from a communication of the Secretary of the Navy, or his testimony before the committee, that the charges that had been exacted had been enormously high.

Mr. FOSS. But under this law the President can remedy that evil.

Mr. SLAYDEN. But under the practice it has not been done. It is the right of the President, but he is so much occupied with his multitudinous duties that perhaps he has not been able to give his attention to it and has not been able to reach it.

Mr. FOSS. Oh, after a while he will probably reach the matter.

Mr. LOUDENSLAGER. Mr. Chairman, I am inclined to think that the members of the committee are laboring under a wrong impression. I am not in favor of permitting the Navy Department to suffer extortion, either in the carrying of coal or in the obtaining of any other articles. The report of the chief of the Bureau of the price paid for carrying coal from the Atlantic coast to Manila and the Hawaiian Islands is made every year, and for a period of seven years ending June 30, 1905, when for the major part of the time the coal was carried in foreign bottoms, the average price for those years was $6.49. A large proportion of the reduction of that price was made in the year 1904, when the foreign bottoms, cognizant of proposed legislation, evidently for that reason, reduced the price per ton for transportation, just as they are to-day offering to carry this coal at a less figure than they would if they had the command of the market themselves. I do not believe it is wise for the committee to adopt this amendment. If, however, the committee deem it wise to relieve the President of the discretionary power in this act, or to relieve him in a degree from the pressure that may be brought upon him, it would seem to me to be more wise for that limitation of this appropriation to be made on the line of percentages of increased cost of freight, either in foreign or American bottoms, so that at any time the President or the Secretary of the Navy might have more liberty in the carrying of coal. But even that, in my judgment, is dangerous, for the reason that if we do have any trouble in those waters, as everybody knows, every foreign bottom will refuse to carry a particle of coal for us, and we shall be dependent upon American bottoms. It would

be wiser to repeal the law rather than to put a limitation upon this arm of the Government service.

Mr. BUTLER of Pennsylvania. Mr. Chairman, Congress saw fit in 1904 to provide that our coal carried to the Philippine Islands should be carried in American ships. The wisdom of that law was left to the membership of Congress. If I recollect rightly, there was not much opposition to the measure. Of course, it costs more money to carry coal in American ships than it does in foreign ships. American sailors are paid more money than foreign sailors are paid. There is not, however, any attempt to maintain one price for carrying this coal. The witness who appeared before the committee, and who was questioned quite closely (as gentlemen will see if they desire to follow the hearing), testified in answer to a question:

Do various American shipping companies bid for the contract?
Every shipowner in the United States of whom we have knowledge is asked to make an offer.
As a rule, do many of them make offers?
Many do.

Mr. Chairman, if the price is limited to $5 or $6 per ton, it will have the effect, of course, not only of taking from the Secretary of the Navy discretionary power to fix the rate on coal, but at the same time it may deprive our coal depots in the Philippine Islands and elsewhere of fuel that is absolutely necessary for our ships during the coming year. I believe that the Department is not well satisfied with the act of Congress of April, 1904. I believe, from what I have learned, that the Department would consider it much better if the discretion had been left in it to employ either foreign or American bottoms to haul this coal.

The committee that passed upon this item had nothing whatever to do with that subject. We do believe that quite a large sum is charged for this service, about $7 per ton as against $5 charged, perhaps, the year before. But to repeat what I said, if you limit the price we may not get the coal until this law is repealed. One step further. I know that it must be in the minds of gentlemen who are inquiring as to the advisability of the adoption of this amendment offered by the gentleman from New York: What is the occasion for this increase in price of carrying the coal? Principally this, that these American bottoms have no loads to carry back. They put the coal in at Newport News, take the long sail down the Atlantic, across the Pacific, and land their loads at Manila, and come back empty, because they do not have any trade this way. Therefore the Department informs us that in making these bids they must bid on both ways. Whose fault is that?

Mr. PERKINS. Will the gentleman yield for a question?

Mr. BUTLER of Pennsylvania. I shall be greatly pleased to yield.

Mr. PERKINS. Is not that equally true of the foreign bottoms?

Mr. BUTLER of Pennsylvania. No.

Mr. PERKINS. Wherein is the difference?

Mr. BUTLER of Pennsylvania. Admiral Manney testified that they carry coal to the Philippines and come back loaded; that there is a good deal of trade the other way.

Mr. PERKINS. Then why do not the American boats come back loaded?

Mr. BUTLER of Pennsylvania. Because the trade is not this way. The trade is to England and other ports where the foreign ships sail. I hope my friend will not press me particularly. I should like to answer his questions specifically, for I am not sufficiently well informed as to trade. We could do no better than to take the statement of competent gentlemen, and that statement we accepted.

The CHAIRMAN. The gentleman's time has expired.

Mr. FITZGERALD. Mr. Chairman, I ask that the time of the gentleman be extended five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PERKINS. Will the gentleman from Pennsylvania answer one question, which he certainly can answer, because it is asking his own judgment; does he individually think it is wise to continue on the statute books the provision that now stands there compelling the Government to use American bottoms for the transportation of this coal?

Mr. BUTLER of Pennsylvania. Mr. Chairman, that is a pretty hard question to answer. I am an American citizen——

Mr. PERKINS. We all are.

Mr. BUTLER of Pennsylvania (continuing). And as long as I am an American citizen I shall be willing to pay the American sailor a little more than I would the foreigner. I believe, although I am not well informed—I am not an expert—that $7 is quite a large price to pay for carrying coal, and I base my judgment largely on the statement of those better informed than I am. But the question is, What is our remedy? I feel sure that there is a disposition in the Department to work out the solution. I do know that it is the determination to make every effort to get our coal hauled to the Philippines for less money than it is now being hauled. I am not willing, I will say to the gentleman from New York, to concede that I will vote to repeal that act of Congress, to turn over the carrying of coal as against our small merchant marine to foreign ships and put the foreign sailor in competition with the American sailor. I believe that if our trade becomes established in the Philippine Islands, and as the eastern trade may become expanded in extent, this coal may be hauled for less money. There is no criticism offered against the American shipowner that he is attempting to gouge the Government. They have, as I said before, nothing to bring this way, and of course the merchantman thinks he ought to have something on that account to pay him for the performance of his service.

Mr. UNDERWOOD. May I ask the gentleman a question?

Mr. BUTLER of Pennsylvania. I yield to the gentleman.

Mr. UNDERWOOD. Is not the fact that you do not bring any load back mainly due to the fact that the Republican party keeps the tariff wall between the Philippine Islands and the United States, and that they can not bring anything back?

Mr. BUTLER of Pennsylvania. I hope that during the present session of Congress the act that passed this House may become a law. [Applause.] I may say that I do not think I am less Republican to express that wish. For the Filipino people I am willing to let down the bars, but in favor of the foreigner never; I would go to defeat first.

Mr. WILLIAMS. If the gentleman from Pennsylvania will pardon me, I have so much confidence in the gentleman's opinion on this matter that I would like to ask him if he does not regard the hope that he just spoke of as an iridescent hope? [Laughter.]

Mr. BUTLER of Pennsylvania. Well, having the same regard and confidence in the judgment of my friend from Mississippi, I will ask him whether he has any hope of the passage of that bill?

Mr. WILLIAMS. I have long ceased to have any hope that common sense of a Democratic character would come from the legislative branch not far from here. [Laughter.]

Mr. BUTLER of Pennsylvania. My hope is that the gentleman will yet be saved, and this because of my great liking for him.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I ask for just one minute more.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania? [After a pause.] The Chair hears none.

Mr. BUTLER of Pennsylvania. I believe it would be a mistake to put this limit on, for the reason that it might, while the act of Congress stands in the way, interfere with the delivery of coal in the Philippine Islands. I will not contend for any sort of combination that will take from the Government what the Government ought not to pay. We are not well informed as to what the future may show, but we are well satisfied, I think, that the Department is endeavoring to work out a solution, and it is not a comfortable one under the circumstances. [Laughter.]

Mr. RIXEY. Mr. Chairman, I move to strike out the last word. There was no apologist before the committee for this condition in regard to shipping coal to the Philippine Islands. Every representative of the Government who came before the committee expressed his regret that the law existed requiring the coal to be shipped in American bottoms. The gentleman from New York has read what the Secretary of the Navy stated before the committee. The Secretary thought this matter of so much importance that he also referred to this subject in his annual report, from which I will read:

In connection with the estimates for the Bureaus of Equipment and Supplies and Accounts, my attention has been called to the very unsatisfactory working of the law requiring the shipment of supplies for the Navy in American bottoms. It has been found altogether impracticable to make such shipments in connection with most naval stores, and in other cases, more especially with regard to coal, the additional cost to the Government thereby caused has been enormous. With the economical or legal aspects of a subsidy to our merchant marine this Department has no concern, but there can be no doubt that, from a purely naval standpoint, much may be said in favor of such a subsidy. With proper safeguards it might secure us a useful reserve of seamen and provide us with scouts, commerce destroyers, supply ships, transports, and colliers, which might be of great value in case of war. The statute requiring transportation of naval stores in American bottoms, however, tends to none of these ends, and, in fact, seems to cause only trouble and expense to the Government, with no compensating advantage. I strongly recommend its repeal.

Mr. BUTLER of Pennsylvania. Is that a repeal of the law?

Mr. RIXEY. The Secretary said, "I strongly recommend its repeal." Now, the amendment of the gentleman from New York [Mr. FITZGERALD], if adopted, will operate as a practical repeal of that law so far as coal is concerned, and for this reason: The law itself provides that if the price is exorbitant and unreasonable the President has the power to have it carried under the law as it existed at the time that the new law was passed. The adoption of this amendment will be a statement that anything in excess of $5 is exorbitant, and will amount to a request to the President to exercise the discretion vested in him by the law and authorize coal to be carried as it was under the old law. It is perfectly plain that that is the proper course to pursue, and the amendment of the gentleman from New York should be adopted. I desire to state here that, having heard the Secretary's opinion before the committee and having heard the Bureau chief's testimony there, I am satisfied that the Navy Department would welcome a limitation upon this bill practically repealing the requirement of the new law as to coal transportation. In that one item for transportation of coal in one year to the Philippine Islands it cost the Government $300,000 more than it would upon open and free competition.

Mr. FOSS. Does the amendment of the gentleman from New York [Mr. FITZGERALD] make the $5 applicable to foreign bottoms as well as to American bottoms, or simply to American bottoms?

Mr. FITZGERALD. Oh, the amendment would prevent this being paid to any ship; but if the gentleman will permit me I am going to ask to be permitted to substitute the sum of $6 for the sum of $5.

Mr. RIXEY. Mr. Chairman, I will ask the gentleman to provide in his amendment that it be made applicable to both conditions, so that if it is not carried under present law the President will have the right to have it carried under the old law.

Mr. FITZGERALD. Under the law the President has the right to correct it.

Mr. FOSS. Under the law he can correct it to-day. Why not leave it in that way instead of attempting to fix a limitation which might absolutely shut out all coal for the Philippines?

Mr. FITZGERALD. The trouble is that he has failed to do this.

Mr. FOSS. The Secretary of the Navy says himself——

Mr. RIXEY. Mr. Chairman, I will say to my friend that this is but a repetition of the discussion which took place last year on this bill in reference to this item.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RIXEY. Mr. Chairman, I ask unanimous consent for one minute.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to proceed for one minute. Is there objection?

There was no objection.

Mr. RIXEY. Mr. Chairman, when the naval bill for 1906 was up last year there was a similar motion made in regard to this item, and the same plea was entered by the gentleman from Illinois [Mr. Foss], that the President had the power to correct it; but the fact remains that it has not been corrected and the failure to correct is costing the Government $300,000 a year. The probability is the President has never heard of it, but if this limitation is now placed here or some other like limitation is placed on the bill indicating the wish of Congress and the opinion of Congress it will bring some action by the executive branch of the Government, and I think the amendment ought to be adopted.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word. I am very much in favor of the motion offered by the gentleman from New York [Mr. FITZGERALD]. I do not think Members of the House can attach too much importance to one fact, which is that, as I think, we are getting to be "a government by scolding." Instead of enforcing the laws upon the statute books and exercising the discretions that are vested in various Departments and the President, we are getting so that we take it out in coming before the committees of the House or the House itself and scolding about the very things which might be cured without scolding. The gentleman from New York has read the testimony of the Secretary of the Navy. The Secretary of the Navy scolds about this matter. He tells about the abuse and he tells about how the Navy is frightfully exploited in the freight charges upon the coal. Yet it turns out that there is a discretion vested in the President by law to avoid this very evil and that the Secretary of the Navy, by bringing it to the attention of the President, if the President had done his duty, and presumably he would have done it, could have prevented the necessity of any motion like the one which the gentleman from New York now offers.

What is left to us, the legislative branch? If we vest in the Executive a discretion to prevent the Treasury from being exploited by selfish interests and that discretion be not exercised, then there is nothing left for us to do except to pass further legislation making clear our will and fixing a point beyond which the charges must not go and at which the exercise of the discretion in the Executive becomes mandatory and must be exercised. The motion of the gentleman from New York does that.

Mr. UNDERWOOD. Mr. Chairman, I offer the following substitute to the amendment offered by the gentleman from New York, which I send to the desk.

The Clerk read as follows:

Provided, That an act to require the employment of vessels of the United States for public purposes, approved April 28, 1904, shall not apply to the expenditure of this appropriation.

Mr. FOSS. I make the point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois makes the point of order.

Mr. UNDERWOOD. Mr. Chairman, I suppose the gentleman makes the point of order on the ground that it is a change of existing law, although he did not so state?

Mr. FOSS. Yes.

Mr. UNDERWOOD. What I have to say against the point of order is this, Mr. Chairman: This is an appropriation for the expenditure of Government money for coal. It is within the power of Congress to limit the expenditure as it sees fit, just as the proposition of the gentleman from New York is a limitation on the expenditure providing that it shall not exceed $5 for each ton.

Now, this is a limitation in the expenditure in the sense that it shall not go under that law. I admit I am not clear myself as to the parliamentary situation of this amendment, but I offer it as a limitation. Possibly it may go further than that and be purely a repeal of law, but before the gentleman from Illinois insists on his point of order I want to call the attention of this House to this fact: He is objecting to the amendment of the gentleman from New York on the ground that you are tying the hands of the Secretary of the Navy so if an emergency comes he can not act; he can not go over $5 a ton. Now, the Secretary of the Navy, in his hearing before the Naval Committee, has stated to the gentleman from Illinois, the chairman of this great committee, and to the members of his committee that the increase caused in transportation of coal by reason of this law has been something startling, and that he favors a repeal of the law. Now, under those circumstances here is a limitation which I offer, if the gentleman does not insist upon the point of order, that does not repeal the law permanently, but repeals it so far as this particular provision is concerned. It unties the hands of the Secretary of the Navy, gives him a full authority to experiment under this appropriation, and determine whether or not he can get this coal shipped to foreign ports of the Government at a reasonable compensation, if you remove this law that at present ties his hands. Now, gentlemen on the committee object to the proposition of limiting the cost. There is no limitation here. It will leave it open for him in his discretion to determine whether he will ship the coal in foreign bottoms or in American bottoms, but it will do away with the fact that a few American vessels have increased the cost of transportation, as he says, to something that is startling. That is not my language; that is the language of the Secretary of the Navy. Now, under those circumstances is not it the duty of this House to relieve him of that trouble, give him the opportunity to save this difference of from $5 to $7 for each ton of coal that is shipped? The testimony in the report shows that before this law was enacted the highest price that was paid for carrying coal to the Philippine Islands was under $5 a ton.

Mr. LOUDENSLAGER. Oh, no; I beg your pardon.

Mr. UNDERWOOD. Well, that is the statement of the gentleman from New York.

Mr. LOUDENSLAGER. Admiral Manney's report is it was advanced up to $8.63.

Mr. FITZGERALD. That is the statement made before the Committee on Appropriations on the urgent deficiency bill.

Mr. LOUDENSLAGER. I am taking his report made to the Secretary of the Navy and by him published.

Mr. UNDERWOOD. The gentleman from New York states——

Mr. RIXEY. Here is the statement.

Mr. UNDERWOOD. The gentleman from Virginia hands me the hearings, and I will read what Admiral Manney did say:

During the same year, when the markets were practically the same, the prices paid for foreign bottoms were from $4 a ton to $4.87 a ton to Manila. The cost of shipping in American steamers, which was the kind of tonnage that had been employed before, was $7 per ton to $7.50.

Now, that is what Admiral Manney says in the hearings.

You have a law on the statute book that has increased the cost of transportation of this coal from $4.87, the highest, to $7 and $7.50 a ton, and the Secretary of the Navy stands here in his report requesting that that be repealed, and I say it is the duty of this House to free his hands and give him a chance to act in the matter.

The CHAIRMAN. The time of the gentleman has expired. Does the gentleman from Illinois insist upon his point of order?

Mr. FOSS. Mr. Chairman, I do insist upon the point of order. In my judgment it is a change of existing law. The law referred to is that, I think, approved April 24, 1904. Now, this act was reported from the Committee on the Merchant Marine and Fisheries and came before this House and was passed, and it seems to me that if this law is to be repealed, which applies not only to coal, but to all Army and naval stores, it ought to come in properly before this House and be considered and be repealed, and I am not sure I will not vote for its repeal if it is properly brought before the House.

The CHAIRMAN. The Chair sustains the point of order, and the question is upon the amendment offered by the gentleman from New York [Mr. FITZGERALD].

The question was taken; and the Chairman announced that the noes seemed to have it.

Mr. FITZGERALD. Division, Mr. Chairman!

The committee divided; and there were—ayes 49, noes 58.

So the amendment was rejected.

Mr. SLAYDEN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SLAYDEN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Provided, That no part of the amount hereby appropriated shall be expended in transporting coal between the ports of the United States on the Atlantic coast and the Gulf of Mexico and the ports in the Philippine Islands at a greater cost than $6 a ton.

Mr. FOSS. Mr. Chairman, in what way does that change it?

Mr. SLAYDEN. It raises the limit of dollars.

Mr. FOSS. I call for a vote on it, Mr. Chairman.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. SLAYDEN].

The question was taken; and the Chair announced that the noes seemed to have it.

Mr. SLAYDEN. Division, Mr. Chairman!

The committee divided; and there were—ayes 56, noes 56.

Mr. SLAYDEN. Tellers, Mr. Chairman!

Tellers were ordered; and the Chair appointed Mr. Foss and Mr. SLAYDEN as tellers.

The committee again divided; and there were—ayes 59, noes 64.

So the amendment was rejected.

The Clerk read as follows:

Navy-yard, League Island, Pa.: To continue retaining wall about reserve basin, $10,000; sewer system, extensions, $5,000; dredging and filling in Delaware water front, to continue, $15,000; fire-protection system, extensions, $5,000; extension of reserve basin, to continue dredging, $50,000; building for bathing, examination of recruits, and disinfection of clothing, $10,000; electric capstan for dry dock No. 1, $3,000; central heating system, $10,000; in all, navy-yard, League Island, $108,000.

Mr. GROSVENOR. Mr. Chairman, I move to strike out the last word. I do it for the purpose, Mr. Chairman, of asking unanimous consent that I may extend my remarks in the RECORD. I made three or four different statements at different times and read certain documents, and I ask leave to extend my remarks.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. OLMSTED. Mr. Chairman, I ask unanimous consent to extend briefly and revise my remarks.

Mr. LOUD. Mr. Chairman, I make the same request.

Mr. LILLEY of Connecticut. Mr. Chairman, I ask permission to extend my remarks in the RECORD.

Mr. GAINES of Tennessee. Mr. Chairman, I would like to make a similar request.

The CHAIRMAN. If there is no objection, the several requests will be granted.

There was no objection.

Mr. MANN. Do I understand that these extensions are to be on the bill?

Mr. GROSVENOR. Yes; certainly. I suppose that in the Committee of the Whole House, no other leave can be given.

The Clerk read as follows:

Navy-yard, Washington, D. C.: Paving, to extend, $5,000; underground conduit system, to extend, $5,000; railroad system, to extend, $5,000; heating system, extension, $5,000; water system, to extend, $10,000; yard wall, to complete, $20,000; extension and improvements, telephone and fire-alarm systems, $3,000; extension of gas plant, $10,000; purchase of land west of yard, to complete, $200; in all, navy-yard, Washington, $63,200.

Mr. RIXEY. Mr. Chairman, I desire to offer an amendment to the section, but I yield to the gentleman from Illinois [Mr. Foss] for the purpose of moving that the committee do now rise.

Mr. FOSS. Would not the gentleman like to offer his amendment to-night?

Mr. RIXEY. I can put it in in the morning. It will take some time.

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Mr. WILLIAMS. Mr. Chairman, a parliamentary inquiry. Has the motion that the committee do now rise been put to the committee?

The CHAIRMAN. It has been submitted and carried. The committee is waiting for the Speaker.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill—the naval appropriation bill—H. R. 18750—and had come to no resolution thereon.

SAN FRANCISCO.

Mr. GAINES of Tennessee. Mr. Speaker, I ask unanimous consent to read this telegram. It is a very important matter.

The SPEAKER. What is the gentleman's request?

Mr. GAINES of Tennessee. To read a telegram.

The SPEAKER. The gentleman asks unanimous consent to read a telegram. Is there objection? [After a pause.] The Chair hears none.

Mr. GAINES of Tennessee (reading)—

SAN FRANCISCO, CAL., *May 9, 1906.*

Hon. JOHN W. GAINES,
House of Representatives, Washington, D. C.:

Thank you sincerely for your efforts to secure drawback on imported building material. It is absolutely necessary, as already combinations are being formed to advance prices, to the serious detriment of property owners and home builders.

J. J. MOORE & Co.

[Loud applause on the Democratic side.]

That is the second telegram of thanks I have received from San Francisco people, and I want Congress to do for the San Francisco people at least as much as Congress did for the victims of the Chicago fire. And by way of extending my remarks I insert the following:

SAN FRANCISCO, *April 25, 1906.*

Hon. JOHN W. GAINES,
Washington, D. C.:

Please mail us a copy of the customs relief bill.

C. D. BUNKER & Co.,
Post-Office Box 2564.

I sent copies of the bill (H. R. 18527) I introduced April 23 and the Madden-Cullom resolution, No. 142, and wrote C. D. Bunker & Co. May 2, and on May 7 received in reply this wire:

A thousand thanks for your sympathy and help. We need them both.

C. D. BUNKER & Co.

I have no personal acquaintance with Moore & Sons or Bunker & Co.—never heard of them before they wrote me, as here shown.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Halston River, in the States of Virginia and Tennessee;

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and Halston River, in the States of Virginia and Tennessee;

S. 5943. An act to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River;

S. 5572. An act to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States;

S. 1975. An act granting an increase of pension to Mary E. Dugger;

S. 2801. An act to withhold from sale a portion of Fort Brady Military Reservation, at Sault Ste. Marie, Mich.;

S. 2140. An act to authorize the Postmaster-General to dispose of useless papers in post-offices;

S. 5537. An act authorizing the Secretary of the Interior to allot homseteads to the natives of Alaska;

S. 5683. An act to provide for the removal of derelicts and other floating dangers to navigation;

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal; and

S. 3522. An act to amend an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committee, as indicated below:

S. 4956. An act to provide for the purchase of a site and the erection of a building thereon at Versailles, in the State of Kentucky—to the Committee on Public Buildings and Grounds.

S. R. 47. Joint resolution granting condemned cannon for a statue to Governor Stevens T. Mason, of Michigan—to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. PAYNE. A parliamentary inquiry. If the House take a recess until 8 o'clock this evening, will the only order of business be the bill for revising the code of criminal procedure?

The SPEAKER. Under the special order that would be the only business that will be in order.

Mr. PAYNE. Well, I move that the House do now take a recess until 8 o'clock this evening.

Mr. DE ARMOND. Mr. Speaker, I would like to call attention to the fact, before this is voted upon, that I think this bill ought to be reprinted. Now, according to the legend of the bill, the existing law is printed in roman and the changes are printed in italics. On a slight examination of the bill, I find that a great many changes have been made with nothing at all to indicate what they are. Now, whether it is a mistake of the printer simply, or somebody else, I do not know.

Mr. PAYNE. I have no objection, if the gentleman from Pennsylvania thinks it necessary.

Mr. GROSVENOR. You had better have it reprinted.

Mr. MOON of Pennsylvania. I do not think that exists to any considerable extent, showing what the gentleman referred to. I think we have exercised a great deal of care. Of course, I refer to the Member who has it in charge and the printer.

Mr. DE ARMOND. What I refer to is this, Mr. Speaker: We are told that matter printed in roman is the old law and the changes are in italics. Now, in half a dozen or a dozen instances, looking over this matter slightly, the gentleman from Texas [Mr. HENRY] and I found that the law as printed in this bill is not the law as printed in the statutes. How far these changes are material, or whether they are material or immaterial, of course, it would take considerable examination to find out.

Mr. MOON of Pennsylvania. Will the gentleman permit me to ask him a question?

Mr. DE ARMOND. Certainly.

Mr. MOON of Pennsylvania. Does the gentleman contend that they are not the laws that appear in the Revised Statutes, or does he mean that they are not existing law as amended by subsequent statutes, which amendments are existing law found in the Supplement to the Revised Statutes and in the Statutes at Large?

Mr. DE ARMOND. What I mean is that the committee has changed the phraseology in some instances. Take the punishment for treason. The statute, I think, provides that the punishment shall be, among other things, imprisonment at hard labor. The committee has left "hard labor" out. Now, whether the committee has done the like of that in other instances there is nothing to indicate. It is printed as the existing law, and there are a great many sections which ought to be corrected in the printing before the House goes into consideration of this bill.

Mr. MOON of Pennsylvania. If the gentleman will permit me, I wish to say that change is covered absolutely by a general provision explaining that we have stricken out from all punishment the words "hard labor," because that is entirely provided for in another way—in a general provision, a provision that covers entirely that feature of it.

Mr. DE ARMOND. Well, that is only one instance, and I merely called attention to it. I do not think that is the only change; in fact, I am quite sure that changes have been made that are not indicated. I am sure that what purports to be, according to this print, existing law, in a great many instances will be found not to be the existing law.

Mr. PAYNE. As I understand, the session for this evening would be simply for the purpose of explaining the bill, and these questions might be decided later after conference between the two gentlemen from Pennsylvania and Missouri.

Mr. DE ARMOND. I think really we ought to have the bill in proper form before we do anything about it.

Mr. MOON of Pennsylvania. Mr. Speaker, the bill is in proper form. The point the gentleman has made is covered by a general provision. A reprint of the bill would necessarily leave it in exactly the form it is now. Other changes of this kind exist. For instance, wherever there was a minimum punishment provided that minimum punishment has been stricken out and the change fully covered and explained by a general provision. We have given ample, and I believe complete, explanation of the reason why this was done; and I believe any reprint of the bill should produce it just exactly in that form. Now, the only thing that would be changed would be, perhaps, a modification in the statement at the head of the bill explaining that that kind of a change was not always indicated by italics, but was fully covered by a general provision fully explained in the bill. Anybody reading that could tell what was existing law and what was suggested as an alteration and a change.

Mr. DE ARMOND. Yes; but anybody could not tell by reading one of these provisions, without going to the statute and comparing it, whether the provision as printed in the bill is as the law appears in the statute or is not as it appears in the statute.

Mr. PAYNE. Mr. Speaker, the two gentlemen do not seem to be getting any nearer together. I must insist on my motion.

The SPEAKER. The gentleman from New York moves that the House now take a recess until 8 o'clock p. m.

The question being taken, on a division (demanded by Mr. WILLIAMS) there were—ayes 66, noes 40.

Mr. WILLIAMS. I make the point that there is no quorum present.

The SPEAKER. The Chair will count. [After counting.] One hundred and thirty-one Members, less than a quorum.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 15 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the chairman of the commission created to procure a site and designs for a statue of Thomas Jefferson, making report of the action of the commission—to the Committee on the Library, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Oklawaha River, Florida—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Crisfield Harbor, Maryland—to the Committee on Rivers and Harbors, and ordered to be printed, with accompanying illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. McCARTHY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 5351) to provide for the adjustment of certain sales of lands in the late reservation of the confederated Otoe and Missouria tribes of Indians in the States of Kansas and Nebraska, reported the same with amendment, accompanied by a report (No. 3936); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17915) granting

an increase of pension to William W. Dudley, reported the same with amendment, accompanied by a report (No. 3932); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17309) granting an increase of pension to John W. Chase, reported the same with amendment, accompanied by a report (No. 3934); which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 7226) for the relief of Patrick Conlin, reported the same with amendment, accompanied by a report (No. 3935); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 17195) for the relief of Richard Isaacs, reported the same adversely, accompanied by a report (No. 3931); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following title were introduced and severally referred, as follows:

By Mr. JONES of Washington: A bill (H. R. 19108) to authorize the construction of a bridge across the Pend d'Oreille River, in Stevens County, Wash., by the Pend d'Oreille Development Company—to the Committee on Interstate and Foreign Commerce.

By Mr. UNDERWOOD: A bill (H. R. 19109) to provide for the payment of certain expenses of holding the circuit and district courts of the United States in the southern division of the northern district of Alabama—to the Committee on the Judiciary.

Also, a bill (H. R. 19110) providing for pay of district judges—to the Committee on the Judiciary.

By Mr. NORRIS: A bill (H. R. 19111) for resurvey of certain lands in Nebraska—to the Committee on the Public Lands.

By Mr. HERMANN: A bill (H. R. 19112) to provide for the payment of the volunteers who rendered service to the Territory of Oregon in the Cayuse Indian war of 1847 and 1848—to the Committee on Claims.

By Mr. PEARRE: A bill (H. R. 19113) to provide for the erection of a monument in commemoration of the services of Gen. Otho Holland Williams in the Revolutionary war—to the Committee on the Library.

By Mr. SCOTT: A bill (H. R. 19114) to extend the provisions, limitations, and benefits of an act entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," to the surviving officers and enlisted men of the Eighteenth and Nineteenth Regiments of Kansas Volunteer Cavalry—to the Committee on Invalid Pensions.

By Mr. GARDNER of New Jersey: A bill (H. R. 19115) to establish in the Department of the Interior a bureau to be known as the Children's Bureau—to the Committee on Labor.

By Mr. BROWNLOW: A resolution (H. Res. 428) for the appointment of a clerk in the House document room—to the Committee on Accounts.

By Mr. BIRDSALL: A resolution (H. Res. 429) providing for the appointment of an enrolling clerk to the House of Representatives—to the Committee on Accounts.

By Mr. FOSTER of Vermont: A resolution (H. Res. 430) authorizing the Committee on Expenditures in the Department of Commerce and Labor to sit, investigate, etc.—to the Committee on Rules.

By Mr. STANLEY: A resolution (H. Res. 431) requesting information from the Secretary of Commerce and Labor concerning the American Tobacco Company, etc.—to the Committee on the Judiciary.

Also, a resolution (H. Res. 432) requesting information from the President of the United States concerning the American Tobacco Company, etc.—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BEALL of Texas: A bill (H. R. 19116) for the relief of the estate of John H. Russell, deceased—to the Committee on War Claims.

By Mr. BRADLEY: A bill (H. R. 19117) granting an increase of pension to Mary E. Higgins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19118) granting an increase of pension to Effingham Vanderburgh—to the Committee on Invalid Pensions.

By Mr. CANDLER: A bill (H. R. 19119) granting an increase of pension to Susan M. Osborn—to the Committee on Pensions.

By Mr. CHAPMAN: A bill (H. R. 19120) granting a pension to Eliza E. Whitley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19121) granting an increase of pension to Isaac Overton—to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 19122) for the relief of the estate of John Burns, deceased—to the Committee on War Claims.

By Mr. DAWSON: A bill (H. R. 19123) granting an increase of pension to William W. Tannery—to the Committee on Invalid Pensions.

By Mr. ELLIS: A bill (H. R. 19124) for the relief of Margaret C. Montville—to the Committee on Claims.

By Mr. GAINES of Tennessee: A bill (H. R. 19125) granting an increase of pension to Mary W. Humphreys—to the Committee on Pensions.

By Mr. HASKINS: A bill (H. R. 19126) granting a pension to Lydia Walker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19127) granting an increase of pension to Hiram Perkins—to the Committee on Invalid Pensions.

By Mr. HEDGE: A bill (H. R. 19128) granting a pension to Alexander McAllister—to the Committee on Pensions.

Also, a bill (H. R. 19129) granting an increase of pension to Timothy Ford—to the Committee on Invalid Pensions.

By Mr. JOHNSON: A bill (H. R. 19130) granting an increase of pension to Larsey Bolt—to the Committee on Pensions.

By Mr. KLINE: A bill (H. R. 19131) granting an increase of pension to Edward K. Mull—to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 19132) to remove the charge of desertion against John McElhiney—to the Committee on Military Affairs.

By Mr. NORRIS: A bill (H. R. 19133) granting an increase of pension to Fergus P. McMillan—to the Committee on Invalid Pensions.

By Mr. PATTERSON of South Carolina: A bill (H. R. 19134) for the relief of W. J. Peeples—to the Committee on War Claims.

Also, a bill (H. R. 19135) for the relief of Pierson Peeples—to the Committee on War Claims.

Also, a bill (H. R. 19136) for the relief of S. R. Ihly—to the Committee on War Claims.

Also, a bill (H. R. 19137) for the relief of E. Youmans—to the Committee on War Claims.

Also, a bill (H. R. 19138) for the relief of W. W. Weekley—to the Committee on War Claims.

Also, a bill (H. R. 19139) for the relief of Michael De Loach—to the Committee on War Claims.

Also, a bill (H. R. 19140) for the relief of A. R. Speaks—to the Committee on War Claims.

Also, a bill (H. R. 19141) for the relief of J. E. Johnson—to the Committee on War Claims.

Also, a bill (H. R. 19142) for the relief of James T. Dowling—to the Committee on War Claims.

Also, a bill (H. R. 19143) for the relief of John H. Ruddell, administrator of the estate of Reuben R. Turner—to the Committee on War Claims.

Also, a bill (H. R. 19144) granting an increase of pension to Sarah Louisa Sheppard—to the Committee on Pensions.

By Mr. WELBORN: A bill (H. R. 19145) granting a pension to Henry T. King—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19146) granting a pension to Stephen G. Crawford—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19147) granting an increase of pension to Richard L. Drumwright—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 6956) granting an increase of pension to Henry L. Johnson—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 19034) granting a pension to Elizabeth Mor-

gan—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BEALL of Texas: Paper to accompany bill for relief of estate of John H. Bussell—to the Committee on War Claims.

By Mr. BUTLER of Pennsylvania: Petition of East Whiteland Presbyterian Church and the Missionary Society of the Presbyterian Church of Honeybrook, Pa., for an amendment to the Constitution abolishing polygamy—to the Committee on the Judiciary.

By Mr. COOPER of Pennsylvania: Petition of the Commercial, Meyersdale, Pa., for an amendment to the postal laws making legitimate all subscriptions by others than the recipients of the paper—to the Committee on the Post-Office and Post-Roads.

Also, petition of William L. Newcomer, master of Grange No. 785, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. DALZELL: Petition of T. Morgan Silvery, of Wilkensburg, Pa., for an amendment to the postal laws making legitimate all subscriptions paid for by others than the recipients—to the Committee on the Post-Office and Post-Roads.

By Mr. DAVIS of West Virginia: Paper to accompany bill for relief of James H. Hooe—to the Committee on War Claims.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of Mary W. Humphrey—to the Committee on Pensions.

By Mr. GRANGER: Petition of the Rhode Island Chapter of the American Institute of Architects, for forest reservations in the White Mountains and the Southern Appalachian Mountains (previously referred to the Committee on Rivers and Harbors)—to the Committee on Agriculture.

By Mr. HEDGE: Petition of the Louisa County (Iowa) Sabbath School Convention, against Sunday opening of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

By Mr. HOWELL of New Jersey: Petition of George G. Worthley, of Matawan, N. J., for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of H. F. Hagaman, of Lakewood, N. J.; E. H. Woolston, of Ocean Grove, N. J., and P. Hall Packer, of the Sea Bright News, for an amendment to the postal laws making legitimate all subscriptions paid for by others than the recipients of newspapers—to the Committee on the Post-Office and Post-Roads.

By Mr. JOHNSON: Paper to accompany bill for relief of Larsey Bolt—to the Committee on Pensions.

By Mr. WILLIAM W. KITCHIN: Paper to accompany bill for relief of Columbus Cot—to the Committee on Pensions.

By Mr. LESTER: Paper to accompany bill for relief of William A. Baggs—to the Committee on War Claims.

By Mr. LEVER: Paper to accompany bill for relief of Susan M. Osborn—to the Committee on Pensions.

Also, paper to accompany bill for relief of Sarah C. A. Scott—to the Committee on Pensions.

By Mr. LINDSAY: Petition of R. J. Caldwell, of the American Civic Association, for a forest reservation of the Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. PATTERSON of South Carolina: Paper to accompany bill for relief of Sarah Louisa Sheppard—to the Committee on Pensions.

By Mr. SMITH of Maryland: Resolution of the board of directors of the Maryland Penitentiary, against the pending legislation to restrict interstate transportaion of prison-made goods—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of Littleton D. Davis—to the Committee on Invalid Pensions.

Also, petitions of Stewart & Jarrell, of Hillsboro; J. R. Travers, of Nanticoke; J. B. Andrews & Co., Wright & Carter, and O. R. Wright & Co., of Harlock; C. A. Dashiel, of Princess Anne County; Zorah H. Brinsfield, of Eldorado; W. T. Tryer, of Colora; L. S. Fleckenstein, of Easton; Robert M. Messick, of Bethlehem; Milton L. Veasey, of Pocomoke City; W. A. Kirby, of Trappe; Wilson & Merrick, of Ingleside; S. Frank Dashiell, of Dames Quarter; M. L. Weaver, of Greensboro; W. F. Messick, of Allen; Otis M. Hignutt, of Williston; Walter W. Wright & Co., of Choptank; J. W. S. Webb, of Vienna; H. Nulite, of Andersontown; A. Phillips & Co., L. B. Phillips & Co., and the Phillips Packing Company, of Cambridge; L. A. Insley & Bros., of Wingate; Harry A. Roe, of Denton; T. E. Spedden & Co., of James; N. H. Fooks & Co., J. Frank Lednum, R. I. Lednum, and Dennis & Carroll, of Preston, all in Maryland, for an amendment to the pure-food bill to exempt canned goods from being stamped in terms of weight and measure—to the Committee on Interstate and Foreign Commerce.

By Mr. TALBOTT: Petitions of Washington Camps Nos. 45 and 16, of Baltimore; No. 5, of Westminster; No. 12, of Unionville; No. 39, of Harney; No. 10, of Tyrone, and Nos. 23 and 27, of Baltimore, Patriotic Order Sons of America, all in Maryland, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

SENATE.

THURSDAY, *May 10, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

TRADE CONDITIONS IN CUBA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting the report of Charles M. Pepper, special agent of the Department of Commerce and Labor, on trade conditions in the island of Cuba; which, with the accompanying paper, was referred to the Committee on Relations with Cuba, and ordered to be printed.

FRENCH SPOLIATION CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relative to the vessel brig *Rebecca*, John B. Thurston, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, its enrolling clerk, announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 1975. An act granting an increase of pension to Mary E. Dugger;

S. 2140. An act to authorize the Postmaster-General to dispose of useless papers in post-offices;

S. 2801. An act to withhold from sale a portion of Fort Brady Military Reservation, at Sault Ste. Marie, Mich.;

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal;

S. 3522. An act to amend an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905;

S. 5203. An act granting to the Chicago, Milwaukee, and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation, in Montana, and for other purposes;

S. 5537. An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska;

S. 5572. An act to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States;

S. 5683. An act to provide for the removal of derelicts and other floating dangers to navigation;

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and Halston River, in the States of Virginia and Tennessee;

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Halston River, in the States of Virginia and Tennessee; and

S. 5943. An act to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the American Scenic and Historic Society, of New York City, N. Y., praying that an appropriation be made for the erection of a monument to Maj. John Wesley Powell, the explorer, and his companions, at some place near the Grand Canyon of the Colorado River, in Arizona; which was referred to the Committee on the Library.

He also presented a petition of the Council of Jewish Women of Chicago, Ill., praying that an appropriation be made for a

scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

Mr. NELSON presented a petition of Local Union No. 106, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Duluth, Minn., and a petition of sundry citizens of Milroy, Minn., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. KEAN presented petitions of sundry citizens of Lakewood, Sea Bright, Clinton, Ocean Grove, Camden, and Trenton, all in the State of New Jersey, praying for the adoption of a certain amendment to the postal laws relative to newspaper publications; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Harry C. Runjin, of Plainfield, N. J., praying for the enactment of legislation to restrict immigation; which was referred to the Committee on Immigration.

He also presented the memorial of Mrs. R. W. Smith, of Spring Lake, N. J., remonstrating against the enactment of legislation to transfer from the Bureau of Education the education and care of the Indians and Eskimos of Alaska to the governor of that Territory; which was referred to the Committee on Territories.

He also presented sundry petitions of citizens of Montclair, N. J., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which were referred to the Committee on Education and Labor.

Mr. BURNHAM presented petitions of Rev. George L. Mason and George A. Sanborn, of Rochester, and of the Granite State Automobile Club, of Manchester, in the State of New Hampshire, and of Jackson Demory, of Ithaca, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Monday Club of Rochester, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented the petition of John Sebastian, passenger traffic manager of the Rock Island Railroad system, of Chicago, Ill., praying for the enactment of legislation to authorize the Secretary of Agriculture to investigate systems of farm management, and making appropriations therefor, and for other purposes; which was referred to the Committee on Agriculture and Forestry.

Mr. BURKETT presented sundry papers to accompany the bill (S. 5966) granting an increase of pension to C. C. Davis; which were referred to the Committee on Pensions.

Mr. HOPKINS. I present a protest against an amendment which was adopted yesterday on the rate bill, and I ask that it be read.

The VICE-PRESIDENT. The Senator from Illinois asks for the reading of a dispatch which he sends to the desk. Without objection, the Secretary will read it.

The Secretary read as follows:

[Telegram.]

PEORIA, ILL., *May 10, 1906.*

Hon. A. J. HOPKINS,
United States Senate, Washington, D. C.:

I protest against prohibiting passes to local railroad attorneys.

J. S. STEVENS.

The VICE-PRESIDENT. The dispatch will lie on the table.

Mr. DICK. I present a number of protests from organizations of railroad men against the same proposition referred to by the Senator from Illinois. I do not ask that they be read, but will ask the Senate to consent to their being printed in the RECORD.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Ohio? The Chair hears none, and it is so ordered.

The dispatches were ordered to lie on the table, and to be printed in the RECORD, as follows:

CHICAGO JUNCTION, OHIO, *May 10.*

Hon. CHARLES DICK, *United States Senate,*
Washington, D. C.:

Over 70,000 railway employees and their families in Ohio request that you oppose the proposed amendment to rate bill pending in Senate which would prohibit railway companies issuing passes to such employees and their families.

W. T. FRANCIS,
Conductors' Legislative Representative for Ohio.

NEWARK DEPOT, OHIO, *May 10, 1906.*

Hon. C. F. DICK, *Washington, D. C.:*

Martin Lodge, Brotherhood of Railway Trainmen, 1,450 employees Baltimore and Ohio Railroad Company, request your aid in defeating bill now before the Senate depriving our families from free transportation on railroads. We request you to vigorously protest the passage of this bill.

J. L. MONTGOMERY, *General Chairman.*

CHICAGO JUNCTION, OHIO, *May 9, 1906.*

CHARLES F. DICK,
United States Senator, Washington, D. C.:

As a grand officer, Order of Railway Conductors, representing 30,000 conductors, I request you use your influence to defeat any amendment prohibiting railroads issuing free transportation to their families.

W. H. BUDD.

NEWARK DEPOT, OHIO, *May 9, 1906.*

Hon. C. F. DICK,
United States Senator, Washington, D. C.:

Our division Brotherhood Locomotive Firemen, 2,450 employees Baltimore and Ohio Railroad, request you to use your influence in defeating the amendment to bill depriving our families from free transportation.

THOMAS F. ROBERTS,
General Chairman.

NEWARK DEPOT, OHIO, *May 9, 1906.*

Hon. CHARLES F. DICK,
United States Senator, Washington, D. C.:

As general chairman Baltimore and Ohio Railroad system, division No. 33, the Order of Railroad Telegraphers, representing 1,500 employees of the Baltimore and Ohio Railroad telegraphers' department, I earnestly solicit you oppose that part of the pending amendment to the freight regulation rate bill, wherein free transportation is denied railroad employees' families. If this amendment is passed as it now stands it simply means the curtailing of one of the very few luxuries that the railroad employees now enjoy.

E. N. VANATTA,
General Chairman.

CHICAGO JUNCTION, OHIO, *May 9, 1906.*

CHARLES F. DICK,
United States Senator, Washington, D. C.:

Order Railway Telegraphers protest through you against rate bill amendment forbidding passes employees' families be acted upon tomorrow.

A. R. MOORE, *Chairman.*

NEWARK DEPOT, OHIO, *May 9, 1906.*

Hon. C. F. DICK,
United States Senator, Washington, D. C.:

Licking Lodge, No. 80, International Association of Machinists, 1,350 employees Baltimore and Ohio Railroad, request your aid in defeating bill now before the Senate depriving our families from free transportation on railroads, and earnestly hope you will protest vigorously the passage of that bill.

J. E. FISHER,
District Representative.

NEWARK DEPOT, OHIO, *May 9, 1906.*

Hon. CHARLES F. DICK,
Washington, D. C.:

Licking division Order Railroad Conductors, 450 employees of Baltimore and Ohio Railroad, protest vigorously against the amendment to bill depriving our families from free transportation on railroads, and we appeal to you in hope you will use your best efforts to defeat same.

S. FULLER MOORE, *Chairman.*

ZANESVILLE, OHIO, *May 9, 1906.*

Hon. CHARLES F. DICK,
United States Senate, Washington, D. C.:

Understand proposed amendment to rate bill forbids passes to members of employee's family and to counsel not exclusively employed by railroads. Such amendment would disarrange all our contracts with employees and counsel; would be a hardship on both, and serve no good purpose. Railroads should be allowed to issue passes to local counsel regularly appointed and acting, whether exclusively employed or not, and to dependent members of their families and those of employees. Most all railroads' counsel also take other business. Proposed amendment goes too far. Hope you will resist its adoption.

F. A. DURBAN.

PLYMOUTH, OHIO, *May 9, 1906.*

Hon. CHARLES F. DICK,
United States Senate, Washington, D. C.:

Believing it would be gross injustice to employees if pending amendment to rate bill forbidding passes to employees' families becomes law, we earnestly request you to vote against the amendment.

O. A. FAUST,
Local Chairman Telegraphers.

NEWARK, OHIO, *May 9, 1906.*

Hon. C. F. DICK,
United States Senator, Washington, D. C.:

Division No. 36, Brotherhood Locomotive Engineers, 560 employees Baltimore and Ohio Railroad, earnestly appeal to you, our representative, to use your influence in defeating the amendment to bill depriving our families of free transportation on railroads.

CHAS. C. BOBO, *Chairman.*

Mr. PILES presented a petition of 114 citizens of Seattle, Wash., praying for an investigation into the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

He also presented petitions of Pleasant Valley Grange, Patrons of Husbandry, of St. Johns; of sundry citizens of Amboy, and of Everett Lodge, No. 281, Independent Order of Good

Templars, of Everett, all in the State of Washington, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. SCOTT. I have a number of petitions by wire on the same subject as the Senator from Ohio [Mr. DICK] has presented, and I ask that they be printed in the RECORD.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from West Virginia?

Mr. CULLOM. It seems to me that printing in the RECORD protests from lawyers simply is an unusual proceeding. I think we had better consent to print petitions from persons who are doing business besides lawyers, if we are to begin that course.

The VICE-PRESIDENT. Does the Senator from Illinois object to the request of the Senator from West Virginia?

Mr. CULLOM. I will not object in this case, but it seems to me it ought not to be done.

There being no objection, the dispatches were ordered to lie on the table, and to be printed in the RECORD, as follows:

WHEELING, *May 10, 1906.*

Senator N. B. SCOTT, *United States Senate:*

Please oppose provision in rate bill forbidding issue of passes to railroad attorneys.

ROBT. WHITE.
H. M. RUSSELL.

GRAFTON, W. VA., *May 9, 1906.*

Senator N. B. SCOTT, *Washington, D. C.:*

The telegraphers of West Virginia, whom I represent, earnestly protest against amendment to rate bill now pending, forbidding passes to employees' families, etc. We urgently request you to effect its defeat.

C. E. HOSLER, *Chairman.*

CLARKSBURG, W. VA., *May 9, 1906.*

Hon. N. B. SCOTT, *Washington, D. C.:*

Culberson amendment, forbidding passes except to counsel exclusively employed by railroads, will work much injury to railroads in this word "exclusively." Should be struck out. No one attorney can attend interest of roads in this State, and families of employees should not be excluded from benefit of passes. We think the amendment harsh and impractical. We trust you will oppose it.

JOHN BASSEL.
JOHN W. DAVIS.

HARPERS FERRY, W. VA., *May 9, 1906.*

Hon. Senator SCOTT, *Washington, D. C.:*

Kindly oppose amendment to rate bill relative restricting passes railroad employees and families.

C. E. MARLATT, *Chairman Telegraphers.*

CLARINGTON, W. VA., *May 10, 1906.*

Hon. NATHAN B. SCOTT, *Washington, D. C.:*

The Baltimore and Ohio telegraph operators protest against pending amendment to rate bill affecting free transportation for their families, and solicit your support to defeat this amendment.

M. C. RATHBUN, *Chairman.*

Mr. KEAN. I hope the Senators who have presented these numerous petitions will draw an amendment to satisfy their constituents and present it when the bill is reported to the Senate.

Mr. McLAURIN. I have a telegram, not from a lawyer, that I ask unanimous consent to have printed in the RECORD, along with the other telegrams which have been ordered printed.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Mississippi?

Mr. CULLOM. I do not object when the dispatch is from some one else as well as from lawyers, if that is to be the rule.

There being no objection, the dispatch was ordered to lie on the table, and be printed in the RECORD, as follows:

[Telegram.]

GREENVILLE, MISS., *May 9, 1906.*

Senators H. D. MONEY and A. J. MCLAURIN,
Washington, D. C.:

Use herculean efforts to defeat Senate amendment prohibiting issuance of free transportation to families of employees and secure everlasting gratitude of a million railway employees.

J. H. ALDERSON,
Agent, Southern Railway.

Mr. BULKELEY presented a petition of 12 citizens of Bridgeport, Conn., and a petition of the Norwalk Business Men's Association and Board of Trade of Norwalk, Conn., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the Municipal Art Society of Hartford, Conn., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

Mr. PENROSE presented petitions of 20 citizens of Klingerstown; of Major Jennings Council, No. 367, Junior Order United American Mechainc, of Shenandoah, and of Fairview Council, No. 89, Daughters of Liberty, of Philadelphia, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of the Young Woman's Christian Temperance Union of Mount Washington, Pa., and a petition of 47 citizens of Allegheny, Pa., praying for the enactment of legislation providing for the closing of the Jamestown Exposition on Sunday; which were referred to the Select Committee on Industrial Expositions.

He also presented petitions of 15 citizens of Gettysburg; of Local Grange No. 58, of Wysox; of Local Union No. 380, of Lancaster; of the Backus Water Motor Company, of Philadelphia; of D. B. Maurice Grange, No. 111, of Athens; of Local Grange No. 1155, of Summit, and of Local Grange No. 507, Patrons of Husbandry, in the State of Pennsylvania, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of the congregation of the Presbyterian Church of Ellwood City; of the congregation of the Huntingdon Valley Presbyterian Church, of Huntingdon Valley; of the Woman's Home Missionary Society of Abington; of the congregation of the Presbyterian Church of Freeport; of the congregation of the East Whiteland Presbyterian Church, of Frazer; of the Home and Foreign Missionary Society of the congregation of the Presbyterian Church of Dunbar; of the Woman's Christian Temperance Union of Allegheny County; of the congregation of the Second Presbyterian Church of Wyalusing; of the congregation of the Second Presbyterian Church of Butler, and of the Young Woman's Christian Association of Wilkes-Barre, all in the State of Pennsylvania, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

Mr. ELKINS. I present a number of telegrams from railroad telegraphers, engineers, and members of the Brotherhood of Trainmen, protesting against the passage of the amendment to the rate bill as to passes. I will ask that one be read and that the others lie on the table.

The VICE-PRESIDENT. The Senator from West Virginia asks for the reading of a dispatch. Without objection, the Secretary will read it.

The Secretary read as follows:

[Telegram.]

GRAFTON, W. VA., *May 10, 1906.*

Hon. S. B. ELKINS,
Washington, D. C.:

The Brotherhood of Railroad Trainmen of West Virginia, whom I represent, earnestly protest against amendment to rate bill now pending affecting free transportation, and urgently request that you use your influence to effect its defeat, as we feel it affects our personal privileges.

W. A. MITCHELL, *Chairman.*

The VICE-PRESIDENT. The dispatches sent to the desk by the Senator from West Virginia will lie on the table.

Mr. ELKINS presented a petition of Liberty Council, No. 137, Junior Order United American Mechanics, of Bedington, W. Va., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. BEVERIDGE presented a petition of the Board of Trade of Indianapolis, Ind., praying for the passage of the so-called "Philippine tariff bill;" which was referred to the Committee on the Philippines.

He also presented a petition of the Board of Trade of Indianapolis, Ind., praying for the ratification of the Santo Domingo treaty; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Trade of Indianapolis, Ind., praying for the ratification of international reciprocity treaties; which was referred to the Committee on Foreign Relations.

He also presented petitions of the congregation of the First Presbyterian Church of Hammond, of the congregation of the First Methodist Episcopal Church of Vincennes, and of the Woman's Missionary Society of the Second Presbyterian Church of Madison, all in the State of Indiana, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Goshen, Ind., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Ladies' Social Circle of the First Baptist Church of Indianapolis, Ind., praying that an

appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

Mr. CULLOM. I present a couple of dispatches protesting against the passage of the pass provision in the railroad rate bill. I will not ask that they be printed in the RECORD. I do not think that is necessary.

The VICE-PRESIDENT. The dispatches presented by the Senator from Illinois will lie on the table.

REPORTS OF COMMITTEES.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (H. R. 18439) to authorize the construction of a bridge across Tallahatchie River, in Tallahatchie County, Miss., reported it without amendment.

Mr. GALLINGER, from the Committee on Commerce, to whom was referred the bill (H. R. 17982) to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across the Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. ALGER, from the Committee on Military Affairs, to whom was referred the bill (S. 1413) for the relief of Thomas J. Spencer, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. BULKELEY, from the Committee on Military Affairs, to whom was referred the bill (S. 1584) to correct the military record of Alexander Everhart, reported it with an amendment, and submitted a report thereon.

CONDEMNATION FOR RIVER AND HARBOR IMPROVEMENT.

Mr. NELSON. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 15095) authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvement at the expense of persons, companies, or corporations, to report it favorably without amendment, and I ask for its present consideration.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

Mr. BACON. I could not catch the reading here. I should like to look at it for a moment.

Mr. NELSON. I wish to say to the Senator from Georgia that it is a House bill which has passed the House, and it is recommended by the War Department, and unanimously reported by the Committee on Commerce.

Mr. BACON. I do not wish to delay the bill if it is meritorious. I confess, however, that it appears to me to be a bill which must have been introduced for the purpose of meeting some particular case, as it is quite unusual in its terms. It says:

> That whenever any person, company, or corporation, municipal or private, shall undertake to secure, for the purpose of conveying the same to the United States free of cost, any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, etc.

We have a law now by which whatever is needed by the Government may be condemned.

Mr. NELSON. Mr. President, it is a case where the citizens of a town agreed to give the Government the site for the river and harbor improvement, but they struck some men with whom they can not deal. The object is to authorize the Government to institute condemnation proceedings in these cases, to be paid by the parties who are to furnish the site.

Mr. BACON. I do not object to the object at all, but it is an unusual proceeding. This is really a proceeding to condemn what is for private use by the individual.

Mr. NELSON. No; it is for the benefit of the Government.

Mr. BACON. Oh, I understand that. I, of course, understand that the ultimate purpose is that the Government may have the use of it; but, if I understand the reading of the bill, it will be condemned in order that a private person may hereafter convey it to the Government. That is altogether an anomalous proceeding, so far as I have information as to any precedent or anything in harmony with the general rule of law.

Of course we recognize the fact that there can be condemnation proceedings for the benefit of the Government, but here is a case where it is provided that where a private individual desires to convey property and can not himself secure a good title to the Government he can condemn it for the purpose of putting title in the individual, in order that he may convey to the Government. I do not think that is in contemplation of law, and that is what I understand to be the purpose of the bill.

The purpose, I have no doubt, is entirely meritorious, and I do not desire to defeat the purpose; but it occurs to me that the method by which the purpose is sought to be effectuated is not one in harmony with the requirements of the general law which authorizes a condemnation proceeding for the benefit of the Government. This is for the purpose of condemning property that the title may go into an individual who will thereafter convey it to the Government. The purpose can be effected, if it has to be condemned, by the individual paying the Government the amount of money which the Government would have to pay to condemn it. In that way he would indirectly be conveying the property.

Mr. FRYE. The bill requires him to give good and sufficient bond.

If the Senator will allow me one moment, I will state that the case is liable to arise in this way: For instance, there was a project to connect the lake at Tacoma with the Sound. The United States made an appropriation for that purpose, providing that the State of Washington or the city of Tacoma would furnish a free right of way from the lake to the shore. My recollection is that they failed, because they could not secure the free right which they wanted to the shore in every case; and there were a number of cases where they were not able to secure it.

This bill simply provides for meeting a case like that, where the Government is appropriatiing money for the improvement of rivers and harbors and there is a failure on the part of the State or the city to secure the right of way free to the Government. It is hardly ever an individual; I have never known an individual to have anything to do with it. The bill simply provides that the Government may institute condemnatory proceedings through the Attorney-General, that to secure the right a sufficient bond shall be provided, that the land shall be conveyed after condemnation, and that all the cost and expense shall be paid by the party. It seems to me that there could not be anything safer than that.

Mr. BACON. The Senator——

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. BACON. If the Chair will pardon me a moment, I will answer definitely.

The VICE-PRESIDENT. The Senator from Georgia will proceed.

Mr. BACON. The Senator from Maine does not meet the point of my objection. It is not that the Government may be put to expense or that the party may not carry out the agreement after the condemnation, but the point is that the bill authorizes a condemnation not for the Government, although the Government will have the ultimate benefit of it, but for an individual who is thereafter to convey to the Government. It is not a question of expense or of uncertainty as to what the party will do, but as to our right to pass a law which shall condemn property for the benefit of an individual and put the title in the name of the individual, even though he is under bond thereafter to convey to the Government.

I do not wish to delay the bill in any unreasonable manner, but I suggest to the Senator from Minnesota if he will let it go over until to-morrow, so that we can have an opportuntiy to examine it, it may be that it is all right. If it does go over I will ask that it go over without losing its place. It occurs to me now that there is very grave difficulty in the bill from a legal standpoint.

Mr. FRYE. I admit I do not see it myself. Both the Committee on Rivers and Harbors of the House and the Committee on Commerce of the Senate have found something to be absolutely necessary under circumstances which arise like that which I have suggested.

Mr. BACON. I suggest to the Senator that in a case such as he has instanced it is entirely competent for condemnation proceedings to be had in the name of the Government and for the Government, and then that the parties who wish to make the donation can return to the Government the amount of money which shall be awarded to the party in interest and against whom the condemnation proceedings are had. It is a very different thing and one, so far as I can now see, utterly unauthorized by the law to authorize the condemnation of property for a private individual, even though that private individual does give bond thereafter to convey to the Government.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SPOONER. I do not see anything in the bill, when one

reads it carefully, that attempts to authorize an individual to condemn any real estate. It provides:

That whenever any person, company, or corporation, municipal or private, shall undertake to secure, for the purpose of conveying the same to the United States free of cost, any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, and shall be unable for any reason to obtain a valid title thereto—

Which means by purchase, of course. It could not mean anything else. Then it confers the jurisdiction on the Secretary of War—

the Secretary of War may, in his discretion, cause proceedings to be instituted in the name of the United States.

Mr. BACON. But if the Senator will read the bill further he will find that the contemplation is that the title shall go to the party who desires to make the donation, because there is a provision in it that he shall give bond that he will convey to the Government after the condemnation proceedings.

Mr. President, I will ask that the bill go over until to-morrow. I will not interpose any objection after I have had time to examine it, if I see that it is all right.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. BACON subsequently said: Mr. President, since House bill 15095 was before the Senate, I have had an opportunity to read it, and I find that I misunderstood the Senator from Maine in saying, as I understood him to say, that there was a bond required of the party to convey to the Government after the condemnation proceedings. I find that that is a mistake, and that the condemnation is really to be not in favor of the individual, but of the Government. I therefore withdraw my objection to the consideration of the bill.

The VICE-PRESIDENT. The bill has been read. Is there objection to its present consideration?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STEEL LIGHT VESSEL AT ENTRANCE TO JUAN DE FUCA STRAIT.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6003) to construct and place a steel light-ship on "Forty Fathom Bank," so-called, off the entrance to the Straits of Juan de Fuca, to report it with an amendment, and I ask for its present consideration.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment of the Committee on Commerce was, in line 5, after the word "upon," to strike out the remainder of the bill and insert:

Swiftsure Bank, off the entrance to Juan de Fuca Strait, at a point at or near 13 miles north 74 degrees west, magnetic, from Cape Flattery, a steel steam light vessel, equipped with the latest improved light and fog signals, at a cost not to exceed $150,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to construct and place a steel light vessel on Swiftsure Bank, off the entrance to Juan de Fuca Strait."

ROANOKE RIVER BRIDGE, NORTH CAROLINA.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 18204) to authorize the Northampton and Halifax Bridge Company to construct a bridge across Roanoke River at or near Weldon, N. C., to report it favorably without amendment.

Mr. SIMMONS. I ask unanimous consent for the present consideration of the bill just reported by the Senator from Arkansas.

The Secretary read the bill; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JURORS IN PORTO RICO.

Mr. FORAKER. I am directed by the Committee on Pacific Islands and Porto Rico, to whom was referred the bill (S. 5512) defining the qualifications of jurors in Porto Rico, to report it favorably without amendment, and I ask for its present consideration.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

Mr. HALE. Will not the Secretary read again that portion of it relating to the exemptions from jury duty?

The VICE-PRESIDENT. The Secretary will read, as requested.

The Secretary read as follows:

Provided, That the exemptions from jury duty allowed by the local law shall be respected by the court when insisted upon by veniremen.

Mr. FORAKER. I will state for the benefit of the Senator from Maine that the only purpose of the bill is to change the law so that they can select men who understand the English language for jurors in the United States courts.

Mr. HALE. Is that the only infirmity in the present law in relation to the choosing of veniremen?

Mr. FORAKER. Yes; it is practically the only one. It is the only one I know of. The bill is recommended by the judge of the United States district court for Porto Rico, by the United States district attorney for Porto Rico, and by the Attorney-General.

Mr. HALE. What are the qualifications of jurors?

Mr. FORAKER. The organic act of Porto Rico provides that the district court of Porto Rico shall have, in addition to the jurisdiction which belongs to United States district courts generally, the jurisdiction of the circuit court, and it makes applicable to Porto Rico, in so far as not locally inapplicable, the laws of the United States, among which is the statute requiring the selection of jurors to conform to the local laws, and conforming to the local laws the requirements for jurors in the local court do not exactly suit the requirements of the business in the United States district court, where it is by law required to be conducted in the English language.

Mr. HALE. That is all there is in the bill?

Mr. FORAKER. That is all there is in the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. FORAKER, the title was amended so as to read: "A bill defining the qualifications of jurors for service in the United States district court of Porto Rico."

LAKE MICHIGAN IMPROVEMENT.

Mr. HOPKINS. I am directed by the Committee on Commerce, to whom was referred the joint resolution (H. J. Res. 134) authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind., to report it favorably without amendment.

Mr. HEMENWAY. I ask for the immediate consideration of the joint resolution.

The Secretary read the joint resolution; and there being no objection, it was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. DICK introduced a bill (S. 6097) to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PENROSE introduced a bill (S. 6098) granting an increase of pension to David C. Winebrener; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6099) for the relief of Jose Salazar y Ortiz; and

A bill (S. 6100) for the relief of the trustees of the Methodist Episcopal Church of Bunker Hill, formerly Mill Creek, W. Va. (with accompanying papers).

Mr. ELKINS introduced a bill (S. 6101) granting a pension to John Frederick; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6102) to remove the charge of desertion from the military record of Ephraim Martin and grant him an honorable discharge; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SPOONER introduced a bill (S. 6103) granting an increase of pension to William P. Visgar; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. WARREN introduced a bill (S. 6104) to create the office of captain in the Philippine Scouts; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. SIMMONS introduced a bill (S. 6105) to correct the military record of Smith F. Carroll; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GALLINGER introduced a bill (S. 6106) granting a right of way for widening the alley connecting Nichols avenue with Hamilton road, in the District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. PETTUS introduced a bill (S. 6107) for the relief of Burwell J. Curry; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6108) for the relief of Dan Walden; which was read twice by its title, and referred to the Committee on Claims.

Mr. HALE introduced a bill (S. 6109) authorizing the reappointment of midshipmen recently dismissed from the Naval Academy for hazing; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. FLINT introduced a bill (S. 6110) to correct the military record of Lewis W. Crain; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WARNER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 6111) granting an increase of pension to Thomas H. G. Lester;

A bill (S. 6112) granting an increase of pension to Hiram J. Weston; and

A bill (S. 6113) granting an increase of pension to John McLaughlin.

Mr. WARNER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6114) to refund internal-revenue taxes paid by owners of private dies (with accompanying papers); and

A bill (S. 6115) for the relief of Margaret C. Montville.

Mr. ALGER introduced a bill (S. 6116) to correct the military record of Porter P. Misner; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 6117) granting an increase of pension to W. E. Cummin; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURNHAM introduced a bill (S. 6118) granting an increase of pension to Reuben B. Watson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6119) for the protection of animals, birds, and fish in the forest reserves of California, and for other purposes; which was read twice by its title, and referred to the Committee on Forest Reservations and the Protection of Game.

Mr. CULBERSON introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Public Buildings and Grounds:

A bill (S. 6120) for the purchase of a site for a Federal building for the United States post-office at San Marcos, Tex.; and

A bill (S. 6121) for the purchase of a site for a Federal building for the United States post-office at Nacogdoches, Tex.

Mr. CLAPP (by request) introduced a bill (S. 6122) directing the enrollment of white persons intermarried with Cherokee Indians by blood, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. BACON introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 6123) to authorize the Secretary of the Treasury to pay the claim of Mrs. Mattie Stewart Glover and Mrs. Katherine Stewart Ruse, the heirs at law and only legal representatives of the late William Stewart, of Mobile, Ala.; and

A bill (S. 6124) for the relief of the heirs of Elisha Lowry.

Mr. TELLER introduced a bill (S. 6125) for the relief of Gustav A. Hesselberger; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BEVERIDGE introduced a bill (S. 6126) granting an increase of pension to James E. Speake; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6127) granting an increase of pension to John R. Callender; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PILES introduced a bill (S. 6128) to authorize the construction of a bridge across the Pend d'Oreille River, in Stevens County, Wash., by the Pend d'Oreille Development Company; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DICK introduced a joint resolution (S. R. 57) providing for the purchase of material and equipment for use in the construction of the Panama Canal; which was read twice by its title, and referred to the Committee on Interoceanic Canals.

Mr. ANKENY introduced a joint resolution (S. R. 58) providing for the purchase of material and equipment for use in the construction of the Panama Canal; which was read twice by its title, and referred to the Committee on Interoceanic Canals.

AID BY CUBAN GOVERNMENT TO SAN FRANCISCO SUFFERERS.

Mr. CULLOM. I present some correspondence, a letter from the Secretary of State and a letter to him from the Cuban Government. I ask that they both be read, so that they may go into the RECORD.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF STATE,
Washington, May 9, 1906.

Hon. SHELBY M. CULLOM,
Chairman of the Committee on Foreign Relations,
United States Senate.

SIR: In connection with the President's message of the 3d instant, referred to your committee, I have the honor to inclose for your information a copy of a dispatch from the American minister at Habana, received on the 7th instant, reporting that the House of Representatives of Cuba unanimously passed a bill appropriating $50,000 for the San Francisco sufferers.

This information would have been communicated in the President's message of the 3d instant if it had been received in time.

I have the honor to be, sir, your obedient servant,

ELIHU ROOT.

AMERICAN LEGATION,
Habana, Cuba, May 2, 1906.

Hon. ELIHU ROOT,
Secretary of State, Washington, D. C.

SIR: On April 30 the lower house of the Cuban Congress suspended the regular course of business and approved unanimously a bill to appropriate the sum of $50,000 from the public treasury for the relief of the San Francisco sufferers. This bill upon its introduction to the upper house was referred to the finance committee.

In view of the desire of President Roosevelt, as reported in the public press, that the American people might be accorded the privilege of attempting to alleviate the condition of their distressed fellow-citizens without extraneous aid and that assistance from abroad must therefore be declined, I availed myself of a suitable occasion to intimate to the Secretary of State that the proposal for a special grant would indicate as clearly as would the passage of the bill authorizing the appropriation Cuba's sympathy, and that it might be desirable in view of this fact for the Cuban Congress without further legislation to content itself with this expression of its benevolent intention.

I have the honor to be, sir, your obedient servant,

EDWIN V. MORGAN.

The VICE-PRESIDENT. The communications will be referred to the Committee on Foreign Relations.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CULLOM submitted an amendment providing for the application of a sum not to exceed $1,000,000 from the indemnity fund received as reimbursement from the Chinese Government, for the purchase of ground and the erection of buildings for consular offices in China, Korea, and Japan, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. GALLINGER submitted an amendment providing for the acquisition of land for a public park lying east of Thirtieth street and Branch avenue and north and south of Pennsylvania avenue extended in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on the District of Columbia.

He also submitted an amendment proposing to appropriate $100,000 for the purchase, installation, and maintenance of water meters in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

WITHDRAWAL OF PAPERS—MARY CORNELIA HAYS ROSS.

On motion of Mr. MCCUMBER, it was

Ordered, That the papers filed in the office of the Secretary of the Senate, in connection with the bill S. 3935, Fifty-eighth Congress, granting an increase of pension to Mary Cornelia Hays Ross, be withdrawn, no adverse action having been taken on the same.

AFFAIRS OF M'KINLEY MANUAL TRAINING SCHOOL.

Mr. GALLINGER submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Committee on the District of Columbia, by subcommittee or otherwise, is hereby directed to investigate, at its discre-

tion, all matters connected with the administration of the affairs of the McKinley Manual Training School, to inquire into the conduct of the scholars and the discipline of said school, and also to make such further investigation of school affairs in the District of Columbia as said committee shall deem advisable.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. If there are no further concurrent or other resolutions, the Chair lays before the Senate the unfinished business, which is House bill 12987.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The VICE-PRESIDENT. Unless there are further amendments to section 1 of the bill, the Secretary will read section 2.

The Secretary proceeded to read section 2, beginning on page 3 of the bill.

Mr. TILLMAN. Mr. President, I wish to offer an amendment to section 2, which is——

Mr. LODGE. I suggest that the Senator's amendment will be in order after the section shall have been read.

The VICE-PRESIDENT. After the reading of the section is concluded by the Secretary, the Chair will recognize the Senator from South Carolina [Mr. TILLMAN] for the purpose of offering his amendment.

The Secretary read section 2 of the bill, as follows:

SEC. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 6. That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates, fares, and charges for the transportation of passengers and property which any such common carrier has established, and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges, icing charges, and all other charges which the Commission may require, and any rules or regulations which in any wise change, affect, or determine any part of the aggregate of such aforesaid rates, fares, and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

"Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

"No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been established and published by any common carrier in compliance with the requirements of this section, except after thirty days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: *Provided*, That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

"And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

"Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates, fares, or charges for such continuous lines or routes, copies of such joint tariffs shall also in like manner be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

"No change shall be made in joint rates, fares, and charges, shown upon joint tariffs, except after thirty days' notice to the Commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect. The Commission may make public or require the carriers to make public such proposed changes in such manner as may, in its judgment, be deemed practicable and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

"It shall be unlawful for any common carrier party to any joint tariff to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon, than is specified in the schedule filed with the Commission in force at the time.

"The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

"If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section or any part of the same such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal operating office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commission appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commission, as complainant, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act."

Mr. TILLMAN. Mr. President, I have sundry verbal amendments to offer to this section, which have been recommended by the Interstate Commerce Commission; which I send to the desk.

The VICE-PRESIDENT. The first amendment proposed by the Senator from South Carolina will be stated.

The SECRETARY. On page 3, line 24, after the word "shall," it is proposed to insert "file with the Commission created by this act and;" and on page 3, line 25, after the word "showing," to insert the word "all;" so as to read:

SEC. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 6. That every common carrier subject to the provisions of this act shall file with the Commission created by this act and print and keep open to public inspection schedules showing all the rates, fares, and charges for the transportation of passengers, etc.

The amendment was agreed to.

Mr. TILLMAN. I now offer the amendment which I send to the desk.

The SECRETARY. On page 4, line 1, it is proposed to strike out the word "the," before the word "transportation;" and in lines 1, 2, and 3 to strike out the words "of passengers and property which any such common carrier has established and which are in force at the time upon its route," and to insert in lieu thereof the words "between different points on its own route and between points on its own route and points on the route of any other carrier by railroad or by water when a through route and joint rate have been established."

Mr. ALDRICH. Mr. President, I am afraid that the insertion of the words "or by water" may give this provision a different significance from what it now has. I do not see any occasion for using the words "or by water" in that connection.

Mr. TILLMAN. Here is a memorandum sent me by the Interstate Commerce Commission, in which they explain why that is done. I will have the memorandum read for the information of the Senate, if it is so desired.

Mr. ALDRICH. I shall be glad to have it read. Those words might make an important difference under certain conditions.

Mr. CULLOM. Let the communication from the Interstate Commerce Commission be read.

The VICE-PRESIDENT. The Secretary will read as requested, in the absence of objection.

The Secretary read as follows:

The sixth section of the present law, and as it is proposed to be substantially reenacted with a few amendments in the Hepburn bill, is framed upon no consistent or reasonable theory or plan. In its present form it results from adding onto the original section, passed in 1887, the amendments of 1889. As the section now stands, with the amendments proposed in the Hepburn bill, individual and joint rates are without any reason treated differently. As to the individual rate, there must be thirty days' public notice of change and prompt notice, whatever that may mean, of such change to the Commission. As to the joint rate, there must be thirty days' notice to the Commission, and such publicity given to the proposed change as the Commission may order. Again, as to the individual rate, the Commission has authority to vary the time of notice of any change in that rate, but as to the joint rate, the Commission can not vary the time of notice to itself of a proposed change in that rate.

There is no reason why the joint rate as to publication at stations and notice to the Commission should not stand upon the same footing

as the individual rate. So far as the public is concerned, a rate is a rate, whether it is over only one railroad or applies over two or more railroads; and as to either rate the necessity for publication is the same. If the proviso in the Hepburn bill authorizing the Commission to allow changes in the individual rate upon less than the thirty days' notice specified or to modify the requirements in relation to publishing and posting the tariffs is valuable to the public or a necessity to the carriers, it should be made to apply also to joint rates; but as above indicated, as the bill now stands the Commission has no authority to vary the requirement for thirty days' notice to the Commission of changes in joint rates. Moreover, the law should distinctly provide for the publication of joint rates, just as it does for the publication of individual rates.

A large portion of the act to regulate commerce and most of the Elkins law was framed to secure adherence to published tariffs. It follows that the provisions of the law respecting the filing and publication of such tariffs should be definite and certain as to joint rates as well as individual rates. There should also be in section 6 a distinct prohibition forbidding a carrier to receive or participate in the transportation affected by the act unless the rates, fares, and charges upon which the same is transported have been filed and published in accordance with the provisions of this section, and that the published rates shall be invariably observed.

To accomplish this purpose the Commission, in what is known as the "Commission bill," redrafted section 6 of the act to regulate commerce. Section 2 of the Hepburn bill, which aims to amend section 6 of the act to regulate commerce, should be amended as shown on the inclosed copy of the Hepburn bill.

With this will also be found a formal amendment setting forth the changes so indicated.

The first purpose of the amendment is to provide in one paragraph as well for the filing with the Commission as for the publication of *all* rates, whether individual or joint, and to include therein *all terminal charges, storage charges, and all special privileges or facilities granted or allowed.* This places the filing and publication of all schedules on the same footing and makes such schedules include all rates, privileges, or facilities.

Mr. TILLMAN. That is all that relates to this special amendment.

Mr. ALDRICH. There is no allusion here to the reasons for inserting the words "or by water," when the transportation may be under different conditions entirely from the conditions named in the first section of the bill.

Mr. TILLMAN. I presume that it has reference or is intended to include water transportation along with railroad transportation, or partly by railroad and partly by water, as defined at the bottom of the first page of the act.

Mr. KEAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Jersey?

Mr. TILLMAN. With pleasure.

Mr. KEAN. Noticing the memorandum which has just been read from the Interstate Commerce Commission, I yesterday introduced an amendment which covers the sixth section of the act in regard to interstate commerce. The amendment that I introduced is one prepared by the Interstate Commerce Commission, and is the same as was in the Interstate Commerce Commission's bill which they presented some time since.

Mr. TILLMAN. Mention has just been made of that in the memorandum.

Mr. KEAN. With one change. I introduced that amendment yesterday, as the Senator will see, and I now offer it to this section.

Mr. TILLMAN. What is the change the Senator makes?

Mr. KEAN. The only change is in line 2, on page 2 of the amendment, where the words "icing charges" are inserted.

Mr. TILLMAN. It will save time and be perfectly agreeable to me to let the Commission's substitute which it sent in its original bill be acted upon, instead of going through the troublesome process of inserting these amendments to the Hepburn bill.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Iowa?

Mr. TILLMAN. With pleasure.

Mr. DOLLIVER. I think it is due to the committee to make a brief statement as to this section 6. The pending bill was framed to make as few changes as possible in the existing interstate-commerce law. In the bill sent to the committee by the Interstate Commerce Commission, section 6 was rewritten and everybody agreed that many valuable improvements were made in it, especially in its literary phraseology and in the clearness with which its provisions were expressed. However, it was the wish of the committee to intrude as little as possible upon the language of the interstate-commerce law in view of the fact that that law had stood for twenty years and had been reasonably effective so far as the publication of the rates was concerned. Therefore the two important suggestions of the Commission, first, in relation to the separate publication of icing charges, and, second, in relation to the discretion of the Commission to set aside the requirements of the law in special cases as to publication—with those two amendments, the original interstate-commerce law expressed with practical fullness everything that the Commission appeared to desire. For that reason the committee dropped from the bill the new section 6 which the Commission had prepared, and confined itself to this slight amendment of the existing section 6.

I do not deny that the Commission's rewriting of the bill is more modern and more in consonance with present railway conditions, and I have no objection at all, with the amendment which the Senator from New Jersey has suggested—of a separate requirement for icing charges—that the section as originally framed of the interstate-commerce bill should be substituted for section 2 in the pending bill. I think it would cover all the points made by the amendments which the Senator from South Carolina has offered.

Mr. TILLMAN. To save time and a considerable amount of routine which we will have to devote to something else I am perfectly willing to accept the suggestion of the Senator from New Jersey [Mr. KEAN], that the substitute which he has offered shall go into the bill instead of my amendment of the Hepburn bill in this piecemeal way.

Mr. KEAN. Then I will offer the substitute.

The VICE-PRESIDENT. The Chair understands the Senator from South Carolina withdraws his proposed amendment, and the Senator from New Jersey proposes a substitute for the amendment.

Mr. TILLMAN. The proposed substitute strikes out all after line 22, on page 3.

Mr. LODGE. I think the amendment should be worded so as to show that it comes in after the word "follows," in line 22, because it is not section 6 of the pending bill, but section 2. It is section 6 of the old act that is proposed to be amended.

Mr. KEAN. The amendment is to come in on page 3, line 22, after the following words:

SEC. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows.

The VICE-PRESIDENT. The amendment proposed by the Senator from New Jersey will be stated.

The SECRETARY. On page 3 it is proposed to strike out all after the word "follows," in line 22, down to the end of the section, and to insert in lieu thereof the following:

SEC. 6. Every common carrier subject to the provisions of this act shall file with the Commission created by this act tariffs showing all the rates, fares, and charges for transportation, as defined in the first section of this act, between points upon its own route and between points upon its own route and points upon the route of any other carrier when a through route and joint rate have been established by agreement or otherwise; and this provision shall apply when the route connecting two points in the United States passes through an adjacent foreign country and when the traffic is moving to or from any foreign country. Such tariffs shall plainly state the places between which passengers or property will be carried, shall contain the classification of freight in force, and shall also state separately all terminal charges, including storage, icing charges, and all privileges or facilities which shall be allowed other than those involved in the transportation of passengers or property, as defined in the first section of this act, in ordinary course between two definite points, and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of said rates, fares, and charges, or the value thereof, to the shipper or consignee. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements relating to any traffic or transportation affected by the provisions of this act to which it may be a party.

The carrier shall plainly print such tariffs in large type, and shall keep posted, for the use of the public, two copies in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such manner that they shall be accessible to the public and can be conveniently inspected.

No change shall be made in any tariff of rates, fares, and charges filed and published as aforesaid unless the carrier shall file with the Commission a statement showing such changes and the date when they shall take effect, and shall post new tariffs, as hereinbefore provided, or plainly indicate such changes upon those already posted, at least sixty days before the taking effect of such changes; but the Commission may, for good cause shown, allow changes upon less than sixty days' notice, and may do this either in a particular instance or by general order applicable to special conditions and species of traffic.

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission; and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

The Commission may determine and prescribe the form, subjects to be contained in, and arrangement of the tariffs required to be published and filed, as aforesaid, and may change such form, subjects, or arrangement thereof from time to time as shall be found expedient.

The Commission may, in its discretion and for good cause shown, change or modify the foregoing requirements in respect of the publishing, posting, and filing of tariffs, and may do this either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

No carrier shall, unless otherwise provided by this act, receive or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any

carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

Any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production, and any law in conflict with this section is hereby repealed.

Mr. CULBERSON. Mr. President, by the courtesy of the Senator from New Jersey [Mr. KEAN], I desire to make a brief statement about a matter not concerning the amendment immediately pending.

A day or two ago an amendment which I presented prohibiting the issuance of passes was adopted by the Senate. The amendment accomplished the purposes which I had in view, but in drafting it hastily at my desk due consideration was not given to the exceptions which were made. I desire, therefore, to enter a motion to reconsider the vote by which the amendment was adopted, merely entering it, not asking to have it acted on now, however; and I will state that if that motion shall prevail I will ask to have what I send to the desk substituted in lieu of the amendment.

Mr. SPOONER. Let it be reported.

Mr. ALDRICH. I suggest to the Senator from Texas that this matter be taken up in the Senate when it is reached.

Mr. CULBERSON. I prefer to take this course, if the Senator please.

Mr. ALDRICH. Of course, if the amendment comes back in the Senate for one purpose, it comes for all purposes, and it may give rise to long discussion as to what disposition shall be made of it. I think it is much better to let it be acted upon there.

Mr. CULBERSON. I do not ask that the motion to reconsider be acted upon now.

The VICE-PRESIDENT. The Senator from Texas merely enters the motion.

Mr. CULBERSON. I merely enter the motion to reconsider.

Mr. McCREARY. I ask the Senator from Texas to state what the amendment is he proposes to change?

Mr. CULBERSON. I have already stated it; but I will state it again.

Mr. SPOONER. Let the amendment be read.

Mr. TELLER. Let it be read.

The VICE-PRESIDENT. The Secretary will read, if there be no objection.

The Secretary read as follows:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation, except to the officers, agents, and employees, and members of their immediate families, actual and bona fide attorneys, of the carrier issuing the same, to ministers of religion and inmates of hospitals and eleemosynary and charitable institutions and indigent persons. Any carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

The VICE-PRESIDENT. The motion to reconsider is entered; and the proposed amendment will be printed and lie on the table.

Mr. FORAKER. I only want to say before we pass from this matter that I hope the Senator from Texas will insist upon his motion to reconsider in Committee of the Whole, so that the matter may be determined before we report the bill to the Senate.

Mr. KEAN. Now, Mr. President, let us have a vote on my amendment.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New Jersey.

Mr. BACON. Mr. President, I simply desire to say that it it extremely difficult for those of us who have not had the opportunity for critical examination to learn whether the substitute for section 6 is complete in all particulars that are of importance. As I understand, the amendment proposes to strike out entirely section 6 and substitute this in place of it. If that is true, I wish to ask the Senator from New Jersey whether the provision of the present bill found on page 8, beginning in line 4 and running through to page 9, concluding in line 5, is substantially incorporated in the proposed amendment?

Mr. KEAN. All I can say to the Senator from Georgia is this: The amendment was prepared by the Interstate Commerce Commission, and it was done after very careful examination, and was put into the bill which the Commission sent to the Committee on Interstate Commerce on the 28th day of last November. They very strongly advocate the amendment. I think everything is included in it except that part of the bill to which the Senator has called attention.

Mr. BACON. That seems to me to be a very important part of this bill. It is the method by which the previous requirements of the section can be enforced. I have not had time to read carefully the Senator's amendment to see whether that is supplied in some other way.

Mr. KEAN. I think it is supplied in other parts of the bill.

Mr. BACON. It is not in other parts of the present bill, unless I am mistaken about it.

Mr. TILLMAN. If the Senator from New Jersey will permit me, I will say to the Senator from Georgia that the amendments which I proposed to insert in the Hepburn bill were prepared by the Interstate Commerce Commission, but that previously they had prepared a bill of their own, which they submitted to the Interstate Commerce Committee, but which was not adopted by anybody. In their memorandum, which was read at the desk a little while ago, they state that the present law is a kind of a composite arrangement that is more or less involved and contradictory, and in some places obscure, and that in rewriting it they had prepared a bill of their own which made it more symmetrical and clear. I accepted the substitute of the Senator from New Jersey upon the faith I have in the Commission, that they know more about it than either he or I or the Senator from Georgia.

Mr. BACON. I am very free to accord what the Senator says about myself. I do not profess to know very much about it, and have made no such professions in the Senate.

Mr. TILLMAN. I am not attempting to criticise the Senator. I can not answer his question. I do not think any man in the Senate can. We are taking it on the confidence we have in the Interstate Commerce Commission, that they understand this question, and they have suggested these amendments.

Mr. BACON. I, of course, accord to the Commission very great ability in this line, and the utmost good faith, but at the same time the responsibility is on us and not on the Commission, and I think it would be a very serious proposition that we should not only as to small isolated provisions of this bill accept their judgment, but that we should proceed to strike out four or five pages of this bill and insert something else in place of it, simply upon the ground that any persons outside of the Chamber are in favor of it.

Mr. ALDRICH. Will the Senator permit me to make a suggestion?

Mr. BACON. I will, but there is so much conversation around that it is very difficult to understand what the Senator says.

Mr. ALDRICH. I suggest that this amendment be adopted in Committee of the Whole, and then the Senator can investigate it, and he can easily make any suggested changes in the Senate if it is found not to be correct.

Mr. BACON. I do not know about that; that is not our usual method of procedure. Of course I am not in charge of the bill; I am not one of the very active agents in its consideration and discussion. I am endeavoring to gather what I can from the discussion of others, and am trying to contribute what I can to make it an effective bill. I find this, which is a very serious proposition to me, although I may be mistaken about it. On page 8, which is a part of the section proposed to be stricken out by the amendment, there are a series of provisions by which the requirements of this section are to be enforced and made effective and compulsory. Now, I ask the Senator from New Jersey this question——

Mr. KEAN. I think if you will look on page 24 of the House bill——

Mr. BACON. Page 24?

Mr. KEAN. Wait a minute.

Mr. LODGE. It is entirely covered.

Mr. KEAN. Page 8, line 24.

On page 8, lines 4 to 9 are stricken out, because the provision for mandamus is wholly covered on page 24, lines 14 to 22, inclusive.

Mr. LODGE. That covers the whole thing.

Mr. BACON. There is something more here than the mere matter of mandamus. If the Senators who have suggested this and who have looked into it are prepared to say that the provisions found on pages 8 and 9, by which alone, so far as I can see——

Mr. KEAN. I will say to the Senator that the penalties for a violation of this clause are found also in the amendment already enacted, known as the "Elkins law," and this does not repeal the Elkins law.

Mr. BACON. If that is the case, this was originally an improper provision to incorporate in the bill.

Mr. HALE. Unnecessary.

Mr. BACON. The Senator from New Jersey says it is already the law. I do not see how that can be. I do not see how the provisions of the Elkins law can properly enforce the provisions of this bill.

I do think that Senators who father it—those who advocate it—ought to be in a position at least to give us definite and positive and unambiguous explanations and opinions in regard to it, and not simply refer to somebody else. It is evident from the answers of the Senator himself and those who are endeavoring to assist in reply to that question that nobody has given careful examination—at least, nobody who has yet spoken—to this proposed amendment to see whether or not it does carefully preserve the essential features of the part of the bill which it is proposed to strike out.

Mr. DOLLIVER. Mr. President, a good many weeks ago I had the duty of examining, with some care, the changes suggested by the Interstate Commerce Commission in section 6, and I think I can say to the Senator from Georgia that the changes are mainly administrative in character and such as have been suggested by the practical experience of the Commission.

Now, as to the omission in the amendment offered by the Senator from New Jersey of any reference to——

Mr. HOPKINS. I should like to ask the Senator from Iowa a question respecting this matter. Is the proposed amendment of the Senator from New Jersey an amendment that was prepared by the Commission prior to the reporting of this bill to the Senate by the Senate committee?

Mr. DOLLIVER. In reply to the Senator from Illinois, I will say that at the beginning of the session the committee, by resolution, requested the Interstate Commerce Commission to send us a bill containing what in their opinion would cover the points which we desired to amend in the existing interstate-commerce law, and this section, which the Senator from New Jersey has offered was section 2 of that Interstate Commerce Commission bill. Now, it had a good many departures in language and some departures in substance from the existing law.

So far as I am personally concerned, I did not regard the departures from existing law as of sufficient importance to warrant the committee in abandoning four or five pages of the existing interstate-commerce law, though I did not doubt, and do not now doubt, that the phraseology of the section, as prepared by the Commission, is in many respects an improvement upon section 6 of the existing interstate-commerce act.

Mr. HOPKINS. I should like to know of the Senator from Iowa if at the time this bill was reported he favored the section as reported in the bill over the proposed amendment of the Senator from New Jersey?

Mr. DOLLIVER. At that time I went through a great many anxieties in my devotion to the existing bill, and yet I did it solely because I was impressed with the notion that the fewer changes that were made in a law that had been in existence for twenty years the better on the whole it would be.

Mr. HOPKINS. I should like the Iowa Senator to state what has come over his spirit to cause him this morning to advise the Senate to abandon the section that was reported by the committee and to adopt a section that was prepared by the Commission?

Mr. DOLLIVER. In reply I will say that the Commission has sent here a half dozen or more amendments. I endeavored at the time to secure the insertion in the bill of some of those which the Commission regarded as important. But the language was difficult to readjust to the new provisions, and the Commission have taken the view that on the whole the new draft of the entire section which they have agreed upon after very laborious consideration is superior to the old law, and since the matter concerns entirely the administration of the law I am not disposed to hold a controversy with the Commission as to the language. Now, the old proviso——

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Wisconsin?

Mr. DOLLIVER. Certainly.

Mr. SPOONER. I should like to inquire of the Senator from Iowa what change, if he is able to state it, the amendment makes in the text of the bill which it is intended to supplant?

Mr. DOLLIVER. That would be a very difficult matter to state, as the changes are very numerous.

Mr. SPOONER. I am speaking of essential changes.

Mr. DOLLIVER. The essential change in the old law, which is provided in the pending bill, is in the proviso which gives to the Commission a discretion to suspend and set aside the provisions of the law in respect to the publication of rates——

Mr. ALDRICH. And the notice.

Mr. KEAN. And the notice.

Mr. DOLLIVER. And the notice in connection therewith.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. DOLLIVER. Certainly.

Mr. BEVERIDGE. I should like to ask the Senator whether the amendment proposed by the Senator from New Jersey was carefully considered by the committee and rejected for the section which the committee reported to the Senate?

Mr. DOLLIVER. I am bound to say that the committee did not bend very much intellectual energy to that subject at the time.

Mr. BEVERIDGE. I am bound to say I did not hear the Senator's answer.

Mr. DOLLIVER. Owing to the peculiar situation of the committee, these details did not receive very profound consideration.

Mr. BEVERIDGE. Of course these details involve just five pages of the bill.

Mr. KEAN. I will say to the Senator from Indiana that they are very carefully drawn.

Mr. DOLLIVER. The substance——

Mr. BEVERIDGE. If I may be permitted, the Senator from New Jersey injected the remark that they were very carefully drawn. I ask the Senator from New Jersey, Which was carefully drawn? The provision which the committee reported, or the provision which he now offers as an amendment?

Mr. DOLLIVER. Both.

Mr. KEAN. The one I offer.

Mr. BEVERIDGE. Which was the more carefully drawn?

Mr. KEAN. I can not answer for the bill before the Senate, because I had no part in its preparation.

Mr. BEVERIDGE. If the one you now offer was the more carefully drawn, why did not the committee report it?

Mr. DOLLIVER. This is not a controversy between the committee and the Interstate Commerce Commission. It is a controversy between the law of 1887 and those amendments, which have been suggested by the Commission in order to make the law more workable.

Mr. TELLER. Mr. President, we have been discussing this bill, more or less, for the last three months. It has been understood pretty generally, whether on authoritative information or not I do not know, that the Commission was largely responsible for this bill. Whether that is true or not I do not know. I want to enter a general protest against this method of doing business. On yesterday there came in a material amendment, and I will venture to say nobody on the floor is able to state what it means. We know it changes the original bill, or else there is no necessity for the amendment. The Senator from New Jersey [Mr. KEAN], who offered it and whose name it bears, I understand does not attempt to explain it. The Senator from Iowa [Mr. DOLLIVER], who had this bill largely in his keeping, does not know what it is.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Iowa?

Mr. TELLER. Certainly.

Mr. DOLLIVER. This section has been on the statute books for twenty years, and there is no more reason why I should know what it contains than there is that the Senator from Colorado should understand it.

Mr. TELLER. I am not talking about section 6. I am talking about this new amendment. I know what is in section 6.

Mr. DOLLIVER. Then the Senator is the man to point out to the honorable Senator from Georgia what the difference is between that and the amendment.

Mr. TELLER. But the Senator was not able to tell the Senator from Georgia what the difference was. Now, before I vote for any measure I want to know what it means.

Mr. SPOONER. What changes it makes in the law.

Mr. TELLER. I want to know what changes it makes in the law, if that is the law we are proposing to reenact. The Senator who has the bill in charge, I think, admits that he does not know what the changes are.

Mr. TILLMAN. I sent to the desk a memorandum which explains exactly what is to be done, and the changes, and the reasons for them. The Senator from Colorado did not listen, or he would know. I can send it to the desk and have it read again.

Mr. TELLER. I do not depend on a proposition read from the desk.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Ohio?

Mr. TELLER. Certainly.

Mr. FORAKER. I hope the Senator will allow the communication to be read again.

Mr. TELLER. I am willing that it shall be read, but my method in dealing with these subjects is to take the bill and read it myself. I confess my inability to get a proper idea of a bill read from the desk and the desk alone. I do not believe any other Senator can, either.

Mr. President, after three months, when we had supposed that the sixth section which was in the bill was what was proposed, here comes a change. I do not know whether it is a material change or not. I do not know whether it is better than the original bill. I am not one of those who believe it to be my duty here as a Senator to take the word of somebody outside for it. If you are going to let the Commission make this bill, send it to the Commission and let them make it, and then adopt it. Mr. President, it is a vicious and unheard-of system of doing business. Here it came yesterday for the first time. Nobody has been able to see it or to know what it was until this morning. Then it is taken up. I understand it is to be railroaded through and put in the bill, and we will find out later some time whether it makes any change.

I suppose it is in the power of the Senate to vote this amendment in now. But I do not believe it is in the power of the Senator who has the bill in charge to accept it and prevent me from having an opportunity to vote against it if I see fit. I do not know whether I want to vote against it.

Mr. TILLMAN. The Senator from South Carolina has not attempted anything of the kind.

Mr. TELLER. I know he has not. I do not know that I have any objection to it. I am not in the habit, and I do not intend to be driven into it, either, of accepting a material change in a bill because somebody outside, who is not charged with the responsibility I am, concludes that it is better than that which we had before us for fully three months. It may be better, but decent legislation requires that we should have time to understand it and look into it. The Senator says he has had something read here. He can have it read again if he wants, but I shall not be able myself to form an opinion upon this subject until I can take the two propositions—what is in the bill now and this amendment—and compare them. I am not willing, I repeat, to submit to the Commission the making of this bill. The people of this country do not expect us to submit to the Commission the making of this bill. We are expected to make it here, with the assistance of the other body. If we are going to abandon our province of legislation here, either because it will be easier or pleasanter or because we are afraid we can not do it ourselves, let us be honest about it and send it to the Commission and wait until the Commission shall determine what we ought to do.

Mr. LODGE. The Senator from South Carolina started to perfect this section, which obviously needs a great many amendments, by offering a series of amendments. Then one amendment was offered, a well-drawn substitute, which would have saved the Senate the trouble of going through all those amendments, and the Senator from South Carolina, in conduct of the bill, very wisely said he would be glad to substitute a single draft, making all the changes and perfecting it, instead of taking the time of the Senate in going through it line by line and making a series of small but necessary changes in the wording. It seems to me that that course is in the interest of the expedition of business.

The amendment offered is a well-drawn section in place of one less well drawn and to which it is proposed by the committee to offer a series of amendments. The Senator from South Carolina [Mr. TILLMAN], the Senator from New Jersey [Mr. KEAN], and the Senator from Iowa [Mr. DOLLIVER], all members of the committee, assure us that it is simply substituting a well-prepared and carefully drawn draft for one that confessedly still needs a great deal of amendment.

Mr. SPOONER. Will the Senator from Massachusetts allow me to ask him a question?

Mr. LODGE. Certainly.

Mr. SPOONER. The Senator says it is a well-drawn section, I presume from having read it or having familiarized himself with it, and, therefore, the Senator is the proper Senator to whom I may address the interrogatory to advise the Senate what essential changes it makes in the existing law.

Mr. LODGE. I was going on, if the Senator will allow me, to explain my position. I was going to say that when three Senators on the committee—and, as far as I know, all the members of the committee who have given it attention—assure the Senate that it is an advisable thing to do to take this section drafted by the Interstate Commerce Commission as a proper substitute instead of perfecting it laboriously here by amendments line by line, which would take the whole day, I am sufficiently poor spirited to be ready to accept the say-so of the committee; and I think when they assure us of that we can trust the committee to that extent.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Virginia?

Mr. LODGE. Certainly.

Mr. DANIEL. I should like to ask the Senator from Massachusetts a question. I observe that the proposed section 6, which the amendment says is to be inserted in lieu of section 6 of the bill, relates to subjects other than those embraced in section 6 of the bill. I observe also that there are subjects covered by section 6 of the bill that are omitted in the section 6 which is offered instead thereof. In other words, section 6 readopts section 16a and inserts after section 16 of the interstate-commerce act section 16a, and section 16a provides for an application for a rehearing and rules therefor. The new section offered leaves out all of that, and we do not know, without an explanation at least, where we would be if we adopt this section in lieu of the one which comprehends another matter.

Mr. LODGE. Mr. President, it all appears plain in the memorandum read at the desk. It appears that the clauses referred to that were left out are covered by later insertions.

Mr. DANIEL. There are no later insertions here.

Mr. LODGE. And by other clauses in the bill. I do not profess to be expert about the bill, but it seems to me that if we can not take the statement of the committee on details of this kind we shall occupy a good deal of unnecessary time in the completion of the bill.

Mr. ALDRICH. The Senator from Virginia confuses section 6 of this act with section 6 of the interstate-commerce act, which is proposed to be amended by the second section of this act.

Mr. DANIEL. There is no explanation of that in the amendment. I see nothing to indicate that.

Mr. KEAN. The amendment, I will say to the Senator, is offered to section 2 of the bill, which is to amend section 6 of the interstate-commerce act.

Mr. BEVERIDGE obtained the floor.

Mr. DANIEL. But the offering of this amendment in the proposition named would seem to refer to section 6 of the pending bill.

Mr. KEAN. It is section 6 of the interstate-commerce act.

Mr. LODGE. Not section 6 of this bill, but section 6 of the interstate-commerce act.

The VICE-PRESIDENT. It is at the foot of page 3 of the bill.

Mr. DANIEL. I apprehend what is done here, but there is no statement in the amendment as proposed where it is to come in in this bill.

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Virginia?

Mr. BEVERIDGE. I yield to the Senator.

Mr. LODGE. I did not know that I had been taken from the floor.

The VICE-PRESIDENT. The Chair understood the Senator from Massachusetts to have yielded.

Mr. LODGE. I yielded to the Senator from Virginia. Then the debate became general and I sat down.

Mr. DANIEL. My only purpose was to find out from the reading of the paper where it would apply.

Mr. LODGE. I will say as preliminary that I do not pretend to be in the least familiar with the details of this section. It refers to section 2 of the bill before us and to section 6 of the interstate-commerce law, not to section 6 of the pending bill. I think that will aid us in understanding it as a preliminary.

So far as I can make out from listening to the memorandum read at the desk and the discussion which has occurred and from reading and comparing the amendments, it seems to me simply to be a redraft in better form of what is before us here in section 2, and that the omitted portions, so far as I have been able to trace them, are covered by later insertions. That is only what I have learned from the committee and from the debate this morning.

Mr. BEVERIDGE. Mr. President, it appears to me that the method of this proposed amendment is seriously important to the Senate. For three months the Senate has been considering this bill and its amendments. For a long time before that the House considered the bill, and the House then sent it to this body. For months the Interstate Commerce Committee held hearings and deliberated upon this measure. And now, after this lapse of time, upon the eve of the passage of what some have termed the most important measure that has been passed since the civil war, a method of amendment is proposed which con-

sists of merely offering, without explaining the differences, an amendment five pages long to take the place of five pages of the bill.

The Senator from Wisconsin [Mr. SPOONER] has addressed every Senator who has advocated this amendment and asked each Senator to point out the changes, and although two of those Senators are members of the committee they have not been able in detail to do so.

It thus appears, Mr. President, that as a method of safety in legislation we had better consume the few additional moments or even the few additional hours that are suggested by the Senator from Massachusetts as being necessary before we adopt an amendment about which the Senate knows nothing. It might be satisfactory to the Senator from Massachusetts, it might be satisfactory to two or three other Senators, and it might, if we understood it, be satisfactory to the entire Senate; but it must be patent to every one that if this method of amendment is adopted any evil and any vice might creep into a law for which every one of us would be responsible before the country, and for the putting in of which we could give no excuse except that we took the word of some person else.

It occurs to me that if the bill was worth pending three months in discussion and many more months in investigating before it was reported, now when it is upon the eve of its passage it is worth taking a few moments to find what is contained in an amendment which involves five pages of the bill.

Mr. LODGE rose.

Mr. BEVERIDGE. I yield to the Senator from Massachusetts.

Mr. LODGE. I was only going to suggest that in the memorandum which has been read at the request of the Senator from South Carolina it seems to me all the changes are explained. I may be wrong, however.

Mr. BEVERIDGE. The Senator from Colorado [Mr. TELLER], who is one of the most observant and closely interested Senators in this body in all matters of practical legislation, said he did not understand from the casual reading the explanation made in that memorandum.

Mr. LODGE. He can send to the desk for it and read it.

Mr. BEVERIDGE. Senators sitting around me have the same experience. I call the attention of the Senator from Massachusetts to the fact that that memorandum assumes to explain merely the detailed amendments which were to be offered by the Senator from South Carolina. It was not read as an explanation of the five pages of amendments which were offered by the Senator from New Jersey.

I call the attention of the Senate to the fact that what we are now confronting is a method of proposed amendment which, after months of debate upon a bill which everybody declares to be exceedingly important, proposes to take out of the bill the committee has reported and that the Senate has been discussing five pages and introduce five other pages. If the mere statement of that proposition does not show the recklessness of such a method, I can not imagine any language that could exhibit the recklessness more plainly.

It may be that the proposed amendment is precisely the thing the Senate wants to adopt. The important thing is that the Senate does not know whether it is the thing it wants to adopt. It is the method, Mr. President, to which I raise objection, and which, it occurs to me, is more important perhaps than the amendment itself. If that method of procedure be allowed in the Senate, then why not introduce a substitute for the entire bill, which might be satisfactory to two or three members of the committee?

Mr. FORAKER. Mr. President, I am a member of the committee that had this bill under consideration and from which there was finally a report made. In view of all that has been said about the responsibility of the committee in that connection, I think it is due to the committee to say that we received from the Interstate Commerce Commission a bill which we understood they had prepared with very great care. It was then taken under consideration, and after it had been considered for a few days, before we had reached any final conclusion with respect to it, when we were in good faith debating its respective provisions, we learned from the newspapers and otherwise that that bill, by the friends of the proposed rate legislation, had been abandoned, and that another bill had been substituted; and in a printed form it was brought before us for our consideration. Later that bill was introduced in the Senate by the Senator from Iowa [Mr. DOLLIVER]. We never had any opportunity in the committee to compare the two bills and take action with respect to them which would show our preference for the one over the other.

The truth is that the whole matter is properly characterized in this memorandum from the Interstate Commerce Commission—and it is the language I wanted the Senator from Colorado [Mr. TELLER] to have read a few minutes ago, so that every Senator here might have the benefit of it—when they say:

> The sixth section of the present law, and as it is proposed to be substantially reenacted with a few amendments in the Hepburn bill, is framed upon no consistent or reasonable theory or plan.

That is exactly true. That is the kind of a bill we have, relating to the most important subject we have had under consideration, as the Senator from Indiana [Mr. BEVERIDGE] a few minutes ago well said, since the civil war. That is the kind of a bill that has been prepared and brought in here, and with respect to which in that committee we could not consider and act upon any amendment whatever. Every amendment was cut off from consideration by the action that was taken by a majority of the committee. All these matters would have been carefully gone over and would have been carefully considered and acted upon.

When the bill was thus brought in, when consideration of the bill was thus denied, when opportunity to act upon it was thus prevented, I do not wonder that now as we come to consider it in the Senate we have this kind of difficulty. It is a serious difficulty. I am not satisfied with the sixth section, either as it is in the bill before the Senate or as it is in the bill as it was originally prepared by the Interstate Commerce Commission; but I am of the opinion, in view of the comments the Interstate Commerce Commissioners have made, that their section as they originally prepared it and sent it to us is a better section than the one in the bill before the Senate. For that reason I am disposed to favor the amendment that has been offered by the Senator from New Jersey as a substitute as he has proposed.

But, Mr. President, except you take up this printed memorandum and read it through from beginning to end, you will have very great difficulty to tell just what the distinctions are. As the Commission point out, one of the most serious difficulties is that this section, which was framed without regard to any reasonable theory or plan—I believe is the language of the Commission—is what we had no opportunity to change. The Senator from Iowa [Mr. DOLLIVER] has suggested to me that it was framed twenty years ago. That is true, but the Senator adopted it in his bill, and we were given no opportunity to point out its defects or to take any action upon it.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. FORAKER. Certainly.

Mr. SPOONER. I wish to inquire of the Senator from Ohio if he will kindly state what change this proposed amendment makes in the law?

Mr. FORAKER. I was about to point out that it is impossible, without taking this memorandum in hand and going through it in a detailed way, to point out what all the changes are. But the first one is that the section as embodied in the bill that is under consideration in the Senate deals differently with individual rates from what it does with joint rates. That is one of the objections the Commission urge against the present bill and in favor of the substitution of the amendment that is offered by the Senator from New Jersey [Mr. KEAN].

Mr. BEVERIDGE. That is the only important change?

Mr. FORAKER. That is a very important change. They point out quite a number of others. I will take the time to read it if that is desired.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. Certainly.

Mr. PETTUS. Mr. President, I desire to ask the Senator from Ohio a question.

Mr. FULTON. I ask the Senator if he does not think it would be wise to have section 6 reprinted with these amendments inserted in italics, and that it be passed over for the present in order that we may compare the proposed amendments with the original text more carefully and understand them?

Mr. FORAKER. When it was suggested a few days ago that we should pass over some proposed amendment, it was ruled, I believe, by the Chair, that under the unanimous-consent agreement under which we are acting no amendment could be passed in that way, but that we must discuss and dispose of each amendment as presented.

Mr. ALDRICH. The amendment could be withdrawn.

Mr. KEAN. I do not care anything specially about this amendment. I want to perfect the bill. If there is any objection to it, I have no hesitancy whatever in withdrawing it, so that we may go on with the bill. I want to get through with the bill.

Mr. ALDRICH. I suggest that all these amendments could be withdrawn and that the amendment of the Senator from New Jersey could then be printed in parallel columns with the section as it stands in the bill. Then we could go on with the reading of the third section of the bill.

Mr. FORAKER. I think it would be better to recommit the whole bill and then have some intelligent consideration of it in committee, for never since I have been a member of this body has a committee been deprived of the right to consider and act upon a bill until now, and I hope it will be a long time before any other committee is ever deprived of that right, because sooner or later, in the Senate or somewhere, you must answer for that sort of proceeding.

Mr. PETTUS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. FORAKER. Certainly.

Mr. PETTUS. Mr. President, I desire to ask on what page of the pending bill is this amendment to commence?

Mr. TILLMAN. On page 3.

Mr. FORAKER. At the bottom of page 3.

Mr. PETTUS. Section 6 of the bill is on page 18.

Mr. TILLMAN. But the trouble is that the Senator is confusing the two 6's. We are on section 2 of the bill, incorporating in it a new section 6 of the interstate-commerce law.

Mr. PETTUS. I understand that, but the amendment does not state which one of the 6's it is to be a substitute for.

Mr. FORAKER. Let me say to the Senator from Alabama that is a very trifling thing to make serious mention of in connection with this bill.

Mr. TILLMAN. Mr. President, before I proceed and try to get something done, I want to comment just briefly upon the implied criticism and more or less, I will not say vituperation of the committee, but it was bordering on it, of the Senator from Ohio. There was such difference of opinion in that committee and such obstructive tactics, as it seemed to me, to do nothing, emanating from those with whom the Senator from Ohio seemed to be in affiliation, that I almost felt that it was a waste of time to go there, because whenever the committee met the demand would be, "Let us read the bill." It would take an hour to read the bill of from 50 to 70 pages, and by the time we got through reading it would be nearly 12 o'clock, and then we would take up something and immediately the Senator would go to make the speech which he afterwards made in the Senate [laughter]; and with one method of doing nothing and another we simply never did do anything.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. With pleasure.

Mr. FORAKER. Will the Senator allow me to ask him a question? Did the Senator discover any more diversity of opinion in committee than he has discovered in the Senate?

Mr. TILLMAN. Not half as much, for we were only thirteen there and we have about eighty-five here.

Mr. FORAKER. Will not the Senator admit that he was aware we could agree at any time in the committee if he and all the others who agreed with him had agreed with those of us who were acting with myself, as he has stated? [Laughter.]

Mr. TILLMAN. Undoubtedly, if the majority of the committee had agreed to let the Senator from Ohio and the Senator from Rhode Island have their way, as they seem now about to have it, we could have brought in a bill that was entirely satisfactory to all I do not know how much longer ago than we did.

Mr. FORAKER. And if we had agreed with the Senator from South Carolina we could have reported a bill at any time. In other words, Mr. President, what I want to ask the Senator to admit, as I am sure he will, is that our differences were bona fide differences there just as they are here.

Mr. TILLMAN. Undoubtedly.

Mr. FORAKER. And I think every member of the committee, the Senator from South Carolina included, as emphatically as everybody else, was struggling to consider the bill fairly and to make a good bill that we might report to the Senate.

Mr. TILLMAN. Undoubtedly; but we never did consider any of it. We read it and then immediately we began to talk, and that was the end of it.

Mr. FORAKER. Now, one other question——

Mr. ALDRICH. Mr. President, I rise to a question of order.

Mr. FORAKER. Does not the Senator from South Carolina think it would have been well if we had read the bill even oftener than we did?

The VICE-PRESIDENT. The Senator from Rhode Island rises to a question of order.

Mr. ALDRICH. It seems to me this discussion is out of order. It is simply a discussion about what transpired in committee several months ago. It has nothing to do with this question.

Mr. TILLMAN. I did not feel willing to let all the blame appear to rest on the majority that had brought the bill out of committee.

Mr. KEAN. Mr. President, I withdraw the substitute; and I hope we will now go on with the bill.

The VICE-PRESIDENT. The Senator from New Jersey withdraws his proposed amendment.

Mr. TILLMAN. I hope Senators will get the amendments now and let us do something. On page 3, line 24, after the word "shall," I move to insert the words "file with the Commission created by this act and."

The VICE-PRESIDENT. That has been agreed to.

Mr. TILLMAN. Then, in line 25, at the bottom of page 3, after the word "showing," I move to insert the word "all."

The VICE-PRESIDENT. That has been agreed to.

Mr. TILLMAN. Then, on the top of page 4, in the first line, I move to strike out the word "the."

The VICE-PRESIDENT. That has been agreed to.

Mr. TILLMAN. Then, on page 4, lines 1, 2, and 3, I move to strike out the words—

of passengers and property which any such common carrier has established and which are in force at the time upon its route.

And to insert—

between different points on its own route and between points on its own route and points on the route of any other carrier, by railroad or by water, when a through route and joint rate have been established.

Mr. ALDRICH. Mr. President, I object to the words "or by water," because they are put into this section where they ought not to be and in a manner which will raise great doubt about what is their meaning. I suggest that the Senator accept the language which was contained in the amendment suggested by the Senator from New Jersey, which reads as follows:

Between points upon its own route and between points upon its own route and points upon the route of any other carrier when a through route and joint rate have been established by agreement or otherwise.

That accomplishes the same purpose and leave out the words "or by water," which may have a very doubtful meaning in this connection. If the Senator is willing to accept that language I will——

Mr. TILLMAN. I can not accept anything. The Senate must accept it. If we turn only to page 1 and read in section 1, commencing in line 8, we come on that very phraseology:

Or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment.

It seems to me that the language "or by water" would apply to a through route which would be a combination of railroads and steamboats.

Mr. ALDRICH. I am not sure whether it would or not. Therefore I move to amend the amendment of the Senator from South Carolina by substituting the language I have just read.

The VICE-PRESIDENT. The Senator from Rhode Island proposes an amendment to the amendment, which will be read by the Secretary.

The SECRETARY. In lieu of the amendment proposed by the Senator from South Carolina insert:

Between points upon its own route and between points upon its own route and points upon the the routes of any other carrier when a through route and joint rate have been established by agreement or otherwise.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Rhode Island to the amendment of the Senator from South Carolina.

Mr. NELSON. Mr. President, that amendment of the Senator from Rhode Island ought not to be adopted. The object of that part of the bill is to provide that the carrier shall furnish a schedule of its through rates. A part of that through route may be water as well as land, by steamboat as well as rail, and it ought to be included in the bill. There is no reason at all why it should be excluded.

Mr. ALDRICH. I think the Senator from Minnesota is entirely mistaken. The language which I propose to insert is the language of the bill which the Interstate Commerce Commission itself prepared and offered as a substitute for the pending bill. A through route is a through route by rail or water, and it makes no difference whether the language is used or not. My objection is that the words "or by water" would in this connection give an entirely different force and effect to the provision than it would have if the words were left out. I am not sure but that it might apply to all water rates on the Lakes or on the Atlantic seacoast.

Mr. NELSON. If the Senator will allow me to interrupt him, it is intended to cover the case where a route is partly by rail and partly by water.

Mr. ALDRICH. That is a through route within the provisions of the bill.

Mr. NELSON. In that case it ought to be included.

Mr. ALDRICH. Undoubtedly. The Senator and I do not disagree about that. The only objection I make is that it may include something much more.

Mr. NELSON. Oh, no; it can not include anything else.

Mr. ALDRICH. If it will meet the objection of the Senator, I suggest that after the words "or by water" we insert "as provided in section 1 of this act."

Mr. NELSON. The word "water" can do no harm there, and it certainly makes the bill clear and specific.

Mr. ALDRICH. I suggest we put in after the word "water" the words, "as provided in the first section of this act."

Mr. NELSON. What is the object in putting in those words?

Mr. ALDRICH. So that the through routes provided for here shall be the same through routes that are defined in the first section of the act and no others, making the two correspond.

Mr. NELSON. There is no need of that correspondence.

Mr. ALDRICH. I think there is. I think there is very great danger——

Mr. BACON. Mr. President, I desire to ask the Senator from Rhode Island a question. I could not hear distinctly what he said in his colloquy with the Senator from Minnesota. I desire to ask the Senator whether he contends that the bill does not contemplate the regulation of interstate commerce, so far as a part of the shipment may be by water?

Mr. ALDRICH. Where they are under one control and management.

Mr. BACON. But the bill goes further than on page 1.

Mr. ALDRICH. I think not.

Mr. BACON. It says "wholly by railroad, or partly by railroad and partly by water, when both are used under a common control, management, or arrangement, for a continuous carriage or shipment."

Mr. ALDRICH. I think, in the section under consideration, we ought not to go beyond the definition given in section 1.

Mr. BACON. I want to ask the Senator this question: Suppose a shipment from Chicago to New York, by rail from Chicago to Albany, N. Y., and by boat from Albany to New York, which can be, of course, prescribed by the shipper; does the Senator contend that that shipment in its entirety, and the rate under which that shipment was made, would not be under the regulation of the Interstate Commerce Commission under this bill?

Mr. ALDRICH. It would not unless——

Mr. BACON. If it is not, it ought to be.

Mr. ALDRICH. It would not unless "both are used under a common control, management, or arrangement for a continuous carriage or shipment." Otherwise it would not be.

Mr. BACON. If it is not under such regulation, then this bill ought to be corrected. If it is true that the bill as now framed would not reach a case of that kind, then there ought to be an amendment which would make it reach it.

Mr. ALDRICH. Then the structure of the bill would have to be changed.

Mr. BACON. I think not.

Mr. ALDRICH. Certainly, it would have to be.

Mr. BACON. I do not think so, Mr. President. I think that interstate commerce is not limited to railroads by any means, but that by every possible reason it should include any through shipment which extends from State to State, any continuous shipment where a part of it is by water, as well as where the whole of it is by rail. By what possible reasoning could the Senator from Rhode Island contend that whereas the Interstate Commerce Commission should have the right to regulate the rate of shipment in case of complaint between Chicago and New York where it was all by rail they should not have the right to regulate it in case of complaint where part of it was by rail from Chicago to Albany and the remainder, from Albany to New York, by water? Upon what reason would the Senator base the contention that that should not be subject to interstate-commerce regulation?

Mr. ALDRICH. Mr. President, the Congress probably has the same power over interstate commerce by water that it has over interstate commerce by land, but there never has been any attempt on the part of Congress to control, and this bill does not contemplate any control, over interstate commerce by water except upon the conditions named in the first section of the bill—that is:

Where—

I read the language again—

any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment), etc.

If it is the purpose of the Congress or of the Senate to extend over interstate commerce by water the authority of the Interstate Commerce Commission other than as here mentioned, that involves an absolute revolution in this proposed act and would import into it purposes and results which no man has yet contemplated in connection with this legislation.

Mr. NELSON. Will the Senator from Rhode Island allow me to put a question to him?

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Minnesota?

Mr. ALDRICH. Certainly.

Mr. NELSON. I desire to call the attention of the Senator from Rhode Island to the Chesapeake and Ohio case, which has recently been decided by the Supreme Court of the United States.

Mr. ALDRICH. Very well.

Mr. NELSON. In that case the coal was shipped from West Virginia down to tidewater, thence by water up to New Haven by way of Long Island Sound, and from thence by rail farther up in New England. There was a shipment at both ends by rail and in the middle by water. Does the Senator insist that we ought not to control such a shipment?

Mr. ALDRICH. We ought to have controlled it, and we did control it, because the lines were under one common management and control, and it was a continuous shipment. Those shipments undoubtedly came within the provisions of the interstate-commerce act, but there never has been any attempt made, so far as I know, under the provisions of the act, to control shipments by water other than under such conditions. Does the Senator think that a shipment from Duluth, or from one lake port to another, ought to the put under the provisions of this act?

Mr. NELSON. Not if it is a shipment from one lake port to another. That is different. Here is the language:

Between different points on its own route and between points on its own route and points on the route of any other carrier by railroad or by water when a through route and joint rate have been established.

That is the language. It is not where the entire route is by water, but it is where the route is partly by rail and partly by water. Why should not the public——

Mr. ALDRICH. But suppose——

Mr. NELSON. Let me finish. If the shipment is partly by rail and partly by water, why should not the public at large know what that whole rate is from one point to another, even though part of it is by water? Why should they be limited to having a rate published only where the route is partly by rail and not have the rate for the entire distance?

Mr. ALDRICH. Does the Senator think the language of the first section ought to be enlarged or that these conditions ought to be removed, so that independent shipments by water ought to be included in the through routes and put under the control of the Interstate Commerce Commission?

Mr. NELSON. That is not the point—where it is wholly a shipment by water—but where it is a shipment partly by water and partly by rail, where the goods are billed through. Why, in such a case, should not the schedule of rates be published and fixed as to the entire route and not as to only a part of it?

Mr. ALDRICH. But suppose the part by water is by an entirely independent line, and not under one common control and management and not by continuous carriage or shipment?

Mr. NELSON. If the goods are received and billed through as one continuous shipment, I think they should be under the provisions of the bill. Let me give the Senator from Rhode Island an illustration. In the State of Minnesota the steel trust has large iron mines. They have railroads built from those mines down to the coast on Lake Superior. They charge such rates for shipping ore that the independent lines can not compete with them, and when the State of Minnesota undertakes to regulate the rates they come into court and say that they have shipped their ore billed through from their mines to Cleveland and other ports on the lake; that it is, therefore, interstate commerce and the State can not regulate it. Where the carrier comes in and claims immunity from State regulations on the ground that it is interstate traffic, why should not a shipment of that kind be put under Federal regulation and the carrier be required to publish its rates? If the steel trust ships a carload of iron or a lot of iron ore from the Messaba or from the Vermilion mines in Minnesota, and bills it through to Cleveland as one entire shipment, why should not the public be advised as to the entire rate from the mines to Cleveland?

Mr. ALDRICH. I think I shall have to resume the floor, as the question of the Senator from Minnesota is getting to be too extensive.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Pennsylvania?

Mr. ALDRICH. I do.

Mr. KNOX. It seems to me there is likely some confusion here about a very simple proposition. This bill does not propose to make any change in the existing law as to the character of the carrier to which the provisions of the law apply.

I think the Senator from Minnesota [Mr. NELSON] is entirely correct in his interpretation of the act as it stands, and that contains the same language that is used in the pending bill. In my humble judgment, the Senator from Rhode Island [Mr. ALDRICH] is mistaken when he regards the proposition of the Senator from South Carolina [Mr. TILLMAN] as susceptible of being construed so as to expand the application of the act.

Mr. ALDRICH. Mr. President——

Mr. KNOX. Will the Senator permit me to finish the sentence so as to make my thought entirely clear?

Mr. ALDRICH. Certainly.

Mr. KNOX. The proposition of the Senator from South Carolina is simply applied to the posting of the rates; and whatever transportation between the States is covered by the act, such transportation includes transportation by rail and water when it is used as a continuous carriage, whether under common management or ownership or not.

The mere fact that this amendment proposes that the public should have the benefit of notice of these rates does not expand or enlarge the class of carriers to which the act is intended to apply, and does apply, in my opinion.

Mr. ALDRICH. I was not certain about that myself, and I am glad to have the assurance of the Senator from Pennsylvania [Mr. KNOX]. I was only anxious to know that no such construction would be possible as might be inferred from the use of the words "or by water" in a different connection from the way they are used in the first section of the bill; and I withdraw my amendment to the amendment.

Mr. KNOX. It could not possibly apply to water unless water was a part of the continuous carriage and it was under one common management.

The VICE-PRESIDENT. The question is on the amendment of the Senator from South Carolina [Mr. TILLMAN], which has been stated.

The amendment was agreed to.

Mr. TILLMAN. I send the remainder of the amendments which I desire to offer to this section to the desk, and ask that they may be stated.

The VICE-PRESIDENT. The amendments proposed by the Senator from South Carolina [Mr. TILLMAN] will be stated in their order.

The SECRETARY. On page 4, line 7, strike out the word "the" and insert the word "all;" and on page 4, line 7, after the words "terminal charges," insert the words "storage charges."

The amendment was agreed to.

The SECRETARY. On page 4, line 9, after the word "require," insert "all special privileges or facilities granted or allowed."

The amendment was agreed to.

The SECRETARY. On page 4, line 10, strike out the word "of," first occurring in said line, and insert the word "or."

The amendment was agreed to.

The SECRETARY. On page 4, line 11, after the word "charges," insert the following: "or the value of the service rendered to the passenger, shipper, or consignee."

The amendment was agreed to.

The SECRETARY. On page 4, line 13, after the word "be," insert the word "kept."

The amendment was agreed to.

The SECRETARY. On page 4, line 17, after the word "inspected," insert the following:

The provisions of this section shall apply to all traffic, transportation, and facilities defined in section 1 of this act.

The amendment was agreed to.

The SECRETARY. On page 5, line 9, strike out the word "established" and insert the word "filed."

The amendment was agreed to.

The SECRETARY. On page 5, line 11, strike out the words "public notice" and insert "notice to the Commission and to the public published as aforesaid."

The amendment was agreed to.

The SECRETARY. On page 5, strike out lines 23, 24, and 25, and on page 6, lines 1 to 6, inclusive, and insert the following:

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.'

The amendment was agreed to.

The SECRETARY. On page 6, strike out lines 7, 8, 9, 10, and 11, and the words "Commission of all changes made in the same" in line 12.

The amendment was agreed to.

Mr. CULBERSON. I should like to ask the Senator from South Carolina [Mr. TILLMAN] what is the purpose of striking out, on page 6, from lines 7 to 12, inclusive, the following language:

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same.

Mr. TILLMAN. The purpose is to require the publication of both through and local rates. There are provisions in the law as it is now which separate the two classes of tariffs or of schedules, and the purpose of all these amendments is to compel the publication of through rates and local rates in the same schedule at the depots.

Mr. CULBERSON. Then this requirement will be provided for otherwise in the bill?

Mr. TILLMAN. Yes.

Mr. BACON. Mr. President, I present now, simply that it may be printed, an amendment which I shall offer to the first section of the bill when we return to it, in order to make free from any ambiguity the provision of the law with reference to water carriage in interstate commerce. I will ask that it be read in order that Senators may have it brought to their attention in the RECORD and can make the insertion themselves in the copies of the bill they have before them.

The VICE-PRESIDENT. The proposed amendment will be stated.

The SECRETARY. In section 1, page 1, line 8, after the word "railroad," it is proposed to insert "or wholly by water;" and also, in section 1, page 1, line 11, to insert the words "by through bills of lading or otherwise."

The VICE-PRESIDENT. The proposed amendment will be printed and lie on the table.

The Secretary will state the next amendment proposed by the Senator from South Carolina [Mr. TILLMAN].

The SECRETARY. In section 2, page 6, line 12, it is proposed to strike out the word "such," at the end of the line.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment proposed by the Senator from South Carolina will be stated.

The SECRETARY. In section 2, page 6, line 13, after the word "carrier," it is proposed to insert the words "subject to this act."

The amendment was agreed to.

The VICE-PRESIDENT. The Secretary will state the next amendment proposed by the Senator from South Carolina.

The SECRETARY. In section 2, page 6, line 16, after the word "party," it is proposed to strike out all of the bill down to and including line 23, on page 7.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. BACON. What is that amendment?

Mr. NELSON. I should like to hear that amendment read again.

The VICE-PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. In section 2, page 6, line 16, after the word "party," it is proposed to strike out all of the bill down to and including line 23 on page 7.

Mr. BACON. Is that an amendment offered by the Senator from South Carolina?

Mr. TILLMAN. Yes.

The VICE-PRESIDENT. It was offered by the Senator from South Carolina.

Mr. TILLMAN. I will explain here that the Interstate Commerce Commission says:

A large portion of the act to regulate commerce and most of the Elkins law was framed to secure adherence to published tariffs. It follows that the provisions of the law respecting the filing and publication of such tariffs should be definite and certain as to joint rates as well as individual rates. There should also be in section 6 a distinct prohibition forbidding a carrier to receive or participate in the transportation affected by the act unless the rates, fares, and charges upon which the same is transported have been filed and published in accordance with the provisions of this section, and that the published rates shall be invariably observed.

This is where the new law and the existing law are in conflict and where there is confusion, and the purpose of the amendment is to try to clarify it.

The VICE-PRESIDENT. The question is on the amendment of the Senator from South Carolina.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment of the Senator from South Carolina will be stated.

The SECRETARY. In section 2, page 8, beginning with line 4, it is proposed to strike out to the end of the section, in line 5, page 9.

Mr. NELSON. I desire to call the attention of the Senate to the fact that we agreed to one amendment there, on page 7, lines 7 to 23.

The VICE-PRESIDENT. That was included in the other amendment.

The SECRETARY. In section 2, page 8, beginning in line 4, it is proposed to strike out the remainder of the section and to insert the following:

No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

Mr. BACON. Do I understand that is proposed in lieu of the provision found on page 8 of the bill?

Mr. TILLMAN. Yes; in lieu of the part stricken out.

Mr. BACON. From line 4, page 8, to line 5, page 9.

Mr. TILLMAN. Yes; this is a substitution for that.

Mr. BACON. I want to say a word about that. The Senator may be correct. Of course I am open to conviction about it and will gladly conform to his amendment if I am shown to be incorrect; but I do not think, Mr. President, that the provision which is proposed to be inserted in lieu of that which is stricken out relates directly to the matter which is incorporated in the provision which is thus proposed to be stricken out. I will read the words proposed to be stricken out, and I will ask the attention of the Senate to them. After providing for the filing of rates and their publication, etc., beginning in line 4, page 8, is the following language:

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal operating office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commission appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commission, as complainant, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

It will be noted, Mr. President, that that section contains the provisions by which the machinery is provided for the enforcement of the provisions with reference to the publication of schedules. The important fact to which I want to call the attention of the Senate is this, that, while that language is found in the pending bill, it is copied almost word for word from the law as it now stands; and the effect of the adoption of the amendment just proposed by the Senator from South Carolina, if I correctly understand it, will be not simply to change the provisions of the pending bill, but to very materially change the provisions of the existing law.

We have before us a compilation, if I may so term it, which embraces the pending bill and also the existing law as it will be if the pending bill should be passed; in other words, the existing law with the amendments which will be incorporated upon it by the pending bill. By referring to page 36 of that compilation, beginning in the twenty-first line to the end of the twenty-second line on page 37, it will be found that the pending bill is almost identical with the provision in the present law, the only difference being such as indicated by the words stricken out and the words inserted in italics. There are only five changes made in the existing law by the pending provision which it is proposed to strike out. These five changes are as follows—and I state them to show that they are not material changes: On page 37, line 2, after the word "principal" and before the word "office," the word "operating" is inserted, so that it will read, instead of "principal office," as in the present law, "principal operating office;" in line 9 the word "Commissioners" is stricken out and the word "Commission" is inserted; in line 12 again the word "Commissioners" is stricken out and the word "Commission" inserted; and in line 13 the word "complainants" is stricken out and the word "complainant" is inserted. So that, for all practical purposes, the provision of the pending bill which is found on pages 8 and 9, which it is proposed to strike out, may be said to be verbatim the existing law, the amendments which are proposed to it being altogether formal and not material.

So that we have the proposition here, Mr. President, not simply to strike out of the pending bill this provision, but we have the proposition to strike out of the existing law the provisions which have been incorporated, and have been there for twenty years, by which it is sought to enforce the requirements for the publication and filing of these schedules.

What reason is given for such a radical change as that? I have before me the printed slip, with which the Senator from South Carolina has furnished us, containing the reasons which are suggested why these changes should be made. The reason which is suggested for the striking out of this entire page, found as it is both in the pending bill and in the existing law, is this: I read from page 4 of the printed slip:

On page 8, lines 4 to 9—

It evidently means from line 4, page 8, to line 9, page 9—

are stricken out, because the provision for mandamus is wholly covered on page 24, lines 14 to 22, inclusive.

We will turn to page 24 and find that and see. The reason given why not only this provision of the pending bill, but this most important and vital provision in the existing law shall be stricken out, is that there is found on page 24 of the pending bill, from line 14 to line 22, inclusive, the following language:

That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney-General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said act to regulate commerce or of any act supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

In other words, the present law which is substantially, in fact almost verbatim, stated on page 8 of the pending bill, goes a great deal further than that, and specifies, in the first place, the jurisdiction in which any of these various suits may be filed for the purpose of compelling compliance with the provisions of this act. If Senators will read them—I will not read them again, as I have already read them in the hearing of the Senate—it will be seen that it is most important that the jurisdiction should be defined, because there are cases in which, in the absence of that specific definition of jurisdiction, it would be gravely doubted where the jurisdiction rested if any jurisdiction could be definitely fixed at all.

But that is not the most important part of it. On page 8, in line 18, it goes on further, now, to say what shall be the penalty or what consequences shall flow from the failure of a railroad company to comply with this provision about the publication and filing of schedules. It says this:

The failure to comply with its requirements—

That is, the requirement where the mandamus is issued—

shall be punishable as and for a contempt—

Which is left out of the provision found on page 24.

Mr. TILLMAN. Will the Senator allow me to ask him a question?

Mr. BACON. Just let me finish this, and I will, with pleasure.

and the said Commission, as complainant—

This is all left out—

may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

Now, all of that is omitted.

Mr. TILLMAN. Now, will the Senator permit me?

Mr. BACON. I will, with pleasure.

Mr. TILLMAN. The first thing I want to ask the Senator is whether, if a judge issues a writ of mandamus and the party disobeys it, the judge would not punish it as for contempt?

Mr. BACON. He might do it.

Mr. TILLMAN. Would he not?

Mr. BACON. I presume he would, but there are many——

Mr. TILLMAN. Very well. So to provide that the judge shall punish for contempt is not necessary. The second point in the amendment offered here is that instead of leaving it to the judge to declare by proceedings that the carrier must do so and so, Congress declares it right here; in other words, that the carrier shall not engage in interstate commerce unless it does file its rates.

Mr. BACON. That is stricken out.

Mr. TILLMAN. No indeed.

Mr. BACON. I beg pardon.

Mr. TILLMAN. Just read the substitute for it. The Senator was not paying attention.

Mr. BACON. Yes; I think I am paying attention.

Mr. TILLMAN. Will the Secretary read it again? It is stricken out, but there is nearly as much reinserted.

Mr. BACON. There is nothing here in the part to which the Senator calls my attention, and to which he says I have paid no attention, which provides for the filing by the Commission in the circuit court of a bill asking for a writ of injunction against a common carrier restraining it from engaging in interstate commerce.

Mr. TILLMAN. Nothing whatever, because on page 24 there is a general provision empowering the Commission to apply to the circuit court in the case of disobedience to any part of this act. Why do you want to specify that the court shall punish for one thing when there is a general provision authorizing the court to punish for disobedience to any section?

Mr. BACON. The Senator is mistaken. The provision on page 24 does not in any manner authorize the filing of a bill for the purpose of restraining the common carrier from continuing in interstate commerce so long as it disobeys this requirement of the law.

Mr. TILLMAN. By reason——

Mr. BACON. The Senator will pardon me, that I may finish the sentence. On the contrary, it limits the remedy entirely to that of mandamus. Under the law as it now exists and as it has existed for twenty years, the Commission is authorized to apply either for a mandamus or for a writ of injunction, and that which it is now proposed to strike out limits it to mandamus and entirely repeals that part of it. It not only strikes it out of the pending bill, but repeals existing law in the particular which authorizes the Commission to go into court and file a bill for the purpose of restraining a carrier from continuing in interstate commerce so long as it defiantly refuses to obey the plain mandate of the law.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. BACON. I do.

Mr. FULTON. I will ask the Senator from Georgia if under the bill as it is proposed to be amended, where the provision is made——

The VICE-PRESIDENT. The Chair is obliged to inform the Senator from Georgia that his time has expired.

Mr. FULTON. I should like to have the Senator answer my question.

Mr. TILLMAN (to Mr. FULTON). It is now your time; go on.

Mr. FULTON. I call the attention of the Senator from Georgia to the fact that the proposed amendment makes it unlawful for a carrier that has failed to file its schedules to continue in interstate commerce, and a violation of that provision would subject it to the penalties in other portions of the bill. There would be that remedy. The carrier could be prosecuted criminally if it engaged in carrying interstate commerce after refusing to file its schedules. In addition to that is given the right to proceed against it by mandamus and compel compliance. There are two remedies. Surely they would seem to be sufficient.

Mr. BACON. Well, they may be sufficient in the opinion of the Senator, and I presume they are sufficient in the opinion of the Senator from South Carolina, but still the fact remains as I have stated it. I presume the Senator from Oregon is asking me a question so that I can reply in his time. The fact is, as I have stated it, that under existing law there is the additional security given which authorizes the Commission to file a bill to restrain a railroad from continuing in interstate commerce until they comply with the mandate of the law. For what reason that additional security should be stricken out I am not able to find out from the explanation which has been made by any of the Senators.

Mr. NELSON. Mr. President, I concur in the main in the views expressed by the Senator from Georgia [Mr. BACON]. I think the substitute recommended by the Commission in lieu of what is in the bill and what is in the existing law will dilute the effect of the law and make it less effective. By turning to the original bill you will notice that there are two remedies conferred, one by mandamus and the other by injunction, to compel the carrier to file and publish his schedule of rates. While it is true that the remedy by mandamus may be preserved in the bill on page 24, yet certainly the remedy by injunction is not preserved in clear terms. In the paragraph prepared by the Interstate Commerce Commission and presented by the Senator from South Carolina, there is this language:

> No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published, etc.

It provides no remedy. Now, in the provision that is stricken out there is a remedy. I will read a portion of it.

> And the said Commission, as complainant, may also apply—

That is, they may first apply by mandamus to compel the railroad to file and publish the rates, and, if they fail to obey, have them adjudged in contempt. Then it adds:

> in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

It goes further than the proposed amendment. The proposed amendment prohibits them from engaging in interstate commerce until they file and publish such rates, but it does not go on and prescribe a clear and efficacious method of enforcing it.

Under the bill as it remains, and that I understand is practically the law, the Interstate Commerce Commission can go into a court of equity and by complaint apply for a writ of injunction and have the carrier restrained from doing interstate-commerce business until it is ready to comply with the order, and that is the most efficacious remedy there is.

So, taking the two propositions together, I think the provisions as they are in the bill are much stronger and more effective and ought to be retained. I say this with all due respect to the opinion of the Interstate Commerce Commission.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina. [Putting the question.] By the sound——

Mr. TILLMAN. I dislike to put the Senate to the trouble of calling the roll, but I am very certain that this proposed amendment is merely to strike out surplusage in the act; because with a general remedy provided on page 24, prescribing punishment for any disobedience to this act, there is no use for this provision at this point.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. TILLMAN. Yes.

The VICE-PRESIDENT. The Chair will state that both Senators have already spoken to this amendment, and under the rule, strictly construed——

Mr. TILLMAN. I call for the yeas and nays.

Mr. TELLER. Let us have the amendment read.

The VICE-PRESIDENT. It will be stated by the Secretary.

The SECRETARY. On page 8, beginning in line 4, strike out the remainder of the section and insert:

> No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read.

Mr. TELLER. I want to know whether that is a part of the amendment which the Senator from New Jersey [Mr. KEAN] withdrew.

Mr. TILLMAN. If the Senator will permit me, this has no connection with the Senator's amendment. It is an amendment

offered by me, coming from the Interstate Commerce Commission, and explained in the memorandum. The substitute here enacts into law what the Commission would otherwise obtain only by judicial process. We enact into the law what is forbidden; and if you leave the law like it is, you can not keep these people from engaging in interstate commerce without going to the court, whereas under this amendment Congress prohibits a public carrier from engaging in interstate commerce unless it does publish its rates, and then the provision on page 24 provides punishment for any disobedience of the act.

Mr. TELLER. It seems to me to be rather late to make radical changes in the bill. We have been led to suppose that the bill as it came from the House was the bill which we would be called to vote upon, except some amendments which were to be offered to it, not amendments in the way of emendations from the bill, but additions to the bill. I do not know but that this will make it better. In fact, I think, to tell the honest truth about it, that almost anything would make the original bill better than it is. But at the same time I should like to have this proceeding go on in such a way that we would know what kind of a bill we have got. I suppose when these amendments are adopted, if they are adopted (without anybody knowing what they are or what their effect is), we will have an opportunity in the Senate to continue the debate indefinitely. It seems to me, if we are to go on and add new things we had supposed were settled, we will open the door for absolutely unlimited debate on this subject, and it will take you till next month to get through with this bill. If there is necessity for this class of amendments, I am quite contented that they shall be made, but I should like to know what evil in this bill is to be cured by this class of amendments.

Mr. TILLMAN. I do not want to seem to criticise the Senator, but that has been explained twice, and if he did not hear it because he was out of the Chamber, at lunch or somewhere else, I can not help it.

Mr. TELLER. A man can not stay here all the time, and I think I stay here as many hours as any other Senator on the floor.

Mr. TILLMAN. I will try to explain it, if the Senator will hold the floor. I have been notified that I have consumed my time. I have already explained it twice.

Mr. TELLER. This is an unusual method. It is not the custom to debate a bill for three months, and then at the last moment have these amendments come in without any opportunity to know what they are. It is not unreasonable that a Senator who has given some attention to the bill should like to know why these changes are made, and whether they are necessary to be made. He might inquire, I think properly, why they were not made thirty or sixty days ago. Now, I will hear any suggestion the Senator from South Carolina wishes to make.

Mr. TILLMAN. The Senator has already been informed that this bill was not considered in committee at all. While it was in committee it was never considered with any view to amendment or change, and all the debate we have had in the Senate has been largely on the court-review proposition and the proposition to prohibit the issuance of injunctions suspending the Commission rates. We have not discussed the balance of the bill at all in the Senate, and we never discussed it in the committee.

Mr. TELLER. I do not mean to criticise the Senator who has this bill in charge. I know the difficulties he has had presented to him. I know there was some difference in committee, and that the bill came to us from the committee without any change recommended by the committee.

For myself I want to say now, because I may not have another chance to say it, in my opinion, it is an exceedingly bungling bill from beginning to end. It seems to me it might have been changed in committee, and it also seems to me it might have been changed in the Senate within the last three months. I think it needs some change. I was led to suppose from the silence in reference to some of these amendments at least that they had been settled.

It is not the usual method of dealing with a subject. We repeat in this bill the law that now exists, and then make changes in it. I do not want to make any disturbance or delay anything, but I shall reserve the right to go and get lunch and not be criticised because I did not hear what the Senator from South Carolina said in my absence.

Mr. BACON. I should like to make a suggestion to the Senator from Colorado.

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Georgia.

Mr. TELLER. I do.

Mr. BACON. I simply want to call his attention to the fact that the particular point at issue here is that the act of 1887 provides that under certain circumstances, where a railroad company fail to file certain schedules, the Commission may go into court to enjoin them from proceeding with interstate business until they comply with the law, and that this amendment strikes that out and at no other place does it insert anything in lieu hereof. This is the point I make.

Mr. TELLER. Then it does not seem to me that it is an improvement on existing law.

Mr. BACON. I am opposed to the amendment for that reason.

Mr. ALDRICH and others. Question!

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina.

Mr. DANIEL. Mr. President, before the vote is taken upon the amendment, I should like to understand the theory of it better than I do now. I hope I may be permitted to say that, like the Senator from Colorado, I can not stay on duty in the Capitol more than eight or ten hours without taking my eye off a particular thing. I was out of the Chamber for a few moments, meeting a delegation of my own people who are here to see me upon business that is being considered in a committee, and for that reason I did not hear the explanation which has been offered by the Senator from South Carolina of an amendment which deprives this bill of one of the remedies provided. I hope he or some one else who is behind this amendment will kindly explain it. I believe I have fifteen minutes, and I will be glad, if I can, to yield it for that purpose.

Mr. TILLMAN. Mr. President, I want first to apologize to the Senator from Colorado, if the Senator from Virginia will permit me, for having indicated that it was impossible for me to explain to Senators who kept going in and out and who on returning to the Chamber had missed hearing an explanation. I am not criticising the Senator from Virginia or anybody else. The Senator says he can not remain in the Capitol on duty more than eight or ten hours. It has been my misfortune to have to remain on duty, regardless of my own feelings or anything else, whenever this bill was up, and I have tried to do so.

Mr. DANIEL. I beg leave to say that I have been here whenever the Senator from South Carolina has been, and oftener, too, and I do not wish anything I say to be disparaged by being brought in contact with anybody else. I have no doubt that every Senator is trying to do his duty as best he can.

Mr. TILLMAN. I was trying to apologize to the Senator by saying that I can not explain it to Senators unless they are here. I twice tried to explain it. I will try now for the third time.

Mr. DANIEL. Everyone knows he can not hear when he is not present.

Mr. TILLMAN. The purpose of all these amendments which have been inserted—a good many things have been put in since the Senator went away—is to perfect the language and the structure. The law as it now stands is involved and contradictory, because they dovetailed the act of 1889 and the act of 1887 together. Then the Elkins law has come along and imposed punishments for things that are provided for here. This very provision here about injunction and mandamus, which the Senator will find on page 8, the line proposed to be stricken out, is to compel a carrier to publish his rates, and if he does not publish them the Commission may go into court and, by mandamus or injunction proceedings, prohibit him from entering into interstate commerce.

The amendment which I have offered here, coming from the Interstate Commerce Commission, by an act of Congress provides that a man shall not engage in interstate commerce unless he does publish his tariff. Then the punishment for a disobedience of this provision is to be found on page 24, where the penalty clauses of the entire bill come in, and any obedience to any of its parts is provided for.

If Senators want to provide, in addition to the mandamus proceeding provided on page 24, for injunction proceedings and punishment for contempt, I submit to them they can do it there and preserve the two classes of punishments just as well as to put it in here and then go on over there and put it in again. It is already in over there.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. TILLMAN. The Senator from Virginia has the floor.

Mr. DANIEL. I give up the floor.

Mr. BACON. Is it not true——

Mr. ALDRICH. Mr. President, I rise to a question of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his question of order.

Mr. ALDRICH. The construction which is being put upon the rule and understanding is such that Senators make four

or five different speeches upon the same question right along under the guise of asking a question of somebody. The Senator from Georgia has made three or four speeches since I have been in the Chamber.

Mr. BACON. Mr. President——

Mr. ALDRICH. The Senator from South Carolina has certainly made three in the last half hour.

The VICE-PRESIDENT. The Chair is of opinion that the Senator from Georgia has exhausted his rights under the rule.

Mr. BACON. I only want to ask a question and not to make an argument.

Mr. TILLMAN. I have already been taken down. I would be willing to get down and stay down if I could get the bill through. The Senator from Virginia took the floor. When he sat down, that cut me off and it cut off the Senator from Georgia, and nobody has a right to speak unless it is some one who has not spoken on the amendment.

Mr. BACON. I have twice attempted to ask the Senator this question, and it has been objected to by others, and this particular question has never been asked.

The VICE-PRESIDENT. The time of the Senator has expired, under the rule. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. DANIEL. I ask that it may be again stated.

The VICE-PRESIDENT. The amendment will be again stated.

The Secretary again stated the amendment.

Mr. RAYNER. Mr. President, I think I can explain this matter in a few words. This section cuts out the writ of mandamus, but the writ of mandamus is provided for on page 24. It does not provide any penalties, because the Elkins Act provides the penalties. Now, when we come to page 24 we can incorporate the injunction. That is the proper place for it to be incorporated, because that applies to a violation of any section at all of the act.

Mr. BAILEY. Does not the Senator from Maryland think that when Congress makes a given act unlawful an injunction would lie against it unless expressly forbidden?

Mr. RAYNER. I was just going to say that there is no necessity for providing for a writ of injunction. If the act makes a thing unlawful, of course you can enjoin; but if you have it specifically provided for, the place to provide for it is on page 24, because that provides for a mandamus against any violation, and we can add to it an injunction for any violation, and then you have the penalties of the Elkins Act. So you have the mandamus, you have the injunction, and you have the penalties, and I do not think you want anything more.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina [Mr. TILLMAN].

Mr. BACON. With the permission of the Chair, I desire to state that I will be content if the provision is put into the section as the Senator from Maryland indicates.

Mr. RAYNER. I will offer it.

The amendment was agreed to.

Mr. WARREN. I offer the amendment which I send to the desk, to immediately follow the amendment just adopted.

Mr. LONG. I call the attention of the Senator from South Carolina to the fact that he has one other amendment not yet acted upon. The words at the top of page 9 should be stricken out.

The VICE-PRESIDENT. That portion has been stricken out.

Mr. TILLMAN. From the top of the page to the end of the section has been stricken out.

The VICE-PRESIDENT. The amendment proposed by the Senator from Wyoming [Mr. WARREN] will be stated.

The SECRETARY. It is proposed to add at the end of section 2 the following:

That in time of war or threatened war preference and precedence shall, upon the representation of the President of the United States of the need therefor, be given, over all other traffic, to the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic.

Mr. WARREN. I think there can be no objection to the amendment. The War Department regards it as absolutely necessary.

The amendment was agreed to.

Mr. LA FOLLETTE. I offer the amendment which I send to the desk, to come in at the end of section 2.

The VICE-PRESIDENT. The amendment proposed by the junior Senator from Wisconsin will be stated.

The SECRETARY. After the amendment just adopted insert as section 2a:

SEC. 2a. That there be added after section 6 of said act a new section, to be known as section 6a, and to read as follows:

"SEC. 6a. Every person shall be deemed guilty of a misdemeanor who shall, directly or indirectly, do, or cause, procure, or solicit to be done, or assist, aid, or abet in the doing of any of the following acts, namely: Any act of unjust discrimination as defined in this act, any fraudulent act or false representation by which transportation is obtained or attempted to be obtained at less than the lawfully established rate. Said misdemeanors shall be punishable by imprisonment at hard labor not more than five years nor less than one year or by fine not exceeding $20,000 nor less than $1,000."

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the junior Senator from Wisconsin, which has just been read.

Mr. LA FOLLETTE. Mr. President, the amendment which I offer imposes the penalty of imprisonment from one to five years for any act of unjust discrimination, as defined in the interstate-commerce act and the Elkins law amendatory thereof. It makes no change in the punishment by fine provided in the Elkins law, which is from one thousand to twenty thousand dollars. My amendment proposes the additional alternative penalty of imprisonment for violations of the law, now punishable by fine only.

It is the experience of mankind that respect for law is in some degree dependent upon the penalties imposed for its violation. The penalty must be severe enough to deter those disposed to violate its provisions from incurring the risk of so doing. It is a matter of small concern to the railroad to pay a fine for lawbreaking when they can exact the money from the public to meet the payment. The railroad official shrinks from serving a term of imprisonment. The testimony taken by the committees of Congress and the reports of the Interstate Commerce Commission bear witness to the fact that the railroad companies of the country undertook very soon after the enactment of the law of 1887 to have stricken out of that law the penalties of imprisonment provided for its violation. The Interstate Commerce Commission appeared from time to time before the committees of Congress and opposed the change. Notwithstanding this, the change was made when the Elkins law was enacted in 1903. Since that time violations of the interstate-commerce law have been punishable by fine only.

As early as 1891 the Interstate Commerce Commission, in opposing the repeal of the penalty of imprisonment, said:

The imposition of criminal penalties upon railway officials, as well as the corporation itself, where such officials participate in a violation of the law is unquestionably a wise and salutary feature of the act. Indeed, in those cases where punishment by imprisonment is prescribed, such punishment can, in the nature of things, be inflicted only on a real individual or natural person, and not on the abstract entity or artificial person, like a corporation.

In 1894, in meeting the arguments of the representatives of the corporations who were endeavoring to secure the abolition of the imprisonment feature of the interstate-commerce act, the Commission said:

In this connection we may properly allude to certain modifications of the penal provisions of the act which are advocated by many railroad managers. It is proposed by them to exempt the officers and employees of carrying corporations from criminal liability for rate cutting and similar offenses, and to impose such liabilities solely upon the corporations themselves. In brief, the argument is that the extreme severity of the present law operates to prevent its enforcement; that railway managers will not give information against their rivals when the consequence might be the imprisonment of individuals with whom their personal relations are friendly and familiar, but that such disclosures would be freely made if they resulted only in the imposition of a fine upon the offending corporations. We are not prepared to indorse this view. Corporations can act only through their officers and agents, and necessarily an offense against business rectitude and public morality must be committed by some individual who has knowledge of the law, and consciously transgresses its provision. The wrongdoing now referred to involves, in our judgment, a high degree of moral turpitude, which should rightfully subject to exposure and punishment the persons who are guilty of it. We believe that the corporations should themselves be indictable, and regard it a mistake of the present statute that they are not, but we also believe that their officers and agents should remain amenable, as they are now, to the penal obligations of the law. This view includes retention of the imprisonment feature in the tenth section.

These were indeed strong reasons for retaining the penalty which the railroads were so eager to have stricken from the law. And the argument of the Commission did prevail for a time, but the railroad managers were insistent and the Elkins law eliminated imprisonment as a penalty.

Mr. President, I anticipate if there be any discussion of this matter at all, it may be asserted, as it has been heretofore in this debate, that the Interstate Commerce Commission and other advocates of additional legislation have given their approval to the Elkins law. It is possible, sir, to quote general indorsement of the Elkins law from the testimony of members of the Interstate Commerce Commission, and from their annual reports to Congress as well. It is *not possible* to quote from them *any specific indorsement* of the amendment *abolishing* the *penalty of imprisonment* for violations of the law.

As evidence of the fact that repeal of the penalty of imprisonment invites to further violation of the law, I cite the facts

discovered by experts who examined the books of the Wisconsin railroad companies.

The Elkins law was approved on the 19th of February, 1903. Under an act of the legislature of Wisconsin expert accountants were authorized to investigate the books of railroad companies doing business in that State. That investigation began, or was noticed to begin, on the 1st of October, 1903. That was seven months after the Elkins law went into effect. The investigation discloses that the rebates paid by a single company doing business in Wisconsin were as follows:

In January, 1903—I state it only in round numbers—$37,000; in February, $57,000; March, $47,000; April, $36,000; May, $25,000; June, $13,000; July, $101,000; August, $32,000; September, $46,000. The investigation began in October, the payment of rebates for that month fell off to $9,000, and in November to $600, and in December to $2,000. The investigation discloses that one of the railroad companies of that State paid something more than twice as much in rebates to shippers in Wisconsin during the year following the enactment of the Elkins law as they had paid the preceding year.

What was true of Wisconsin is true of other States. The result was inevitable. If the law is to be respected and upheld, those who violate it must be made to suffer such penalties as will cause them to heed and obey its mandates.

If we expect the prohibitions of the interstate-commerce act to be effective, then we should restore imprisonment as a punishment, and I believe increase the term of years imposed as a penalty for its violation.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. LODGE. Mr. President, before the question is put on this amendment, I desire merely to say that I have an amendment pending which I intend to move at the proper time at the end of the bill, which provides for the restoration of the penal clauses of the original act of 1887, which were repealed in the Elkins law, which I think ought to be restored, and which I think go quite far enough.

Mr. STONE. I should like to have the pending amendment read.

The VICE-PRESIDENT. The amendment of the Senator from Wisconsin will be again read.

Mr. LA FOLLETTE. Before it is read, Mr. President, I wish in response to a suggestion, which I think a good one, to incorporate in line 9, after the word "which" and before the word "transportation," the words "interstate and foreign commerce."

The VICE-PRESIDENT. The Secretary will read the amendment of the Senator from Wisconsin as modified.

The SECRETARY. After line 5, page 9, insert as a new section to be known as section 2a, to read as follows:

SEC. 2a. That there be added after section 6 of said act a new section, to be known as section 6, and to read as follows:

"SEC. 6a. Every person shall be deemed guilty of a misdemeanor who shall, directly or indirectly, do, or cause, procure, or solicit to be done, or assist, aid, or abet in the doing of any of the following acts, namely: Any act of unjust discrimination as defined in this act, any fraudulent act or false representation by which interstate and foreign commerce transportation is obtained or attempted to be obtained at less than the lawfully established rate. Said misdemeanors shall be punishable by imprisonment at hard labor not more than five years nor less than one year or by fine not exceeding $20,000 nor less than $1,000."

Mr. LODGE. Mr. President, I desire to make a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Massachusetts will state his parliamentary inquiry.

Mr. LODGE. If this amendment should be voted down, would it then be in order for me to offer my amendment at the end of the bill, where I have proposed that it should come in as a new section?

The VICE-PRESIDENT. The Chair understands that the Senator's amendment would be in order at the end of the section should the pending amendment be voted down.

Mr. LODGE. My amendment provides for adding a new section. It seemed to me that the proper place for it to come in was at the end of the bill.

The VICE-PRESIDENT. The Chair understands that the amendment would be in order.

Mr. STONE. Mr. President, I should like to inquire of the Senator from Massachusetts what is the number of the amendment to which he refers?

Mr. LODGE. It is on page 141 of the pamphlet of amendments.

Mr. BEVERIDGE. I suggest that it be read at the desk, so that we can all hear it.

Mr. LODGE. I can state it in one moment, if the Senator from Indiana desires me to do so.

Mr. STONE. I yield to the Senator from Massachusetts for that purpose.

Mr. LODGE. It simply amends the Elkins law in such way as to restore the penal clauses of the act of 1887. The Elkins law repealed the penal clauses of the act of 1887, which provided for imprisonment as well as for fines, and which were enforced some thirteen years. My proposed section simply amends the Elkins Act so as to restore the old clauses.

Mr. STONE. Mr. President, I prepared and offered an amendment to the same general effect as that outlined in the statement made by the Senator from Massachusetts [Mr. LODGE]—an amendment to the Elkins law, intending to restore the imprisonment clauses; so that, whatever the phraseology may be, the purpose of the amendment of the Senator from Massachusetts and the one which I have presented differs very slightly, in my opinion.

Mr. President, I think I will not say anything now beyond this, that I feel that the imprisonment clauses, the penalty clauses, of the statute ought to be restored. To say that a person violating this specific law can not be convicted is to impeach the capacity and efficiency of the judiciary. I see no reason why a conviction can not be had, and the penalty of imprisonment imposed, if the facts put in evidence sustain the allegations of the indictment; and I have no doubt in my mind that the fear of imprisonment will have a far more restraining influence upon those who are in charge of these great carrying lines and contribute more to the observance of the law than the fear of a mere fine paid out, ultimately at least, of the treasury of the corporation. I believe, Mr. President, that one conviction followed by one imprisonment would afford a deterrent example of infinitely more importance than a dozen convictions followed by a mere fine.

I shall vote to disagree to the amendment now pending, with the intention of voting to restore all the penal clauses of the act of 1887.

Mr. BEVERIDGE. Mr. President, for the purpose of letting everyone see the difference in the minds of Senators as disclosed by these amendments for enlarging the penalties, and for the reason stated by the Senator from Missouri [Mr. STONE], I ask that the pending amendment offered by the Senator from Massachusetts [Mr. LODGE] may be stated at the desk. It is very brief, I understand.

Mr. LODGE. Mr. President, my amendment does not include the penal clauses. It restores them. It repeals the repealing clause of the Elkins Act.

Mr. BEVERIDGE. I mean that.

Mr. LODGE. If the Senator desires to know the difference, he should have the original act of 1887 read. I presume the Secretary has it at the desk. It is on pages 7 and 8, section 10 of the act as amended March 2, 1889.

Mr. BEVERIDGE. If it comprises as much as two pages, I shall not ask to have it read.

Mr. LODGE. It is a long section.

Mr. BEVERIDGE. Could the Senator not in a few sentences state the difference between his proposition, the proposition of the Senator from Missouri, and the old law?

Mr. LODGE. The old law, as I understand, provided for the imposition of a fine not exceeding $5,000 or imprisonment in the penitentiary for a term not exceeding two years, or both.

Mr. BEVERIDGE. Then I should be very glad to have from the managers of the bill, the Senator from South Carolina [Mr. TILLMAN] and the Senator from Iowa [Mr. DOLLIVER], a statement as to which provision they think preferable.

Mr. HOPKINS. They may not favor either.

Mr. TILLMAN. Will the Senator from Indiana agree to vote for the one which I favor?

Mr. BEVERIDGE. I did not hear what the Senator said.

Mr. TILLMAN. If the Senator wants to put it on me to determine, I will ask him if he will vote for the one which I favor?

Mr. BEVERIDGE. I will say to the Senator from South Carolina that his opinion would probably be very influential, but not entirely conclusive. Perhaps, however, if joined with the opinion of the Senator from Iowa [Mr. DOLLIVER] it might well be conclusive.

Mr. TILLMAN. I shall be glad to get either amendment; but I should prefer this one, because it is shorter and a little harsher.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. LODGE. Certainly, I yield to the Senator from Wisconsin.

Mr. LA FOLLETTE. Just to say this, that the language in which my amendment is framed is the language of the recom-

mendation of the Interstate Commerce Commission, with an amendment which I suggested here a little time ago, excepting as to the amendment increasing the penalty of the act of 1887, as already stated by the Senator from Massachusetts.

Mr. STONE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. Certainly.

Mr. STONE. I desire to ask the Senator from Massachusetts in his opinion would it not be best to adopt the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE], and perfect it by adding the provisions of the amendment he offers?

Mr. LODGE. No, Mr. President; I should say not.

Mr. GALLINGER. That would put them in prison twice.

Mr. LODGE. I think we had much better restore the old clauses of the act of 1887, which seem to me quite sufficient to meet the purpose. It is the fact of imprisonment, not the length of the term, that would be effective. I think the old law is amply sufficient, and I think it is necessary for the same reason as stated by the Senator from Missouri [Mr. STONE].

Mr. STONE. If the Senator will permit me a moment in his time, I said that I felt inclined to vote against the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE]; but, upon reflection, I feel rather inclined to vote for it, and then with a view of perfecting it by adding——

Mr. LODGE. I mention this amendment of mine because I wish to say that I shall vote against the amendment of the Senator from Wisconsin, which I think is too extreme and unnecessary. I think the old law which has been in existence, as I have said, for seventeen years is quite sufficient.

It seems to me also I may say, before I take my seat, that the proper place to put this clause is at the end of the bill as a new section. The new section that I have proposed reenacts the provisions of the Elkins law in certain other respects, but repeals the repealing clause and makes all of the offenses subject to the penalties prescribed in section 10 of the act of 1887.

Mr. LA FOLLETTE. Before the Senator from Massachusetts yields the floor will he permit me to ask him a question, as I can not now take the floor in my own right?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. LODGE. Certainly.

Mr. LA FOLLETTE. Mr. President, I think I was misunderstood in stating that the language of my amendment is in all respects the language recommended by the Interstate Commerce Commission. I will say that the penalty which was provided in the amendment which I offered is, so far as the imprisonment is concerned, a severer penalty than that suggested by the Interstate Commerce Commission in its recommendation of 1887. The fine recommended by the Interstate Commerce Commission the last time they submitted a recommendation upon this specific paragraph was only $5,000. Since that time the Elkins law has increased the fine to $20,000 as the maximum limit. Therefore, and for that reason, I have incorporated in this amendment the same fine that is provided in the Elkins law, but adopted an imprisonment penalty which I believe would be severe enough to command the respect of the railroad companies themselves.

The VICE-PRESIDENT. Before the Chair puts the question, he will say that under the Chair's interpretation of the unanimous-consent agreement a Senator can not speak in the time of another Senator if he has already occupied the floor in his own right.

The question is——

Mr. LA FOLLETTE. I shall be glad to withdraw my remarks, Mr. President. I ask for the yeas and nays.

Mr. BRANDEGEE. Mr. President, is the amendment open to amendment?

The VICE-PRESIDENT. It is open to amendment.

Mr. BRANDEGEE. Then, I move, in line 5 of the amendment, after the word "indirectly," to insert the word "willfully."

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. After the word "indirectly," in line 5, it is proposed to insert the word "willfully;" so as to read:

SEC. 6a. Every person shall be deemed guilty of a misdemeanor who shall, directly or indirectly, willfully do, or cause, procure, or solicit to be done, etc.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Connecticut [Mr. BRANDEGEE] to the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE].

The amendment to the amendment was agreed to.

Mr. DOLLIVER. Mr. President, I do not wish this question to go to a vote without a brief statement. It comes before the Senate somewhat in the shape of a criticism against the legislation of 1903, and I think it is due to the Senate and to the House of Representatives to say that there were before Congress at that time very good reasons for a modification of the penal provisions of the interstate-commerce act.

It is all very well to talk about the severity of these penalties, but the naked and very instructive fact is that from 1887 to 1903 the severity of these penalties had not resulted in the conviction or incarceration of anybody for a violation of this law, and unless I am greatly out of the way the impression was made upon Congress in 1903 that the difficulty of discovering these offenses, all of them secret in their character, was so greatly increased by these severe penalties that, in the opinion of wise and good people, the law would be made more effective if the penalties were abandoned and the prosecution maintained for the imposition of fines on the corporation offending.

I think it also ought to be said in explanation of the action of Congress that, for the first time in the history of our interstate-commerce legislation—since 1903—the Government, by its criminal prosecutions, has succeeded in making any impression upon the secret criminal practices of the railway.

Mr. LA FOLLETTE. May I ask the Senator from Iowa a question?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Wisconsin?

Mr. DOLLIVER. Certainly.

Mr. LA FOLLETTE. Is the Senator aware of the fact, I should like to inquire, that the Federal judge in whose court the Burlington Railway Company was convicted a week or two ago, in imposing a penalty of only a fine said——

Mr. DOLLIVER. Mr. President, I will say that I saw that statement in the newspapers.

Mr. LA FOLLETTE. The statement was that if there was a provision for imprisonment in the penitentiary, much more in the way of insuring obedience to the law might be accomplished.

Mr. DOLLIVER. I saw that, and I am not out of sympathy with the proposition the Senator has presented.

I have already suggested to my colleagues here that I will not hesitate to vote for this amendment, but I regret that it has been presented in the form of a criticism of what Congress has done.

It is also a mistake to say that the criminal provisions of the statute have been entirely eliminated. All of these offenses are in the nature of conspiracies to violate the law, and the indictments which have been found by the grand jury in New York against the trunk lines in connection with the sugar-trust rebates have taken the form of indictments for conspiracy to violate the law, which does carry the penalty of imprisonment as well as fine.

I think the most amazing fact in connection with our railway experience has been the utter indifference to these provisions of the law by the managers of these great properties. Only a year ago one of the most important and influential and, I will add, one of the most reputable railway presidents in the country told me that it was ridiculous to expect the railroads to obey the law on the subject of rebates; and his remark, intended partly as a jest, aroused my indignation. My theory is that the enforcement of these laws does not depend altogether upon penalties, whether fine or imprison. The enforcement of these laws and the obedience of railway managers to the requirements of these acts of Congress rest largely in an aroused public opinion throughout the United States that shall bring these great representatives of property interests to that same respect for the statutes that ordinary people have in the United States.

I have not risen, therefore, to object to the restoration of these penalties, but simply to say a word in explanation of the course which Congress has taken from time to time in the matter and to emphasize a conviction that has been growing upon me that our market place will be delivered from these crimes when the public opinion of the community comes up to the help of these enactments of Congress.

Mr. LODGE. Before the Senator sits down I should like to ask him one question. Of course most of us took part in the legislation of 1903, and if there is any criticism of my proposition to restore the penal clauses it falls on me quite as much as on any other Senator who voted for it; but is it not true that the Department of Justice believe now that it will be for the advantage of the law and its enforcement to restore the penal clauses?

Mr. DOLLIVER. I understand so. I did not rise for the purpose of disputing that. I think that the close scrutiny of

the books and accounts of railway companies provided for in this bill will tend to reveal these crimes which for twenty years were almost inscrutable to the officers of the law. I shall vote very cheerfully to restore these penalties, because I believe that the most serious feature of the railway situation has been the acquiescence of the public, practically by common consent, in this negligence and contempt of the law.

Mr. BEVERIDGE. Will the Senator state which of the provisions he prefers—the one of the Senator from Wisconsin or the other?

Mr. DOLLIVER. I expect to vote for the one offered by the Senator from Wisconsin because that is vigorous, and I have not seen the other or even heard it read.

Mr. BAILEY. Mr. President, I am somewhat surprised to hear the Senator from Iowa say that the railroad managers of this country have been negligent in observing the law, because that implies that the officers whose duty it is to enforce the law are more culpable than the railroad managers themselves. I have yet to learn that in this country the law is to be enforced by those whose misdeeds it is intended to punish, and when it is admitted that the railroad managers have not obeyed the law, it must be because the officers of the Government have not properly enforced it.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. I do.

Mr. DOLLIVER. I used the word "negligent" as applied to these people inadvertently. Of course I regard the violation of the law as a crime, but the Senator will not deny that the crime is in its very nature such as may elude the eye of the law and go unwhipped through the whole machinery of justice which we have had for the last twenty years.

Mr. BAILEY. Mr. President, I am afraid that the offenses of all rich criminals elude the vigilant eye of the law too often, and I want to see the time come in this country when the richer a man is the more certain it will be that he is punished every time he violates the law of the land——

Mr. DOLLIVER. I have no controversy with the Senator about that.

Mr. BAILEY. Because upon them rests the highest obligation to obey the law. The man of little consequence and of less property owes the law small gratitude for its protection. He feels the Government only when he is summoned to serve upon its juries or called to fight its battles. He never knows what it is to have its officers called to protect his property, and therefore he can be partially excused when he does not respond with alacrity to the call for the protection of the property of other people. But the men who manage the railroads and who conduct the great enterprises of this country owe to the respect for the law and to the obedience of the law the protection of every dollar's worth of property they own; and it is an amazing circumstance to me that those who are the most deeply interested in the supremacy of the law should be the ones who openly admit their repeated and flagrant violations of it.

Restore these penalties, put two of these railroad managers in the penitentiary, and their fate will become a warning to all others. As certain as the swift vengeance of the law shall fall on some the others will desist from their offenses. They love money well enough to take the chances of losing some in the hope of making more, but the rich and prosperous will not take the chance of punishment in the penitentiary. If they can not be brought, out of respect for the law, to obey it, let us put them in the common jail, where they will be powerless to defy it at least for a season.

Mr. LODGE. Mr. President, I move as a substitute for the amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE] the amendment which I have heretofore submitted. It appears on page 141 of the pamphlet amendments.

The VICE-PRESIDENT. The Senator from Massachusetts moves as a substitute for the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE] as amended, the amendment heretofore submitted by him. The proposed substitute will be stated.

The SECRETARY. In lieu of the amendment as amended it is proposed to insert the following:

Section 1 of an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, is hereby amended to read as follows:

"That anything done or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts or strictly to observe such tariffs until changed according to law shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give or to solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, or give or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and shall be subject to the fines and penalties prescribed in section 10 of the act to regulate commerce approved February 4, 1887, as amended by the act approved March 2, 1899.

"Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

"In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier acting within the scope of his employment shall in every case be also deemed to be the act, omission, or failure of such carrier as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers, or agents in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act."

Mr. KNOX. Is an amendment to the proposed substitute now in order?

The VICE-PRESIDENT. The Chair understands not.

Mr. FORAKER. Mr. President, very much like the Senator from Iowa [Mr. DOLLIVER], I do not rise to oppose the amendment of this bill so as to provide the penalty of imprisonment for the violation of the interstate-commerce act or any provision of this bill, if we should see fit to make it a law; but I rise, rather, as he did, to point out how it came that in the legislation known as the "Elkins law," enacted February 19, 1903, we abolished this penalty of imprisonment.

The Senator from Wisconsin [Mr. LA FOLLETTE], speaking on that same point a few moments ago, took occasion to say that the Interstate Commerce Commission had never recommended the abolishment of the penalty of imprisonment. Technically and strictly speaking, that is probably true; but on another occasion I called attention to the fact that in the Seventeenth Annual Report of the Interstate Commerce Commission, which was a report published immediately after the Elkins law was enacted, the Commission took occasion, speaking of that law, to use this language, to which I call the attention of Senators.

Speaking of the Elkins law, the Commission, in the first report after the Elkins law was enacted, said:

The amended law has abolished the penalty of imprisonment, and the only punishment now provided is the imposition of fines. As the corporation can not be imprisoned or otherwise punished for misdemeanors than by money penalties, it was deemed expedient that no greater punishment be visited upon the offending officer or agent. The various arguments in favor of this change have been stated in former reports and need not here be repeated.

I submit that the language thus employed by the Commission indicates what the fact was, that the Commission had a distinct and positive relation to the enactment of the Elkins law. The members of that Commission appeared before the Interstate Commerce Committee, as every member of that committee knows, and every member of that committee knows also that every member of the Interstate Commerce Commission who appeared before that committee represented that there should be that change made in the law.

When I spoke here on another occasion and called attention to that fact, I relied upon the expression made by the Commission in this report, that they had repeatedly in former reports expressed the argument in favor of this change. I relied upon that, and made the statement that they had repeatedly, in their former reports, made that recommendation. I have since then looked through their former reports, and I do not find their former recommendations as strong as I had supposed I would find them from what they had said when they appeared before the Interstate Commerce Committee, and from what they said in their report following the enactment of that legislation. But

I call attention to the fact that in the twelfth annual report, at page 19, speaking of the difficulty of enforcing the law, they say:

If it is asked why the criminal remedies are not applied, the answer is that they have been, and without success. The most earnest efforts have been made by the Commission and by prosecuting officers in various parts of the United States to punish infractions of this law. While some fines have been imposed, no substantial effect has been produced. It is plain to the Commission that satisfactory results can not be obtained from this course. The difficulties in the way of securing legal evidence necessary to a conviction are such as to be in most cases insurmountable. The fact may be morally certain, but the name, the date, the amount can not be shown with the particularity and certainty required by the criminal law.

And so they went on at length. In other reports they have repeated substantially the same statement, calling attention to the fact that in criminal prosecutions to enforce the law it was necessary to prove a violation of the law, according to the rules governing in the trial of criminal prosecutions, beyond a reasonable doubt. That is what they had been unable to do. Therefore they appealed to us to make the law one they could enforce and asked us to abolish the provision providing for imprisonment as one of the penalties.

Now, that is exactly how that proposition came before the Interstate Commerce Committee, as every member of the committee knows. So far as I am aware, no railroad had anything whatever to do with it or even any knowledge of it, although they may have been fully informed. I remember that the very same argument that is repeated here in these reports was made before the committee, and the committee, in passing upon the Elkins law and repealing imprisonment as one of the penalties for a violation of the interstate-commerce act, supposed they were acting in the line of the recommendation of the Interstate Commerce Commission, the recommendations of which body the committee was disposed to follow, so far as I can remember the consideration of that legislation in committee.

Whether that was wise or not, I do not intend to stop to discuss. I remember that I doubted the wisdom of the change at the time when it was done. I think every member of that committee would testify that on my part it was with great reluctance that I reached the conclusion that we ought to favor the abolition of imprisonment for a violation of the law. I was one of the very last to yield to it; but I did, out of deference to the opinion of the members of the Interstate Commerce Commission, because I thought I could understand how it was that they would have difficulty in proving beyond a reasonable doubt in that character of cases the offense for which a man might be indicted.

Another argument that was used was that it did not follow that violators of the law would go free from imprisonment, but that by providing, as we did in the Elkins law, that when it was charged that rebates were being given or other practices were being indulged in, in violation of the law, it should be prohibited by injunction; then, if there should be a further such violation, it would be an act in contempt of court, for which the party could be summoned before the court, when he could be tried for contempt without the difficulty attending a criminal trial, where everything must be proved beyond a reasonable doubt, and imprisonment for contempt could be imposed and the result would be far more efficacious and far more expeditious than it was under the other law.

Now, in another report—I can not tell precisely which one, but I read it only a few days ago; I think it must be about the fourteenth or the fifteenth; I have been unable to put my hand on it, but I know it is in one of them—the Interstate Commerce Commission, speaking on this point, in a report to Congress, said while as a Commission they could not recommend that we abolish imprisonment for a violation of the law, yet they would say that if Congress saw fit to do it there was not a member of the Interstate Commerce Commission who would interpose any objection, because their experience had been such that they would not feel warranted in doing so. Almost that precise language was employed by the Commission.

Therefore I say enough appears in this seventeenth annual report, following immediately after the Elkins law, in which they say it was thought expedient thus to legislate because of the argument which had repeatedly before that time been set out in their reports, to justify us in assuming, without any testimony to the contrary, that the Interstate Commerce Commission did favor exactly this change in the law. They not only favored it, as they stated in the report, by fair interpretation, but they favored it positively and aggressively, as every member of the Interstate Commerce Committee knows, by appearing before that committee and making statements to that effect.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from New Hampshire?

Mr. FORAKER. Certainly.

Mr. GALLINGER. The Senator from Ohio is giving very interesting testimony on this point. I wish to ask him if the Interstate Commerce Commission, at any time since then, has asked to have the penalty of imprisonment restored?

Mr. FORAKER. Never; never since then; and, as the Senator from Iowa well says, Mr. President, everything that is being done to-day to break up the practices about which complaint is made is being done under the Elkins law, and the very best legislation we can enact here is to broaden and strengthen the Elkins law so as to make it still more effective, as we easily can. If we have in view only the correction of evils, that is the sure way to reach them.

Take the report made by Commissioner Garfield a few days ago. I read it through with care, in so far as we have been favored with it. Assuming that all he says is true, about which I do not know anything except that his facts are disputed to some extent, but, assuming for the sake of the argument that they are all true, there is not one thing pointed out by Mr. Garfield, not one evil mentioned by him, that the bill we now have under consideration will reach or remedy—not one. The evils he complains of all consist, in one form or another, of rebates and discriminations, open and secret, practiced under every kind of guise, in every sort of form that the ingenuity of railroad officials and shippers could suggest. Not one of them can you reach by this legislation, upon which we have spent three or four months of time. On the contrary, there is not one of them that you can not reach in fifteen minutes in a court of equity having competent jurisdiction under the Elkins law. There is no rate or discrimination pointed out by him that you can not reach.

It may be true, and doubtless is, as the Senator from Wisconsin says, that after the Elkins law was enacted it was discovered that rebates were being granted in Wisconsin. I do not know anything about the conditions there. But I do know that if the Elkins law had been enforced by the officials charged with the duty of enforcing it under the law there would not have continued any such condition of things, and there is no law on the statute book that now provides, and this bill if enacted will not provide, any remedy whatever against rebates. The House committee, in their report, said they did not undertake to deal with rebates and they did not undertake to deal with discriminations between shippers. They did not undertake to deal with anything except only excessive rates, the least troublesome and the least burdensome evil there is.

Mr. President, I have here a statement which I took out of a publication called "Freight." It comes to me through the mail, through the kindness of somebody who favored me with it, in which there is from week to week a discussion of this legislation that is proposed and of everything pertaining to the freight business throughout the country. On page 243 of the number I have before me, which is dated New York, May, 1906, I find a statement as to the proceedings under the Elkins law. It gives the number of decisions by the courts sustaining and enforcing that law, and there are quite a number of them, all of them important cases. There was the New Haven Coal case, one of the most important cases decided by the Supreme Court of late years. That was under the Elkins law. There was the Trans-Missouri Freight case, involving a question of discrimination between communities. That was under the Elkins law. There was the case of the packing houses as against the live-stock men—I have forgotten the style of the case—decided by Judge Bethea last January or February. That was under the Elkins law. There was the case a few days ago of the Chicago, Burlington and Quincy road, where that corporation was fined heavily. That was under the Elkins law. There was the case of the Fairmont Coal Company in West Virginia, where the proceeding was by mandamus to compel equal treatment in furnishing cars. That was under the Elkins law. In every one of these cases there was relief instantly at the hands of the court upon application for a restraining order or a writ, which was finally made permanent.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Pennsylvania?

Mr. FORAKER. Certainly.

Mr. KNOX. Let me suggest to the Senator from Ohio that the very important case of Baer *v.* The Interstate Commerce Commission, which decided that the anthracite coal combination had to expose its books for examination, was under the Elkins law.

Mr. FORAKER. That was under the Elkins law.

Mr. KEAN. And the tobacco case.

Mr. FORAKER. And the tobacco case, as the Senator from New Jersey suggests, decided only recently. It was under the

Elkins law. So it is that in every instance where the Elkins law has been invoked it has given instant relief, because in every one of these cases upon the filing of a bill a temporary restraining order or writ of mandamus or other order was allowed, which ultimately was made perpetual.

The VICE-PRESIDENT. The time of the Senator from Ohio has expired.

Mr. FORAKER. Allow me time enough to put in the RECORD this list of cases, and at another time I wish to point out and compare the cases decided by the Commission with those decided by the courts, when it will be found that the courts are far more expeditious.

The VICE-PRESIDENT. The cases will be inserted in the RECORD, as requested by the Senator from Ohio, in the absence of objection.

The cases referred to are as follows:

PROCEEDINGS UNDER THE ELKINS LAW.

ST. PAUL, MINN., *April 25, 1906.*

EDITOR OF FREIGHT.

SIR: Can you advise me the proceedings which have been instituted under the Elkins law?

J. G. WEST.

The proceedings under the Elkins law are as follows: Fifteen injunctions to enjoin departures from published rates, twenty-one indictments for violation of the act, three indictments for conspiracy to violate the act.

The decisions of the courts upon this law are as follows: United States *v.* Mich. Cent. R. R. Co., 122 Fed., 544; W. Va. N. R. R. Co. *v.* United States, 134 Fed., 198; I. C. C. *v.* C. and O. R. R. Co., 128 Fed., 69, — U. S., —; Mo. Pac. R. R. Co. *v.* United States, 189 U. S., 274; United States *v.* A., T. and S. F. R. R. Co., — Fed., — (Judge Phillips).

Proceedings in the courts under the Elkins law:

1. DECISIONS.

United States *v.* Mich. Cent. R. R. Co., 122 F. R., 544.
W. Va. N. R. R. Co. *v.* United States, 134 F. R., 198.
I. C. C. *v.* C. and O. R. R. Co., 128 F. R., 69, — U. S., —.
Mo. Pac. R. R. Co. *v.* United States, 189 U. S., 274.
United States *v.* A., T. and S. F. R. R. Co., — F. R., — (Judge Phillips).

2. INJUNCTIONS TO ENJOIN DEPARTURES FROM RATES.

United States *v.* C. and N. W. R. R. Co.
United States *v.* Ill. C. R. R. Co.
United States *v.* Mich. Cent. R. R. Co. (See decisions.)
United States *v.* Pa. Co.
United States *v.* P., C., C. and St. L. R. R. Co.
United States *v.* L. S. and M. S. R. R. Co.
United States *v* Wab. R. R. Co.
United States *v.* A., T. and S. F. R. R. Co. (See decisions.)
United States *v.* C., R. I. and P. R. R. Co.
United States *v.* C., M. and St. P. R. R. Co.
United States *v.* C. and A. R. R. Co.
United States *v.* C., G. W. R. R. Co.
United States *v.* Mo. Pac. R. R. Co.
I. C. C. *v.* C. and O. R. R. Co. (See decisions.)
United States *v.* C., B. and Q. R. R. Co.

3. INDICTMENTS.

United States *v.* Zorn, Williams & Bushfield.
United States *v.* C., B. and Q. R. R. Co.
United States *v.* Swift & Co.
United States *v.* Armour Packing Co.
United States *v.* C. and A. R. R. Co.
United States *v.* C., M. and St. P. R. R. Co.
United States *v.* Cudahy Packing Co.
United States *v.* Faithorn, Wann, and C. and A. R. R. Co.
United States *v.* Nelson Morris & Co.
United States *v.* Kreskap.
United States *v.* C., B. and Q. R. R. Co. and Miller and Burnham.
United States *v.* G. N. R. R. Co. and Campbell.
United States *v.* R. J. Wood & Co.
United States *v.* Mutual Transit Co. (1).
United States *v.* Lide & Diver.
United States *v.* Mutual Transit Co. (2).
United States *v.* Diver.
United States *v.* Suffolk and C. R. R. Co. and Bosley.
United States *v.* Gay Manufacturing Co.
United States *v.* N. Y. C. and H. R. R. R. Co.
United States *v.* Del. and H. Co.

4. INDICTMENTS FOR CONSPIRACY TO VIOLATE.

United States *v.* Thomas & Taggart.
United States *v.* Crosby, Thomas & Taggart.
United States *v.* Swartzchild & Sulzberger Co.

Mr. LODGE. Mr. President, this amendment, which is strictly intended to improve the Elkins law, as appears by its heading, I should like, with the permission of the Senator, to modify. On page 3 (page 143 of the pamphlet), on the suggestion of the Senator from Pennsylvania, which I think a very excellent one, I should like, in line 16, after the word "carrier," to insert the words "or shipper;" and in line 18, after the word "carrier," to insert the words "or shipper."

Mr. STONE. What page?

Mr. LODGE. Page 3 of the amendment; page 143 of the pamphlet.

The VICE-PRESIDENT. The Secretary will state the modifications.

Mr. LODGE. If there is no objection, I should like to have the modifications made.

Mr. DANIEL. While the Senator is on his feet I should like to ask him a question for information.

The VICE-PRESIDENT. Will the Senator from Virginia suspend until the Secretary reports the modifications.

Mr. LODGE. Of course I have a right to modify my amendment.

The VICE-PRESIDENT. The Senator has a right to modify it as he desires.

Mr. DANIEL. I observe some cross references here which would leave the mind in doubt as to exactly what we are doing. For instance, at the bottom of page 2 and the top of page 3 there is reference to other acts for the penalties we are inflicting.

Mr. LODGE. I can not hear the Senator; there is so much noise around me.

Mr. DANIEL. I will try to speak a little louder.

Mr. LODGE. It is not the Senator's fault. It is due to the noise all about.

Mr. DANIEL. At the bottom of page 2 and the top of page 3 there is a declaration of fines and penalties prescribed in section 10 of the act to regulate commerce as amended by the act of March 2, 1889. The point I suggest to the mind of the Senator is, had we not better set forth in this act what fines and penalties we are inflicting, for the reason that some of them seem to be too weak? And then we would have something to amend by the increase of imprisonment or the fine if we desired to do so. But in reenacting an old statute and putting it in with a new one, without a definition of its terms, the Senate are powerless either to know precisely what they are doing or to improve what they may be doing.

Mr. LODGE. The section is printed in the act to regulate commerce.

Mr. DANIEL. I have that before me.

Mr. LODGE. And the supplementary acts.

Mr. DANIEL. I have them before me at this time.

Mr. LODGE. It was to restore section 10. The penalties, as I have stated before, are in every case a term of imprisonment not exceeding two years, or both fine and imprisonment.

Mr. DANIEL. That is a very light penalty—merely two years—for some of these offenses. Some of them involve millions of dollars and the destruction of the business of other people, and a range ought to be given both as to fine and imprisonment, so that the tribunal that has a culprit before it might measure the penalty according to the nature and enormity of the offense. To put the chief offender who may be getting the benefit of millions of dollars by public roguery on the same basis with a minor employee, who may be under his direction, is to obscure or to nullify all distinction in offenders, and to bring down the great criminal to a level with the little one, and to prevent that distribution of justice which proportions penalty to the nature and extent of the offense.

I hardly know how to go at this bill in its present form to offer an amendment to the amendment of the Senator from Massachusetts which would reach this matter.

Now, Mr. President——

Mr. LODGE. If I may have the floor——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield further to the Senator from Virginia?

Mr. LODGE. My time is going so rapidly——

Mr. DANIEL. I hope it may be counted out of my time and not out of the Senator's. I dislike to intrude upon him.

Mr. LODGE. Not at all. I thought the Senator was going into his statement rather more largely than my time admitted.

Mr. DANIEL. I beg the Senator's pardon.

Mr. LODGE. I merely want to say one word in reply. If these penalties are not sufficient, it will be quite possible to amend them in the Senate. To my mind they seem entirely sufficient. The object of the imprisonment is simply to put in a penalty that will have an effect on those who are the offenders. I do not believe a money penalty is efficient with that class of offenders. I think a week's imprisonment is just as valuable as ten years as a deterrent with the people who commit the offense.

Mr. SCOTT. Who are the people?

Mr. LODGE. The law says the directors and managers of the corporation are to be imprisoned, and those in the employ of the corporation who make these contracts. The old law is very specific.

But, Mr. President, it seems to me that this reaches the point we want to reach, and if it is not enough it will be very easy to amend it in the Senate. But it seems to me it is enough, and that is just the distinction between my amendment and that of the Senator from Wisconsin.

Mr. STONE. Mr. President, I desire to direct the attention of the Senator from Massachusetts, and the Senate particularly, to the penalty clause of his amendment. The question in my mind is whether——

Mr. ALDRICH. I do not like to cut off the Senator from Missouri, but we ought to have some enforcement of the rule, Mr. President.

Mr. STONE. In what way am I violating the rule?

Mr. ALDRICH. I thought you had spoken once.

Mr. STONE. Not upon the amendment of the Senator from Massachusetts.

Mr. LODGE. No, he has not. The Senator spoke on the amendment of the Senator from Wisconsin. I do not think he has spoken on mine.

Mr. STONE. I have not.

Mr. ALDRICH. I think the Senator from Massachusetts has spoken at least three times.

Mr. LODGE. I have. I have undoubtedly violated the rule, as we all do.

Mr. STONE. There is a question of doubt as to whether the language of the amendment of the Senator from Massachusetts would in fact restore the imprisonment features of the act of 1887. The language of the amendment proposed by the Senator from Massachusetts is as follows:

Every person or corporation who shall offer, grant, or give or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and shall be subject to the fines and penalties prescribed in section 10 of the "act to regulate commerce," approved February 4, 1887, as amended by the act approved March 2, 1889.

Section 10 of the act of 1887 as amended by the act of March 2, 1889, contains this provision, and it is the imprisonment provision of the section. It is as follows:

Provided, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years.

Mr. President, the thing to which I was trying, it seems in vain, to get the attention of the Senator from Massachusetts, but I will get the attention of some other Senators to it, concerns the Elkins Act. The Elkins Act of 1903 provides:

In all convictions occurring after the passage of this act for offenses under said acts to regulate commerce, whether committed before or after the passage of this act, or for offenses under this section, no penalty shall be imposed on the convicted party other than the fine prescribed by law, imprisonment wherever now prescribed as part of the penalty being hereby abolished.

The VICE-PRESIDENT. The Senator from Missouri will suspend until the Senate is in order.

Mr. STONE. Yes, sir; I will be glad to do so. [After a pause.] Is the Senate supposed to be in order now?

The VICE-PRESIDENT. The Senator from Missouri.

Mr. STONE. The act of 1889 amending the act of 1887 did contain an imprisonment penalty. But the act of 1903 repealed it. The Senator from Massachusetts says——

Mr. LODGE. Excuse me. The Senator read the language. It abolished imprisonment. It did not repeal the act.

Mr. STONE. It did not in express terms repeal the act.

Mr. LODGE. That is why I had to reenact the whole law in a new form.

Mr. STONE. But the Senator does not reenact it.

Mr. LODGE. I beg the Senator's pardon. I reenact the Elkins provisions——

Mr. STONE. Oh, yes.

Mr. LODGE. Changing them so as to restore the imprisonment penalty.

Mr. STONE. Yes; the Senator does repeat the first section of the Elkins Act, and adds that anyone who violates it shall be subject to the fine and penalties prescribed by section 10 of the act of 1887. The Elkins Act prescribes a certain fine, from one thousand to twenty thousand dollars, for doing the things which in his amendment the Senator from Massachusetts would have the law provide shall be followed by a fine and such penalties as are prescribed in the act of 1889.

Mr. LODGE. 1899.

Mr. STONE. No; 1889.

Mr. LODGE. I think 1899. It is the act of March, 1899, I think.

Mr. STONE. March 2, 1889; but that is not very important. The amendment of the act was of date March 2, 1889.

Mr. LODGE. Then my print is wrong.

Mr. STONE. Your print is wrong. It should be 1889.

Mr. LODGE. My print is wrong?

Mr. STONE. Yes, sir.

If it be true as a matter of construction that the Elkins law, by the the provision "imprisonment wherever now prescribed as part of the penalty being hereby abolished," has the effect in legal intent of repealing the imprisonment clause of the act of 1889, then that part of the act of 1889 ceased to be operative; it was dead; it was no longer a part of section 10 of the act of 1889, and if it was not found in that section, if it was taken out by virtue of the Elkins law, then it can not be put back into the section except by a specific reenactment. If it is not restored by such enactment, then I submit whether the effect of this provision in the amendment proposed by the Senator from Massachusetts, that persons violating this act shall be subject to the penalties prescribed in section 10 of the act of 1887, would subject them to any penalty beyond that of a fine. I think that is exceedingly doubtful.

In drafting the amendment which I have prepared but have not yet submitted, but intend to present, I followed exactly the plan pursued by the Senator from Massachusetts. I took the first section of what is known as the "Elkins law," and provided for its reenactment except as to the penalties. I left the fine as it now appears in the Elkins law remain as it is, and I added this, and that is the only addition to it:

Provided, That any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall in addition to the fine herein provided for be liable to imprisonment in the penitentiary for a term not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

It seems to me that form would be preferable to the one used by the Senator from Massachusetts.

Mr. LODGE. Where is that? Is it in the pamphlet print of amendments?

Mr. STONE. No; it does not appear in the pamphlet print. I will hand the Senator this copy of it, if he cares to look at it.

The only difference I see in a hasty comparison between that amendment and the one proposed by the Senator from Massachusetts is that the Senator from Massachusetts seeks to restore the imprisonment penalty by providing that the persons convicted shall suffer the penalties prescribed by section 10 of the act of 1887, while in the amendment the Senator has in his hand the imprisonment penalty is specifically stated and set forth. I greatly fear that if the amendment is put in the form proposed by the Senator from Massachusetts we would be left without any imprisonment provision in the law.

Mr. LODGE. It seems to me on an examination of the Senator's amendment, which I had not examined before, that it is identical with mine, except where I have put in the words "every person or corporation who shall offer, grant, or give or solicit," etc., shall be subject to the penalties of section 10 as amended the Senator has put in a proviso not referring at all to section 10, but specifically restoring the penalties.

Mr. STONE. Yes, sir; that is the difference, as I stated.

Mr. LODGE. I have not the slightest objection to accepting the Senator's form instead of mine. There can be no question about it, and it meets exactly the same point, and brings in the same penalty. I would much rather take it, if there can be any doubt about the form of mine.

Mr. STONE. I have had some doubt about the other amendment, and there can be none about this one.

Mr. LODGE. I suppose the Senator will have no objection, when I ask that it be substituted for mine, to my inserting the words "or shipper" after "carrier," which I inserted at the suggestion of the Senator from Pennsylvania [Mr. KNOX].

Mr. STONE. Oh, no; I have no objection.

Mr. LODGE. Then, in line 22, on the third page of the amendment of the Senator from Missouri, after the words "common carrier," insert "or shipper," and at the beginning of line 25 insert "or shipper" after "carrier."

The VICE-PRESIDENT. The Secretary will state the modification made by the Senator from Massachusetts.

The SECRETARY. The printed amendment of the Senator from Missouri [Mr. STONE] is now substituted for that of the Senator from Massachusetts [Mr. LODGE]; and on page 3 of the printed amendment, line 22, after the word "carrier," the last word in the line, insert the words "or shipper," and after the word "carrier," in lines 24 and 25, insert the words "or shipper."

Mr. LODGE. I offer the amendment of the Senator from Missouri in lieu of my own, and move its substitution for the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE].

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Massachusetts [Mr. LODGE] as a substitute for the amendment of the Senator from Wisconsin [Mr. LA LOLLETTE].

Several SENATORS. Let it be read.

The VICE-PRESIDENT. The amendment to the amendment will be read.

The Secretary read as follows:

That section 1 of the act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, be amended so as to read as follows:

"That anything done or omitted to be done by a corporation com-

mon carrier subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons, except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000: *Provided*, That any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

"In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act."

Mr. LA FOLLETTE. If in order, Mr. President, I should like to say a word upon this amendment. I spoke on my own amendment. Have I a right to speak on the amendment to my amendment?

The VICE-PRESIDENT. The Senator from Wisconsin has a right to speak on the amendment of the Senator from Massachusetts to the amendment of the Senator from Wisconsin.

Mr. LA FOLLETTE. As I understand the amendment of the Senator from Massachusetts, it applies to all violations of the law. The amendment which I submitted applies only to cases of unjust discrimination or of false solicitation or of fraudulent representations by which unjust discrimination may be secured. Under the proposed substitute a friendly court might administer an entirely inadequate punishment. The trivial penalty of imprisonment for a day or an hour might be imposed. If a case should happen to be tried before an interested judge, who owned stocks or bonds in the railroad company whose officers or agents were arraigned, the punishment might be trivial and entirely inadequate. This danger is not merely assumed. I recall one case some years ago, brought under the interstate-commerce act, where seven or eight judges were found to be holders of stocks or bonds in the railroad companies interested in the case on trial.

In reply to the observation of the Senator from Ohio [Mr. FORAKER] touching the recommendations of the Interstate Commerce Commission, I assert that no report of the Interstate Commerce Commission can be cited where they have made a distinct recommendation that the penalty of imprisonment should be repealed, or where they approve the Elkins law in that respect.

The Senator from Ohio stated that in so far as he was advised the railroad companies had never recommended the repeal of the penalties of imprisonment. I, of course, am not able to say what has transpired in the committee having charge of this legislation further than is shown by the reports. I find, however, in one of the reports of the Interstate Commerce Commission this language, which would seem to indicate that the railroad companies had been pretty insistent in urging the repeal of the penalty of imprisonment for violations of the interstate-commerce act. This is the language of the Commission in its report:

It is proper to call the attention of Congress to the special insistence of railroad managers and others that the imprisonment feature of the present law be repealed, and that punishment for all criminal misdemeanors under the act be limited to fine.

Now, after the interstate-commerce act——

Mr. FORAKER. Will the Senator kindly tell from which report he reads?

Mr. LA FOLLETTE. In 1895. I can not give the Senator the number of the report. I can give him the year. It was in the year 1895.

Mr. FORAKER. That was two years before the Maximum Rate case.

Mr. LA FOLLETTE. Oh, that is true. Again the Commission said:

While the Commission must *refuse* to *advise the abolition of imprisonment*, its members are not inclined to oppose such legislation should Congress see fit to enact it.

That was the language the Senator was not able to quote exactly. I have it before me, and I will make it a part of the discussion.

Mr. FORAKER. Will the Senator kindly give me the number of the volume?

Mr. LA FOLLETTE. I can not give the number of the volume. I can give you the year the report was issued.

Mr. FORAKER. What is the year?

Mr. LA FOLLETTE. That is 1895 also.

Now, examine the reports after the Elkins law had been enacted. In its analysis of the Elkins law the Commission in the report for 1903 reviews the changes with respect to penalties, but it is *very careful not to commend* it in *that respect*, although it does commend the law in other respects where it has commendable features.

Again, in its report for 1904, the Commission referred to the Elkins law, but makes *no approval, directly* or *indirectly, of the repeal of the penalty of imprisonment*, although it does commend the law generally.

I suggested, during the general debate here, that the Interstate Commerce Commission, shortly after the enactment of the Elkins law, did give expression of approval of that law. They were greatly rejoiced to get some legislation making amendments to the interstate-commerce act which they believed would strengthen it in other respects.

But in their latest report, the report for 1905, reference is made to the fact that they have previously given general approval of the Elkins law, and then say that—

Further experience, however, compels us to modify in some degree the hopeful expectations then entertained.

So, Mr. President, I maintain with confidence that there can be found in no report made by the Interstate Commerce Commission an approval of the repeal of the imprisonment penalty of the interstate-commerce act, and I assert that whenever opportunity is given to investigate the books of the railroad companies of this country it will be found that the repeal of the imprisonment features of the Elkins law induced the payment of rebates to a greater extent than ever before.

If Congress desires to insure respect for this law, it should provide a penalty of imprisonment for a term that shall make railroad managers and their employees charged with the conduct of railroad business stand in wholesome fear of the law.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Massachusetts [Mr. LODGE] to the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FORAKER. We are to vote on the amendment of the Senator from Massachusetts?

The VICE-PRESIDENT. On the amendment proposed by the Senator from Massachusetts to the amendment of the Senator from Wisconsin. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK]. I am advised that if he were present he would vote "nay," and I am therefore not at liberty to vote. If I were at liberty to vote, I would vote "yea."

The roll call having been concluded, the result was announced—yeas 49, nays 27, as follows:

YEAS—49.

Aldrich	Burrows	Dryden	Hopkins
Alger	Carter	Elkins	Kean
Allee	Clapp	Flint	Kittredge
Ankeny	Clark, Mont.	Foraker	Knox
Beveridge	Crane	Frye	Lodge
Brandegee	Cullom	Fulton	Long
Bulkeley	Dick	Gamble	McCumber
Burkett	Dillingham	Hansbrough	McEnery
Burnham	Dolliver	Hemenway	Millard

Nelson	Piles	Stone	Wetmore
Nixon	Platt	Sutherland	
Penrose	Scott	Warner	
Perkins	Smoot	Warren	

NAYS—27.

Bacon	Daniel	Latimer	Pettus
Bailey	Dubois	McCreary	Rayner
Berry	Foster	McLaurin	Simmons
Blackburn	Frazier	Martin	Taliaferro
Clarke, Ark.	Gallinger	Money	Teller
Clay	Gearin	Newlands	Tillman
Culberson	La Follette	Overman	

NOT VOTING—13.

Allison	Depew	Mallory	Spooner
Burton	Gorman	Morgan	
Carmack	Hale	Patterson	
Clark, Wyo.	Heyburn	Proctor	

So Mr. LODGE'S amendment to the amendment was agreed to.

The VICE-PRESIDENT. The question recurs on the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE] as amended. [Putting the question.] In the opinion of the Chair the "ayes" have it.

Mr. BACON. I call for the yeas and nays upon the adoption of the amendment of the Senator from Wisconsin as amended.

The yeas and nays were ordered.

Mr. McCREARY. I should like to have the amendment as amended read, Mr. President.

The VICE-PRESIDENT. The Senator from Kentucky [Mr. McCREARY] asks that the amendment as amended may be read.

Several SENATORS. Oh, no!

Mr. McCREARY. I withdraw the call for the reading of the amendment, Mr. President.

The VICE-PRESIDENT. The Secretary will call the roll.

The roll having been called; the result was announced—yeas 73, nays 2, as follows:

YEAS—73.

Aldrich	Crane	Hemenway	Penrose
Alger	Culberson	Hopkins	Perkins
Allee	Cullom	Kean	Piles
Ankeny	Daniel	Kittredge	Rayner
Bacon	Dick	La Follette	Scott
Bailey	Dillingham	Latimer	Simmons
Berry	Dolliver	Lodge	Smoot
Beveridge	Dryden	Long	Spooner
Blackburn	Dubois	McCreary	Stone
Brandegee	Elkins	McCumber	Sutherland
Bulkeley	Flint	McEnery	Taliaferro
Burkett	Foraker	McLaurin	Teller
Burnham	Foster	Martin	Tillman
Carter	Frazier	Millard	Warner
Clapp	Frye	Money	Warren
Clark, Mont.	Fulton	Nelson	Wetmore
Clark, Wyo.	Gamble	Newlands	
Clarke, Ark.	Gearin	Nixon	
Clay	Hansbrough	Overman	

NAYS—2.

Gallinger	Pettus

NOT VOTING—14.

Allison	Depew	Knox	Platt
Burrows	Gorman	Mallory	Proctor
Burton	Hale	Morgan	
Carmack	Heyburn	Patterson	

So Mr. LA FOLLETTE'S amendment as amended was agreed to.

Mr. TILLMAN. I move that when the Senate adjourns to-night it be to meet at 10 o'clock to-morrow morning. ["No!" "No!"]

The VICE-PRESIDENT. The Senator from South Carolina moves that when the Senate adjourn to-night it be to meet at 10 o'clock to-morrow morning.

Mr. McLAURIN. I move to amend the motion by making the hour of meeting 9 o'clock to-morrow morning.

Mr. TILLMAN. I accept the amendment, Mr. President. ["No!" "No!"]

Mr. HOPKINS. Mr. President, if the amendment proposed by the Senator from Mississippi [Mr. McLAURIN] to the motion of the Senator from South Carolina is accepted, I move to amend the motion of the Senator from South Carolina by making the hour of meeting 11 o'clock.

Mr. BAILEY. One amendment to the motion is pending.

Mr. HOPKINS. I have moved the amendment on the theory that the Senator from South Carolina accepted the amendment of the Senator from Mississippi.

The VICE-PRESIDENT. Did the Chair understand the Senator from South Carolina to accept the amendment proposed by the Senator from Mississippi?

Mr. TILLMAN. I did.

The VICE-PRESIDENT. Then the amendment of the Senator from Illinois is in order. The question is on the amendment proposed by the Senator from Illinois, that when the Senate adjourn to-day it be to meet at 11 o'clock to-morrow.

The amendment was agreed to.

The VICE-PRESIDENT. The question recurs on the motion of the Senator from South Carolina as amended.

The motion as amended was agreed to.

Mr. KEAN. Let the next section of the bill be read, Mr. President.

The VICE-PRESIDENT. Are there further amendments to section 2? If not, the Secretary will proceed to read the next section.

Mr. McCUMBER. I offer the amendment to section 2 which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After the amendment just agreed to, at the end of section 2, it is proposed to insert the following:

That section 10 of said act entitled "An act to regulate commerce," approved February 4, 1887, be amended by adding thereto the following:

"Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier subject to the provisions of this act, or for whom, as consignor or consignee, any such carrier shall transport property from one State, Territory, or district of the United States to any other State, Territory, or district of the United States or foreign country, who shall knowingly and willfully, by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money, or any other valuable consideration, as a rebate or offset against the regular charges for transportation of such property, as fixed by the schedules of rates provided for in this act, shall be deemed guilty of a fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district where such offense was committed, in addition to any other penalties provided by this act, be subjected to a fine equal to three times the sum of money so received or accepted, and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and in the trial for such offense all such rebates or other consideration so received or accepted for a period of six years prior to the commencement of the action may be considered, and the said fine shall be three times the total amount of money or three times the total value of such considerations so received or accepted, as the case may be: *Provided*, That the foregoing penalties shall not apply to rebates or considerations received prior to the passage and approval of this act."

Mr. McCUMBER. Mr. President, it seems to me much more popular in this body to pass any character of drastic legislation aimed at a railway company for accepting a rebate and providing a severe punishment for anyone connected with the railway company from the highest down to the lowest officer for being a party in any way to the acceptance of rebates than it is to touch the great corporations and the great trusts of the country, which have held the railways by the throat and are enforcing such rebates upon them. We have been rather severe with the railway company, which is the victim, but we have been exceedingly careful so far in our legislation not to interfere with the great trusts of the country, which are the ones primarily responsible for practically all the rebates which have been granted.

We had a recommendation by the President of the United States in a message that was sent to us last Friday, in which he mentions but one of the great trusts of the country—the oil trust—and declares that they have benefited in rebates in a single year $750,00, or about three-quarters of a million dollars every year, and that wholly independent, Mr. President, of the extra amount they get out of the people of New England and other sections of the country, where they have the entire monopoly.

What does a fine of $5,000 amount to? Suppose you do get one conviction a year. You will then have imposed a penalty of $5,000 for taking $750,000. Suppose, on the other hand, you do convict possibly some one connected with the company for assisting or being a party to this rebate; suppose that you are able to reach one case out of a hundred, or one dollar out of a hundred, still in every hundred dollars the company would be ahead $99.

I seek by this amendment—it is clear, simple, and right to the point—to apply the only remedy which I believe will ever be a successful remedy against the trusts that compel these rebates. Why? If the Standard Oil Company, which for the last year has taken $750,000 in rebates or special privileges out of the railway companies of the United States, at the end of the year, in an action brought for that specific purpose, could be compelled to pay back two and a quarter million dollars, then I insist that you would have a remedy that they would remember; and if this plan be continued, and, under such an amendment as I have suggested, make it so that at the end of six years you can in a single action compel them to account for all of the rebates that they have taken during those six years—of course not antedating the date of the passage of the pending bill—then they will be constantly upon their guard, knowing continuously that, when one transaction has been completed and one great sum has been received by them, that is not the last of it; that when the year goes by it is not the last of it, but that for six years the Government can go back and compel them to pay back what they have received.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from New Hampshire?

Mr. McCUMBER. Yes, sir.

Mr. GALLINGER. I ask the Senator if the Sherman anti-trust law and the Elkins law will not reach these corporations if they are guilty of these so-called "crimes?"

Mr. McCUMBER. They will not, and they have not in the past. I have no doubt that public opinion, which has been greatly aroused in the last year, will have a great deterrent effect upon the whole subject of rebates. I do not consider that this law which we will pass adds in this respect one atom of force or effect to the law as it exists to-day.

Mr. GALLINGER. Does the Senator think that the existing laws would be inadequate if they were properly enforced?

Mr. McCUMBER. I think the existing laws, if properly enforced, are adequate as against the railway companies. I think the existing laws are inadequate as against the great corporations. If we have a supplemental act, such as I propose in this amendment, to make the great trusts pay back $3 for every dollar they get in rebates, taking that in connection with the punishment that is provided against the employees of the railway company, we shall then have a sufficient and effective remedy, because we shall have a remedy against both of them.

Mr. GALLINGER. Just one other suggestion. The Senator called attention to the fact that the President has told the country that the "Standard Oil trust," so called, have robbed the people of $750,000 in the last year. Is it not proper to put in the RECORD the fact that that corporation have denied that they have been guilty of the crimes charged against them?

Mr. McCUMBER. If a corporation has not been guilty, it certainly will not be affected by this amendment.

Mr. GALLINGER. Of course not.

Mr. McCUMBER. I will read, Mr. President, the words of the President's message which was sent here last Friday. He says:

> The facts set forth in this report—

That is, Garfield's report—

> The facts set forth in this report are for the most part not disputed. It is only the inferences from them that are disputed, and even in this respect the dispute is practically limited to the question as to whether the transactions are or are not technically legal. The report shows that the Standard Oil Company has benefited enormously up almost to the present moment by secret rates, many of these secret rates being clearly unlawful. This benefit—

That is, the unlawful one—

> amounts to at least three-quarters of a million a year. This three-quarters of a million represents the profit that the Standard Oil Company obtains at the expense of the railroads; but of course the ultimate result is that it obtains a much larger profit at the expense of the public.

Mr. President, in the annual message of the President of the United States on the 5th day of December, in speaking of this subject, he recommends specifically that at least twice the amount of all rebates should be recovered in a civil action. In the amendment which I have offered I go further, and place it at three times the amount, and in a criminal action, and this in addition to any little penalty that may be imposed upon the person upon whom the courts will be able to lay their hands.

Mr. President, it makes very little difference to these great trusts—the sugar trust, the oil trust, the steel trust, the meat trust, or any of these other trusts—that there is a law aimed at the individual, whom you will have to catch before you can prosecute, and, if the law applies, convict. It is almost impossible to secure the proper evidence for the conviction of that man. But under the proper law that we will pass now, which provides for a method of keeping the books of the companies, which shall be the same throughout the country, the items prescribed to a certain extent by the Interstate Commerce Commission, a method is supplied by which we can determine what money goes into the coffers of these great corporations—the trusts—from the railroad companies. It will be far less difficult to establish the fact that the Standard Oil Company or any other one of these great corporations has received in rebates three-quarters of a million dollars in a year than it will be to establish, in a criminal case, the time, the place, and the particular person who was instrumental in securing the rebates, because in that respect the evidence must be certain as to the time, the place, and the party, and the facts must be established on all three of those points beyond a reasonable doubt. It is much more difficult to convict an individual against whom an indictment is obtained under such a law than it is to prove that certain sums of money went out of the railway companies' hands and into the hands of the trusts, in addition to what was a legitimate or legal charge.

Mr. President, if we wish to stop rebates—and that is the gist of this whole case, because nine-tenths of our arguments upon the matter of this bill have been upon the question of rebates—if that is what we wish to get at, if we want to have an effective remedy, we will never have one that will be half so effective as one that will go directly to the company that solicits the rebate and obtains it, and compel it to pay it back three times over. It is no punishment to say to a corporation that receives a rebate, "You shall pay the sum back," because in that case it simply pays back what does not belong to it. It is no punishment to say, "You shall pay back only in those cases in which we can successfully conduct a criminal prosecution against an individual," because that may not amount to more than $5,000 in a single year. But it is something when you say that we can go back over any number of years and we can, in a single action, compel you to pay back all that you have taken during those years, and that three times over. If we want to eliminate rebates and eliminate them positively, it seems to me we can not do better than to adopt this amendment which goes to the root of these rebates.

Mr. GALLINGER rose.

Mr. McCUMBER. Does the Senator wish to interrupt me?

Mr. GALLINGER. No.

Mr. McCUMBER. Mr. President, I think that is all I desire to say, unless the Senator from New Hampshire wishes to ask me a question.

Mr. GALLINGER. Mr. President, the hysteria of this entire thing has been very clearly developed this afternoon. The interstate-commerce law imposed a penalty of imprisonment as well as a fine. The Interstate Commerce Commission, having in charge the administration of the law, appeared before the Interstate Commerce Committee and recommended that the imprisonment clause should be eliminated from the law, which was done; and from that time to the present the Interstate Commerce Commission, so far as I can learn, have never recommended the reenactment of that penalty in any law that has been before the Congress. But notwithstanding that the Senate has seen proper in its wisdom—I voted against it because I felt entirely justified in doing so—to reenact that provision of the law.

The Senator from North Dakota [Mr. McCUMBER] proposes to inject into this railroad rate bill a provision aimed at the great trusts of the country. The argument made a little time ago was that a penalty of a fine did not deter railroad corporations from committing a crime. But the Senator, in dealing with the great trusts of this country, four or five of which could buy out all of the railroad corporations in the country, if they do not already own them, proposes simply to impose a fine. They are not to be subjected to the penalty of imprisonment, but they are to pay a fine.

Mr. McCUMBER. May I ask the Senator from New Hampshire a question?

Mr. GALLINGER. Certainly.

Mr. McCUMBER. The Senator is undoubtedly reading from the amendment as it was first introduced. The amendment which was read states "in addition to any other penalties provided by this act." So this is in addition to that.

Mr. GALLINGER. In addition to what?

Mr. FLINT. Where can we find the amendment?

Mr. McCUMBER. Let the Secretary read the amendment. I handed it to him. It is in addition to the present penalty.

The VICE-PRESIDENT. The Secretary will again read the amendment.

The SECRETARY. The amendment is to be found in the printed list of amendments, at page 45, but there are some alterations.

Mr. GALLINGER. I accept the Senator's statement that he has some kind of a penalty in addition to a fine.

Mr. McCUMBER. No; I wish the Secretary would read that portion, if the Senator from New Hampshire will allow it.

Mr. GALLINGER. I will be pleased to allow it.

The SECRETARY. On page 2 of the printed amendment, line 7, after the word "committed," insert "in addition to any other penalties by this act."

Mr. GALLINGER. I confess that I do not know exactly what that means, but let it mean what it pleases. We are still face to face with the proposition that we are to have now, in this railroad rate bill, a provision dealing with the great trusts of the country. The Senator really believes, I apprehend, that it will be efficient for doing away entirely with the evil of rebates and discriminations which are already legislated against in the Elkins law. The crudity of this legislation and the dangers attending this kind of legislation have been shown fifty times during the last three days in the fact that Senators, offering amendments, have had them printed, and when they send them up to be acted upon they change them from one to five times; and the Senator from North Dakota, deliberating upon this great topic, as he doubtless did, because this amendment was not incubated in a moment, prepared this amendment which he had printed and which was before us and which we have all

studied in an endeavor to learn its scope and meaning, and to-day he has found it necessary to modify it.

Mr. McCUMBER. When another amendment is put on a bill you often, in order to make your amendment in harmony, find it necessary to make changes. So when the Lodge amendment, which already provided for one character of punishment, was inserted, it was necessary to make the change, so as not to be in conflict with it.

Mr. GALLINGER. Does the Senator think that the penalty in the Lodge amendment will apply to offenses of the character involved in his amendment?

Mr. McCUMBER. It will be in addition to that penalty. It does not affect that penalty at all. That penalty is simply by fine or imprisonment not to exceed two years, if they can convict an individual.

Mr. GALLINGER. Are the fines and penalties cumulative? Are those already imposed in the bill to be added up and this penalty or fine added?

Mr. McCUMBER. I have had sufficient experience in the prosecution of criminal actions to know that we are not liable to have a hundred cases to be tried, though we can prove, perhaps, that there have been a hundred different offenses committed. One trial is generally supposed to cover them all. It has never been customary to have one trial after another, although the offense may have been continuous and each day might be a separate offense. The Senator knows that to be the case, and therefore it was intended to make them pay back every dollar they got out of the company unlawfully and to pay it back three times over, so that it would be a punishment.

Mr. GALLINGER. I am glad that some Senator has come to the relief of the railroads of the country. The Senator from North Dakota claims that this amendment is intended to protect them against crimes that are being committed by other corporations upon those railroad companies. This bill when it gets through the Senate will look like Joseph's coat, but in my great desire to have it acted upon I am not going to spend much time in discussing this or any other amendment. I believe I have not occupied more than fifteen minutes during the entire debate upon this great subject. But it does seem to me that if we are going to pass a bill regulating the railroads of the country and requiring them to give proper service, as they ought to give proper service, it is a mistake to inject all sorts of amendments relating to other subjects into that bill. For that reason I trust——

Mr. McCUMBER. Let me ask the Senator, while he is on his feet, if the subject of rebates is not pertinent to this bill, and that is all this amendment deals with?

Mr. GALLINGER. The bill as it came from the House of Representatives, with the indorsement of that great body and, we were told, with the indorsement of the President of the United States, and as it came to this body, with or without the indorsement of the Committee on Interstate Commerce, does not deal with that subject. I apprehend they thought that as the Elkins law as it stands to-day, or as it could easily be amended, dealt specifically with that question it was not necessary to enter into that in this legislation. That is all I care to say. I shall take pleasure in voting against this amendment, even though I should vote alone.

Mr. ALDRICH. Mr. President, I listened with some attention to the remarks of the Senator from North Dakota [Mr. McCUMBER]. I do not find any of the trusts to which he referred named in the amendment, and I should be afraid that certain farmers in North Dakota, if they should happen to receive a lower rate of freight than some of their neighbors, might be in some danger of prosecution under the terms of this amendment.

Mr. McCUMBER. I would ask the Senator in all candor if he would expect me to mention any special trust in the amendment?

Mr. ALDRICH. The Senator made a speech saying the purpose of the amendment was to destroy certain trusts, and I thought he might apply some language——

Mr. McCUMBER. I did not so state, if I may correct the Senator. It is not to destroy the trusts; it is to prevent the trusts from extorting money from the railways.

Mr. ALDRICH. Is there not any way of exempting the farmers of North Dakota from what might be a very serious danger of injury to them from paying lower freight than some of their neighbors? It seems to me that this is rather drastic legislation in favor of the railroads.

Mr. McCUMBER. I do not see how it is in favor of the railroads. It simply punishes somebody else who acts in conjunction with them and takes these rebates.

Mr. ALDRICH. It seems to me it is very drastic protection to the railroads, but I may be mistaken.

Mr. McCUMBER. If the Senator thinks that is protection, they certainly ought to have that protection.

Mr. SPOONER. Mr. President, I am not concerned about protecting railroad companies against the payment of rebates. The rebate is absolutely indefensible, and if anything is settled it is settled that the practice must be discontinued. I do not think it is necessary at all to deal with it in connection with this bill, for the reason that the House of Representatives has at this session passed a bill, which is now before the Judiciary Committee of the Senate——

Mr. KEAN. I have a copy of it here.

Mr. SPOONER. Let me have it.

Mr. KEAN. It is a good bill.

Mr. SPOONER. The House of Representatives at this session has passed a bill which is before the Judiciary Committee, and which, I think, needs some amendment to make it more efficient, and which I believe will be reported by the committee. It is a bill "To authorize the recovery of the value of unlawful rebates and discriminations, penalty therefor, and for other purposes."

Mr. McCUMBER. May I ask the Senator if the bill has been reported by his committee?

Mr. SPOONER. I think it will be reported at this session of Congress.

Mr. McCUMBER. If the bill is made a law, it will be practically the same as this.

Mr. SPOONER. I think it will be more carefully drawn and more elaborate and better adapted to meet the object which the Senator has in view. It provides for two classes of cases. In the first place, it forfeits to the Government all illegal payments. It provides for the recovery of the amount of the rebate in a class of cases where not willfully accepted, if there be such, and in the other class of cases, which would take all the cases referred to by the Senator from North Dakota, for the recovery, at the suit of the Government of double the amount of the rebate, or sum unlawfully received from the railway company. I do not doubt that the bill will be reported, nor do I doubt that it will meet the approval of this body, and its operation, I think, in connection with the provisions of the rate bill as to the keeping of railway accounts and the examination of railway books and all that will deprive the business men of this country of any great anxiety or inducement to seek rebates; and those who seek a rebate, knowing it to be in violation of the law, are as much deserving of punishment for violating the law as those who give it, and sometimes more so. So I think this subject may be dealt with at this session if the Senator's amendment should not be adopted.

Mr. McCUMBER. It may be dealt with, I will say to the Senator, and it may not. It is practically aimed at the same thing and so as to accomplish the same purpose.

Mr. SPOONER. The House treats the two classes separately, and I think we may as well.

Mr. KEAN. Mr. President, I was going to say to the Senator from Wisconsin that it was my intention to offer this bill as a substitute for the amendment of the Senator from North Dakota. It is a bill I am very heartily in favor of, but since the statement of the Senator from Wisconsin I certainly will not do so, because the Committee on the Judiciary will probably report it at an early day.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from North Dakota. [Putting the question.] In the opinion of the Chair, the "ayes" have it.

Mr. McCUMBER. I call for the yeas and nays.

Mr. CLAY. I understood the Chair to announce that the "ayes" had it.

Mr. McCUMBER. Did the Chair announce it in favor of the "ayes?"

The VICE-PRESIDENT. The Chair did.

Mr. McCUMBER. Then I withdraw the request for the yeas and nays.

Mr. GALLINGER. Let the vote be taken again.

The VICE-PRESIDENT. The vote will again be taken. The question is on agreeing to the amendment proposed by the Senator from North Dakota.

The amendment was agreed to.

Mr. GALLINGER. I move that the Senate proceed to the consideration of executive business.

Mr. KEAN. Let us get down to section 4.

Mr. ALDRICH. Let the next section be read.

Mr. GALLINGER. I have made my motion.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Wisconsin?

Mr. SPOONER. Will the Senator from New Hampshire yield to me that I may submit an amendment to the pending bill?

Mr. GALLINGER. I do.

Mr. SPOONER. I offer an amendment to the pending bill, which I ask to have printed.

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

Mr. GALLINGER. I am appealed to to permit the next section to be read, and I withdraw the motion for that purpose.

The VICE-PRESIDENT. The motion is withdrawn. The Secretary will read.

The Secretary read as follows:

SEC. 3. That section 14 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

"All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

"The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports."

Mr. GALLINGER. Let the next section be read likewise.

Mr. ALDRICH. Yes; read the next section.

The Secretary read as follows:

SEC. 4. That section 15 of said act be amended so as to read as follows:

"SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, shall publish and file joint rates, fares, or charges, and fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

"The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and prescribe the division of such rates as hereinbefore provided, and the terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provision of this act, and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through route exists.

"If the owner of property transported under this act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and the Commission may, after hearing on a complaint, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the use of the instrumentality so furnished and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for in this section.

"The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this act."

Mr. GALLINGER. I renew my motion.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Minnesota?

Mr. NELSON. I want to move a short amendment.

Mr. GALLINGER. I think it had better be done to-morrow.

The VICE-PRESIDENT. The Senator from New Hampshire declines to yield.

EXECUTIVE SESSION.

Mr. GALLINGER. I renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened, and (at 5 o'clock and 58 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 11, 1906, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 10, 1906.

RECEIVERS OF PUBLIC MONEYS.

Sargent S. Morton, of California, to be receiver of public moneys at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906), for the unexpired part of his term of four years from February 4, 1903.

Joshua G. Wood, of Kansas, to be receiver of public moneys at Topeka, Kans.

Walker A. Henry, of Spokane, Wash., to be receiver of public moneys at Waterville, Wash.

Harry F. Nichols, of Ellensburg, Wash., to be receiver of public moneys at North Yakima, Wash.

REGISTERS OF THE LAND OFFICE.

J. J. Payne, of Des Moines, Iowa, to be register of the land office at Des Moines, Iowa.

William F. Haynes, of Coulee City, Wash., to be register of the land office at Waterville, Wash.

Truman G. Daniells, of Alameda, Cal., to be register of the land office at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906).

POSTMASTERS.

OHIO.

George G. Sedgwick to be postmaster at Martins Ferry, in the county of Belmont and State of Ohio.

PENNSYLVANIA.

Alpheus B. Clark to be postmaster at Hastings, in the county of Cambria and State of Pennsylvania.

George H. Moore to be postmaster at Verona, in the county of Allegheny and State of Pennsylvania.

WISCONSIN.

Henry G. Kress to be postmaster at Manitowoc, in the county of Manitowoc and State of Wisconsin.

Frank S. Moore to be postmaster at Lake Geneva, in the county of Walworth and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May 10, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read, and, on motion of Mr. PAYNE, was approved.

PERSONAL REQUEST.

Mr. BINGHAM requested leave of absence, for ten days, on account of sickness.

Mr. PAYNE. Mr. Speaker, I move that the request be granted.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The question was taken; and on a division (demanded by Mr. WILLIAMS) there were—ayes 112, noes 5.

Mr. WILLIAMS. I make the point of no quorum, Mr. Speaker.

The SPEAKER. The Chair will count. [After counting.] One hundred and ninety-seven Members present; the ayes have it, and the motion is agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. CRUMPACKER in the chair.

Mr. KEIFER. Mr. Chairman, I wish to make a request. It has been my purpose to avail myself of an opportunity to submit some remarks on that part of the naval appropriation bill which provides for the building of a battle ship, but I know now that I will not be able to be present when that part of the bill is reached, and I ask the courtesy of the House to be allowed fifteen minutes to make some remarks on that clause of the bill.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that he may address the committee for fifteen minutes on the subject of the enlargement of the Navy. Is there objection?

There was no objection.

Mr. KEIFER. Mr. Chairman, it has been my purpose to make only a few remarks on that part of this naval appropriation bill which authorizes the building under the direction of the President of the United States, through the Navy Depart-

ment, of a battle ship of the largest size and the equal in all respects to any in the world, at a cost of not exceeding $6,000,000. A few minutes will suffice for me to say all I desire on the subject.

I have no naval experience or technical knowledge as to ships or their armament, though I have seen something of war. I recall that on February 20, 1885, more than twenty-one years ago, I took the floor in this House (Forty-eighth Congress) in opposition to a bill recommended by a naval construction board, by the Secretary of the Navy, and by a committee of this House—unanimously, I think—proposing to appropriate some millions of dollars to repair old wooden ships and to build or complete ships for our Navy on obsolete plans that had been adopted.

In the discussion of the bill much was then said by eloquent and patriotic statesmen as to what was requisite to the strength of our Navy in war. The achievements of John Paul Jones and other great sea captains in the Revolutionary period and in later periods in our country's glorious history were eloquently recalled; and it was loudly declaimed here that what was wanted was personal valor and heroic spirit to secure victory on the high seas. Lord Nelson's naval victories at Aboukir, Copenhagen, and Trafalgar were pictured as examples to be imitated; and much was said here about returning to the era of close fighting and the capture of ships by lashing them together and by boarding them. These heroic notions I then tried to dissipate, and succeeded so far that the proposed appropriation was never made. I demonstrated that there were even then a few ships in existence any one of which would have been able in a little time to annihilate the largest fleet Lord Nelson ever commanded—indeed, sufficient to have destroyed all the combined fleets that he had ever seen. Even some third and fourth rate powers then possessed each a ship equal to this—Italy the *Lepanto* and Brazil the *Riachuelo*.

It was also made clear then that the fourth-rate South American power, Chile, with her then one modern war ship, *Esmeraldo*, could have annihilated all the Navy of the United States proposed to be created under the then pending bill; and had it all been placed on the Pacific coast, the *Esmeraldo* could have triumphantly captured every port of the United States from San Diego to San Juan de Fuca. Brave spirits on obsolete ships are no guaranty of success. Nelson won Trafalgar, and a place in Westminster Abbey. He never commanded a ship that would have survived ten minutes in a combat with a modern war ship. The day of boarding a ship with marines carrying short arms and fighting on ship deck hand to hand disappeared more than fifty years ago and with the coming of steam power to propel a war vessel.

When, on April 4, 1862, the transport *Carondelet* steamed down the Mississippi past Island No. 10, Captain Hottenstein, with twenty-three men of the Forty-second Illinois Volunteer Infantry, was ordered to protect the vessel from boarders. He put a boy in a protected place with a nozzle of a hose connected with the engine boiler in his hands, with instructions to squirt hot water on all who might attempt to board and capture the ship. [Laughter.] Neither numbers nor valor could cope with such a foe, and the idea of boarding to capture a modern steam vessel, let alone a war ship, vanished, and forever.

Since 1885 much progress in war ships, cruisers, torpedo boats, etc., in arms, armament, and armor, in speed and propelling power for ships has been made. We had a navy in 1898, though inferior to that of some other powers, yet able to win for our country victories which placed it first among the nations of the earth. But satisfactory and successful as our Navy proved to be in the Spanish-American war at Manila Bay (May 1, 1898) and Santiago (July 3, 1898), yet we have no reason to believe we then had a navy capable of coping with any real first-class naval power, and our Navy is certainly not now the equal to that of even a power like little Japan. We are now far down the list of countries in number and size of war vessels of all kinds and in their speed and strength.

Our recent naval successes against Spain should not lure us into a feeling of security. Our modern Navy has never fought a real naval engagement. Dewey in Manila Bay, with his long-range guns, easily reached and destroyed the Spanish ships there, he keeping well beyond range of the enemy's shots. He had time to deliberately haul off and cool his guns and make and cool coffee for the men of his fleet before finishing the battle. At Santiago conditions were different, but there was no real naval battle there. Our gallant officers and men did all there was to do and they did it well. They winged, sunk, or ran ashore the flying fleet of Cervera. There was no arraying of ship against ship or fleet against fleet. It is hard to say that a real naval engagement with modern war ships, cruisers, torpedo boats, etc., with the improved modern guns, has ever been fought. There was some appearance of it in a small way in the Japanese-Chinese war and in a war between Chile and Peru. There was some fighting of isolated ships at Port Arthur in the Japanese-Russian war, and in the same war, in the Straits of Korea, in Japanese waters, there was fought (May 27, 1905) a great naval engagement with modern ships and torpedo-boat destroyers, which, measured by results in destruction of ships, etc., never had an equal; yet, tested by all that goes to make a sanguinary sea battle, it is much like that of Santiago. Rojestvensky was there, too, seeking to evade rather than meet Togo and his fleet. The former was never prepared to meet an attack, and no part of his numerous fleet made anything like a combined one. He moved his fleet into a trap, and the several ships thereof in the main sought safety by attempting to sail away.

If the United States is to maintain her place among the great nations of the world, and remain immune from attack by sea, and protect her maritime commerce, she must have a first-class modern navy—first-class battle ships. She does not now possess them in comparison with other nations. The United States is not liable to attack by land forces by any foreign power if she possesses a good navy. She is water bound and water isolated. Her coast line is long, saying nothing of Alaska and her newly acquired island possessions. Including the principal lakes on the north, the Atlantic on the east, the Gulf of Mexico on the south, and the Pacific from San Diego to San Juan de Fuca on the West, the coast line is above 33,000 miles in length, not including inlets or deep bays. This coast line is one and one-third times greater than the circumference of the earth at the Equator.

Webster, speaking of the extent of the British Empire, said of its morning drum beat, that—

> It follows the sun in its course, keeps pace with the hours, and circles the earth with one continuous strain of martial music.

The same may now be said of the United States. The sun never ceases to shine on the flag of our Republic, unfurled and floating defiantly over our possessions. [Applause.]

With an adequate navy we can protect our island possessions as well as our natural coast and our commerce. Without such navy our exposed parts will be a temptation and invitation to other nations to attack, despoil, humiliate, degrade, and dishonor us. With such a navy our small standing army may still be maintained with safety, leaving to the volunteer citizen soldier to supply any deficiency in it should war come.

To maintain such a navy and army will insure that peace so much to be desired by all the friends of universal and eternal peace. The old maxim, "*In peace prepare for war*" was long ago obsolete. It was always barbaric. It was never sound in principle from a standpoint of true civilization. [Applause.] It was used in purely warlike times, when all the nations of Europe expected to be involved in war and before civilization was evolved out of barbarism, and when wars were waged for crowns for ducal heads and not for the rights and liberty of man. The maxim now should be, "*In peace prepare to maintain it.*"

Our annals have been bloody. In the ninety years from Lexington (1775) to Appomattox (1865) we were, excluding Indian wars, engaged fifteen years in war, on an average one year out of every six.

In more recent years, when the civilized nations have generally maintained a continuous war footing, wars have been much less frequent. A third of a century of peace passed after the civil war, and then we volunteered to go to war purely for humanity's sake, without an international dispute. Much as the Christian and civilized people of the world desire and pray for peace—universal peace—our Republic can not alone remain unprotected.

I favor The Hague court or tribunal and welcome its continuance, and believe much may be accomplished by peace conferences. Much has already been attained in securing peace to the world. The fact that wars are much less frequent when the great nations are constantly prepared to wage it gives room for the creation of international courts to settle international disputes. The time will come, it is ardently to be hoped, when disarmament may begin by mutual consent, but that time has not yet arrived. The nations that unite in submitting their international disputes to arbitration or an international court must still be prepared to enforce its decrees—they must, like the decrees of all civil courts, have a physical power to enforce them, to give them potentiality. It is a mistaken notion to suppose that courts are independent of the executive branch of the State or Federal power. The courts' decrees would be a nullity for want of power to enforce them unless the constabulary, police, or military power could be invoked through the Executive, or otherwise, to execute them. Until the millennium

comes, until all see eye to eye, physical power will be invoked to maintain order, prevent anarchy, and to maintain society and preserve organized liberty. I say this much though I believe much has been accomplished by recent efforts through The Hague tribunal and peace conferences toward securing peace among the civilized countries of the world. But let us, by a properly constructed and equipped Navy, stand with the greatest of the world powers, able to maintain our own integrity, uphold our own form of government and flag, and to guarantee, if possible, the peace of the world. [Loud applause.]

Mr. FOSS. Mr. Chairman, in the consideration of the bill we passed over without prejudice the paragraph relating to recruiting, on page 5 of the bill, and I would like to return to it. There was pending upon that paragraph an amendment offered by the gentleman from Massachusetts [Mr. KELIHER], and I call for the reading of that amendment.

Mr. KELIHER. Mr. Chairman, I ask unanimous consent to offer a substitute for that amendment.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to withdraw the amendment he offered the other day, and offers the following as a substitute. Is there objection? [After a pause.] The Chair hears no objection.

The Clerk read as follows:

On page 5, line 16, after the word "dollars," add: *"Provided*, That no part of this appropriation shall be expended in recruiting seamen, ordinary seamen, or apprentice seamen, unless a certificate of birth or evidence other than his own statement satisfactory to the recruiting officer, showing the applicant to be of the age required by naval regulation, shall be presented with the application for enlistment."

Mr. FOSS. Mr. Chairman, I will state that I took this matter up with the Department and with the Chief of the Bureau of Navigation, and they wrote me their views in relation to it, which I will ask the Clerk to read.

The Clerk read as follows:

DEPARTMENT OF THE NAVY,
BUREAU OF NAVIGATION,
Washington, D. C., May 10, 1906.

SIR: The Bureau firmly believes that the recruiting officers of the Navy strictly comply with the "Instructions for Recruiting Officers," which requires (p. 3, par. 823–1) that "he (the recruiting officer) shall, in order to guard against illegal enlistments, personally inspect and question those offering to enlist. He shall examine into their qualifications and determine their fitness and capacity."

Page 4, paragraph 2: "He shall carefully explain the regulations regarding enlistments, promotions, and discharge to those offering to enlist, explaining to them the kind of life they are to lead and that it will be mostly spent on board ship. He will use great care to see that no one under his command makes any promises or statements to applicants regarding advancement, instruction, or benefits in the Navy which can not be carried out after enlistment, and to have each applicant distinctly understand that discharge will not be granted prior to the expiration of enlistment."

2. The amendment proposed for insertion, on page 5, line 16, of H. R. bill 18750, is not at all necessary or for the best interests of the service, as all practicable means for preventing illegal enlistments are already being taken. In addition, the insertion of the amendment in question would require the accounting officers of the Treasury to make certain rules for the expenditure of the money appropriated, and such rules might seriously hamper recruiting.

3. The Bureau therefore trusts that the amendment will not be inserted.

Respectfully,

G. A. CONVERSE,
Chief of Bureau.

Hon. GEORGE EDMUND FOSS,
Chairman Committee on Naval Affairs,
House of Representatives.

DEPARTMENT OF THE NAVY,
BUREAU OF NAVIGATION,
Washington, D. C., May 9, 1906.

SIR: Referring to the discussion of the naval appropriation bill in the House yesterday, and especially to the amendment introduced by Mr. KELIHER, the Bureau desires to state that it would be impracticable in a great many cases to obtain a certificate of birth of an applicant for enlistment, or any more evidence of his age than is now required of him. The Bureau believes that all the recruiting officers use every possible means to ascertain the age of boys about whom there appears to be any doubt; that where the recruiting officer is not satisfied as to the correctness of the boy's statement, he directs him to call again in a few days, in the meantime endeavoring to verify the boy's statements, by correspondence if the applicant is from a distance, and by personal investigation if in the boy's home city. The Bureau's instructions to the recruiting officers are very explicit upon this point, and it believes the instructions are followed as nearly as possible. In spite of all precautions, however, it is impossible to prevent all cases of perjury.

Every applicant for enlistment is interviewed, first, by a petty officer of the recruiting station, who questions him closely, and explains to him carefully what will be expected of him if he enlists. If he passes this preliminary examination, the recruiting officer takes him in hand, explaining to him the seriousness of the oath he must take, the consequences of fraudulent enlistment, the term of enlistment, and the impossibility of obtaining a discharge before the expiration of the term, except for cause. The Bureau on its part uses every possible effort to prevent the enlistment of boys under age, and of boys over 18 whose parents object to their enlistment. To require the recruiting officer to obtain a certificate of birth or similar evidence in every case would hamper the recruiting service and interfere with the enlistment of many men to whose enlistment there can be no objection. It would not put a stop to perjury, for if parent's consent papers can be forged, as has been done, birth and other certificates will be. The Bureau begs to assure you that it is its constant effort to avoid other than absolutely legal enlistments, and an illegal enlistment only makes additional work and trouble for all concerned. The Bureau has yet to find a case of this sort in which the illegal act was not due to the anxiety of the applicant to enter the service; and has yet to find a case in which it has been established that the recruiting officer has not pointed out to the applicant the necessity of a correct statement of age, and the trouble that would follow taking a false oath.

Regarding the Executive order prohibiting discharges prior to expiration of enlistment, except for the causes mentioned, the Bureau states that this order has been in force for nearly four years, and its effects have been beneficial. Its provisions are fully explained to every recruit, and he enters the service fully realizing that he must complete his enlistment.

Respectfully,

W. P. POTTER,
Acting Chief of Bureau.

Hon. GEORGE EDMUND FOSS,
Chairman Committee on Naval Affairs,
House of Representatives.

Mr. McCALL. Mr. Chairman——

Mr. RIXEY. May I interrupt the gentleman to say that I want to offer a substitute, and perhaps the gentleman would like to have it offered before he speaks.

Mr. McCALL. Very well.

Mr. RIXEY. Mr. Chairman, I offer a substitute providing that no minor under 21 years of age shall be enlisted without the written consent of the parents or guardian.

Mr. KEIFER. Is not that the law now?

Mr. RIXEY. No; the law now is that the consent of the parents or guardian is required up to the age of 18, but it does not say written consent. And then there seems to be no law on the subject between 18 years of age and 21. The Bureau of Navigation has so construed the law that it has the right to enlist boys between 18 and 21 without the consent of the parent or guardian.

Mr. KEIFER. I was under the impression that it required the written consent.

Mr. RIXEY. No; it does not.

Mr. McCALL. Mr. Chairman, what I wish to say is called out by letters to the chairman of the Committee on Naval Affairs, which have just been read. The phraseology of these letters, it seems to me, is not exceedingly frank. They do not deal frankly with the real evil, which is permitting boys under 18 years of age to enlist. I had a case in my district where a boy residing in the city of Cambridge was enlisted by a recruiting officer before he had reached his fifteenth birthday. That fact was undeniable, and from that it would almost seem necessary to have a provision in the law that these recruiting officers should not enlist infants in arms.

Mr. FOSS. Let me say to the gentleman that when a boy comes to the recruiting office and asks to enlist in the Navy he has to make out this statement——

Mr. McCALL. Oh, I understand.

Mr. FOSS. His name and birthplace, and then, in addition to that, when he is under age, he has to have made out this oath of parent or guardian and sworn to before a proper officer.

Mr. McCALL. But when a boy is only 12 or 13 or 14 years of age he does not understand the importance of an oath, and I believe that our recruiting officers are not sufficiently careful in enlisting boys who may be under 18 years of age. When a boy of 14 does enlist, then there is a great ado about the papers that this infant has signed and the perjury that he has committed. Now, in this particular case, instead of discharging that boy immediately, as he should have been discharged, under the theory that he was not fitted for the service, they went to work and tried him for a fraudulent enlistment. The trial was before officers of the Navy, who were humane men. How they reached their verdict I can not understand, but they found that he was not guilty. So it must have been that they were very much affected or influenced by the tender age of the boy, and the result of it was that he was finally discharged because he was unfitted.

It is an undeniable fact that in the neighborhood of these recruiting stations, which in the city of Boston are in the vicinity of a great many saloons, you will see pictures representing the blue water and a beautiful ship and a sailor who looks almost superior to an admiral, pictures which appeal strongly to the imagination of a boy. A boy goes there and does not understand the legal documents, and I submit that the recruiting officers—I know of two or three instances of the sort—do not, as a matter of fact, exercise the care that they should exercise in dealing with young boys. I do not know whether the amendment of my colleague is in workable shape or not, but unless this abuse is reformed by the Navy Department it should be reformed by Congress.

Mr. BARTLETT. I should like to ask the gentleman a question.

Mr. McCALL. Yes.

Mr. BARTLETT. I should like to inquire of the gentleman from

Massachusetts what right a naval officer now has under the law of the United States to enlist a boy under 21 years of age without the consent of his parents?

Mr. McCALL. I was not talking about the right of a naval officer to enlist a boy; but what they do is this: They produce these legal documents, which they ask the boy to sign, and in those documents the boy sets forth a case which, upon its face, justifies the officer in enlisting him. Then they have him swear to his age, and when it is found that the boy is under age—in the case of this boy I referred to, under 15—then he is accused of fraudulent enlistment, and his father has this alternative, either to permit his boy to remain in the Navy, although too young for it, or else run the risk of his being tried for fraudulent enlistment and sentenced to a term in prison and to have him dishonorably discharged from the Navy, which will forever disqualify him from serving his country.

Mr. BARTLETT. I wish to suggest to the gentleman that if there is no law now on the statute books which permits a boy to be enlisted under age, without the consent of his parents, then all enlistments under 21 years of age are illegal, and if the law now does permit enlistments under 21 years of age without the consent of parent or guardian it should be changed, and in that way these cases will be prevented. I have had several cases of this sort in my district, and I want to prevent anything more of the kind.

Mr. McCALL. Then the gentleman believes in the amendment offered by my colleague?

Mr. BARTLETT. Certainly I do.

Mr. McCALL. I am disposed to accept that.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. FOSS. Mr. Chairman, I desire to correct a little misinformation in regard to this matter. I desire to call to the attention of the gentleman from Massachusetts [Mr. McCALL] these facts: When a boy goes to the recruiting office to enlist he is obliged to answer these questions: Name, birthplace, date of birth, nativity, present residence of parents, height, weight, color, and then he is examined as to chest measurement, what sickness he has had and at what age, and is asked a number of other questions. Then, if he is under 18 years of age, his parent or his guardian must swear to this before a proper officer:

I, ———— ————, residing in ————, county of ————, State of ————, do hereby consent to the enlistment of ———— in the Navy of the United States as ———— to serve until ———— unless sooner discharged, subject to all the requirements and lawful commands of the officers who may from time to time be placed over him, and I do hereby relinquish all claim to his services and to any wages or compensation for the same, and I do hereby certify that he was born in ———— on the —— day of ————, 19—, and I, the said ————, do solemnly swear and affirm that I am the parent of said boy.

That is sworn to before an officer. Now, what better evidence could the recruiting officer have than that?

Mr. McCALL. Mr. Chairman, will the gentleman yield for a moment?

Mr. FOSS. Yes.

Mr. McCALL. That is in a case where the boy swears he is under 18 years of age, but suppose a boy of 14, as in this case, has made an affidavit that he is over 18 years of age, then where do you get the oath of the parent? I say that there are too many of those young minors enlisted and their oaths accepted as proof of the fact that they are over 18 years of age, when they simply want to break into the Navy, and that sufficient care is not used by recruiting officers in dealing with such young boys.

Mr. FOSS. Most of these cases, I think, which have been referred to on the floor have been where boys were very anxious to get into the Navy, and perjured themselves in order to get there.

Mr. KELIHER. Mr. Chairman, I desire to ask the gentleman from Illinois if it is not a fact that the case he has cited does not cover the cases that we are aiming to cure the abuse of at the present time. The gentleman is reading a certificate blank that is to be filled out by the parent of a boy who says he is under 18 years of age, who is an honest applicant, who has the consent of his parents. What we are going to get at is the case of a boy who says that he is over 18 years of age, when, in fact, he is about 15, or under, and who perjures himself by declaring he is over 18. That is the boy we are trying to get at, and he is not reached by the oath demanded in the certificate that the gentleman from Illinois reads. [Applause.]

Mr. SULLIVAN of Massachusetts. Mr. Chairman, will the gentleman yield for a question?

Mr. FOSS. Yes.

Mr. SULLIVAN of Massachusetts. I want to point out to the gentleman from Illinois the further fact that even in the case he mentions that oath required does not have to be taken before the recruiting officer, but may be taken before some one else. Therefore the recruiting officer has no means of knowing whether the persons who made the oath were actually the parents of the boy.

Mr. FOSS. That is true. The oath is taken before any officer who has the power to administer oaths.

Mr. GREENE. Mr. Chairman, I would like to state that I live in a city 18 miles from Newport, R. I., where there is a naval station, and there are a very large number of enlistments in the city where I reside. A great many young boys are enlisted. They become dissatisfied with something at home or something in the mill where they work and go to the naval recruiting officer, and he asks them their age. They are all posted as to what is required of them, and they state that they are over 18 years of age. Of course they commit perjury—we all know that; but they are enlisted. Their parents do not know where they are, and they get away from home and the first information the parent has is that he gets from receiving the boy's clothes from Norfork, Va., or somewhere else. He then finds that his boy has enlisted in the Navy, and yet that boy is under age. I have many, many letters from parents in regard to such matters, and I am met by the certificate of the Secretary of the Navy, approved by the President, under which no person can get out of the Navy unless the commanding officer consents or unless the boy has proved inefficient or is in ill health. If a provision were made like that which my colleague from Massachusetts [Mr. KELIHER] has offered, providing for the birth certificate to be produced, it seems to me that that would cure the evil. I know the Navy Department states that the birth certificate is difficult to produce. I am positive, however, that it is not difficult to obtain a certificate of birth.

Mr. FOSS. Mr. Chairman, may I interrupt the gentleman to suggest that in some cases they probably could not procure the birth certificate?

Mr. GREENE. Well, in the cases where the birth certificate can not be secured, then the boy had better not be in the Navy. It can be procured from the city or town clerk, for every city or town clerk in the State of Massachusetts keeps a record of the births, and if the boy is a Catholic, it can easily be procured from the parish records.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. GREENE. I want to say those certificates can be furnished no matter what the Navy Department states about it; they can be furnished.

Mr. FOSS. I yielded for a question only and——

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOSS. I ask for five minutes more.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. FOSS. I want to say just one word upon this subject. This amendment which is before the House requires that the recruiting officer shall demand a certificate of birth or some other evidence from the young man. As it is at the present time they require an oath from the parent or guardian before enlisting the young man in the Navy. In some cases those are forged undoubtedly. Young men are so desirous of getting into the Navy they get somebody to swear they are the parent or guardian and that is brought to the recruiting officer and the young man is enlisted in the Navy. That is undoubtedly done at the present time, but it seems to me all these matters ought not to be regulated here by Congress. We ought not to provide what evidence as to age the recruiting officer shall take. You might go into a whole lot of other questions as to nativity and as to many other things which the applicant has to answer in his application. Those are matters to-day of regulation by the Department.

Mr. WACHTER. Will the gentleman yield?

Mr. FOSS. Now, if those gentlemen who have grievances would go to the Department, or speak to me about them, I would be glad to have the regulation changed; but this is a matter purely of regulation. If you adopt this amendment introduced by Mr. KELIHER you may absolutely tie up this whole appropriation of recruiting because the Comptroller of the Treasury passes upon this. You say by this amendment no part of this sum shall be used unless satisfactory evidence is brought as to age of every applicant who comes to the recruiting officer to enlist, and what the Navy Department is fearful of is that you will absolutely make it impossible for them to recruit any men during the coming year and that the whole matter will become simply a legal question tied up here in the Comptroller's office. Now all these matters of regulation as to enlistment, as to what evidence shall be taken with reference to age and such question, ought to be a matter of regulation in

the Department. Any grievances which are made here by Members of Congress which are just and reasonable will be remedied by the Department.

Now, that is where we ought to leave this matter, in my judgment. I think in the question of enlistment we often listen to stories and yarns told by the parents of a good many of these boys. Why, I know one day parents will come to us and wish to enlist boys in the Navy, and after the boys have been in the Navy a few weeks and do not find it as congenial a life as they expected they want to get out, and the same parents who a few weeks ago urged us to secure enlistment for their boys a few weeks afterwards come back and try to move heaven and earth to try to get those boys out of the Navy. Now, there must be some rule. If you are going to have a navy, you must have some rule in regard to enlistments and discharges, otherwise you will not have a navy. If you are going to leave it to the caprice and whim of the parents or the boy that he may go into the Navy whenever he wants and go out whenever he wants, what sort of a personnel are you going to have? Now, I want to say something has been said here on this floor with reference to this fraudulent poster, so called. I thought I would bring in one here this morning. Look at it for a moment. Is there anything so fraudulent about that poster? That is taken from actual life. This is the battle ship *Connecticut*, and the picture was taken of that ship and put here in this poster. Now, the picture of this boat down here and these sailors in it was taken down here at the Washington Navy-Yard. How would you paint the clothing on those sailors; any different color from blue? How would you paint the boat; any different color from the white it is? How would you paint the American flag in colors different from the red, white, and blue? I tell you that these statements which have been made here criticising the Bureau of Navigation and the recruiting officers of our Navy I do not believe are justified by the real facts. I do not see anything out of the way about that poster that would indicate or would justify gentlemen saying it was a fraudulent one and that the Navy is trying to impose upon the people and the boys of the country.

Mr. PARKER. Will the gentleman permit a question?

Mr. FOSS. Yes.

Mr. PARKER. What does the gentleman say to that big capitalized statement on the poster, "Pay $16 to $70 a month?" It is good after they have been promoted to officers, but it is not good when they first go in.

Mr. FOSS. They have raised the pay up to $16 a month.

Mr. PARKER. How does it get to $70 a month except when they have been promoted after long service?

Mr. FOSS. They go on up to $70.

Mr. PARKER. How soon?

Mr. FOSS. Not only that, but when they come to the recruiting office they get these pamphlets, which they can read through, and which are entitled "Advice and Instruction for Recruits."

Mr. COCKRAN. Mr. Chairman, I would like to ask the gentleman a question.

Mr. FOSS. Here is another poster.

Mr. COCKRAN. I would like to ask the gentleman from Illinois if the poster that he has been exhibiting fairly represents to the mind of an applicant for enlistment the whole routine of his duty in the Navy?

Mr. FOSS. Oh, no, no.

Mr. COCKRAN. Now, I will ask the gentleman if there can be a more effective method of misrepresentation than what is known as the suppressio veri?

Mr. FOSS. I will let the gentleman answer that himself.

Mr. COCKRAN. There is only one answer.

Mr. FOSS. You can not put into a picture like that all of the duties——

Mr. COCKRAN. But I asked the gentleman——

Mr. FOSS (continuing). Which the men in the Navy will be called upon to perform. But in addition to this there are pamphlets entitled "Advice and Instructions for Recruits in the United States Navy." There is plenty of information given to them if they will only read it.

Mr. GOLDFOGLE. That is not the only poster.

Mr. FREDERICK LANDIS. Could you not have an album of several hundred pages, with moving pictures in it?

Mr. McNARY. Mr. Chairman, I would like to ask the gentleman if that poster is not the result of a number of designs advertised for by the Navy Department, sent out through the Post-Office Department, and luring young boys into the Navy, and whether the prize was not made to the firm that submitted it and had it printed?

Mr. FOSS. I did not hear the gentleman's question.

Mr. McNARY. I will ask it again. I would like to know whether or not that poster is not the prize design poster submitted by a firm in Washington as a result of the request of the Navy Department for bids and for designs, and that that poster, submitted with a number of others, was agreed upon as being the most attractive, possibly, and alluring, to induce young boys to enter the Navy? Whether or not that particular poster is not a prize poster paid for by the Department?

Mr. FOSS. I do not know whether that is a fact or not. This is the first time I have heard of it.

Mr. McNARY. It is so stated to me, and the concern that won the prize is a Washington concern, located down near the corner of Fifteenth street and Pennsylvania avenue, or thereabouts.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. Foss] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that his colleague [Mr. Foss] may proceed for five minutes. Is there objection?

There was no objection.

Mr. MANN. Now, will my colleague yield to me for a question?

The CHAIRMAN. Does the gentleman from Illinois yield to his colleague?

Mr. FOSS. I do.

Mr. MANN. I would like to ask my colleague whether he thinks it is essential to the Navy, in order to obtain men for it, that it shall imitate the circus country poster, which is issued in flaming colors to get boys inside the circus? Is it necessary for the United States Government to imitate Barnum and Bailey to secure men to run the Navy?

Mr. FOSS. No; I do not think it is necessary, nor do I think that these advertisements are of that character.

Mr. MANN. Certainly that which the gentleman produces is an imitation of a circus poster.

Mr. SULZER. Worse than a circus poster. It says, "What a splendid opportunity to see the glories of the Orient!" [Great laughter.]

Mr. DAVIS of Minnesota. Will the gentleman allow me to ask him a question?

Mr. FOSS. Yes.

Mr. DAVIS of Minnesota. I am heartily in accord with the gentleman from Illinois, the chairman of the Committee on Naval Affairs, and the Navy of the United States, in their effort to secure good sailors for the Navy. Now, for information for myself, and I think the House wants similar information, I would like to have the gentleman exhibit the other poster that he held underneath the one with the picture of the ship on.

Mr. FOSS exhibited the poster.

Mr. DAVIS of Minnesota. I notice it says in large type, "Great opportunity for advancement."

Mr. FOSS. Yes.

Mr. DAVIS of Minnesota. Now, I am unaware of the opportunities for advancement of the common sailor in the Navy. For the benefit of the House, and information purely, I would like to ask the gentleman if he has sufficient knowledge to inform the House what the "great opportunities for advancement" are in the Navy as regards the common sailor, other than age?

Mr. FOSS. Well, a boy may enter the Navy, and if he proves himself to be a good man, he can go up through the different grades of petty officers and go up into the commissioned grade of the Navy.

Mr. GOLDFOGLE. How long does that take him? Has the gentleman any record to show?

Mr. DAVIS of Minnesota. What boy has been able to get to be an Admiral of the Navy?

Mr. MANN. How many enlisted men have become commissioned officers in the Navy?

Mr. KEIFER. Farragut and others came up from service on the deck.

Mr. DAVIS of Minnesota. I am very much obliged for the information, and it is surely information to me; I never heard very much of it before. But does the gentleman think that the young men really appreciate what is the meaning of that "great opportunity for advancement" he has? And if so, I think the country and the House ought to know it.

Mr. FOSS. Well, it depends entirely upon the boy. I do not presume a boy of 17 or 18 years of age fully understands the opportunities or appreciates the position.

Mr. DAVIS of Minnesota. That is just what I wanted to know, and I thank the gentleman for it.

Mr. FOSS. It all depends upon the boy.

Mr. GOLDFOGLE. Why do you put in your advertisement,

"Good opportunity for advancement," when there are very few cases indeed in which advancement is open to the men; and that that is true is proven by the records of the Department.

Mr. FOSS. Every man has a fair chance.

Mr. GOLDFOGLE. How many have been advanced from the position of an enlisted man to a commissioned officer of high rank within the last, say, ten years?

Mr. MANN. Or a commissioned officer at all?

Mr. GOLDFOGLE. Or a commissioned officer at all, as suggested by the gentleman from Illinois.

Mr. FOSS. A number of them have.

Mr. GOLDFOGLE. How many?

Mr. LACEY. I would like to ask the gentleman——

Mr. SULZER. Mention one.

Mr. FOSS. I do not know their names, but they can be furnished.

Mr. GOLDFOGLE. How many in all?

Mr. FOSS. I can not give the exact number.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. LACEY. I want to suggest to my friend, the chairman of the committee, that in view of the various suggestions made on the floor here——

The CHAIRMAN. The time of the gentleman from Illinois has expired. The committee will be in order, and all gentlemen will be seated.

Mr. FOSS. I ask unanimous consent that I may have two minutes more.

The CHAIRMAN. The gentleman asks unanimous consent that his time may be extended for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. LACEY. I would suggest to my friend from Illinois that he ask the Navy Department to amend these handbills and put on them, "Who enters here leaves hope behind," in order to encourage enlistment. That seems to be the thought of a great many gentlemen here.

Mr. GOLDFOGLE. The gentleman from Illinois [Mr. Foss] exhibited a postal here——

Mr. FOSS. I want to answer the gentleman's question. The number allowed, I am informed, each year is twelve of the deserving young fellows who can go into the commissioned ranks.

Mr. GOLDFOGLE. I am speaking of the number that are actually advanced.

Mr. FOSS. I do not know how many have been advanced, but I think probably the full number each year.

Mr. ROBERTS. Oh, no.

Mr. GOLDFOGLE. By no means.

Mr. FOSS. Or very nearly the full number.

Mr. GOLDFOGLE. By no means. But I wish to ask you one other question. You exhibited to this House a poster.

Mr. FOSS. Yes.

Mr. GOLDFOGLE. Is that the only poster you are aware of that has been put out to lure young men into the Navy?

Mr. FOSS. There is a larger poster.

Mr. GOLDFOGLE. I should say so.

Mr. FOSS. And here is a photograph of it.

Mr. GOLDFOGLE. Is not that a very large poster, about the size——

Mr. FOSS. It is about 10 feet long and 6 or 7 feet wide.

Mr. GOLDFOGLE. About the same size that the theaters and circuses use, as was suggested here.

Mr. FOSS. It says: "Young men wanted for the Navy, ages 17 to 35. Communicate with the recruiting office."

Mr. GOLDFOGLE. And a picture of a large battle ship.

Mr. FOSS. Yes; the *Connecticut*.

Mr. SULZER. And oriental trees in the distance.

Mr. GOLDFOGLE. Palms and beautiful foliage in the distance. Are not those very large posters that you have just mentioned displayed in all the cities in the United States, on the dead walls of the city?

Mr. FOSS. They are displayed. On what kind of walls they are displayed I do not know.

Mr. GOLDFOGLE. Well, they are displayed on the fences and dead walls of the cities. Is not that true?

Mr. FOSS. I think that is probably true.

Mr. GOLDFOGLE. Does the gentleman from Illinois believe that is the proper way of advertising the United States Navy with dignity and of attracting worthy young men to go into the service? I should like a frank and fair answer from the gentleman from Illinois.

Mr. FOSS. What would the gentleman from New York do?

Mr. GOLDFOGLE. I would not attempt any such claptrap advertisements in order to attract men into the Navy.

Mr. KELIHER. Mr. Chairman, the House has heard the statement submitted by the naval officials to the effect that great care is exercised in recruiting these boys. Nevertheless, if a recital of the complaints known to Members of this House should be called for at this time, the afternoon would be taken up in listening to harrowing tales that have come to the personal attention of almost every Member. The recruiting officers must plead guilty to one of two things—either they are lamentably lacking in judgment, or they willfully ignore the spirit and letter of the enlistment law. If the Navy wants these young boys, let it say so, and let it be done strictly by regulation and in accordance with law.

Mr. LILLEY of Connecticut. How would you get them?

Mr. KELIHER. If the gentleman will be patient for five minutes I will endeavor to tell him.

Mr. LILLEY of Connecticut. Will you allow me just to say to you that we are some seven or eight thousand short now of making up our quota, that the ships have not men enough to man them, and even with all these alluring advertisements we are unable to get enlistments enough.

Mr. WILLIAMS. Does the gentleman want these boys in the Navy who are under age?

Mr. LILLEY of Connecticut. I think a boy, if he intends to follow a seafaring life, is old enough when he is 17 or 18 years of age to go into the Navy.

Mr. WILLIAMS. As the gentleman from Massachusetts [Mr. MCCALL] says, why make a restriction in the law that you do not follow?

Mr. LILLEY of Connecticut. I should like to know how you are going to get men for the Navy?

A MEMBER. Pay them better.

Mr. LILLEY of Connecticut. It has been impossible to get them this past year or two. We are seven thousand short of our quota.

Mr. GOLDFOGLE. Does the gentleman think that a boy 17 years of age, whose mother is insane and whose father is dead, should be kept in the Navy when his services are imperatively demanded at home?

Mr. LILLEY of Connecticut. No; I do not.

Mr. KELIHER. Mr. Chairman, I am not complaining about the age fixed by the Department in the regulations at which they take the boys, but we are aiming to keep out the boy who falsely declares himself to be of an age beyond that which is his own age. That is the boy we are trying to keep out. The age is fixed by statute, and the regulations are based upon this statute. The statute gives the Secretary of the Navy the right to take boys from 15 to 18, and to show that the Department itself did not want these boys it, of its own accord, of its own volition, raised the age from 15 to 17; so that the boy to-day can not enlist unless he perjures himself if he has not reached the age of 18.

Mr. GOLDFOGLE. Will the gentleman from Massachusetts yield?

Mr. KELIHER. Yes.

Mr. GOLDFOGLE. Is it not a fact that when a boy does enlist under the lawful age and seeks to be discharged through his parents, the officers of the Navy threaten that they will court-martial this young infant if he dares to assert that he is under age?

Mr. KELIHER. Mr. Chairman, that sad fact has been impressed on the minds of every Member of this House fully. I shall take no more time to emphasize it. But, Mr. Chairman, the point I make is this: The gentleman from Illinois holds in his hand a blank certificate of enlistment pointing out that a boy who declares that he is under 18 years of age has to obtain the consent of his father and mother, and that the statement has to be made under oath. Yes; the honest boy is compelled to bring a statement of his parents sworn to, but the perjurer, the youthful perjurer, with no conception of the enormity of his crime, boldly walks in and declares that he is over 18 years of age, and is accepted without a line or word of evidence other than his falsely uttered statement. My amendment simply makes it necessary for the young evil doer to procure a certificate of his birth or present other written evidence to the effect that he is over 18.

We hear a great deal said in this House that that is impossible. The boys who are enlisting to-day, Mr. Chairman, are around 15, 16, 17 years of age, and in many instances under 21. Now, within the last twenty years our nation has made great progress, and there is scarcely a city, town, or hamlet in this country where provisions have not been made for the registration of births. We are not in war times. It is not necessary to hastily press these boys into service. We might say to them, "Wait a week and write home," even if they belong in Kansas or California; "Write and get your birth certificate." My amendment is drawn with sufficient latitude to do away with that when it proves impossible or impracticable.

The CHAIRMAN. The time of the gentleman from Massachusets has expired.

Mr. RYAN. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the time of the gentleman from Massachusetts be extended five minutes. Is there objection?

There was no objection.

Mr. KELIHER. Mr. Chairman, if this amendment obtains the recruiting officer says to the boy, "How old are you?" He says, "I am 19 years of age." The recruiting officer says, "I want a certificate of your birth." The boy says, "I can't get it." Then the officer, when he finds this to be so, says, "Get some evidence. Where did you work last? Get the evidence from the man you worked for. Get me some satisfactory evidence of any sort."

Mr. Chairman, I want to say that I offer this amendment simply and solely for the purpose of having something—when we find a boy of 14 or 15 enlisting as 18 or over—something in the hands of the recruiting officer to show us upon what evidence he took the boy in. If the recruiting officers had two eyes they would not have accepted these striplings in the Navy to-day. It is simply to bind the recruiting officer to the proper performance of his duty that this amendment is offered to the regulations under which he now recruits.

They tell us that the Treasury Department will hold up the recruiting of the Navy. I would like to ask the chairman of the committee how many times the Comptroller of the Treasury in the auditing of Navy accounts relative to the payment of money for enlisted men has paid any attention to whether enlistment laws or regulations have been strictly observed? I venture to say that he knows of no case whatever. The only trouble with the amendment is that the naval department is unnecessarily sensitive; it believes that we are reflecting on the character of the recruiting officers. I say nothing of their character, but I would that they had used better judgment in the past, and there would have been less of this trouble.

Now, Mr. Chairman, as I said before, the subject of recruiting is established by statute law, and I do not aim to change any statute, but simply to change the regulation in a slight way. I want by my amendment to have the law and regulations properly amended, and so that it will work no hardship to anyone. The duty of getting evidence required does not devolve upon the recruiting officer. It devolves upon the applicant. I repeat, Mr. Chairman, that the Navy Department itself raised the minimum age from 15 to 17. I speak to-day, Mr. Chairman, in no spirit of hostility to the Navy Department or its officials.

I speak for the mothers of the land who lose their boys, rattle-brained young fellows with no conception whatsoever of the seriousness of the crime of perjury. After they have been enlisted they complain to their mothers and the mothers appeal to the Congressmen, but under the ironclad order issued by the President it is impossible to get these boys out without a court-martial. It is to obviate that form of trouble and complaint that this amendment is offered. I reiterate that if it were not for the sensitiveness of the officers in the Navy Department there would not be one syllable of opposition offered to my amendment, which I trust the good sense and sympathy of the House will adopt.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CURTIS having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment joint resolution and bills of the following titles:

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan adjoining certain lands in Lake County, Ind.;

H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvement at the expense of persons, companies, or corporations; and

H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across Roanoke River at or near Weldon, N. C.

The message also announced that the Senate had passed bill and joint resolution of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5989. An act to authorize the construction of a bridge across the Missouri River in Broadwater and Gallatin counties, Mont.; and

S. R. 54. Joint resolution authorizing a change in the weighing of the mails in the fourth section.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

Mr. WACHTER. Mr. Chairman, I call for the reading of the amendment.

Mr. FOSS. Mr. Chairman, I do not want to take up all the afternoon in discussing this matter. I therefore move that all debate on the pending paragraph and all amendments thereto be closed in fifteen minutes.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois to close all debate on the pending paragraph and all amendments thereto in fifteen minutes.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The gentleman from Maryland asks for the reading of the amendment. Without objection, the Clerk will again report the amendment.

There was no objection; and the Clerk again reported the amendment.

Mr. RIXEY. Mr. Chairman, I think in the matter of recruiting we ought to be just to the Government, to the parent and guardian, and to the boy. If the Government acts fairly in the matter of enlistment no harm will be done. It is entirely right and proper for the Government to advertise in a proper way the fact that it needs sailors, and to state what are the advantages to the enlisted men. I think the amendment offered by the gentleman from Massachusetts [Mr. KELIHER] is objectionable and will lower the protection rather than increase the safeguards. His amendment provides that the enlisting officer shall have the certificate of birth or other satisfactory evidence. If, therefore, the officer who enlists is called on to explain why he enlisted a minor he can readily say, "Why, the evidence furnished to me was satisfactory." The evidence might not be satisfactory to anybody else; it does not require the consent of the parent or guardian. His rights are entitled to protection.

Mr. GOLDFOGLE. Does not the amendment say written evidence?

Mr. RIXEY. No; it does not.

Mr. WACHTER. Does not the gentleman believe that that would be a method of bringing it to the notice of the parent or guardian?

Mr. RIXEY. Not necessarily. The officer might say that the affidavit of the boy was sufficient evidence. Certainly it ought not to be left in that way. The present statute provides that where the boy is under 18 years of age the officer shall not enlist him without the consent of his parent or guardian, and I certainly would not alter that law. All that I would do would be to enlarge the scope of it and provide that no boy under 21 years of age should be enlisted without the written consent of his parent or guardian. When you provide that it seems to me it is as far as we can go in justice to all the parties, and the amendment which I offer carries out this idea and requires the enlisting officer to have the consent of the parent or guardian. If the parent or guardian gives written consent and the boy is willing, why should anybody else object? The Government wants the seamen and if the parent is willing and the boy is willing, it seems to me he ought to be allowed to enlist.

Mr. SPARKMAN. Is there not a law now which makes it incumbent upon the officers to discharge these boys when they are found to be under age?

Mr. RIXEY. No; I think not.

Mr. SPARKMAN. Would it not be a good idea to incorporate something of that nature in the amendment?

Mr. RIXEY. If a boy is enlisted without the consent of his parent or guardian where that is required, then as a matter of law the parent or guardian has a right to have the boy discharged.

Mr. WACHTER. But suppose the boy swears that he is 21, and he is not 21?

Mr. RIXEY. If the boy swears that he is 21 when he is not, but appears to be 21, and the officer knows nothing to the contrary, and he is enlisted, then the only thing that can be done is to prosecute the wrongdoer, just as the gentleman would have to do if his name was forged. If the boy is accountable, he can be held responsible for false swearing.

Mr. WACHTER. Then that brings the situation back to where it is now.

Mr. RIXEY. I say that, so far as that is concerned, you can not relieve a man who is of responsible age from responsibility for his acts. I would protect the rights of the parent or guardian, and in doing that it would protect the boy himself.

Mr. BURTON of Delaware. Would the written consent of his parent or guardian add to that, if any exists? A boy who is an orphan and has no estate would have no parent or guardian.

Mr. RIXEY. Then, does not the gentleman think in that case the boy ought to have the protection of the court, and that the court ought to appoint somebody as guardian to act for him?

The CHAIRMAN. The time of the gentleman has expired.

Mr. GREENE. Mr. Chairman, I listened to the remarks of the gentleman from Illinois [Mr. Foss], and he advises Members of this body to go to the Navy Department, and there they will consider the complaints that are made. I have been to the Navy Department many times and have frequently written them, and I have received in reply a little slip of paper on which is a statement from the Assistant Secretary of the Navy giving the conditions under which the man can be discharged from the Navy, and that is accompanied by the order of the Commander in Chief of the Army and Navy forces of the United States, Theodore Roosevelt, under which the Navy Department can shield itself from any responsibility. The instructions to the enlisting officer provide that he shall not knowingly enlist any boy under age. The amendment presented by my colleague is not unreasonable, and it ought to be adopted.

The printed slip, to which I have referred, provides that the recruit can not be discharged except upon complaint to his commanding officer or unless he has proved inefficient or unfit for the service. Therefore the boy having been enlisted in the service by reason of the fact that he has made a false statement, there is no method by which he can be discharged except to submit to punishment for perjury and a dishonorable discharge from the Navy. The amendment offered by my colleague from Massachusetts [Mr. KELLIHER] I claim cures that evil. The gentleman from Illinois says that it will stop enlistments. If it stops enlistments, it is far better for the Navy to stop them, and my idea would be for the Navy Department to make other provisions for securing enlistments rather than to induce young boys to commit perjury in order that they may enlist in the United States Navy. There are complaints about desertions in the United States Navy. The desertions arise largely from the young boys who get into the Navy and are unfit for the service and ought not to be there, and in regard to the difficulty in furnishing birth certificates, my idea would be, if birth certificates can not be furnished, then it would be better that the naval officer should not obtain the recruits.

Mr. BATES. May I ask the gentleman a question?

Mr. GREENE. Yes.

Mr. BATES. Is the gentleman aware, in connection with what he is just stating, how many enlistments there were during the year 1905?

Mr. GREENE. No; I am not aware of the number.

Mr. BATES. Let me read the figures, if the gentleman will allow me.

Mr. GREENE. If you do not take too long; make it short.

Mr. BATES. There were 41,000 applications, and out of 41,000 applications there were 28,000 rejected and only 11,000 passed that were finally admitted.

Mr. GREENE. That makes no difference. What I state would be true if there were only 1,000 accepted. I do not say they do not reject men that ought to be rejected or do not reject boys that ought to be rejected, but they do accept boys that they ought not to accept, and it is not to the credit of the United States Navy that they accept these boys; it is not to the advantage of the United States Navy that they enlist them, and it is, in my judgment, far better to keep them out.

Mr. BATES. This only shows the charge which has been made on the floor of the House, that they take in everyone who applies, is not borne out by the facts.

Mr. GREENE. Whatever may have been said by anyone else I am not responsible for. I simply state they do accept boys who ought not to be accepted in the Navy, and if the boy of a Member of Congress should happen to be enlisted he would not stand it for a moment, but the present system hits the poor boy, the boys of the men who can not afford to take out a writ of habeas corpus to withdraw their sons from the Navy, and they have no means of redress, but are obliged to submit to these regulations which are wrong and ought not to be perpetuated, and I hope that the amendment presented by the gentleman from Massachusetts will prevail, or some amendment will be adopted that will cure the evil which I know exists. And I know that the desertions occur in the Navy and will occur as long as this method continues, and if it is necessary to raise the age or raise the pay it would be better that the Congress should raise the pay. This Government has money enough to increase the compensation rather than to undertake to build a navy up with boys entirely unfit for the service, who are wrung from their families in a way that should not be longer continued.

Mr. PARKER. Mr. Chairman, I do not know whether any amendment providing formalities will do any good. In my experience I have not found that formalities ever do anything but protect carelessness. The difficulty about this whole business of enlistments seems to lie in the care that is taken to see that only the right people are enlisted. My own town consists of about 300,000 people, and it is a large recruiting station, and we have an object lesson before us. There is a little Army recruiting station in that city during the year, where they have time and the opportunity to look into each case, see the parents and get their consents, and there is seldom, if ever, a complaint from the Army recruiting station on the subject of enlistments. But once every year for about a week or two weeks the town is posted with placards describing the benfits of going into the Navy, and a year ago in a week seven cases came to my attention which I could not bring before the attention of the Navy Department, because in about every one of those cases boys who were 16, 17, and 18 had sworn that they were 21 years of age, and to go to the Navy Department was to tell that Department that they had committed perjury, and to put them under the ball and chain.

Now, I do not care about those consequences compared to the act, for the horrible thing is the act of committing perjury, and that it should be encouraged by carelessness in this regard. It is only a few months ago that an Army case came before our committee. A soldier had been promoted to be an officer. His age as reported on promotion was a good deal younger than the age to which he had sworn when he entered the Army, and it was held that a man who had sworn falsely could not be promoted to be an officer. The disgrace is upon the man for life. But the disgrace is likewise upon the Department and the officers if they are careless in enlistments and try to get boys into the Navy without carrying out the regulations and without being careful to bring it before them that it is of importance whether their affidavits are strictly true.

Mr. SLAYDEN. Mr. Chairman——

Mr. KELIHER. Mr. Chairman——

Mr. FOSS. Mr. Chairman, I would like to ask if the time has all been consumed?

The CHAIRMAN. There are two minutes remaining. The gentleman from Texas [Mr. SLAYDEN] is recognized for two minutes.

Mr. SLAYDEN. I am surprised that any objection should be interposed on the part of anyone to the adoption of an amendment which will prevent receiving into the Navy young men who commit perjury, or which will undertake to correct the conditions which permit them to go in with even their parents deceived as to the conditions they are to encounter when they get in.

I do not believe, sir, that 17 or 18 years of age is too young to admit boys to the Navy, but it certainly ought to be done under frank and honest conditions. Frank and honest conditions require that the truth shall be told about their age, and the officers who recruit these young men should be compelled by law to ascertain absolutely what is the age of the boys when they come into the Navy. It has happened, sir, no doubt to every Member of this House, that Representatives have had their attention drawn to the fact that young men have been induced to go into the Navy, sometimes, I admit, because they have been self-deceived, with the idea that they will be able, by enlisting at a tender age and by the study of the profession of seamanship, to arrive at a commission. Now, frankly, sir, it is almost impossible for them to realize that ambition. When we passed the personnel act we provided a very small opening through which young men from the humbler ranks of life, young men without the advantage of graduation from the Naval Academy, might get into the Navy. But, sir, so far as I am advised, so far as this Naval Register discloses to a casual examination, only two young men have ever had the privilege of reaching the grade of junior lieutenant without graduation from the Naval Academy.

Mr. Chairman, the laws have made of the Navy an un-American institution. It is not inviting to the young men of the country, but it ought to be made so.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSS. Upon our side of the House there is a gentleman who was formerly in the Navy, and I am going to ask that three minutes be given to the gentleman from Massachusetts [Mr. WEEKS].

Mr. KELIHER. Regular order, Mr. Chairman!

The CHAIRMAN. Objection is made.

Mr. SULLIVAN of Massachusetts. If the gentleman from Illinois will give three minutes over here, we will agree.

Mr. FOSS. Yes. I move that we extend the debate six minutes, which will give three minutes to the gentleman from Massachusetts [Mr. WEEKS] and three minutes to the other gentleman from Massachusetts [Mr. KELIHER].

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the time for debate be extended for six minutes, three minutes of which are to be given to the gentle-

man from Massachusetts [Mr. WEEKS] and three minutes to the other gentleman from Massachusetts [Mr. KELIHER]. Is there objection?

There was no objection.

Mr. WEEKS. Mr. Chairman, I particularly want to refer to questions which were asked the chairman of the Naval Committee relative to that statement which is made on the enlistment posters that men receive from $16 to $70 a month and that there is further opportunity for promotion.

Men in the Navy do receive from $16 to $70 a month. At least 5 per cent of the men before the mast are petty officers, who receive when at sea from $40 to $70 a month. In addition to that, there is a grade of officers in the Navy known as warrant officers. Those men are promoted from the men shipped before the mast. There are in the Navy 47 chief boatswains, 93 boatswains, 45 chief gunners, 70 gunners, 39 chief carpenters, 56 carpenters, 6 sailmakers, 201 warrant machinists, and 36 mates. And I believe it is a fact that every one of these men were shipped before the mast and have since received their promotion.

Mr. SLAYDEN. Will the gentleman allow me to ask him a question?

Mr. WEEKS. Certainly.

Mr. SLAYDEN. How many have become commissioned officers in the Navy?

Mr. WEEKS. I am coming to that. The pay of these warrant officers, 596 of them, ranges from $1,300 to $1,800 a year, and every one of them, I believe, enlisted before the mast. In addition to that, under the present law, a law passed in 1901, the President is authorized to appoint from these warrant officers five officers a year to the grade of ensign in the Navy provided they can pass the required examination. That answers the question specifically, it seems to me.

Mr. MANN. How many has he appointed?

Mr. FOSS. About twenty.

Mr. MANN. And what is the reason that they have not been appointed every year?

Mr. WEEKS. Why not?

Mr. MANN. Because the Navy Department turns them down.

Mr. LILLEY of Connecticut. Because they can not pass the examination.

Mr. MANN. Because they will not permit them to take the examination. How many have been appointed?

Mr. WEEKS. That I do not know.

Mr. MANN. You can not give us that information.

Mr. WEEKS. The fact is these men can be examined, five each year, and they are given an opportunity to become commissioned ensigns in the Navy provided they come up to the required standard. [Loud applause.]

Mr. KELIHER. Mr. Chairman, as to the pay of these boys in the Navy or the pay of the petty officers in the Navy, I have no concern whatsoever. I am simply aiming to correct an evil, a specific evil, an evil known to exist by every Member of this House, Mr. Chairman; and I have consulted some of the best minds in this House, some of the best lawyers and parliamentarians, and they tell me that my amendment as drawn and as submitted by me will effect the result that all seek to obtain; and therefore I trust the House will accept my amendment as presented by me. Mr. Chairman, I repeat again, they will not be accepting an amendment which is carelessly drawn by a novice, but they are accepting an amendment carefully drawn after advising with those who thoroughly understand what I want to get at, and who assure me that my amendment will accomplish that at which we aim—to eradicate the evil of fraudulent enlistment of these boys who enlist without the knowledge or consent of parents, guardians, or anybody except to recruiting officer and themselves. [Applause and cries of "Vote!"]

The CHAIRMAN. The gentleman suggested that he desired to ask unanimous consent to change a word in his amendment.

Mr. KELIHER. I ask unanimous consent to insert in the amendment the word "written" that was left out through carelessness in presenting the amendment.

The Clerk read as follows:

Insert the word "written" before the word "evidence," so as to read "certificate of birth or written evidence other than his statement," etc.

The CHAIRMAN. Is there objection to the request of the gentleman to correct the amendment as indicated? [After a pause.] The Chair hears none.

The question is on agreeing to the amendment offered by the gentleman from Massachusetts.

Mr. RIXEY. I would like to ask if the first vote will not have to be on the substitute? I offered a substitute to the amendment of the gentleman from Massachusetts before he spoke, and sent it up to the desk.

Mr. GAINES of West Virginia. I ask that both the amendment of the gentleman from Virginia and that of the gentleman from Massachusetts be reported. I would like to hear them both.

The amendment of Mr. KELIHER was again reported.

The substitute offered by Mr. RIXEY was read, as follows:

Provided, That no part of this appropriation shall be expended for the enlistment of minors under 21 years of age without the written consent of the parent or guardian.

The CHAIRMAN. The question is on agreeing to the substitute offered by the gentleman from Virginia.

The question was taken; and the substitute was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken; and the amendment was agreed to. [Applause.]

The Clerk commenced to read.

Mr. RIXEY. Mr. Chairman, I would like to know what the Clerk is now reading.

Mr. TAWNEY. On page 29. I understand that we are going back to an amendment offered to a section passed over without prejudice.

The CHAIRMAN. Two paragraphs were passed by the committee without prejudice. One has been disposed of.

Mr. RIXEY. I would like to give notice now, as I did last evening, that at the end of the paragraph read last evening I propose to offer an amendment when we are ready to proceed with the bill.

Mr. FOSS. Mr. Chairman, there was another matter I wanted to take up in the Bureau of Ordnance. An amendment was pending, offered by the gentleman from Minnesota.

The CHAIRMAN. The gentleman asks to recur to the paragraph that was passed without prejudice.

Mr. TAWNEY. At the end of line 6, page 11.

Mr. WILLIAMS. Reserving the right to object, I would like to know what it is that unanimous consent is asked for.

Mr. FOSS. It does not require unanimous consent. The House has already passed the paragraph without prejudice.

Mr. WILLIAMS. If it does not require unanimous consent, why should the gentleman ask for unanimous consent?

Mr. FOSS. I did not ask unanimous consent that I recollect.

The CHAIRMAN. The paragraph was passed without prejudice.

Mr. FOSS. Mr. Chairman on this paragraph of ordnance and ordnance stores, before taking up the amendment offered by the gentleman from Minnesota, I desire to ask a correction of the punctuation; that a semicolon be inserted by the Clerk in line 25, page 10, after the word "material"—"handling ordnance material," then a semicolon.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 10, line 25, after "material," insert a semicolon.

The amendment was agreed to.

Mr. TAWNEY. Mr. Chairman, I wish to offer a substitute for the amendment that I offered, which does not change the amendment except in the phraseology. I wrote it hurriedly, and I want simply to change the wording and to have this substitute considered instead of the original amendment.

The CHAIRMAN. The gentleman from Minnesota offers a substitute for the amendment pending to the paragraph, which the Clerk will report.

The Clerk read as follows:

Provided, That no part of this appropriation shall be expended for shells or projectiles, except for shells or projectiles purchased in accordance with the terms and conditions of proposals submitted by the Secretary of the Navy to all of the manufacturers of shells and projectiles, and upon bids received in accordance with the terms and requirements of such proposals.

Mr. RIXEY. I should like to ask the gentleman from Minnesota a question. His amendment, as I understand it, only refers to the purchase of shells and projectiles?

Mr. TAWNEY. Yes.

Mr. RIXEY. Will the gentleman object to inserting after the words "expended for" the words "the purchase of?" As the amendment is written I think it would apply to all projectiles, and I understand that some of the shells and projectiles are made by the Government, and therefore the gentleman's amendment ought to be confined to the purchase, which result will be effected by adding after the words "expended for" the words "the purchase of."

Mr. TAWNEY. I will examine my amendment and ascertain whether those words can be inserted there. It is not my purpose to deprive the Government of the opportunity of manufacturing projectiles. My information from the Navy Department is that all these projectiles are manufactured by private establishments.

Mr. RIXEY. I understand that some of the smaller shells

and projectiles for test purposes at Indian Head are made by the Government.

Mr. BUTLER of Pennsylvania. I understood that the projectiles are made by a private concern and not by the Government.

Mr. RIXEY. I was informed on yesterday by a gentleman who ought to know that our shells and projectiles used at Indian Head were manufactured at the Washington Navy-Yard by the Government. But if they are all purchased this does not do any harm to put in the words which the amendment provides for.

Mr. TAWNEY. Mr. Chairman, I will, before the amendment is voted upon, look at it, and if it is necessary to correct it in that respect I am perfectly willing to do it. I want to ask the chairman of the Committee on Naval Affairs if it is not true that under this provision of his bill, under the paragraph in lines 19 and 20, there will be expended in the next fiscal year for shells and projectiles by the Navy Department a sum aggregating about $1,000,000?

Mr. FOSS. For shells?

Mr. TAWNEY. For shells and projectiles.

Mr. FOSS. I do not know how much of this appropriation of a million dollars which provides for the supply of powder and shells will be used to purchase shells. Of course it is all available for two things, powder and shells; how much will go for powder and how much for shells I do not know.

Mr. TAWNEY. I assumed, Mr. Chairman, that in providing for an appropriation of $1,000,000 for two distinct purposes the committee had probably ascertained the amount that would be expended of that appropriation for each of the two purposes. That was the reason I asked—to ascertain whether or not the amount was not about equally divided. So that under the current appropriation for ordnance the Navy Department is now expending $495,916.50 for shells and projectiles, and if one-half of the reserve ammunition which the Department is authorized to purchase under that paragraph to which I referred a moment ago is to be expended for shells and projectiles, then there would be an aggregate expenditure for this purpose of about $1,000,000 in the next fiscal year.

My purpose, Mr. Chairman, is not to embarrass the Navy Department in the least nor to limit the amount of expenditure for this purpose. My amendment is solely and alone in the interest of better administration, and to take away from any officer in this Department the opportunity of preferring one manufacturing establishment engaged in the manufacture of material or ordnance for the Navy to the extent that they are now engaged in that manufacture, of favoring one establishment to the exclusion of other manufacturing establishments.

The amendment is in line with the uniform and long-established policy of the Government; that is, when any of the Departments desire to purchase any material they must purchase in the open market, after submitting their proposals, inviting and receiving bids for that material, in accordance with the specifications and the conditions contained in the proposal.

In the War Department we have prescribed that they can not purchase beyond $500 worth of material except by advertising. In the other Departments we have provided that not to exceed $100 can be expended except upon public proposals and inviting a public and open competitive bid for material or supplies to be purchased.

Mr. LITTLEFIELD. May I inquire whether these provisions which the gentleman alludes to are provisions of general law.

Mr. TAWNEY. They are general law.

Mr. LITTLEFIELD. And apply to the other Departments?

Mr. TAWNEY. To all other Departments.

Mr. LITTLEFIELD. What provision is there that applies to the Navy Department?

Mr. TAWNEY. The same provisions apply to the Navy Department with the exceptions mentioned in section 3721 of the Revised Statutes. There are certain exceptions there mentioned, one of which is ordnance. That law was passed in 1847, when the Government of the United States was not expending a million dollars annually for the purchase of ordnance; when we did not have the manufacturing establishments in this country that we have to-day for the manufacture of shells and projectiles.

Now, it is said that all of our shells and projectiles used in the Navy are manufactured in private manufacturing establishments. There are four that I know of that are to-day engaged in the manufacture of these projectiles. Some of them have contracts for the manufacture of a certain class of projectiles as the result of open bids. Others are manufactured as the result of private contracts with the Navy Department. These different manufacturing establishments are all equipped for the manufacture of shells in accordance with the specifications prescribed by the Navy Department, and if they can not comply with the specifications they will not bid.

If they do bid and pretend to comply, the Navy Department requires that every one of the bids shall be accompanied with a bond to indemnify the Government against any failure to comply with the conditions of the contract.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAWNEY. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. TAWNEY. Mr. Chairman, the four companies that are engaged in the manufacture of these shells and projectiles are the Firth Sterling Steel Company, of Pittsburg; the Crucible Steel Company, located I do not know where; the Bethlehem Steel Company, and the Midvale Steel Company, of Philadelphia. In view of the magnitude of these purchases, in view of the fact that we have independent manufacturing establishments that are equipped and engaged in the manufacture of these shells, in view of the fact that all the shells and projectiles that are purchased by the War Department are purchased by open bids, as the result of proposals submitted by the War Department, I can not see why we should make an exception in the case of the Navy Department, and thus give to naval officers who are charged with the responsibility of making these contracts the opportunity of favoring one manufacturing establishment to the exclusion of all others engaged in manufacturing the same identical article.

Mr. LITTLEFIELD. What company now has the contract?

Mr. TAWNEY. My information is that there are two or three that have contracts for the manufacture of different kinds of projectiles.

Mr. LITTLEFIELD. For the Navy?

Mr. TAWNEY. The Firth Steel Company has the contract in Pittsburg, and I understand the Midvale Steel Company, of Philadelphia, has the contract for another class of projectiles.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I would like to ask the gentleman for information. How many firms are bidding for these armor-piercing projectiles? Did he say four?

Mr. TAWNEY. Not bidding; no.

Mr. BUTLER of Pennsylvania. How many firms in the United States have the capacity for making, satisfactorily, armor-piercing shells?

Mr. TAWNEY. I have given the names of four.

Mr. BUTLER of Pennsylvania. I understood the gentleman to say that there are other manufacturers as well equipped. Will the gentleman name them?

Mr. TAWNEY. I said that I did not have the names or the location of the other firms.

Mr. BUTLER of Pennsylvania. Will the gentleman answer me further—where did he get his information that there were other firms?

Mr. TAWNEY. I got the information first from the letter of the Secretary of the Navy.

Mr. BUTLER of Pennsylvania. That is good authority.

Mr. TAWNEY. In a letter which I will read, and further than that, from the gentleman's colleague from Philadelphia. On the 12th of April I made an inquiry of the Secretary of the Navy for the purpose of ascertaining how these purchases were made, whether or not they were made in the open market, or whether they were purchased as a result of private contracts let to these various manufacturing establishments, and on the 18th of April the Secretary replied to my letter as follows:

NAVY DEPARTMENT,
Washington, April 18, 1906.

SIR: Replying to your letter of the 12th instant, requesting to be advised as to what the practice of this Department has been and is in respect to the letting of shell or projectile contracts; whether or not the Department advertises for bids and, if so, whether there is competitive bidding for this work; also requesting to be informed as to what these contracts amounted to in the aggregate during the last fiscal year, I have the honor to inform you that the Chief of the Bureau of Ordnance, to whom your letter was referred, has submitted the following report, which covers the several inquiries contained in your letter:

"A distinction must be made in stating the Bureau's policy between those projectiles for which the requirements are so simple as to bring them within the range of general competition, and those (chiefly armor-piercing shells of large calibers) for which the requirements are so exacting that only a small number of firms in the country are in a position to undertake their manufacture with any hope of success.

"With regard to the first class, the Bureau's practice is to invite bids from all manufacturers who are believed to be equipped for undertaking contracts and completing them satisfactorily.

"With regard to the second class of projectiles, which, as above noted, are principally armor-piercing shells of large caliber, the policy

of the Bureau has been directed toward securing the very best that could be had, keeping in view that desirability of distributing orders in such a manner that the Department should, in the event of war, have as large a number of plants available as possible. In pursuance of this policy, contracts for shells of this class have in many cases been placed without competition, as authorized by section No. 3721 of the Revised Statutes.

"The aggregate amount of shell contracts for the past fiscal year was $495,916.50, of which $50,329 was spent for shell of the first class (as enumerated above), and $445,587.50 for shell of the second class."

Very respectfully, CHARLES J. BONAPARTE, *Secretary.*

Hon. JAMES A. TAWNEY, M. C.,
Chairman Committee on Appropriations,
House of Representatives.

Now, the Secretary of the Navy in this letter admits not only the desirability of encouraging the development of the manufacture of these projectiles and shells by different manufacturing establishments, but he also admits the necessity for it, especially in case of war, and yet under the policy of the Navy Department it is within the discretion of one officer to make it impossible to carry out that policy by favoring one manufacturing establishment to the exclusion of others.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I ask unanimous consent that the gentleman may have one minute more in which to answer a question.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the gentleman from Minnesota may proceed for one minute. Is there any objection?

There was no objection.

Mr. BUTLER of Pennsylvania. Has the gentleman the names of any firms beyond those already stated with sufficient capacity and ability to build these armor-piercing shells?

Mr. TAWNEY. I have not.

Mr. BUTLER of Pennsylvania. If the gentleman will permit the statement, there are five firms competing for these shells; only five firms pretending to compete for them or to make them.

Mr. TAWNEY. Well, that is enough.

Mr. LITTLEFIELD. Why shouldn't they have open competition? I know nothing about it.

Mr. BUTLER of Pennsylvania. I think they should have. Mr. Chairman, I move to strike out the last word. I have no quarrel with the amendment offered by the gentleman from Minnesota, and in defense of the Department I think it is but fair to say that there has been open and wide competition, the letter of the Secretary of the Navy to the contrary notwithstanding. The Department furnishes us this morning this information. The Firth Sterling Steel Company, of Pittsburg, is a competitor; the Bethlehem Steel Company, of South Bethlehem, Pa., is a competitor, and the Crucible Steel Company, of Pittsburg, is a third competitor. The Department says that armor-piercing projectiles have been ordered from the Carpenter Steel Company, of Reading, Pa., and from the Midvale Steel Company, of Philadelphia, the contracts being three years old. Further, the Department says that these firms have not as yet been able to deliver a satisfactory shell, and most of the orders have been canceled, although the Midvale Company is still trying to furnish 1,000 5-inch, but so far without success. That is all I have to say, and I say it in fairness to the Department.

Mr. FOSS. Mr. Chairman, I would like to say a word upon this matter. There are two classes of shells, I might say, to be considered in connection with this subject. In the first place, all the 5-inch shells and below that have been open to free competition, and all concerns have had a perfect right to bid, but with these heavier armor-piercing shells it has been impossible to get any concerns to bid on them, so that the Department has gone to different companies and encouraged them to take a contract to make these armor-piercing shells—12-inch shells, for instance, which we use in our 12-inch guns.

Mr. TAWNEY. Well, how does the gentleman justify that statement in the light of the information furnished by the Secretary of the Navy that they have expended almost half a million dollars for these large armor-piercing shells?

Mr. FOSS. Well, that was this last year; the year before the gentleman will find that we purchased a larger quantity of small shells.

Mr. TAWNEY. I understand, and it is in view of this practice that has grown up in this last year, in view of the fact these concerns are equipped and are to-day manufacturing these armor-piercing shells, I think as a matter of protection we ought to require the same policy in respect to those which we require in respect to the others.

Mr. FOSS. I agree with the gentleman, if we can go on the market and buy them, but we can not do that.

Mr. TAWNEY. But will not the gentleman concede that, when the Navy Department submits its proposal for the purchase of these shells, that it also submits the specifications and all the terms and conditions and tests that the manufacturer must conform to in order to comply with the contract, and does not the Department, in addition to that, require a bond for the faithful performance of that contract, with ample penalties to protect the Government? There is absolutely no reason that I can see for allowing this large expenditure to be made under private contract, and I submit in all candor to the chairman of the committee that it is not good administration to place in the discretion of one officer the expenditure of a million dollars, under private contract to be made by him, for the purchase of material amounting to that sum.

Mr. FOSS. I agree with the gentleman, if there are a number of concerns which can do this work and manufacture these projectiles, but they are so difficult to make, and the specifications of the Navy Department are going up all the time, because as we get information from abroad as to the standard there in reference to armor-piercing projectiles, then our standards and our specifications go up, and it has been the most difficult matter in the world to get any company to manufacture these projectiles. Why, here, for instance, in March, 1903, requisition was placed with the Crucible Steel Company of America for 600 10-inch shells, 600 12-inch armor-piercing shells, and this requisition has not been completed, and the Bureau has been forced to cancel its order for 200 of the 10-inch shells. So it is with the Midvale Steel Company. This company had an order for a thousand, but this company has not been able to begin work on this order, inasmuch as they have been unable to develop a satisfactory experimental shell. Here an order was given to the Carpenter Steel Company. So there has been no disposition on the part of the Navy Department to shut out anybody from competition in this matter, but the disposition of the Navy Department has been to try and find somebody who would manufacture these shells. That is the point.

Mr. TAWNEY. Now, will the gentleman permit an interruption right there?

Mr. FOSS. Yes.

Mr. TAWNEY. The gentleman says there has been no disposition to shut out any manufacturers. The Secretary of the Navy himself, in this letter, says that they have selected an establishment to manufacture these particular shells which, in their judgment, was the best equipped for the manufacture. Why, there is no competition there. Is it not shutting out every other manufacturer, if the Department goes out and selects only one and enters into a private contract with that one, without any knowledge on the part of the other contractors that the Government desires or proposes to purchase these projectiles? Is not that shutting out every other manufacturer; and if in doing that it is so necessary—and I think it is—that they should have a shell of the very best and highest quality, then why not encourage improvement in the quality of our shells by giving to all the manufacturers an opportunity to bid for these contracts?

Mr. MORRELL. Mr. Chairman——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. Foss] has expired.

Mr. ROBERTS. Mr. Chairman, I move to strike out the last word.

Mr. MORRELL. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Illinois be extended for five minutes.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MORRELL] asks unanimous consent that the gentleman from Illinois may continue his remarks for five minutes. Is there objection?

There was no objection.

Mr. MORRELL. Mr. Chairman, I would like, in view of that permission, to ask the chairman of the committee as to whether he is aware of the fact that a half million dollars of contracts for shells were awarded during the last year, and that in making those awards one, at least, of the companies mentioned as capable of manufacturing these shells was not given an opportunity to bid, and did not know that any contracts were being given out for the making or manufacturing of these shells?

Mr. FOSS. No; I am not aware of it.

Mr. MORRELL. That is a fact.

Mr. FOSS. But the policy of the Department is to give these shells to different companies who would make them. There are comparatively few companies who have any plant in which to make them. It is not a very large business in itself. It is only a side show, I may say, to a large industrial plant, and the Department in this way has encouraged a number to undertake the manufacture of these shells, so that in time of war we can call upon a large number to manufacture them. I desire to

present the views of the Bureau, as expressed in the following letters:

DEPARTMENT OF THE NAVY,
BUREAU OF ORDNANCE,
WASHINGTON, D. C., *May 9, 1906.*

MY DEAR Mr. FOSS: Replying to your telephone message of this morning concerning the amendment to the appropriation bill providing for the advertisement of shell contracts, etc.

I have to inclose herewith copy of the Bureau's second indorsement No. 19470/1 (F) of April 17, 1906, on letter from the Hon. JAMES A. TAWNEY, M. C., to the Secretary of the Navy. This indorsement briefly states the Bureau's position in the matter and also the approximate amount expended for shell under all appropriations last year.

It is our practice to advertise for target shell and common shell, and also for the smaller caliber armor-piercing shell up to 5-inch, but we have never advertised for armor-piercing shell of the larger calibers.

If armor-piercing projectile contracts are awarded to the lowest bidder, after advertisement and under our very strict specifications and with our extreme penalty clauses, most of the manufacturers would soon be put out of the projectile business, or else the Bureau would be forced to supply vessels of the Navy with shell known to be not of the best and known to be inferior to similar shell used in foreign navies. This is contrary to the policy of the Department, as we want these firms ready to furnish projectiles in an emergency, and consequently are helping them develop their plants.

We naturally want the best projectiles it is possible to obtain and want them without great delay; therefore the larger contracts are made with firms known to be able to promptly carry out the contracts in accordance with the specifications, while smaller orders are placed with other firms having the necessary plants and who desire to develop them.

For your information I also inclose herewith a list of uncompleted orders for large caliber armor-piercing shell, showing the difficulty that even the largest concerns experience in producing projectiles which will satisfactorily pass our strict specifications.

With no reserve of armor-piercing projectiles available at present, the unsatisfactory fulfillment of projectile contracts might force the Bureau to commission ships with empty shell rooms.

As far as known to this Bureau no complaints have ever been made concerning the placing of armor-piercing shell contracts without competition.

The Bureau believes there is at present only one company prepared to furnish promptly large caliber armor-piercing shell which will fully comply with its strict specifications. Both for military as well as economical reasons, however, every attempt is being made to induce other firms to successfully manufacture these projectiles. It is believed to be understood by all these companies that as soon as they are in a position to satisfactorily manufacture these shell they will receive an equitable portion of the Bureau's orders.

Finally, the Bureau considers it very undesirable at present to compel competition by advertisement for armor-piercing projectiles of the Navy.

Regretting that this has been written hastily in order to get it to you before noon, and hoping that the information will be of use, I remain,

Yours, sincerely,

N. E. MASON,
Chief of Bureau of Ordnance.

Hon. GEORGE E. FOSS, M. C.,
Chairman Committee on Naval Affairs,
House of Representatives, Washington, D. C.

[Copy of Bureau of Ordnance, second indorsement No. 19470/1 (F), of April 17, 1906, on letter from Hon. JAMES A. TAWNEY, M. C., House of Representatives, to the Secretary of the Navy, requesting to be informed as to what the practice of the Navy Department has been, and is, in respect to the letting of shell or projectile contracts; whether or not the Department advertises for bids; and if so, whether there is competitive bidding for this work; also what these contracts amounted to in the aggregate during the last fiscal year.]

1. Respectfully returned to the Navy Department.

2. A distinction must be made in stating the Bureau's policy between those projectiles for which the requirements are so simple as to bring them within the range of general competition and those (chiefly armor-piercing shells of large calibers) for which the requirements are so exacting that only a small number of firms in the country are in a position to undertake their manufacture with any hope of success.

3. With regard to the first class, the Bureau's practice is to invite bids from all manufacturers who are believed to be equipped for undertaking contracts and completing them satisfactorily.

4. With regard to the second class of projectiles, which, as above noted, are principally armor-piercing shells of large caliber, the policy of the Bureau has been directed toward securing the very best that could be had, keeping in view that desirability of distributing orders in such a manner that the Department should, in the event of war, have as large a number of plants available as possible. In pursuance of this policy contracts for shells of this class have, in many cases, been placed without competition, as authorized by section No. 3721 of the Revised Statutes.

5. The aggregate amount of shell contracts for the past fiscal year was $495,916.50, of which $50,329 was spent for shell of the first class (as enumerated above) and $445,587.50 for shell of the second class.

N. E. MASON,
Chief of Bureau of Ordnance.

UNCOMPLETED REQUISITIONS FOR LARGE-CALIBER SHELL.

In March, 1903, requisition was placed with the Crucible Steel Company of America for 600 10-inch and 600 12-inch A. P. shell. This requisition has not been completed, and the Bureau has been forced to cancel its order for 200 of the 10-inch shell. Four hundred of the 12-inch shell will in all probability have to be accepted at a reduced price as target shell inasmuch as the Bureau is unwilling to place them on board ship as battle shell.

In March, 1903, requisition was placed with the Midvale Steel Company for 1,000 5-inch A. P. shell. This company has not as yet begun work on this order, inasmuch as they have been unable to develop a satisfactory experimental shell. The Bureau has been subjected to great expense in testing the various experimental shell submitted by them.

In March, 1903, 600 10-inch forged steel, 600 12-inch forged steel shell, 1,000 8-inch A. P. shell, and 2,000 7-inch A. P. shell were ordered from the Carpenter Steel Company. Orders for all these A. P. shell were canceled in October, 1905, inasmuch as the company had up to that time been unable to manufacture shell which would pass the test. Three hundred and fifty-seven of the 12-inch forged steel shell have been canceled for similar reasons

Mr. MORRELL. I would like to ask the distinguished chairman of the committee——

Mr. FOSS. If it gets down to be a matter of competition the tendency of the whole thing will be rather to reduce the price and to cheapen the shell, whereas, on the contrary, the Department has sought to improve it experimentally and raise the standard and not reduce Navy standards down to commercial standards.

Mr. MORRELL. Oh, I do not think that will be the result at all, for the reason that the board of ordnance, which passes upon these shells, if they are not up to the standard required in the contract, has the right to reject each and every one of them.

Mr. TAWNEY. And they do.

Mr. MORRELL. And they do. Now, the fact of giving open bids does not for a moment presuppose the fact that the articles furnished by these different manufacturers are going to be below the standard required by the specifications furnished by the Navy Department. I would like also to ask the distinguished chairman of the committee what the result was in the year 1900 in opening bids for armor plate to competition in the reduction of price per ton, if he remembers?

Mr. FOSS. Does the gentleman mean the price per ton for armor?

Mr. MORRELL. Yes. And whether the article furnished to-day, in view of the reduction of price per ton, which has resulted from the bids being open to competition, is any worse in quality and grade than it was previous to the reduction or previous to the time the bids were opened to competition.

Mr. LITTLEFIELD. That is to say, do you have a poorer quality now than when the bids were not opened for competition?

Mr. FOSS. I do not think they do.

Mr. LITTLEFIELD. Is the price less?

Mr. MORRELL. Yes; the result of opening the bids to competition has been a reduction of $150 per ton, in round figures, on all sizes, and if the result, as far as armor is concerned, of opening bids to competition has been satisfactory, why should we now presuppose the article furnished, so far as ordnance is concerned, is going to be of an inferior grade because it may be opened to competition? Competition, as a rule, lowers the price, and at the same time improves the grade of the article manufactured.

Mr. FOSS. These shells, of course, are in a more experimental stage, probably, than armor plate, but I want to ask the gentleman from Minnesota [Mr. TAWNEY] if he will insert in his amendment words to the effect that they shall be of the standards of the Navy?

Mr. LITTLEFIELD. There will be no objection to that.

Mr. TAWNEY. I have no objection to that at all. And it is my purpose in offering this amendment, of course——

Mr. FOSS. I want that perfectly clear.

Mr. TAWNEY. I want to suggest to the gentleman that under this amendment the question of standards is left absolutely and exclusively in the discretion of the Navy Department.

Mr. MORRELL. Of course. Under the terms of the specifications.

Mr. LITTLEFIELD. I understand that if you insert that, it will be satisfactory.

Mr. TAWNEY. If that is satisfactory to the chairman of the committee, I will very gladly insert the language, "the standard for such shells and projectiles to be prescribed by the Secretary of the Navy."

Mr. FOSS. I have no objection to that.

Mr. LITTLEFIELD. It covers the whole question.

Mr. ROBERTS. Mr. Chairman, I move to strike out the last word. The committee on yesterday, after very full debate, decided to provide for the very widest competition possible in the supply of anchors, cables, and rope, both wire and hemp. There seems to be no reason, if it is the policy of the committee in that respect, why we should not apply the same principle of wide competition to the subject of these projectiles. In this connection I desire to call attention to the letter which was presented here a few moments ago by the gentleman from Ohio [Mr. GROSVENOR], bearing upon the question under discussion yesterday. I had a curiosity to see to whom that letter was addressed, and I find it was addressed to the Hon. GEORGE LOUD, a Member of Congress from the State of Michigan. Mr. LOUD, you will remember, was the gentleman who told us yesterday that he had spent a year or more of his time investigating the matter of cables, and it seems he has been able to ascertain as a result of that year's investigation that *one*

Government-made cable on *one* battle ship proved defective and gave way under certain conditions.

I want to call particular attention to this, gentlemen. It is well known to any seafaring man that in weighing an anchor, if it fouls, a strain is liable to be brought on the cable which will absolutely destroy any cable that can be made. And the same thing will occur in dropping an anchor, a kink or twist may occur in the cable, and a strain will be brought upon that particular link which no cable can be made to sustain. *Now, I challenge the gentleman from Ohio, and I challenge the gentleman from Michigan, to cite an instance where a United States vessel riding at anchor on a Government-made cable was ever destroyed or damaged by the parting of its cable under stress of storm or sea, or even parted a cable while at anchor.* But, on the other hand, if the gentleman will give me a very little time, I can fill the CONGRESSIONAL RECORD with instances of commercial ships, both sailing and steam, that have been cast away and lost, absolutely destroyed, by the parting of the commercial cables holding them to the anchors upon which they were riding. So that the letter brought forward by the gentleman from Ohio has no bearing whatever upon the contention before the Committee yesterday.

In that connection, Mr. Chairman, I send to the desk and ask to have read, and to have inserted in connection with my remarks of yesterday, two telegrams received by me bearing on this point of closing up the chain and anchor shops and rope walks of the Boston Navy-Yard.

The Clerk read as follows:

BOSTON, MASS., *May 10, 1906.*

Hon. ERNEST W. ROBERTS,
House of Representatives, Washington, D. C.:

Boston Associated Board of Trade, through its executive committee, earnestly protests against proposed closing of cordage, chain, and anchor departments at Charlestown Navy-Yard. What can we do to assist you?

JOHN N. BOYD, *Secretary.*

BOSTON, MASS., *May 10, 1906.*

Hon. ERNEST W. ROBERTS,
House of Representatives, Washington, D. C.:

Heartily support your position in defense of Boston Navy-Yard. Urgently protest against amendment sacrificing manufacture of anchors, chains, and rope at navy-yard at Boston for benefit of Lebanon Chain Works and American Iron and Steel Company of Lebanon. I believe you will find on investigation that Government tests on chains and anchors for Navy made in navy-yards are more rigid and thorough than contractors' tests made outside. Will Congress risk safety for crews and cruisers to give more business to contractors?

CURTIS GUILD, Jr.

Mr. ROBERTS. I will say, Mr. Chairman, in conclusion, the last telegram is from the governor of the State of Massachusetts.

Mr. TAWNEY. Mr. Chairman, I have now modified my amendment to meet the suggestion of the gentleman in charge of the bill, and I ask that it be read.

The CHAIRMAN. Without objection, the substitute will be reported.

The Clerk read as follows:

Insert after the word "dollars," page 11, line 6:
"*Provided*, That no part of this appropriation shall be expended for the purchase of shells or projectiles except for shells or projectiles purchased in accordance with the terms and conditions of proposals submitted by the Secretary of the Navy to all of the manufacturers of shells and projectiles and upon bids received in accordance with the terms and requirements of such proposals. All shells and projectiles shall conform to the standards prescribed by the Secretary of the Navy."

Mr. GROSVENOR. Mr. Chairman, the amendment proposed by the distinguished gentleman is in the line with the principle involved in the discussion on yesterday in relation to the purchase of chains, anchors, and cordage, and I want to add a very brief note to what I contributed yesterday to the general topic of these purchases by bids rather than their exclusive manufacture by the Department itself.

It will be remembered that on yesterday a dispute arose between a number of gentlemen, myself among the rest, as to whether the Navy Department was the best maker of certain of the necessary factors that go to make up a ship and its equipment. I have a matter of evidence, which is better than my statement. I had to confess yesterday that the topic got beyond my personal comprehension, and I made an intimation that it was possibly beyond the apprehension and understanding of some gentlemen on the other side. I did that with all kindness and respect, and I want to show now that in the matter of the manufacture of the particular subjects covered by the amendment offered by the gentleman here, that possibly the same principle applies that applies to the making of chains, anchors, and so forth. I propose to have read at the Clerk's desk a very brief statement taken from the log of the U. S. S. *Maine*. I desire to say, by way of introduction to this, that it is the present battle ship *Maine*, and not the one that disappeared so tragically in the harbor at Habana. This is a modern ship, of the modern type—of the very best type of our war ships.

Mr. LITTLEFIELD. One of the last launched.

Mr. GROSVENOR. One of the last in commission, and this is an official statement from her log, and it speaks so much more powerfully than anything I can say that I desire to have the letter read by the Clerk.

Mr. OLMSTED. Before it is read, may I ask, if that vessel is equipped with chains, does the gentleman know where they were made?

Mr. GROSVENOR. I do not know, and I will not venture to make any assertion, but will present the official statement that will answer the question of the gentleman from Pennsylvania.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

U. S. S. MAINE,
North River, New York, N. Y., May 9, 1906.

SIR: 1. In reference to your letter of May 3, 1906, to the Chief of Bureau of Navigation, asking for an excerpt from the log of this ship covering the subject of losing anchors, I have the honor to state that the records of the ship show that the following-mentioned cases of chain or triplet links parting had occurred prior to my taking command:

(*a*) In letting go the anchor on March 23, 1904, on the target range at Pensacola, Fla., one link of the "triplet" broke and the anchor was recovered.

(*b*) While heaving in the starboard bower chain on July 8, 1904, at anchor off Corfu, Greece, it parted, and the anchor and 25 fathoms of chain were afterwards recovered. This was due to a defective link at about 26 fathoms.

(*c*) While heaving in at Marthas Vineyard on September 9, 1904, the chain came in without the anchor. The examination showed that the middle link of the bending shackle triplet had broken across the weld. This anchor was lost and no trace of its buoy could be found.

(*d*) While heaving in off Cape Henry, Virginia, on June 1, 1905, it was found that the second link of the port triplet had parted. The anchor was recovered.

2. Since I have taken command of the *Maine* the following-mentioned cases have occurred:

(*e*) In letting go the port anchor on the target range off Barnstable, Mass., on September 22, 1905, the chain parted at the outboard link of the triplet. The anchor was recovered.

(*f*) In letting go the port anchor in North River on May 4, 1906, the middle link of the triplet parted almost immediately after letting go and before the anchor had touched the bottom. The anchor has been recovered.

3. The anchor chain of this ship was manufactured at the Boston Navy-Yard.

Very respectfully,

N. A. NILES,
Captain, U. S. Navy, Commanding.

Hon. GEORGE A. LOUD, M. C.,
Tenth District, Michigan,
Committee on Naval Affairs, Washington, D. C.

Mr. GROSVENOR. Mr. Chairman, that relates to the history of the casualties to the Boston chain, manufactured at the navy-yard, pertaining to a single ship. There are seven of them. I suppose that possibly you might multiply that by about the number of ships in commission. Then we could ascertain how many times these chains have broken by reason of faulty construction. So I feel that I may reiterate what I said yesterday, that the best chain made in the world is the chain made for the owners of the merchant marine of our country. I want to say that this letter which has been read is a letter written to Mr. LOUD, of the Naval Committee, and will appear in his speech of yesterday.

The CHAIRMAN. The question is on agreeing to the substitute to the original amendment offered by the gentleman from Minnesota.

The question was taken; and the substitute was agreed to.

The amendment as amended was agreed to.

Mr. TAWNEY. Now, Mr. Chairman, that same amendment is to be considered in connection with the purchase of reserve shell and projectiles, for the same thing.

In line 20, after the word "dollars," page 11, insert the amendment which has just been adopted.

The Clerk read as follows:

Line 20, after the word "dollars," page 11, insert:
"*Provided*, That no part of this appropriation shall be expended for the purchase of shells or projectiles, except for shells or projectiles purchased in accordance with the terms and conditions of proposals submitted by the Secretary of the Navy to all of the manufacturers of shells and projectiles and upon bids received in accordance with the terms and requirements of such proposals. All shells and projectiles shall conform to the standards prescribed by the Secretary of the Navy."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken; and the amendment was agreed to.

Mr. FOSS. Now, Mr. Chairman, I would like to ask unanimous consent to offer an amendment which has been agreed to, as I understand, to the amendment offered by the gentleman from Michigan [Mr. LOUD] yesterday.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Massachusetts [Mr. WEEKS] may offer an amendment to an amendment that was

agreed to on yesterday, which the Clerk will report. Will the gentleman from Massachusetts send up his amendment?

Mr. WEEKS. The Clerk has my amendment. It is to add the words "after January 1, 1907," in the first line of the amendment that was adopted yesterday, after the word "dollars," in line 6, on page 6.

The Clerk read as follows:

Insert, after the word "that," the words "after January 1, 1907."

So as to read:

Provided, That after January 1, 1907, no part of said sum, etc.

The CHAIRMAN. Is there objection?

There was no objection.

The amendment was agreed to.

Mr. RIXEY. Mr. Chairman, I believe that we are on page 29, under the head of "Navy-Yard, Washington, D. C." If we are not on that paragraph I should like to offer an amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by inserting, after the word "dollars," in line 10, page 29, the following: "Brass and iron foundry, to cost $300,000, $140,000."

Mr. BUTLER of Pennsylvania. Mr. Chairman, I reserve the point of order.

The CHAIRMAN. The gentleman from Pennsylvania reserves the point of order on the amendment.

Mr. RIXEY. I should like to have the point of order disposed of.

The CHAIRMAN. Does the gentleman desire to discuss the point of order?

Mr. RIXEY. I do not care to discuss the point of order. I am willing to submit it. There is now at the navy-yard a brass and iron foundry.

Mr. LITTLEFIELD. What do you want another one for?

Mr. RIXEY. I was going to explain that.

Mr. BUTLER of Pennsylvania. After a minute's reflection, I think that the amendment offered by the gentleman from Virginia is in order. In order that he may not be embarrassed, and that we may discuss the facts, I will withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn. The gentleman from Virginia.

Mr. RIXEY. Mr. Chairman, the so-called navy-yard at Washington is really a naval gun factory. It is only used for that purpose, and up to two years ago all the guns of the Navy were finished there. For two years past that foundry has been unable to do all the work, as it had been doing, and a portion of the work for the Navy has been put out by contract. Seventy-five to 80 per cent of all the machine work on the guns is done by the Government. The forgings of the guns are purchased from outside sources; but nearly all the guns, as I stated a moment ago, are finished at the Naval Gun Factory.

It is demonstrated by the hearings before the committee that the work on the guns done at the Government factory is much better and more satisfactory than the work done by the private contractors, and is preferred by the officers and men of the Navy. I think it entirely natural that such should be the case. With the Government it is a matter of pride to have the very best guns, finished in the very best manner; whereas with the private contractor it is, to some extent at least, a matter of profit. I think I can demonstrate three propositions; first, that a foundry is badly needed at that place; second, that as a matter of economy it is to the interest of the Government to build a new one, and third, that it is absolutely necessary because the large guns are furnished entirely by only two firms, who have an agreement in regard to prices.

This foundry at the Washington Navy-Yard was built in the early seventies, not for a foundry, but was built for the Bureau of Steam Engineering, and has been used for thirty years as a foundry. It is totally inadequate, it is too small, and does not meet the needs of the Government. Some years ago Secretary Morton, a man of the highest business capacity and sagacity, called in an expert from the city of Chicago to make an examination of the naval gun factory here at Washington to see what was necessary to make it an up-to-date factory. I will read a part of the report made by this inspector, which refers to the gun factory:

This foundry is altogether inadequate. It is the poorest looking shop in the yard and is not at all in keeping with the rest of the naval gun factories. It could not even be considered a good job foundry. In this small foundry they are trying to make brass castings, bronze castings, iron castings, and steel castings, and it would be just about the proper size for the brass work alone, to say nothing of the space occupied by other work.

One of the particular features about it is that there is no foundry yard with it. All flasks have to be piled up in the foundry or else carted to a yard or vacant space a long way from it, and it is so cluttered and full that it is almost imposible to get through it. The men are fairly crowding each other in their work.

The master mechanic is not responsible for the condition of the foundry. It is due entirely to the fact that the foundry is too small and to the fact that they have no yard room to put anything in; so we can not blame him for the unbusinesslike appearance of his department. This foundry is very important, and should be enlarged to at least five times its present size.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. RIXEY. Mr. Chairman, I ask unanimous consent for ten minutes more.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that his time be extended ten minutes. Is there objection?

There was no objection.

Mr. RIXEY. So, Mr. Chairman, the report of this expert collected by the Secretary of the Navy, Mr. Morton, condemns this factory and recommends that we ought to have a foundry there at least five times the size of the one that it there now, which was erected for another purpose. If it is to be the policy of this Government to finish its guns at this foundry, we ought to have a good equipment, so that the work can be done economically and in the best manner.

I will state here that this is not a new proposition suggested by any member of the committee. The recommendation for the foundry at the Naval Gun Factory came last year from the Secretary of the Navy and it was voted out by the committee. Again the Navy Department recommends this year an allowance for a new foundry. It is stated, Mr. Chairman, by the superintendent at the gun fatcory, Captain Leutze, that if he had a proper foundry at this gun factory that he could save to the Government $50,000 a year. He says under present conditions in order to do the work they frequently have to run three shifts a day, which is a continual running for the twenty-four hours. He has always to run two shifts, with the result that the people who work at night do not do as efficient work as those who work in the daytime. There is no yard attached to the foundry, and material has to be carted off some distance and then brought back again. All those things add greatly to the expense. He says that if you will give him sufficient space and a proper foundry he can save 20 per cent of the money expended for labor—a saving which would amount to from $30,000 to $36,000 a year.

In addition to that, Mr. Chairman, he says that, owing to the want of space in the foundry, he is unable to use steel in the place of bronze, and, having to use bronze, costs the Government $28,000 a year more than it would cost if he could use steel in place of it.

So that if a new foundry is given him, to cost $300,000, he would save the Government on these two items, in labor and in the fact that he could use steel in the place of bronze, not less than $50,000 and perhaps as much as $60,000; if $60,000, it would be 20 per cent on the investment on the whole cost of the foundry.

This item comes to us with the recommendation of the Department, and strong testimony as to the necessity from the Chief of the Bureau of Ordnance and from the superintendent of the gun factory. Not one particle of testimony has been produced before the committee to show that the gun factory was not a necessity. So far as I am advised, Mr. Chairman, every member of the committee is willing to admit——

Mr. BENNET of New York. May I interrupt the gentleman?

Mr. RIXEY. I will yield to the gentleman.

Mr. BENNET of New York. Do I understand the gentleman to say that the matter covered by the amendment has the recommendation of the Secretary of the Navy?

Mr. RIXEY. I do. Moreover, it was recommended by the Secretary of the Navy last year also. It came in the estimates by the Department, and is thus recommended by the Secretary of the Navy.

Mr. LITTLEFIELD. Is there any recommendation independent of the estimates, any specific recommendation?

Mr. RIXEY. No specific recommendation except his statement that he thought it was proper.

Mr. LITTLEFIELD. He recommended it simply by forwarding the estimate?

Mr. RIXEY. No; the estimates that went up from the different navy-yards all over the country amounted to $42,000,000. They were cut down by Admiral Endicott, to whom they were sent, to $15,000,000. Then they were revised by the Secretary of the Navy, and he cut them down to $9,000,000. That is the record in regard to the Navy Department.

Mr. LITTLEFIELD. But the Department did not cut this estimate out?

Mr. RIXEY. No; it retained it and turned it over to the Naval Committee.

Mr. LITTLEFIELD. Did he make any independent, specific recommendation?

Mr. RIXEY. No; he did not. I do not think it is referred to in the Secretary's report.

Mr. BUTLER of Pennsylvania. Is there any expression from the Secretary of the Navy in favor of this more than may be drawn from the mere fact that the estimates were sent to the Naval Affairs Committee?

Mr. RIXEY. I think there is. He referred to it in his hearing before the committee. He said he thought it was a proper expenditure; that there might be other items just as important and probably fully as important, but this was a proper expenditure. I refer the gentleman from Pennsylvania to the printed testimony at page 1102. We gave elaborate hearings on this question as to the necessity for the gun factory. There was no testimony but what went to show the necessity for the building. I submit, Mr. Chairman, that where the testimony is uncontradicted that the expenditure of $300,000 would result in an annual saving to the Government of $50,000, it is a good investment, and that it ought to be ordered and that without delay.

Now, then, another question. There is another reason why this yard should be maintained and kept in a high state of efficiency. There are only two firms which make the 12-inch guns, and those two firms are the Bethlehem Steel Company and the Midvale Steel Company, and the testimony before the committee was that these two firms always bid identically the same amount.

Mr. LILLEY of Connecticut. Mr. Chairman, if the gentleman will permit, I will give the only bid that they have made. On four 12-inch guns, weight, finished, 118,552 pounds, the Bethlehem Steel Company bid $51,644.80 and the Midvale Steel Company bid $83,757, a difference of $32,000. The gentleman says that their bid was identically the same.

Mr. ROBERTS. That is on armor. They bid the same on armor. That is what the gentleman from Virginia meant.

Mr. RIXEY. No; I did not mean that. I meant what I stated.

Mr. ROBERTS. They bid the same on armor plate.

Mr. RIXEY. I am not talking of armor plate, and adhere to my statement that the Bethlehem and Midvale companies bid the same for the 12-inch guns. I am referring to the testimony before the committee, and I stand by my statement.

Mr. LILLEY of Connecticut. The price of one was 4.36 cents per pound and of the other a little over 7 cents.

Mr. RIXEY. For what gun was that?

Mr. LILLEY of Connecticut. The 12-inch gun.

Mr. RIXEY. When was it?

Mr. LILLEY of Connecticut. I have not the date. They are the only ones that they ever contracted for.

Mr. RIXEY. Oh, that may be ten years ago.

Mr. LILLEY of Connecticut. Oh, no; they are not delivered yet.

Mr. RIXEY. Mr. Chairman, I stand by my statement.

Mr. LILLEY of Connecticut. Will the gentleman permit me to finish my statement?

Mr. RIXEY. Yes.

Mr. LILLEY of Connecticut. I would like to read all of these bids. On 6-inch guns, the weight of which was 19,156 pounds, the Bethlehem price was $12,850 and the Midvale price $12,283; on 7-inch guns, weighing 28,300 pounds, the Bethlehem price was $19,990 and the Midvale price $14,315; on the 8-inch guns, weighing 41,780 pounds, the Bethlehem bid was $21,690 and the Midvale bid $17,142; and on the 10-inch guns, weighing 79,300 pounds, the Bethlehem bid was $43,800 and the Midvale bid $45,230.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LILLEY of Connecticut. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that the time of the gentleman from Virginia may be extended for five minutes. Is there objection?

There was no objection.

Mr. RIXEY. Mr. Chairman, my statement was that the testimony before the committee showed that only two of the factories furnished the large guns and that their bids always were identically the same. I read from the printed hearings on page 249:

Mr. RIXEY. Isn't this a fact, that the bids from the different steel plants are always the same for practically the same thing?

Admiral MASON. The bids for forgings from two of the larger companies are now always identical in price and nearly always in time of delivery, while the bid of a third large company for forgings up to those intended for 7-inch guns is generally slightly lower (1 cent per pound), but with much longer times of delivery. In armor bids two firms generally submit identical bids, while a third goes lower. There is evidently keen competition, however, in finished guns, mounts, and other ordnance material, as evidenced by the bids received.

Mr. RIXEY. Which are those three larger companies?

Admiral MASON. The Bethlehem and the Midvale Steel companies are the first two I have just mentioned, while the Crucible Steel Company is the third.

Mr. THOMAS of Ohio. What has this all got to do with the foundry that we are discussing—the iron foundry? That has nothing to do with the forging of steel.

Mr. RIXEY. Mr. Chairman, I have discussed the necessity for the foundry and am now discussing a matter that vitally concerns the gun factory and the Government. If this factory here in Washington does not finish up these guns, then the Government is bound to have the guns finished by the private contractors, and the only people engaged in that business so far as the 12-inch guns are concerned are the Bethlehem and the Midvale people, who bid the same price and are trying to drive the Government from doing its own work.

Mr. THOMAS of Ohio. Does the gentleman think that these guns are to be finished in this proposed foundry?

Mr. RIXEY. In part, certainly. But I have discussed the foundry and am now referring to the combination which controls and furnishes the heavier steel forgings.

Mr. FITZGERALD rose.

Mr. RIXEY. I yield to the gentleman from New York. If the gentleman reads the hearing he will see that.

Mr. FITZGERALD. Confirming the statement of the gentleman from Virginia that the bids were identical, I wish to call his attention to page 536 of the report of the Secretary of the Navy: "Abstract of offers for furnishing supplies or services, and which were contracted for by the Bureau of Ordnance during the fiscal year ending June 30, 1905, and contracts awarded thereon. Twelve-inch, 10-inch, and 8-inch gun forgings (advertisements of June 27, 1904), Bethlehem Steel Company, per pound, 30 cents; Midvale Steel Company, per pound, 30 cents"——

Mr. LILLEY of Connecticut. Let me ask the gentleman a question.

Mr. FITZGERALD. Let me read this first.

Mr. LILLEY of Connecticut. No one denies that. That price was fixed by the Government, however.

Mr. FITZGERALD. Let me read this, and then the gentleman can make his statement. "Contract was made with the Bethlehem Steel Company August 13, 1904. Contract was made with the Midvale Steel Company August 1, 1904. One hundred sets 3-inch gun forgings (advertisement of October 22, 1904), Bethlehem Steel Company, plain steel, per pound, 32 cents; nickel steel, per pound, 40 cents; Midvale Steel Company, same price." This shows conclusively the gentleman's statement is accurate that the bids were identical.

Mr. RIXEY. My statement——

Mr. LILLEY of Connecticut. The Government made these prices by a law passed by Congress limiting them to a certain price on armor plate and gun forging to 30 cents per pound.

Mr. FITZGERALD. The Government advertised for bids, and bids were submitted, and the bids were identical by the companies, as stated by the gentleman from Virginia.

Mr. LILLEY of Connecticut. Let me ask the gentleman from New York if some Congress some time back did not pass a law limiting the price the Government should pay for armor plate and gun forgings?

Mr. FITZGERALD. That was for armor plate.

Mr. LILLEY of Connecticut. The price to be paid was not to exceed 30 cents on gun forgings, and on the armor plate I do not know what the price was.

Mr. FITZGERALD. Not at all, because here are bids of 32 cents a pound which were accepted by the Government.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. RIXEY. Mr. Chairman, I have been interrupted so often that I would ask to have my time extended.

Mr. LILLEY of Connecticut. I ask unanimous consent that the gentleman be given five more minutes.

Mr. FOSS. Mr. Chairman, I think we ought to agree upon some time on this proposition, otherwise it will run along all the afternoon. I would like to ask how much time the gentleman from Virginia has had.

The CHAIRMAN. The gentleman from Virginia has occupied fifteen minutes.

Mr. VREELAND. I want at least ten minutes on this.

Mr. FOSS. I ask unanimous consent that the time upon this paragraph and amendments be forty-five minutes, one-half hour in opposition and fifteen minutes more to those in favor of the proposition offered by the gentleman from Virginia. That will give half an hour on each side.

The CHAIRMAN. The gentleman from Illinois asks unani-

mous consent that debate upon the paragraph and all amendments thereto be closed at the expiration of forty-five minutes, and that thirty minutes of that time be accorded to those who are opposed to the pending amendment and fifteen minutes in addition to what has already been occupied be given to those in favor of the amendment. Is there objection?

Mr. RIXEY. Mr. Chairman, I will be compelled to object to that at this time, and I will ask my friend to withhold his request for five minutes and we will confer and see if we can not agree.

Mr. LITTLEFIELD. You can not go on without unanimous consent, anyhow.

Mr. RIXEY. I submit I have the floor at present and I would like for this request to be made after I get through.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. RIXEY. But request was made that I have five minutes additional time, and I will try to get through by that time. I understood the gentleman from Connecticut to submit that request.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that the gentleman from Virginia may continue his remarks for five minutes. Is there objection?

Mr. FOSS. Then, I want to give notice, Mr. Chairman, at the end of five minutes I shall ask unanimous consent for this; and in case unanimous consent is not given, I shall move to close the debate on this paragraph and pending amendment.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none, and the gentleman from Virginia is recognized for five minutes.

Mr. RIXEY. Now, Mr. Chairman, as further evidence that it is necessary to have this factory to protect the Government, the further fact appeared in the hearing that the two companies that furnished, and the only two companies that furnished, the larger forgings furnished these forgings at a greater price than was their price for the finished gun. Captain Leutze says——

Mr. LILLEY of Connecticut. It is not a correct statement.

Mr. RIXEY. I am going to read you what he said. Captain Leutze says:

> The rough forgings for 12-inch gun weigh nearly 166,000 pounds and cost a little over $52,500. The finished gun in the gun factory costs $61,770.61, including the yokes and cost of forgings. The contractor's bid for the finished gun is $51,644.80.

This is something over $900 less for the finished gun than for the forging. I am very sure that Admiral Mason made the same statement.

Mr. VREELAND. Will the gentleman yield for a question?

Mr. RIXEY. I would like to yield, but I have only five minutes.

Mr. VREELAND. I will make it very brief.

Mr. RIXEY. I will yield for a question.

Mr. VREELAND. I will ask the gentleman if he will not, before he concludes, give us the bearing the argument has on the amendment he has offered? He knows very well that the finishing of these 12-inch guns by these two companies has nothing whatever to do with the foundry.

Mr. RIXEY. I want the gentleman to tell me in his own time why it has nothing to do with it. I say it does have something to do with it. I have stated it over and over again, and I will repeat that these guns are now finished at the gun factory, and that in order that the Government may do that work it is necessary to have a new foundry there. If it does not get this new foundry, then these big guns will have to be furnished by outside parties, and there are only two, the Bethlehem or the Midvale Company, which bid identically the same amount.

Mr. BUTLER of Pennsylvania. Let me ask the gentleman a question. Do they finish any big guns now at the foundry?

Mr. RIXEY. Yes.

Mr. BUTLER of Pennsylvania. What proportion of the guns do they finish at the foundry?

Mr. RIXEY. I can not tell you the proportion, but up to about two years ago they finished all the guns, big and little, at the factory. Now they are unable to do so, and some of them have to be finished by the parties who furnish the forgings—the Bethlehem and Midvale companies—and they are trying to force the Government out of the business by offering to furnish the finished gun for less than they furnish the forgings.

Mr. LILLEY of Connecticut. But they do not.

Mr. RIXEY. They do.

Mr. LILLEY of Connecticut. I have got the figures here.

Mr. RIXEY. I do not care what you have. I have not your figures, but I have the testimony of the superintendent of the navy-yard, which I have already given you.

Mr. LILLEY of Connecticut. Figures are better than testimony.

Mr. RIXEY. I have already referred to the testimony which will be inserted. I repeat again that it shows that the Bethlehem and Midvale companies, the only companies which furnish the big forgings for the 12-inch guns, offered to furnish the finished product for less price than they would furnish the rough forgings.

Mr. LILLEY of Connecticut. That is not correct.

Mr. RIXEY. I say it is correct.

Mr. LILLEY of Connecticut. It is not the fact. They are not the figures in the Department.

Mr. RIXEY. I am talking about the evidence before the Naval Committee. I never heard of your figures until to-day. I have no reason for disbelieving the statements of Admiral Mason and Captain Leutze, both officers of the United States Navy and honorable men and placed at the head of their Department by the Secretary himself.

Mr. LOUDENSLAGER. Will the gentleman from Virginia permit a question?

Mr. RIXEY. I will.

Mr. LOUDENSLAGER. The gentleman does not wish to be understood that he does not care what the facts are in the case?

Mr. RIXEY. I want the facts, and I think I have stated the facts. I only know the developments before the committee. The gentleman may have evidence which I have not seen. If so, I will be glad to have it. I state again that the testimony before the Naval Committee, and there was nothing to contradict it, was that the Bethlehem company and the Midvale company, the only two companies that furnish the 12-inch forgings, offered to furnish the finished product for a less price than they furnished the rough forgings, and that the two companies always bid the same price for the 12-inch forgings.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSS. Mr. Chairman, how much time has the gentleman used?

The CHAIRMAN. Twenty minutes.

Mr. FOSS. Then I ask unanimous consent that debate be closed in fifty minutes—fifteen minutes more to be taken by that side in favor of the proposition and thirty-five minutes on this side. That gives equal division of time.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that debate on the pending paragraph and all amendments thereto be continued for fifty minutes, fifteen minutes of the time to be given to Members who are in favor of the pending amendment and thirty-five minutes to those opposed to the amendment. Is there objection?

Mr. RIXEY. I ask the gentleman, who has got thirty-five minutes, to give us twenty-five minutes. If I had known my time was to be limited, I would not have taken as much time as I did, and there were a good many interruptions, and gentlemen got their statements in my remarks.

The CHAIRMAN. Is there objection?

Mr. RIXEY. I will have to object. Give us twenty-five minutes.

Mr. DAWSON. I would like to ask what particular necessity there is for clapping the lid on this debate. We ran along all day yesterday on the question of chains and cordage, and this is an important subject, it seems, that is before us, and why should we not run along on this?

Mr. VREELAND. We have other matters that are to come before Congress besides this bill.

The CHAIRMAN. Is there objection?

Mr. RIXEY. I will have to object.

The CHAIRMAN. The gentleman from Virginia objects.

Mr. FOSS. I will make this request: That all debate be closed in one hour, twenty minutes of the time to be taken by that side and forty minutes by this side. That would make an equal division of the time.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that all debate on the pending paragraph and all amendment thereto be closed in one hour, twenty minutes of the time—one-third of the time—to be occupied by those in favor of the pending amendment and forty minutes by those opposed to the amendment. Is there objection?

Mr. RIXEY. Mr. Chairman, I insist on the twenty-five minutes, because a good deal of the time I took was consumed by gentlemen on the other side.

Mr. FOSS. I will modify the request so that the gentleman will have twenty-five minutes and our side thirty-five.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois as modified? [After a pause.] The Chair hears none, and it is so ordered.

Mr. VREELAND. Mr. Chairman, my colleague on the committee, the gentleman from Virginia [Mr. RIXEY], of course knows that the principal part of the time which he occupied was

in talking about a subject which is not before the committee on this amendment. He has offered an amendment for the purpose of adding to the foundry down at the gun factory plant. The changes that his argument would bring about would be the building of the 12-inch gun forgings by the Government, and the amount for building that plant would be, according to the figures of the Department, $4,000,000, and according to our experience of such undertakings would cost six or seven million dollars.

Mr. RIXEY. The gentleman knows I did not refer to forgings at all.

Mr. VREELAND. I know that the gentleman spent a good share of his time in showing what the bids of two companies were for the forgings that we use on the 12-inch guns.

Mr. RIXEY. I beg the gentleman's pardon.

Mr. VREELAND. Now, at the foundry they make castings only.

Mr. RIXEY. My reference was intended to be to the finished gun and not to the furnishing of the forgings.

Mr. VREELAND. They are not furnishing forgings or making forgings in the foundry. That is where they make castings.

Mr. RIXEY. It is not for the forgings at all. I disclaim any such purpose. There was no such evidence before the committee in the hearings. It was for the finished guns that I was speaking.

Mr. LITTLEFIELD. What has the foundry to do with forgings?

Mr. VREELAND. I suppose the gentleman does not contend before this committee that in this $300,000 foundry, which he proposes to build, they are going to make forgings for 12-inch guns? Therefore the situation would not be relieved by his amendment, and we will still have to buy the forgings where we buy them now unless we go on and build this great gun plant that the gentleman's amendment proposes to this House.

Mr. Chairman, the Committee on Naval Affairs finds, as every other committee in this House finds, that every man in charge of a plant in this Government wants to magnify its importance. He wants to increase the appropriations and the number of men employed in the plant of which he has charge. The first that we heard of the enlargement of this gun factory, where 4,000 men are now employed, was from Captain Pendleton, former superintendent, two years ago.

He came before the committee with the same story that Captain Leutze brought there this year. He told us how much more cheaply the guns could be made in the gun factory than we were buying them. But we were not impressed by his argument. We found that in figuring the cost of these guns he left out items which would entirely reverse his position, just as Captain Leutze has left them out in his testimony which he presented this year. He desired to have an item of more than $100,000 for the leave of the men taken out and made a special appropriation, so that it need not be charged against the cost of the guns. Now, there is one excuse, Mr. Chairman—or perhaps I should say one reason—why the Government of the United States is justified in building a manufacturing plant and competing with the private manufacturers of the country. That is where the product which we desire to buy is tied up in the hands of an inexorable trust, where the Government is forced to pay prices which are too high, and from which there is no escape. But, Mr. Chairman, nothing of that kind exists in this case. I have here a list of the bids that have been made for castings during the past year and the present year. In every case the competition comes from five or six, and in some instances eight different firms, the majority of them outside of the American Steel Foundry Company, which I understand is a trust.

Now, the Captain told us that one reason why he could save a great deal of money was because he was obliged to pay about 12.3 cents on an average for the castings which he bought, but the Captain is mistaken on this, as he is on other of his facts. I have here the lowest bid which was accepted from all these different companies, dozens of them, during the last year. There is not one of them that reaches the figures named by the Captain. I want to read a list of the accepted bids on the material that went into that foundry. Here are the figures: Six and five-tenths cents, 6.55, 9.24, 5.15, 4.5, 5.9, 4.4, 4.75, 5.9, and 12. Why, our friend the Captain never has been a manufacturer.

[The time of Mr. VREELAND having expired, by unanimous consent it was extended five minutes.]

Mr. VREELAND. This gentleman never has had experience as a manufacturer. He knows nothing about figuring up the cost of these things. He can not be expected to know. He was educated by the Government of the United States as a naval officer, and has spent his life upon the sea, where he belongs, commanding the ships of the United States Navy. Gentlemen talk about the cheapness of turning out guns down in this plant. The Captain testified before our committee that there was invested in this Washington Gun Factory $24,000,000 in round numbers. What was the entire product of the factory for the last year?

Mr. BUTLER of Pennsylvania. Will my colleague submit to a question?

Mr. VREELAND. Yes.

Mr. BUTLER of Pennsylvania. Did the gentleman say that Captain Leutze testified that there were $24,000,000 invested down there?

Mr. VREELAND. That is what I stated.

Mr. BUTLER of Pennsylvania. I just wanted to be clear about it.

Mr. VREELAND. I do not stop to give the exact figures.

Mr. BUTLER of Pennsylvania. I do not mean to interrupt my colleague.

Mr. LITTLEFIELD. You simply want to emphasize his statement.

Mr. BUTLER of Pennsylvania. Yes.

Mr. DAWSON. Did not that include the value of the product down there as well as the value of the plant?

Mr. VREELAND. I think I will have to look it up finally and read what the gentleman did say.

Will you be kind enough—

Mr. BUTLER asked—

to include in your report what it has cost the Government up to this time to build that plant as it now is?

Mr. DAWSON. You will find it on page 1141 of the hearings. Captain Leutze says the whole outfit last year when he took charge was estimated at $25,000,000, so far as land and material and everything was concerned.

Mr. VREELAND. I will give the gentleman the benefit of the figures. Captain Leutze was asked:

Will you estimate the gun-factory plant, what it is worth, including the value of the land, material, shops, tools, and all?

And he says in reply, $24,001,000. Now, suppose we strike out $4,000,000 for material on hand and call it $20,000,000 invested in that plant.

Suppose you figure the interest at 2 per cent, and it is certainly worth that in the pockets of the taxpayers, you would have $400,000. Suppose you figure 5 per cent for depreciation, and any manufacturer in the country figures 10 per cent, you would have $1,000,000. Leaving out all the other charges figured against a plant by owners of it in private business, you will find that these items alone amount to $600,000 or $700,000, more than the entire output of the plant. Then talk about the economy of producing guns in this gun factory!

Mr. Chairman, this proposition has been before our committee for the past three years. It has not commended itself to us. We do not want to undertake to expend four or five or six million dollars in enlarging this present plant. Our investigation goes to show that not only here, but elsewhere where the Government manufactures its own product, it invariably costs us more than it does to buy of private manufacturers. Why, we have just been building two battle ships to determine whether it would cost more in a Government yard than it would in a private yard. We have found that it costs more to build precisely the same ship in a navy-yard—$400,000 or $500,000 more—than it would cost to build the same ship by private contract. Now, I am in favor of maintaining one plant in the United States where we can turn out a battle ship, because I believe it is worth its cost to the Government.

Mr. FITZGERALD rose.

Mr. VREELAND. I will yield to the gentleman in a minute. I believe it is worth its cost to the United States to have one plant that is able to build any battle ship for the Navy. I believe that it acts as a restraint on the shipbuilding firms of this country against combination. Mr. Chairman, when we come to the question of economy, when we come to the question of saving to the taxpayers of the Government by private manufacture, I have never seen an instance where it could be shown that such a fact exists. Now I will yield to the gentleman from New York.

Mr. FITZGERALD. Mr. Chairman, I want to ask the gentleman if he knows how much it costs to build the *Louisiana*, which is being built at Newport News?

Mr. VREELAND. The information before the committee seems to show that it costs something like $400,000 less than the *Connecticut*, which is built in the Brooklyn Navy-Yard.

Mr. FITZGERALD. I simply wish to call the gentleman's attention to the fact that it is impossible to tell to-day how much ships being built by contract cost. I have figures which show that up to date it has cost very close to the limitation placed on the cost in the act authorizing it.

Mr. THOMAS of Ohio. Mr. Chairman, the gentleman from Virginia evidently did not understand my question, as he was certainly confused between a foundry and a machine shop. His amendment calls for a foundry, and he proceeds at once to talk about finishing guns. The gentleman evidently is a very good lawyer, but he certainly can not know much about a foundry or he would not talk about finishing guns in a foundry.

Mr. RIXEY. The gentleman from Ohio is a member of the Naval Committee, and he knows that this building has always been referred to as a foundry. He knows that in all of the hearings it was referred to the fact that the guns were finished at the foundry. It is called "the naval gun foundry."

Mr. THOMAS of Ohio. I never understood anything of the sort. I do not believe anybody versed in the iron business would refer to a place where they finish guns as a "foundry."

Mr. Chairman, I am opposed to the amendment made by the gentleman from Virginia pertaining to an appropriation for an additional foundry at the Washington Navy-Yard, as I do not believe that the interests of the Government can be best conserved by making same at this time.

The information that I have gathered regarding the present conditions was obtained mainly through personal observations and through conversation with Capt. E. H. C. Leutze, the present commandant or superintendent of the navy-yard. Upon examining the report of the commandant, I was amazed at the lax expenditure of money for the employment of skilled mechanics, who are not able, mainly on account of the poor facilities of the present foundry, to do their work efficiently, and I am constrained to say just a word or two on this subject.

According to the report referred to, there are employed in the foundry 227 molders in a space 260 feet by 113 feet. The fact is patent that there is not sufficient space for the number of men employed. They are literally stepping over one another. There is no question but that the present foundry is inadequate in size to make all of the castings required by the Government at this time; yet it must be admitted from the dimensions given that it is one of the largest in the country. But if the same policy is to be continued by the management as heretofore, there is no reason to expect that the congestion will be relieved. Why it should have been thought necessary to plod on in a rut when molding machines, pneumatic machines, and other up-to-date appliances could have been procured is a question that I think should appeal to every fair-minded man. I am not arguing for a reduction of men, understand, but for better results by the same number of men, and with less effort, making it easier on the men. It is stated that there is not sufficient room for machines. Then why should the number of employees have been augmented to the detriment of the work in general when by the erection of a few little buildings machines could have been installed and the product increased many fold?

The practice now in vogue at the navy-yard is to work the molders in two shifts, but anyone at all conversant with a foundry knows that this plan is an extravagant way of doing that class of work. It is admitted that the men on the night shift are unable to turn out more than 75 per cent of the work accomplished by the day molders. And I do not doubt it. The wonder is that they are capable of doing as much. For a casting may take three hours or it may take three days to cool, depending upon its size. Hence there is so much floor space wasted or delayed which can not be used by the oncoming shift.

Then, again, Mr. Chairman, I understand that all of the men employed are high-class molders—not laborers, but molders—all of them receiving molders' wages. There is not a first-class foundry in the country that would tolerate such a practice from a business standpoint. After all, Mr. Chairman, it is not so much a question of appropriating money for an additional foundry as it is a question of better management in the present one. It is no conclusive argument to assert that the molds are heavier in the Government plant than in other foundries, and therefore require more skilled help. If that be the case, there is a justifiable reason why there should be a decided reduction in the cost of producing them.

Not alone in the failure to provide laborers is the management subject to criticism, but also in the lack of machine facilities. It is fair to assume that in the foundry practice here there are many castings being made in duplicate. Then why should they not be made in a molding machine? This machine can be made to turn out a very large tonnage, and particularly on small castings as required by the Government. Two men with such a machine can do more work in eight hours than twelve molders without a machine could possibly do. This statement may be doubted by those who have not had experience with the molding machine, but its truth can be thoroughly established by a little investigation.

Government enterprise, as well as public office, is a public trust; and if private concerns can make money out of their foundry product, I do not see why the Government should not profit likewise. Yet it is admitted in this report that the cost of the product is higher than the selling price of outside corporations. Instead of being antiquated in management and method, a Government institution like this foundry should be found abreast of the times, if not just a little ahead of them. It is a good principle—

> To be not the first by whom the new is tried,
> Nor yet the last to lay the old aside.

But the Government follows neither of these injunctions.

It seems to me that if we are to run a foundry it should be the highest type of its kind on this continent. It should be a model for the foundries of the nation. It should be the mecca for the mechanics of the country. New devices and new methods should be immediately installed, judgment passed upon them, and condemned or approved, as the case might be.

I desire it to be understood that I am making no personal accusations against anyone connected with the management of the foundry, but I do insist that the policy thus far in control of the manufacture of castings is one of shortsighted business economy. I do not question the honesty or the integrity of the officials in charge, but I do claim that it would be far wiser for the Department to consult with experienced men out of the business world and possibly appoint a temporary board of experts to outline a practice that would be conducive to the best interests of the Government.

I insist that if this foundry is to be run on business principles, it would be far wiser to employ a foundry expert than it is to trust the expenditure of all this money to the inexperienced judgment of naval officials.

If you were in the foundry business you would not think of employing a naval captain to manage it any more than you would consider it proper for a foundry man to be placed in charge of a ship. One is as incongruous as the other.

Those who advance the argument in favor of an extensive foundry that there is a possibility of combination or collusion among manufacturers to maintain prices, show a lack of familiarity with the iron industry of the United States. When we consider the fact that this land is fairly dotted with small foundries, it is a manifest absurdity to suppose that a sufficient number could so combine as to control prices. Every city and almost every town of any importance supports one or more foundries. With all this competition, Mr. Chairman, if the Government finds it impossible to purchase iron castings at reasonable prices, there must be very poor management, to say the least. Too often we are prone to blame outside influences for deficiencies in our own make-up. To be specific, if the cost of gray iron castings is 3 cents per pound, when they can be purchased in the open market for much less, the fault is not in external combinations, but in our own lax managerial methods.

And the need of cities and towns for small foundries is as great, to my mind, as the need of the Government for a large foundry. Understand, the scope of my argument is not so much in opposition to the Government's going into the foundry business on a large scale as it is in favor of better management of the industries which it now controls. I mention the need of the country for these small institutions to show the utter impracticability of their being blotted out. They are, moreover, a necessity if we would foster the spirit of initiative and industry among small investors. To expect to build a nation out of citizens whose power of initiative is dwarfed by the growth of trusts and their allied principle, governmental ownership, to expect to build an enduring nation on such treacherous ground is foolish and unscientific.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LILLEY of Connecticut. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for two minutes more in order that he may finish his remarks.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that the gentleman from Ohio may proceed for two minutes. Is there objection?

Mr. CLARK of Missouri. Mr. Chairman, I do not rise to object, but I desire to suggest that it is a pity there is no quorum present to hear so good a speech as the gentleman is making. I suggest there is no quorum present.

The CHAIRMAN. The Chair hears no objection. The gentleman from Missouri makes the point of order that there is no quorum present.

Mr. BATES. Mr. Chairman, there was no point of order raised.

Mr. CLARK of Missouri. Why, certainly there was.

Mr. BATES. Did the gentleman intend to make the point of order?

Mr. CLARK of Missouri. I not only intended to make it, but I did make it. One does not have to say "a point of order." If he suggests there is no quorum present he makes the point.

The CHAIRMAN. The gentleman from Missouri, the Chair thinks, has raised the point of no quorum. The Chair will count. [After counting.] One hundred and seventeen present, a quorum, and the point of order is overruled. The gentleman from Ohio will proceed.

Mr. THOMAS of Ohio. But that point is neither here nor there if we wish to show that the efficiency of a foundry can or can not be improved by merely increasing its size. To increase the size of something already inefficient only adds the opportunity for further conduct along the same line. To cover the glaring errors of mismanagement by extended facilities only affords room for the growth of those same practices. Let them show us first that they are doing the best they can do under the circumstances; show us first that affairs are now economically conducted; show us first that this "tree can bring forth good fruit," and then we will put more trees in the orchard. [Loud applause.]

Mr. GREGG. Mr. Chairman, I was struck with how the statement of the gentleman from Virginia [Mr. RIXEY] that the Bethlehem Steel Company and the Midvale Steel Company were charging us more for the rough forging of a 12-inch gun than they would furnish the completed gun for flushed some of the gentlemen upon this floor.

Mr. LILLEY of Connecticut. Why, that statement is not true. Will the gentleman let me read the figures?

Mr. GREGG. And how quick some of them were to rise up and say it was not true, and others to say that even if true it had no bearing on the question.

Mr. LILLEY of Connecticut. Will the gentleman yield?

Mr. GREGG. Not just now.

Mr. LILLEY of Connecticut. Will the gentleman allow me to give him the figures?

Mr. GREGG. I prefer not to let the gentleman inject his figures into my remarks. I have some here myself—figures given at the hearings of the committee when everyone could cross-examine the witness, and not ex parte figures.

Mr. LILLEY of Connecticut. Then the gentleman can read them.

Mr. GREGG. My time is so limited I must decline to yield further.

I am proceeding now to show that the statement of the gentleman from Virginia [Mr. RIXEY] is true, and then later I propose to show what bearing it has on the matter under consideration, which is the amendment offered by the gentleman from Virginia [Mr. RIXEY] to provide an appropriation of $300,000 to build and equip an adequate gun factory at the Washington Navy-Yard.

Captain Leutze, the superintendent of the navy-yard, was before the Committee on Naval Affairs. He is an honorable and truthful man. His word is much more to be relied on than are figures brought here, we know not from where, nor by whom compiled, nor their date, nor anything about them.

Here is what he says, on page 1142 of the committee hearings, in answer to questions asked him by the gentleman from Pennsylvania [Mr. BUTLER] and myself:

Mr. GREGG. The result is the same. As you don't make them, they charge you for the forgings for a 12-inch gun more than they sell the completed gun for?

Captain LEUTZE. Yes, sir.

Mr. BUTLER. How much difference is there between the cost of the forging and the completed gun?

Captain LEUTZE. Well, I could not say; I would have to know the weight of the forgings first. (The finished gun was offered $900 less than we have to pay for the rough forgings.)

Mr. BUTLER. How much does the Government pay for the forging of a 12-inch gun?

Captain LEUTZE. My best recollection at present is 45 cents a pound. (I find that this price was for the yoke forgings; the other forgings cost 30 cents per pound.)

Mr. BUTLER. In dollars and cents, how much?

Captain LEUTZE. I know what the gun weighs finished, but I don't know what each part—but I can give you that. (The forgings cost $52,500.)

Mr. BUTLER. Also give us the cost for the completed gun.

Captain LEUTZE. Yes, sir; the gun costs to complete it, labor, miscellaneous material, and shop expense, $9,270, added to the $52,500 for the rough forgings, makes a total of $61,770.

Mr. BUTLER. And state if you can buy the completed gun for the same amount of money that you pay for the forgings in the rough.

Captain LEUTZE. Yes, sir; in the case of the 12-inch gun. (In fact, the contract price was $900 less than what we paid for rough forgings.)

Mr. HILL of Connecticut. Why wouldn't it be good economy to buy the finished gun and not build this foundry? What does it cost the Government to make that gun that they can buy for $900 less than the forgings?

Mr. GREGG. It costs about $10,000 to finish it.

Mr. HILL of Connecticut. Ten thousand dollars more than they can buy it for? I would like to ask the gentleman if he is here advocating $10,000 apiece more for these guns than we can buy them for? Does the gentleman advocate the position that the Government should pay $10,000, according to his own statement, more for the privilege of making the gun than they can buy the gun for all finished?

Mr. GREGG. The very questions asked by the gentleman from Connecticut [Mr. HILL] show the relevancy of the statement made by the gentleman from Virginia [Mr. RIXEY], that the Midvale company and the Bethlehem company charge us more for the rough forgings than for the finished gun, and that relevancy is that these two concerns have made a combination to charge so much for the rough forgings that the gun factory can not complete the gun for the same amount they can, and thereby furnish an argument on this floor that the gun factory work comes too high, and that therefore this amendment should not be adopted, and that all work of the gun factory should be discontinued. If this amendment is defeated, their conspiracy will be but half accomplished; their victory will not be complete until the work at the Government factory is discontinued in whole. By defeating this amendment the Government is only crippled; by the latter it will be placed *hors de combat* and completely at their mercy. I for one will not be a party to a scheme to cripple the Government in order that it may hereafter be completely unhorsed, but as long as I am in this House I will favor giving the Government such facilities at the gun factory as will enable it to fight these two concerns to a finish.

These two concerns now have a monopoly on the forgings for this size gun, and rob us on their price, and who doubts, if we abandon the gun factory and give them a monopoly on the finishing work, that they will then run up the price of the finished gun and rob us both on the forgings and finishing work.

The object of the amendment under consideration is not only to prevent the abandonment of the gun factory, but its purpose is also to enlarge it and increase its facilities, that we may do the work cheaper than we are now doing it.

Mr. HILL of Connecticut. What is the difference between the Government being robbed and robbing itself?

Mr. GREGG. I want us to fix ourselves so we will not be robbed, and to do this it may become necessary for the Government to equip itself so it can make these forgings.

Mr. LILLEY of Connecticut. Why not go a step further and make the pig iron?

Mr. GREGG. I have no information about manufacturing pig iron. We have a foundry at which we make forgings for the smaller guns. Enlarging it so that we can make them for the larger guns is a very different thing from going into the business of manufacturing pig iron.

Mr. VREELAND. I would like to ask the gentleman a question. Will the gentleman yield?

Mr. GREGG. Yes.

Mr. VREELAND. I was going to ask the gentleman what relief would be afforded by building this gun factory, assuming the condition of affairs is as stated, but he has already answered the question by stating that he is in favor of building the foundry, which means not this appropriation before the committee, but an expenditure of five or six million dollars.

Mr. GREGG. The gentleman is mistaken in his figures. I suppose he refers to a plan submitted in 1903 for the expansion and enlargement of the Washington Navy-Yard, the entire estimated cost of which was about $3,000,000. The foundry of which he speaks is only a part of that, just as the gun factory is only a part.

The only thing involved now is the enlargement of the gun factory. The foundry for making forgings is not, but if it ever does come up, and conditions are the same as now, I think it would be good business to enlarge the foundry, too. As said before, the enlargement of the gun factory is the only question up now, and it does not involve any other part of the general plan, and while before the committee Captain Leutze said he regarded the gun factory necessary, leaving out everything else of the general plan.

We now have a gun factory, but it is inadequate to the needs of the Government, and by reason of this inadequacy the cost of production is increased. It has no yard. The material to be used has to be piled at different places, which makes it necessary to handle it back and forth repeatedly, and all this extra handling of the material adds unnecessarily and heavily to the cost of labor. This amendment proposes to give them a yard. And, besides, they use in the manufacture of ordnance a large quantity of bronze castings. It is shown that steel castings are much more desirable for the purposes for which the bronze are used; but they can not use the steel, because they have no facilities for making them. This amendment proposes to give them such facilities. And, besides, the floor space is

not large enough to work the men to advantage. They have to be worked in a day shift and a night shift; and Captain Leutze shows that the wages paid the men engaged in the night shift is the same as the wages paid those engaged in the day shift, while the output of those on the night shift is only about 75 per cent of those engaged on the day shift. Considering the great number of men employed (948), the loss in this respect to the Government is immense. It is proposed by this amendment to enlarge the floor space so that there will be no night shift, and thereby prevent this large decrease in the efficiency and output of labor.

The adoption of the amendment will increase the facilities of the gun factory, so that we can hereafter do all the work there cheaper than we are doing it.

The only effect of a defeat of the amendment will be to continue to hamper the Government, and the next step will be a proposition to stop the Government from doing any of the work, on the ground that it is too expensive, which will be a complete surrender to the Midvale company and the Bethlehem company. It will put us completely in their power. Whenever the proposition comes for us to abandon the gun factory, I expect it to come from those who oppose this amendment. They will prevent the Government from protecting itself, and then abandon the work because the Government can not protect itself.

Mr. HILL of Connecticut. Will the gentleman let me ask him a question? I want to vote intelligently on his amendment. I understand the amendment carries an addition or increase for an iron and brass foundry and has nothing to do whatever with the forgings of steel. Now, how would the Government be relieved in its situation in regard to steel forgings for guns by an addition to an iron and brass foundry? That is what I want to know.

Mr. GREGG. It will at least be the beginning of an enlargement and improvement which will enable us eventually to resist this robbery all along the line.

Mr. HILL of Connecticut. Now, let me ask the gentleman a question. As a matter of fact, is not this the situation, that he recommends a certain addition of the iron foundry, based upon the proposition that we are to spend three or four million dollars for an addition to the gun factory, but that if the addition to the gun factory is not made, does it not necessarily follow that the iron foundry is not necessary?

Mr. GREGG. No; this amendment proposes to appropriate $300,000 for an enlargement of the gun factory, and this is essential, regardless of whether we adopt the general plan of enlarging the Washington Navy-Yard, and in support of this I want to read what Captain Leutze said in answer to a question asked him by the gentleman from Virginia [Mr. RIXEY].

Mr. RIXEY. I would like to ask you as to whether or not the building of this new foundry is necessary if the committee does not proceed with the general plan, the $3,000,000 plan—that is, if this committee does not adopt that general plan.

Captain LEUTZE. I do consider it necessary, leaving out everything else, and I have recommended nothing else personally for this year.

The questions asked by the gentleman from Connecticut [Mr. HILL] can have but one object, and that is to show that the work being done at the gun factory costs more than we can have it done for by contract, and thereby lay a predicate for the abandonment of this Government work. He tries to make it appear that I favor paying more for a gun to be made at the factory than it can be bought for, but unfortunately the position of the gentleman is too narrow to be of any weight. He singles out only the 12-inch guns. The finishing of these 12-inch guns is but a small part of the work done there. A great many other kinds of guns are made there, and also a great quantity of other ordnance is made there.

On page 1151 of the committee hearings, Captain Leutze gives a statement showing the comparative cost of guns and mounts, made at the National Gun Factory, and the same guns and mounts bought by contract, which includes the 12-inch gun, which costs us an amount all out of proportion because of the exorbitant price for the forgings. This statement is as follows:

Comparative cost of guns and mounts building at the Naval Gun Factory and by contract.

Type.	Name of contractor.	Contract price.	Naval Gun Factory price.
12-inch guns	Bethlehem Steel Co	$51,644.80	$61,770.61
12-inch mounts	do	[a] 59,881.50	49,342.22
10-inch guns	do	43,800.00	37,015.80
8-inch guns	Midvale Steel Co	17,142.00	23,619.13
Do	do	24,380.17	23,619.13

[a] This 12-inch mount is designed by the Bethlehem Steel Company, and is more expensive to manufacture than the service mount with which it is compared.

Comparative cost of guns and mounts building at the Naval Gun Factory and by contract—Continued.

Type.	Name of contractor.	Contract price.	Naval Gun Factory price.
8-inch guns	Midvale Steel Co	$22,000.00	$23,619.13
8-inch mounts	do	14,417.17	12,156.13
Do	do	13,000.00	12,156.13
8-inch guns	Bethlehem Steel Co	19,988.00	22,511.25
7-inch guns	Midvale Steel Co	14,315.00	17,638.87
Do	Bethlehem Steel Co	18,590.00	17,638.87
7-inch mounts	do	8,545.00	8,477.13
6-inch guns	Midvale Steel Co	12,283.00	12,371.04
6-inch mounts	do	7,588.00	10,208.51
5-inch guns and mounts	Bethlehem Steel Co	10,600.00	12,610.59
4-inch guns and mounts	do	8,400.00	9,557.16

By this it is seen that the cost of some is cheaper when made at the gun factory, while others are cheaper when purchased by contract; but the total cost of all when purchased is $346,574.67, while the total cost of all when done at the gun factory is $354,311.67. We must consider the entire work done, and not pick out isolated pieces of work, and from this standpoint it is shown by this statement that the difference is insignificant, and if we could get the forgings for 12-inch guns at a reasonable price the whole would cost us less to make it than to buy it. I will here incorporate a statement showing the comparative cost of other ordnance made at the gun factory and the same ordnance bought by contract and the amounts saved by doing the work at the gun factory:

16 10-inch Mark V mounts:		
Deck lugs	pounds	9,000
Upper slides	do	8,500
Lower slides	do	6,800
Struts	do	1,400
Details	do	2,000
1 mount	do	27,700
16 mounts	do	443,200
Private contract price		$53,184
Naval Gun Factory price		31,024
Amount saved		22,160
29 7-inch Mark III mounts:		
Top carriages	pounds	5,000
Pivot stands	do	6,500
Slides	do	7,400
1 mount	do	18,900
29 mounts	do	548,100
Private contract price		$65,772
Naval Gun Factory price		38,367
Amount saved		27,405
28 7-inch Mark II mounts:		
Top carriages	pounds	4,800
Pivot stand	do	6,000
Slides	do	5,000
1 mount	do	15,800
28 mounts	do	442,400
Private contract price		$53,088
Naval Gun Factory price		30,968
Amount saved		22,120
108 8-inch Mark XII mounts:		
Deck lugs	pounds	7,200
Slides	do	7,600
1 mount	do	14,800
108 mounts	do	1,598,400
Private contract price		$191,808
Naval Gun Factory price		111,888
Amount saved		79,920
28 12-inch Mark V mounts:		
Deck lugs	pounds	12,000
Upper slides	do	14,000
Lower slides	do	9,000
Details	do	3,500
1 mount	do	38,500
28 mounts	do	1,078,000
Private contract price		$139,360
Naval Gun Factory price		75,460
Amount saved		53,900

Those who oppose this amendment fail to give any credit to another fact, which is that all the expenses of designing, experimenting, developing, and changing a lot of guns and mounts is included in the Naval Gun Factory prices. "This is an expense that the contractor does not have to bear, as he receives the completed drawings, etc., of the guns and mounts and pro-

ceeds with the manufacture in accordance therewith. If changes are made, additional compensation, covering the cost of such changes, is allowed the constructor."

When the Government needs certain ordnance, it publishes calls for bids for *a specific gun*, according to certain *specifications*, and the private contractor who obtains such contract *only* has to make the desired gun or other article *according to said specifications*, which in fact is the construction of *duplicate work* purely and simply; but we must not lose sight of the fact that all experiments were made in the Washington Gun Factory in order to obtain the perfect original to which the specifications used and followed by private contractors referred, as well as all ideas are advanced and put into tangible objects for the advancement and perfection of the most modern ordnance known; while the cost is quite large, it is absolutely necessary, as private contractors will not experiment at their own proper cost and expense for the benefit of the Government; and it is not fair or just to include the cost of all models, ideas, tools, and experiments made and had in the Washington Gun Factory in the cost of the finished and most modern product turned out therein, and then hold that the Government would save money by purchasing ordnance from private contractors, while as a matter of undisputed fact the private contractors are furnished with models and tools to a large extent by the Government which are made in the Naval Gun Factory and added to the cost of building guns at said Government Naval Gun Factory.

Where would the private contractor get his specifications from for the building of ordnance were it not for the Naval Gun Factory at Washington? How would the Government know what class or kind of ordnance it desired, and its constituent parts if it only relied upon private contractors, who, up to date, have only made ordnance according to prescribed forms and specifications furnished by the Government, obtained from its gun factory? How would the many improvements and latest devices be obtained, as is being daily done at said Washington Gun Factory, if the Government depended upon private contractors to experiment at their cost and expense? Certainly private contractors, even though they should make experiments, would include the cost of such experiments in the charge for the finished product, which would increase largely the present cost for simply duplication of guns and accessories from models already made in the Washington Gun Factory.

And, further, they fail to consider the fact that the guns finished at the factory are better and more satisfactory than those made by contract, and I will incorporate right here what Captain Leutze says on this subject, in answer to questions asked him by the gentleman from Virginia [Mr. RIXEY.]

Mr. RIXEY. You were talking about finishing the guns, and I want to ask you, in your opinion, whether the guns which are finished by the Government are better than those which are finished by private concerns?

Captain LEUTZE. There is not the slightest doubt about that; they are better, the parts are interchangeable, they are better finished, and more satisfactory in every way. The officers and men afloat prefer them.

Mr. RIXEY. You would not recommend that the Government should not finish its own guns?

Captain LEUTZE. I think it would be fatal if we stopped it.

I want also to state that many articles and ordnance made by these private contractors (to whom some of the Members of this House seem to wish to turn over all of our work) are received at the Naval Gun Factory in a state of imperfection, and have to be perfected at the gun factory. I will call special attention to the following cases which have been furnished me, to wit:

Continuously during several months prior to March of this year many 3-inch guns were received from the British-American Company in imperfect and defective condition, and had to be remedied and perfected at the gun factory. During the first days of March of this year there was received from the Midvale Steel Company one 8-inch gun, No. 149, with defective breech mechanism, which had to be perfected at the gun factory. The following gun mounts and accessories, recently received from the Bethlehem Company, had to be overhauled and made interchangeable at the gun factory, to wit: Twenty 5-inch Mark IX mounts, Nos. 262 to 281, inclusive; six 6-inch Mark VII mounts, Nos. 267, 268, 269, 280, 281, and 285. It cost the Government approximately $1,200 each to remedy the defects in said twenty-six mounts, making a total of $31,200. There was recently received from the Midvale Steel Company the following defective ordnance, to wit: One 8-inch slide, Mark XII mount, No. 178; one 8-inch gun, No. 151, with defective breech mechanism.

It is no wonder that Captain Leutze says that the ordnance made at our factory is better and more satisfactory to the men on the ships, the men who use them, than the ordnance bought by contract.

In this gun factory we have a body of the most skilled mechanics in the world, and if you will give them the facilities, they will do just as fine work and just as cheap work as can be done anywhere.

The cost of the enlarged gun factory proposed by this amendment is $300,000. The gentleman from Virginia [Mr. RIXEY] in his remarks showed that its erection would save to the Government annually about $60,000 on the two items of labor saved in handling the material, and the amount saved in using steel castings instead of bronze castings—which are now used because there are no facilities for making the steel. This is 20 per cent on the investment. What good business man would not make it? It was shown at the hearings that 948 men are worked on the night shift; that it is necessary to have a night shift, because the factory is not large enough to work all the men on a day shift; that the efficiency and output of the night shift is only about 75 per cent of the same men working on a day shift; that the men on the night shift receive the same wages as those on the day shift; so here is a loss of 25 per cent on the wages of these 948 men; add this to the $60,000 saved on the other two items, and you will have a saving which seems to me ought to induce any man who has the interest of the Government at heart to vote for this amendment.

The CHAIRMAN. Those for the amendment have ten minutes remaining, and those opposed to the amendment have fourteen minutes remaining.

Mr. HILL of Connecticut. Mr. Chairman, I would like to answer my own question, if the gentleman will pardon me about a minute and a half.

Mr. GREGG. My time has expired.

Mr. BUTLER of Pennsylvania. We will surrender a minute and a half to the gentleman.

Mr. HILL of Connecticut. I asked a question as to whether these two were not inseparable and one dependent on the other, and I find from the statement of the gentleman himself that that is the case, and that he states emphatically:

It is realized in all probability such a large appropriation can not be obtained this coming fiscal year, and therefore this amendment simply anticipates the appropriation of three or four million dollars with which is necessarily involved—

And which the Members of the House should understand must necessarily come if we make this appropriation, or else we have got the whole plan out of joint. But in the statements before the Naval Committee it is said we have got to have a proposition of three or four million dollars before we begin this expenditure.

Mr. BUTLER of Pennsylvania. Following what the gentleman has said, I understood the statement was made before the Naval Affairs Committee, by some one who pretended to know what he was saying, that this plant would ultimately cost $4,000,000, whereas it is estimated by some of us who have had ten years of experience in making appropriations on such subjects that it will cost $6,000,000 by the time it is completed.

Mr. DAWSON. Mr. Chairman——

The CHAIRMAN. The Chair desires to know if the gentleman who has just arisen is for or against the amendment?

Mr. DAWSON. I intend to speak for the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. DAWSON] is recognized for the amendment.

Mr. DAWSON. Mr. Chairman, I feel some embarrassment in favoring a proposition which has not met the recommendation of the Naval Committee, of which I am a member. But I desire to say that my position has been determined upon evidence which has come to me since the matter was considered by the Naval Committee—evidence which was not submitted to the Naval Committee when the matter was under consideration, and evidence of a character which, I think, this House wants to hear.

Now, I agree with my friend from Ohio [Mr. THOMAS] that what we want is the testimony of disinterested witnesses upon this proposition. There has been criticism here to-day about the testimony of the men who have charge of that foundry. There have been criticisms, by inference, of the men who desire contracts under the Government. The testimony which I have is the testimony of a disinterested witness. Secretary Morton, when he was Secretary of the Navy, desired to modernize and bring the Washington Gun Factory up to date. In order to have information upon which to base such action, he sent for a disinterested expert in the manufacture of steel. I have here the report of this gentleman, Mr. S. T. Nelson, and I want to call attention to one or two points in it.

I will say that this gentleman took up each shop and division of the Washington Gun Factory and discussed it in detail. In speaking of the foundry he said:

There are 186 men employed, working one shift only. For the number of men employed, the supervisory force (one master mechanic, one

quarterman, and one leading man) is entirely too small for so great a variety of work.

This foundry is altogether inadequate. It is the poorest-looking shop in the yard, and is not at all in keeping with the rest of the naval gun factories. It could not even be considered a good job foundry. In this small foundry they are trying to make brass castings, bronze castings, iron castings, and steel castings, and it would be just about the proper size for the brass work alone, to say nothing of the space occupied by other work.

Now, one of the greatest necessities for this foundry lies in the fact that it requires such a long period of time to secure castings, not only in the first instance, but to secure the replacing of castings which have been condemned by the inspector. In that connection, Mr. Nelson says:

Regarding placing orders for these castings outside, I have the same comments to make as about placing the orders for forgings outside of the blacksmith shop. It is the time lost in waiting for these orders to be filled that is the greatest objection. There is, however, so much competition in iron castings that low prices per pound could probably be had from outsiders, but the difference would be more than equalized by the time lost in waiting for orders to be contracted for, let, and filled; so while there might be an apparent gain in the price per pound, the time lost in the machine shop waiting for material would more than offset the difference. Besides, the Department wants castings from various mixtures, which it would be difficult to get from job foundries.

Now, I will turn to what he says about forgings, and show this House what sort of process is necessary to get these castings in the first place, and get the replacements of the castings after they have been condemned by the inspectors.

Mr. YOUNG. Will the gentleman say who this party is—is he an officer of the Navy?

Mr. DAWSON. No; he is not. He is Mr. S. T. Nelson, the man selected by Secretary Morton as the best man to go there and examine that plant from the standard of a business man, and recommend to Secretary Morton how it could be modernized.

Mr. YOUNG. Had he been engaged in the manufacture of iron and steel?

Mr. DAWSON. I do not know; but I think he had.

Mr. YOUNG. Where was he from?

Mr. DAWSON. From Chicago. Now, Mr. Chairman, as to the process necessary to go through in order to replace the castings which have been condemned by the inspector.

Mr. VREELAND. May I ask the gentleman, is this testimony any better than that of his colleague [Mr. THOMAS] who is also practically engaged in the business, and other Members?

Mr. DAWSON. I do not understand that my colleague [Mr. THOMAS] spent several weeks' time in this examination as Mr. Nelson did, or that he has gone through the manufactory of the Washington Gun Factory with a stenographer at his elbow taking down the criticisms here and there, and setting it all down in an official report.

Mr. VREELAND. He did not cover only the foundry?

Mr. DAWSON. No; he covers the whole plant. Let me give the House the details of how long it takes the Department to get an outside order filled. Mr. Nelson says in his report:

FORGE SHOP.

The greatest trouble at the present time is the slow filling of orders. The Department takes so long in first advertising for bids, then letting the contract, and then getting the forgings; during all this time the other parts of the guns, or whatever it may be, are lying around the shops taking up valuable room, while they are waiting for the forgings to come in from outside forges. When the forgings do come in, and are found to be defective, the inspector condemns them; this in turn must be reported to the superintendent; the superintendent reports this to a board that condemns them officially; then it is referred to the purchasing department.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LILLEY of Connecticut. I ask unanimous consent that the time of the gentleman may be extended.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that the time of the gentleman from Iowa be extended five minutes. Is there objection. [After a pause.] The Chair hears none.

Mr. DAWSON. As Mr. Nelson says in his report:

Then it is referred to the purchasing department, and from there to where the forgings are made; so you can readily see the ridiculous loss of time in such cases. When they make their own forgings they can get them when they want them and as they want them. If a forging is condemned by the inspector, the forge department is immediately notified and another made in its place, and the work that the forging is a part of can go along and become finished, whereas if it is bought outside everything has to lie around and wait for the round-about way of getting it in the first place—getting it officially condemned, as they call it—and then replaced by the concern that made it. The replace orders get very scanty attention from all concerns, especially in busy times, and especially so with the Government, where there is no one in particular to keep prodding at them all the time to fill these orders.

Even if it costs as much to make the forgings in the Government shops as it costs to buy them outside, all the time would be saved that is now lost in waiting for orders to be filled and the work of which these forgings are a part could be completed and gotten out of the way.

Mr. LOUDENSLAGER. Will the gentleman permit me to ask him about the other point?

Mr. DAWSON. Just a moment; after I get through with this.

Speaking of the brass and steel castings which this increase is proposed to provide for, he says:

BRASS CASTINGS.

The brass castings they make in this department are very excellent, and the various mixtures for brass and bronzes are determined by the Department. I have found by experience that it is well-nigh impossible to get the job foundries to give you brass and bronze as you want it, and there is opportunity for dishonest work in connection with these mixtures that some people do not hesitate to resort to in order to make it pay; and it is well-nigh impossible to check them up on it, because it would be practically impossible to analyze all the mixtures and determine by this means whether they have given us the proportions asked for in the various pieces. The kind of brass and bronze castings, especially manganese bronze castings used in the naval gun factories, must be made exactly as determined by the Ordnance Department, as it would not do to take any chances on these mixtures for fear a part or parts might break on account of defective material at a critical moment, when a gun was in action and needed very badly; the probabilities that a defective piece would be the means of disabling the gun until repairs could be effected.

STEEL CASTINGS.

They are at present using a small converter for making their own steel castings, and as has already been mentioned in connection with iron castings there is so much competition in steel castings that as far as what the first cost of these castings is concerned, they could be made in outside foundries just as well as not. But here we are again confronted with the time and money losing delays in getting orders filled. When times are good in the country these steel foundries are filled up to overflowing, and it is almost impossible to get early deliveries, and all small manufacturers are constantly after these concerns to fill their orders. The consequences are that the Government has to wait. Then we are again confronted with the time lost in connection with the lengthy process of condemning castings.

Mr. LOUDENSLAGER. Do you charge up against the manufacture of these forgings the cost of the delay of the Government officials in their examining and condemning them?

Mr. DAWSON. I am not speaking of the price; I am simply detailing the process.

Mr. LOUDENSLAGER. I am speaking of the delay. You spoke of that.

Mr. DAWSON. Now, Mr. Chairman, he says.

In order to get replaces promptly, is one of the greatest arguments in favor of increasing the steel plant and making a greater number of steel castings than it now makes. When a steel casting is condemned it has to go through the same routine as mentioned in connection with the condemning of forgings, and it will require from six to ten weeks to get a defective steel casting replaced which, if made in your own shops, could be replaced in the length of time that is required to mold it and anneal it, which is about two weeks or less; so that, for the sake of prompt deliveries and prompt replacing of condemned castings, this steel plant ought to be increased to several times its present size——

Mr. LILLEY of Connecticut. Will the gentleman yield for a question?

Mr. DAWSON. In just a moment. I wish to finish the reading of this:

as the receipt of material without delay, and the early replacing of condemned castings will be the means of getting the work completed that they are intended for, and the work can be gotten out of the shops and out of the way; whereas it is now piled up so that some of the shops resemble storehouses more than workshops.

Mr. VREELAND. Bearing on the point about which the gentleman has been reading, in which he speaks of the delay caused by purchasing these castings abroad, I would ask him if he would not give the committee something found on pages 77 and 78 of this same gentleman's report, in which he speaks of the gun factory making 92 top carriages, 105 slides, 43 elevating arms, and 20 brackets, which were finally condemned and thrown aside because the plans made by the gun factory itself were found to be defective.

Mr. DAWSON. No; the gentleman does not exactly state the proposition. Mr. Nelson, in his report, does condemn that particular piece of business, but he condemns the Ordnance Department of the Navy for placing such a large order before it is thoroughly decided that the design is going to be satisfactory.

Mr. YOUNG. It was a question of naval management, then?

Mr. DAWSON. In the Ordnance Department, and not in the gun factory itself. They simply manufacture down there what they are ordered by the Ordnance Department to manufacture.

Mr. VREELAND. I think the gentleman will find, if he reads it, that they are condemned for making 200 top carriages, slides, elevating arms, and training brackets, and putting the work on them before they found they were defective.

Mr. DAWSON. Yes; but the criticism is directed at the Ordnance Department of the Navy, which placed the order, and not at the gun factory, which simply executed the order.

Mr. VREELAND. It costs just as much whether it is one department or the other.

Mr. DAWSON. Yes; but we want the criticism to be placed where it belongs.

Mr. LOUDENSLAGER. What branch of the Government will this foundry be placed under if it is built?

Mr. DAWSON. It will be placed under the management of Captain Leutze.

Mr. LOUDENSLAGER. Under the Ordnance Department of the Navy?

Mr. DAWSON. Under the same management that it is now.

Mr. LOUDENSLAGER. Then the same state of affairs will continue?

Mr. DAWSON. The same thing would have happened if the Ordnance Department had placed the order with an outside contractor, and it did place the same kind of a defective order outside the factory, as the evidence will show.

Mr. VREELAND and Mr. LILLEY of Connecticut rose.

Mr. DAWSON. I have only a few minutes. I should like very much to yield to the gentleman, but I have not the time.

Mr. WACHTER. We will give you the time.

Mr. DAWSON. The time for closing the debate on this amendment has been fixed.

Mr. Chairman, a good deal has been said on this floor about the price of products of the Washington Gun Factory as compared with the prices in outside concerns. Now, this disinterested expert, who seems to know what he is talking about, has gone into this question with great thoroughness. He submits at the bottom of this report a comparison of what it costs to manufacture articles in the Washington Navy-Yard and the cost to get them by contract. And it should be borne in mind, as he says, that the Naval Gun Factory price as shown here includes 40 per cent in addition to the actual cost of labor and materials, and the cost of experimenting is also included. So I should judge that that was an eminently fair comparison. Now, for instance, here is a 1-pounder gun, rapid fire, with accessories; the contract price, $450; Naval Gun Factory price, $335.20. Here is a 1-pounder gun, Maxim-Nordenfeldt heavy automatic; contract price, $2,329.72; Naval Gun Factory price, $1,874.73. I will print in the RECORD a part of the comparison submitted in this report, as follows:

CONTRACT PRICE.	NAVAL GUN FACTORY PRICE.
$2,500. 6-pounder gun, semiautomatic, with mount, complete, from Driggs-Seabury Gun and Ammunition Company; 50 on contract of April 30, 1900.	$2,233.45. 6-pounder gun, Mark IX, model 1 (semiautomatic), complete, with Mark VII mount, manufactured on job order No. 4177, 1901. Price includes $400 royalty.
$1,137.52. 3-inch field gun and carriage made by American Ordnance Company. The cost is independent of the gun forgings, which were furnished by the Bureau of Ordnance.	$1,063.39. 3-inch field gun, Mark I, and carriage, manufactured on job orders No. 3358, 1895 and No. 3111, 1896. Price includes $90 royalty. The cost of forgings, $140.80, has been deducted.
$1,783.20. 3-inch 50-caliber gun, Mark II, with Mark II breech mechanism, from American Ordnance Company; 100 on Bureau of Ordnance requisition No. 144 of February 23, 1901.	$1,754.14. 3-inch 50-caliber gun, Mark II, using the cost of gun manufactured on job order No. 1539, 1900.
$4,333.33. 3-inch 50-caliber nickel-steel gun, mount and sight from American and British Manufacturing Company. Contract of April, 1905.	$4,129.05. Estimate based on 3-inch gun No. 280. Nickel-steel gun ..... $1,979.05 Mount, Mark IV ..... 1,200.00 Sight ..... 950.00 Total 4,129.05
$2,592.94. 4-inch 40-caliber gun, Mark VI, with Mark V breech mechanism, Nos. 145 to 164, from American Ordnance Company. Contract of November 28, 1896.	$2,522.72. 4-inch 40-caliber gun, Mark VI, with Fletcher breech mechanism, Mark V; average of 30 guns manufactured on job order No. 3080, 1897, serial Nos. 180 to 209. Price includes $100 royalty. The forgings on this lot of guns were considerably cheaper than on guns built later.
$1,573.14. 4-inch mounts, Mark IV, from American Ordnance Company.	$1,474.10. 4-inch mount, Mark IV-A. Averaged from No. 77, $1,688.73, invoiced March 19, 1897; No. 111, $1,271.57, invoiced April 19, 1897; No. 144, $1,462, invoiced August 31, 1897.
$5,500. 4-inch gun, Mark VII, with mount Mark VIII, model 1. Nos. 327 to 338, from Bethlehem Steel Company, contract February 28, 1903.	$5,454.28. 4-inch 50-caliber gun, Mark VII ..... $3,471.05 4-inch mount, Mark VIII, model 1 ..... 1,983.25 Total ..... 5,454.28 For gun, take average of 25 guns on job order, 1903-00. For mount, deduct— Labor ..... $550 Material ..... 100 Per cent ..... 220 Total ..... 870 from cost of mounts manufactured on job order No. 403-00, Nos. 233 to 236, inclusive, invoiced at $2,853.25, for changes not included in the contract mount.
$13,000. 6-inch 40-caliber gun, Mark VII, with Mark VII breech mechanism. Nos. 265 to 276, and 6-inch mounts, Mark VII. Nos. 274 to 285, from Behlehem Steel Company, contract of June 11, 1901.	$10,417.44. 6-inch 40-caliber gun, Mark IV, with Mark IV breech mechanism ..... $6,999.61 6-inch mount, Mark VII, model 1 ..... 3,417.83 Total ..... 10,417.44 For gun, take average of three guns Nos. 260, 261, and 262, manufactured on job order No. 2664-00. For mount, take cost of mounts Nos. 182 to 189, Mark VII, model 1. Cost of gun includes $100 royalty.
$10,770. 6-inch 40-caliber gun, Mark VII, with Mark VII breech mechanism, spare gun No. 264, from Bethlehem Steel Company; requisition 139, January 29, 1901.	$7,449.56. 6-inch 40-caliber gun, Mark IV, with Fletcher breech mechanism, Mark IV. Take cost of gun No. 263, manufactured on job order No. 4895-00, for one gun. Cost includes $100 royalty.
$18,590. 7-inch gun, Mark II, with Mark I breech mechanism, from Bethlehem Steel Company; 36 on contract of October 8, 1903. Contract puts yoke on the mount.	$17,124.05. 7-inch 45-caliber gun, Mark II, with Mark I breech mechanism: Estimated cost of gun .. $18,400.71 Deduct yoke, cost as on order No. 2791-04 ..... 1,276.66 Net 17,124.05
$8,545. 7-inch mount, Mark II, from Bethlehem Steel Company; 36 on contract of October 8, 1903. Contract puts yoke on the mount.	$7,460.02. 7-inch mount, Mark II. Estimate of July 3, 1903, letter No. 5387, replying to the Bureau's letter No. 7496 of June 22, 1903: Estimated cost of mount $6,183.36 Yoke, order No. 2791-04. 1,276.66 Net 7,460.02
$24,380.17. 8-inch gun, Mark VI, with Mark V breech mechanism, nickel steel, from Midvale Steel Company; 24 on contract of September 8, 1903. Contract puts yoke on mount.	$21,631.08. 8-inch 45-caliber gun, Mark IV, with Mark V breech mechanism. Cost estimated first by adding $250 labor to the cost of 8-inch 40-caliber gun, No. 88, on job order No. 1449-01, $24,675.26. On completion of job order No. 1589-01 it was seen that $800 could be deducted. On examination of the tool account it was seen that $600 should be deducted for extra and special tools. Deduct ..... $1,400.00 Net cost of gun ..... 23,275.26 Cost of yoke on job order No. 5186-03, deduct ..... 1,644.18 Gun without yoke ..... 21,631.08 The price still includes $1,000 for tools.
$14,417.17. 8-inch turret mount, Mark XII, from Midvale Steel Company; 24 on contract of September 8, 1903. Contract puts yoke on mount and does not include any ammunition-handling apparatus.	$12,144.18. 8-inch turret mount, Mark XII. Estimated cost of mount without ammunition-handling apparatus ..... $10,500.00 Yoke, order No. 5186-03 .... 1,644.18 12,144.18

Cost of all sizes of powder cans made and the latest quotations by outside manufacturers:

Caliber.	Average approximate cost at Washington Navy-Yard.	Late contract prices.	Old contract prices.
5-inch, Mark II	$6.38	$12.00	
5-inch, Mark III	8.22	12.00	
6-inch, Mark V	7.94	14.00	
6-inch, Mark VII	11.12	14.00	
7-inch	(a)		
8-inch, Mark IV	11.88	18.00	
8-inch, Mark V	11.50	18.00	
10-inch, Mark IV	19.28		$15.16
12-inch, Mark IV	20.32		20.60
13-inch, Mark II	21.225	22.00	

[a] Only experimental tanks made.

Costs of all sizes of cartridge cases made, and the latest quotations of outside manufacturers. Forty per cent is added to material and labor in all cases.

Caliber.	Cost to make here.	Latest price quoted outside.
1-pounder	$0.175	$0.25
3-pounder	.55	.87
6-pounder	.55	1.00
3-inch field	.50	.65
3-inch 50 caliber	3.25	5.00
4-inch 40 caliber	5.50	7.60
4-inch 50 caliber	8.50	12.00
5-inch 40 caliber	7.00	8.10
6-inch 40 caliber	11.50	17.00

So it goes, from the top to the bottom. With only one or two exceptions, which are not material, these guns and other articles are manufactured in the Washington Gun Factory cheaper than they are purchased by contract. Now, let me go one step further.

Mr. VREELAND. I should like to ask the gentleman how he disposes of the figures, which I have presented here, showing the ordinary charges against the plant that would be made by the private manufacturer in reaching the total cost of the output?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAWSON. I should like to have time to answer the question.

The CHAIRMAN. The gentleman asks unanimous consent that he may have time to answer the question.

Mr. DAWSON. I should like to have five minutes. Of course, if the House does not want to know the facts, I am perfectly willing to sit down.

Mr. VREELAND. It seems to me that we ought to have all of the facts instead of those facts which the gentleman from Iowa picks out for us. [Laughter.]

The CHAIRMAN. Under the limitation put on the debate some time ago, debate in favor of the amendment is exhausted.

Mr. DAWSON. I want to add the amount that the iron and steel castings cost, as shown by this report:

Cost per pound of iron and steel castings and the prices quoted by outside manufacturers.

	Cost to make at naval gun factories.	Price quoted outside.
Iron	$0.03	$0.035 to $0.04
Steel	.05	.04 to .10

The CHAIRMAN. The question is——

Mr. LOUDENSLAGER. Mr. Chairman, has the time for debate on this amendment all been consumed?

The CHAIRMAN. The time in favor of the amendment has all been consumed; there are ten minutes due the negative side.

[Mr. LILLEY of Connecticut addressed the committee. His remarks will appear hereafter.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. RIXEY) there were—ayes 33, nays 71.

So the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

Naval station, Key West, Fla.: Dredging and filling in, $15,000; to complete two officers' quarters, $1,200; marine railway, to complete, $5,000; in all, navy-yard, Key West, Fla., $21,200.

Mr. SPARKMAN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 30, line 19, after the word "in," strike out "fifteen" and insert "fifty;" in line 21, after the word "dollars," insert "commandant's quarters, $12,000; suspensory, $10,000; latrine, $3,000; grading and fencing, $10,000; sewer system, $3,000;" and in line 22 strike out "twenty-one" and insert "ninety-four."

Mr. SPARKMAN. Mr. Chairman, I have offered this amendment because I think it ought to be adopted. But before giving my reasons in detail for this opinion I desire to call the attention of the House, and incidentally that of the Committee on Naval Affairs, to what I conceive was an oversight on the part of that committee with reference to another matter, connected, however, with the subject-matter of this amendment.

Looking at the map of the Atlantic and the Gulf coast States, I notice quite a long stretch of seacoast from Charleston, S. C., around by Savannah, Fernandina, Jacksonville, Miami, Key West, and Tampa to Pensacola, a distance of about 1,200 or 1,300 miles, on which there is not a single dry dock or other facility for docking and repairing a battle ship or other naval craft in case of injury in battle or damage from any other cause, and no provision in this bill for the construction of such dry dock or any suggestion that this inadvertency or mistake will be remedied in the future, while on the coast north of Charleston, S. C., and up to Portsmouth, N. H., a distance of 700 or 800 miles, there are six of these places where dry docks are located, or one for about each 150 miles.

Now, Mr. Chairman, I do not care to criticise, and I do not intend to criticise, Congress or the Navy Department for establishing these dry docks. Indeed, I assume that they were necessary at the time they were established or they would not have been constructed. Nor would I say that they are not necessary now, that they are not being used, and will not be used in the future, but I do say that along this stretch from Charleston around the Florida coast, a distance, as I have said, of 1,200 or 1,300 miles, there should be in the interest of the Government at least one or more dry docks, especially on the southern coast of Florida. The necessity for these, I think, will be apparent to anyone who will give thought to the conditions there.

What are those conditions, Mr. Chairman? Florida projects far out into the southern seas, within 1,200 miles of the eastern terminus of what we have said shall be the Panama Canal, also within twenty-four hours' run of the Caribbean Sea, whose waters wash a part of the eastern shores of Central and South America. She has the Gulf of Mexico on one side, the Atlantic Ocean on the other, and the Gulf Stream—that most remarkable of all ocean currents—along her southern shores, beyond which lie the island of Cuba and her kindred group of islands known as the West Indies, extending in a semicircle all the way down to South America and inclosing from the eastward, so to speak, the Caribbean Sea, with the exception of large and deep channels or passages running between these islands, and thus connecting it with the Atlantic Ocean; the whole presenting an aggregation of conditions which places Florida and her southern ports in a position of transcendent importance to the United States from the standpoint of commerce and naval strategy.

Into and through the Gulf of Mexico the exports and imports to and from the Gulf States and States tributary thereto must pass, while through the channels leading into the Caribbean Sea the commerce of South and Central America must likewise go, soon to be augmented, we hope, by the completion of the Panama Canal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent for ten minutes more.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to proceed for ten minutes. Is there objection?

There was no objection.

Mr. SPARKMAN. Now, Mr. Chairman, it is not so much by shore batteries or standing armies as by battle ships and armed cruisers patrolling the straits of Florida and the passages into the Caribbean Sea that this vast commerce must be protected on our part in case of war with any European country, and we should be prepared with both ships and all that goes to make an efficient navy to furnish that protection if we would keep abreast of the progress of the world.

It is there also that we must protect, if it should ever be attacked, the Monroe doctrine. And who can say it will not be attacked? Continually new applications of it are being made. Under it we are to maintain, as against monarchial governments, the South and Central American republics, and almost at any time we may be called upon to uphold this self-imposed duty and defend one or more of these republics against the greed of some European country, and should the occasion arise we will meet it with every resource at our command.

This doctrine has obtained now for nearly a hundred years, and whatever mistakes, if any, have been made in its application, whatever strain we may have put upon it in our efforts toward territorial aggrandizement or otherwise, its principles are, perhaps, as dear to our people to-day as they ever were during any period of our glorious history. Indeed, I know of nothing except our own homes and firesides, our institutions, our rights and liberties for which we would lay down our lives more readily than for this doctrine, proclaimed by an American President even when we were weak among the nations of the world; and should it be assailed to-day 80,000,000 of Americans would rise up in its defense.

But again, where and how would it be defended? Not, perhaps, on American soil, but mainly in the waters and in the section just mentioned. To the westward and the southward of the Caribbean Sea would lie the object of attack, while our Gulf commerce and that of the Caribbean Sea would, if undefended, fall an easy prey to an enemy with a stronger navy. Hence the importance of these waters in a strategic sense, and hence the necessity for every facility at these far southern ports for the repairing and supplying of the ships of our Navy that must constantly assemble in and patrol these waters.

The Navy Department now for a greater part of the year, even in times of peace, keeps a large fleet in these waters. Almost every winter one is sent thither for the purpose of maneuvering, practicing, and otherwise familiarizing the officers and men with the scenes where their services may be needed, where naval battles may be fought in the future. So that navy-yards and dry-dock facilities are as greatly needed there as anywhere else along the thousands of miles of our immense seacoast.

Suppose, Mr. Chairman, a vessel should be injured in the Straits of Florida or in the southern part of the Gulf of Mexico, where would she go for her repairs if necessary for her to go into a dry dock? Either to Charleston or Norfolk, six or eight hundred miles up the Atlantic, or to Pensacola, on the Gulf, or, rather, I should say, to New Orleans, six or seven hundred miles, as the Pensacola dry dock, 550 miles from Key West, is, unfortunately it appears, not sufficiently large to accommodate the great battle ships of our Navy. In fact, I am told that the New Orleans dry dock is the only one in the Southern States that can accommodate a first-class battle ship. True it is that the Government—at least so I am informed—is constructing a dry dock at Guantanamo, its naval station on the

southern coast of Cuba, but this, when completed, will be as far from the Straits of Florida and the southern part of the Gulf as Charleston and New Orleans. So the situation will be only partly relieved by the construction of a dry dock at Guantanamo.

Now, Mr. Chairman, to send a damaged vessel so far for repairs would entail great loss of time and money. Besides, in time of war such a course might invite disaster, as it would not be safe at all times to send a wounded ship alone over such a distance. In fact, such conditions might easily arise in case of disaster to our fleet. Of course we do not expect disaster. We have not, be it said to the honor of our Navy, been defeated many times in battle upon the sea, and we all indulge the hope and cherish the belief that it may never happen again. But it is well to be prepared, and we can not too soon construct a dry dock in one or both of the harbors of Key West and Tampa, each of which is among the finest in the world. Admiral Endicott, in his testimony before the House Committee on Naval Affairs early this year, said that there should be three or four dry docks on the Gulf of Mexico.

The following important statement is to be found on page 567 of these hearings:

Admiral ENDICOTT. * * * I think the Government ought to have three or four first-class dry docks on the Gulf of Mexico. There is only one dock on the waters of the Gulf or on the waters tributary to it, and that is the one at New Orleans. There is not a dock at Pensacola to-day that will take anything over 10,000 tons—that is, a floating dry dock. I think when the dock at Charleston is completed there will not be anything south of that which will take any battle ship except the New Orleans dock. There is a long stretch of coast that has no facilities for docking a battle ship.

Now, Mr. Chairman, on the Atlantic, north of Charleston, these dry docks are placed on an average of about 150 miles apart. Tampa and Key West are more than 200 miles apart, so that one Government dry dock at each place, in addition to the one at Pensacola, could properly be constructed, while the meager facilities at Pensacola should be augmented by the construction of a graving dock there.

Why, Mr. Chairman, the committee ought even here and now to remedy the mistake to which I have called attention, for mistake it is, not to give us the dry-dock facilities recommended by Admiral Endicott in those southern waters. But I would have but little hope at present of inducing the Naval Committee to accept an amendment, if I should offer one, entailing such an expenditure as would be requisite for the construction of even one of these docks. So I shall for the present let the matter rest, with the hope that this able committee may see its way clear at the next session of Congress to remedy these mistakes.

I now come to the amendment which I have offered, and in connection with what I may say regarding it I wish to read from the hearings had before the Committee on Naval Affairs the statement of Admiral Endicott, or a part of it, upon the importance of having navy-yards and dry docks at the places mentioned. I ought to say, Mr. Chairman, that my amendment does not embrace all the recommendations of the Navy Department, and I have included only those which Admiral Endicott said at the hearings ought to go into this bill, and which have been left out by the committee, whether wisely or unwisely it will be for the House to say. The entire amount of these recommendations was upward of $200,000, but these were reduced by him at the hearings to the items and figures as they appear in the amendment, these items being considered by him as more urgent.

There is a navy-yard at Key West, but not a dry dock. That navy-yard there, Mr. Chairman, has cost a good deal of money. I see that Admiral Endicott fixes its value at upward of $900,000. But it is, perhaps, including the land and the improvements there, of more value than the amount of money it originally cost.

Mr. RIXEY. How far is it from Pensacola?

Mr. SPARKMAN. It is about 550 miles, as I recollect now. I now read from the testimony of Admiral Endicott, to show the importance of this naval station at Key West. The importance of navy-yards and the alleged practice of diverting work that it was claimed should be done at one navy-yard to another was under consideration when the following colloquy between the gentleman from Connecticut [Mr. LILLEY] and Admiral Endicott occurred:

Mr. LILLEY. It may indicate that we have too many navy-yards. Do you not thing that if we were a private enterprise instead of a great Government we would concentrate more and spend that money in large navy-yards and put it all into one and make one first-class establishment on each coast?

Admiral ENDICOTT. I think a private establishment would do that, because it is much more economical; but in a military establishment it is a great convenience, and very important frequently, to have naval stations at different points along your coast. In case of a war which involved very active operations in the Caribbean Sea, for instance, or in South America, it would be very important to have good, efficient naval stations on the nearest coasts. It would save a great deal of time and money.

And Key West, Mr. Chairman, and the southern portion of Florida is near this territory.

Mr. LILLEY of Connecticut. Will the gentleman yield?

Mr. SPARKMAN. Yes, sir.

Mr. LILLEY of Connecticut. I also asked Admiral Endicott—I do not see it in the hearings here, but I recollect very distinctly I asked the question—whether or not he thought it would not be better to abolish two stations on the Gulf and make one first-class yard either at Key West, Pensacola, or New Orleans, and he said he thought it would. I asked him where that first-class yard ought to be established, and he stated at Pensacola.

Mr. SPARKMAN. Well, I have not come across that yet.

Mr. SLAYDEN. Does that suit you?

Mr. SPARKMAN. But I am under the impression that before I get through, if the committee will indulge me till I finish the statement of Admiral Endicott on that point—it is not very lengthy—it will be seen that the admiral did not speak advisedly when he made that answer, because he says something else different, I think, from that statement to which the gentleman has just called attention. Perhaps the statement to which the gentleman refers is what immediately follows. I will read it:

Mr. LILLEY. I notice that we have navy-yards at Portsmouth, Boston, New York, Philadelphia, Charleston, Key West, Pensacola, Norfolk, and that there are large appropriations for them all. Would not the work be done more economically if there were, say, not over half as many yards on the Atlantic coast?

Admiral ENDICOTT. It might be done more economically from the standpoint of peace entirely; but I think it is good policy to make a few of the yards larger.

Mr. LILLEY. That was my idea on that.

Admiral ENDICOTT. Some of these yards are second and third class yards. They are small establishments, and the regular current expenses are small.

The repairing of ships at navy-yards keeps the plants in better condition for the heavy strain on them in case of emergency—in case of war. If you did your repairing outside, as well as your building, the yards would run down.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPARKMAN. Mr. Chairman, I really would like to have sufficient time to finish reading what I desire to read here from Admiral Endicott's statement, which is only a page or two.

The CHAIRMAN. The gentleman asks unanimous consent that he may finish his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. SPARKMAN. Mr. Chairman, I am not accustomed to taking up the time of the House unnecessarily and I shall only detain it a few minutes longer. On page 544 of the hearings, the gentleman from Massachusetts [Mr. ROBERTS] asked a question in regard to grouping dry docks at one point, the answer to which is as much an argument in favor of a well-equipped navy-yard as a dry dock; hence I read it:

Mr. ROBERTS. In regard to grouping them at one point.

Admiral ENDICOTT. Well, there ought to be enough dry docks at an important navy-yard to admit of taking out a squadron and cleaning and painting their bottoms immediately. There ought to be several dry docks at a point like New York or Boston or Norfolk or Mare Island, for instance. I think each one of those yards ought to have several dry docks. There are times when you can not disperse your squadron or fleet and send some vessels to Boston and some to New York and some to Norfolk, and so on, for docking. They may be in a harbor where they can not get out unless they go together. The English navy has twenty-one dry docks in the Portsmouth navy-yard alone.

I also read the following extracts from pages 566–569 of the hearings:

The CHAIRMAN. Now we go to "Naval station, Key West, Fla.: Dredging and filling in, $50,000." We gave you $15,000 last year.

Admiral ENDICOTT. Yes.

Mr. MEYER. Admiral, is it intended to equip this as a complete navy-yard?

Admiral ENDICOTT. Oh, no. It was found during the Spanish war that it was a very important post, and there were very few facilities there. We had to go out and rent property outside of the Navy at that time.

So you see the admiral does regard Key West as a very important place.

Mr. BUTLER. Do you know how that place is defended at the present time?

Admiral ENDICOTT. The War Department has a fortification at Key West, and there is also a fort at Dry Tortugas.

The CHAIRMAN. This looks like building up a station here. You ask in all for over $200,000.

Admiral ENDICOTT. We have a large coaling station, and we have a steam-engineering building and a construction building.

Mr. MUDD. What do you construct?

Admiral ENDICOTT. Vessels go there for repair.

Mr. LOUDENSLAGER. How many vessels were there last year? Do you know?

Admiral ENDICOTT. I could not tell you.

Mr. LOUDENSLAGER. The record shows that year before last there were two vessels there, and they remained a total of eight days, the two of them.

Admiral ENDICOTT. During the Spanish war that was made a post and the fleet was there a long time under Admiral Remey.

And, as further information, I will say that for the past three

years the record shows about two ships in each year went to Algiers, in the Mississippi River, for repairs.

Mr. LOUDENSLAGER. Could not this all go out without any harm?

Admiral ENDICOTT. It ought not to; it is an important station.

Mr. MUDD. What is the purpose of this dredging—what is it needed for?

Admiral ENDICOTT. Filling the land up to the grade, and also to make a good depth of water in front.

Mr. MUDD. Isn't there just enough now along the front?

Admiral ENDICOTT. There is at the coal wharf.

Mr. LILLEY. Can you improve land cheaper than you can buy it?

Admiral ENDICOTT. We had the same land there, but it was too low.

Mr. MUDD. You have depth enough at the coal wharf. What other vessels will there be there?

Admiral ENDICOTT. There were numerous vessels there during the Spanish war, and they all laid out in the harbor, so the communication was by means of lighters and tugs.

The CHAIRMAN. Well, gentlemen, I don't know how you feel about this, but there is the commandant's quarters, the dispensary, the central heating plant, the grading and fencing, the marine railway, the foundry, and the steam engineering. Why not take it all out? It means a new navy-yard, in my judgment.

But, Mr. Chairman, there is now a navy-yard there, valued at nearly a million dollars, as we have seen.

Mr. LOUDENSLAGER. I second that motion.

Mr. RIXEY. How far is that from Pensacola?

Admiral ENDICOTT. It must be over 300 miles.

Mr. KITCHIN. Is this the closest place you have to Panama—the closest station?

Admiral ENDICOTT. On our own territory.

The Admiral was then asked by the gentleman from Louisiana [Mr. MEYER] the following:

Will there not be an estimate here very soon for a dry dock there?

To which the Admiral answered:

There might be some time in the future, but not in my time.

The Admiral did not here do himself justice. He did not for the moment consider just how young he is. He will, I am sure, live long enough to see a dry dock there and to supervise and control it for many years, as he does so ably those now in his charge.

I think the Government ought to have three or four first-class dry docks on the Gulf of Mexico. There is only one dock on the waters of the Gulf or on the waters tributary to it, and that is the one at New Orleans. There is not a dock at Pensacola to-day that will take anything over 10,000 tons—that is, a floating dry dock. I think when the dock at Charleston is completed there will not be anything south of that which will take any battle ship except the New Orleans dock. There is a long stretch of coast that has no facilities for docking a battle ship.

Now, Mr. Chairman, I might read further, but I will not take up the time of the committee to do so. Enough has been read to show the importance of Key West as a naval station. I will repeat that the items embraced in this amendment are those recommended by Admiral Endicott in his report and in these hearings. The committee cut them down, but in my judgment they acted unwisely, and this amendment should go through as it has been submitted to the House.

Mr. Chairman, we need all these facilities in time of peace, but still more in time of war. And wars we will have in the future, as in the past. I am not so optimistic as some gentlemen here. I know the world is growing better day by day, that we are continually reaching higher ground in civilization's upward march, but we are not yet nearing that point in the upward trend of progress where nations, learning war no more, will "beat their swords into plowshares and their spears into pruning hooks." There is yet a great deal of the "old Adam" in man.

Cupidity and greed are not yet strangers to the human character, and the lust of power and desire for territorial aggrandizement are still potent, if not pernicious, features in the national life; and until these can be curbed or satiated we can not reach that point in national development when nations will seriously and effectually agree that peaceful arbitration shall take the place of the arbitrament of the sword. Until then we must be prepared to meet aggression with defensive methods, hostile encroachment by other nations with battle ships and armed battalions. Hence the necessity, I fear, yet a while for a strong navy among other defensive measures.

By this I do not mean a navy as strong as Great Britain's, for we will probably never have her as an antagonist. She is more likely to be our ally in any great armed conflict. But in any event it will be necessary to have a naval establishment proportionate, at least, to a degree, in strength to those of the more powerful nations, if for no other purpose than that of keeping the peace and enforcing the edicts of an international board of arbitration, if the nations are to have one.

So, Mr. Chairman, as we are to possess a navy, we should do whatever is necessary to keep it up to that degree of efficiency demanded by the exigencies of our position among the nations of the earth. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida.

The question was taken; and the amendment was rejected.

Mr. SPARKMAN. Mr. Chairman, I would like permission to extend my remarks in the RECORD.

Mr. GREGG. Mr. Chairman, I would make the same request.

The CHAIRMAN. Is there objection to the requests of the gentlemen? [After a pause.] The Chair hears none.

The Clerk read as follows:

Navy-yard, Mare Island, Cal.: Railroad system, extension, $5,000; electric-plant system, extension, $5,000; improvement of channel in Mare Island Strait, to complete, $100,000; sewer system, extensions, $3,000; paving and grading, to continue, $5,000; heating system, extension, $5,000; improvements to building No. 165, $4,000; improvements and repairs, steam engineering, buildings, $15,000; bridge between buildings 45 and 65, $1,000; in all, navy-yard, Mare Island, $143,000.

Mr. KNOWLAND. Mr. Chairman, I move to strike out the last word. I will not detain the House but a moment. I wish to place in the RECORD letters from the War and Navy Departments, showing the success, up to this time, of the work now under way for the improvement of the channel leading to the Mare Island Navy-Yard. In view of the fact that a mistaken impression has prevailed in some quarters relative to the depth of water, my purpose in presenting these letters is to forever set at rest any such misapprehension. The facts are that the success of the project now being carried out, and which was proposed by the House Committee on Naval Affairs, is proving more successful even than anticipated.

These letters from the War and Navy Departments demonstrate beyond a question that the channel leading to the Mare Island Navy-Yard contains, at nearly every point, fully 30 feet of water at mean low tide, a depth sufficient to take any ship afloat.

The CHAIRMAN. The gentleman from California [Mr. KNOWLAND] asks unanimous consent to print in the RECORD, in connection with his remarks, letters bearing upon the situation at the navy-yard, Mare Island, Cal. Is there objection?

There was no objection.

The letters referred to are as follows:

WAR DEPARTMENT,
Washington, March 22, 1906.

DEAR SIR: Answering your letter of 5th instant, in which you ask to be advised as to the increase of depth in the channel to the Mare Island Navy-Yard, Cal., I beg to inform you that the local engineer officer, Colonel Heuer, to whom the matter was referred, reports under date of 13th instant, as follows:

"A channel, 30 feet deep at low tide and 300 bottom width, has been completed, by dredging, through San Pablo Bay, California. The depth prior to improvement was 19 feet at low water. The depth has therefore been increased by 11 feet.

"There is another channel in Mare Island Strait which is being improved under the direction of the Navy Department. Of the condition of the latter channel this office has no official information."

Very respectfully,

ROBERT SHAW OLIVER,
Assistant Secretary of War.

Hon. J. R. KNOWLAND,
House of Representatives.

NAVY DEPARTMENT,
Washington, May 2, 1906.

SIR: Replying to your letter of the 27th ultimo, requesting information as to the progress of work under the direction of the Navy Department on the channel in Mare Island Strait, I have the honor to inclose herewith, for your information, a copy of the latest report from the commandant, navy-yard, Mare Island, dated March 10, 1906, inclosing one from the civil engineer at that navy-yard, showing the results on the improvement of Mare Island Strait.

Very respectfully,

TRUMAN H. NEWBERRY,
Acting Secretary.

Hon. J. R. KNOWLAND, M. C.,
House of Representatives, Washington, D. C.

COMMANDANT'S OFFICE,
Navy-Yard, Mare Island, Cal., March 9, 1906.

SIR: I have the honor to transmit herewith a copy of a report submitted by the civil engineer in regard to the improvement in Mare Island Strait.

The commandant, from a personal examination of the channel, was led to believe that there was an increase in the shallowest part of 4 feet since the improvement to the channel began. This belief is corroborated, as shown by the report of Civil Engineer Rousseau, above mentioned, although there is considerable work yet to be done in the strait before the improvements are fully completed.

I desire to express the opinion that since the channel has been cut across San Pablo flats, giving 30 feet of water at mean low tide, there is no reason why the battle ship *Oregon* should not come to the navy-yard to discharge her ammunition, in case that ship comes to San Francisco for such a purpose.

In this connection, I beg to congratulate the Navy Department upon the success which has followed the inauguration of the improvements to increase the depth of water in Mare Island Strait. * * *

Very respectfully,

B. H. MCCALLA,
Rear-Admiral, U. S. Navy,
Commandant Navy-Yard and Station.

The SECRETARY OF THE NAVY,
Washington, D. C.
(Through the Bureau of Navigation.)

The Clerk read as follows:

Navy-yard, Puget Sound, Washington: Sewer system, extensions, $3,000; to continue grading, $10,000; electric-light plant, extensions, $5,000; water system, extensions, $2,500; heating system, extensions,

$4,000; dredging, to continue, $10,000; roads and walks, extensions, $2,500; stone and concrete dry dock (to cost $1,250,000), $100,000; smithery for construction and repair, to complete, $4,000; in all, navy-yard, Puget Sound, Washington, $141,000.

Mr. JONES of Washington. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Washington [Mr. JONES] offers an amendment, which the Clerk will report.

The Clerk read as follows:

In line 17 strike out "ten" and insert "thirty."

Mr. JONES of Washington. Mr. Chairman, in connection with this amendment I simply want to say a few words in reference to the matter of dredging at this yard. I think rather inadvertently a wrong impression was conveyed in the hearings by the testimony of Admiral Endicott, although, if you read all of his testimony, it makes it perfectly plain. It seems that when questioned by the committee he stated that they would need at this yard for dredging the next few years something like a hundred thousand dollars, and other remarks were made which seemed to convey the impression to some of the members of the committee that a large sum of money would be required for dredging. My friend the gentleman from Pennsylvania [Mr. BUTLER] stated in the committee:

I am disappointed to learn of the enormous amount of dredging that is in prospect to enable us to get our ships up to the wharves there to handle them as we expect to handle them in a navy-yard. I was informed by a member of this committee that this was the most desirable place for a navy-yard in the United States on account of the great depth of water and the possibility of bringing the ship up close to the shore.

In answer to that Admiral Endicott made the proper statement:

That is true so far as getting the ship in there is concerned; it is a fine harbor, a fine channel; and the ships in the Navy could lie in there any day. But we must fill out or build piers out to this deep water, and that is true in all of the yards.

In another part of his testimony Admiral Endicott gives the impression they may have to dredge out quite a long distance from the shore in order to reach deep water. As a matter of fact, all of the dredging that has been necessary at Puget Sound Navy-Yard, and all the dredging that will be necessary at the yard in the future, is simply the dredging near the shore or along the wharves or piers in order to make proper docking facilities. Of course this would be expected at any location, I think, you would find anywhere in the country, and this is so stated by Admiral Endicott. I do not think that you can find any harbor where vessels can go right up to the shore and find dockage facilities made there by nature, and we have never claimed for the Puget Sound Navy-Yard that vessels can come up there and tie up to stumps or trees on the shore line. It is to the advantage of the yard that the deep water does not go up so close to the shore, because it would make the construction of wharves and the building of piers much more expensive than it is now. As a matter of fact, all of the dredging that ever has been or ever will be necessary at this yard is simply done for the purpose of deepening the channel along the wharves or piers and for berthing purposes.

By building these wharves and piers out a distance of four or five hundred feet you come to water 30 to 33 feet deep. If the water were as deep as that up to the shore line it would make the construction of the wharves and piers much more expensive. It seems to me it is really an advantage in the running of wharves out something like four or five hundred feet and getting 33 feet of water, and then dredge along the side of the wharf, and get plenty of berthing room and docking room for the vessel. Of course if you were to build the wharves and piers out to deep water, and then extend them in opposite directions, no dredging at all would be necessary. It is better, however, and cheaper to build the docks and piers out as far as is desired and then dredge alongside, making dockage facilities.

The amount of money expended in this way for dredging, as given by Admiral Endicott, is $40,000; and I have a letter from the Secretary of the Navy stating how this money has been expended—that is, the manner of and purpose of the dredging—and I desire to call the attention of the committee to these facts. The appropriations made were, $20,000 on March 4, 1898; $10,000, April 27, 1904, and $10,000, March 3, 1905. One thousand cubic yards of material were removed from the channel south and in the immediate vicinity of the masonry entrance to the dry dock. Work was commenced December 8, 1902, and finished December 13, 1902, at a total cost of $1,150.

That was an expenditure right at or near the mouth of the dock simply to make the entrance much more easy; and I want to call the attention of the committee to this fact, that when the dredging is done once at this yard it does not have to be done again. There is no filling up. There is no sediment carried in the waters of that harbor, and therefore no deposit after the channel is made.

Second, a berthing site for the United States receiving ship *Philadelphia*, 400 feet long and 100 feet wide, was dredged outside of the southerly end of wharf. Work was begun March 15 and completed March 21, 1904, at a total cost of $3,600.

Now, we do not claim that there are natural berthing sites there for vessels. Some little preparation has to be made here, as at any other yard.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JONES of Washington. I ask for five minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. JONES of Washington. In connection with the contract for the construction of the coaling plant and wharf, an area on each side of the wharf, measuring 100 feet wide by 450 feet long, was dredged to a depth of 30 feet during December, 1902, and February, March, and April, 1903, at a cost of $11,000.

That shows that on completing the plant, the coal plant and wharf, a channel was dredged alongside, and this furnishes splendid facilities for coaling and unloading vessels.

Then, under a contract dated August 14, 1905, 61,196 cubic yards of material were dredged from the site of a new pier.

Now, that shows the character of dredging that is necessary at this yard and the character of dredging that will be necessary in the future. There is no dredging necessary for the channel; no trouble about bringing vessels into the yard. The greatest vessels that will ever be built can come to this yard under their own steam without any danger of grounding. What other yard in the country can be reached in this way? No dredging will be required for an anchorage basin. The navies of the world can lie at anchor there just as it is now. Simply for the purpose of comparison, I desire to call the attention of the committee to the report of the Navy Department showing the amount of money expended at the different navy-yards for dredging. At Boston, $115,000; at League Island, $855,000; Mare Island, $420,000; New York, $155,000; Norfolk, $45,000; Pensacola, $75,000; Port Royal, $256.000; Portsmouth, $774,000, and Puget Sound, $40,000.

I assume that this does not take into account anything expended under the river and harbor appropriations for the dredging out of channels in order that vessels may get up to the different yards, which in many cases has been very large. So that I take it, gentlemen, there is no site in the country better located in connection with deep water or with better channel approach or better anchorage basin than this navy-yard—in fact, I know of none that will compare with the navy-yard at Puget Sound in these respects. I am glad to see that the committee has incorporated in this bill a provision for a dry dock at this yard. It is certainly very much needed. I had the pleasure of calling the attention of the committee to this improvement when the last bill was being considered, and I am much pleased that the committee has so fully appreciated the great necessity of having an additional dock as to incorporate a provision for it in this bill. As Admiral Endicott says in his testimony, it is the only yard with a dock on the Pacific where a battle ship has ever been docked or could be docked up to the present time, and the necessity for a new and additional dock is very great.

The committee have cut the appropriation for dredging down from $30,000 to $10,000. I believe the committee has done the best it could do, and in view of the fact that no large improvements, aside from the dock, are provided for, I am inclined to think the sum provided for dredging is sufficient, and shall not press my amendment. Other improvements should be provided for. A floating crane is needed. A blacksmith shop for construction and repairs should be built. More piers are needed. These, with other improvements, were urged by Admiral Endicott and by us. The committee has not seen its way clear to make provision for these in this bill. It has provided for the most essential, the new dock, and I shall not further urge these additional appropriations at this time. The building up of this yard is not a local matter. It is of national concern, and as such I have no doubt the committee considered it in reaching its conclusions as to what should be done.

Mr. BUTLER of Pennsylvania. I only ask an opportunity to say a word. I am very sorry indeed that an explosion of mine should have invited the discussion that the gentleman has indulged in. I was surprised that any dredging was needed at this plant. Therefore I made the remark which he quoted. After the witness, the Chief of Yards and Docks, had made his explanation I was entirely satisfied. There is no place in the United States which offers the natural inducements for a navy-yard such as found at Bremerton, and I am greatly in its favor. I did not mean to complain, but praise.

Mr. JONES of Washington. I am certainly delighted to

think that my remarks should have called forth such an expression.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Washington will be withdrawn.

There was no objection.

The Clerk read as follows:

Navy-yard, Pensacola, Fla.: Water system, $5,000; sewer system, $10,000; conduits and conductors for distribution of power, $5,000; crib for wooden floating dry dock, $20,000; in all, navy-yard, Pensacola, $140,000.

Mr. FOSS. I move to strike out the words "one hundred and." It is a clerical error.

The Clerk read as follows:

Page 32, lines 3 and 4, strike out the words "one hundred and;" so that it will read "forty thousand."

Mr. FOSS. That is to correct the total.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Naval station, New Orleans, La.: Improvement of water front, $40,000; levee improvement and grading, $10,000; machinery and tools for yards and docks shop, $3,000; central electric light and power plant, to complete, $50,000; rebuilding cross wharf, $10,000; strengthening approaches to floating dock, $9,500; railroad system, $5,000; underground conduit system, $5,000; drainage system, $8,000; sawmill, boat shop, and storage for construction and repair, $60,000; toward the construction of street around naval station in lieu of Patterson street, $15,000; in all, navy-yard, New Orleans, $215,500.

Mr. FITZGERALD. Mr. Chairman, I move to strike out, commencing with the word "toward," in line 15, down to and including "dollars," in line 17.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 32, in lines 15, 16, and 17, strike out the words "toward the construction of street around naval station in lieu of Patterson street, $15,000."

Mr. FITZGERALD. Mr. Chairman, I desire to call the attention of the committee to the fact that this appropriation of $15,000 to construct a street around a naval station can not be found in the estimates submitted to Congress. I have carefully examined the testimony of the Chief of the Bureau of Yards and Docks, and I find no reference whatever to this item. In his testimony the Chief of the Bureau of Yards and Docks says that the entire plant at New Orleans is valued at $1,091,000, $815,000 of which is invested in a dry dock. It is proposed here to put a $15,000 street around a navy-yard valued at $1,091,000, $815,000 of which is invested in a dry dock; and if I be not mistaken, it is a floating dry dock.

This paragraph is very instructive to anyone who will analyze its provisions. The total estimates for improvements under the Bureau of Yards and Docks at the navy-yard at New Orleans submitted to Congress this year amounted to $270,000. The committee has allowed $215,000. The total estimates for improvements at the New York Navy-Yard this year amounted to $380,000; the committee allowed $128,000. Last year $82,000 was appropriated for improvements at the navy-yard at New York, $95,000 for the navy-yard at New Orleans. Let me call attention to the significance of these figures. In the construction department at New York last year the maximum number of men employed was 3,355, the minimum, 2,786. The average in this one bureau alone was 3,049. Now, what would the committee suppose was the number of men employed at New Orleans?

Mr. MEYER. Does the gentleman mean that he is dissatisfied with the appropriation made for the New York Navy-Yard?

Mr. FITZGERALD. Not at all. If I had been dissatisfied I should have offered amendments at that point; although my experience in the past convinced me that it is hopeless for me to offer amendments to obtain appropriations for improvements at that place. But that does not prevent me from letting the committee see one of the means by which money is squandered in this bill. I spoke of the number of men employed in one bureau at the navy-yard in New York. Let me state the figures with regard to the navy-yard at New Orleans. Only one bureau does any work there. That is the Bureau of Construction and Repair. The maximum number of men employed there last year was 110. The minimum number was 13. The average number, 39. And yet they submit here a recommendation for yard improvements to cost $215,000. More than that, minor repairs were made upon two vessels at that navy-yard. Let me contrast that with the navy-yard at New York, and I merely take the yard at New York because I am more familiar with what is done there. I am somewhat better acquainted with what is accomplished there than elsewhere. Five vessels are there under construction. Minor repairs were made upon forty-three, and what are called "important repairs," made on twenty-four vessels. These figures are not my own; they are taken from the official reports of the Navy Department. I understand that the navy-yard at New Orleans—if my information be not inaccurate—is from 15 to 40 feet below the levee. I am not sure of the exact figures. The probability is that some night the levee will break and everything invested there will be swept out into the Gulf.

Mr. Chairman, if I had an opportunity to determine how these other items might properly be cut down, I would offer amendments to reduce them. I respectfully submit that at least upon this showing the Committee on Naval Affairs will not ask this committee to appropriate $15,000 to build a street around this navy-yard, an item which is not found in the estimates submitted in the Book of Estimates, which was not mentioned by the Chief of the Bureau of Yards and Docks, so far as I can ascertain in his testimony, and which, in my judgment, is done not for the benefit of the navy-yard, but for the benefit of the city of New Orleans.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAWNEY. I ask that the gentleman's time may be extended for one minute. I want to ask him a question.

The CHAIRMAN. Without objection, it will be so extended.

Mr. TAWNEY. Can you or any member of the committee inform the Committee of the Whole as to whether or not the Government owns the land on which this street is to be constructed around the navy-yard?

Mr. FITZGERALD. I do not know.

Mr. FOSS. It is on navy-yard ground. I will say that we took a street which belongs to the city, that ran right straight through the navy-yard, in front of the dock; or, I will say, between the floating dock and the shops. We thought that it would be no more than fair to build a road around, inasmuch as we had taken the main street, the main artery of travel, away from the city.

Mr. FITZGERALD. In the city of New York, in the Borough of Brooklyn, the Government has a navy-yard consisting of more than 118 acres. It has the fee of the sidewalk, at least of the street, and in all of the years that it has had that it has never even put down a pavement upon the part of the street that is used for foot passengers; and if the committee is going to recommend the building of streets and putting down pavements, the least it might do is to commence at a place where some use can be made of such things.

Mr. FOSS. Mr. Chairman, I want to say a word. Of course, the committee provides for the navy-yards, and they need it. The New York Navy-Yard is the greatest yard in the United States, and in the years that are past we have spent in the neighborhood of $20,000,000——

Mr. FITZGERALD. Oh, no; the gentleman is mistaken; I have the figures here.

Mr. FOSS (continuing). That is a first-class yard, of course, and in good condition. There is no necessity of making large appropriations for it all the time. The yard at New Orleans is a new yard; it was authorized by Congress a few years ago, and we are putting it in shape where we can do more work than was done during the last fiscal year.

Mr. FITZGERALD. Will the gentleman state how much is expected to be spent there in order that it may do any appreciable amount of work?

Mr. FOSS. It is merely repair work.

Mr. FITZGERALD. It has been that since 1849.

Mr. FOSS. Oh, no; it's only during the last few years that we have got a small repair station there, and that is all we are going to have.

Mr. FITZGERALD. That is evident from the fact that the average number of men employed there was thirty-nine last year.

Mr. FOSS. That shows plainly that the yard is not in a condition to do work, and therefore it needs more appropriations.

Mr. MEYER. Mr. Chairman, the gentleman from New York [Mr. FITZGERALD], who seems to have constituted himself censor, or we might even say the scold, of the House, in his statement shows that, while he may sometimes have good information, he much more frequently has misinformation, as is evidenced by his remarks in this case. He should know the cause why so little work has been done at the New Orleans station arises from the incompleteness of the establishment. The largest steel floating dock in this country is located there, available for the docking of vessels. The station being new, the machine shops, construction and repair shop, and other necessary tools are not ready to operate, and the appropriations herein proposed will contribute to their completion and the efficiency of the yard. The comparison which the gentleman makes between the New York Navy-Yard and that at New Orleans must strike one familiar with the situation as almost absurd and ridiculous. The New York yard is the largest in this country—we may say, a completed station. It has been fostered for many years, and the statement of the gentleman regarding the amount appro-

priated for it shows conclusively that it does not need much more than it has already. The New Orleans yard is still in embryo. Since I have been a member of the Naval Committee the New York yard has received ample appropriations yearly, and the complaint which the gentleman makes that he has found it useless to seek additional ones is, I am sure, entirely unfounded.

Now, as to the provision for the street at the New Orleans yard. The gentleman complains that he finds no estimate for it in the general estimates. That is true, because at the time the estimates were submitted, some time between October and November last, it was not known how much would be required. In fact, it was supposed that a very moderate sum would be needed for the purpose. The street, I will take occasion to say, is on Government property, within the bounds of the navy-yard. In evidence that it has received consideration by the Department, I send to the Clerk's desk a letter from the Secretary of the Navy on that subject.

The Clerk read as follows:

NAVY DEPARTMENT,
Washington, May 8, 1906.

SIR: Referring to your request for the views of this Department regarding the appropriation of $15,000 embraced in the pending naval appropriation bill toward the construction and improvement of the street or streets in lieu of Patterson street at the naval station in New Orleans, La., you are advised that in view of the proposed cession by the city of New Orleans of Patterson street on the river front of said station, and its importance and value to the station and value to the public, it is deemed proper and just that the public should have a good street or streets in place thereof as an outlet.

The city engineer of New Orleans, after a careful examination, estimates the cost thereof to be $38,995.43. It is the opinion of the Department, based upon a personal inspection by the Assistant Secretary of the Navy, that the work might be done efficiently, although not as well, for a less amount. The sum of $15,000 proposed to be appropriated appears reasonable, and the Department recommends that this amount be appropriated accordingly.

Very respectfully,
TRUMAN H. NEWBERRY,
Acting Secretary.

Hon. ADOLPH MEYER, M. C.,
Member Committee on Naval Affairs,
House of Representatives.

Mr. MEYER. In further explanation, Mr. Chairman, permit me to quote from a report made by the Committee on Naval Affairs of the House in the Fifty-eighth Congress (Report No. 4091), which is similar to the report made by Mr. HALE, of the Senate:

The Committee on Naval Affairs, having had under consideration the bill (H. R. 18363) authorizing the Secretary of the Navy to construct a good drained road at the naval station, New Orleans, La., report the same favorably with the recommendation that it do pass.

The following letter in commendation thereof is adopted as the committee's report:

NAVY DEPARTMENT,
Washington, December 6, 1904.

SIR: The act making appropriations for the naval service for the fiscal year ending June 30, 1905 (32 Stats., 336), under the subheadings "Public works, Bureau of Docks and Yards, navy-yards and stations," etc., and "Naval station, New Orleans, La.," appropriates the sum of $2,000 for "closing Pattison [Patterson] street, Saux lane, and grading."

Patterson street runs along the water front of the Mississippi River between the United States naval station property, Algiers, La., and the levee. The maintenance of this street as a public highway being incompatible with the use of the station for naval purposes, the Department sought and has obtained a cession from the city authorities under which the street may be closed. In granting this cession, however, the city authorities have stipulated that a roadway be provided around the naval property, in order that a suitable thoroughfare for the accommodation of public traffic may be maintained.

This Department is advised by the Attorney-General that by the cession above mentioned the United States will obtain a valid title to the portions of the bed of Patterson street now lying between the naval reservation and the river "upon the performance of the conditions" set forth in the city ordinances making the cession.

Secretary of the Navy Charles J. Bonaparte, in a letter of April 3 last, also recommends the construction of this street on the lines indicated.

Patterson street runs along the water front of the Mississippi River, as has been stated, and the land is very valuable. The Government receives far more than it grants—in fact, it grants nothing at all, since the new street is within the boundaries of its station.

The gentleman from New York reflects upon the committee's manner of doing business. Nearly every one of them has equal regard for the interests of the Government and far wider experience than he. It ill becomes him to indulge in such criticism.

As to his comments on the value and condition of the New Orleans Station, that its location is 40 feet below the level of the water, and so on, I will in charity attribute it to his effort to be funny or sarcastic; in either case, a most lamentable failure.

I commend him to the history of the legislation for its establishment. If he reads it, he will issue from it "a wiser, if not a better man."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 9, noes 45.

So the amendment was rejected.

The Clerk read as follows:

Steel floating dry dock: Steel floating dry dock (to cost $1,250,000), $100,000.

Mr. TAWNEY. Mr. Chairman, I reserve the point of order on that paragraph.

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of Union, reported that that committee had had under consideration the naval appropriation bill and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 13946. An act for the relief of Charles L. Allen;

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind.;

H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across Roanoke River at or near Weldon, N. C.; and

H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvements at the expense of persons, companies, or corporations.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah;

S. 5796. An act to authorize the construction of a bridge across the Missouri River and to establish it as a post-road;

S. 4976. An act to grant certain land to the State of Minnesota to be used for the construction of a sanitarium for the treatment of consumptives; and

S. 2296. An act restoring to the public domain certain lands in the State of Minnesota.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5989. An act to authorize the construction of a bridge across the Missouri River in Broadwater and Gallatin counties, Mont.—to the Committee on Interstate and Foreign Commerce.

S. R. 54. Joint resolution authorizing a change in the weighing of the mails in the fourth section—to the Committee on the Post-Office and Post-Roads.

JOHN W. HAMMOND.

The SPEAKER laid before the House the following message from the President of the United States; which, with the accompanying document, was ordered printed, and referred to the Committee on Invalid Pensions:

To the House of Representatives:

In compliance with the resolution of the House of Representatives (the Senate concurring) of May 9, 1906, I return herewith House bill No. 8948, entitled "An act granting an increase of pension to John W. Hammond."

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 10, 1906.*

REPRINT OF BILL.

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent for the reprint of the bill H. R. 11943, the supply of which has been exhausted.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. WILLIAMS. I object.

Mr. BENNET of New York. Mr. Speaker, I move that the reprint of the bill be granted.

The SPEAKER. The Chair will state to the gentleman from New York that in the judgment of the Chair a bill can be reprinted only by unanimous consent or by interposition and on report of the Committee on Printing. The Chair does not say it can be done in that way, but it possibly can.

LEAVE OF ABSENCE.

The SPEAKER laid before the House the request of Mr. BOWERSOCK for a leave of absence for ten days on account of important business.

Mr. PAYNE. Mr. Speaker, I move that the request be granted.

The motion was agreed to.

ADJOURNMENT.

Then (at 5 o'clock and 15 minutes p. m.), on motion of Mr. Foss, the House adjourned until to-morrow at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of Commerce and Labor, transmitting the report of Charles M. Pepper on trade conditions in the island of Cuba—to the Committee on Interstate and Foreign Commerce.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for payment of certain claims for rent of houses in the Philippines—to the Committee on Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the brig *Rebecca*, John B. Thurston, master—to the Committee on Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. POWERS, from the Committee on the Territories, to which was referred the bill of the House (H. R. 13392) to ratify, approve, and confirm an act of the legislature of the Territory of Hawaii to authorize and provide for the construction, maintenance, and operation of a telephone system on the island of Oahu, Territory of Hawaii, reported the same with amendment, accompanied by a report (No. 4001); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4597) granting an increase of pension to Martin Ellison, reported the same with amendment, accompanied by a report (No. 3937); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL of Kansas, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6533) granting a pension to Horace Salter, reported the same with amendment, accompanied by a report (No. 3938); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 11855) granting an increase of pension to Mary A. Shelly, reported the same with amendment, accompanied by a report (No. 3939); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 12330) granting an increase of pension to Hester A. Van Derslice, reported the same without amendment, accompanied by a report (No. 3940); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16272) granting an increase of pension to William D. Willis, reported the same with amendment, accompanied by a report (No. 3941); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16525) granting an increase of pension to M. A. Nash, reported the same with amendment, accompanied by a report (No. 3942); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17825) granting an increase of pension to Bolivar Ward, reported the same with amendment, accompanied by a report (No. 3943); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17891) granting an increase of pension to Eliza M. Buice, reported the same with amendment, accompanied by a report (No. 3945); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17920) granting an increase of pension to Sallie E. Blanding, reported the same with amendment, accompanied by a report (No. 3945); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17935) granting an increase of pension to Andrew C. Woodward, reported the same with amendment, accompanied by a report (No. 3946); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17940) granting a pension to Florence Tilton, reported the same with amendment, accompanied by a report (No. 3947); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18034) granting a pension to Mary A. Montgomery, reported the same with amendment, accompanied by a report (No. 3948); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18073) granting an increase of pension to Mary McFarlane, reported the same with amendment, accompanied by a report (No. 3949); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18106) granting an increase of pension to Mary E. Patterson, reported the same with amendment, accompanied by a report (No. 3950); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18262) granting an increase of pension to John H. Broadway, reported the same with amendment, accompanied by a report (No. 3951); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18378) granting an increase of pension to Martha A. Dunlap, reported the same with amendment, accompanied by a report (No. 3952); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18399) granting an increase of pension to Pauline Bietry, reported the same without amendment, accompanied by a report (No. 3953); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18400) granting an increase of pension to Elmira M. Gause, reported the same with amendment, accompanied by a report (No. 3954); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18402) granting an increase of pension to Lucy W. Powell, reported the same without amendment, accompanied by a report (No. 3955); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18426) granting a pension to Elizabeth Hathaway, reported the same with amendment, accompanied by a report (No. 3956); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18460) granting a pension to B. F. Tudor, reported the same with amendment, accompanied by a report (No. 3957); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL of Kansas, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18467) granting a pension to Rudolph W. H. Swendt, reported the same with amendment, accompanied by a report (No. 3958); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18469) granting a pension to Samuel C. Dean, reported the same with amendment, accompanied by a report (No. 3959); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18505) granting an increase of pension to M. Belle May, reported the same with amendment, accompanied by a report (No. 3960); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18510) granting an in-

crease of pension to Hugh R. Rutledge, reported the same with amendment, accompanied by a report (No. 3961); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18539) granting an increase of pension to Angeline R. Lomax, reported the same with amendment, accompanied by a report (No. 3962); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18542) granting an increase of pension to Sarah Ann Day, reported the same with amendment, accompanied by a report (No. 3963); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18551) granting an increase of pension to W. D. Drawn, reported the same with amendment, accompanied by a report (No. 3964); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18572) granting an increase of pension to Allamanza M. Harrison, reported the same with amendment, accompanied by a report (No. 3965); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18573) granting an increase of pension to John M. Quinton, reported the same with amendment, accompanied by a report (No. 3966); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18605) granting an increase of pension to William Lawrence, reported the same with amendment, accompanied by a report (No. 3967); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18627) granting an increase of pension to Elizabeth A. Anderson, reported the same with amendment, accompanied by a report (No. 3968); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18633) granting an increase of pension to Jennie F. Belding, reported the same without amendment, accompanied by a report (No. 3969); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18651) granting an increase of pension to Elizabeth Thomas, reported the same with amendment, accompanied by a report (No. 3970); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18654) granting an increase of pension to R. D. Gardner, reported the same with amendment, accompanied by a report (No. 3971); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18696) granting an increase of pension to Louisa C. Gibson, reported the same with amendment, accompanied by a report (No. 3972); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18697) granting an increase of pension to Martha L. Beasely, reported the same with amendment, accompanied by a report (No. 3973); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18730) granting an increase of pension to W. C. Mahaffey, reported the same with amendment, accompanied by a report (No. 3974); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18746) granting an increase of pension to Isaac Howard, reported the same without amendment, accompanied by a report (No. 3975); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18747) granting an increase of pension to W. H. Colegate, reported the same with amendment, accompanied by a report (No. 3976); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18794) granting an increase of pension to William C. McRay, reported the same with amendment, accompanied by a report (No. 3977); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18795) granting an increase of pension to James E. Raney, reported the same with amendment, accompanied by a report (No. 3978); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18821) granting an increase of pension to Eliza Jane Witherspoon, reported the same with amendment, accompanied by a report (No. 3979); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18822) granting an increase of pension to Sophia S. Parker, reported the same with amendment, accompanied by a report (No. 3980); which said bill and report were referred to the Private Calendar.

Mr. HOGG, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18862) granting an increase of pension to Joseph H. Weaver, reported the same with amendment, accompanied by a report (No. 3981); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18887) granting an increase of pension to Alexander W. Carruth, reported the same with amendment, accompanied by a report (No. 3982); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18930) granting an increase of pension to Eliza J. Mays, reported the same with amendment, accompanied by a report (No. 3983); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18935) granting an increase of pension to Mima A. Boswell, reported the same with amendment, accompanied by a report (No. 3984); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18966) granting a pension to John W. Ward, reported the same without amendment, accompanied by a report (No. 3985); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 19001) granting an increase of pension to Elizabeth A. McKay, reported the same with amendment, accompanied by a report (No. 3986); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 1223) granting a pension to Mary E. Bronaugh, reported the same without amendment, accompanied by a report (No. 3987); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1739) granting a pension to Henry Sistrunk, reported the same with amendment, accompanied by a report (No. 3988); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2194) granting a pension to William H. Sweeney, jr., reported the same without amendment, accompanied by a report (No. 3989); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3738) granting an increase of pension to Lisania Judd, reported the same without amendment, accompanied by a report (No. 3990); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4488) granting an increase of pension to James F. Amis, reported the same without amendment, accompanied by a report (No. 3991); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5349) granting an increase of pension to William H. H. Robinson, reported the same without amendment, accompanied by a report (No. 3992); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5536) granting a pension to William O. Clark, reported the same without amendment, accompanied by a report (No. 3993); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5659) granting an increase of pension to William I. Brewer, reported the same without amendment, accompanied by a report (No. 3994); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the

bill of the Senate (S. 5070) granting an increase of pension to Isaac L. Duggar, reported the same with amendment, accompanied by a report (No. 3995); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18910) granting an increase of pension to Philo E. Davis, reported the same without amendment, accompanied by a report (No. 3996); which said bill and report were referred to the Private Calendar.

Mr. TALBOTT, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 14811) to authorize George T. Houston and Frank B. Houston to construct and operate an electric railway over the national cemetery road at Vicksburg, Miss., reported the same with amendment, accompanied by a report (No. 3997); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. CAPRON, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8772) to amend the military record of James C. Howard, reported the same adversely, accompanied by a report (No. 3998); which said bill and report were ordered laid on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 13944) to amend the military record of Capt. Samuel W. Baird, reported the same adversely, accompanied by a report (No. 3999); which said bill and report were ordered laid on the table.

Mr. WILEY of Alabama, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 9102) for the relief of Ephraim Hunter, reported the same adversely, accompanied by a report (No. 4000); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. NEVIN: A bill (H. R. 19148) to remove the limitation of the time for filing claims for additional bounty under act of July 28, 1866, as amended—to the Committee on War Claims.

By Mr. CHAPMAN: A bill (H. R. 19149) granting pensions to certain soldiers and sailors who served in the war of the rebellion, and their widows—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 19150) to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee, in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes—to the Committee on the Judiciary.

By Mr. VOLSTEAD: A bill (H. R. 19151) to appropriate $70,000 to pay a claim due the State of Minnesota—to the Committee on Appropriations.

By Mr. MONDELL: A bill (H. R. 19152) limiting declarations under the desert-land act to surveyed lands and limiting assignments of desert entries to qualified individual entrymen—to the Committee on the Public Lands.

By Mr. HILL of Connecticut: A bill (H. R. 19153) to amend section 29 of the act of July 24, 1897, entitled "An act to provide revenue for the Government and to encourage the industries of the United States"—to the Committee on Ways and Means.

By Mr. SAMUEL W. SMITH: A bill (H. R. 19154) to amend section 653 of the Code of Law for the District of Columbia, relative to assessment life insurance companies or associations—to the Committee on the Judiciary.

By Mr. DAVIDSON: A bill (H. R. 19155) to amend section 3738 of the Revised Statutes of the United States for 1878—to the Committee on Labor.

By Mr. STEPHENS of Texas: A bill (H. R. 19156) providing for the development and leasing of the mineral lands in Indian reservations, and for other purposes—to the Committee on Indian Affairs.

By Mr. MANN: A joint resolution (H. J. Res. 153) directing the Interstate Commerce Commission to investigate and report on block signals and appliances for the automatic control of railway trains—to the Committee on Interstate and Foreign Commerce.

By Mr. CALDERHEAD: A joint resolution (H. J. Res. 154) relating to certain public lands in the State of Kansas—to the Committee on the Public Lands.

By Mr. REYNOLDS: A resolution (H. Res. 433) to pay D. P. Thomas a certain sum of money—to the Committee on Accounts.

By Mr. WOODYARD: A resolution (H. Res. 434) to pay James Lotterberry, janitor of House document room, a certain sum of money—to the Committee on Accounts.

By Mr. MONDELL: A resolution (H. Res. 435) authorizing the appointment of a clerk to the Committee on Irrigation of Arid Lands—to the Committee on Accounts.

By Mr. GOLDFOGLE: A resolution (H. Res. 436) providing for an examination so far as the Department of Justice is concerned, and all the matters cognizable by the Committee on Expenditures in the Department of Justice under the rules of the House of Representatives—to the Committee on Rules.

By Mr. LACEY: A resolution (H. Res. 437) providing for the appointment of a clerk to the Committee on the Public Lands—to the Committee on Accounts.

By Mr. MOON of Pennsylvania: A resolution (H. Res. 438) providing for the consideration of the bill H. R. 17984—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 19157) granting a pension to Sallie S. Ridmarsh—to the Committee on Invalid Pensions.

By Mr. BEIDLER: A bill (H. R. 19158) granting an increase of pension to John E. Hunter—to the Committee on Invalid Pensions.

By Mr. BENNET of New York: A bill (H. R. 19159) to permit the payment to T. J. Larkin, as administrator, of the pension money due Eugene Finnegan—to the Committee on Invalid Pensions.

By Mr. BURTON of Delaware: A bill (H. R. 19160) granting an increase of pension to Mathew Macklem—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 19161) granting a pension to Marcus D. Tenney—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19162) granting a pension to Charles Van Tine—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19163) granting an increase of pension to Margaret Munson—to the Committee on Invalid Pensions.

By Mr. CASSEL: A bill (H. R. 19164) for the relief of the estate of David B. Landis, deceased, and the estate of Jacob F. Sheaffer, deceased—to the Committee on Claims.

By Mr. CURRIER: A bill (H. R. 19165) restoring to the pension roll the name of Eliza E. Davis—to the Committee on Invalid Pensions.

By Mr. DAVEY of Louisiana: A bill (H. R. 19166) granting an increase of pension to Blanche B. Badger—to the Committee on Pensions.

By Mr. DICKSON of Illinois: A bill (H. R. 19167) granting a pension to Rhoda C. Fore—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19168) authorizing the President of the United States to confer rank upon Maj. Joseph W. Wham, United States Army, retired—to the Committee on Military Affairs.

By Mr. DIXON of Indiana: A bill (H. R. 19169) granting a pension to Rebecca J. Williams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19170) granting a pension to John William Tungate—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19171) granting a pension to Esther Ames—to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 19172) to correct the military record of Pleasant Thomas, late of Company B, East Tennessee National Guards—to the Committee on Military Affairs.

By Mr. FOSTER of Indiana: A bill (H. R. 19173) to correct the military record of Henry Hayes—to the Committee on Military Affairs.

By Mr. FINLEY: A bill (H. R. 19174) granting an increase of pension to Martha A. Billings—to the Committee on Pensions.

By Mr. HERMANN: A bill (H. R. 19175) granting an increase of pension to Josiah B. Arnott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19176) granting an increase of pension to Clara M. Burlingame—to the Committee on Invalid Pensions.

By Mr. JOHNSON: A bill (H. R. 19177) granting an increase of pension to Jane Elizabeth Kerr—to the Committee on Pensions.

By Mr. JONES of Virginia (by request): A bill (H. R. 19178) to direct the Secretary of War to convey to the Broad-

water Club the Hog Island light station, old site—to the Committee on Interstate and Foreign Commerce.

By Mr. KELIHER: A bill (H. R. 19179) granting an increase of pension to Eliza A. Smith—to the Committee on Invalid Pensions.

By Mr. KENNEDY of Nebraska: A bill (H. R. 19180) granting a pension to Angeline Whitmarsh—to the Committee on Invalid Pensions.

By Mr. KINKAID: A bill (H. R. 19181) to grant a certain parcel of land, part of the Fort Robinson Military Reservation, Nebr., to the village of Crawford, Nebr., for park purposes—to the Committee on Military Affairs.

By Mr. LAMB: A bill (H. R. 19182) to refund legacy taxes illegally collected from the estate of Ella P. Williams, late of Richmond, Henrico County, Va.—to the Committee on Claims.

By Mr. McGUIRE: A bill (H. R. 19183) for the relief of William D. Larkey—to the Committee on Military Affairs.

Also, a bill (H. R. 19184) for the relief of L. J. Wilson—to the Committee on War Claims.

Also, a bill (H. R. 19185) granting a pension to James M. Neal—to the Committee on Pensions.

Also, a bill (H. R. 19186) granting a pension to David Canfield—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19187) granting a pension to Elizabeth Alice Gayner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19188) granting a pension to Andrew J. Holland—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19189) granting a pension to Henry Bergdorf—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19190) granting a pension to Henry Gabel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19191) granting an increase of pension to Joshua T. Wolf—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19192) granting an increase of pension to John Thomas—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19193) granting an increase of pension to William H. Skeed—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19194) granting an increase of pension to James McDaniel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19195) granting an increase of pension to Wellshire S. Hawley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19196) granting an increase of pension to Thomas Cameron—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19197) granting an increase of pension to Frank Marshall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19198) granting an increase of pension to Samuel Emrick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19199) granting an increase of pension to L. N. Kennedey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19200) granting an increase of pension to Thomas E. Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19201) granting an increase of pension to Joseph W. Kelley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19202) granting an increase of pension to George F. Downs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19203) granting an increase of pension to John B. Ellett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19204) granting an increase of pension to Daniel Eichling—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19205) granting an increase of pension to John Sonia—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19206) granting an increase of pension to Mary V. Cooper—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19207) granting an increase of pension to Milo G. Cook—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19208) granting an increase of pension to Elija Pendegras—to the Committee on Invalid Pensions.

By Mr. McKINNEY: A bill (H. R. 19209) granting an increase of pension to Joshua P. Rand—to the Committee on Invalid Pensions.

By Mr. NEVIN: A bill (H. R. 19210) granting a pension to John Tayhen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19211) granting a pension to Elias M. Steinbarger—to the Committee on Pensions.

Also, a bill (H. R. 19212) granting a pension to James Quilkin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19213) to remove the charge of desertion from the record of George Sloughman—to the Committee on Military Affairs.

By Mr. OLMSTED: A bill (H. R. 19214) granting an increase of pension to John McCarty—to the Committee on Invalid Pensions.

By Mr. OTJEN: A bill (H. R. 19215) granting an increase of pension to John Lengenfelder—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19216) granting an increase of pension to Theophile Brodowski—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19217) granting an increase of pension to William H. Burns—to the Committee on Invalid Pensions.

By Mr. PATTERSON of South Carolina: A bill (H. R. 19218) granting an increase of pension to Carrie Trotter—to the Committee on Pensions.

By Mr. REID: A bill (H. R. 19219) for the relief of Amasa and Edgar Bernard and the legal representatives of the estate of Susan E. White—to the Committee on War Claims.

By Mr. RIVES: A bill (H. R. 19220) granting an increase of pension to Calvin Corsine—to the Committee on Invalid Pensions.

By Mr. RIXEY: A bill (H. R. 19221) granting an increase of pension to Emma Byles—to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 19222) granting an increase of pension to Catherine Warnock—to the Committee on Pensions.

By Mr. SCHNEEBELI: A bill (H. R. 19223) granting an increase of pension to Obadiah Derr—to the Committee on Invalid Pensions.

By Mr. SHARTEL: A bill (H. R. 19224) granting an increase of pension to James L. Perryman—to the Committee on Pensions.

By Mr. SOUTHARD: A bill (H. R. 19225) granting an increase of pension to Joseph B. Jennings—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19226) granting an increase of pension to Henry G. Barnes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19227) granting an increase of pension to Nancy Mitchell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19228) granting an increase of pension to V. W. Weeks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19229) to correct the military record of James W. Pinkerton—to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 19230) granting an increase of pension to Cornelius L. Leport—to the Committee on Invalid Pensions.

By Mr. TYNDALL: A bill (H. R. 19231) granting an increase of pension to Frederick Hartman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19232) granting an increase of pension to Samuel Workman—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 19114) to extend the provisions, limitations, and benefits of an act entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," to the surviving officers and enlisted men of the Eighteenth and Nineteenth Regiments of Kansas Volunteer Cavalry; and the same was referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BURTON of Delaware: Paper to accompany bill for relief of Matthew McKlein—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: Petition of Concordia Council, No. 36, against consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. CURRIER: Petition of citizens of New Hampshire, against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of citizens of Swanzey, N. H., for investigation of conditions existing in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. FINLEY: Paper to accompany bill for relief of Martha A. Billings—to the Committee on Pensions.

By Mr. FOSTER of Indiana: Petition of Crescent City Council, No. 18, United Commercial Travelers of America, of Evansville, Ind., against the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. FOWLER: Petition of Brotherhood of Railway Trainmen, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petitions of the Westminster Presbyterian Church, of Elizabeth; F. G. Green, of Cranford; the Methodist Episcopal Church of Madison; the First Presbyterian Church of Madison; Drew Theological Seminary, and the Men's Club of the Presby-

terian Church of Westfield, all in New Jersey, for an anti-polygamy amendment to the Constitution—to the Committee on the Judiciary.

Also, petitions of Colonial Council, No. 169, of Belvidere, N. J., and Elizabeth Council, No. 10, of Elizabeth, N. J., Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. FULKERSON: Petition of the Andrew County Enterprise, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. HULL: Petition of the Nevada Business Men's League, against the so-called "post-check currency bill"—to the Committee on the Post-Office and Post-Roads.

By Mr. KELIHER: Petition of the maritime committee of the Boston Chamber of Commerce, asking for the passage of bill S. 2262, to construct a derelict destroyer—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Alliance Israelite Universelle and the Federation of Jewish Organizations, protesting against the passage of the Dillingham bill—to the Committee on Immigration and Naturalization.

Also, petition of the Society for Political Study, of New York City, asking for consideration of bills S. 50 and 2962 and H. R. 4462—to the Committee on the District of Columbia.

By Mr. JOHNSON: Paper to accompany bill for relief of Elizabeth Kerr—to the Committee on Pensions.

By Mr. LINDSAY: Petition of E. A. Russell et al., for the Calder bill in behalf of employees of the navy-yards of the United States who have lost either an arm or leg through no carelessness of their own, while on duty—to the Committee on Naval Affairs.

Also, paper to accompany bill for relief of State of Missouri (bill S. 567)—to the Committee on War Claims.

By Mr. OLMSTED: Petition of the Board of Trade of Harrisburg, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. PATTERSON of South Carolina: Paper to accompany bill for relief of Carrie Trotter—to the Committee on Pensions.

Also, papers to accompany bills for relief of estate of W. J. Peeples, estate of Samuel R. Ihly, estate of Pierson Peeples, estate of Julia R. Speaks, estate of William Weekly, estate of Reuben Turner, and estate of Elizabeth Youmans—to the Committee on War Claims.

By Mr. REYNOLDS: Petition of the Free Press, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of Henry Fash—to the Committee on Invalid Pensions.

Also, petition of the Inquirer Printing Company, for an amendment to the postal laws making legal all subscriptions paid for by others than the recipients of papers—to the Committee on the Post-Office and Post-Roads.

By Mr. RICHARDSON of Alabama: Petition of Richard Garner, heir of Thomas Williams—to the Committee on War Claims.

By Mr. RIXEY: Paper to accompany bill for relief of William H. Byles—to the Committee on Invalid Pensions.

By Mr. SCHNEEBELI: Petition of Camp Hawkins Home, No. 1, Society of the Army of the Philippines, for the Bonynge bill to provide medals for officers and men serving in the Spanish war for service in the Philippine war after expiration of term of enlistment—to the Committee on Military Affairs.

Also, petitions of Charles F. Bushnell and J. W. Maley, for an amendment to the postal laws making legal all subscriptions paid for by others than the recipients of papers—to the Committee on the Post-Office and Post-Roads.

Also, petition of Charles H. Bennett, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SMITH of Maryland: Petition of Washington Camps, Nos. 13, of Church Hill; 29, of Sudlerville, and 48, of Chestertown, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petitions of the Showell Packing Company; the Mumford Packing Company, of Showell; Gilliss & Dashiell, of Quantico; H. W. Roberts, of Clara; Carver & Co., of Morumsco; J. W. Willing, of Nanticoke, and the Denton Canning Company, of Denton, all in the State of Maryland, praying the enactment of the pure-food bill with an amendment to exempt canned goods from being stamped in terms of weight or measure—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Pennsylvania: Petition of the Woman's Christian Temperance Union and the Presbyterian Church of Freeport, Pa., for an amendment to the Constitution abolishing polygamy—to the Committee on the Judiciary.

Also, petition of John W. Rohrer, for amendment to the postal law making legitimate all subscriptions paid for by others than the recipient—to the Committee on the Post-Office and Post-Roads.

By Mr. SOUTHARD: Petition of Hugh Guthrie, James D. Knight, J. R. Dilley, and J. W. Green, for the Dalzell bill granting relief of $2 per day to all ex-Union prisoners of war in rebel prisons for longer period than thirty days—to the Committee on Invalid Pensions.

By Mr. WADSWORTH: Petition of William McKinley Council, No. 125, Junior Order United American Mechanics, of Lockport, N. Y., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WEBB: Paper to accompany bill for relief of William R. Watts—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Mary Ann Cody—to the Committee on Pensions.

By Mr. WEEKS: Petition for relief of the landless Indians of northern California and of southern California, from citizens of Massachusetts—to the Committee on Indian Affairs.

By Mr. WOOD of New Jersey: Petitions of Camp No. 29, of Merchantsville; Camp No. 25, of Delanco; Camp No. 82, of Whitesville; Camp No. 5, of Dover; Camp No. 16, of Jutland; Camp No. 87, of Lakehurst; Camp No. 23, of Palmyra; Camp No. 11, of Sterling; Camp No. 67, of Jersey City; Camp No. 41, of Plainfield; Camp No. 2, of Camden; Camp No. 62, of Woodbury; Camp No. 14, of Trenton; Camp No. 68, of Cassville; Camp No. 9, of Belvidere; Camp No. 58, of Alloway; Camp No. 12, of Milford; Camp No. 19, of Danville; Camp No. 86, of Smithburg; Camp No. 57, of Newfield; Camp No. 52, of Stockholm; Camp No. 30, of Plainfield, and Camp No. 42, of Netcong, all in New Jersey, Patriotic Order Sons of America, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the editor of the Daily True American and Carpenter & Son, publishers of the Clinton Democrat, for an amendment to the postal laws making legitimate all subscriptions paid for by others than the recipients of papers—to the Committee on the Post-Office and Post-Roads.

SENATE.

FRIDAY, *May 11, 1906.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SCOTT, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

CARRYING OF DANGEROUS ARTICLES ON PASSENGER STEAMERS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read:

To the Senate:

Senate bill No. 5514 is returned herewith without approval, for the reasons set forth in the following report from the Secretary of Commerce and Labor:

"I have the honor to return herewith the bill (S. 5514) an act to amend section 4472 of the Revised Statutes relating to the carrying of dangerous articles on passenger steamers, and to state, in reply to the request contained in the letter of May 5, 1906, that the Department objects to the approval of the bill for the following reasons:

"The word 'passenger' in the bill should be 'passengers.' It passed the Senate 'passengers' and the House of Representatives 'passenger.' The mistake was not detected and the bill was enrolled and signed by the Speaker of the House and the President of the Senate with the word 'passenger.' In the opinion of the Department the circumstances of the passage of the bill are sufficient to raise doubt as to its validity and question as to its application."

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 10, 1906.*

Mr. FRYE. I move that the message be referred to the Committee on Commerce and printed.

The motion was agreed to.

Mr. FRYE. The Committee on Commerce was informed of the mistake made in enrolling the bill or in the House, and it authorized me to report this morning and ask present consideration of the following bill. It is important that it shall be passed immediately, owing to the fact that there are no yachts nowadays that do not carry launches propelled by naphtha or some like power, and the yachting season is about commencing. The ruling of the inspector-general in New York would deprive them of the privilege of using those launches. I report from the Committee on Commerce a bill to correct that mistake, which I ask may be now considered.

The bill (S. 6129) to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dan-

gerous articles on passenger steamers was read the first time by its title, and the second time at length, as follows:

Be it enacted, etc., That section 4472 of the Revised Statutes be, and the same is hereby, amended by adding thereto the following provision:

"*Provided, however,* That nothing in the provisions of this title shall prohibit the transportation by vessels not carrying passengers for hire of gasoline or any of the products of petroleum for use as a source of motive power for the motor boats or launches of such vessels."

The VICE-PRESIDENT. The Senator from Maine asks for the present consideration of the bill which has just been read.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the County Court of Ste. Genevieve County, Mo., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

S. 2296. An act restoring to the public domain certain lands in the State of Minnesota;

S. 4976. An act to grant certain land to the State of Minnesota to be used for the construction of a sanitarium for the treatment of consumptives;

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah;

S. 5796. An act to authorize the construction of a bridge across the Missouri River and to establish it as a post-road;

H. R. 13946. An act for the relief of Charles L. Allen;

H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvements at the expense of persons, companies, or corporations;

H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across Roanoke River at or near Weldon, N. C.; and

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of 6,000 railroad men of Garrett, Ind., remonstrating against the adoption of the amendment to the railroad rate bill taking away the right of free transportation to the families of railroad employees; which was ordered to lie on the table.

Mr. PLATT presented a petition of the Chamber of Commerce of Troy, N. Y., praying for the ratification of the proposed pending treaty between the United States and Santo Domingo; which was referred to the Committee on Foreign Relations.

He also presented petitions of Local Grange No. 591, Patrons of Husbandry, of Stony Ford; of the Manufacturing Perfumers' Association of New York City; of the Chamber of Commerce of Troy, and of sundry citizens of New York City and Brooklyn, all in the State of New York, and of the American Federation of Musicians of St. Louis, Mo., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. GALLINGER presented a petition of sundry citizens of Swansey, N. H., praying for an investigation into the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

He also presented a petition of the national committee on legislation, Patriotic Order Sons of America, of Odenton, Md., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a memorial of the Homeopathic Medical Society of the District of Columbia, remonstrating against the enactment of legislation to regulate the practice of osteopathy in the District of Columbia; which was ordered to lie on the table.

He also presented the memorial of J. C. Oakley, of Woodsville, N. H., remonstrating against the enactment of legislation to prohibit the issuance of free passes to railroad employees and their families; which was ordered to lie on the table.

Mr. DRYDEN presented sundry petitions of citizens of Montclair, N. J., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which were referred to the Committee on Education and Labor.

He also presented the petition of J. T. Tubby, of New York City, N. Y., praying for the enactment of legislation to create a national advisory board of civic art in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented petitions of sundry citizens of South Orange, East Orange, Plainfield, and Camden, all in the State of New Jersey, and of the International Association of Master House Painters and Decorators of the United States and Canada, of Somerville, Mass., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented sundry petitions of citizens of Hoboken, N. J., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of sundry citizens of Lakewood, Seabright, Clinton, Camden, Ocean Grove, and Trenton, all in the State of New Jersey, praying for the enactment of legislation to amend the postal laws relative to newspaper publications; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the William Huger & Co., of Newark, N. J., and a petition of Battin & Co., of Newark, N. J., praying for the enactment of legislation to prohibit the importation, exportation, or carriage in interstate commerce of falsely or spuriously stamped articles of merchandise made of gold and silver or their alloys; which were referred to the Committee on Interstate Commerce.

Mr. HOPKINS presented petitions of sundry citizens of Chicago, Lagrange, Springerton, Kinderhook, Aurora, Quincy, Decatur, and Elwood, all in the State of Illinois, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. NELSON presented petitions of sundry citizens of Watson, Minn., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. PENROSE presented petitions of sundry citizens of Philadelphia and Mechanicsburg; of the Standard Automobile Company, of Pittsburg; of Local Grange No. 131, of Mill Village; of Local Granges Nos. 384 and 876, of Knoxville; of Sandy Lake Grange, No. 393, of Polk; of Local Grange No. 533, of Clearfield; of Local Grange No. 781, of Port Royal; of Local Grange No. 872, of Tidal; of the Philadelphia Piano Trade Association, of Philadelphia; of the Estey Company, of Philadelphia; of Crush Creek Grange, No. 573, of Wilgus, and of Local Grange No. 54, of Wellsboro, Patrons of Husbandry, all in the State of Pennsylvania, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. BRANDEGEE presented a petition of the National Society of the Daughters of the American Revolution, praying for an investigation into the industrial conditions of the women of the country; which was referred to the Committee on Education and Labor.

He also presented a petition of the Norwalk Business Men's Association, of Norwalk, Conn., and a petition of sundry citizens of Bridgeport, Conn., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. SCOTT presented memorials of sundry railroad employees of Parkersburg, Benwood Junction, Fairmont, Grafton, and Weston, all in the State of West Virginia, remonstrating against the enactment of legislation to prohibit the issuance of free passes to railroad employees and their families; which were ordered to lie on the table.

Mr. LODGE presented memorials of 70 locomotive engineers of Greenfield, Mass., and 70 locomotive engineers of Fitchburg, Mass., remonstrating against the adoption of the amendment to the railway rate bill prohibiting the issuance of free transportation to the families of railroad employees; which were ordered to lie on the table.

Mr. ELKINS presented sundry memorials of citizens of Grafton, Clarksburg, Weston, Terra Alta, Parkersburg, and Fairmont, all in the State of West Virginia, and of Memphis, Tenn., remonstrating against the enactment of legislation to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. HOPKINS presented memorials of sundry citizens of Chicago, Springfield, Paxton, Pontiac, Peoria, Mount Carmel,

Rock Island, Sycamore, Belleville, and Rockford, all in the State of Illinois, and of Louisville, Ky., remonstrating against the enactment of legislation to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented the memorial of J. E. Defebaugh, editor of the American Lumberman, of Chicago, Ill., remonstrating against the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. MONEY presented a petition of the Progressive Business League, of Gulfport, Miss., praying for the enactment of legislation providing for the acceptance of the channel and the anchorage basin between Ship Island Harbor and Gulfport, in that State; which was referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

Whereas there is now pending before Congress a bill to provide for the acceptance of the channel and the anchorage basin between Ship Island Harbor and Gulfport, Miss., and to repeal portions of the river and harbor act of March 3, 1889, relating thereto; and

Whereas the said harbor and anchorage basin has been dredged and now accommodates vessels of 21 and 22 feet draft or more; and

Whereas it is in the interest of commerce that the said channel and anchorage basin should be accepted and maintained by the Government: Therefore, be it

Resolved by the Progressive Business League of Gulfport, Miss., and the citizens of Gulfport in joint meeting assembled, That our immediate Representative in Congress and the Senators from the State of Mississippi be, and they are hereby, earnestly requested and urged to use every effort in their power to secure the passage of said bill, which is House resolution No. 18664, and which was introduced by Representative E. J. BOWERS on the 28th day of April, 1906;

Resolved further, That we earnestly urge the Rivers and Harbors Committee of the House of Representatives of the Congress of the United States to favorably act upon said bill as speedily as possible, to the end that the same may be enacted into law;

Resolved, That a copy of these resolutions be forwarded by the secretary of the Gulfport Progressive Business League to the Senators in the Congress of the United States from the State of Mississippi and to our immediate Representatives.

Mr. HANSBROUGH presented a petition of sundry citizens of North Dakota, praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. KNOX presented memorials of sundry Baltimore and Ohio Railroad employees and of sundry Southern Railway employees, remonstrating against the passage of the amendment to the railroad rate bill prohibiting the issuing of passes to railroad employees and members of their families; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. WARREN, from the Committee on Military Affairs, to whom was referred the bill (S. 3927) to increase the efficiency of the veterinary service of the Army, reported it without amendment, and submitted a report thereon.

Mr. FORAKER, from the Committee on Pacific Islands and Porto Rico, to whom was referred the bill (H. R. 18502) to empower the Secretary of War, under certain restrictions, to authorize the construction, extension, and maintenance of wharves, piers, and other structures on lands underlying harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto, reported it without amendment, and submitted a report thereon.

Mr. NELSON, from the Committee on Public Lands, to whom was referred the bill (H. R. 17127) to provide for the subdivision and sale of certain lands in the State of Washington, reported it with amendments, and submitted a report thereon.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 6130) for the advancement of certain officers of the Navy who served during the civil war and were retired prior to March 3, 1899; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. FRYE introduced a bill (S. 6131) granting an increase of pension to Frances A. Jepson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. McCREARY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6132) for the relief of the heirs of James H. Woodhall, deceased; and

A bill (S. 6133) for the relief of Jake T. Patrick.

Mr. HANSBROUGH introduced a bill (S. 6134) providing for the conveyance to the State of North Dakota of certain tracts of land for the use and benefit of the North Dakota State Historical Society; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DANIEL introduced a bill (S. 6135) granting a pension to Mary E. Hughes; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DILLINGHAM introduced a bill (S. 6136) granting a pension to Persis A. Gowen; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BULKELEY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6137) granting an increase of pension to Fannie L. Pike;

A bill (S. 6138) granting an increase of pension to Eliza P. Norton;

A bill (S. 6139) granting an increase of pension to Eliza A. Brusie;

A bill (S. 6140) granting an increase of pension to Julia A. Birge;

A bill (S. 6141) granting an increase of pension to Ransom C. Russell;

A bill (S. 6142) granting an increase of pension to Frederick M. Hart;

A bill (S. 6143) granting an increase of pension to Thomas J. Northrop;

A bill (S. 6144) granting an increase of pension to Henry Savage; and

A bill (S. 6145) granting an increase of pension to Enoch Bolles.

ESTATE OF CHARLES M. DEMAREST.

Mr. PLATT. I ask for the immediate consideration of the bill (H. R. 6101) for the relief of the estate of Charles M. Demarest, deceased, which was reported unanimously by the Committee on Finance.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to the legal representatives of the estate of Charles M. Demarest, late of Warwick, in the State of New York, $122.26, being the amount due on one first-mortgage preferred bond issued by the Champaign, Havana and Western Railway Company, No. 251, and dated July 1, 1879, and paid into the United States Treasury on February 23, 1898, by the clerk of the circuit court of the United States for the southern district of Illinois, in accordance with section 996, as amended by the act of February 19, 1897 (29 Stat. L., p. 578), which provides that money remaining in the registry of court unclaimed for ten years shall be deposited to the credit of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXTENSION OF IRRIGATION ACT TO STATE OF TEXAS.

Mr. BAILEY. I ask unanimous consent for the present consideration of the bill (H. R. 14184) to extend the irrigation act to the State of Texas.

The VICE-PRESIDENT. There is a memorandum on the bill indicating that the Senator from Massachusetts [Mr. LODGE] wishes to be present when the bill is considered.

Mr. BLACKBURN. The Senator from Massachusetts is here.

The VICE-PRESIDENT. The bill will be read.

The Secretary read the bill.

Mr. LODGE. I hope the bill may not be passed by unanimous consent. It seems to me to be a very important bill, and I wanted an opportunity to look at it and at the report before it is taken up. I have been so busy that I have not had an opportunity to do so. I hope it need not be pressed at this time. It seems to me to be a very large question.

Mr. BAILEY. No, Mr. President; it simply extends the law already existing to the arid regions of Texas; and Texas, like the people who go to mill, takes her place in the rear of all the others, to wait until all that has been provided for the others has been accomplished.

Mr. LODGE. Are there public lands of the United States in Texas?

Mr. BAILEY. Not an acre of public land belongs to the United States.

Mr. LODGE. That seems to me to be a very important point.

Mr. BAILEY. But the Senator understands that nothing is given to anybody, but that all who get the benefit of this act are compelled to return an equivalent to the Treasury. It seems to me that if the people of the arid regions of Texas return their equivalent to the Treasury they are entitled to just as much as the people of the arid regions of any other State or Territory.

Mr. LODGE. I agree with the Senator; I think they are; but my understanding of the legislation we have had hitherto was that the sale of public lands furnished the funds by which the work of irrigation was carried on.

Mr. BAILEY. That is true.

Mr. LODGE. Now, Texas has no public lands of the United States.

Mr. BAILEY. That is true.

Mr. LODGE. Therefore, where are the funds coming from?

Mr. BAILEY. They will come from the same source that the funds used in other States come from; and like all the money furnished to any other State, it must be repaid into the Treasury.

I will say to the Senator from Massachusetts frankly that I did not sympathize with this original legislation, but it was entered upon by the Government, it has been prosecuted with great success in certain regions, and I do not believe that there can be any fair disposition to exclude from the provisions of the act any arid region in the Republic.

Mr. HOPKINS. Will the Senator from Texas allow me?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Illinois?

Mr. BAILEY. Certainly.

Mr. HOPKINS. I wish to suggest that as I remember the law Texas will be practically on the same basis as the other States; that licenses will be given out; and the money received from that source is used to return the advances made by the Treasury for all of the irrigation purposes in various States. So if half a million or money or a million or five hundred millions is used in Texas there will be the same facility for returning it in Texas that there is in Idaho or Montana.

Mr. BAILEY. That is precisely true.

Mr. LODGE. That is the point I wanted to get at. The money is taken from the funds of lands in other States.

Mr. BAILEY. But the lands in the other States do not belong to the other States.

Mr. LODGE. No; they belong to the United States.

Mr. BAILEY. They belong to a common fund.

Mr. LODGE. Certainly—the United States.

Mr. BAILEY. They belong to the common fund of the people. In other words, they belong just as much to the State of Texas as they do to the State in which they are situated. I remember once, when a Member of the House, trying to grant those lands to the States in which they were situated, but I could not secure the favorable consideration for that proposition.

Mr. HANSBROUGH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from North Dakota?

Mr. BAILEY. Certainly.

Mr. HANSBROUGH. Is this a request for unanimous consent?

Mr. BAILEY. It is.

Mr. HANSBROUGH. I dislike to object, but I want to make a further examination of the bill and perhaps, at another time, offer some amendments to it, if the Senator from Texas will allow it to go over.

Mr. BAILEY. Of course I assume when the Senator says he wants to examine it that he means exactly what he says, and he does not mean it as a mere matter of delay.

Mr. HANSBROUGH. Not at all.

Mr. BAILEY. I assume that, and I withdraw the request.

Mr. HANSBROUGH. I think the Senator will acquit me of ever having entered into an effort to delay any measure.

The VICE-PRESIDENT. The request is withdrawn.

SHERMAN AVENUE, IN THE CITY OF WASHINGTON.

Mr. GALLINGER. I move that the bill (S. 5882) to provide for the reassessment of benefits in the matter of the extension and widening of Sherman avenue, in the District of Columbia, and for other purposes, be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

ASSOCIATION OF NAVAL MILITIA.

Mr. GALLINGER. Mr. President, a few days ago the Senate ordered to be printed a public document known as "Document No. 435," the proceedings of the annual meeting of the Association of the Naval Militia of the United States. As there are but a few numbers available, I move that 1,000 additional copies be printed for the use of the Association of the Naval Militia of the United States.

The motion was agreed to.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BURKETT submitted an amendment proposing to appropriate $15,000 for the extension of forest planting on forest reserves, of which not to exceed $2,500 may be used to construct a permanent station building on the Dismal River Forest Reserve, Nebraska, intended to be proposed by him to the agricultural appropriation bill; which was referred to the Committee on Agriculture and Forestry, and ordered to be printed.

Mr. LATIMER submitted an amendment providing that patrons on all rural free-delivery mail routes that are now established or that may hereafter be established may put up for their individual use boxes constructed of such material as they may desire, etc., intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. BLACKBURN submitted an amendment proposing to appropriate $1,200 for the salary of one inspector of marine products in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

WITHDRAWAL OF PAPERS—LEWIS D. SIMMONDS.

On motion of Mr. WARREN, it was

Ordered, That on the application of Lewis D. Simmonds, he is authorized to withdraw from the files of the Senate all papers accompanying Senate bill No. 2073, Fifty-second Congress, first session, entitled "A bill to remove the charge of desertion from the military record of Lewis D. Simmonds," there having been no adverse report thereon.

AGRICULTURAL LANDS IN FOREST RESERVES.

Mr. FULTON. Some days ago I entered a motion to reconsider the vote whereby the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves was passed. I did so at the request of the Senator from Idaho [Mr. HEYBURN], who desired to examine it and perhaps submit an amendment. Since then he has, I understand, said that the motion may be withdrawn. I ask leave, therefore, at this time, to withdraw the motion to reconsider the vote by which the bill was passed.

The VICE-PRESIDENT. The Senator from Oregon withdraws the motion to reconsider and the bill stands passed.

FOREIGN-BUILT DREDGES.

Mr. FRYE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 395) concerning foreign-built dredges, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

WM. P. FRYE,
J. H. GALLINGER,
JAMES H. BERRY,
Conferees on the part of the Senate.

C. H. GROSVENOR,
THOS. SPIGHT,
Conferees on the part of the House.

The report was agreed to.

REGULATION OF RAILROAD RATES.

Mr. CULLOM. Mr. President, I have a large number of telegrams here from gentlemen in Illinois. I will ask that one of them be read, and will present the balance without reading. They are all upon the question of free passes to certain classes of people. I ask that the telegram which I send to the table be read.

The VICE-PRESIDENT. The telegram will be read, if there is no objection.

The Secretary read as follows:

[Telegram.]

CHICAGO, ILL., *May 10, 1906.*

S. M. CULLOM,
United States Senate, Washington, D. C.:

One hundred and twenty-five thousand railway employees of Illinois vigorously protest against the Senate amendment shutting off our families and dependents from securing free transportation. This will deprive us of the only privilege now granted and make it impossible for our families to travel without paying full fare. We have contended for this in our organizations for twenty-five years, and we certainly deplore the attitude of the Senate in such uncharitable action.

WM. CLARK,
Chief Conductor Order of Railway Conductors, No. 1, 5919 Wabash Avenue.

Mr. CULLOM. I simply desire to say that I have received a number of other dispatches of like tenor, and I file them all, so that they may be considered. I ask that they be laid on the table, as it is not worth while to refer them to the committee.

The VICE-PRESIDENT. It will be so ordered.

Mr. WARNER. I present certain telegrams and ask that the first be read and that all the telegrams be printed in the RECORD.

Mr. BLACKBURN. Does the Senator from Missouri propose to print the telegrams in the RECORD?

The VICE-PRESIDENT. The Senator from Missouri will kindly restate his request.

Mr. WARNER. I ask that the first telegram be read and that the others be printed in the RECORD.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Missouri?

Mr. BLACKBURN. Mr. President, if every member of the Senate were to print in the RECORD all the telegrams he has received upon this subject, estimating them from my own experience, the RECORD would be burdened for the next two months to come.

Mr. WARNER. I could have burdened it for four months, but have made a few selections. However, I withdraw the request as to printing in the RECORD.

The VICE-PRESIDENT. The Senator from Missouri requests the reading of the dispatch he has sent to the desk.

Mr. BLACKBURN. I only intended by what I said to make this point clear, that if one Senator is to print in the RECORD all of these protesting telegrams it would be but fair that every other Senator should do the same thing. I have received several score, probably a hundred of them, but thought it would be too burdensome to the RECORD for all of them to appear there.

Mr. WARNER. In reply I wish to say that I do not wish to burden the RECORD. I have possibly done so as little as anyone in the matter of printing in the RECORD.

The VICE-PRESIDENT. Without objection, the Secretary will read the telegram.

Mr. CULLOM. Mr. President, allow me to make one remark, lest I may have been misunderstood. I did not ask that the telegrams which I sent to the desk be printed in the RECORD.

The VICE-PRESIDENT. They were not so ordered.

Mr. MORGAN. Mr. President, I have in my hand about fifty, and I have twenty-five more that ought to go in the RECORD if those sent to the desk by the Senator from Missouri go in.

Mr. FRYE. The Senator from Missouri withdrew his request.

The VICE-PRESIDENT. Is there objection to the reading of the telegram, as requested by the Senator from Missouri? The Chair hears none.

The Secretary read as follows:

[Telegram.]

MEMPHIS, TENN., *May 10, 1906.*

Senator WILLIAM WARNER,
Washington, D. C.:

On behalf of the locomotive engineers of Division 502, Brotherhood of Locomotive Engineers, at Kansas City, Mo., you are requested to use your influence and vote against the amendment to Senate bill 2261, we knowing that the passage of this amendment will work a great hardship on the families of railroad employees throughout the country.

Respectfully, yours,

W. H. MEAD, *Chief Engineer Division 502.*

The VICE-PRESIDENT. The dispatch just read and the others sent to the desk by the Senator from Missouri will lie on the table.

Mr. FORAKER. I have a telegram from the Grand International Brotherhood of Locomotive Engineers, which I think ought to be read and put in the RECORD, and I have about a hundred others, which I will ask some one to relieve me of. I send them to the desk to be filed.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Ohio? The Chair hears none, and the Secretary will read the telegram.

The Secretary read as follows:

[Telegram.]

MEMPHIS, TENN., *May 10, 1906.*

JOSEPH B. FORAKER
Senate Chamber, Washington, D. C.:

I am authorized by the Grand International Brotherhood of Locomotive Engineers' convention to say that we earnestly protest against the adoption of the Senate amendment that discriminates against the issuing of transportation to grand officers of the different railroad organizations who are employed by the employees in the different classes of railroad service and also against the restriction of the issuing of transportation to the families of employees upon the different railroad systems, believing that this is an unfair and unjust discrimination against a class of worthy employees, and we hope that you will do all in your power to prevent the passage of this obnoxious amendment to the rate bill.

W. S. STONE, *Grand Chief Engineer.*

The VICE-PRESIDENT. The dispatches sent to the desk by the Senator from Ohio will lie on the table.

Mr. MCCREARY. I have received a number of telegrams on the subject referred to similar to the one which has just been read. I will not ask that any of them be published in the RECORD, but I simply make the announcement that I have received those telegrams, and I hope we will have an opportunity to rescind the amendment which was passed when the bill comes into the Senate.

Mr. MORGAN. As all classes of persons interested in matters of this kind ought to be represented, and as I represent a very large constituency who have very little voice in the Federal Government, I will send to the desk and ask to have read the following dispatch.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested by the Senator from Alabama.

The dispatch was read, and ordered to lie on the table, as follows:

[Telegram.]

BIRMINGHAM, ALA., *May 9, 1906.*

JOHN T. MORGAN,
United States Senate, Washington, D. C.:

Understand Senate committee considering resolution forbidding railroads issuing free transportation employees families. This be great hardship, and hope you will use your influence to defeat.

J. W. BRYAN,
President Brotherhood Railway Cooks.

Mr. GALLINGER. Mr. President, during the pendency of the railway rate bill I have received just one letter from a citizen of New Hampshire concerning it, and he is a man who keeps a little country store and finds fault because an express train does not stop to take a quarter of beef to the Boston market for him when another train comes along two or three hours after and accommodates him. So from my experience there is not an overwhelming demand for this legislation in New Hampshire.

In the matter of the employees of the railroads, who want about 4,000,000 people granted the privilege of free passes, I have received just one telegram. I presume it is from a New Hampshire man. It is dated Memphis, Tenn., and I think he is attending a convention at that point. I will simply send it to the desk without reading.

The VICE-PRESIDENT. The telegram will lie on the table.

Mr. GALLINGER. I should think it very probable if the rate bill lingers much longer in the Senate, I may receive additional telegrams, as this seems to be an infectious disease.

Mr. FRYE. Mr. President, I received a telegram from the president of a railroad company, saying that this legislation excluding the employees and their families would be detrimental both to the railroads and to the employees; that the present privilege which they enjoy gives them contentment, and it is regarded as a great boon; that they are more faithful in the service than they would be without it, and he thought it was a very decided mistake to make.

I think in the amendment adopted there was another mistake made equally great. It applied to attorneys exclusively employed by railroads. That would only apply to a very few attorneys in the United States. It would not apply to any local attorney, and the attorneys who are exclusively employed by a railroad have but little, if any, occasion to travel on the road. They are in their offices attending to the general business of the railroad and are not traveling, while the local attorneys are called upon to travel every few days to look after affairs about disasters and all that sort of thing. I think those two mistakes were made in that amendment, and when the amendment is before the Senate I hope some one will correct the mistake. If no one else does, I will try to do it myself.

Mr. BEVERIDGE. I send telegrams to the desk, not to have them read, except the one which I have indicated.

The VICE-PRESIDENT. The Senator from Indiana requests the reading of a dispatch. Without objection, the Secretary will read it.

The telegram was read, and ordered to lie on the table, as follows:

[Telegram.]

PRINCETON, IND., *May 10, 1906.*

Senator A. J. BEVERIDGE,
Washington, D. C.

There are 600 railroad employees here who want the pass amendment modified so as to include families of employees; otherwise great hardship will result to railroad men.

M. W. FIELDS,
Attorney Southern Railroad Company.

Mr. WARREN. Mr. President, following the subject touched upon in these telegrams and the remarks by the Senator from Maine with reference to the attorneys of railroads, it is very necessary, in my opinion, that there should be an amendment, if that part of the bill is to stand, permitting the owners and care takers of live stock to be passed from their homes to the point of shipment and on the freight trains with the stock to the point of delivery and back to their homes as has always been the practice.

There should be no objection to such an amendment, if the railroad companies are willing to pass on freight trains, etc., with live stock, the owners and the necessary men in charge of same, because it insures more humane treatment en route and a better condition of live stock in arriving at destination for slaughter.

Nearly all live stock is shipped through more than one State to reach the markets for slaughter, a large portion of it coming from the western country, going to Missouri River points or to Chicago. The railroads, in making up freight charges on live

stock, have really included the expense of carrying the men in charge. But under the proposed law, unless an amendment like the one proposed is adopted, they can not put these men on the bills of lading or pass them with the stock, nor from the stock tender's residence to and including point of shipment and point of delivery—that is, from his home, the round trip, back to his home, without collecting regular fare. While it is true, technically speaking, that railroads are compelled to receive, convey, and deliver live stock without the owners or agents attending them, etc., for loading, unloading, and caring for the stock en route, yet it is a common interest for the railroads, instead of carrying their own men under salary, to carry the owner or his men free without payment for service, the owners being willing to contribute the service of their men and including board and incidental expense, excepting only transportation for the sake of better treatment for the stock. The public is much better served, in that the live stock is more carefully loaded and unloaded and arrives at destination in a less bruised or fevered condition.

Thus both parties ought to desire the continuation of the present practice. Owners of live stock can not afford, in addition to the regular freight charges, wages of men, board, etc., to pay fares when riding over freight trains, as they do in one direction at least with the stock. Nor have we any reason to believe that the railroads will reduce the freight charges sufficiently to cover the fares if paid under the proposed law.

There practically has been no misuse or abuse of this transportation, since it is individual and nontransferable. It has been granted by all railroads alike, and hence does not tend to favoritism or discrimination, and of course causes no criticism and does no one an injustice.

I shall offer such an amendment at the proper time, if it is not offered by others, in the following words:

Or to owners and care takers of live stock when traveling with such stock, or when going to point of shipment or returning from point of delivery.

Mr. BEVERIDGE. I desire to know whether or not it is proper at this time to offer an amendment or to serve notice that I will offer an amendment to the amendment intended to be proposed by the Senator from Texas [Mr. CULBERSON]? If so, I desire to present such an amendment at this time.

The VICE-PRESIDENT. The amendment can be presented at this time.

Mr. BEVERIDGE. Then I desire to give notice that I will move to amend the amendment which is intended to be proposed by the senior Senator from Texas, when he offers such an amendment, as follows: Add after the word "dollars," on line 11, the amendment as proposed in the print, the following, which I read, because I think I can read it better than the clerks:

Provided, That said carrier of interstate commerce may, by arrangement with other carriers of interstate commerce, provide for free transportation of its bona fide employees and their families over the lines of such other carriers in connection with said free transportation over the lines of the carrier providing said free transportation.

Mr. TILLMAN. Mr. President——

Mr. SPOONER. Mr. President, I simply rise for the purpose of saying that not anticipating this eruption of telegrams, I left fifty or seventy-five at home.

I voted against the amendment offered by the Senator from Texas [Mr. CULBERSON] for the reason that it deprives railway carriers of the right to give passes to the families of their employees. I could see nothing whatever to justify that restriction. It destroys a practice which has existed for a great many years and to which I think employees are fairly entitled, and I do not think they should be deprived of it. Under that amendment——

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the senior Senator from Wisconsin yield to his colleague?

Mr. ALDRICH. Mr. President, I rise to a question of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his question of order.

Mr. SPOONER. Why does the Senator raise a point of order against me, when he has sat here quietly through all this debate?

Mr. ALDRICH. I am trying to raise it on everyone so far as I can. My point of order is that this discussion is not now in order.

Mr. SPOONER. It will be in order when the bill comes before the Senate.

The VICE-PRESIDENT. The Chair sustains the point of order. Are there further bills or resolutions to be introduced?

Mr. DICK. I send to the desk, not to be read or printed, telegrams of like character as those already received, to be noted in the RECORD simply as petitions are noted.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Ohio?

There being no objection, the telegrams were ordered to be noted, and to lie on the table, as follows:

A telegram from the Order of Railway Conductors of Cleveland, Ohio; and

A telegram from the Grand International Brotherhood of Locomotive Engineers of Memphis, Tenn., remonstrating against the adoption of the amendment to the railway rate bill prohibiting the issuance of free transportation to bona fide employees and their families.

Mr. TILLMAN. I desire to introduce certain telegrams in the form of petitions similar to those which have been presented.

There being no objection, the telegrams were ordered to be noted, and to lie on the table, as follows:

Telegrams from citizens of Columbia, Greenville, Charleston, Winnsboro, Florence, and Timmonsville, all in the State of South Carolina; of Garrett, Ind., and of Chicago, Ill., remonstrating against the enactment of legislation to prohibit the issuance of passes to railroad employees and their families.

Mr. TILLMAN. Mr. President, is the morning business closed?

The VICE-PRESIDENT. It is not closed.

[Several bills were introduced, which appear under their proper heading.]

Mr. TELLER. Mr. President, I do not wish these telegrams put in the RECORD, but I should like to send them to the desk and say that I have received a great many more of the same kind.

There being no objection, the telegrams were ordered to be noted, and to lie on the table, as follows:

Telegrams from the International Association of Machinists of Denver, Colo.; from the officers and members of Local Division No. 29, Brotherhood of Locomotive Engineers, of Pueblo, Colo., and from the officers and members of Local Division No. 541, Brotherhood of Locomotive Engineers, of Denver, Colo.

Mr. BACON. Mr. President, I have received six or eight dozen of these telegrams, which I now present.

There being no objection, the telegrams were ordered to lie on the table, as follows:

Telegrams from E. M. Smith, of McDonough, Ga.; of A. C. Smith, of Selma, Ala.; D. H. Hopper and M. J. Burke, of Atlanta; L. O. Swain, C. P. Weekly, T. J. Russell, of Atlanta; Lawton & Cummins, of Savannah; J. D. Hermann, of Eastman; W. D. Kiddo and W. C. Warrell, of Cuthbert; T. E. Dunbar, of Macon; Joseph B. and Bryan Cumming, of Augusta; G. W. Warwick, of Smithville; A. G. and Julian McCarry, of Hartwell; J. W. Whidlen and A. G. Jennings, of Macon; De Lacy & Bishop, of Eastman; J. I. Hall, of Macon; Dorsey Brewster, Howell & McDaniel, of Atlanta; T. S. Moyes, of Savannah; W. A. Winburn, of Savannah, S. F. Parrott, of Macon; Shumate & Maddox, of Dalton; H. Sterling, of Macon; J. D. Hudson, of Americus; N. E. Harris, of Macon; T. B. Cabiness, of Forsythe; A. S. Bussey, of Wrightsville; Bennett & Conyers, of Brunswick; J. Randolph Anderson, of Savannah; C. E. Battle, of Columbus; Thomas K. Scott, of Augusta; John B. Little, of Atlanta; C. R. Faulkner, of Dalton; Fermon Barrett, of Toccoa; W. H. Harris, of Fort Valley; Homer Dickinson, of Macon; Simon W. Hitch, of Waycross; J. B. Burnside and C. P. McLaughlin, of Hamilton; John H. Welsh, of Atlanta; George E. Florence, of Augusta; R. L. J. Smith, of Jefferson; W. A. Woodall, of Atlanta; Oscar J. Coogler, of Jonesboro; M. H. Sandwich and B. L. Tysinger, of Thomaston; A. C. Brown, of Commerce; R. B. Edwards, of Eastman; W. P. Cole and H. L. D. McPherson, of Carrollton; E. T. Brown, of Atlanta; King & Spalding, of Atlanta, and J. J. Strickland, of Athens, all in the State of Georgia.

The VICE-PRESIDENT. The morning business is closed; and the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 5, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. SPOONER. Now, Mr. President, without being subject to the point of order by the Senator from Rhode Island, I in my own right will finish what I was about concluding.

Under the amendment offered by the Senator from Texas this might very well happen, and it illustrates the injustice of the restriction. If an engineer staying at his post in time of danger to save a train load of passengers is mortally wounded, his wife and children could not get to his bedside by the courtesy of the company which he serves and to whose interest, as well as the public interest, he had been faithful, but they would be obliged to pay their fare.

If there is a band of men in the United States entitled—their

families as well as themselves—to the consideration of their employers, it is the railway train men, who are faithful, devoted, brave, and patient. It is a rare thing, Mr. President, for one of them to be found shirking his duty.

I voted against this amendment because my colleague had offered an amendment which in this respect seemed to me infinitely more just to the railway men of the country, and when the time comes——

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the senior Senator from Wisconsin yield to his colleague?

Mr. SPOONER. I do.

Mr. LA FOLLETTE. The amendment which I had proposed to offer——

Mr. SPOONER. I referred to that.

Mr. LA FOLLETTE. Requires a little further amendment in order to meet objections which have been raised here this morning, and at the appropriate time (I would do it now if it could be done) I should like to offer that amendment for consideration.

Mr. FRYE. Will the Senator from Wisconsin yield to me one moment?

Mr. SPOONER. Yes.

Mr. LA FOLLETTE. It would relieve many Senators from having to respond to a large number of telegrams and letters which will continue to pour in upon us. I think the matter could be settled here in fifteen minutes if a proper provision is presented, and it could be done by unanimous consent.

Mr. FRYE. I wish to say for the information of the Senator from Wisconsin that when the bill is in the Senate it will be open to amendment.

Mr. LA FOLLETTE. I understand that.

Mr. FRYE. And having been agreed to now, it is not open to amendment.

Mr. LA FOLLETTE. I understand that. I was precluded from offering the amendment at the proper time in Committee of the Whole, because I chanced to be off the floor when the last line of section 1 was under consideration, and we passed the point when I could have offered the amendment. I shall offer it in the Senate whenever we take the bill up for consideration there.

The VICE-PRESIDENT. The Chair will state that there is no pending question before the Senate.

Mr. SPOONER. I can make one in a minute, if that is necessary.

The VICE-PRESIDENT. The Chair will entertain a question.

Mr. SPOONER. I yield to the Senator from Iowa, who will offer an amendment.

Mr. ALLISON. Mr. President, to relieve the situation in many ways, I hope, as respects this matter, I now move, on page 2, line 5, to strike out the words "and fairly remunerative."

The VICE-PRESIDENT. The Senator from Iowa proposes an amendment, which will be stated by the Secretary. The Senator is reading from the printed copy of the amendments as prepared by the Senate?

Mr. ALLISON. I am not reading from the bill.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 10 of the bill, in lines 20 and 21, strike out the words "and fairly remunerative" after the word "reasonable."

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Iowa.

Mr. ALLISON. Now, I ask the Senator from Wisconsin to yield to me for just one moment.

Mr. SPOONER. Certainly.

Mr. ALLISON. I desire to say at this time, Mr. President, that I have also received many telegrams on this subject. I was afraid I would not be able to make that statement unless I embraced this opportunity. I am in sympathy with the telegrams as respects those who are employed by the railroads.

Mr. SPOONER. Mr. President, continuing my observations for one moment only——

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. SPOONER. I will, in one moment.

I had two purposes in view in addressing the Chair upon this subject, one was to explain why I voted against the amendment proposed by the Senator from Texas [Mr. CULBERSON] which was adopted. I am opposed to the granting of railway passes to Members of Congress, to public officials, and to the general public, but I think the line should be drawn as has been here suggested. Second, I wanted to say a few words in support of the justice of the proposition, which the Senator from Texas has partly covered by a proposed substitute to his own amendment, allowing railway companies to issue passes to their employees and the families of their employees as they always have done. That is all.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. BEVERIDGE. Mr. President——

Mr. LODGE. Mr. President, I have not spoken on this subject before.

The VICE-PRESIDENT. The Chair first recognized the Senator from Indiana [Mr. BEVERIDGE].

Mr. LODGE. I thought the Senator from Indiana had already spoken.

Mr. BEVERIDGE. I have not spoken on this subject since the bill was taken up this morning.

Mr. President, I merely rise to call the attention of the Senator from Wisconsin [Mr. SPOONER], and the attention of his colleague [Mr. LA FOLLETTE] as well, to the fact that the Senator from Texas [Mr. CULBERSON] on yesterday remedied the defects to which all these telegrams call attention, except in one particular, and that this morning I have given notice of an intention to move an amendment to his amendment, when he shall offer it, to still further completely remedy the defects to which these telegrams call attention. I call the attention of the senior Senator from Wisconsin to the fact, and also call the attention of his colleague to the fact, that the Senator from Texas has modified his amendment so as to include railway employees and their families amongst those to be entitled to receive free transportation; and this morning I have moved an amendment to provide that the carrier may provide for interchangeable transportation, so that the employee of any carrier and the family of that employee may be given free passes, not only over the road of the carrier issuing the same, but over connecting lines, which, I think, completely covers the defects which the telegrams have been complaining against.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Texas?

Mr. BEVERIDGE. I do.

Mr. CULBERSON. I thought the Senator had concluded.

Mr. NELSON. Mr. President, I rise to a point of order, that the feature of the bill which is being discussed by Senators is not now in order before the Senate.

Mr. BEVERIDGE. I——

Mr. NELSON. I think the question is on the amendment offered by the Senator from Iowa [Mr. ALLISON] and that we had better adhere to that. When we take up this other subject, we can then discuss it in order.

Mr. CULBERSON. I thought the Senator from Indiana [Mr. BEVERIDGE] had yielded the floor.

Mr. BEVERIDGE. I yield to the Senator from Texas.

Mr. CULBERSON. I desire simply to make a brief statement about the matter that has just been considered.

Mr. BEVERIDGE. I yield to the Senator from Texas.

Mr. CULBERSON. Mr. President——

Mr. ALDRICH. The Senator from Indiana can not yield to the Senator from Texas for a statement. I do not understand whether the Senator from Indiana holds the floor or the Senator from Texas.

Mr. CULBERSON. The Senator from Indiana yielded to me for a statement.

Mr. BEVERIDGE. I yielded to the Senator from Texas.

The VICE-PRESIDENT. The Senator from Texas is recognized.

Mr. CULBERSON. Mr. President, in view of the statements which have been made this morning, I think it is proper to say that when the amendment of the Senator from Ohio [Mr. FORAKER] was before the Senate the other day it included three propositions: A prohibition against the issuance of free passes; a prohibition against the issuing of commutation tickets or reduced fares, and also a prohibition which might have been construed, and which some of us did construe, as affecting local questions in the South which we did not desire raised in the Senate. The object of my amendment was to confine the question to the issuance of free passes only. In drafting that amendment, as I did here in the Senate with a pencil very hastily, although the words "and their families" were written in in pencil in some way they were stricken out, probably at the suggestion of somebody, or probably inadvertently by myself, and on yesterday I offered a substitute, after having entered the motion to reconsider, and stated that, if the motion to reconsider were adopted by the Senate, I would offer the substitute in lieu of the amendment.

In addition to that, Mr. President, I desire to say, in view of

the suggestion of the Senator from Indiana [Mr. BEVERIDGE], that I intended to modify that further by adding:

Provided, That this provision shall not be construed to prohibit the interchange of passes for officers, employees, and members of the families of employees.

Undertaking, if I can, to cover—and it will be covered—absolutely and thoroughly that phase of the question when the motion to reconsider comes up and this substitute which I have proposed is taken up for consideration.

Mr. CLAPP. Mr. President, I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Minnesota will state his parliamentary inquiry.

Mr. CLAPP. My inquiry is as to the situation, whether or not it would be in order to grant unanimous consent for the reconsideration of the amendment offered by the Senator from Texas [Mr. CULBERSON]? I think there is no question, and there is not a Senator in this room but realizes that the vote by which that amendment was passed should be reconsidered. We have got to meet the question at some time, and it will save an immense amount of embarrassment, it seems to me, if it can be disposed of now.

Mr. CULLOM. Mr. President, it seems to me that we ought to go on in regular order. The Senator from Iowa [Mr. ALLISON] offered an amendment a while ago which seems to have been almost lost sight of.

The VICE-PRESIDENT. Replying to the suggestion of the Senator from Minnesota [Mr. CLAPP], the Chair thinks it is competent for the Senate, by unanimous consent, to return to any order that has been passed; but one objection would, of course, prevent doing so.

The question is on agreeing to the amendment proposed by the Senator from Iowa [Mr. ALLISON].

Mr. DANIEL and Mr. OVERMAN. Let it be read.

The VICE-PRESIDENT. The amendment will be again stated by the Secretary.

The SECRETARY. On page 10 of the printed bill, after the word "reasonable," in line 20, it is proposed to strike out the words "and fairly remunerative."

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLISON. I offer an amendment on page 11, line 5, after the word "prescribed," to strike out the remainder of the clause down to and including the word "carrier," in line 7, and to insert in lieu thereof what I have sent to the Secretary's desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. On page 11, line 5, after the word "prescribed," it is proposed to strike out:

Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier.

And in lieu thereof to insert the following:

All orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time and shall continue in force for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Iowa, which has just been stated.

Mr. LA FOLLETTE. Mr. President, I should like to inquire of the Senator from Iowa why the limitation of two years is placed upon the orders of the Commission changing the rate?

Mr. ALLISON. The bill as it now stands has a limitation of three years. I should think that two years would suffice to test the value of the order, and, of course, if it is a valuable order, it will remain undoubtedly in process of execution by the railroads themselves. I do not think it is a very important matter; indeed, I have paid very little attention to this limitation. Two years seem to me to be long enough.

Mr. LA FOLLETTE. If I understand the purpose of the limitation, it is to annul the rate fixed by the Commission at the end of the period of two years and leave the railroad company free to restore the old rate or any other rate which it may choose to fix. In order that I may be speaking to something, Mr. President, I will move——

The VICE-PRESIDENT. The Senator is in order in speaking to the amendment proposed by the Senator from Iowa [Mr. ALLISON], which is pending.

Mr. LA FOLLETTE. Well, Mr. President, I will move to strike out the limitation of two years, which the amendment makes upon the rate fixed by the Commission, to the end that the Commission rate shall continue in force until the railway company shows that it should be changed.

The VICE-PRESIDENT. The Senator from Wisconsin proposes an amendment to the amendment of the Senator from Iowa [Mr. ALLISON], which will be stated.

The SECRETARY. After the word "time," where it appears on line 8 of the printed amendment of Mr. ALLISON, it is proposed to strike out the words "not exceeding two years;" so that if amended it will read:

All orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time and shall continue in force for such period of time as shall be prescribed in the order of the Commission.

Mr. LA FOLLETTE. Mr. President, after the Commission has made an investigation and determined that a given rate is reasonable, that rate should remain in force until it is shown to be an unjust and unreasonable compensation for the service rendered. I know of no reason why such rate should expire by limitation.

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Pennsylvania?

Mr. LA FOLLETTE. I do.

Mr. KNOX. Mr. President, I only rise to interrupt the Senator from Wisconsin because he says that he has never heard any reason assigned for a limitation of the duration of the order of the Commission. I am very glad to state to him that in the original bill drawn by the Interstate Commerce Commission, which they submitted to the Interstate Commerce Committee, the suggestion of the Commission was that the order should only last and be continued in force for one year; and the letters addressed to the chairman of the committee, which I had the opportunity of reading, which accompanied that bill, stated that in the rapid changes in this country, and especially the changes that affected transportation and conditions upon which transportation rates are predicated, the initiative of the railroad ought to reattach every year. This amendment proposed by the senior Senator from Iowa [Mr. ALLISON] extends it to two years. I should favor two years, and I think it ought to stand at two years; but I quite agree with the statement made by Mr. Knapp, the chairman of the Interstate Commerce Commission, in his letter to the chairman of the Committee on Interstate Commerce, that there ought to be a period when the initiative ought to go back to the railroad company because of the changed situation which affects the question of rates and the question of practice as well.

Mr. LA FOLLETTE. I submit, Mr. President, after this Commission has gone over the ground, made an investigation, and fixed a rate, it ought not to be set aside at the end of a two-year period or at the end of any period unless that rate is found for some sufficient reason to be such a rate as ought no longer to be maintained. The Commission will be able to accomplish very little in fixing rates if the Commission's rates are to expire by limitation and the railroad rates be restored without any reason whatever for such change. I am very certain that the only reason why the Commission ever suggested such a limitation in the first draft of the bill which they proposed was because they believed that they could not at the present time secure broad and comprehensive legislation from Congress. If they could at this time be clothed with authority to determine rates upon their own motion, then, sir, I am sure they would not recommend a time limitation upon the rates fixed by the Commission. If this bill were amended in that important particular the Commission would have full authority to revise a rate upon their own motion, if justice to the carrier or the public required that it should be done. Rate making by the Commission upon complaint only will be a slow process at best. The work ought to stand, unless there is some good reason for setting it aside. If there is good reason for changing a rate once fixed by the Commission, it can be made to appear upon investigation.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE] to the amendment of the Senator from Iowa [Mr. ALLISON].

The amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Iowa.

The amendment was agreed to.

Mr. BAILEY. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Texas will be stated.

The SECRETARY. In section 4, page 11, line 9, after the word "jurisdiction," it is proposed to insert the following proviso:

Provided, however, That no order of the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of any court or judge.

Mr. BAILEY. Mr. President, in his message to Congress on the 6th of December, 1904, President Roosevelt indorsed the

principle and the purpose of this amendment in the most emphatic language. These were his words:

While I am of the opinion that at present it would be undesirable, if it were not impracticable, finally to clothe the Commission with general authority to fix railroad rates, I do believe that, as a fair security to shippers, the Commission should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place; the ruling of the Commission to take effect immediately, and to obtain unless and until it is reversed by the court of review. The Government must, in increasing degree, supervise and regulate the workings of the railways engaged in interstate commerce; and such increased supervision is the only alternative to an increase of the present evils on the one hand or a still more radical policy on the other. In my judgment the most important legislative act now needed as regards the regulation of corporations is this act to confer on the Interstate Commerce Commission the power to revise rates and regulations, the revised rate to at once go into effect, and to stay in effect unless and until the court of review reverses it.

It will be observed that the President was so deeply impressed with the importance of maintaining the Commission's rate "unless and until it is reversed by the courts" that he urges it twice in the same paragraph. Indeed, sir, only a single sentence separates his first from his second declaration, and the important words in both are precisely the same. It must have been a profound conviction that could lead a scholarly man to repeat himself in such close connection.

In his speech delivered at Raleigh, N. C., on the 19th of October, 1905, the President restated his position on the railroad question, and, while he modified it in another important respect, he made no change whatever in this respect. Here is what he said:

But, in my judgment, the most important thing to do is to give this administrative body power to make its findings effective, and this can be done only by giving it the power, when complaint is made of a given rate as being unjust or unreasonable, if it finds the complaint proper then itself to fix a maximum rate which it regards as just and reasonable, this rate to go into effect practically at once—that is, within a reasonable time—and to stay in effect until reversed by the courts.

In this statement the President abandons his first and sensible demand for an absolute rate and adopts the dangerous expedient of a maximum rate; but he still adheres with tenacious fidelity to his original insistence that the rate when once fixed by the Commission should remain in effect "until and unless reversed by the courts." Thus in a solemn message to Congress and again in a carefully prepared speech he has recognized that the only way in which the rate-making power of the Commission can be rendered most effective for the public protection was to keep the rate of the Commission in effect until it is reversed by the courts.

The President of the United States understands as well as any Senator in this body, and he understands as well as any citizen in this country, the difference between "suspending" and "reversing" an order of the Commission. He knows as well as I do—and I know as well as any living man can know—that "to suspend" is an intermediate process, while "to reverse" is a final determination of the case; and, therefore, when he declared that the rate of the Commission should "stay in effect until reversed by the courts," he meant precisely what I am now seeking to accomplish.

With these two recommendations before me, I had every right to assume that an amendment designed to carry them into effect would receive the President's cordial and active support; and yet recent events make it manifest that he has compromised again with the opponents of this legislation, and has committed both himself and his friends against a proposition which may be fairly described as his own. He assured, and then he reassured, his countrymen that he earnestly desires to keep the Commission's rate in effect until it shall be reversed by the court; and although I have found him an open and an easy way to reach that result, he refuses to follow it.

It must not be understood that in saying this it is my purpose to withhold from the President of the United States the credit to which he is justly entitled for this legislation. No hope of a partisan advantage can restrain me from admitting that, without his help, even this imperfect and insufficient bill could have never become a law; but while I cheerfully make that acknowledgment of his services, his best friends must sincerely deplore that he did not keep his face set resolutely against every effort to emasculate this bill. Whether he was weary of the conflict and surrendered, as some men charge, or whether he yielded to the appeals for party harmony, as other men believe, I do not pretend to judge. But whether it was the one or the other, or whether it was neither or both, he will find it difficult to explain to the American people why it is that he has raised their hope so high and then has fulfilled it in such slight degree.

Mr. President, I realize that the time for argument on this question is over, and that nothing which can now be said will change the vote of any Senator; but before it passes entirely from our consideration I want to incorporate in the RECORD the latest expression which I have been able to find from law books on this subject. It is from a recent work—so recent that, though I had purchased it on approval, I had not, for the want of time, examined it, and it was called to my attention by a distinguished lawyer who formerly represented a Georgia district in the House of Representatives. It is entitled "Federal Statutes Annotated," and consists of 10 volumes. The eighth and ninth volumes are devoted to a consideration of the Constitution by sections, and in the eighth volume I find a chapter dealing with the power of Congress to create inferior Federal courts. I find that this work refers, just as I did in my speech, the power to create these courts, not to the judiciary clause of the Constitution, but to that provision which authorizes Congress "to constitute tribunals inferior to the Supreme Court," and lays down the law as follows:

This section—

After quoting the section to which I have referred—

This section delegates power to Congress to organize courts, and therein delegates to Congress power both to authorize the issue and to suspend the issue of the writ of habeas corpus, because that is a judicial writ, and the power to organize courts includes the power of determining what writs they may issue, or not issue, from time to time; hence it was necessary to place the restriction upon the power thus delegated to Congress to legislate for the courts which is contained in section 9, viz, that Congress should not, in so legislating, withhold from them the right to issue the well-known judicial writ of habeas corpus, except, etc.

Mr. President, if the Congress possesses the power to prevent a preliminary injunction suspending the Interstate Commerce Commission's order, surely it can not excuse itself for failing or refusing to exercise that power to the fullest extent. That the injunctive power of the courts ought not to be heedlessly or unnecessarily curtailed, I might freely grant without abating my support of this amendment. A controversy between two individuals or a controversy between a body of individuals and a corporation does not present the question which confronts us here. In those cases there will have been no ascertainment of the facts, no careful opinion rendered by a Government tribunal, as in the case of a rate fixed by the Commission, to be suspended without a due and full inquiry. The rate of the Commission when once established becomes the law of the land, and it is a monstrous proposition to allow inferior judges to suspend the law of the land without a full and complete inquiry.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Texas [Mr. BAILEY].

Mr. BERRY and Mr. BLACKBURN demanded the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK], and therefore am not at liberty to vote. I understand if he were present, he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY]. I do not see him in the Chamber. If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. TELLER. My colleague [Mr. PATTERSON] is paired with the junior Senator from Idaho [Mr. HEYBURN]. If present, he would vote "yea."

Mr. SPOONER. The Senator from Ohio [Mr. DICK] is not present, and if there is no objection, I will transfer to him my pair with the Senator from Tennessee [Mr. CARMACK], and will vote. I vote "nay."

The result was announced—yeas 23, nays 54, as follows:

YEAS—23.

Bailey	Dubois	Latimer	Rayner
Berry	Foster	McCreary	Simmons
Blackburn	Frazier	McEnery	Stone
Burkett	Gearin	McLaurin	Teller
Clarke, Ark.	Hale	Martin	Tillman
Clay	La Follette	Overman	

NAYS—54.

Aldrich	Crane	Hansbrough	Penrose
Alger	Culberson	Hemenway	Perkins
Allee	Cullom	Hopkins	Pettus
Allison	Daniel	Kean	Piles
Ankeny	Dillingham	Kittredge	Platt
Bacon	Dolliver	Knox	Scott
Beveridge	Dryden	Lodge	Smoot
Brandegee	Elkins	Long	Spooner
Bulkeley	Flint	McCumber	Sutherland
Burrows	Foraker	Millard	Taliaferro
Carter	Frye	Morgan	Warner
Clapp	Fulton	Nelson	Wetmore
Clark, Mont.	Gallinger	Newlands	
Clark, Wyo.	Gamble	Nixon	

NOT VOTING—12.

Burnham	Depew	Heyburn	Patterson
Burton	Dick	Mallory	Proctor
Carmack	Gorman	Money	Warren

So Mr. BAILEY's amendment was rejected.

Mr. CULBERSON. Mr. President, I offer what I send to the desk as an amendment to the amendment. It is the part between the marked lines.

Mr. MONEY. Mr. President——

Mr. CULBERSON. I yield to the Senator from Mississippi.

Mr. MONEY. Mr. President, I wish to say that I was detained in a committee room and did not get here in time to vote on the proposition last voted upon. I should be glad to be recorded. My pair is the Senator from Wyoming [Mr. WARREN], and I ask unanimous consent of the Senate that I be allowed to vote.

Mr. WARREN. In that case I ask that I be recorded, also.

Mr. GALLINGER. Mr. President, I raise the point of order that under the rules the Senators can not be recorded.

The VICE-PRESIDENT. The vote having been announced, under the rules the Senators are precluded from recording their votes.

Mr. MONEY. Then I ask permission of the Senate to say how I would have voted.

The VICE-PRESIDENT. The Senator from Mississippi.

Mr. MONEY. I would have voted "yea" if I had been present.

The VICE-PRESIDENT. The Senator from Texas [Mr. CULBERSON] proposes an amendment, which will be stated.

Mr. CULBERSON. As an amendment to the amendment of the Senator from Iowa.

The VICE-PRESIDENT. The amendment of the Senator from Iowa having been agreed to, the Chair is of opinion that the proposed amendment of the Senator from Texas is not in order at the present stage of the bill.

Mr. CULBERSON. Mr. President, it has not been agreed to; and I offer this amendment to the amendment.

Mr. ALLISON. It has not been agreed to. I wish to modify the amendment by inserting after the word "time," where it occurs the first time, the words "not less than thirty days."

Mr. ALDRICH. I understood that this amendment had been agreed to.

Several SENATORS. No!

The VICE-PRESIDENT. The Senator from Texas [Mr. CULBERSON] rose to offer an amendment to the amendment of the Senator from Iowa [Mr. ALLISON], and the only amendment that has been proposed by the Senator from Iowa has been agreed to. But the Chair now understands that the Senator from Texas rose to amend an amendment which has not been formally offered. The Senator from Iowa proposes the following amendment——

Mr. ALLISON. Mr. President——

Mr. NELSON. I rise to a point of order.

The VICE-PRESIDENT. The Senator from Minnesota will state his point of order.

Mr. NELSON. The amendment of the Senator from Iowa was adopted, and we took up the amendment of the Senator from Texas [Mr. BAILEY].

The VICE-PRESIDENT. That is correct.

Mr. NELSON. That is the status of the case. Now, we can not take up the amendment of the Senator from Iowa without reconsidering the vote by which it was agreed to.

Mr. ALLISON. Very well.

Mr. CULBERSON. I rise to a point of order.

The VICE-PRESIDENT. The Senator from Texas will state his point of order.

Mr. CULBERSON. The first amendment offered by the Senator from Iowa was adopted.

The VICE-PRESIDENT. That is correct.

Mr. CULBERSON. It was to strike out the words "and fairly remunerative." The other amendment, at the bottom of page 310, has not been adopted.

The VICE-PRESIDENT. It has been agreed to.

Mr. CULBERSON. Then I offer the amendment I send to the desk.

The VICE-PRESIDENT. Is it an amendment to the amendment already agreed to?

Mr. CULBERSON. It is an amendment to that section, to follow the amendment of the Senator from Iowa.

The VICE-PRESIDENT. If it follows the amendment and is not an amendment to the amendment, it is in order.

Mr. CULBERSON. It is not an amendment to the amendment. I offer it in any form, to get it in order.

Mr. CULLOM. I rise to a point of order.

The VICE-PRESIDENT. The Senator from Illinois will state his point of order.

Mr. CULLOM. If the Senator means that the amendment to strike out the words "and fairly remunerative" was not agreed to, he is mistaken.

Mr. CULBERSON. I stated the very opposite.

The VICE-PRESIDENT. The words "and fairly remunerative" were stricken out upon a vote of the Senate.

Mr. CULLOM. Exactly. That is what I said.

The VICE-PRESIDENT. The Senator from Texas offers an amendment. Where shall it be inserted?

Mr. CULBERSON. I am still of the opinion that the amendment of the Senator from Iowa [Mr. ALLISON], at the bottom of page 310, has not been adopted, because the amendment of my colleague was an amendment to that amendment.

Mr. BAILEY. Mr. President, that is a mistake. I offered an amendment to the bill.

Mr. CULBERSON. Very well. Then I offer the amendment I send to the desk, to follow the amendment offered by the Senator from Iowa.

Mr. ALDRICH. Let it be reported.

The VICE-PRESIDENT. The Secretary will read the amendment proposed by the Senator from Texas.

The SECRETARY. On page 11 of the bill, at the end of line 9, after the word "jurisdiction," it is proposed to insert the following:

Provided, That if such rate so fixed by the Commission is in violation of the rights of any party in interest secured by the Constitution of the United States the party so affected may proceed against the Commission by appropriate proceedings in equity in any circuit court of the United States of competent jurisdiction to enjoin the enforcement of such order and rate: *Provided further*, That in determining what is a just and reasonable rate no consideration shall be given fictitious stock issued by the carrier, or bonds or other obligations of the carrier, issued in excess of the fair value of its property: *Provided further*, That no circuit or other court of the United States, and no judge thereof in vacation, shall annul, restrain, enjoin, or otherwise interfere with the enforcement or operation of a rate and order established and made by the Interstate Commerce Commission provided for in this act until a petition, declaration, bill of complaint, or other proper statement of the cause of action is filed in said court or presented to said judge in vacation and the Interstate Commerce Commission is duly and legally served with a copy thereof at least ten days prior to any action taken by the court or judge thereon and until said Commission has had opportunity within said ten days to answer by proper pleadings and present testimony in like form as the complainants therein: *Provided further*, That in such proceedings either party to the suit may appeal immediately and directly to the Supreme Court of the United States from the final decree therein, or from any interlocutory or preliminary restraining order therein, whether granted during the term or in vacation, by which the rate and order so established and made by the Commission is enjoined in whole or in part: *Provided further*, That said appeal must be taken within thirty days from the entry of such order or decree, and said case so appealed shall be advanced and take precedence in the Supreme Court of all cases of a different character therein: *Provided further*, That the circuit court, or the judge thereof, or the Supreme Court, or any justice thereof, may direct that the final decree or the interlocutory or preliminary restraining order, from which an appeal is taken, shall be stayed during the pendency of such appeal.

Mr. BAILEY. Mr. President, inasmuch as the Senate has declined to prevent preliminary injunctions entirely, I sincerely hope they will agree to prevent them until there is a hearing. Of course I can not understand the principle which denies to Congress the power to prevent them until the hearing, and yet concedes the power of Congress to prevent them until a hearing. Why all this difference should be between "a" and "the" is beyond my comprehension, but I certainly hope the Senate will at least restrain the court some.

Mr. CARTER. Mr. President, lest my vote upon this amendment should be misunderstood, permit me to say a word. I believe that the Senate, without involving the question in as extensive verbiage as this amendment contains, will in due time provide that no interlocutory order shall be issued until notice is given the Interstate Commerce Commission and a hearing had upon the application for the restraining order or temporary injunction. From the very beginning of this discussion I have insisted, with proper regard for the bill, that amendments should be confined to the narrowest possible scope. This bill in the beginning was prepared with great care. The first draft was made, I believe, by experts who had been working with interstate-commerce traffic for years. Subsequently the bill was given most patient and long-continued consideration in the Committee on Interstate Commerce in the House of Representatives, approved by the Attorney-General of the United States, after a thorough examination, and it is approved, I believe, by a majority of this body.

It occurs to me, as it has occurred to me in the beginning, that extensive amendments should not be encouraged. If aught was needed to demonstrate the wisdom of that position, the confused and confusing debate which occurred in the Chamber this morning on the antipass amendment of the Senator from

Texas considered here anew, amidst a shower of protesting telegrams, should have furnished the Senate a demonstration that its hands in open session had better be kept off any hastily drawn amendment to the bill.

The amendment of the Senator from Texas was presented with the best possible intent, but even with all the amendments suggested to that amendment here this morning, in the light of admonition from persons from Maine to California and from the Lakes to the Gulf, it would still be a poor measure if adopted. I am prepared to make a half dozen suggestions, which I think the Senate will readily concede are founded in good sound policy, to the amendment of the Senator from Texas.

Now comes another amendment, extensive in verbiage, covering a variety of topics, no doubt, read for the first time from the desk, and we are called upon to vote for it because, forsooth, it contains the little virtue of providing that notice shall be given and a hearing had before a restraining order is issued. These points will be found carefully presented and guarded in a brief amendment to be offered by the Senator from Iowa [Mr. ALLISON].

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Texas?

Mr. CARTER. Certainly.

Mr. CULBERSON. I call the attention of the Senator from Montana to the fact that the provisions of the amendment proposed by me have been before the Senate in various forms, and the Senator will find the amendment printed, May 7, pages 284 and 285 of the printed pamphlet. It was here in ample time for consideration by the Senate.

Mr. CARTER. That reference furnishes but another evidence of the virtue of the contention I have made from the beginning. This bill in itself consists of 26 pages. We have presented for consideration to the Senate 320 pages of amendments, besides additional amendments presented from time to time, not included in this bound pamphlet. Will you tell me, I pray, what sort of a bill this will be if these amendments, good, bad, and indifferent, are adopted and attached to or injected into the bill?

Mr. President, the closer we adhere to the original text of the bill the nearer we will be to procuring a logical piece of legislation, destined to accomplish the primary purpose, to wit, the vesting of power in the Interstate Commerce Commission to substitute a reasonable rate for an unreasonable rate. I shall vote against this amendment because it is too extensive, covers too many questions, and is calculated to confuse rather than to strengthen the primary purpose of the bill.

Mr. NELSON. Mr. President, we all know that the Senator from Iowa [Mr. ALLISON] has been suffering from illness for several days past. He is in the Chamber to-day for the purpose of offering certain amendments which have been prepared by him. I suggest to Senators that we allow this bill to be read right along by sections, and that we all abstain from offering our amendments for the time being, to the end that the Senator from Iowa may offer his amendments and have them acted upon. We can always go back to the bill, even if the whole of it is read, and amend it in Committee of the Whole. I trust the Senator from Texas will be good enough to withdraw, for the time being, his amendment and allow the Senator from Iowa to offer his amendments.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Texas [Mr. CULBERSON].

Mr. CULBERSON. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. PROCTOR (when his name was called). I again announce my pair on all votes on this measure with the senior Senator from Florida [Mr. MALLORY].

The roll call was concluded.

Mr. SPOONER. I again announce my pair with the Senator from Tennessee [Mr. CARMACK]. If I were permitted to vote I should vote "nay."

The result was announced—yeas 29, nays 50, as follows:

YEAS—29.

Bacon	Dubois	McLaurin	Simmons
Berry	Foster	Martin	Stone
Blackburn	Frazier	Money	Taliaferro
Clark, Mont.	Gearin	Morgan	Teller
Clarke, Ark.	La Follette	Newlands	Tillman
Clay	Latimer	Overman	
Culberson	McCreary	Pettus	
Daniel	McEnery	Rayner	

NAYS—50.

Aldrich	Allison	Brandegee	Burnham
Alger	Ankeny	Bulkeley	Burrows
Allee	Beveridge	Burkett	Carter
Clapp	Foraker	Kittredge	Piles
Clark, Wyo.	Frye	Knox	Platt
Crane	Fulton	Lodge	Scott
Cullom	Gallinger	Long	Smoot
Dick	Gamble	McCumber	Sutherland
Dillingham	Hale	Millard	Warner
Dolliver	Hansbrough	Nelson	Warren
Dryden	Hemenway	Nixon	Wetmore
Elkins	Hopkins	Penrose	
Flint	Kean	Perkins	

NOT VOTING—10.

Bailey	Depew	Mallory	Spooner
Burton	Gorman	Patterson	
Carmack	Heyburn	Proctor	

So Mr. CULBERSON's amendment was rejected.

Mr. BACON. I offer an amendment, to come in after the word "jurisdiction," at the same place as the amendment just proposed by the Senator from Texas [Mr. CULBERSON].

The VICE-PRESIDENT. The amendment proposed by the Senator from Georgia will be read.

The SECRETARY. On page 11 of the regular bill, at the end of line 9, insert:

No rate or charge, regulation or practice, prescribed by the Commission shall be restrained, set aside, suspended, or modified by any interlocutory or preliminary order or decree of the court unless upon the hearing, after such full notice to the Commission as herein prescribed, the same shall be considered and concurred in and ordered by at least two judges presiding in said hearing, at least one of whom shall be a judge of the circuit court of the United States or a circuit justice of the Supreme Court of the United States.

Mr. BACON. Mr. President, I ask that the Secretary indicate the page in order that Senators may turn to it.

The SECRETARY. Page 235 of the large pamphlet.

Mr. TELLER. Where does it come in the bill?

Mr. BACON. At the same place as the last amendment.

The SECRETARY. At the end of line 9, page 11, of the bill.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Georgia [Mr. BACON].

Mr. BACON. Mr. President, I think this is a very important amendment, and I trust it may receive the careful consideration of Senators. I am as anxious as anyone that there shall be no improvident or hasty or ill-advised interference with any order of the Commission fixing rates after complaint made. I desire most earnestly that the orders of the Commission shall go into effect and remain in effect unless the constitutional rights of parties require that they be suspended. I was constrained to vote against the amendment which prohibited under any circumstances the issuance of an interlocutory order or decree, because, in my judgment, such a provision in this bill would be unconstitutional, and so believing, under my obligation I could not vote otherwise.

I will simply pause long enough to say that the ground upon which I base my conclusion as to the unconstitutionality of such provision is not that the Congress has no right under any circumstances to control and prohibit the exercise of the writ or process of injunction. In my opinion there are some circumstances where Congress can do so, and that in other circumstances it has no constitutional power to do so. I base my opinion that Congress can not constitutionally do so in this particular case upon the belief that Congress can not control and prohibit the exercise by the courts of the process of injunction in the proposed law, if that process of injunction is the only one by the exercise of which by the courts the provisions of the fifth amendment to the Constitution of the United States can be made of force and effect. Unless this constitutional provision can be enforced by the courts it is simply a piece of waste paper. I hold that Congress does not have the right, if that is the only process of the courts by which the fifth amendment can be made of force and effect, to destroy that only remedy and thus nullify that most important and vital constitutional provision. It is the duty of Congress to so legislate as to make effective the provisions of the Constitution. I feel it due to myself to state that much. If there is any other process by which the courts can perfectly protect the citizen in the guaranties of the fifth amendment, I do not know what it is. Of course I will not undertake to go into the argument or to elaborate it. In my opinion Congress can prohibit the exercise of the process of injunction when such prohibition is to prevent its being used to imperil or destroy personal liberty or property rights. I do not believe that Congress can prohibit the exercise of the process of injunction when such exercise is essential for the protection of personal liberty or of the rights of property guaranteed by the Constitution.

I wish to direct the attention of the Senate, however, to the provisions of the particular amendment I now offer.

Mr. ALDRICH. Will the Senator from Georgia permit me?

Mr. BACON. With pleasure.

Mr. ALDRICH. I make the suggestion to the Senator from Georgia that he offer his amendment to the amendment which

the Senator from Iowa [Mr. ALLISON] is going to offer to the next section. It is the same subject-matter exactly and covers substantially the same ground.

Mr. BACON. The purpose I have in offering it now is that the subject-matter has been brought to the attention of the Senate in the amendment we have just voted on, denying the right to issue any preliminary injunction, and I desire that this shall come in the same connection.

Mr. ALDRICH. The Senator from Iowa has already given notice that he will offer an amendment to the next section covering the question of preliminary injunction, and I suggest to the Senator, if it is equally agreeable to him, to offer his amendment to that amendment.

Mr. BACON. I prefer to offer it here.

Mr. ALDRICH. All right.

Mr. BACON. Mr. President, there is undoubtedly a great evil found frequently in the practice of the courts in the improvident grant of interlocutory or preliminary injunctions, and it is intended in this very grave and important matter, as the right is still to be exercised by the court, to throw around it all possible safeguards, so that there shall be no hasty, no ill-advised, no improvident grant of an injunction, and to guard against the possibility—I use the word "possibility" because it is the most extreme word—to guard against the possibility of any judge being influenced by any but the highest motives or having the opportunity to act when influenced by any but the highest motives in the administration of justice.

Mr. President, I ask Senators to consider carefully this question. It is a well-recognized feature of the circuit courts of the United States that more than one judge presides in the determination of questions. It is not a requirement of the law that more than one shall preside in the consideration and determination of questions, but it is a provision in much wisdom which permits and authorizes the consideration of questions by not only two judges but by three judges sitting together upon the circuit bench.

Mr. President, that is not done as a reflection upon any one judge or as an evidence of distrust in any one judge. It is done because it is recognized that in the multitude of counsel there is wisdom. It is done for the same reason that we put nine judges upon the Supreme Bench, not that there is distrust of any one of the nine, but that in the consideration of the grave questions which must necessarily come before that court there shall be the advantage to be gained in the coming together of a number of minds in the consideration of the same question. And further, if there is a question of grave doubt and difficulty where men may differ, that there may be among so large a number of judges the opportunity for a majority to decide aright.

Mr. President, I beg that Senators will consider this situation. Here is the very gravest of questions, one of the most far-reaching. Under the law as it now exists, any district judge in the United States is authorized to exercise circuit court powers. With the right to pass upon the question of a preliminary injunction, in the absence of some such provision as this it will be competent for any district judge in the United States to arrest the order of the Commission by an interlocutory order or decree.

This provision does not simply ask that more than one judge shall be called upon and shall concur with the judge before an interlocutory decree can be issued, but it provides that at least one of them shall be a circuit judge of the United States. In other words, it can not be done even by two district judges. It may be done by one district judge and one circuit judge, or one circuit justice of the Supreme Court of the United States. Under our system the judges of the Supreme Court of the United States exercise circuit court powers and sit on the circuit court. Therefore the amendment provides that before an interlocutory order or decree may issue there must be two judges who shall concur in the order, and that at least one of them shall be a circuit judge or a circuit justice of the Supreme Court of the United States.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. BACON. With pleasure.

Mr. FULTON. I call the attention of the Senator from Georgia to the fact that under the amendment proposed by the Senator from Iowa it will require that three judges shall sit and hear the application for an injunction under the expediting act.

Mr. BACON. I have no objection to the number being made three.

Mr. FULTON. I ask the Senator if he does not think it better really to place it under the expediting act by an independent provision?

Mr. BACON. But the expediting act is not the law under which the interlocutory decree will be issued.

Mr. FULTON. The amendment of the Senator from Iowa proposes to apply it.

Mr. BACON. On what page is the amendment to which the Senator refers?

Mr. FULTON. On page 319, lines 9 and 10, of the latest print of the amendments. The original text reads:

The provision of an act to expedite the hearing and determination of suits——

Mr. BACON. There is nothing said there about interlocutory decrees.

Mr. FULTON. Yes; if the Senator will look at line 9:

Including the hearing on an application for a preliminary injunction.

The Senator would not want to require that all interlocutory orders and decrees should be heard before three judges or even two judges?

Mr. BACON. The amendment offered by me does not provide that there shall be two for any and all interlocutory orders or decrees, but does provide that there shall be two in all interlocutory orders or decrees which suspend the order of the Commission. That is the scope of it.

Mr. FULTON. This provides that there shall be three.

Mr. SPOONER. Will the Senator allow me a moment?

Mr. BACON. Certainly.

Mr. SPOONER. I take it that was not intended to apply to a great many orders made in the progress of an equity suit, orders to take testimony and formal orders that ought not to require three judges.

Mr. BACON. The provision does not call for anything of the kind. It expressly limits this requirement to the case of an order suspending the order of the Commission. It does not go any further than that. I will read it again for the Senator.

No rate or charge, regulation or practice prescribed by the Commission shall be restrained, set aside, etc.

Mr. FULTON. What amendment is the Senator reading from?

Mr. BACON. I am reading from my amendment.

I hope Senators will not misunderstand that. The amendment is in print before them, and it is limited in its scope entirely to the restraining, setting aside, suspending, or modifyng any rate or charge, regulaton or practice made by the Commission and does not refer in any manner to any other interlocutory order or decree. It relates to them solely.

If the Senator from Oregon will pardon me for a moment, he calls my attention to the proposed amendment of the Senator from Iowa [Mr. ALLISON], which is found on page 318 of this compilation, which I will read, and which will be offered by him later. I read it for the purpose of ascertaining whether or not it is true, as suggested by the Senator from Oregon, that the provision which I seek to have incorporated is already included in this proposed amendment. The amendment which is going to be proposed by the Senator from Iowa, which is found on page 318, is as follows:

Provided, That no injunction, interlocutory order, or decree suspending or restraining the enforcement of an order of the Commission shall be granted except on hearing——

Mr. LONG. That is not the amendment.

Mr. BACON. That is the one I was referred to.

Mr. LONG. It is on the same page, lines 9 and 10.

Mr. BACON. Oh, yes; "The provisions of an act to expedite"——

Mr. FULTON. Those are the lines to which I called the attention of the Senator.

Mr. BACON. I beg pardon.

The VICE-PRESIDENT. The Chair is obliged to inform the Senator from Georgia that his time has expired.

Mr. BACON. I am sorry that I was interrupted and that I was not permitted to present in full the argument in favor of the amendment.

Mr. DUBOIS obtained the floor.

Mr. ALLISON. Mr. President, I desire to reply briefly to the suggestions made by the Senator from Georgia. Have I the floor?

The VICE-PRESIDENT. The Senator from Idaho has the floor.

Mr. DUBOIS. I yield to the Senator from Iowa, but I do not want to have his remarks taken out of my time.

The VICE-PRESIDENT. The Chair will recognize the Senator from Idaho next.

Mr. ALLISON. As I understand the amendment now proposed by the Senator from Georgia, it is an amendment intended to meet the situation as respects injunctions, and that question is also met by certain amendments which I have proposed to the bill. I believe that sufficient safeguards are thrown around

these amendments, and that they are to be preferred really to the amendment proposed by the Senator from Georgia.

The bill as it came to us from the House incorporated in its provisions what is known as the "expediting act" of February 11, 1903. So if we had not dealt with this question at all, the present status of the law on that subject is such that all these applications for injunctions would have gone to the circuit court, and there would have been three judges assigned to the hearing, as I understand the expediting act of 1903.

Mr. TELLER. Yes; that is right.

Mr. ALLISON. Three judges would be assigned, two of whom must be circuit judges. So if nothing had been done in the Senate upon that subject, the bill as it came to us from the House would have brought these preliminary injunctions under the provisions of the expediting law of 1903, as I understand it.

Mr. STONE. Will the Senator allow me to ask him a question for information?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. ALLISON. I yield to the Senator.

Mr. STONE. As I understand it—and I ask the Senator if I am correct in the opinion—the "expediting act," so called, will not apply or be operative in any of these proceedings until the Attorney-General shall file the statement that it is of public importance, and so on, required by that expediting act.

Mr. ALLISON. That is true.

Mr. STONE. Suppose he does not do that?

Mr. ALLISON. He is required to do it by the bill under consideration.

Mr. STONE. Absolutely?

Mr. ALLISON. Yes; it is made his duty to do it. Under the bill as it came to us from the House it was assumed, at least, that all the provisions respecting injunctions were already provided for; but now, to make it absolutely certain that there could be no difference of opinion upon it, there is an amendment inserted on page 10 whereby it is proposed to incorporate into the House provision these words:

> The provisions of "An act to expedite the hearing and determination of suits in equity, etc.," approved February 11, 1903, shall be, and are hereby, made applicable to all such suits.

Then the amendment proposed by the Senator from Illinois [Mr. CULLOM] on my behalf the other day added the words "including the hearing on an application for a preliminary injunction." So there can be no question about the application of this statute to these injunction proceedings.

I submit to the Senator from Georgia that the provisions in the following pages in section 5 of the bill cover the entire case of injunctions—preliminary, interlocutory, and otherwise—in what I think a much safer way than is proposed by his amendment, and it provides also for an appeal directly to the Supreme Court in these cases and for the expediting of the cases in the Supreme Court.

Mr. BACON. I should like to ask the Senator from Iowa a question, with his permission.

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. ALLISON. Certainly.

Mr. BACON. I am not at all anxious that my particular amendment shall be adopted.

Mr. ALLISON. So I understand.

Mr. BACON. All I want is the assurance from the Senator that when we come to that provision which he says now covers it, if necessary the Senator will be willing to insert either two or three judges, as he may see fit, so as to make it beyond doubt that there will be a requirement for either two or three judges to concur in an order before an interlocutory decree can be issued restraining or setting aside or modifying the order of the Commission. If I have that assurance from the Senator, I will be content.

Mr. ALLISON. I understand that these provisions provide for three judges, and if they are not so provided for certainly, I believe that that provision should be inserted.

Mr. BACON. Very well. With that assurance from the Senator I am perfectly willing that it be passed until we reach that point in his amendment.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. ALLISON. I will yield to the Senator from Nevada. I yield, however, to the Senator from Idaho first.

Mr. NEWLANDS. I understand the Senator from Idaho [Mr. DUBOIS] is to take the floor in his own right.

The VICE-PRESIDENT. The Senator from Idaho wishes to take the floor in his own right.

Mr. NEWLANDS. I should like to call the attention of the Senator from Iowa to the fact that the act for the expedition of suits is only to be set in motion upon the application of the Attorney-General.

Mr. ALLISON. Certainly.

Mr. NEWLANDS. When he files a certificate?

Mr. ALLISON. Certainly.

Mr. NEWLANDS. Whereas the amendment of the Senator from Georgia absolutely requires two judges in every case.

Mr. ALLISON. Under this bill it is made the duty of the Attorney-General to make that certificate on every occasion.

Mr. STONE. Where is that provision?

Mr. FULTON. On the same page—page 318.

Mr. ALDRICH. In lines 15, 16, and 17.

Mr. NELSON. Will the Senator from Iowa allow me to interrupt him? I want to call his attention to these words in the bill——

Mr. ALDRICH. If the Senator will excuse me, I understood the Senator from Georgia to withdraw his amendment.

Mr. BACON. No; I did not.

Mr. NELSON. I wish to call the attention of the Senator from Iowa, if he will allow me, to the language of the bill which makes it mandatory.

Mr. DUBOIS. Mr. President, I think I have the floor; and I rise to address myself to the amendment of the Senator from Georgia which is pending.

The VICE-PRESIDENT. The Chair understood the Senator from Idaho to yield the floor to the Senator from Iowa.

Mr. DUBOIS. To the Senator from Iowa, not to other Senators.

The VICE-PRESIDENT. The Senator from Iowa has yielded to other Senators.

Mr. DUBOIS. I do not want to be discourteous, but as I understand it the discussion is drifting away from the proposition to which I desire to address myself. The Senator from Minnesota is now calling attention——

Mr. NELSON. I was not taking the floor in my own right. I simply rose to make a suggestion to the Senator from Iowa, if he will allow me.

Mr. ALLISON. I will with great pleasure.

Mr. NELSON. I call his attention to this mandatory language in line 15, on page 318 of the pamphlet amendments. I read it in response to the question of the Senator from Nevada [Mr. NEWLANDS]:

> It shall be the duty of the Attorney-General in every such case to file the certificate provided for in said expediting act of February 11, 1903.

It is made the duty of the Attorney-General positively by the bill as it came from the House to file that expediting request. So it covers exactly what the Senator from Georgia aims at.

Mr. ALLISON. Now I yield to the Senator from Idaho.

Mr. DUBOIS. Mr. President, I shall vote for any proposition to make it difficult for the courts to overturn the orders of the Commission. I think the orders of the Commission should stand until there is a final decree. I voted with pleasure for the amendment offered by the junior Senator from Texas [Mr. BAILEY] which restrained the courts from enjoining rates fixed by the Commission. I voted for the amendment offered by the senior Senator from Texas [Mr. CULBERSON] as a second choice. I shall vote for the amendment offered by the Senator from Georgia [Mr. BACON], although we may find ourselves in great difficulty when we multiply the number of judges who shall hear the preliminary order or injunction.

There is one case that seems to have escaped the attention of the lawyers of this Chamber. If we find such conditions now as existed when this cause was heard, you will find it difficult to get a decision from the court. The Joint Traffic Association, having its offices chiefly in the southern district of New York, was violating the interstate-commerce law in that by an arrangement a majority of those railroads (32 in number) who belonged to the association could fix a rate. The association was to announce a rate on the 1st day of January, 1906. They were enjoined, or attempted to be, by the United States attorney for the southern district of New York from putting the rate into effect because they were violating the United States law against "pooling." There are eight judges in that circuit, and it was found when they went before Judge Lacombe for the injunction that he could not hear the case because he owned stocks or bonds in one of the railroads; and it was also ascertained that every one of those judges in the southern district of New York was in the same predicament, save and except the district judge in Vermont—Judge Wheeler. You could not have gotten three judges in that situation to try the case. They finally had it heard in the district court of Vermont before Judge Wheeler, and he would not listen to the appeal and dismissed the suit of the Interstate Commerce Commission after

four days' oral argument and filed his decision dismissing the bill on May 28, 1896. From that decision an appeal was taken by the United States to the circuit court of appeals for the second circuit—i. e., New York City.

In the meantime Judge Lacombe had become qualified, because he had sold his stocks and bonds. That made him eligible to sit. I presume that the other judge had become eligible on the same account, because William J. Wallace and Henry E. Lacombe, the judges, both sat, although both were disqualified when the suit was brought, and they affirmed the decision of the district judge in Vermont on March 19, 1897, but rendered no opinion. (See 89 Fed. Rep., 1020.)

The United States, through United States District Attorney Wallace McFarlane, then took the appeal to the Supreme Court of the United States. In one year and nine months afterwards the Supreme Court of the United States overturned both of the inferior courts. (See 171 U. S., 505.)

I am afraid that we may get into difficulty if we increase the number of judges, although I shall vote for the amendment offered by the Senator from Georgia. My opinion is that a commission selected as I think this Commission will be, is more apt to do justice to the shipper and the carrier than the courts, and my opinion is that very little should be left to the courts except as to the constitutionality of the law and as to whether the Commission has exceeded its power in interpreting the law.

I do not know whether it is the general rule that judges all over the United States are in the condition in which they were in the southern district of New York, where they could not sit on these cases, but I do know that we are the men who really select the United States judges. There is scarcely one of us who has not been instrumental in appointing a United States judge. I have very great respect for them, but they are men we select from among our political associates, and they do not become greatly superior the moment that we have selected them.

If the Interstate Commerce Commission to be appointed should be composed of shippers who have been injured by the railroad companies in the past, it would not be a fair commission, nor would it be a fair commission if it should be composed only of lawyers who have been in the employ of corporations; nor would it be a fair commission if it should be composed entirely of railroad men. I imagine it will be selected from all of these classes.

But I believe, on the other hand, that in the great majority of cases the judges of the inferior courts are selected from amongst lawyers who have been in the employ of corporations. I do not say they are dishonest. I do not mean to imply that they are, for I do not believe they are dishonest or intend to be partial; but their minds have run in those channels always, which render them friendly to the interests of the railroads, and they believe sincerely along certain lines which make them, in my opinion, less fit to judge fairly and honestly between the shipper and the carrier than would be this Commission.

This debate has been of great value, because it has demonstrated that we are listening to public sentiment. We have put many things into this bill which we would not have put into it two years ago. My opinion is, it will be no more effective than the Elkins law, and not much more effective than the present interstate-commerce law; and, if it is not, then I believe the people themselves will take charge of this whole subject and own the railroads of the country.

Mr. TELLER. Mr. President, I have voted for two propositions recognizing the right of Congress to some extent, at least, to control the deliberations of the courts upon these questions. I listened to the Senator from Georgia [Mr. BACON], who says that this amendment is very important. I presume it is. But, Mr. President, it is not more important than the amendment which the junior Senator from Texas [Mr. BAILEY] offered, and not nearly as simple; and it is, in my judgment, much more likely to get us into difficulty than that was, if we anticipate any difficulty from that.

I think it is the duty of every man, whenever he thinks a pending measure is unconstitutional, to vote against it. If I had believed that the amendment of the senior Senator from Texas [Mr. CULBERSON] was unconstitutional, I certainly should not have voted for it, for if the first amendment was unconstitutional, in my judgment as a lawyer the second was; and if I had believed the first was unconstitutional I should not be able to vote for the amendment of the Senator from Georgia.

Mr. President, the Senator from Iowa [Mr. ALLISON] has submitted an amendment. If I believed that the Constitution of the United States prohibited me from voting for the amendment offered by the junior Senator from Texas [Mr. BAILEY], I should not be able to vote for that amendment either. That amendment is a recognition of our right to control the courts. We have a law which now exists—though the Senator from Georgia [Mr. BACON] thinks it does not have anything to do with this case—to which I wish to call attention, which is the act of February 11, 1903. If Senators will examine this bill, they will find on page 17 that it proposes to incorporate that act for all purposes into this bill, not verbatim, but it declares that it is to be in all respects applicable to all the cases brought under this proposed act. It will therefore become as much a part of this proposed act as if it had been incorporated word for word into the bill. That act reads:

> That in any suit in equity pending or hereafter brought in any circuit court of the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, "An act to regulate commerce," approved February 4, 1887, or any other acts having a like purpose that hereafter may be enacted, wherein the United States is complainant, the Attorney-General may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to each of the circuit judges of the circuit in which the case is pending.

That undoubtedly does give jurisdiction in a case brought under this act to a court consisting of three judges. It is a special court established for this very purpose by this act, and by this act, putting the two together.

I voted for the amendment offered by the senior Senator from Texas [Mr. CULBERSON]. I voted for it notwithstanding it contained a provision which I did not like. I voted for it because I wanted to emphasize the fact that I believe the power exists here to prevent an interlocutory judgment. I wanted to emphasize my belief that not only have we the power, but that this bill will not be effective and will be of practically no value to the people of the United States unless there is a provision put into it limiting the right of a judge to issue an injunction whenever he sees fit, or two or three judges, if there happen to be two or three judges, to do so.

The Senator from Idaho [Mr. DUBOIS] has just presented the case. Everybody who has had anything to do with this question and who has had any observation about what has been going on knows just what the difficulty is. There is no question but that in nine cases out of ten when a carrier finds fault with an order of the Commission and complains to a judge, he will find a judge who will issue a temporary injunction for him, or an interlocutory injunction, more properly speaking, which will tie up the case from that time on until the expiration of the period fixed in this bill, which the majority of the Senate persistently declare shall not exceed two years.

Mr. President, there is not a lawyer in this country who does not know that when a railroad goes into the United States circuit courts or when they go into the State courts, they employ, as a rule, the best talent in the profession. They can prevent a judgment for the time that you have fixed here that these orders shall be enforced, for you have determined that that time shall be two years and have voted down three years; and, I presume, two years will be what will be finally provided for in the bill.

Mr. President, I shall vote for the amendment of the Senator from Iowa, and then I shall wonder, I shall look around with surprise, when I see Senators, who are lawyers, who have voted against the preceding amendments—I shall wonder, Mr. President, how they will reconcile their vote then with their votes before, unless they shall put it on the ground that perhaps the first measure was too drastic, and this is modified, or perhaps they will find solace to their consciences in the fact that the court is to consist of two judges, though ordinarily there is but one. But under either of the motions which have been voted down there would have been the same number of judges and the same care and attention given to the question whether an injunction should be issued or not under this provision.

Mr. President, I have but little care as to what happens to this bill. I have been anxious for the passage of a bill which I believe would accomplish what the people of the United States have demanded. I do not believe—and I will put myself on record now—that this bill will do what the Chief Executive asks you to do. I do not believe it will do what 90 per cent of the American people want you to do, or what they believe it will do. I am restrained here by the proprieties of the occasion from saying some things which I should say in some other place; but I do not believe that the friends of this kind of legislation are giving direction here to this bill.

The bill will pass, Mr. President; it will become a law; the people of the United States will be handed a "gold brick," in the common language of the country, and after two or three years of effort to get redress under this bill they will find that they have got to try it over again. It is possible that the people will patiently submit to what they will believe is either the incompetency of this body or its dishonesty—one or the other—but I do not believe, patient and enduring as the public generally are, that they will always submit and allow these

great corporations to control not only the transportation of the country, but, because they control the transportation of the country, control also its politics. The day will come when this Senate and the House of Representatives will be compelled to pass a bill that will give to the people the relief which every man here professes to believe they are entitled to.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Georgia [Mr. BACON].

Mr. BACON. On that I ask for the years and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I again announce my pair with the Senator from Tennessee [Mr. CARMACK]. If I were at liberty to vote, I should vote "nay."

The roll call having been concluded, the result was announced—yeas 24, nays 52, as follows:

YEAS—24.

Bacon	Culberson	La Follette	Newlands
Berry	Daniel	Latimer	Overman
Blackburn	Dubois	McCreary	Rayner
Clark, Mont.	Foster	McLaurin	Simmons
Clarke, Ark.	Frazier	Martin	Stone
Clay	Gearin	Money	Taliaferro

NAYS—52.

Aldrich	Clark, Wyo.	Gamble	Nelson
Alger	Crane	Hale	Nixon
Allee	Cullom	Hansbrough	Penrose
Allison	Dick	Hemenway	Perkins
Ankeny	Dillingham	Hopkins	Pettus
Beveridge	Dolliver	Kean	Piles
Brandegee	Dryden	Kittredge	Platt
Bulkeley	Elkins	Knox	Scott
Burkett	Flint	Lodge	Smoot
Burnham	Foraker	Long	Sutherland
Burrows	Frye	McCumber	Warner
Carter	Fulton	Millard	Warren
Clapp	Gallinger	Morgan	Wetmore

NOT VOTING—13.

Bailey	Gorman	Patterson	Tillman
Burton	Heyburn	Proctor	
Carmack	McEnery	Spooner	
Depew	Mallory	Teller	

So Mr. BACON's amendment was rejected.

Mr. ALLISON. I move——

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. TILLMAN. Does the Senator from Iowa desire to move an amendment to the same section?

Mr. ALLISON. I should be glad before leaving this section——

Mr. TILLMAN. I desire to make a slight verbal change in line 11, page 11, which, I think, will clarify the language and be advisable. Mr. President, on page 11, line 11, I move to strike out the words "shall publish and file" and insert the words "in respect to;" then, in line 12——

The VICE-PRESIDENT. The Secretary will state the amendment proposed by the Senator from South Carolina.

The SECRETARY. In section 4, page 11, line 11, after the word "otherwise," it is proposed to strike out the words "shall publish and file" and insert the words "in respect to."

The amendment was agreed to.

Mr. ALDRICH. I should like to ask what is the other amendment the Senator intends to propose?

Mr. TILLMAN. It is on the next line, to strike out the word "and" and insert the word "shall," so as to complete the sentence and make it run properly.

Mr. ALDRICH. I ask that the portion of the bill proposed to be amended be read as it will appear when amended.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. As proposed to be amended, it would read as follows:

Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, in respect to joint rates, fares, or charges, shall fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

Mr. TILLMAN. This amendment is to correspond to the preceding changes in regard to the publication of joint rates.

The VICE-PRESIDENT. The question is on the second amendment proposed by the Senator from South Carolina.

The amendment was agreed to.

Mr. TILLMAN. If the Senator from Iowa will permit me, before we leave this section I want to move to strike out the words at the bottom of page 11, lines 24 and 25, "provided no reasonable or satisfactory through route exists," and insert in lieu thereof the words "such authority shall extend to through routes and joint rates for transportation partly by railroad and partly by water."

Mr. ALDRICH. That amendment is not a verbal change; it changes the whole sense.

Mr. TILLMAN. I know it is not a verbal amendment. It changes the sense, and I will give the reason for it if the Senator wishes me to do so.

Mr. ALDRICH. That amendment will give rise to a good deal of discussion, because it changes the whole provision in regard to through routes in the House bill.

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. ALLISON. I yield; certainly. I have only one suggestion further to make with reference to this section.

Mr. TILLMAN. I am perfectly willing that the Senator should get through with his amendment to this section, and then let me put my amendment in, or try to put it in.

Mr. ALLISON. I desire to move an amendment to correct an omission that I intended to correct before leaving the matter. I ask unanimous consent, in the amendment which was agreed to, on page 11, line 5, to come in after the word "prescribe," to insert after the word "time," where it first occurs, the words "not less than thirty days."

The VICE-PRESIDENT. The Senator from Iowa asks unanimous consent to amend the amendment heretofore agreed to on his motion. Is there objection? The Chair hears none. The Secretary will state the proposed amendment.

The SECRETARY. It is proposed to amend the amendment agreed to, after the word "prescribe," page 11, line 5, by inserting after the word "time," where it first occurs, the words "not less than thirty days."

The amendment was agreed to.

Mr. TILLMAN. At the bottom of page 11, lines 24 and 25, I move to strike out the words "provided no reasonable or satisfactory through route exists" and insert in lieu thereof "such authority shall extend to through routes and joint rates for transportation partly by railroad and partly by water."

Mr. NELSON. That amendment was agreed to yesterday.

Mr. TILLMAN. The Senator is mistaken. We did not get to this part of the bill yesterday. There was a preceding amendment that had reference to water, but this is an entirely different matter.

The VICE-PRESIDENT. The Secretary will state the amendment proposed by the Senator from South Carolina.

The SECRETARY. On page 11, lines 24 and 25, it is proposed to strike out "provided no reasonable or satisfactory through route exists" and insert in lieu thereof the words "such authority shall extend to through routes and joint rates for transportation partly by railroad and partly by water."

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Rhode Island?

Mr. ALDRICH. I will wait until the Senator gets through.

Mr. TILLMAN. I am going to explain why these words ought to go in.

This is part of a provision covered by lines 17 to 25, page 11, which authorizes the Commission to establish through routes and joint rates as a maximum to be charged, and to prescribe the divisions of such rates when the carriers fail to agree. The defect in this provision is found in the addition, in lines 24 and 25, of the words "provided no reasonable or satisfactory through route exists." This operates as a bar to the compulsory establishment of an additional through route which may be demanded and found reasonable. Such additional through routes very frequently, if not generally, ought to be granted, for otherwise competition between practicable reasonable through routes is denied. As the provision now stands, a through route may be established where none exists, but, generally speaking, there is always at least one through route. The most frequent subject of complaint is discrimination between connecting lines, and however unjust such discrimination against the nonfavored carrier or the public interest may be, the proviso clause above mentioned operates to prevent relief—

I am reading from a memorandum furnished me by the Interstate Commerce Commission—

The Commission has very recently decided the case of the Enterprise Transportation Company against certain trunk lines, and the decision shows a through route between the railroad trunk lines at New York and the Fall River Line to New England, but a refusal to establish a through route with the Enterprise Transportation Company, a water line competing with the Fall River Line between New York and New England. To avoid all question there should be inserted in place of the words stricken out, as above indicated, the following: "Such authority shall extend to through routes and joint rates for transportation partly by railroad and partly by water."

Which are the words I have moved to insert.

Here is the case of this Enterprise Company, in which it is shown that an independent boat line is denied through routes with the western railroads because the New York, New Haven and Hartford road owns the only boat line which reaches Fall River except this one. Therefore competition between the West

and New England, for instance, is prevented by the failure to establish through routes, if they are demanded, with other lines. In other words, there is a monopoly created, or is already in existence, and an absolute denial of competition. One boat line connects with the road. The other boat line is not allowed to connect with the road, and is not given through rates.

Mr. ALDRICH. Mr. President, there should be no misapprehension as to the effect of this amendment. Under the bill as it passed the House, the Interstate Commerce Commission had a right to establish through routes and joint rates where no reasonable through route exists. This proposes to strike out the provision about reasonableness, and to allow the Commission to establish through routes anywhere in the United States without reference to existing routes and without reference to whether the people are accommodated by the existing route. The question of through routes by rail and water is a different question, and under the guise of providing for through routes by rail and water the Interstate Commerce Commission is suggesting to the Senate or dictating to the Senate that it shall destroy the whole structure of this bill, so far as through routes are concerned.

Mr. TILLMAN. Will the Senator permit me?

Mr. ALDRICH. I will yield to the Senator a little later.

Mr. TILLMAN. Unless the Senator has the floor, I can not speak any more.

Mr. ALDRICH. I yield for a question.

Mr. TILLMAN. I should like to ask the Senator if he favors a condition of monopoly by which an existing through route shall maintain and control all the traffic, and deny other boat lines an opportunity to secure some of the traffic by having through routes established by the Interstate Commerce Commission?

Mr. ALDRICH. I am entirely familiar with the case suggested by the Interstate Commerce Commission through the Senator from South Carolina. There is no monopoly and there can be no monopoly of transportation between New York and Providence and Fall River and the other points along the Sound. The Fall River Line, or, rather, the New England Navigation Company, which is a branch of the New York, New Haven and Hartford Railroad, owns and operates three or four lines of steamers running to New London, Providence, Fall River, and Newport. Well, Newport is part of one line. There are now in existence at least two independent lines covering the same territory, and there is nothing to prevent anyone who cares to go into the business from to-morrow establishing a line or any number of lines over that territory. There can be no monopoly about it, and there is no monopoly.

We are asked to legislate for the whole country upon this one case which the Interstate Commerce Commission has had before it. I have no objection to inserting, after the words now in the bill, the words "in relation to through routes by rail and water;" but I do object to striking out the words "provided no reasonable or satisfactory through routes exist," so as to give the Commission the power to establish through routes anywhere it pleases throughout the United States, without reference to the facilities which now exist.

Mr. TILLMAN. I should like unanimous consent, if the Senate will permit, to insert in the RECORD the hearing and finding, No. 867, of the Interstate Commerce Commission in relation to this matter, without regard to how the vote may be.

The VICE-PRESIDENT. Without objection, the request is granted.

The matter referred to is as follows:

No. 867. In the matter of alleged unlawful discrimination against the Enterprise Transportation Company by railroad lines leading from New York City.

Railroad lines leading west from New York City make joint through rates with the New England Navigation Company, controlling the Fall River line of steamers, which plies between New York and Fall River, Mass., and some other New England cities, and also controlling other important steamer lines operating on Long Island Sound. Such joint rates apply in both directions between western and New England points. The New England Navigation Company is owned and operated by the New York, New Haven and Hartford Railroad Company. The rail lines centering in New York and running westerly thereof refuse, for stated business reasons, to make the like or any joint rating arrangement with the Enterprise Transportation Company, a steamship line plying between Fall River and other New England points and New York City, and in competition with the New England Navigation Company's Fall River line. This Fall River line may, by reducing rates on local traffic, force out of business the Enterprise Transportation Company, while obtaining a lucrative and supporting business from through traffic, and upon disappearance of such competition, restore the former charges. The existence of the Enterprise Transportation Company as a competitive factor is of distinct value to the public, and that existence may depend upon its right to engage in through business. This investigation was made with the understanding that the Commission is without power to grant any relief, and no opinion as to whether the through-rating arrangement should be extended to the Enterprise Company is expressed; but if the public is to have the legitimate benefit of water competition, it is evident that authority should be provided to establish through routes between rail and water carriers, or at least to prevent unjust discrimination by rail carriers between connecting water lines.

[Submitted March 5, 1906. Decided April 5, 1906.]

David Whitcomb, for Enterprise Transportation Company.
E. G. Buckland, for New England Navigation Company.
G. S. Patterson, for Pennsylvania Railroad Company.
George F. Brownell, for Erie Railroad Company.
R. D. Whiting, for Delaware, Lackawanna and Western Railroad Company.
Charles C. Paulding, for New York Central and Hudson River Railroad Company.
Frank H. Platt, for Lehigh Valley Railroad Company.

REPORT AND OPINION OF THE COMMISSION.

PROUTY, *Commissioner:*

The Enterprise Steamship Company, which plies between Fall River, Mass., and New York City, recently filed an informal complaint with the Commission, alleging that it desired to engage in the transportation of merchandise from Fall River to various western destinations; that in the course of such transportation it would carry the freight to New York and send it west from New York by rail; but that the rail lines leading from New York declined to extend to it the same rates which they applied to traffic of the same character from the same point when delivered to them by its rival—the New England Navigation Company. It appeared from an inspection of our tariffs that these various rail lines published in connection with the New England Navigation Company through rates from Fall River to western destinations, and it seemed, therefore, that the complaint of the Enterprise Company was really that such rail lines declined to enter into through arrangements with it while doing so with its competitor. We accordingly advised the Enterprise Company that the act to regulate commerce did not require rail carriers to form through routes with water lines, and that, therefore, the Commission could make no order in the premises even if the complaint were sustained; but inasmuch as the subject is one of great practical importance, and since the amendment of the act to regulate commerce was now under discussion, it seemed suitable to investigate the circumstances surrounding this complaint with a view to making some report for the general information of the public. A proceeding of inquiry was, therefore, instituted and the various parties were heard. From the testimony taken upon that hearing, in connection with various matters of common knowledge, and the rates on file with this Commission, the following facts appear:

The New York, New Haven and Hartford Railroad Company has a practical monopoly of transportation by rail in that territory lying south of the Boston and Albany Railroad and east of its own line from South Norwalk to Pittsfield. The New Haven Company has lines which extend outside this territory, but within this territory it controls all the steam railroads of any consequence, excepting the New London Northern, which extends north from New London, Conn., to Brattleboro, Vt.

Many of the most important towns served by the New Haven Railroad are located upon the ocean, so that water transportation is readily available to many points. The most important of these cities are Providence and Fall River, but lines of steamers touch at almost all cities of any importance upon Long Island Sound by which communication is had with New York City. It was necessary, therefore, for the New Haven Company, in perfecting its transportation monopoly of the territory covered by it, to control also the facilities of transportation by water, especially between those towns and New York City, and in the execution of its plans it either established or acquired most of the important steamship lines operating upon Long Island Sound. These different lines seem to have been consolidated into the New England Navigation Company, which is owned and operated by the New Haven Company, and which has in recent years handled most although by no means all of the water transportation between these various points and New York City.

The Enterprise Steamship Company is incorporated under the laws of Massachusetts and began business in June, 1905. It has a capital stock of $400,000 which, it was stated, has been paid in. Its fleet consists of three steamers, one of 800 tons burden and two of 1,800 tons, the three being fitted for the transportation of both passengers and freight. Its steamers ply exclusively between Fall River and New York City, touching, however, Jamestown, which is opposite Newport, R. I.

For some time past the regular passenger fare between New York City and Fall River has been $3 during the summer and $2 during the winter months. The Enterprise Company established at the outset a rate of $1, which it has ever since maintained. Its representative stated that in his judgment this rate was fairly compensatory for the service and that his company was satisfied to do business on that basis. The New Haven Company has reduced its passenger rate to $1.50 at the present time between New York and Fall River. The testimony did not show what the effect of this reduction was between New York and interior points, nor whether the Enterprise Company carried passengers for such interior points.

The principal traffic from Fall River to New York is cotton piece goods of various kinds, and for many years the rate applied by the New England Navigation Company to this traffic has been 12½ cents per 100 pounds. The Enterprise Company established a rate of 10 cents per 100 pounds at the outset, which has been since continued. The bulk of the transportation by water from New York to Fall River is raw cotton and various mill supplies, and the Enterprise Company fixed its class rates and its local rate on raw cotton at 2 cents per 100 pounds less than that previously prevailing by the New England Navigation Company. It appeared from the testimony that these rates had been continued by the Enterprise Company, and that the New England Company had not reduced its tariffs up to the time of the hearing. It further appeared that under this adjustment of rates the Enterprise Company obtained a considerable part of the strictly local business between Fall River and New York. The general manager of that company testified that of ninety-two mills in Fall River his company was then doing business with eighty-five.

Freight from New England can reach the Middle West by various routes. It may go by the direct all-rail route or by the more circuitous rail route through Canada. It may also be transported by water from New England to some southern port, like Norfolk or Baltimore, and from there taken by rail to its destination. In the latter case the water line frequently pays and absorbs a local rail rate from the interior New England point to the seaboard. These competitive conditions have given New England the same class rates and to a considerable extent the same commodity rates as apply from New York City.

Confining our attention to traffic originating at Fall River, it is evi-

dent that this may either be delivered to the New Haven Company for shipment by its rail line or to some steamboat company for transportation by water. Since a comparatively small part of the freight traffic from Fall River stops at New York as a final destination, and since a comparatively small part of that traffic to Fall River originates at New York as the point of original production, it follows that the Enterprise Steamboat Company, if it obtains any great amount of business between these points, must make arrangements with the rail and water carriers leading from New York as to the handling of this business beyond that point. It seems to have been able to do this with water lines leading from New York south, and the testimony indicates that it exchanges at New York City considerable quantities of freight with the Old Dominion Steamship Company. The quickest service between Fall River and the West is by boat from Fall River to New York and by rail from New York. Large amounts of traffic move by this route, which in the past has been exclusively handled by the New England Navigation Company. The Enterprise Company, desiring to participate in this business and also in business moving in the opposite direction, has applied to the various rail lines asking for the same treatment which they accord to the steamboat company of the New Haven road.

The rate from Fall River to Chicago on cotton piece goods is 55 cents, and from New York City the same. When this traffic is brought by boat from Fall River to New York and delivered to the rail carrier at New York there are two services—the transportation from Fall River to New York and the transfer at New York. The transfer charge is ordinarily reckoned at 3 cents per 100 pounds. The local transportation charge of the New Haven Company is 12½ cents, but it was said by witnesses for the Enterprise Company that the trunk lines allowed the New Haven road 10 cents as its division. The transfer service is actually performed, sometimes by the New England Navigation Company and sometimes by the receiving railroad company, but in either case it is paid for by that company; that is to say, the railroad company which receives the cotton piece goods from New England Navigation Company at New York in effect transports that traffic to Chicago for 42 cents, whereas if those goods were delivered to the same company at the same place and under the same circumstances by the Enterprise Company the railway company would exact for its charge 55 cents per 100 pounds. This, of course, deprives the Enterprise Company of all possible opportunity of participating in that business.

The carriers gave various reasons for their refusal to join with the Enterprise Company in these through rates. The Pennsylvania states that its facilities are so congested in New York at the present time that it is only with great difficulty that it can handle the traffic now offered at that point; that if it received this traffic from two companies instead of one, whether it took the traffic itself or whether the traffic was delivered to it, more room would be required. The representative of that company further stated, in substance, that there was only so much traffic from Fall River of this character; that his company could not hope to receive any more business if it joined with the Enterprise Company, since what it received from that company would be subtracted from that amount which it was now receiving from the New England Company, and that, since it could handle the traffic better from one company than from two, he had declined to entertain the proposition.

The New York Central stated that this business was not desirable; that it had no arrangement with any steamboat line except the New England Navigation Company, and that with that company its arrangement only covered the four higher classes. It further stated that it would rather cancel its present arrangements with the New England Navigation Company than extend them to the Enterprise Company. It appeared, in the case of the New York Central, that the traffic was delivered to it by team in New York City, where it was loaded into its cars. No reason was suggested why that company would suffer any inconvenience if it handled traffic for the Enterprise Company delivered to it in the same place and in the same manner.

The other companies, so far as they were represented by witnesses at the hearing, did not claim that they were unable to handle the traffic. Their statements were to the general effect that they preferred to receive this traffic from the New Haven Company by rail; that they only consented to handle it by water through New York as an accommodation to the New England Navigation Company and their patrons, and that they did not desire to form this connection with the Enterprise Company, because they did not desire to increase the amount of this business which came from Fall River by water.

The general situation seems to be this. The New Haven Company controls the greater portion of the traffic within its territory. Most of this traffic, in the natural course of things, would go by the all-rail routes; a certain amount of it may go by water to New York and from there by rail. The lines leading from New York can receive this traffic from the New Haven Company either by rail or by water; they prefer to receive it by rail. At the present time the New Haven road is dividing this business between all these different lines in a satisfactory manner. By forming a connection with the Enterprise Company they would not increase the total amount of the traffic which they handle, and they might introduce a factor which would become a disturbing element in the present harmonious relations. They have nothing to gain, and possibly might lose something by the change.

The Enterprise Company claimed that the refusal of the rail lines to participate with it in through business was the result of an agreement between those lines dictated by the New Haven Company. The only evidence tending to show this directly was the declaration of an agent of the Delaware, Lackawanna and Western Railroad. The Enterprise Company, desiring to ship cotton piece goods from Fall River to Chadwick, N. Y., and understanding that the above railroad company accorded to the New England Navigation Company a rate from New York of 16⅔ cents, while its local rate was 25½ cents, applied for the same reduced rate. This the agent refused, stating that his company could only accord that rate to the New England Navigation Company by reason of an agreement to that effect with the New Haven Company. We could hardly find from the testimony that any similar agreement with other lines exists, although such may be the fact; and still less that there is any conspiracy among all these railroads to accomplish the thing complained of. It appears to us that the course of these railway lines may be justifiable upon sound business principles if the matter be examined solely from their standpoint.

How does the matter stand when examined from the view point of the public? We have already seen that the Enterprise Company has been of great benefit to shippers and passengers using that line by reducing the rates formerly in effect. The complainant concedes that rates from Fall River to points in the West would not be reduced if the Enterprise Company were accorded the through privileges which it desires. Those rates are for the most part the same from New York and Fall River to Chicago and points basing on Chicago, or which take a percentage of the Chicago rate. To reduce the rate from Fall River would break down the whole scheme of rates. This does not appear to be true of rates to points east of Buffalo and Pittsburg, which are generally less from New York than from Fall River. In very many cases, at least, the rate from Fall River to those points would be less if the present local rate of the Enterprise Company were added to the present division of the rail line from New York. It does not appear whether a reduction would in fact result.

It was also said by the Enterprise Company that if that company could engage in this traffic its patrons would have two lines and would thereby secure more efficient service than otherwise. There was no testimony before us as to the character of the service by either of those steamship lines. It did appear that the Enterprise Company touches at certain wharves in Fall River, to which some of the mills are peculiarly accessible, and that these mills find it to their advantage, for this reason, to patronize that company rather than the New England Company, and that it serves one town not directly served by its rival. It is also undoubtedly true that better and more efficient service is obtained when competition exists than when the business is entirely transacted by one concern.

The most serious feature of this case rests in the fact that if the New England Navigation Company can exclude the Enterprise Company from all participation in through business and confine it strictly to local business between Fall River and New York it thereby acquires the power of forcing the Enterprise Company out of business altogether, for it may so reduce its rates on local traffic that this company could not meet them while obtaining a lucrative and supporting business from through traffic. When the competition of the Enterprise Company had disappeared rates would be restored to what they formerly were, which, it fairly appears, was higher than reasonable competition would produce. The existence of the Enterprise Company as a competitive factor is of distinct value to the public, and that existence may depend upon its right to engage in through business. This is well illustrated by the last case in which this matter has been before the courts: Gulf, C. & S. F. R. Co. *v.* Miami S. S. Co. (30 C. C. A., 142; 52 U. S. App., 732; 86 Fed., 407).

Traffic from the Atlantic seaboard to various points in Texas, Indian and Oklahoma Territories and the Mississippi and Missouri valleys passes largely by water from some port like New York to Galveston or New Orleans and is from thence carried by rail to destination. Prior to July, 1897, there was only one steamship line operating between New York and Galveston, known as the "Mallory Line," and two between New York and New Orleans. Three different lines of railway with various connections led from Galveston into Texas and this other territory.

In the summer of 1897 the Miami Steamship Company, conceiving this field to be a promising one, determined to enter it, and put on a line of steamboats between New York and Galveston. At the outset the various railroads leading from the port of Galveston seem to have accorded to the Miami company the same rates and privileges in substance which were given the Mallory Line. The Miami company, however, found it to its advantage to somewhat reduce the rates between New York and Galveston, and this operated to effect a reduction in rates throughout the territory above described, the shrinkage being in all cases in the ocean transportation from New York to Galveston. This created more or less dissatisfaction, since these ocean and rail rates from New York are fixed with reference to the all-rail rates from the same points to the same destinations, and in the early part of 1898 the railroad lines leading from Galveston, the Mallory Line and the two steamship lines leading from New York to New Orleans entered into an arrangement by which it was, among other things, agreed that the railroad lines should break off all connection with the Miami Steamship Company.

Traffic between interior points and the Atlantic seaboard was handled by the various steamship lines in connection with the rail lines upon through bills of lading in both directions, and the through rate was divided between the water and the rail lines upon a basis which allowed to the rail line less than its local tariff from Galveston to point of destination. The railroad companies then declined to honor through bills of lading, and also declined to form through routes upon the basis of the divisions hitherto in force. The Miami Steamship Company could of course transport the freight from New York to Galveston and there tender it to the railroad companies for transportation to destination, but the railroad companies exacted in all cases their local tariff, and required the Miami company to prepay the freight charges. In case of traffic going in the opposite direction, the railroad companies declined to issue any through bill of lading, and required the shipper to prepay the transportation charge to Galveston, if the traffic was to go by the Miami company.

It will be seen at a glance that under these conditions the Miami company could not hope to participate in that traffic; for not only did it receive much less for the same service than its competitors, but the handling of the business by that line was so hedged about with difficulties as to make it almost impossible for the shipper to patronize its route. In view of this that company applied to the Interstate Commerce Commission, but was advised that under the law that body could probably render it no assistance. It thereupon filed a bill in equity in the circuit court for the eastern district of Texas alleging in effect that these different companies were not only in violation of the act to regulate commerce, but were also in violation of the Sherman Antitrust Act and praying an injunction. The circuit court granted the injunction, but the circuit court of appeals in an elaborate opinion dissolved the injunction and held that the Miami company was entitled to no relief; that the railway companies might require the prepayment of their freight charges; that they were not compelled to enter into joint arrangements with one steamship company because they did with another, and that even if the antitrust act were violated only the United States Government could maintain an injunction suit.

The result of this decision was that the Miami Steamship Company withdrew from that field and that rates were restored to their former basis. The further result was that still later many of these rates were advanced, as appeared in testimony before the Commission, by the concerted action of the water lines and various railways and that in consequence rates to Texas common points were also advanced.

This investigation was begun upon the understanding that the Commission had no power to grant any relief in the premises. The railroads have not been heard further than they were inquired of, to some extent, by the Commission itself. We do not think that under these circumstances we ought to express an opinion as to whether these rail lines should accord the Enterprise Company the through arrangements asked for, since it is evident that many things which might influence a final judgment were not developed in the hearing before us.

At the present time water competition exercises an important influ-

ence upon the rail rates of this country. That form of competition is less susceptible of control than transportation by rail, and many persons believe that the true policy of this country is found in the improvement and construction of waterways. If the legitimate benefit of such competition is to be had, it is evident that some regulating body must exercise in our country, as does the English railway commission in England, the authority to establish through routes between water and rail carriers, or at least to prevent undue discrimination by rail carriers between connecting water lines.

Mr. LODGE. Mr. President, this matter has been brought to my attention particularly by the Fall River case, which has been cited by the Senator from South Carolina. An independent steamship company has been started, running from Fall River to New York, and the only other line is the New England Navigation Company, which is controlled by the New York, New Haven and Hartford. The trunk lines, both in New York and New England, so arrange the rates that this steamship company is deprived absolutely of freight, which seems not quite fair to the public or to the company. They brought the case before the Interstate Commerce Commission, which decided, as I remember, that, under the existing law, they had no power to deal with this case.

This bill provides:

That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, when both are used under a common control, management, or arrangement for a continuous carriage or shipment.

In other words, the intent of the bill is clearly to give relief in cases of through rates where there is complaint. But as the bill stands now, on page 11, unless some special provision is made, it covers the land lines, but the water lines connecting are omitted. My desire is simply that the connecting water lines shall be treated, as the first section of the bill obviously intends, in the same way as a through route which is all rail, although made up perhaps of different and connecting companies. There seems to be no reason why, because one of the links in the route is a water line, it should be deprived of the appeal which the bill obviously contemplates. The words which I propose myself to insert are these:

And this provision shall apply when one of the connecting carriers is a water line.

So as to clearly include them.

Mr. ALDRICH. I have no objection to that.

Mr. KNOX. I should like to ask a question of the Senator from Massachusetts before he takes his seat. Do you not think that all of the powers conferred by this bill apply to all the transportation lines referred to in the first section? That would be my notion of it. Here is a power to establish through routes and joint rates. Now, establish through routes and joint rates upon what lines of transportation? Upon all the lines of transportation described in the first section of the bill, because the first section of the bill says they shall be subject to the powers given to the Interstate Commerce Commission.

Mr. LODGE. Then, Mr. President, I should not think it would do any harm to insert that provision. What I want is to bring a case like this within the jurisdiction of the Interstate Commerce Commission.

Mr. KNOX. I have not the slightest objection to inserting it, except that it seems to me this bill has so many things in it in duplicate——

Mr. LODGE. I am inclined to think the interpretation of the Senator from Pennsylvania is correct. If it is the correct interpretation, then it would seem to me that the proviso would absolutely cut off any attempt at competition if a route already existed.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina.

Mr. ALDRICH. I hope the Senator from South Carolina will modify the amendment.

Mr. PETTUS. I ask that the pending amendment may be read.

The VICE-PRESIDENT. At the request of the Senator from Alabama the pending amendment will again be stated.

The SECRETARY. On page 11, line 24, after the word "rates," strike out the following words: "provided no reasonable or satisfactory through route exists," and insert in lieu thereof:

Such authority shall extend to through routes and joint rates for transportation partly by railroad and partly by water.

Mr. ALDRICH. I appeal to the Senator from South Carolina to allow the last part of the amendment to be adopted in addition to the words now in the bill.

Mr. TILLMAN. Why should we authorize the Commission to establish through routes and then deny them the privilege here?

Mr. ALDRICH. We do not deny it.

Mr. TILLMAN. We surely do, if we retain the words "if no reasonable or satisfactory through route exists." It looks to me that if those words are stricken out it is left to the discretion of the Commission whether upon a proper complaint there should be another through route established; whereas if there is already one, while the words "reasonable and satisfactory" might, in the judgment of the Commission, warrant them in establishing another, because the one is not reasonable and satisfactory, the idea I would have would be that the Commission would hesitate very long about establishing another route if one was already in existence, because the determination whether it was reasonable and satisfactory would be left to them and they might not want to assume the responsibility. On the other hand, if this clause is not in, then the Commission would determine that question under its general power.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. The Chair would call attention to the fact that both Senators are out of order under the rule.

Mr. LODGE. I was aware of that. I was just about to begin by saying that, speaking in violation of the rule, I should like to say a word to the Senator from South Carolina about the proviso, "provided no reasonable or satisfactory through route exists."

The very proposition on which this appeal rests, as I understand, is that the service of the through route in existence is neither reasonable nor satisfactory. My doubt arises from the fact that it does not seem to me to include water lines. The Senator from Pennsylvania may be right about that. But I do not think it could do any harm to insert:

And this provision shall apply when one of the connecting carriers is a water line.

Mr. TILLMAN. If that is satisfactory to the Senator, it is satisfactory to me, because it is in his part of the world and not mine.

Mr. LODGE. I think it would meet the difficulty.

The VICE-PRESIDENT. Does the Senator from South Carolina——

Mr. TILLMAN. I accept the amendment proposed by the Senator from Massachusetts.

The VICE-PRESIDENT. The amendment will be stated.

Mr. LODGE. Add at the end of line 25—

And this provision shall apply when one of the connecting carriers is a water line.

Mr. FULTON. Does that leave in the proviso?

Mr. ALDRICH. Yes.

Mr. FULTON. I submit that the proviso ought to go out. It serves no good purpose there, and it will be a feature of embarrassment.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. The Chair will suggest that the Secretary first state the amendment proposed by the Senator from South Carolina as amended by the amendment of the Senator from Massachusetts. Does the Chair understand the Senator from South Carolina to have withdrawn his proposed amendment?

Mr. TILLMAN. I am entirely indifferent in this matter in a personal way other than that I am trying to get the best possible law. It seems to me the amendment proposed by the Interstate Commerce Commission is a perfectly just and proper one. I do not know in whose time I am speaking, unless it is by the indulgence of the Senate; the fact that I am in charge of the bill and am trying to get the bill——

The VICE-PRESIDENT. The Chair will state that the debate has been proceeding for some time in violation of the rule, but by unanimous consent.

Mr. TILLMAN. I do not want to break a rule which I am so anxious to have maintained. I would rather leave it to the Senate and let the Senate determine it. I will not withdraw the amendment.

Mr. TELLER. Let us have it read.

The VICE-PRESIDENT. The Secretary will again state the amendment.

Mr. LODGE. The Senator from South Carolina has not withdrawn his amendment.

The VICE-PRESIDENT. The Chair so understands, and it will be stated by the Secretary.

Mr. TELLER. I understand he accepted an amendment to it.

Mr. TILLMAN. No; I have just changed my mind.

The VICE-PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. On page 11, line 24, after the word "rates," strike out the following words: "provided no reasonable or satisfactory through route exists," and insert in lieu thereof:

Such authority shall extend to through routes and joint rates for transportation partly by railroad and partly by water.

The VICE-PRESIDENT. The question is on agreeing to the amendment just stated.

The amendment was rejected.

Mr. SPOONER obtained the floor.

Mr. LODGE. I should like to offer my amendment.

The VICE-PRESIDENT. The amendment proposed by the Senator from Massachusetts will be stated.

Mr. SPOONER. I supposed I was recognized by the Chair.

Mr. LODGE. I suppose the Senator can cut me off if he wants to.

Mr. SPOONER. I do not want to cut you off.

Mr. LODGE. I do not want to take the floor. I merely desire to offer my amendment.

The VICE-PRESIDENT. The Senator from Wisconsin was recognized. Does he yield to the Senator from Massachusetts?

Mr. SPOONER. Certainly.

The VICE-PRESIDENT. Will the Senator from Massachusetts again state his amendment?

Mr. LODGE. My amendment is to add the words which I have stated.

The VICE-PRESIDENT. The amendment will again be stated.

The SECRETARY. After the word "exists," in line 25, on page 11, it is proposed to insert:

And this provision shall apply when one of the connecting carriers is a water line.

The amendment was agreed to.

Mr. SPOONER. I want to call the attention of the Senator from South Carolina to the fourteenth line, page 11. I think he will very much perfect the language and possibly eliminate some invalidity from it if he will insert there the words "just and reasonable," so that it will read "just and reasonable portion of the rate." I move to insert, after the word "the," in line 14, the words "just and reasonable."

The SECRETARY. On page 11, line 14, before the word "portion," it is proposed to insert "just and reasonable;" so that if amended it will read:

The Commission may after hearing make a supplemental order prescribing the just and reasonable portion.

Mr. SPOONER. I move to insert "proportion" instead of "portion."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. GALLINGER. I offer the amendment I send to the desk.

The VICE-PRESIDENT. The Senator from New Hampshire offers an amendment, which will be stated.

The SECRETARY. On page 11, line 5, after the word "prescribed," it is proposed to insert the following:

The Commission in prescribing any maximum rate or charge as herein provided shall not be authorized to receive complaints or determine differentials or preference of one locality over another.

Mr. GALLINGER. Mr. President, there has been so much discussion of this bill that I have no disposition to be heard or to hear my voice in this debate. I have an article from a recent issue of the Washington Post which discusses this matter so clearly and, to my mind, so convincing that I am going to ask the Secretary to read it instead of discussing it myself. I think he can read it in the time that is allotted to me—fifteen minutes.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary proceeded to read the article.

Mr. ALDRICH. I ask that the article may be inserted in the RECORD without further reading.

Mr. GALLINGER. Mr. President——

Mr. FORAKER. I should like to hear it read. If I understand the amendment offered by the Senator from New Hampshire, it is one in which I am very much interested, as is the locality where I reside.

Mr. GALLINGER. Let the Secretary read.

The Secretary resumed the reading of the article.

Mr. FORAKER. I withdraw the request I made a moment ago that the reading of the article be continued. I see what the amendment is. I hope it will be voted down, and I hope it will be voted down for the reason that it raises a question in which Cincinnati is very importantly interested. We have had trouble there for many years on account of the very thing that this would prohibit not being done by anybody, and it has been the hope of the people residing there and interested in shipping and common carriers that in this legislation we might secure relief from what we believe to be a discrimination against Cincinnati in the fixing of rates from other cities to points in southern territory in which Cincinnati competes with these other cities for a market. I do not want to prolong the argument. I discussed this at length on another occasion. I think Senators all understand it. I think it would be very unfortunate for us if in addition to not giving us affirmative relief we should provide affirmatively, as the adoption of the amendment would, that we should not have any relief under this law.

The VICE-PRESIDENT. What disposition does the Senator from New Hampshire desire made of the article?

Mr. GALLINGER. Let the remainder of the article be inserted in the RECORD without reading, and let a vote be taken on the amendment.

The VICE-PRESIDENT. Without objection, it is so ordered.

The article referred to is as follows:

When the Senate takes up consideration of the amendments to the Hepburn railroad rate bill, there will doubtless be considerable discussion of the question as to the basis on which the Interstate Commerce Commission shall make rates. The bill in its present form does not undertake to prescribe any basis or standard for the guidance of the Commission, but proposes to leave that body free to exercise its judgment as to every rate. Whether the bill, as finally amended, prescribes any definite basis for rate making or not, however, it is probably inevitable that the Commission must adopt a basis or standard of some kind, and adhere to it very closely in all of its orders changing rates. Otherwise it is sure to be charged with making rates by favor and to be criticised for alleged discriminations in favor of certain shippers or certain localities.

The only basis of rate making that has thus far been suggested by any Senator is that of flat mileage rates. It is apparent that if the Commission should make rates on this basis it could defend itself against charges of favoritism, for the rate between any two points on any given commodity would then be the product of the mileage rate multiplied by the number of miles. This would be easy, but would it be satisfactory? For, on the other hand, it is apparent that no system of rate making would be so disastrous to many localities in the United States as would be one based on mileage. It is apparently universally believed by Senators and others who have given this matter close attention that the putting into effect of such a system would mean the remaking of the commercial and industrial map of the United States.

IN EUROPEAN COUNTRIES.

It is stated by an expert upon this subject that in all of the European countries, in which the railroads are either owned and operated by the government or the rates are fixed by governmental authority, and in which rates based on distance are adhered to more or less closely, the uniform effect has been unmistakably to greatly restrict the amount of railway traffic and to narrow the range of commercial activities. In most of the continental countries the railroads have been and are regarded as part of the political machinery and as means for making effective governmental commercial policies. With this end in view, there have been departures from distance rates on export and import traffic and on transit traffic originating in one country and carried across another to a third country or to a seaport; but the domestic traffic in each country is moved on rates adhering very closely to a fixed charge per unit of weight for each unit of distance. While the effect of this has been obviously injurious, it has not been so disastrous in most European countries as it would be in the United States, for the reason that in all of those countries except Russia distances are comparatively short, and in many of them, such as France, Germany, and Holland, inland water transportation has been very highly developed. Whereas in the United States the tendency is constantly toward the abandonment of canal and river traffic, as a result of the low rates made by railroads for long hauls; in both France and Germany the inland waterways are constantly drawing more and more traffic from the railroads, and in both countries the facilities for water transportation are being increased so as to accommodate the low-grade and long-distance traffic that can not pay the high-distance charges by rail.

EFFECT IN GERMANY.

In Germany the effect of distance rates has been to separate the Empire into producing and distributing centers, and the spectacle is presented, for instance, of one section of Germany exporting grains to foreign countries and receiving a governmental bounty on these exports, while another section is importing grain subject to an import duty. The situation is much the same as would exist in this country if rates on grain from the Mississippi Valley to the Atlantic seaboard were so high that grain from the Northwest would move by water to New Orleans for export, while New York and Boston would have to import grain and flour from Canada.

In Russia distances more nearly approximate those in the United States, and the result of distance rates in that country has been to favor the development of localities convenient to the seaports at the expense of interior communities. For instance, much of the land along the line of the Trans-Siberian Railway is well adapted to the growing of wheat, but the freight rates from the Siberian wheat fields to the ports of the Baltic and the Black seas are so high as to be almost prohibitory, with the result that the development of the country along the Trans-Siberian Railway has been greatly retarded and is in marked contrast with the phenomenal development of the territory tributary to the Canadian Pacific, where conditions are somewhat similar, but where freight rates have been made on the American system of disregarding distance when necessary to bring a producing locality into communication with a market.

AUSTRALIA AS AN EXAMPLE.

In no country has the effect of mileage rates been more clearly demonstrated than in Australia. There distances are as great as in the United States, but transportation conditions are entirely different, due to a close adherence to mileage rates and to failure to adopt the American system of port differentials and the American system of basic or basing points. The effect has been to concentrate population and manufacturing, and the business of distributing both domestic and imported commodities almost exclusively in one large seaport city in each colony. In the entire eastern half of Australia the conditions are admirable for the building up of large numbers of flourishing cities and towns, each serving as a base of distribution for the surrounding agricultural communities and each affording a convenient market for part of the farm and garden products of those communities. But, in all this immense tract of country there are no interior towns or cities of importance. The urban population, instead of being distributed among a large number of places of moderate size, such as abound in the United States, is, as is above mentioned, congested in one large seaport town for each colony.

WORKING OF AMERICAN SYSTEM.

In the United States, where the railroads, up to this time, have been free to adjust their rates to commercial conditions, it has been found expedient and economical to so adjust rates as to build up distributing

and manufacturing points in all parts of the country, with the result that there has been a decentralization of population and of industry that has enormously benefited every section. There has been a disposition on the part of some critics of the American railway system to criticise the basing-point system, by which rates from manufacturing centers and seaports to stations within a more or less restricted area about the basing point are fixed by adding to the rate to the basing point the local rates to these surrounding stations. Some of these smaller points have looked upon the lower rates to the basing points as unjustly discriminatory, but a study of the transportation problems involved will show that there is no injustice to the smaller towns in this system. One of the great advantages of the basing-point system is that it admits of more economical railroad operation, and, consequently, of lower average rates. If all goods were shipped direct to the points of consumption from the manufacturing and seaport cities, the number of small consignments would be very largely increased. There would be few shipments in carload lots. Through freight trains would have to stop at more stations to drop a single car or to unload part of a car, and the cost of the service would be increased accordingly. The business of the wholesaler at the basing point would be destroyed, but the retailer at the smaller town would not benefit, for, instead of buying his supplies in the neighboring city, he would have to buy it at some city at a much greater distance, probably at New York, and his freight bills, instead of being smaller, would undoubtedly be larger. This would not be his only loss, but the producers of his locality would lose the advantage of a neighboring city market for part of their products, and the imposition of mileage rates to distant markets would still further reduce their purchasing power. The tendency of mileage rates would be to injure the business of every basing-point city throughout the South and West, and all through the interior of the country, and to build up the seaports, notably New York, and the manufacturing cities nearest to the supplies of raw material.

RESULT THAT WOULD BE INEVITABLE.

For these reasons it is hardly to be expected that Congress will ever deliberately enact a law requiring railroad rates in the United States to be made on a mileage basis; but some students of the question contend that governmental rates must necessarily approximate that basis, and that when the Commission is given the rate-making power many of the results that would follow the legislative establishments of mileage rates will be inevitable. It is contended that the decisions of the Commission in the past show that this would be the result. In the cases in which the Commission has attempted to make rates or has condemned existing rates, its findings have been based very largely upon considerations of distance. A notable illustration of this was afforded by the New York milk-rate decision, the tendency of which was to concentrate milk production for the New York market in localities nearest to the city, and many other cases might be cited showing the same tendency.

Mr. BEVERIDGE. Let the amendment be stated.

The VICE-PRESIDENT. At the request of the Senator from Indiana, the amendment will again be read.

The SECRETARY. On page 11, line 5, after the word "prescribed," it is proposed to insert the following:

The Commission in prescribing any maximum rate or charge, as herein provided, shall not be authorized to receive complaints or determine differentials or preferences of one locality over another.

Mr. GALLINGER. Mr. President, it is rather astonishing to me, after some Senators have taken two or three days to discuss portions of this bill, that an article which would have occupied only ten or twelve minutes in reading, which is the best argument I have ever seen on the subject now before the Senate, should be objected to. But I am willing to let it go in the RECORD without reading, and to let a vote be taken.

Mr. RAYNER. Mr. President, the pending amendment as it now reads seems to me so inartificially drawn that it is absolutely fatal to the bill. If an amendment of this sort is to be offered, it ought to be drawn with a great deal of care. This amendment provides for all cases of preferentials and differentials of one locality as against another; it includes localities on the same line; and it absolutely deprives the Commission of any right to determine every question of discrimination on the same line. If the Senator from New Hampshire had worded it so as to apply to different lines or different roads furnishing competing localities, it might possibly do, although I think the provisions in the bill cover it. But this covers an inland point and a terminal point on the same line, and if there is any preference given to the terminal point over the inland point, or the inland point over the terminal point, it takes from the Commission the right to determine that. I should like to have the amendment read again, because it is a matter of vast importance, and I think is fatal to the bill.

Mr. ALDRICH. I appeal to the Senator from New Hampshire to withdraw the amendment until we can get through with the amendment pending to this section and the next section.

Mr. GALLINGER. I know of no reason why I should withdraw it. Let the Senate dispose of it.

The VICE-PRESIDENT. The Secretary will again read the amendment, at the request of the Senator from Maryland [Mr. RAYNER].

The SECRETARY. On page 11, line 5, after the word "prescribed," it is proposed to insert the following:

The Commission in prescribing any maximum rate or charge, as herein provided, shall not be authorized to receive complaints or determine differentials or preferences of one locality over another.

Mr. RAYNER. According to the amendment, they could not entertain any complaint between localities on the same line.

Mr. NELSON. I do not want to interrupt the Senator——

Mr. RAYNER. I will submit to an interruption in a minute. I did not know that an amendment of this sort would come up, but having been informed by the Senator from New Hampshire, and having observed the amendment which he introduced at an earlier stage of the session, I want to say a few words upon the subject, because I think it is one of the most important subjects before us, and I think the amendment is fatal to the bill.

I desire to emphasize what I have heretofore said at the opening of this debate upon the subject of differentials. This is a most important inquiry, and if this bill gave the right to the Commission to adjust differentials between competitive localities I doubt very much whether the bill would pass. This power would be so unlimited that I am not certain that we would be willing to confer it upon the Commission. It would virtually take the ports of entry of this country out of the hands of the railroads, who are building them up, and place them in the hands of the Commission, to destroy their business and throttle their trade and enterprise if they desired to do so, and even if the Commission were absolutely impartial, as I believe it is and will be, it would nevertheless devolve upon it a duty of such a delicate nature and of such tremendous responsibility that I do not think that any tribunal would be equal to its accomplishment.

Let us fall into no error upon this point. If the bill confers any such authority I want to know it, and if by the remotest implication it could be construed as granting it, the people who are interested are entitled to understand it. The committee of the House came to the conclusion that it did not embrace differentials. The House passed it. Relying upon that assumption, the majority of us have, I believe, entertained the same idea. The Interstate Commerce Commission does not believe that it could exercise such a jurisdiction. Every board of trade and chamber of commerce and business organization that I have heard from are all of this opinion, that this measure does not confer such power; but there are several Senators upon this flobr who entertain a different idea, and who have claimed that the right exists under the phraseology of this bill. There is no question connected with this controversy of the practical importance that this is. Let me say that I do not find anything in this bill whatever that gives the Commission any right to adjust differentials. Its provisions are limited to discriminations upon the same roads. The words "unjustly discriminatory" or "unduly preferential" or "prejudicial" apply to rates and regulations and practices upon the same road, because there can be no such thing as an unjust discrimination or an undue preference between different roads supplying different territory and terminating at different points.

On the one hand, the rate or the regulation or the practice of one road can not be changed because the rate or the regulation or the practice of another road is in violation of the law. If one road charges an unreasonable rate or a discriminating rate, that would surely not justify the Commission's adjusting the rate between this road and some other road that has no connection with it by law or privity of contract. On the other hand, it is not possible that if the rate upon one road is just and reasonable that the rate can be lowered because it is higher than the rate upon some other road which is also just and reasonable. The very foundation upon which the bill rests is that the rate or practice must be unjust or unreasonable or unjustly discriminatory, and if the rate or practice is just and reasonable, then the Commission has no right to change it. The complainant must set forth that it is unjust or unreasonable or discriminatory, and if the Commission should undertake to lower a rate which did not violate the law, upon this ground, its acts would be absolutely ultra vires and null and void, and could not be enforced by judicial process.

Now, Mr. President, I propose to proceed a step further upon the proposition of the Senator from New Hampshire [Mr. GALLINGER]. In my judgment, if this bill by any implication or intendment could be construed as conferring upon the Commission the power to adjust differentials between competing roads and competitive localities, it would, under its present language, be deficient in any legislative standard by which the Commission could proceed to make that adjustment, and would therefore be held as conferring upon the Commission legislative powers and fall within the argument and objections of the Senator from Ohio that he has directed against the entire measure. There must be a legislative standard. No legislative discretion must be left to the Commission, and if the Commission, in a case where a certain rate was perfectly just and reasonable and not discriminatory, could deliberately change it because it varied from the rate of some other carrier, it would be exercising an unlimited discretion and legislative function which it does not come within our power to invest it with.

Mr. GALLINGER. Mr. President——

Mr. RAYNER. Now, let me finish this paragraph and then I will yield to the Senator.

Now, one other proposition: This bill absolutely excludes the right to adjust differentials because it does not give the right to fix or adjust rates, but the power is given to fix maximum rates. It is not within the range of possibility to adjust a differential by the fixing of a maximum rate. If, for instance, a rate was lowered upon a road between Chicago and New York, and a maximum rate established in order to meet a lower rate upon another competing road between Chicago and Baltimore, the latter road would immediately reduce its rate and keep up the differential. Let me illustrate: If there was a dollar rate between Chicago and New York upon one road and a rate of 95 cents between Chicago and Baltimore upon another road, and the Commission lowered the rate upon the first road to 95 cents, the other road, that was covering the territory between Chicago and Baltimore, would lower its rate to 90 cents, and thus maintain the differential. The Commission could not interfere, because it has no right under this bill to fix a minimum rate between Chicago and Baltimore, and it could not prevent the lowering of the rate between these places in order to meet the lower rate between Chicago and New York. I have therefore come to the conclusion that legally there is no power in this bill to adjust differentials, and practically it would be impossible for the Commission, even through arbitrary and unjustifiable process by induction, to reach this result.

Now I will answer any question I can.

Mr. GALLINGER. I simply wanted to suggest to the Senator that among other Senators I consulted on this question was the Senator from Maryland, and he promised me to give me the benefit of his learning and experience on this matter. Not hearing from the Senator, I have submitted the amendment, which is not entirely mine; other persons were consulted about it. I believe it is a good amendment, and that if put in the bill it will save a great deal of harm that may come from the bill without it. But under the circumstances, Mr. President, I will ask unanimous consent to withdraw the amendment that I may confer with Senators further, and it is possible we may agree upon some amendment that can be put in the bill.

Mr. RAYNER. Before the amendment is withdrawn I want to call the Senator's attention to this difficulty, and when I conferred with him it was a difficulty that struck me as very great in reference to this amendment.

Mr. GALLINGER. I remember the Senator's observation.

Mr. RAYNER. The amendment reads:

The Commission in prescribing any maximum rate or charge as herein provided shall not be authorized to receive complaints or determine differentials or preferences of one locality over another.

The trouble about that amendment is that it covers localities of the same road, and that is exactly what the Commission is to do. The Commission has power to receive complaints and to determine differentials upon the same road. It is to determine this very thing of one locality over another upon the same route. When you eliminate that from the provisions of the bill you take away from the Commission every other power it has except this.

Mr. GALLINGER. The reason I do that, if the Senator will permit me, is because I have a great deal more confidence in ability of the railroads to fix proper rates regarding differentials of this kind than I have in the Interstate Commerce Commission.

Mr. RAYNER. In my judgment, it is entirely a question of discrimination. The question of just or unreasonable rates is not a question that concerns us so much, because one witness after another has testified that there are few unjust or unreasonable rates. The principal question is a question of discrimination between localities upon the same road, and here you deprive the Commission of the right of determining the very question, and the only one of the practical questions, perhaps, that it will be called upon to determine in its entire transactions.

Mr. ELKINS. Mr. President, what is the pending question?

The VICE-PRESIDENT. The question is on the amendment of the Senator from New Hampshire [Mr. GALLINGER.]

Mr. GALLINGER. I withdraw it temporarily.

The VICE-PRESIDENT. The Senator from New Hampshire withdraws his amendment temporarily. Are there further amendments to section 4?

Mr. CLARKE of Arkansas. Mr. President, I send an amendment to the desk to be read.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. On page 12, after line 11, insert:

The Commission shall determine, from investigation and hearing appropriate to the inquiry, the proportions of the entire traffic of any carrier whose rate or rates has been challenged in the manner provided in this act which pertain to interstate and intrastate traffic, respectively, and when said relative proportions of said traffic are so ascertained the Commission shall consider, in fixing a just and reasonable rate under the provisions of this act, the revenue derived from intrastate traffic as part of the gross income of said carrier and make due allowance therefor in establishing the basis for prescribing said just and reasonable rate.

Mr. CLARKE of Arkansas. Mr. President, the object of the amendment is to provide means of curing what seems to me to be an obvious defect in this matter of making rates, when we consider the fact that there are two kinds of traffic to be dealt with and the problems connected with its transportation solved.

The Supreme Court of the United States, in the case of Smythe *v.* Ames (169 U. S.), has declared that the State of Nebraska, in fixing rates, can take no notice of the fact that the carrier is also engaged in interstate traffic. The contention was made in that that the rate prescribed by the Nebraska commission was an entirely proper one when notice was taken of the fact that a considerable part of the carrier's income was derived from interstate traffic, and that having reference to the entire volume of its business, the rate was not an unreasonable one.

The Supreme Court, in dealing with this contention advanced by counsel for State commission, said:

It is further said, in behalf of the appellants, that the reasonableness of the rates established by the Nebraska statute is not to be determined by the inquiry whether *such* rates would leave a reasonable net profit from the local business affected thereby, but that the court should take into consideration, among other things, the whole business of the company—that is, all its business, passenger and freight, interstate and domestic. If it be found upon investigation that the profits derived by a railroad company from its interstate business alone are sufficient to cover operating expenses on its entire line, and also to meet interest, and justify a liberal dividend upon its stock, may the legislature prescribe rates for domestic business that would bring no reward and be less than the services rendered are reasonably worth? Or must the rates for such transportation as begins and ends in the State be established with reference solely to the amount of business done by the carrier wholly within such State, to the cost of doing such local business, and to the fair value of the property used in conducting it, without taking into consideration the amount and cost of its interstate business, and the value of the property employed in it? If we do not misapprehend counsel, their argument leads to the conclusion that the State of Nebraska could legally require local freight business to be conducted even at an actual loss, if the company earned on its interstate business enough to give it just compensation in respect of its entire line and all its business, interstate and domestic. We can not concur in this view. In our judgment, it must be held that the reasonableness or unreasonableness of rates prescribed by a State for the transportation of persons and property wholly within its limits must be determined without reference to the interstate business done by the carrier, or to the profits derived from it. The State can not justify unreasonably low rates for domestic transportation, considered alone, upon the ground that the carrier is earning large profits on its interstate business, over which, so far as rates are concerned, the State has no control. Nor can the carrier justify unreasonably high rates on domestic business upon the ground that it will be able only in that way to meet losses on its interstate business. So far as rates of transportation are concerned, domestic business should not be made to bear the losses on interstate business, nor the latter the losses on domestic business. It is only rates for the transportation of persons and property between points within the State that the State can prescribe; and when it undertakes to prescribe rates not to be exceeded by the carrier, it must do so with reference exclusively to what is just and reasonable, as between the carrier and the public, in respect of domestic business. The argument that a railroad line is an entirety, that its income goes into, and its expenses are provided for, out of a common fund, and that its capitalization is on its entire line, within and without the State, can have no application where the State is without authority over rates on the entire line, and can only deal with local rates and make such regulations as are necessary to give just compensation on local business.

The declarations of that opinion indicate that it is one out of which confusion and uncertainty will inevitably arise when its action in the matter of fixing interstate rates is contested. It has not heretofore presented a practical difficulty in the work of the Interstate Commerce Commission for the reason that the Commission had no power to fix rates, and therefore it had no occasion to encounter the embarrassments growing out of this decision. It is perfectly plain that it will now become a practical question, and that if the doctrine of this opinion is to be applied when the Commission undertakes to fix a rate relating to interstate commerce that no notice can be taken of the fact that the carrier is also engaged in carrying State traffic.

The only purpose of the proposed amendment is to provide a plan by which the Commission can determine in a legal way a fact which everybody knows to exist, and that the carrier is engaged in both kinds of traffic, and that it derives its gross income from both kinds of traffic. It is proposed that there shall be such a comprehensive consideration of the volume of traffic actually carried as may enable the Commission to know what will be the proper basis upon which to allow the carrier a just compensation for carrying interstate traffic. It provides a method by which an obvious defect can be cured.

In the case of Tompkins (reported in 175 U. S.)—a case that came up from South Dakota—the circuit judge undertook to

deal with the situation created by the case of Smythe *v.* Ames. He undertook to establish for himself a way by which he would solve the difficulty. He found, from the evidence introduced in the case pending before him, that $10,000,000 of capital stock of the Northern Pacific Railroad was exerted in carrying on business in that State; that $8,000,000 of that capital was being exerted in carrying on interstate business and $2,000,000 in carrying on State traffic. Taking that for his basis, he undertook to prescribe for the railroad a reasonable rate for State business. His decree was reversed in its entirety by the Supreme Court of the United States on the ground that he had undertaken to make in person, and without the aid of a master, the calculations and computations necessary to a final decree. Because of the practice adopted by the trial court, the Supreme Court held that its decree was not based on findings made with sufficient intelligence to enable the court to say whether he was right or wrong on its real merits. The decree was reversed and the whole matter was sent back, no reference being made in the order of reversal in approval or condemnation of the plan followed.

So we are left in doubt as to what is the proper plane for the trial courts to follow. I think if the Commission is to fix the interstate rate the Commission ought to know, and it ought to have before it in an authoritative form, a finding showing the entire volume of traffic with which it is to deal, the amount of income that the carrier derives from all of it, State and interstate, and the sum that it ought to be allowed to derive from its interstate traffic. There ought to be a legislative method for the solution of this problem, to the end that it may be no longer a source which will invite litigation and lead to confusion.

I believe, therefore, some such provision as this ought to go into the law giving the Commission power to institute inquiry to determine the question as nearly as can be done, so that the several States may incidentally and authoritatively be advised as to the part of the inquiry in which each is interested, which is the volume of business with which it can deal. It will add to the simplicity and reliability of that work, and, I believe, will be a very wholesome addition to the general plan of regulation we are now seeking to establish.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Arkansas [Mr. CLARKE].

Mr. BAILEY. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. BAILEY. I wish to say a word about the amendment, if it is to be voted down. I had supposed——

The VICE-PRESIDENT. The Chair will again ask if there is a second to the demand for the yeas and nays.

Mr. BAILEY. I think the amendment is important and I think it ought to be adopted, but I am willing to take a vote on it if the Senate will give me a recorded vote.

The VICE-PRESIDENT. Is there a second to the demand for the yeas and nays on agreeing to the amendment of the Senator from Arkansas?

The yeas and nays were ordered.

Mr. BEVERIDGE. Let the proposed amendment be read.

The SECRETARY. On page 12, after line 11, insert:

The Commission shall determine, from investigation and hearing appropriate to the inquiry, the proportions of the entire traffic of any carrier whose rate or rates has been challenged in the manner provided in this act which pertain to interstate and intrastate traffic, respectively, and when said relative proportions of said traffic are so ascertained the Commission shall consider, in fixing a just and reasonable rate under the provisions of this act, the revenue derived from intrastate traffic as part of the gross income of said carrier and make due allowance therefor in establishing the basis for prescribing said just and reasonable rate.

The VICE-PRESIDENT. The Secretary will call the roll on agreeing to the amendment of the Senator from Arkansas [Mr. CLARKE].

The Secretary called the roll.

Mr. SPOONER (when his name was called). I again announce my pair with the Senator from Tennessee [Mr. CARMACK]. If I were at liberty to vote, I should vote "nay."

The result was announced—yeas 27, nays 48, as follows:

YEAS—27.

Allee	Clay	Latimer	Pettus
Bacon	Culberson	McCreary	Rayner
Bailey	Daniel	McLaurin	Simmons
Berry	Dubois	Martin	Taliaferro
Blackburn	Frazier	Money	Teller
Clark, Mont.	Gearin	Newlands	Tillman
Clarke, Ark.	La Follette	Overman	

NAYS—48.

Aldrich	Brandegee	Carter	Dick
Alger	Bulkeley	Clapp	Dillingham
Allison	Burkett	Clark, Wyo.	Dolliver
Ankeny	Burnham	Crane	Dryden
Beveridge	Burrows	Cullom	Elkins
Flint	Hemenway	McCumber	Platt
Foraker	Hopkins	Millard	Scott
Fulton	Kean	Nelson	Smoot
Gallinger	Kittredge	Nixon	Sutherland
Gamble	Knox	Penrose	Warner
Hale	Lodge	Perkins	Warren
Hansbrough	Long	Piles	Wetmore

NOT VOTING—14.

Burton	Frye	Mallory	Spooner
Carmack	Gorman	Morgan	Stone
Depew	Heyburn	Patterson	
Foster	McEnery	Proctor	

So the amendment of Mr. CLARKE of Arkansas was rejected.

Mr. RAYNER. Mr. President, I have concluded to offer the amendment in reference to the broad and narrow review under section 15, instead of under section 16 as I contemplated, and I move to insert it after the word "jurisdiction," in line 9, page 11. I ask the Secretary to read it.

The SECRETARY. On page 11 of the bill, line 9, after the word "jurisdiction," the last word in the line, insert:

But such order shall not be set aside by any court unless it violates the Constitution of the United States or exceeds the jurisdiction conferred upon the Commission.

Mr. RAYNER. Mr. President, this raises the distinction between what has been called the broad and the narrow review. If I may be permitted to say so, I think both those words are misnomers and that the proper names are "the constitutional" and "the statutory review;" the statutory review, of course, always including the constitutional review.

I am in favor of the constitutional review. The review that the President of the United States has submitted to us is the broadest sort of statutory review; and I think that, in my judgment, as I shall presently try to demonstrate, whatever may be the result of the vote upon this amendment, this distinction ought plainly to get into the RECORD, so that we may all know how to vote upon it, and so that the people may understand the distinction.

I wish very much that the President of the United States—and I say it with great respect and deference—had not interfered in this legislation and had permitted us to settle this case right here in this body, where the responsibility devolves. I do not say, Mr. President, that anyone has set a trap for the President of the United States; I would not make a declaration of that kind upon this floor; but I do say, and I say it again with the greatest respect and deference to the President, that the President, unfortunately, is so constituted that he can not look at a trap without fooling with the spring. [Laughter.] Last week, after he was caught in this trap for a day or so, in some way or other he worked his way out of it, and then he kept on looking at it and walking around it and walking in and out of it until he was caught beyond all hope of escape. Now his party friends and his party enemies are vying with each other as to which one of them can get in first and participate with him in his gratuitous captivity. [Laughter.]

A few weeks ago—four or five or six weeks ago—he sent to us as his envoy extraordinary the Senator from Kansas [Mr. LONG], and he intrusted to him the mission of a constitutional review. Last Friday, without notifying the Senator from Kansas that his credentials had been revoked, he appointed in his place as minister plenipotentiary the distinguished Senator from Iowa [Mr. ALLISON], with the mission of a broad statutory review. Now, I understand perfectly well that the Senator from Iowa did not seek this appointment. I am informed that he was peacefully reposing in nocturnal innocence when this appointment was made and when these mighty honors and this distinguished servitude were thrust upon him. At any rate, we have two reviews sent here by the President—the one in the hands of the Senator from Kansas and the other in the hands of the Senator from Iowa and both of them in deadly conflict with each other.

I say here, in passing, that both of these ministers are equally well accredited. The certificate of the Senator from Kansas had the impress of the royal authority, and the testimonials of the distinguished Senator from Iowa not only bear the imperial seal, but they are authenticated in a manner that ought to give them absolute authenticity by the coat of arms of the Senator from Rhode Island [Mr. ALDRICH]. [Laughter.]

Mr. President, we understand what all this means here, but the people do not understand it. We understand that the President is no longer caressing the junior Senator from Iowa [Mr. DOLLIVER] and the Senator from Kansas, but that he has transferred his affections and is now clasping to his bosom, with the fondest and most fervent devotion, the senior Senator from Rhode Island. [Laughter.]

The President tells us that these two reviews which he has sent in here are one and the same thing, but, Mr. President, they are as widely different as it is possible for two divergent

propositions to be. The one is the review under the Constitution, which you can not eliminate without invalidating your law; the other is the broad statutory review, which permits the courts to try the cases *de novo* and in the same manner as if no such body as the Interstate Commerce Commission had ever existed upon the face of the earth.

The one, the review of the Senator from Kansas, confines the court within a given compass—the compass of the Constitution; the other extends to the utmost limits of their jurisdiction. The one leaves the rate-making power with the Commission; the other, as I shall presently show, transfers the whole controversy to the court and renders the Commission absolutely impotent and powerless to accomplish the object and purposes of its creation.

Let us see whether I am right or not. I will guarantee to any probationer or apprentice in his profession, if this review passes and he will take this case into court, I will stand surety and sponsor for him that the courts, without hesitation, will decide that they have a right to try the whole case from its inception to its completion as if no proceeding whatever had taken place under it.

What is this review? The original Hepburn bill gives the venue. Giving the court the venue does not give it jurisdiction. It says the venue——

Mr. ALDRICH. Will the Senator pardon me a moment?

Mr. RAYNER. I will if I can get two or three minutes more. I must press about an hour's thought into fifteen minutes. I do not object to an interruption, if you will not object to my taking two or three minutes beyond the fifteen minutes allowed.

Mr. ALDRICH. I can not make any such arrangement as that.

Mr. RAYNER. Well, then, if the Senate will give me unanimous consent to speak beyond the limit—because this is a very important matter—I will not trespass over five minutes beyond the time. I hope this time is not being counted against me, Mr. President.

Mr. ALDRICH. Mr. President——

Mr. RAYNER. What does the Senator want to know? Go on and ask me a question, if you wish.

Mr. ALDRICH. The question I was about to ask——

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Rhode Island?

Mr. RAYNER. For a question; yes.

Mr. ALDRICH. I desire to ask the Senator from Maryland whether he has changed his opinion in reference to the difference between just compensation for services rendered and a just and reasonable rate? I asked him when he was addressing the Senate some time ago, whether there was any difference, and he said he thought there was not; but I suppose from his opening remarks that he has changed his opinion, and that he is guilty of what he is accusing the President of. The Senator from Maryland seems certainly to have changed his opinion in the opposite direction.

Mr. RAYNER. Mr. President, the Senator from Rhode Island evidently does not understand what my opinion was; but we all understand what the President's opinion is, because we have got here both his opinions in conflict with each other.

The question to which the Senator from Rhode Island refers has nothing whatever to do with the proposition I am talking about. I am talking about the distribution of the jurisdiction given to the courts. I have never changed my mind about the proposition I first suggested here in connection with just and reasonable compensation. I was in favor of the amendment of the Senator from Texas, which provided that the court should determine whether or not there had been just compensation, and that that should be the constitutional question which the court should pass upon; but I am now upon an entirely different branch of the subject, which has no connection whatever with the question the Senator is addressing to me.

Mr. ALDRICH. Mr. President——

Mr. RAYNER. You will have to let me go on.

Mr. ALDRICH. Just one sentence.

Mr. RAYNER. I have no time to lose.

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Rhode Island?

Mr. ALDRICH. Only for a single sentence.

Mr. RAYNER. Very well; but let it be a short sentence.

Mr. ALDRICH. Yes; a very short sentence. The constitutional question is whether just compensation is afforded by rates prescribed. The statutory question is whether just and reasonable rates are fixed; and there is absolutely no distinction whatever between the two.

Mr. RAYNER. That just shows how little the Senator from Rhode Island knows about the legal environment of this entire question. [Laughter.] If there are two propositions on the face of this earth that are separate from each other, it is whether or not the courts shall try the question of just compensation under the Constitution or whether they shall try the question whether the Commission has fixed a reasonable rate, which is an entirely different question from the question whether or not the carrier has received just compensation under the Constitution.

Mr. ALDRICH. Mr. President——

Mr. RAYNER. Let me proceed a minute, because this is a very important matter, and I really think, Mr. President, that the time ought to be extended five or ten minutes upon it; but if Senators object, I will make half of my speech now, and I will make the other half of it when the Senator from Iowa [Mr. ALLISON] offers his amendment, because I intend to say what is necessary on this subject. So I will make the first half of my speech now.

Mr. President, this is the distribution of jurisdiction under the Constitution—Article III, section 2.

In distributing that jurisdiction we can give any part of it we want to inferior courts. You can give them the right to try a constitutional question, or you can give them the right to try any other question you wish. In the jurisdiction the President has made he gives them the unlimited and the unqualified right to try the entire question. If you will read over the clause you will find when you put the venue in your court you say the court shall have jurisdiction of every bill that is filed for the purpose of setting aside, annulling, enjoining, or suspending any order, and when you come to put the jurisdiction, you put it in an equal degree and with the same latitude that you give the venue.

Mr. ALDRICH rose.

Mr. RAYNER. I can not now stop for an interruption. I am sorry that I can not do so; but the Senator will appreciate why I can not do so.

I say, therefore, Mr. President, when you give the full venue and full jurisdiction all that the courts will do will be to take up the case and try it over again; there is nothing else for them to do. If anyone is in favor of constitutional jurisdiction in a court, why not say so? Why not provide in this amendment as the President first provided? Just let us look at his first amendment a moment. The President's first amendment:

> The court is to determine whether the order complained of was beyond the authority of the Commission or in violation of rights secured by the Constitution.

That is the first amendment. That is all right, and I am willing to vote for that. If the President had stood his ground and not surrendered so quickly as he did, we could have passed this amendment. This is the constitutional amendment.

The other amendment is under section 2 of Article III of the Constitution. You are distributing jurisdiction and you are giving them unlimited jurisdiction, because you are giving them unlimited venue, and you make your jurisdiction equivalent to your venue. In other words, wherever you give a venue you give jurisdiction, and you give a venue in every case where you go into court to set aside, sustain, enjoin, or annul an order. Therefore you have given the broadest statutory jurisdiction it is possible to give. That is beyond any idea contemplated by any Senator who has been in favor of a broad review. It is an absolute surrender upon this entire subject, and I want to congratulate the Senators who are in favor of this broad review upon having achieved this signal victory, and in congratulating them—and I am not impugning the motives of any one in favor of the broad review—I want to say that the President ought not to have changed his ground as precipitately as he has done; but I want to congratulate them on the signal victory they have gained, and I want to congratulate every railroad president in the United States and all their conquering retinue of counsel upon the great triumph they have attained.

It is an unfortunate thing, Mr. President—deplorable—that just at the very moment when political considerations were being eliminated; when elements in both parties were uniting upon a proposition that was acceptable to the people, and when the prize was within our hands that we had been struggling for for months, that the President, through executive interference upon the most vital point in the bill, should compel his party and compel us to accept a subterfuge and proclaim an unconditional surrender.

The VICE-PRESIDENT. The Senator's time has expired.

Mr. RAYNER. I will finish the balance of my speech when the Senator from Iowa shall offer his amendment.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Maryland [Mr. RAYNER].

Mr. LONG. Mr. President, in the limited time I have to discuss this question I shall confine myself to the discussion of these different amendments and shall later refer to the pleasant

reference which the Senator from Maryland [Mr. RAYNER] made to myself as the author of a pending amendment.

Mr. RAYNER. As the author of the pending amendment. Oh, no. The Senator was the author of the old amendment.

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Maryland?

Mr. LONG. I said that I was the author of a pending amendment.

Mr. RAYNER. I thought you said that you were the author of the pending amendment.

Mr. LONG. I did not make that statement.

Mr. President, this controversy has been as to the difference between a broad and a limited court review. I agree with the Senator from Maryland that those words do not properly define the difference between the various kinds of court review. In my opinion, this bill as it came to us from the House without any amendment as to the court review or with the amendment which I proposed, or with the amendment proposed by the Senator from Iowa [Mr. ALLISON] does not differ in any particular. The extent of judicial interference with rates made by the Commission under the House bill unamended, or under my amendment, or under the amendment of the Senator from Iowa would be the same.

The controversy at the time I presented the amendment was precipitated by the effort made by the Senator from Ohio [Mr. FORAKER], the Senator from Massachusetts [Mr. LODGE], and other Senators to secure what in fact was a broad review.

The difference between a broad review and a limited review is not that, under the first the court would go into the whole question, and would not do so under the second. No Senator has taken the position that in a suit brought in court to set aside an order of the Commission that the court would not examine all the questions necessary to ascertain whether the order should be suspended. The question is, after completing the examination, Shall the order be set aside?

The Senator from Ohio [Mr. FORAKER] in his speech defined what I understand to be a broad review. It is one that confers upon the court the duty of trying anew the questions that were tried by the Commission and to come to a conclusion upon the facts independent of the conclusion of the Commission. The Commission is authorized to prescribe a just and reasonable rate, and a broad review is one that imposes the duty upon the court on review to ascertain whether *in fact* the rate is just and reasonable. That has been, as I understand, the contention of Senators who have been endeavoring to put into this bill a broad review amendment.

broad review amendment. Here is what the Senator from Ohio said in his speech as to what he understood to be a broad review:

> Fortunately some of the most important of the questions to which attention has been called can not be withheld from the courts. But the power to review the question as to whether a rate condemned or a rate made by the Commission in a given case is reasonable is, unfortunately, not one of these. The making of a rate is a legislative act, and legislative discretion of the Commission in determining what is a reasonable rate can not be interfered with by the courts in the absence of special statutory authority, unless the rate be fixed so high that it is extortionate to the shipper, or so low that it is confiscatory as to the carrier.

Then, discussing it further, he said:

> But between extortion on the one hand, and confiscation on the other, there is, in most cases, a considerable latitude within which the action of the Commission, without special statutory provision for review of it by the courts, would be final and conclusive.

In my speech of April 3, 1906, the following colloquy occurred between the Senator from Ohio and myself, showing the kind of review he desired:

> Mr. LONG. Possibly the Senator was not in the Chamber when I read from his speech, in which he defined the kind of review he desired in this bill. As I understand the Senator's language, he wishes a review that will give the court the authority to pass upon the reasonableness of a rate which is between one that is so high as to be extortionate to the shipper and so low as to be confiscatory to the carrier. The Senator wants a provision in the bill that would authorize the court to pass upon such a rate and revise the judgment of the Commission.
>
> Mr. FORAKER. And so I do, Mr. President.
>
> Mr. LONG. That is what I thought.
>
> Mr. FORAKER. And not only did I contend for that, but I contended that the court ought to have the power conferred upon it in making this review to determine whether the rate that was condemned as unreasonable was in fact unreasonable, or whether it was a just and reasonable rate that should not have been condemned; and the court should have the power—and it could not have it unless we conferred it upon it—of determining whether or not the rate suggested was between the extremes of confiscatory and extortionate, and, therefore, a reasonable and just rate which the Commission had a right under the command of a statute to prescribe.
>
> Mr. LONG. I so understood the Senator.
>
> * * * * * * *
>
> I think the last statement of the Senator from Ohio makes it very plain as to what he wants. He wants the court given authority by a provision for review to revise a rate that is somewhere between a rate that is so high that it is extortionate to the shipper and a rate that is so low that it is confiscatory to the carrier, both of which will now be set aside without any special statutory authority. He wants a provision for review authorizing the courts to revise and set aside rates between those two extremes.
>
> Mr. HOPKINS. And a rate that has been set aside also.
>
> Mr. LONG. And the rate of the carrier that has been set aside by the Commission.
>
> * * * * * * *

To the same extent are the remarks of the Senator from Massachusetts [Mr. LODGE], who was the first Senator to argue here in favor of a broad review. In his speech he said:

> Finally, there should be ample provision for an appeal to—or, more properly, a review by—courts of competent jurisdiction sitting in equity, not only as to whether the rate is confiscatory, but also whether it is just and reasonable, and an arrangement should be made by law for the rapid disposition of all such cases.

If Congress confers upon the Commission the duty of determining and prescribing a just and reasonable rate and then imposes upon the courts the duty of ascertaining whether the rate fixed by the Commission is in fact just and reasonable, then the whole duty is imposed on the courts on review that is conferred upon the Commission, and, under these circumstances, there is no necessity for a Commission. The whole rate-making power is conferred on the courts on review, which I do not believe they will assume. By examining the different court review amendments that have been offered, we can understand very clearly the difference between an amendment which seeks to impose upon the courts the same duty that is imposed upon the Commission and one that does not. The broadest review provision I know of was that contained in the Esch-Townsend bill, which passed the House last session. This provision was the first suggested to the friends of this measure by the Senator from Rhode Island [Mr. ALDRICH] as an amendment to this bill and rejected by us. Let me call your attention to the provision. After providing for the fixing of the rate by the Commission, it says:

> Any person or persons directly affected by the order of the Commission, and deeming it to be contrary to law, may institute proceedings in the court of transportation, sitting as a court of equity, to have it reviewed, and its *lawfulness, justness,* or *reasonableness* inquired into and determined.

Every question submitted to the Interstate Commerce Commission would, under this provision of the Esch-Townsend bill, be submitted to the court of transportation.

Mr. SCOTT. And there were only 11 votes in the House against that bill.

Mr. LONG. But it was abandoned at this session and the Hepburn bill was reported instead.

The Senator from Ohio certainly knows how to draw a broad review amendment, and I wish to call attention to the amendment he offered to this bill. I understand it is similar to the review provision in the Ohio railway law.

Mr. FORAKER. It is an exact copy.

Mr. LONG. It is an exact copy of the provision in those statutes.

Mr. FORAKER. I did not draw it at all.

Mr. LONG. It reads, referring to the suit authorized to be brought against the Commission—

> to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates fixed in such order is unlawful or unreasonable, or that any such regulation, practice, or service fixed in such order is unreasonable.

It further provides that—

> In all actions under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of the Commission complained of is unlawful or unreasonable, as the case may be.

The question of the reasonableness and justness of the order can be inquired into by the courts, if they will assume the jurisdiction under the Esch-Townsend bill and under this amendment of the Senator from Ohio.

Now, taking the document that was printed at the request of the Senator from Pennsylvania [Mr. KNOX], we find that provisions for review that impose upon the courts the consideration of the same questions that are conferred upon the Commission are found in the following States:

ALABAMA.

> That upon the trial of said cause the order of the railroad commission shall be prima facie evidence that the thing ordered to be done was correct, reasonable, and just, and the burden of showing that such order is *not correct, reasonable,* and just shall be upon the railroad or railroads failing or refusing to comply with the order of said railroad commission.

KANSAS.

> And said court may set aside, vacate, or annul one or more or any part of any of the regulations, orders, findings, or decisions adopted by the said board which shall be found to be *unreasonable, unjust, oppressive, or unlawful* without disturbing others.

MINNESOTA.

> Upon such appeal, and upon the hearing of any application by the commission or by the attorney-general, for the enforcement of any such order made by the commission, the district court shall have jurisdiction to, and it shall *examine the whole matter in controversy, including matters of fact as well as questions of law,* and to affirm

modify, or reverse such order in whole or in part, as justice may require.

MISSISSIPPI.

But in trials of cases brought for a violation of any tariff of charges as fixed by the Commission, it may be shown in defense that such tariff so fixed was *unreasonable* and *unjust* to the carrier.

TEXAS.

In all trials under the foregoing article, the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulation, order, classification, act, or charges complained of, *are unreasonable* and *unjust* to it or them.

WASHINGTON.

Any railroad or express company affected by the order of the Commission and deeming it to be contrary to the law, may institute proceedings in the superior court of the State of Washington in the county in which the hearing before the Commission upon the complaint had been held, and have such order reviewed and its *reasonableness* and *lawfulness* inquired into and determined.

WISCONSIN.

Any railroad or other party in interest being dissatisfied with any order of the commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any regulations, practices or service, may commence an action in the circuit court against the commission, as defendant, to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates, fixed in such order, is unlawful, or that any such regulation, practice or service, fixed in such order, is *unreasonable,* in which action the complaint shall be served with the summons.

Examples of limited review provisions are found in this bill as it came from the House of Representatives without amendment, or with the amendment which I proposed, or with the amendment which the Senator from Iowa [Mr. ALLISON] proposed. The following States have limited review provisions:

LOUISIANA.

If any railroad, express, telephone, telegraph, steamboat and other water craft, or sleeping-car company, or other party in interest, be dissatisfied with the decision or fixing of any rate, classification, rules, charge, order, act, or regulation, adopted by the commission, such party may file a petition setting forth the cause or causes of objection to such decision, act, rule, rate, charge, classification, or order, or to either or to all of them, in a court of competent jurisdiction, at the domicile of the commission, against said commission as defendant, and either party to said action may appeal the case to the supreme court of the State, without regard to the amount involved, and all such cases, both in the trial and appellate courts, shall be tried summarily, and by preference over all other cases.

NORTH CAROLINA.

Provided, That any company may appeal to the judge of the superior court in term time and thence to the supreme court from any determination of the commission fixing or refusing to change the rate of freight or fare.

NORTH DAKOTA.

Any railroad, railroad corporation, or common carrier subject to the provisions of this article, or any other person interested in the order made by the commisioners of railroads may appeal to the district court of the proper county in the judicial district of this State from which the complaint arose, and which is the subject and basis of the order, from any order made by the commissioners of railroads regulating or fixing its tariffs or rates, fares, charges, or classifications, or from any other order made by said commissioners under the provisions of this article by serving a notice in writing upon the secretary of said commissioners, or any one of said commissioners, within twenty days after such railroad, railroad corporation, or common carrier shall receive notice from such commissioners of the making and entry of such order.

SOUTH DAKOTA.

Whenever any common carrier, as defined in and subject to the provisions of this article, shall violate or refuse or neglect to obey any lawful order or requirement of the said board or railroad commissioners, it shall be the duty of said commissioners, and lawful for any company or person interested in such order or requirement, to apply in a summary way, by petition to the circuit court in any county of this State in which the common carrier complained of has its principal office, or in any county through which its line of road passes or is operated, or in which the violation or disobedience of such order or requirement may happen, alleging such violation or disobedience as the case may be; and the said court shall have power to hear and determine the matter on such short notice to the common carrier complained of as the court shall deem reasonable, and such notice may be served on such common carrier, it or its officers, agents, or servants in such manner as the court shall direct; and said courts shall proceed to hear and determine the matter speedily as a court of equity and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises.

The amendment of the Senator from Iowa provides that "and jurisdiction to hear and determine such suits is hereby vested in such courts." What words should be added to make it an amendment in which the court would be invited to go into all the questions that were pending before the Commission? I call the attention of the Senator from Maryland to what I think should be added to make the amendment of the Senator from Iowa a broad review. It should read like this:

And jurisdiction to hear and determine in such suits whether the rate fixed by the Commission is in fact just and reasonable, is hereby vested in such courts.

Those are the words which the Senator from Ohio wanted in a review amendment; those are the words which the Senator from Massachusetts wanted to insert; those words are not in this amendment now. Or it could be made broad in this form:

And jurisdiction to hear and determine in such suits the *justness* and *reasonableness* of the rate fixed by the Commission, is hereby vested in such courts.

In both of these suggested amendments, if adopted, the attempt would be made to confer the rate-making power on the courts on review.

It will be observed that the difference between a broad and limited court review is that in the broad review the duty is imposed upon the court to ascertain whether the rate fixed by the Commission is in fact just and reasonable. This is the same duty that Congress imposes upon the Commission, and, if after imposing the duty upon the Commission, Congress imposes the same duty upon the court, it is impossible to determine why a Commission is needed.

In the limited review, jurisdiction is conferred upon the court, making it clear that it is not the intention of the legislature to prevent a review of the orders of the Commission by the courts, but no words are used that can be construed to mean that the legislature intended that the court should inquire into the facts and revise the judgment and discretion of the Commission.

Of course, broad review amendments are predicated upon the assumption that the courts would assume the duty of revising the judgment and discretion of the Commission if invited to do so by Congress in this legislation. I do not believe they would do this.

Mr. ALDRICH. Will the Senator allow me to ask him a question? I do not want to interrupt him if he objects.

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Rhode Island?

Mr. LONG. Certainly.

Mr. ALDRICH. Does the Senator believe that the bill as it came from the House of Representatives gave to the courts jurisdiction over suits brought to set aside or suspend the orders of the Commission?

Mr. LONG. I do, and I so stated in my remarks on the 3d of April.

Mr. ALDRICH. I remember what the Senator said, and I will say, as the Senator from Maryland [Mr. RAYNER] has brought my name into this debate, that, in my judgment, the amendment now offered by the Senator from Iowa does not go one single step beyond that; that it simply confers in terms upon the courts jurisdiction which the Senator from Kansas and other Senators who are in favor of this legislation have always contended was accomplished by the House bill.

Mr. RAYNER. May I ask the Senator a question?

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Maryland?

Mr. LONG. Yes.

Mr. RAYNER. Will the Senator from Kansas be willing to vote in favor of his own amendment?

Mr. LONG. Certainly. But you have not presented my amendment.

Mr. RAYNER. There is only one word in it different. Take out the word "jurisdiction" and insert the word "authority," and it is your amendment. I will put in the word "authority." Now, will you vote in favor of your own amendment?

Mr. LONG. Offer my amendment, and I will vote for it.

Mr. RAYNER. I will offer it.

Mr. LONG. You can not offer it in my time.

Mr. RAYNER. I ask the Senator to yield to me for a moment.

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Maryland?

Mr. LONG. Not to offer an amendment now.

Mr. RAYNER. You challenged me to do it.

The VICE-PRESIDENT. The Senator from Kansas declines to yield.

Mr. RAYNER. If he does not yield, of course I can not offer the amendment.

Mr. LONG. As I stated before, I consider that the bill as it came from the House, without any amendment, provided for a limited review; that the courts would not try the same questions de novo that were tried by the Commission and pass on the facts without regard to the findings of the Commission. All the review amendments that seek to impose the duty upon the courts that is imposed by this bill upon the Commission are based upon the theory that the courts will assume that jurisdiction. As I stated in the speech I made on the 3d of April, I do not believe the courts, under any review amendment that may be made, would exercise this jurisdiction. My amendment did nothing more than to make clear in words the limitations that the Supreme Court of the United States has prescribed for itself in the consideration and determination of these questions.

The two leading cases in which the Supreme Court has considered rates made under the authority of State legislatures have been the Reagan case (154 U. S., 362) and Smyth *v.* Ames (169 U. S., 466). The Texas statute gave a broad review to

the court in the consideration of orders made by the commission in the following language:

In all trials under the foregoing section the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulations, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them.

But the Supreme Court, in its consideration of the schedule of rates made by an order of the Texas Railway Commission, confined its examination to the question as to whether or not the rates were so unjust and so unreasonable as to take the property of the carrier without just compensation. Justice Brewer for the court said:

The courts are not authorized to revise or change the body of rates imposed by a legislature or a commission; they do not determine whether one rate is preferable to another, or what under all circumstances would be fair and reasonable as between the carriers and the shippers; they do not engage in any mere administrative work; but still there can be no doubt of their power and duty to inquire whether a body of rates prescribed by a legislature or a commission is unjust and unreasonable, and such as to work a practical destruction to rights of property, and if found so to be, to restrain its operation.

It will be observed that the court limited its inquiry into the question as to whether or not the body of rates prescribed by the legislature was so unjust and so unreasonable as to work a practical destruction of the rights of property. In this case Justice Brewer also announced the doctrine that courts will restrain the illegal acts of a special tribunal when it has exceeded its authority, even though the acts were done under a valid law. He said:

Neither will the constitutionality of the statute, if that be conceded, avail to oust the Federal court of jurisdiction. A valid law may be wrongfully administered by officers of the State, and so as to make such administration an illegal burden and exaction upon the individual. A tax law, as it leaves the legislative hands, may not be obnoxious to any challenge, and yet the officers charged with the administration of that valid tax law may so act under it in the matter of assessment or collection as to work an illegal trespass upon the property rights of the individual. They may go beyond the powers thereby conferred, and when they do so the fact that they are assuming to act under a valid law will not oust the courts of jurisdiction to restrain their excessive and illegal acts.

In the case of Smyth *v.* Ames (169 U. S., 466) the statute of Nebraska gave a broad review in the following language:

Whenever any railroad company or companies in this State shall, in a proper action, show by competent testimony that the schedule of rates prescribed by the act is unjust and unreasonable, such railroad or railroads shall be exempt therefrom as hereinafter provided.

Notwithstanding this statute, the court confined itself in that case to the same questions that were considered in the Reagan case—that is, as to whether the property rights of the carrier secured by the Constitution of the United States had been invaded.

There are three recent cases of the Supreme Court in which the extent of judicial interference with the rates made under legislative authority has been fully considered.

The first is the San Diego Land Company case (174 U. S., 754), a unanimous decision, in which Justice Harlan, speaking for the court, said:

But it should also be remembered that the judiciary ought not to interfere with the collection of rates established under legislative sanction unless they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just both to the owner and to the public—that is, judicial interference should never occur unless the case presents, clearly and beyond all doubt, such a flagrant attack upon the rights of property under the guise of regulations as to compel the court to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for the public use.

He further said:

The only issue properly to be determined by a final decree in this cause is whether the ordinance in question, fixing rates for water supplied for use within the city, is to be stricken down as confiscatory by its necessary operation, and therefore in violation of the Constitution of the United States.

The second case is that of the Minnesota Railroad Company *v.* Minnesota (186 U. S., 257), which was also a unanimous decision, in which Justice Brown, speaking for the court, said:

The presumption is that the rates fixed by the commission are reasonable and the burden of proof is upon the railroad companies to show the contrary.

He further said:

It is sufficient, however, for the purpose of this case to say that the action of the Commission in fixing the rate complained of as to this particular class of freight has not been shown to be so unjust or unreasonable as to amount to a taking of property without due process of law, and we therefore conclude that the judgment of the Supreme Court must be affirmed.

It will be observed that the Supreme Court in this case confined itself to the question as to whether or not the rate complained of was so unjust or unreasonable as to amount to a taking of property without due process of law. The Minnesota statute gave the courts the broadest kind of review, as I have heretofore shown, and yet the Supreme Court of the United States in considering the subject confined itself to the consideration of the constitutional questions involved.

The third case is that of the San Diego Land Company *v.* Jasper (189 U. S., 439), also a unanimous decision, in which Justice Holmes, speaking for the court, said:

We do not sit as a general appellate board of revision for all rates and taxes in the United States. We stop with considering whether it clearly appears that the Constitution of the United States has been infringed, together with such collateral questions as may be incidental to our jurisdiction over that one.

The VICE-PRESIDENT. The Chair is obliged to inform the Senator from Kansas that his time has expired.

Mr. LONG. I will avail myself of the liberty of speaking somewhat further on another amendment.

Mr. ALLISON. Mr. President, I perhaps should state my acknowledgments in the beginning to the Senator from Maryland [Mr. RAYNER] who, in a way of pleasantry, undertakes to give me credit which I do not deserve, and also to give the President credit which he does not deserve.

The amendment of the Senator from Maryland, which is under discussion at this time, is practically the amendment which I have offered to this bill, and no amount of declamation and positive and often-reiterated assertion can change the situation of this bill. I want to call the attention of the Senate, first—and I will only occupy a minute—to the framework of this bill. The framework of the bill, if it is to be worth anything, should contain a provision whereby a commission, administrative in its character, shall carry out the legislative will, as found in this bill, if it shall become a law.

The Commission is clothed by this bill with the power of Congress, as I understand, and when it makes a decision and a declaration, it has the force and power of a legislative act, or else we have spent here three months or more in vain. Either the making of a rate is a legislative act or it is nothing, under the Constitution and our system of Government. The judicial power can not be invoked to make a rate, nor can the executive power. Therefore, in acting here we are seeking, within constitutional limits, to devolve upon a commission of seven picked and enlightened men, power to deal with this great and complicated question as related to 250,000 miles of railway.

Does anybody believe that it is possible for the courts of the United States to deal with this question under the Constitution? The jurisdiction of this question does not lie in the amendment which I have offered, nor does it lie in the amendment which the Senator from Maryland has offered. If we are ever to exercise governmental power over the railways it must be done here in this body and in the other Chamber. It can not be done anywhere else. If we have not the power to delegate to a commission the details of this legislation as respects what is a reasonable rate, then it can not be done by any body, and we are relegated in this country of ours, under constitutional limitations, to saying that the railroads of this country, without let or hindrance, may make their own rates without revision.

We must select for the execution of this law seven men who are the fit men of this country, familiar with this great subject, and we must rely upon their intelligence and their integrity to deal with this question, and we must give them, and we propose to give them in this bill, the necessary power to do it. But, of course, they must exercise that power within constitutional limitations. Those constitutional limitations are familiar to us all. They are that the rates fixed by the Commission shall provide a just compensation to the carrier; and that we would have to do if we sat down in this Chamber and fixed a schedule of rates for every railroad in the country. Although we have the legislative power to do that, it is impossible for us to exercise it, and everybody knows it is impossible. Therefore we must, within the powers we have, without trenching absolutely upon the legislative power, grant to the Commission the power to enable them to establish a just and reasonable rate under the conditions of this bill.

What is a just and reasonable rate? I heard the Senator from Maryland [Mr. RAYNER] himself describe a just and reasonable rate as a just compensation, using the constitutional term. We have been trying to do that for a long time. This is the first time that the question of fixing a rate has ever come up in Congress. No Congress has ever before put in the hands of a commission the power that this bill proposes to give to them.

It has been said frequently, I know, and it has been said on this floor in debate, that in the legislation of 1887 we gave that power to the Commission. I was present here when that whole debate occurred, and I wish to say that it is not possible that the Congress at that time intended to give this power to the Commission. It was discussed more or less frequently, but

you may ransack that debate, which continued for six weeks, and you will find that in no case was it proposed to give to the Commission the power of fixing rates, either maximum or minimum or both. The effect of that act was to make the Commission nothing but an arbitration board or referee. They could not even enforce any of their own orders. They were obliged, if one of their orders was disobeyed by a railroad company, to go to the court for the purpose of having it enforced. Although it may be that there was no objection to the power of making rates being given to the Commission for some time after the Commission was organized, it was not in the contemplation of the men who framed that act that there should be power given to the Commission to fix rates of any kind.

Now, for the first time, we are confronted with this specific question. We all agree that we can not here directly make rates or revise rates. Hence we are seeking to establish a commission of the highest character and intelligence, which shall deal with this question as an administrative board. When they have dealt with it, their order stands as the judgment and the will of Congress, or else it is nothing. The basis of this whole transaction, when the Commission has exercised its authority and issued its order, is equivalent to a statute. What do the courts do in case we pass a law here upon this subject and a suit is brought to test that law? The test is its constitutionality and nothing else. It is that, or it is that this administrative board of ours has exceeded its authority. Those are the only two questions which can possibly come up under this bill under any circumstances or any situation whatever.

Why does the Senator from Maryland, in his peculiar and euphonic way, undertake to say that here is an opportunity for the judiciary of the United States to deal with every question that can possibly come up under this bill? Mr. President, it does not require a lawyer of many years standing to know that his construction of this amendment is an impossible construction. I will venture the statement that there is no court in this country which will in the slightest degree give heed to the suggestions the Senator has made. I know there are a great many statutes of the character of this proposed legislation in the States. State after State has given to the courts full and complete review of acts of their commissions, and I want the Senator from Maryland or some other Senator to show me where the Supreme Court has gone one step beyond the discussion of the constitutional power of the Commission or the question whether it had exceeded its authority. Where is the decision that goes beyond that? I have listened to these debates with interest and with great benefit to myself, but I know of no opinion from any judicial body which undertakes to say that every little act of the Commission may be reviewed by the court.

That is the view I take of this amendment of mine; it is called mine on the face of these papers. The Senator from Maryland does me the honor to say that I am merely acting for the Executive as respects this amendment. I will deal with that later when the Senator from Maryland has had another opportunity to be heard. I hope there will be a sufficient number of amendments offered to enable me also to say a few words on that subject.

So I conclude, Mr. President, by saying that the amendment of the Senator from Maryland, this bill as it came to us from the House, and the amendment which I had the honor to offer through my friend the Senator from Illinois [Mr. CULLOM] a day or two ago are all of them limited as respects the jurisdiction of the courts to two questions—(1) whether or not the Commission has acted beyond its authority, and (2) whether the decision of the Commission fixes a just and reasonable rate and gives just compensation, because I remember how thoroughly the junior Senator from Texas [Mr. BAILEY] elaborated that question about just and reasonable rates and just compensation. He treated them as I treat them now, as synonymous.

The VICE-PRESIDENT rapped with his gavel.

Mr. ALLISON. That is the only question involved in the amendment of the Senator from Maryland.

The VICE-PRESIDENT. The time of the Senator from Iowa has expired.

Mr. BAILEY. Mr. President, it is not entirely creditable to the candor of the Senate to say that for three long months this controversy has been revolving around the question as to the character of a court review, and now, after all of this long debate, it is suddenly discovered that all court reviews at last mean the same thing.

Mr. ALLISON. Will the Senator allow me for a moment?

Mr. BAILEY. Certainly.

Mr. ALLISON. I did not say all "court reviews." I said the several propositions that are now pending.

Mr. BAILEY. The Senator will find that if he can sustain the proposition that the court review, as it will be defined in the bill with his amendment, is the same as the court review proposed by the Senator from Maryland, then all court reviews at last come to the same complexion. The Senator from Iowa makes this mistake. He assumes that Congress is compelled to confer upon the courts all the jurisdiction which this bill, with his amendment, confers. But, sir, nothing could be further from an accurate statement of the law than that. The only jurisdiction which Congress is compelled to confer upon the courts is the jurisdiction to hear and determine the carrier's constitutional right to a just compensation for his property. Indeed, Congress is not compelled to confer even that in the bill, but if it failed to do so and if it did not exist, independently of this bill, under the existing law, then the bill itself would be unconstitutional and void. The carrier could not affirmatively assail it, because the court can entertain jurisdiction of no suit except when authorized to do so by an act of Congress, but when the Government summoned the offending carrier into court to answer for its failure or refusal to obey the law, the carrier could then plead that the law was not binding upon its conscience or its conduct, because it was contrary to the constitutional guaranty that it shall not be deprived of its property without the due process of law.

But this bill, as it is now proposed to amend it, goes far beyond the question as to the constitutional guaranty of a just compensation and beyond the submission to judicial cognizance of those practices and regulations which involve a property right. This bill provides—and I invite the attention of the Senator from Iowa to the breadth of the language—

> The venue of suits brought in any of the circuit courts against the Commission to enjoin, set aside, annul, or suspend any order—

That would be broad enough, but this amendment does not stop with that—

> or requirement of the Commission; * * * and jurisdiction to hear and determine such suits is hereby vested in such courts.

Congress is not required to submit every order or requirement of the Commission to judicial scrutiny. Congress can authorize the Commission to do many things into which the courts are not entitled to inquire. Indeed, sir, Congress can authorize the Commission to do everything except to deprive the carrier of its property without due process of law and without a just compensation. Subject to those limitations, Congress can authorize the Commission to do whatever Congress chooses, and can expressly exclude the acts of the Commission from judicial inquiry.

Does the Senator from Iowa exclude the courts from enjoining anything which the Commission is authorized to do? Every act, important or unimportant, affecting a property right or not affecting a property right, is by the express terms of this amendment submitted to the judgment of the court; and therein lies the difference between a broad review and a narrow review. A broad review is a statutory one—a review that subjects to the determination of the court those matters which constitutionally could be excluded from judicial cognizance. A narrow review is one which auhorizes the court to hear and determine only those matters and things which, because they involve a property right, could not be excluded from judicial determination. If the Senator from Iowa is entirely certain that he wants only to submit to judicial cognizance what can not be excluded, the way is easy. Three lines in this bill can accomplish it. But it is the determination of our friends on the other side to open the doors of the court, not only as wide as they can swing, but it appears to me that they have determined to take the doors off the hinges, so that Congress will not hereafter be tempted to narrow that review.

I congratulate the Senator from Rhode Island [Mr. ALDRICH], who denies the soft impeachment of the Senator from Maryland, and modestly disavows any part in this arrangement; and yet from the beginning of this long debate to this day the one insistance of the Senator from Rhode Island has been for a broad court review. He has at last obtained what he wants, and hence he is so well satisfied with this amendment. Some Senators may not know what they have agreed to do, but the Senator from Rhode Island is not one of them.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Rhode Island?

Mr. BAILEY. I do.

Mr. ALDRICH. I stand exactly where the Senator from Texas stood when he said in this presence: "I will not vote for any bill that does not open wide the doors of the courts of the United States to all the people of the United States."

Mr. BAILEY. Oh, no! The Senator stops short of the quotation—"to protect their constitutional rights."

Mr. ALDRICH. That is an addition which the Senator now makes to his original statement.

Mr. BAILEY. The Senator is mistaken. The Senator from Texas said then and he says now he will not be a party to any proposition which attempts to cheat the Constitution and to deprive the courts of a power which is constitutionally theirs. That is what I said then. That is what I say now.

Mr. ALDRICH. The people of the United States have no rights—no property rights or other rights—except such as are guaranteed by the Constitution of the United States.

Mr. BAILEY. The Senator from Rhode Island is mistaken again. We have numerous political rights which——

Mr. ALDRICH. I should perhaps have said property rights.

Mr. BAILEY. Which are under no guaranty of the Constitution of the United States. We have numerous personal rights which are not secured by any constitution, State or Federal. Indeed, Mr. President, the only property right which we enjoy under the Constitution of the United States is that our property shall not be taken from us without due process of law, or without a just compensation. All the property rights we hold subject to the control and disposition of the Federal Government are under those two limitations. Those limitations I cheerfully respect, and, Mr. President, if I were going to make another constitution, I would write in it those same limitations, just as our fathers wrote them in the one under which we must now legislate. I believe in a written constitution. I will grant to no body of men that can be chosen the right to legislate, without limitation, upon the essential rights of the citizen. That is the difference between a Democrat and a Republican. That is what makes us Democrats and that is what makes you Republicans and what made your ancestors Whigs. We not only believe in a written constitution, but we believe in construing every line and letter of it strictly to serve its purpose. You believe in a broad construction of the Constitution as well as broad court review. I think you honestly believe it; or, at least, most of you do. You believe as honestly in that as I do in my theory, because you trust more to the wisdom and to the justice of the living than you do to the restraining enactments of the dead. Just as if I were writing a constitution I would write those provisions in it, so when I am writing a law under that Constitution, I desire that there shall be written in it such, but only such, jurisdiction to the courts as the Constitution commands us to give them.

Mr. FULTON. Mr. President, I think I have been a persistent, if not a consistent, advocate of what we have come to call the restricted or narrow review. I fully agree with the Senator from Texas [Mr. BAILEY] that there is a clear distinction between what we have called and what we mean by a restricted review and that which we term the broad review. I believe, and have contended throughout this discussion, that under the Constitution we can not deprive a carrier or a party affected by the orders of the Commission of the right to have every such order tested as to its constitutionality or as to whether the Commission had the power or authority under the grant of Congress to prescribe it. And I believe unless we specifically give the courts the power to go beyond that, that is the limit to which the courts can go or will go in any case.

There is and has been a wide misapprehension as to the nature and extent of the controversy which has been going on here between the so-called "narrow" and the so-called "wide" review advocates. There seems to be an impression among some that one party has contended that there should be no court review whatever of the orders of the Commission. There has been no such contention, Mr. President. It has been conceded by all that the parties affected by the orders of the Commission have the right to have tested in court the question as to whether or not their constitutional rights have been invaded or the Commission has exceeded its authority. We have contended that the parties have this right whether it be so written in the statute or not; that it is not necessary to write any such authorization in the statute in order to vest such right in the parties affected by any order of the Commission.

But we contend further that if such authorization shall be inserted in the statute, it will not in the least extend the powers of the court to inquire into or to review the orders, unless the statute shall go further and provide that the courts may also review the discretion which is vested in the Commission to make the orders, and right there I contend is the boundary line between the restricted and the broad review. The question is whether or not we shall allow the parties affected by the orders of the court to have a judicial inquiry beyond the constitutional question into the question of the wisdom of the exercise by the Commission of its discretionary powers under the act of Congress. Clearly, such right never exists unless affirmatively and in terms granted by Congress, and neither by the original text nor as proposed to be amended is or will such right be granted.

Mr. President, these have been the issues. Now, the Senator from Iowa offers an amendment to the provision we have commonly called the "venue clause" in the pending bill. So far as that particular amendment is concerned, in view of the criticisms which have been offered against it, I think I ought to say that I acknowledge something of responsibility for its presentation here. I think I can safely say that I am the sole, lone, and exclusive author of the words "and jurisdiction to hear and determine such suits is hereby vested in such courts." I assume the responsibility for having suggested and written those words. I make no claim to having originated the thought or idea. The suggestion that some amendment of that character should be made has been advanced during the discussion of this bill by several. But as for the particular words here employed and their insertion as proposed, I admit and assume entire responsibility. I suggested them to the Senator from Iowa, and at his request put them in writing exactly as they here appear without suggestion from or consultation with any person whomsoever. Whatever of responsibility this admission entails, I willingly assume.

I undertake to say, Mr. President, and I think I can prove, that the addition of these words to this section do in no wise extend or enlarge the powers of the court to review the orders of the Commission. Let us take the language of the bill as it is without the proposed amendment:

> The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office.

That is the language of the bill as it stands to-day. I ask the Senate what does that language mean? "The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, or annul" the orders of the Commission shall be in certain circuit courts of the United States in certain districts. Does not that contemplate and imply that those courts shall have jurisdiction to try, "hear, and determine such cases?" It has been contended, of course, that the clause quoted would not vest in the courts jurisdiction in such cases. I have always contended that it would and that it is immaterial whether or not it would, because the courts would have the jurisdiction without an express provision granting it to inquire whether or not an order invades a party's constitutional rights. I ask Senators is it not a most illogical and absurd proposition to assert that the venue of a certain class of cases shall be in certain districts, in certain courts therein, and yet deny that those courts have jurisdiction to hear and determine them?

Mr. RAYNER. Let me ask the Senator——

Mr. FULTON. No; the Senator is already scheduled for the next amendment to complete his speech, and I think he ought not to appear in advance of the announcement. If the Senator will kindly pardon me, I must hurry along, because I have little time. I may also have to advertise dates for the future.

Mr. President, whatever may be the views of Senators as to whether or not this venue clause vests the jurisdiction in the courts mentioned, I assume that everyone will admit that it was intended to confer such jurisdiction, or, at least, to acknowledge it, because, as I have said, it would be the most absurd proposition imaginable to say to a party, "We realize that you have a right to maintain a certain action, you may maintain a suit to test the constitutionality of the orders of the Commission, but you must try the case in this particular court," and then when the party comes into that court to try the case deny the jurisdiction of the court to entertain the suit.

Then, Mr. President, if it be a fact that the granting or acknowledgment of jurisdiction was contemplated in this venue clause, tell me how much it adds, how much it enlarges, how much it extends the jurisdiction of the courts to simply add the words "and jurisdiction to hear and determine such suits is hereby vested in such courts."

Suppose this bill should be enacted without changing the venue clause or adding the proposed amendment. Would it be contended that it was the purpose of Congress to designate the courts in which any suit to test the validity of an order of the Commission should be brought and yet to deny to such courts jurisdiction to hear and determine such suits? What, think you, was the purpose of inserting this venue clause? Was it intended as a delusion and a snare?

Clearly the framers of this bill recognized the fact that suits might and would be instituted to test the validity of orders; that under the Constitution the right to prosecute such suits might not be denied, but that Congress might designate in what court they should be prosecuted, and it was deemed important so to do, hence this venue provision.

But, Mr. President, do the words "jurisdiction to hear and determine such suits is vested in such courts" in any wise

broaden the right of review? Let us see. What suits are referred to in the amendment? Manifestly the suits the venue of which is fixed in certain courts. No other or different character of suits are brought in by the amendment. Then, how can it be contended that an enlarged jurisdiction is thereby given? Simply jurisdiction to hear and determine such suits, namely, the suits the venue of which is provided for in the original text, is granted. Was it not designed that such courts should have jurisdiction to hear and determine such? If not, why stipulate the place of trial when there could be no trial?

Do the words "to hear and determine" enlarge the right of review? Clearly not, for they are words the legal import of which is well understood. "Jurisdiction to hear and determine" signifies only that the court is empowered to hear and determine the case according to the legal rights of the parties as they shall appear; they do not in any degree define the scope of the inquiry. It therefore clearly appears that this amendment adds nothing to the jurisdiction of the courts except to make it clear that there is no purpose to deny a party whatever right he may have under the Constitution to a judicial investigation to ascertain whether or not his constitutional rights have been invaded, or the authority of the Commission exceeded. How far, then, under such a provision will the courts go in reviewing the orders of the Commission? In answer to that I lay down this proposition:

Where Congress confides to an administrative board or commission such as this discretionary power, the courts will not review or inquire into its orders or proceedings in the exercise of such discretion further than to ascertain whether or not it has exceeded the power vested in it or, what is the same in effect, violated the constitutional rights of a party affected by any such order or proceeding, unless the statute specifically and in unquestionable terms authorizes it to review such discretion.

Now, here you will observe no such authority is given or implied. The provision is that all suits "brought to enjoin, set aside, annul, or suspend an order of the Commission" shall be brought in certain courts, which shall have jurisdiction to hear and determine them. That is simply a recognition of the admitted fact that the right to bring such suits can not be denied, for, as I have said and as has been said by every Senator who has participated in this discussion, the right to a judicial inquiry to ascertain whether or not a party's rights under the Constitution have been invaded, or the authority of the Commission exceeded, can not be denied, hence it is here recognized. True, it is not specifically provided that the inquiry shall cease when that fact has been determined, but such is the rule, unless specific authority for further inquiry be given.

Now, on that proposition I wish to call the attention of the Senate, just briefly without reading in extenso, to the case of the San Diego Land Company *v.* National City, in 174 U. S. The court there is discussing how far judicial review of rates fixed by a commission just such as this may be had without express and specific authority. This is what the court said, Mr. Justice Harlan announcing the decision:

> But it should also be remembered that the judiciary ought not to interfere with the collection of rates established under legislative sanction unless they are so plainly and palpably unreasonable—

Now, notice—

> unless they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just both to the owner and to the public—that is, judicial interference should never occur unless the case presents, clearly and beyond all doubt, such a flagrant attack upon the rights of property under the guise of regulations as to compel the court to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for the public use.

Mr. President, that is the limit to which the court will go unless there is some specific authority found in the statute for doing otherwise; and it is reasonable, logical, and just, because Congress in the exercise of its legislative authority has vested in the Commission discretionary power, and the courts never review the exercise of discretionary power unless there is a specific provision for it or unless abuse of it can be shown.

Mr. BACON. Will the Senator permit me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Georgia?

Mr. FULTON. It is hard to refuse the Senator. I have refused others.

Mr. BACON. I simply wanted to ask the Senator, referring to the proposed amendment which he is now discussing, whether under the terms of the proposed amendment there is any order or requirement which it is possible for the Commission to make which this amendment does not give specific jurisdiction both to hear and to determine?

Mr. FULTON. No, in one sense; yes, in another. I will answer the Senator this way: There is no suit that may be filed attacking the validity of the orders of the Commission on the ground that they are unconstitutional of which those courts will not take jurisdiction, but the court will take jurisdiction simply for the purpose of protecting the constitutional rights of the parties. The courts will inquire whether or not constitutional rights have been invaded, and if they find that they have not they will drop the suit then and there and dismiss it.

Mr. BACON. If that is the case, what possible objection can the Senator have to the amendment offered by the Senator from Maryland, which prescribes that very thing?

Mr. FULTON. That is a very natural question. While we understand in a general and in a sufficiently definite way to what extent the court will go in cases of this character where no specific provision for reviewing the discretion of the Commission is given, yet the Senator knows very well, because he is an able lawyer, that when we enter upon the work of prescribing the limits of the jurisdiction of the court to exercise its judicial power we are treading on very dangerous ground. It is the wiser course to let the court determine the extent of its power in that respect. How far they will go we know with sufficient certainty to be assured that under this provision they will not review the Commission's discretion.

The VICE-PRESIDENT. The Senator's time has expired.

Mr. CULLOM. Mr. President, I have retained my seat in the Senate while I have been in the city during the whole discussion of this subject. I have felt that perhaps I ought to continue to do so, but in view of my past relation to the subject and the expectation that I should say something upon it I have concluded to make a very few remarks.

Mr. President, I am in favor of the adoption of the amendments offered by the Senator from Iowa [Mr. ALLISON].

When the Hepburn bill unanimously passed the House, and was referred to the Committee on Interstate Commerce of the Senate, ill health necessitated my absence from Washington. I did not have the opportunity or facilities to examine the legal phase of the subject. Without special investigation, I supposed, as a matter of course, that the railroads would have the right under that bill, without amendment, to appeal to the courts if the rates prescribed by the Commission invaded any right guaranteed to them by the Constitution. The agitation for an amendment to the interstate-commerce act of 1887 has been going on for nearly ten years, until the patience of the people of the whole country has become nearly exhausted, and my main anxiety was to secure the passage of an effective bill at the earliest possible date.

The Hepburn bill having unanimously passed the House, and seeming to embody the more important features deemed essential to an effective act, I favored the passage of that bill without amendment.

The general provision in that bill that the orders of the Commission shall remain in effect until set aside by the Commission itself, or by a court of competent jurisdiction, taken in connection with the judicial power as defined by the Constitution and laws of the United States, extending as it does to all cases in law and equity arising under the Constitution and laws of the United States, and the general right of every man to appeal to the court if his constitutional rights are invaded, appeared then to me to be sufficient to confer upon the circuit court jurisdiction to protect the rights of the carrier under the Constitution, without any specific provision conferring such jurisdiction upon the circuit courts.

But as this great debate has developed the subject, and I have examined the decisions of the courts, I think it extremely doubtful if the circuit courts of the United States can take jurisdiction without such jurisdiction is expressly conferred upon them.

The decisions of the Supreme Court since the days of Chief Justice Marshall and extending to the present, many of which have already been quoted here, seem to make it reasonably clear that the circuit courts of the United States, having been created by statute, can have no jurisdiction but such as the statute confers. And, as stated by the court itself, the circuit courts of the United States are created by act of Congress, and it is necessary in every attempt to define their power to look to that source as a means of accomplishing that end.

The decisions of the Supreme Court have convinced me that it would be unsafe, to say the least, to pass this bill without inserting therein a clause expressly conferring jurisdiction upon the circuit courts of the United States.

Mr. President, if we could constitutionally do so, I would not hesitate to confer upon the Interstate Commerce Commission the absolute, unreviewable power to fix rates.

I believe that the Interstate Commerce Commission is a much more competent body to fix a railroad rate than is a court of the United States.

Deriving their appointment from the same source, they should be as able and as competent as the circuit judges of the United States. In addition, the Commission gives its whole time and attention to the consideration of all the details connected with the fixing of rates and the management of railroad property. Without at all reflecting upon our United States courts, the Interstate Commerce Commissioners necessarily become far more expert in this branch of the subject than any circuit court can possibly become.

Judge Grosscup, an able circuit judge of the United States, has recently said that one of the difficulties in the administration of the law is that the circuit judges are totally incompetent to pass upon the question of rates. Judge Grosscup made this statement, not as a reflection on the learning and ability of circuit judges, but because of the intricacy of the question and the vast amount of other important work which is the daily life of the circuit judge. As he expressed it—

> The circuit judge one day is exploring the intricacies of a patent case, another day he is hearing a personal-injury case, another he is hearing some customs case, another he is pursuing the meanderings of some chancery case. Every day brings up some new subject covering some wide area upon which he must be specially educated for the day's judgment. * * * Now, call him from this judgment seat to decide upon a question, the most perplexing, the most difficult question to a man who has had no education, no vision of the subject upon which he is expected to rule. Thus I say that the circuit court is an incompetent court.

Mr. President, I was no less forcibly impressed with the reasoning of Mr. Justice Bradley, than whom no abler man has occupied a seat in the Supreme Court, in his dissent in the Minnesota case.

He said:

> It is complained that the decisions of the board are final and without appeal. So are the decisions of the court in matters within their jurisdiction. There must be a final tribunal somewhere for deciding every question in the world. Injustice takes place in every tribunal. All human institutions are imperfect—courts as well as commissions and legislatures. Whatever tribunal has jurisdiction, its decisions are final and conclusive, unless appeal is given therefrom. The important question always is, What is the lawful tribunal for a particular case? In my judgment in the present case the proper tribunal was the legislature or the board of commissioners which it created for the purpose.

It will thus be seen from the reading of the decision of Mr. Justice Bradley that he did not manifest the distrust of the Commission as a competent body upon which to be conferred the absolute power to fix rates, which we so frequently hear both in and out of Congress.

But I understand very well, Mr. President, under the decision of the Minnesota case, that neither Congress nor the legislature can confer this power upon a commission to fix a rate which shall be final and not subject to review by the courts.

Mr. President, I am not in favor of a general or broad right of review by the courts, and neither do I think that that portion of the pending amendment conferring jurisdiction upon the circuit court confers a broad right review. It does not do it in terms, and, in my judgment, it will not be so construed by the courts. If this bill shall become a law, I do not want it to be shorn of much of its usefulness by judicial construction, as was the act of 1887.

The court should not be permitted to go into the whole question of the reasonableness of the rate fixed by the Commission, because the fixing of the rate is a legislative function, and the Commission is a much more competent body to fix a rate than is any court of the United States.

The proper province of the court is to determine whether the Commission exceeded its authority, and whether the rate fixed by it contravenes the right of the carrier guaranteed by the fifth amendment to the Constitution, that property shall not be taken without due process of law, nor without just compensation.

Mr. President, there is a great difference between the jurisdiction of the court over a rate fixed by the railroad itself and a rate fixed by Congress or the Commission.

In a controversy between a shipper and a railroad the courts very properly go into the whole question of the reasonableness of such rate. But in a controversy over a rate fixed by a commission the proper function of the court is to inquire whether the rate is so unreasonably low as to amount to confiscation under the fifth amendment.

This is true, because when Congress delegates to the Commission the fixing of a rate and the Commission fixes the rate it is practically the same as if the rate were prescribed by Congress itself. It is practically a rate fixed by law, and all that the court can properly pass upon is whether the law-made rate violates any constitutional right of the carrier.

This, in my judgment, is the extent to which the court would review the rate. This is especially true where jurisdiction is merely given in general terms, as in this amendment, to hear and determine the controversy without expressly providing that the court shall pass upon the reasonableness of the rate.

Mr. President, I do not see that there is anything inconsistent on the part of Senators who favored the adoption of the Hepburn bill without amendment in favoring the pending amendment conferring jurisdiction on the circuit court.

When I favored the passage of the Hepburn bill without amendment I knew that the carrier could not be denied the right of appeal to the courts, and I thought that the Hepburn bill as it passed the House contained sufficient provision on that subject.

The adoption of the jurisdiction portion of the pending amendment will not confer upon the courts any greater jurisdiction than the friends of the Hepburn bill thought it contained when it passed the House. I consider it merely declaratory of something which we thought was already contained in the bill.

If the Hepburn bill as it passed the House contains sufficient provision for review by the courts, this amendment providing "jurisdiction to hear and determine such suits is hereby vested in such courts" will not broaden the scope of the review. Whatever the courts could have constitutionally done under the terms of the bill as it passed the House they can constitutionally do under this amendment, and no more.

On the other hand, if the bill as it passed the House does not contain sufficient provision for review, and is therefore unconstitutional, this amendment will render the bill constitutional.

The amendment does not confer in terms a broad right of review. It does not define to what extent the rate fixed by the Commission can be reviewed by the court. In the absence of such provision, I believe that the courts will hold that they will not interfere with a rate fixed by the Commission unless the Commission exceeded its authority or unless the rate fixed amounts to confiscation under the fifth amendment.

Mr. President, I do not think there is any danger of the courts exercising any greater power of review than to determine whether the rate fixed by the Commission is in violation of the constitutional rights of the carrier.

As the subject has been so thoroughly developed here, and the general provisions of the bill, especially the provision that the Commission shall prescribe a rate which, in its judgment, is reasonable and just, the manifest intent on the part of Congress that the court shall not unduly interfere with the rate fixed by the Commission, to my mind, make it certain, even though the courts have the power, they will be loath to overturn a rate fixed by the Commission unless it is so manifestly unjust as to amount to the taking of property without just compensation.

In passing upon rates fixed by the Commission, under the fifth amendment, the courts have considerable latitude, and all the latitude which they should be given.

It is said that under the fifth amendment the rate fixed by the Commission must amount to "confiscation" before the court can set it aside. In a legal sense this is perhaps true, but the term "confiscation" has always seemed to me misleading when used in this connection.

The term "confiscation" conveys to the ordinary mind the taking of property without any compensation. If that were held to be its meaning, the courts would have a very narrow jurisdiction. But under the fifth amendment the railroad is entitled to a just compensation for the services performed, and that just compensation has been defined to be a fair return upon the reasonable value of the property at the time it is being used for the public. (Kansas City Stock Yards case, 183 U. S., 90.)

So, Mr. President, it will be seen that the courts will have a reasonably wide latitude in passing upon the rate fixed by the Commission.

Mr. President, this is the essential feature of the pending amendment, but it contains other excellent provisions. I am referring now to the amendment offered by me on behalf of the Senator from Iowa [Mr. ALLISON].

I have always been much in favor of striking out the words "and fairly remunerative." In my judgment they should never have been inserted in the original bill.

The rate to be fixed by the Commission should be a "just and reasonable" rate, because the meaning of those terms is well understood and has been passed upon many times by the courts. The addition of the words "and fairly remunerative" might bring a new element of consideration into the fixing of the rate. A just and reasonable rate would probably be a fairly remunerative rate, and vice versa. To say the least, the words are surplusage and should be stricken from the bill, if they have not already been.

The pending amendment also contains a provision leaving it within the discretion of the Commission, within a limit of two

years, as to the time when the rate shall continue in effect. This will give the necessary elasticity, so that rates may be readily changed, if found necessary.

The limitation on the granting of preliminary injunctions is also a very wise provision. It is in a sense a compromise between a prohibition against granting of preliminary injunctions and leaving the court absolutely free to grant such injunctions. Under this provision the Commission will have ample time to appear and resist the granting of an injunction.

With these amendments adopted I think the pending bill will be not only constitutional, but will prove very effective legislation.

Mr. BACON. Mr. President, I do not design speaking over four or five minutes at the outside. I do, however, want to ask the attention of Senators, according to all of us the common desire to accomplish the best in this regard, while I present this question in just a few words and without elaboration.

There is no question, I presume, in the minds of lawyers that in the absence of any distinct conferring of jurisdiction by this act, the United States courts would have all power to review any decision which affected the constitutional rights of the parties; in other words, nothing that we can incorporate in this bill can take that away from the citizen, because a law, which is superior to us, guarantees to him those rights and has conferred upon the courts the power and the duty to maintain those rights for the citizen. But there is a domain outside of that—outside of the rights specifically protected by the Constitution—in which it is within the power of Congress to confer or to withhold jurisdiction from the courts.

The point I wish to ask the attention of Senators to for their candid, unbiased, and unprejudiced judgment is this: Under the terms of this proposed amendment, if we adopt it—I am speaking now of the amendment offered by the Senator from Iowa [Mr. ALLISON]—under the letter of it, under the words of it—is there one single order or requirement of the Commission which, so far as we can confer it—the jurisdiction—we do not confer in this proposed amendment? If it is adopted, we confer upon the court the power not only to hear, but to determine every question which can arise as to any order or requirement of the Commission. Let me read the language as found on page 317 of this print of the amendments. I asked the Senator from Oregon [Mr. FULTON] the question as to this, and I was not entirely content with his reply, because I did not think it was definite and candid. Of course I know he intended to be candid, but his reply did not cover the question. If I may have the attention of Senators for two or three minutes, I desire to say that the language of that amendment, omitting words unnecessary for this discussion, is this:

> The venue of suits * * * to enjoin, set aside, annul, or suspend any order or requirement shall be, etc., and jurisdiction to hear and determine such suits is hereby vested in such courts.

Paraphrasing the language, it would read in this way:

> Jurisdiction to hear and determine any order or requirement of the Commission is hereby vested in such courts.

That is what the language means; that is what it is when paraphrased.

Those Senators who are in favor of conferring on the courts jurisdiction to review every order and every requirement of course can consistently support that amendment; but as to Senators who have stood here for months and asserted, both in public and in private, that they are not willing that the courts shall have the jurisdiction and the power to hear and determine questions outside of the constitutional questions, how can such Senators now defend themselves on the ground of consistency? They can only do so by adopting the position taken by the Senator from Oregon [Mr. FULTON], in which he says that, while this language does confer this power upon the courts, the courts will not exercise it. That is practically what the Senator from Oregon said.

Mr. FULTON. Will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. BACON. I do.

Mr. FULTON. I simply desire to interrupt the Senator to make a correction, for he certainly does not intend to misrepresent what I said.

Mr. BACON. The Senator knows I do not.

Mr. FULTON. I did not, with all deference to the Senator, say that we granted the power to the court, but that the court would not exercise it. I said if we granted to the court the power to hear and determine suits that should be brought to test the validity of an order of the Commission, without granting specific authority to go beyond the constitutional inquiry, which we do not grant, the courts will not go into an inquiry as to whether or not the Commission has wisely exercised its discretion, but will simply inquire whether or not the constitutional rights of the party has been invaded, and if not, will dismiss the suit.

Mr. BACON. I ask the Senator, if that was his position, why it was he was opposed to the amendment of the Senator from Maryland [Mr. RAYNER] which proposes to confer that power upon the courts?

But, Mr. President, what the Senator says—and I do not desire now to enter into a colloquy with him on the subject, because my time is so limited, and I promised not to occupy as much time as I have already done—but the Senator said that the court in taking jurisdiction is not going to be governed by the language of this law, but by what they conceive to be their duty outside of the law and outside of the expressed jurisdiction which we by this language confer.

Now, I ask the Senator in his reply to indicate a single order or a single requirement of the Commission which this proposed amendment, if it is ingrafted upon this law, will not give to the circuit court of the United States jurisdiction both to hear and to determine?

Mr. CARTER. Mr. President——

Mr. BACON. If the Senator will pardon me, I shall be glad to have him answer the question in his own time.

Mr. CARTER. The Senator propounded a question.

Mr. BACON. I know, but I said I hoped any Senator who would answer it would reply in his own time. If the Senate will give me extra time I will be glad to hear the Senator.

Mr. CARTER. I have no time to give.

Mr. BACON. The Senator has his time. He has not spoken on this amendment and will have fifteen minutes in which to do it.

I want to call attention now to another matter to see if the defense, if I may so term it, of this amendment is well founded when it is claimed that the amendment does not enlarge the jurisdiction which is contained in the original Hepburn bill. The original Hepburn bill read in this way:

> The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office.

It is contended that that gives jurisdiction to the courts, not simply to hear a complaint, but upon such hearing to enjoin, set aside, annul, or suspend any order or requirement, and that these additional words contained in the proposed amendment which specificially confer that jurisdiction "to hear and determine" do not enlarge the power which the original Hepburn bill conferred upon them.

Why, Mr. President, what do these words in the original bill mean when they say:

> The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission?

They simply mean that whenever any person shall claim the right to have such an injunction on account of any order or any requirement of the Commission, the venue to hear that contention, the place and the court where and by which that contention shall be heard, shall be the place and the court specified in this bill. But it is incredible that any lawyer will upon careful consideration claim that that language in the original House bill confers the jurisdiction not only "to hear," but "to determine" every complaint as to any order or requirement of the Commission, and to enjoin or set aside any such order or requirement. It is an impossibility. It simply designates the venue in which, when any person makes application to enjoin any order or requirement of the Commission, the court shall have jurisdiction to hear and determine whether that is a legitimate matter for it to take into consideration. It is the territorial jurisdiction I speak of when I use the word "jurisdiction;" but not the legal jurisdiction. It is the venue and venue only—not the jurisdiction to hear and determine. A court may have territorial jurisdiction and still not have legal jurisdiction of the subject-matter; and that is the entire scope of it.

Mr. President, the learned lawyers who added these words were not indifferent to that view of the matter, and the learned lawyers who for months have been considering this question were not indifferent to the proposition that it was necessary, not simply to designate the court which should have the territorial jurisdiction, which should have the venue within which parties aggrieved might ask the aid of the courts, but such fixing of the venue does not confer jurisdictional powers upon the courts as to the subjects-matter. With the venue thus alone fixed the courts would only have such jurisdictional power over the subject-matter as they would have independently of this particular act. The astute lawyers who framed this proposed amendment well knew this. And therefore to secure what they call the "broad review"—the review to secure which this debate has been protracted for three months—they well knew it was

necessary to go further and to say that the particular things for the hearing of which the venue had previously been fixed should constitute matter over which the court, thus having the territorial jurisdiction or the venue, should also have the legal jurisdiction to hear and determine. Everybody inside and outside of this Chamber knows that those who have been contending for the broad review, the unlimited review, have condemned in unmeasured terms this provision of the House bill on the ground that the review which it authorized was not broad enough to protect the rights of the railroads; and now forsooth those who stood with us have surrendered, and now applaud this unlimited amendment on the ground that it means exactly what the original provision in the House bill means.

Mr. President, what have we been talking about here for three months if it be true that this means the same thing as the provision in the House bill and does not enlarge the jurisdiction?

Mr. ALLISON. Will the Senator yield to me for a question?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. BACON. I would never decline an interruption by the Senator.

Mr. ALLISON. Suppose the situation is such that this administrative Commission, exercising power under this bill, if it shall become a law, makes an order respecting a rate, and some carrier or somebody else brings a suit against the Commission, will the courts say that they will examine those questions where discretion has actually and properly been given by law to the Commission, no property right being involved?

Mr. BACON. If the court does not do it, it would be because the court would say that Congress had no right to pass this bill and adopt this amendment, for this amendment does not restrict it in any way.

Mr. ALLISON. Very well. The court simply will not examine into that question; otherwise this administrative board is annihilated.

Mr. BACON. Mr. President, the language of this proposed amendment makes no restriction whatever. It is absolutely broad, absolutely limitless, and the Senator only takes refuge behind the proposition that the court will not exercise the jurisdiction which this amendment confers upon it, or proposes to do.

Mr. ALLISON. I take no shelter, but I want to ask the Senator, if it turns out that in this order no judicial question is involved, will the mere suggestion of jurisdiction give the court jurisdiction?

Mr. BACON. Mr. President, if time permitted, I could go into the proposition as to how far we can confer jurisdiction upon the court which it would not have in the absence of that distinct conferring of power. There is no doubt about the fact that when we prescribe a certain duty for the Commission, whether in its discretion or otherwise, if it is made a legal duty, we can confer upon the court the jurisdiction to hear and determine whether they have violated the law in that regard, and, in the absence of the distinct conferring of it, they would not have the power so to do. But it would be manifestly difficult for me to develop that line of argument without going into it at length and producing authorities. I will say to the Senator, however, that if he will read the dissenting opinion of Mr. Justice Bradley in the Minneapolis case, he will find that Justice Bradley based his dissenting opinion upon that proposition. While it is a dissenting opinion, the principle involved is not the point upon which the court decided. The majority of the judges—all but three of them who dissented—speaking for the court, put their decision upon an entirely different ground, not in conflict with that particular contention on the part of Judge Bradley; in other words, not in conflict with that legal proposition thus announced by him. They differed, as I understand, in the application.

The VICE-PRESIDENT. The Senator's time has expired.

Mr. MORGAN. Mr. President, I have heard all the lawyers in the Senate speak on this subject and several who are not lawyers, and I have read a good many law books in my life and heard a good deal of discussion about the doctrine of common carriers, their liabilities and their obligations, but I never have found any lawyer in this body, or any Senator in this body, or any judge who has ever written on this subject, who takes any exception to the language of this bill on page 3, from line 14 to 19.

The framers of this Hepburn bill in the House put a rudder or a helm on the ship that nobody has disputed as the authority over the whole subject. I will read it:

> All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

An unreasonable and an unjust charge is prohibited and declared to be unlawful by this bill. I have contented myself with that provision of the bill, being perfectly satisfied that Congress has no right to violate it in fixing an exorbitant rate, or a rate that is too low, and that no commission Congress could create could violate that provision by fixing rates that were too high or rates that were too low. But there has to be a tribunal to determine this question of reasonableness or unreasonableness. What tribunal is that under our Constitution? The judicial tribunal. Congress can not enact an arbitrary rate, even under the provisions of this bill, which it can force upon a man against his will, so long as he has the right of appeal to a court to get rid of it; neither can Congress authorize a commission to put either upon the shipper or the carrier an unreasonable rate.

The Senator from Iowa, in his splendid statement of this question, never got to the top of his subject until he finally admitted that all the rates that were to be imposed under this act or any other act that Congress can possibly enact must be just and reasonable.

So we have all met on that ground. We have been together on that ground all the time and have had no differences between ourselves on that ground; and I rested perfectly quiet during this magnificent and tremendous debate about the way of managing the courts so that they might be possibly able to make the rates just and reasonable, or, on the other hand, might possibly be able to make them unjust and unreasonable by a limitation of their authority.

That being so, Mr. President, where do the words "just and reasonable" come from in connection with the obligation of common carriers? Where do we get them from? They do not come out of any statute. They are coeval with the birth of civil jurisprudence. Who invented them and put them forward? The courts. It is a rule of court that all nations and all civilized people of Christendom respect—and nowhere more thoroughly respected than in the last clause of the first section of this bill. It is a perfectly simple proposition that if Congress makes a rate by its own legislative act which is unjust and unreasonable this bill condemns it. It is not within the purview of the powers of Congress under this law to provide for an unjust and unreasonable rate. Suppose Congress taxes an article four times its value in favor of the carrier for transportation; of course this bill would condemn that. What would be the remedy? To go into a court and get rid of it; not to come back to Congress and ask it to pass a different law. All acts of Congress under this great judicial decree, that has been a part of the civil jurisprudence of all Christendom since the courts first undertook to regulate this subject, is amenable and liable to its constraint. You can not get rid of it if you want to do it.

That solves, in my judgment, the whole question that we have been so long debating and so anxiously worrying about here in regard to the jurisdiction of the courts. You can not keep out of the courts a man against whom Congress or a commission assesses an unreasonable rate or a railroad against whom it assesses a rate that is too low. The courts will open their doors to them under this great civic enunciation that has lasted since the dawn of civilization. They will go there and get their relief in spite of all that we can do.

The courts have the final decision of this. Some way will be found to go there. You may destroy all the remedies now known, and the courts themselves, after the fashion of the old common-law courts, will invent remedies in order to get hold of this subject. So I do not really see that there is much in this bill to be discussed, except in regard to the method of handling the subject.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Maryland [Mr. RAYNER].

Mr. RAYNER. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I again announce my pair with the Senator from Tennessee [Mr. CARMACK]. If he were present, I should vote "nay."

The roll call having been concluded, the result was announced—yeas 24, nays 55, as follows:

YEAS—24.

Bacon	Culberson	Latimer	Overman
Bailey	Daniel	McCreary	Rayner
Berry	Dubois	McLaurin	Simmons
Blackburn	Frazier	Martin	Stone
Clarke, Ark.	Gearin	Money	Taliaferro
Clay	La Follette	Newlands	Tillman

NAYS—55.

Aldrich	Clark, Wyo.	Gamble	Nelson
Alger	Crane	Hale	Nixon
Allee	Cullom	Hansbrough	Penrose
Allison	Dick	Hemenway	Perkins
Ankeny	Dillingham	Hopkins	Pettus
Beveridge	Dolliver	Kean	Piles
Brandegee	Dryden	Kittredge	Platt
Bulkeley	Elkins	Knox	Scott
Burkett	Flint	Lodge	Smoot
Burnham	Foraker	Long	Sutherland
Burrows	Foster	McCumber	Warner
Carter	Frye	McEnery	Warren
Clapp	Fulton	Millard	Wetmore
Clark, Mont.	Gallinger	Morgan	

NOT VOTING—10.

Burton	Gorman	Patterson	Teller
Carmack	Heyburn	Proctor	
Depew	Mallory	Spooner	

So Mr. RAYNER'S amendment was rejected.

Mr. WARREN. Mr. President, I wish to make a request for unanimous consent. I shall leave the Chamber in less than an hour, and must be absent during the further consideration of the pending measure.

A few days ago I offered an amendment of less than three lines to the Culberson substitute, which was adopted in place of the Foraker amendment, with respect to passes. I should like to have permission now to offer an amendment to the substitute as it exists in the present bill. I think there is no objection to my amendment, which simply provides that owners or persons in charge of live stock may be carried free by the railroads when traveling with stock or when going to place of shipment or returning from place of delivery, and I should be glad to have it incorporated now in the amendment as it stands.

Mr. BEVERIDGE. There is an amendment to the substitute already pending.

Mr. WARREN. There is no amendment pending to it.

Mr. BEVERIDGE. I make no objection, but I do not see how the Senator is going to get around the parliamentary situation.

Mr. WARREN. I ask unanimous consent, which of course gets around it.

Mr. BEVERIDGE. Ah, yes! Let us hear the amendment.

Mr. CULBERSON. I do not know what the temper of the Senate is as to the matter, but I suggest to the Senator from Wyoming that possibly the Senate would now take up the motion to reconsider and adopt it or reject it.

Mr. ALDRICH. I hope we will go on to discuss the next section.

Mr. CULBERSON. Very well.

Mr. ALDRICH. Let the next section be read.

Mr. KEAN. Let the amendment be read.

The VICE-PRESIDENT. Is there objection to the request for unanimous consent?

Mr. BEVERIDGE. Let the amendment be read first.

The SECRETARY. After the words "charitable institutions" it is proposed to insert:

Or to owners and care takers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery.

The VICE-PRESIDENT. Is there objection to the request for unanimous consent?

Mr. BACON. The Senator merely wants to offer it now?

Mr. WARREN. No. I hope it will be adopted.

Mr. BACON. I beg pardon.

Mr. WARREN. For the reason that if a substitute is adopted and this amendment is not now included in the legislation which follows we might not remember to take care of this particular matter.

Mr. CARTER. I will say to the Senator from Wyoming that I have an amendment of the same kind which I intend to offer, and if agreeable I will offer his amendment instead of the one I have prepared.

Mr. WARREN. It is not a matter of any personal concern. If I can be assured that it will be offered in the form in which I now offer it, I will withdraw my request for unanimous consent.

The VICE-PRESIDENT. The Senator from Wyoming withdraws his request for unanimous consent. Are there further amendments to section 4?

Mr. LA FOLLETTE. I have an amendment which I desire to offer.

The VICE-PRESIDENT. The Senator from Wisconsin proposes an amendment, which will be stated.

The SECRETARY. On page 12, after line 14, at the end of the section, add the following:

If upon the trial of any action brought to set aside or modify any order made by the Commission under this section evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before the Commission, or additional thereto, the court, before proceeding to render judgment, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to the Commission, and shall stay further proceedings in such action for fifteen days from the date of such transmission. Upon the receipt of such evidence the Commission shall consider the same, and may alter, modify, amend, or rescind its order relating to such rate or rates, fares, charges, classification, joint rate or rates, regulation, practice, or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence.

If the Commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify, or amend the same, such altered, modified, or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by the Commission in the first instance. If the original order shall not be rescinded or changed by the Commission, judgment shall be rendered upon such original order.

Mr. LA FOLLETTE. Mr. President, I have offered this amendment, as I have offered others, because I believe it will perfect and strengthen the bill. The Commission has been reversed in thirty-two cases. In twenty-six of those cases, as the record discloses, it has been reversed because testimony was offered upon the trial before the court which was not offered when the case was presented to the Commission. The amendment proposes that if new testimony is offered when the case is on trial by the court, the testimony shall be taken, further action suspended thereon, and the record containing all of the testimony referred to the Commission for its consideration. This would give the Commission the benefit of all the evidence upon which to base its order. If the original order were set aside or modified, the railroad company would then have its opportunity to take the opinion of the court upon the action of the Commission, and the court would have before it the same testimony which the Commission passed upon. This amendment, if adopted, will take away from the railroad companies all inducement to withhold testimony when the Commission tries the case, because they will not be able to reverse the Commission by trying a different case before the court than the case tried before the Commission. There would be small likelihood that the court would disagree with the Commission. There would be less inducement to carry the case to the court and we should hear much less criticism of the Commission.

It would mean certainly a saving of time and a saving of great expense. In many cases which have been appealed from the Commission, where additional testimony was taken before the court, the writing up of the record containing the additional testimony has been a matter of very great expense to the Government. In one case, I remember, the expense was something over $10,000. That case, of course, went on from the circuit court to the Supreme Court, and the Commission was reversed. Had that case been sent back to the Commission, probably it would have been the end of the entire proceeding. If there is any objection to this amendment, I should be glad to hear somebody state it.

Mr. HALE. Question!

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin.

Mr. LA FOLLETTE. On that I ask for the yeas and nays.

Mr. GALLINGER. Mr. President, speaking to the amendment submitted by the Senator from Wisconsin, I wish to call attention to the fact that a little time ago I offered an amendmen relating to differentials, which I temporarily withdrew. I offered the amendment for the reason that some days ago the Senator in charge of this bill declared that, in his judgment, a flat mileage rate was the proper thing to be enforced, and if I remember correctly the Senator from Texas coincided in that view. It was rather alarming that such a thing could happen, because it would bring such disaster to this country as it is almost inconceivable to think of. It was with a view of preventing that possibility that I offered the amendment. I knew that it was not drawn in the best form, and I hoped that some Senator would offer a substitute which would cover the ground.

But since I withdrew the amendment I have consulted with Senators, and I am satisfied it is, perhaps, an impossible thing to draw an amendment such as ought to be offered covering that point. I have therefore determined, Mr. President, not to offer the amendment again, but before concluding I should like very much indeed to have the junior Senator from Iowa [Mr. DOLLIVER], who has given great thought to this matter and with whom I have talked on the subject, state to the Senate what his view is as to the power the Interstate Commerce Commission would have over the matter that I attempted to correct. Does the Senator feel that the Interstate Commerce Commission would have power to make a mileage rate, or are their powers largely and perhaps wholly based upon the proposition that they can correct excessive rates?

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Iowa?

Mr. GALLINGER. I do, for the purpose of making a statement.

Mr. DOLLIVER. Mr. President, the theory of the bill is that the Commission shall entertain complaints made before it alleging violations of the interstate-commerce law. The interstate-commerce law has in it four sections which contain its prohibitions. The complaints are to be directed against the railway or the line of railway which is violating the interstate-commerce law. Therefore I feel entirely free to say to the Senator from New Hampshire that the jurisdiction of the Commission is to require the railroad to cease and desist from its violation of the law and to conform its rates to the rates which in their judgment are lawful. I think no fear need be indulged that the Commission would go to the extreme of establishing a mileage system of rates in the United States. I certainly would regret it if that should be done, because the whole fabric of our market place would be disturbed by any such general change in the framework of our transportation system.

Mr. FORAKER. Will the Senator from Iowa allow me to ask him a question?

Mr. DOLLIVER. Certainly.

Mr. FORAKER. Is it not true that in all the cases in which the Commission undertook to fix rates, prior to 1897, when the Maximum Rate case was decided, it did virtually fix them upon an approximate mileage basis?

Mr. DOLLIVER. I think that can not be properly said.

Mr. FORAKER. It certainly did in the Maximum Rate case fix what was approximately a mileage basis.

Mr. DOLLIVER. The theory of the Commission in the Maximum Rate case was simply to reduce rates from Cincinnati to points in the Southeast to what the Commission found to be reasonable and just. I am sure it may be said of that case that they did not establish any system of mileage rates, but they did proclaim a system of equitable rates, of course counting distance as one of the elements that enters into the making of a just and reasonable rate.

Mr. FORAKER. That is all I contend for. Of course in the order it did not so appear, but in the opinion the Commission announced that was taken as the basis of their reasoning.

Mr. GALLINGER. Mr. President, I never attempt to accomplish the impossible, and after having consulted with some of the most eminent lawyers in the Senate, who gave it to me as their opinion that an amendment covering this point could not be drawn which would be satisfactory, and upon the statement made by the Senator from Iowa, who has given this matter very great thought, I am quite content to let the matter rest, and I will not reoffer the amendment I withdrew a little while ago.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE], on which the Senator from Wisconsin demands the yeas and nays.

The yeas and nays were ordered.

Mr. STONE. Several Senators here would like to have the amendment read.

The VICE-PRESIDENT. The Senator from Missouri suggests that the amendment be again read. It will be read.

The SECRETARY. On page 12, after line 14, at the end of the section, add the following:

If upon the trial of any action brought to set aside or modify any order made by the Commission under this section evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before the Commission, or additional thereto, the court before proceeding to render judgment, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to the Commission, and shall stay further proceedings in such action for fifteen days from the date of such transmission. Upon the receipt of such evidence the Commission shall consider the same, and may alter, modify, amend, or rescind its order relating to such rate or rates, fares, charges, classification, joint rate or rates, regulation, practice, or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence.

If the Commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify, or amend the same, such altered, modified, or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by the Commission in the first instance. If the original order shall not be rescinded or changed by the Commission, judgment shall be rendered upon such original order.

The VICE-PRESIDENT. The Secretary will call the roll on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE].

The question having been taken by yeas and nays, the result was announced—yeas 26, nays 49, as follows:

YEAS—26.

Bacon	Culberson	Latimer	Rayner
Bailey	Daniel	McCreary	Simmons
Berry	Dubois	McLaurin	Taliaferro
Blackburn	Foster	Martin	Teller
Clark, Mont.	Frazier	Money	Tillman
Clarke, Ark.	Gearin	Newlands	
Clay	La Follette	Overman	

NAYS—49.

Aldrich	Dick	Kean	Pettus
Alger	Dillingham	Kittredge	Piles
Allee	Dolliver	Knox	Platt
Ankeny	Dryden	Lodge	Scott
Brandegee	Flint	Long	Smoot
Bulkeley	Foraker	McCumber	Stone
Burkett	Fulton	McEnery	Sutherland
Burnham	Gallinger	Millard	Warner
Burrows	Gamble	Morgan	Warren
Carter	Hale	Nelson	Wetmore
Clark, Wyo.	Hansbrough	Nixon	
Crane	Hemenway	Penrose	
Cullom	Hopkins	Perkins	

NOT VOTING—14.

Allison	Clapp	Gorman	Proctor
Beveridge	Depew	Heyburn	Spooner
Burton	Elkins	Mallory	
Carmack	Frye	Patterson	

So Mr. LA FOLLETTE's amendment was rejected.

Mr. ALDRICH. I ask that the fifth section be now read.

Mr. TILLMAN. I move that when the Senate adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The motion was agreed to.

The VICE-PRESIDENT. The Secretary will read the next section.

Mr. LA FOLLETTE. I desire to offer, before we pass to the other section, the following, which I send to the desk.

The VICE-PRESIDENT. The Senator from Wisconsin proposes an amendment, which will be read.

The SECRETARY. It is proposed to add, at the end of section 4——

Mr. LA FOLLETTE. Not at the end of section 4, but as a substitute for section 4, or section 15 of the act of 1889.

The VICE-PRESIDENT. The Senator from Wisconsin proposes a substitute for section 4, which will be read.

The SECRETARY. On page 10 of the bill, after line 6, strike out the remainder of the section and insert:

SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon any inquiry instituted by the Commission upon its own motion or upon a complaint made, as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates or charges whatsoever demanded, charged, or collected by any common carrier or carriers subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such transportation are unjust or unreasonable, or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable rate or rates, charge or charges, to be thereafter observed; and in so doing the Commission shall have power (a) to fix a maximum rate; (b) to fix a differential and to prescribe both a maximum and a minimum rate, to enforce the same when that may be necessary to prevent discriminations forbidden by the third section, but not otherwise; (c) to change the classification of any article; (d) to determine what regulation or practice in respect to such transportation is just and reasonable to be thereafter followed and to make an order that the carrier shall cease and desist from such violation to the extent to which the Commission find the same to exist and shall not thereafter publish, demand, or collect any rate or charge for such transportation in violation of the rate or charge so prescribed and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carriers shall fail to agree among themselves upon the apportionment or division of such joint rates, fares, or charges the Commission may, after hearing, make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

The Commission is also authorized and empowered, and it shall be its duty, whenever, after full hearing upon any inquiry instituted by the Commission upon its own motion or upon a complaint made, as provided in section 13 of this act, or upon complaint of any common carrier, to establish through routes and joint rates to be charged and to prescribe the division of such rates as hereinbefore provided and the terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provisions of this act and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates. Such authority shall extend to the establishment of through routes and through rates wholly by railroad and partly by railroad and partly by water.

If the owner of property transported under this act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and the Commission may, after hearing on a complaint, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for in this section.

The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this act.

Mr. LA FOLLETTE. Mr. President, I will take the time of the Senate at this late hour to state very briefly the difference between the substitute which I propose and section 15 of the pending bill.

Section 15 provides that the Commission shall have author-

ity to fix a maximum rate. The proposed amendment gives the Commission authority to fix a maximum rate and, under certain circumstances, a minimum rate, and also gives them control of classification.

That states in a few words substantially the difference between section 15 of the pending bill and the amendment which I have proposed. The bill prepared by the Commission and submitted to the committees of Congress having charge of this legislation contains the essential provisions of the substitute which I propose for section 15. In the general debate I set forth at some length the reasons why section 15 should be amended and the changes which I believed should be made in it. I will not take the time to go into it more fully at present.

Mr. DOLLIVER. Mr. President, I think it is due to the committee to say a word about these provisions. The substitute which my honorable friend from Wisconsin has offered presents two or three matters of importance. The first one is that his substitute clothes the Interstate Commerce Commission with power to originate complaints. That is one of the things which they did not include in the bill which they sent to the committee.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Wisconsin?

Mr. DOLLIVER. Certainly.

Mr. LA FOLLETTE. In view of the fact that I have spoken and am precluded from speaking again, will the Senator from Iowa yield to me for a moment to make a statement that I omitted?

Mr. DOLLIVER. Certainly.

The VICE-PRESIDENT. The Chair will state that that is contrary to the rule made by unanimous consent.

Mr. DOLLIVER. I will yield for a question or anything which does not deprive me of the meager privileges which I enjoy.

Mr. LA FOLLETTE. I will take but a moment.

The VICE-PRESIDENT. Is there objection? The Chair hears none, and the junior Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. I did neglect to state that this section clothes the Commission with power to make an order upon an investigation which has originated with the Commission. Section 13 of the bill as reported by the committee leaves with the Commission authority to make an investigation upon its own motion, but section 15 does not empower the Commission to make the order to correct a wrong which it may discover upon an investigation under section 13.

Now, section 15, which I propose as a substitute, corrects that obvious defect in the pending bill. That is the only difference with reference to this particular point. It is manifestly absurd to allow the Commission to make an investigation on its own motion under section 13 and then withhold from it all authority to issue an order to remedy the defect or evil which the investigation has disclosed.

Mr. DOLLIVER. What the Senator says is absolutely correct. I have spent a good many hours the past winter in the society of the Interstate Commerce Commission. I will say for them that they appear to be the only people in this town who have a definite and coherent knowledge of the practical aspects of the problems with which we are dealing, and I recognize that fact as thoroughly as my friend from Wisconsin.

I say to the Senate, therefore, that it is not the notion of the Interstate Commerce Commission that there is any need for them to be clothed with the power of originating these complaints. It is their opinion, and I think every practical-minded man will share it, that if we succeed in dealing with all the questions that arise on complaint we will have covered about as large a field as seven able-bodied men will be able to attend to.

I will go further. If the Commission, in making the investigations authorized by section 13, finds itself face to face with a situation that needs correction, there is no difficulty in securing a complaint to correspond with the trouble which they have discovered. That is the view of the subject which they take. So much for that.

Now, the second departure of this substitute from the pending bill is in respect to the maximum rates and minimum rates, and the relation of rates. I have had the opinion that it would be a good thing to put in a section giving the Commission control over the relation of rates, but the more I meditate upon the practical features of the problem the less importance I attach to it. I hold that the command of the high rate, given in section 4 of the pending bill, accomplishes every substantial result that could be obtained by all the other provisions which are contained in the substitute.

I know of no discrimination which is unjust and unlawful, either in rates or classification, that can not be corrected by reducing the rate at its high point, or attaching to the article the rate of the class to which it belongs. If there is a Senator in this Chamber who can give an illustration of a discrimination forbidden by law which can not be corrected by the intelligent exercise of the power over the high rate, I would be glad to suspend a minute to have the illustration given.

Mr. LA FOLLETTE. I should like to furnish that case, if I may.

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Wisconsin?

Mr. DOLLIVER. Certainly.

Mr. LA FOLLETTE. Exactly such cases are cited by the Interstate Commerce Commission, not alone in one, but in several of their reports. I call your attention to one instance. An attempt was made to regulate the rates between Winona, La Crosse, and Eau Claire and Iowa markets for lumber by fixing a maximum rate. This case occurred under the law of 1887, before the Supreme Court deprived them of power to fix rates. The lumber merchants of Eau Claire were unable to get into the Iowa market as against the lumber merchants of La Crosse and Winona without having the rate changed. They applied to the Interstate Commerce Commission to change the rate. They lowered the rate and fixed a maximum rate, whereupon the railroad companies at once dropped the rate for Winona and La Crosse below the rate fixed for Eau Claire, and continued to exclude the Eau Claire lumber merchants from the Iowa market.

Mr. DOLLIVER. I will say to my honorable friend I am familiar with that case, and I will ask him not to dispose of my time any longer.

Mr. LA FOLLETTE. Just a moment. The Commission cite that very case as illustrating the necessity of clothing them with power to fix a minimum rate.

The VICE-PRESIDENT. The Senator from Iowa declines to yield.

Mr. DOLLIVER. And let me say to my honorable friend, in such case under this bill all in the world that would be necessary is for the Interstate Commerce Commission to make another order, and if the railroads continued the discrimination there certainly would be nothing to prevent the Commission from accepting the challenge.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. The Chair will state to the Senator from Wisconsin that the Senator from Iowa declines to yield further.

Mr. LA FOLLETTE. I will ask the Senator to yield for just another question.

The VICE-PRESIDENT. Will the Senator from Wisconsin suspend?

Mr. LA FOLLETTE. Certainly.

The VICE-PRESIDENT. It is contrary to the spirit of the rule for one Senator to yield his time for debate by another who has occupied the floor in his own right.

Mr. LA FOLLETTE. Very well.

The VICE-PRESIDENT. It can only be done by unanimous consent.

Mr. LA FOLLETTE. I ask unanimous consent to ask the Senator from Iowa a question.

The VICE-PRESIDENT. Does the Senator from Iowa yield for a question?

Mr. DOLLIVER. Certainly.

The VICE-PRESIDENT. The Senator from Iowa yields.

Mr. LA FOLLETTE. I wish to ask the Senator this question: As I understand him, he says the difficulty could be met by simply lowering the maximum rate. Now, is it not true that no matter what maximum rate is fixed, the railroad may still discriminate by lowering the competing rate? If there were authority to fix a minimum rate the railroad could not continue the discrimination.

Mr. DOLLIVER. That is also subject to the order of the Commission, upon complaint, to cease and desist from an unlawful discrimination. I have often heard it said that there are rates at terminal points, like the Missouri River, unreasonably low, and a year ago I shared with my honorable friend the notion that it would be a good thing to give the Commission power to raise the rates, for example, at Omaha. I found certain interior towns that had a disproportionate rate, a rate that was a discrimination as compared with the rate at Omaha, and I yielded a rather enthusiastic assent to the proposition that the true remedy for that was to give the Commission power over the Omaha rate to put it at a minimum or to raise it, finding it too low. But I confess that a year's rather monotonous contact with this question has somewhat altered my views on that. I find that there are six railroads running from Chicago to Omaha, and the first thing I struck was that you can not raise

the rate at Omaha for the Illinois Central without raising it for all the other trunk lines unless you exclude the Illinois Central from participation in the Omaha business. Then I said we will raise them all from Chicago to Omaha, and thereupon some practical minded man said to me that there are several railroads running to Omaha from St. Louis and if you raise all the Chicago rates you turn Chicago's Omaha business over to St. Louis. Then I said we will raise the St. Louis rates also, and along came a man who had some practical knowledge of this world, and he said that would result in the turning of the business of Omaha over to Kansas City and St. Joseph. When I got through my researches on the question, I made up my mind that the remedy was rather elaborate to raise the rates upon the consumers of merchandise—some 10,000,000 or 15,000,000 people—who are tributary to these great distributing points for the purpose of correcting a rate in Iowa or Missouri or Wisconsin that was too high.

I say again, there is no discrimination of that kind that can not be corrected by reducing that high rate; and neither the railroad nor the Government could raise these rates at the Missouri terminals without fastening upon the entire community a hardship altogether worse than the thing we set out to remedy. Therefore I say that every discrimination which is unjust and unreasonable in the ordinary sense of those words can be corrected by reducing the rate at the high point.

Early in this session a very interesting group of people came to see me from Oklahoma City. They stated that it cost them 43 cents to get lumber from the Port Arthur region in Texas to Oklahoma City, while the same railroad carried it right through Oklahoma City to Kansas City for 27 cents. That struck me as an intolerable outrage. I discovered that there were lines at Port Arthur carrying the same lumber directly to Kansas City for 27 cents; and this railroad so complained against could not increase that rate at Kansas City without taking itself altogether out of the lumber business there. When I thought upon the propriety of raising the rates from Port Arthur to Kansas City on all the roads, I found that those rates were old and that they had been beaten down to that low point, not by the railroads, but by the competitive forces of the whole market place of the United States, over which the railroads have had little real control. We represented the fight between Wisconsin and Minnesota and Michigan against southern pine for the Kansas City market.

That low rate at Kansas City could not be disturbed either by the railroads or by the Government without inflicting a burden upon millions of people. I therefore made up my mind that the only practicable remedy for the situation of our friends in Oklahoma City was to take up that 43-cent rate and reduce it, if it can be shown that it is unjust and unreasonable. So the suggestion that we ought to control the right of a railroad to reduce rates simply introduces a persuasive phraseology into this bill without adding anything to its efficiency in correcting the abuses which ought to be corrected.

I will say to my honorable friend that that is the view which is shared to-day by the members of the Interstate Commerce Commission.

Mr. McLAURIN. I offer an amendment to the amendment, which I send to the desk.

The VICE-PRESIDENT. The Senator from Mississippi proposes an amendment to the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE], which will be stated.

The SECRETARY. On page 2 of the amendment of Mr. LA FOLLETTE, line 8, it is proposed to strike out the word "both," where it appears after the word "prescribe;" and in the same line to strike out the words "and a minimum;" so as to read:

To fix a differential and to prescribe a maximum rate.

Mr. BAILEY. Mr. President, the trouble with the answer which the Senator from Iowa [Mr. DOLLIVER] has made to the Senator from Wisconsin [Mr. LA FOLLETTE] is that it will not work. He says that the Commission can easily remedy a trouble such as that instanced by the Senator from Wisconsin by still further reducing the rate; but the Senator from Iowa forgets that his own bill commands the Commission to fix a rate that is reasonable and just as a maximum, and when that is done the Commission can not put it any lower. If it does, the railroad goes into court and restrains it as unjust and unreasonable. Therefore the evil can not be corrected in that way.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. I do.

Mr. DOLLIVER. There is certainly nothing in this bill to prevent the Commission from taking the testimony of the railroad itself with reference to what the proper rate ought to be. If the Commission finds that the railroad is fixing a lower rate, there is room at least to indulge the presumption that the Commission would not be very seriously disturbed by a court of justice if they did such an act as that.

Mr. BAILEY. But the railroad can put its rate as low as it chooses. It can not put it above a fair and just compensation under the common law, but it can put it as low as it chooses; and the Senator from Iowa will not contend that because the railroad chooses to put its rate below a just compensation the Commission can do the same.

Does the Senator from Iowa suppose that under this bill any carrier would be compelled in a court, because it had seen fit to put its rate too low, to dismiss its complaint against the Commission when it could prove that the commission rate was not a just and reasonable one?

Now, Mr. President——

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Virginia?

Mr. DANIEL. Merely for a question.

Mr. BAILEY. I yield.

Mr. DANIEL. Is it not true that a railroad company has no right in making a low rate at any time to fix it below cost?

Mr. BAILEY. A railroad, unless restrained by a statute, can, and does, transport persons and property for nothing. Its stockholders might go into court and restrain that mismanagement, but the Government would have no power to object.

Mr. DANIEL. I want to call the attention of the Senator from Texas to the fact that the Supreme Court has held that, with reference to a low rate, the company has no right to put the rate below cost, for the reason that it is acting as a trustee.

Mr. BAILEY. That is as to the owners of the stocks and bonds.

Mr. DANIEL. That is true.

Mr. BAILEY. I am not raising that question. I freely concede that what the Senator says is true so far as that is concerned.

Mr. DANIEL. That shows that it is within the power of the Commission to put a limit on the lowness of the rate, because it might be a violation of a public trust.

Mr. BAILEY. Mr. President, the philosophy of this whole question is the absolute rate, and this bill proceeds upon that philosophy. In this very bill it is provided that when the carrier publishes its rate it does not publish a maximum rate, but it publishes an absolute rate, and it is not permitted to charge less, even though it charges everybody less. To say that a carrier is compelled to fix an absolute rate, but that the Commission whose duty it is to fix a just and reasonable rate shall only fix a maximum one is a palpable absurdity. The truth is that the President has compromised on this question, as did the Senator from Iowa. I do not say that the present opinion of the Senator from Iowa does not represent his judgment to-day, but it does not represent the judgment of the Senator or of the President or of the Republican party on it when the Esch-Townsend bill was introduced and passed by the House of Representatives a little over two years ago.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. I yield to the Senator.

Mr. LA FOLLETTE. Mr. President, the point has been made all through this debate that the Interstate Commerce Commission under this law is not to be given any control over the relation of rates. Now, I wish to ask the Senator how it would be possible to meet just such a case as is suggested by the conditions at Eau Claire, in competition with La Crosse and Winona, and the cases which arise out of the conditions at Kansas City and St. Louis, unless you trench upon the relation of rates? I think that is the hole in this bill, at least it is one of them.

Mr. BAILEY. It is absolutely impossible to correct such an abuse, because if the Commission has already fixed the rates between two points and fixed them at what is just and reasonable, then if it attempted to lower them the Commission would be restrained by the courts.

Mr. President, suppose a railroad has two classes of customers—one producing wheat and the other producing coal. Suppose the Commission fixes a maximum rate on both, and the railroad says to the people who produce coal that it will carry their goods for 80 per cent of the maximum rate, but charges the people who produce wheat the full maximum rate. That is not a discrimination condemned by this bill, and yet no Senator will defend it, because a railroad has no fair right to charge one man a full rate while serving another man for less than full rate. No Senator will defend such a practice in shipping the same commodities from the same point, but this bill permits and encourages it when different commodities are shipped from different points.

I hold that every man in this country is entitled to use the railroads by paying a just compensation for the service which he employs, and the railroads are entitled to receive from every man who uses them a just compensation for the service which they render; but whenever the railroad serves one man for less, in the nature of things it must charge the other man more, because if under the lower charge against some traffic it is earning a return upon the value of its property, a readjustment would permit at least a slight reduction in all charges.

In the case I have instanced, where the produce hauled was coal on one side and wheat on the other, instead of permitting them to charge for carrying wheat 100 per cent of the maximum rate and only 80 per cent of the maximum on coal, we could fix the charge at 90 on both. The amendment of the Senator from Wisconsin does not go as far as I want to go. Instead of adopting the maximum and minimum, I prefer the absolute rate. We have had that in Texas for sixteen years and nobody has ever found any fault with its operation there.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. I do.

Mr. LA FOLLETTE. Just to say, in order that my position may not be misunderstood, that I have tried in the amendments which I have suggested to this bill to keep within the recommendations of the Interstate Commerce Commission. I am in favor, as is the Senator from Texas, of clothing the Commission with power to fix an absolute rate, which I think is the only logical basis upon which rates can be regulated.

Mr. BAILEY. Mr. President, I am glad to know that the Senator concurs in my view. It is the view adopted by nearly every earnest friend of this legislation. It was the view of the Senator from Iowa [Mr. DOLLIVER] until within these last twelve months he has become a little confused with the abundance of his learning; but in another twelve months——

Mr. DOLLIVER. That is a trouble from which my friend from Texas is not likely to suffer.

Mr. BAILEY. I would be willing to submit that to everybody who knows the Senator from Iowa and myself. I always know the provisions of any bill which I help to report to this Senate, and the Senator from Iowa——

Mr. DOLLIVER. I know of nothing my honorable friend has not appeared to know during these discussions.

Mr. BAILEY. Your "honorable friend" has pretended to know nothing that he did not know, as the RECORD here will show.

Mr. DOLLIVER. There has been a difference of opinion over there on that.

Mr. BAILEY. Yes; there are differences of opinion over here. It is true that any proposition I might make would be dissented from by some on this side. That is true; but that does not convict me of any error. That is one of the infirmities of mankind; but it is not good taste for the Senator from Iowa, who is not concerned with differences over here, to be talking about them across the aisle.

Mr. DOLLIVER. Mr. President, I do not know——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. I do.

Mr. DOLLIVER. I certainly did not introduce this note of disparagement of my colleagues here. I make no pretensions to any particular knowledge of these things, except what I have been able to pick up by sitting up nights during the winter. If I had got hold of as small a point as that which my honorable friend discoursed upon here in the Senate for four hours, I believe I would have had discretion enough to have got rid of it in less than that time.

Mr. BAILEY. Mr. President, when the Senator from Iowa and I first discoursed about that subject, he said he disagreed with me, and after I finished that speech he said he agreed with me. So I did not speak altogether in vain.

Mr. DOLLIVER. If I undertook to agree with everything that my friend said in that four hours, I would have been in a bewildered condition.

Mr. BAILEY. That is the Senator's usual condition. [Laughter.]

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Mississippi [Mr. MCLAURIN] to the amendment in the nature of a substitute proposed by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. MCLAURIN. Mr. President, I have been asked by a Senator sitting near me to state what is the effect of that amendment. The purpose I had in offering it was to strike out the power of the Commission to fix a minimum rate. I do not want to discuss it. I am opposed to the fixing of a minimum rate, and I have offered an amendment to the amendment which I think, if adopted, will strike out the power of the Commission to fix a minimum rate. That is the purpose of the amendment.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Mississippi [Mr. MCLAURIN] to the amendment in the nature of a substitute proposed by the Senator from Wisconsin [Mr. LA FOLLETTE]. [Putting the question.] By the sound the "noes" have it.

Mr. MCLAURIN. I ask for the yeas and nays.

Several SENATORS. No, no.

Mr. MCLAURIN. Then, I ask for a division, Mr. President.

The question being put, there were on a division—ayes 18, noes 46.

So Mr. MCLAURIN'S amendment to the amendment of Mr. LA FOLLETTE was rejected.

The VICE-PRESIDENT. The question recurs on the amendment in the nature of a substitute proposed by the Senator from Wisconsin [Mr. LA FOLLETTE].

The amendment was rejected.

The VICE-PRESIDENT. The Secretary will read the next section.

The Secretary proceeded to read section 5.

Mr. CULBERSON. I should like to ask if it is in order to offer an amendment at this time?

Mr. CULLOM. Has the reading of the section been completed?

The VICE-PRESIDENT. It has not been. An amendment is not in order until the reading of the section is completed.

Mr. CULLOM. So I supposed.

The Secretary resumed and concluded the reading of section 5, as follows:

SEC. 5. That section 16 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 16. That if, after hearing on a complaint made as provided in section 13 of this act, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this act for a violation thereof, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

"If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, and a petition for the enforcement of an order for the payment of money shall be filed in the circuit court within one year from the date of the order, and not after.

"In such suits all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

"Every order of the Commission shall be forthwith served by mailing to any one of the principal officers or agents of the carrier at his usual place of business a copy thereof; and the registry mail receipt shall be prima facie evidence of the receipt of such order by the carrier in due course of mail.

"The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper, and the orders of the Commission shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, unless such orders shall have been suspended or modified by the Commission or suspended or set aside by the order or decree of a court of competent jurisdiction: *Provided, however*, That the Commission, for good cause shown, may extend the time in which such order shall take effect.

"It shall be the duty of every common carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

"Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of section 15 of this act, shall forfeit to the United States the sum of $5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.

"The forfeiture provided for in this act shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs.

"It shall be the duty of the various district attorneys, under the direction of the Attorney-General of the United States, to prosecute for

the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. The Commission may, with the consent of the Attorney-General, employ special counsel in any proceeding under this act, paying the expenses of such employment out of its own appropriation.

"If any carrier fails or neglects to obey any order of the Commission, other than for the payment of money, while the same is in effect, any party injured thereby, or the Commission in its own name, may apply to the circuit court in the district where such carrier has its principal operating office, or in which the violation or disobedience of such order shall happen, for an enforcement of such order. Such application shall be by petition, which shall state the substance of the order and the respect in which the carrier has failed of obedience, and shall be served upon the carrier in such manner as the court may direct, and the court shall prosecute such inquiries and make such investigations, through such means as it shall deem needful in the ascertainment of the facts at issue or which may arise upon the hearing of such petition. If, upon such hearing as the court may determine to be necessary, it appears that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction, or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it, or them, obedience to the same; and in the enforcement of such process the court shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus.

"From any action upon such petition an appeal shall lie by either party to the Supreme Court of the United States, and in such court the case shall have priority in hearing and determination over all other causes except criminal causes, but such appeal shall not vacate or suspend the order appealed from.

"The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office. The provisions of 'An act to expedite the hearing and determination of suits in equity, and so forth,' approved February 11, 1903, shall be, and are hereby, made applicable to all such suits, and are also made applicable to any proceeding in equity to enforce any order or requirement of the Commission, or any of the provisions of the act to regulate commerce approved February 4, 1887, and all acts amendatory thereof or supplemental thereto. It shall be the duty of the Attorney-General in every such case to file the certificate provided for in said expediting act of February 11, 1903, as necessary to the application of the provisions thereof, and upon appeal as therein authorized to the Supreme Court of the United States, the case shall have in such court priority in hearing and determination over all other causes except criminal causes.

"The copies of schedules and tariffs of rates, fares, and charges, and of all contracts, agreements, or arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual reports of carriers made to the Commission, as required by the provisions of this act, shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of or extracts from any of said schedules, tariffs, contracts, agreements, arrangements, or reports made public records as aforesaid, certified by the secretary under its seal, shall be received in evidence with like effect as the originals."

Mr. CULLOM. I offer an amendment on behalf of the Senator from Iowa [Mr. ALLISON], who was compelled to return to his home.

The VICE-PRESIDENT. The amendment proposed by the Senator from Illinois will be stated.

The SECRETARY. On page 14, line 20, after the word "proper," it is proposed to insert a period and to strike out the remainder of line 20 and all down to and including the word "effect," in line 2, on page 15.

The amendment was agreed to.

Mr. CULLOM. I offer the amendment I send to the desk.

Mr. TILLMAN. We have been working here now nearly seven hours, and a good many Senators have asked me to move that the Senate adjourn. I do not think we will expedite matters by considering these amendments to-night, and I therefore move——

Mr. KEAN. Let these amendments be read.

Mr. ALDRICH. I will ask the Senator from South Carolina to allow me to make a request. I ask that the first four sections of this bill may be reprinted and be here in the morning, with the amendments already adopted by the Senate.

Mr. TILLMAN. Certainly; I will be glad to have it.

Mr. SPOONER. Indicating the amendments.

The VICE-PRESIDENT. Is there objection to the request for reprinting made by the Senator from Rhode Island?

Mr. GALLINGER. If there are amendments which have been offered and not acted upon, let them be printed in brackets and small capitals.

Mr. CULLOM. I hope we may act upon the amendment.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Rhode Island? The Chair hears none. The amendment proposed by the Senator from Illinois will be stated.

The SECRETARY. On page 17, line 11, after the words "United States," it is proposed to insert "against the Commission."

Mr. CULLOM. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. TILLMAN. Mr. President——

Mr. ALDRICH. Let the Senator offer his other amendment.

Mr. CULLOM. I offer the amendment I send to the desk.

The SECRETARY. On page 17, line 14, after the word "office," insert the following:

And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office, and if the carrier has its principal operating office in the District of Columbia then the venue shall be in the district where said carrier has its principal office; and jurisdiction to hear and determine such suits is hereby vested in such courts.

Mr. TILLMAN. I want to offer a substitute for that in the morning, and I therefore insist either on an executive session or adjournment.

Mr. RAYNER. I will offer an amendment.

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Maryland?

Mr. TILLMAN. With pleasure.

Mr. RAYNER. I have already proposed an amendment, but I want to change it and offer this in lieu of the amendment I proposed and have it printed. I just propose the amendment.

Mr. TILLMAN. I want an adjournment or an executive session; I do not care which.

Mr. CULLOM (to Mr. TILLMAN). Move that we adjourn.

Mr. RAYNER. I understand that my amendment is to be printed along with the rest.

The VICE-PRESIDENT. It will be printed.

Mr. TILLMAN. I move that the Senate adjourn.

The VICE-PRESIDENT. Will the Senator from South Carolina withhold the motion for a moment?

Mr. TILLMAN. Certainly.

ESTATE OF ALFRED SWEARINGIN, DECEASED.

The VICE-PRESIDENT. The Chair lays before the Senate, on behalf of the Senator from Mississippi [Mr. MONEY], a proposed order, which will be read.

The Secretary read as follows:

Ordered, That the Committee on Claims be discharged from the further consideration of the bill (S. 3355) for the relief of the estate of Alfred Swearingin, deceased, and that the Secretary of the Senate be directed to transmit the papers accompanying the same to the Court of Claims in accordance with the request.

Mr. FULTON. I object to the present consideration of the order.

The VICE-PRESIDENT. Under objection, the order will lie over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 394. An act granting an increase of pension to Amanda Lucas;

S. 442. An act granting an increase of pension to Francis Colton;

S. 522. An act granting an increase of pension to Emma Worrall;

S. 557. An act granting an increase of pension to Mariot Losure;

S. 678. An act granting an increase of pension to Albert Butler;

S. 869. An act granting an increase of pension to Baltzar Mowan;

S. 993. An act granting an increase of pension to Samuel J. Langdon;

S. 1223. An act granting a pension to Mary E. Bronaugh;

S. 1508. An act granting an increase of pension to James A. Murch;

S. 1513. An act granting an increase of pension to Harriett A. Rawles;

S. 1705. An act granting an increase of pension to Lewis S. George;

S. 2043. An act granting an increase of pension to Andrew H. Wolf;

S. 2194. An act granting an increase of pension to William H. Sweeney, jr.;

S. 2467. An act granting an increase of pension to Martin Clark;

S. 2851. An act granting an increase of pension to George Chambers;

S. 2978. An act granting an increase of pension to Eli W. Knowles;

S. 3033. An act granting an increase of pension to Aaron F. Patten;

S. 3040. An act granting a pension to Mary C. Wilsey;

S. 3219. An act granting an increase of pension to Joseph M. Allison;

S. 3271. An act granting an increase of pension to Margarette E. Brown;

S. 3299. An act granting an increase of pension to Spencer C. Stilwill;

S. 3483. An act granting an increase of pension to William L. Sheaff;
S. 3485. An act granting an increase of pension to Mathias Hammes;
S. 3738. An act granting an increase of pension to Lisania Judd;
S. 3797. An act granting an increase of pension to Ahimaaz E. Wood;
S. 3798. An act granting an increase of pension to Charles Farrel;
S. 4005. An act granting an increase of pension to Michael Quill;
S. 4048. An act granting an increase of pension to Henry S. Knecht;
S. 4175. An act granting an increase of pension to John Caverly;
S. 4177. An act granting an increase of pension to Harlan P. Cobb;
S. 4239. An act granting an increase of pension to Job Rice;
S. 4358. An act granting an increase of pension to Thomas McCormick;
S. 4361. An act granting an increase of pension to John W. Daley;
S. 4401. An act granting an increase of pension to George W. Tomlinson;
S. 4457. An act granting an increase of pension to Louis A. Tyson;
S. 4460. An act granting an increase of pension to Ann J. Thompson;
S. 4488. An act granting an increase of pension to James F. Amis;
S. 4525. An act granting an increase of pension to David Oglevie;
S. 4569. An act granting an increase of pension to Augustus A. Nevins;
S. 4665. An act granting an increase of pension to Lewis Du Bois;
S. 4692. An act granting an increase of pension to Adaline M. Thornton;
S. 4718. An act granting an increase of pension to George W. Gilson;
S. 4752. An act granting an increase of pension to Thomas J. Tidswell;
S. 4796. An act granting an increase of pension to Lorinda J. White;
S. 4983. An act granting an increase of pension to John M. Farquhar;
S. 5054. An act granting an increase of pension to George H. Woodard;
S. 5082. An act granting an increase of pension to David N. Winsell;
S. 5163. An act granting an increase of pension to John Marah;
S. 5247. An act granting an increase of pension to Jacob Wigal;
S. 5343. An act granting an increase of pension to Ernest H. Wardwell;
S. 5349. An act granting an increase of pension to William H. H. Robinson;
S. 5359. An act granting an increase of pension to William H. Ward;
S. 5379. An act granting an increase of pension to Otto A. Risum;
S. 5492. An act granting an increase of pension to Joseph F. Tebbetts;
S. 5504. An act granting an increase of pension to Joseph Dickson;
S. 5516. An act granting an increase of pension to Alfred M. Hamlen;
S. 5522. An act granting an increase of pension to Charles E. Sischo;
S. 5523. An act granting an increase of pension to Thomas J. Pickett;
S. 5532. An act granting an increase of pension to Simon A. Snyder;
S. 5539. An act granting an increase of pension to Hermann Muehlberg;
S. 5562. An act granting an increase of pension to John Hull;
S. 5571. An act granting an increase of pension to Betsey B. Whitmore;
S. 5579. An act granting an increase of pension to Henry T. Sisson;
S. 5603. An act granting a pension to Kate S. Hutchings;
S. 5631. An act granting an increase of pension to Isaac M. Howard;
S. 5640. An act granting an increase of pension to Clinton B. Wintersteen;
S. 5641. An act granting an increase of pension to John W. Fletcher;
S. 5658. An act granting an increase of pension to Nancy Pruit;
S. 5659. An act granting an increase of pension to William I. Brewer;
S. 5668. An act granting an increase of pension to George P. Sealey;
S. 5671. An act granting an increase of pension to Richard L. Delong;
S. 5673. An act granting an increase of pension to Hilton Springsteed;
S. 5680. An act granting an increase of pension to Thomas J. Bowser;
S. 5702. An act granting an increase of pension to Anna C. Bingham;
S. 5704. An act granting an increase of pension to Ruth P. Pierce;
S. 5735. An act granting an increase of pension to Andrew D. Danley;
S. 5736. An act granting an increase of pension to Mary Clark;
S. 5754. An act granting a pension to Hannah McCarty; and
S. 5780. An act granting a pension to Lorenzo E. Johnson.

Mr. TILLMAN. I renew the motion that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 51 minutes p. m.) the Senate adjourned until to-morrow, Saturday, May 12, 1906, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May 11, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

ADJOURNMENT OVER.

Mr. PAYNE. Mr. Speaker, I move that when the House adjourn to-day it adjourn to meet on Monday next.

The SPEAKER. The question is on the motion of the gentleman from New York that when the House adjourn to-day it adjourn to meet on Monday next.

The question was taken; and the motion was agreed to.

SEIZURE OF SCHOONER LIZZIE B. ADAMS.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I am instructed by the Committee on Foreign Affairs to report the House resolution 420, with certain amendments, with the recommendation that the amendments be agreed to, and that the resolution as agreed to be adopted.

The SPEAKER. The Clerk will report the resolution, with the amendments.

The Clerk read as follows:

House resolution No. 420.

Resolved, That the Secretary of State be, and hereby is, requested to inform the House of Representatives, if not incompatible with the public interest, what information, if any, is in possession of the Department of State in regard to the reported arrest of the crew of the American schooner Lizzie B. Adams by the authorities of the Republic of Mexico.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I move that the resolution as amended be adopted. Before that question is put, I would like to state, for the information of those who are interested in the matter of the seizure of these vessels in Mexican waters, that the committee has been informed that the State Department has taken the matter up, and our ambassador at Mexico has been instructed to look into the matter; that under the date of the 22d of April a letter has been received from our consul at Progreso, in which he states that he has the matter in charge, and that American interests are being safeguarded.

The SPEAKER. The question is on agreeing to the amendment in the nature of a substitute.

The question was taken; and the amendment was agreed to.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and the resolution as amended was agreed to.

The SPEAKER. The question now is on striking out the preamble.

The question was taken; and the motion was agreed to.

Mr. WANGER. Mr. Speaker, I desire to move to correct the Journal of Wednesday, May 9. I am recorded among those not voting. The fact is I was present and distinctly answered "present" on the first call of the roll.

The SPEAKER. If the gentleman desires to correct the Journal of Wednesday, the Chair will state that it would require a motion to reconsider the vote by which the Journal of that day was approved.

Mr. WANGER. Then, Mr. Speaker, I move to reconsider that vote.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania to reconsider the vote by which the Journal of Wednesday, May 9, 1906, was approved.

The question was taken; and the motion was agreed to.

Mr. WANGER. Mr. Speaker, I now move to correct the Journal as indicated.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania to correct the Journal of Wednesday, May 9, 1906, as indicated.

The question was taken; and the motion was agreed to.

The SPEAKER. The question now is on the approval of the Journal as amended.

The question was taken; and the Journal as amended was approved.

PENSION BILLS.

Mr. SULLOWAY. Mr. Speaker, I ask unanimous consent that bills on the Private Calendar in order for to-day may be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, I shall be compelled to object.

The SPEAKER. The gentleman from Mississippi objects.

Mr. SULLOWAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of bills on the Private Calendar in order for to-day.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of bills on the Private Calendar, Mr. CAPRON in the chair.

JAMES H. VAN CAMP.

The first pension business was the bill (H. R. 11260) granting an increase of pension to James H. Van Camp.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James H. Van Camp, late of Company I, Ninety-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The CHAIRMAN. The amendment will be considered as agreed to and——

Mr. WILLIAMS. Mr. Chairman, a point of order. Is there any motion pending before the Chair? If there is, by whom is it made?

The CHAIRMAN. The Chair did not hear the gentleman.

Mr. WILLIAMS. Has any motion been made; and if so, by whom?

The CHAIRMAN. The Chair considers the motion is made by the gentleman from New Hampshire.

Mr. WILLIAMS. I make the point of order, Mr. Chairman, that the rules provide for a method of making a motion to the Chair. Some gentleman must rise in his place and make the motion. It is not sufficient merely to send anything to the Clerk's desk.

The CHAIRMAN. The Chair considers that the gentleman from Mississippi is technically correct. Therefore the gentleman from New Hampshire——

Mr. SULLOWAY. I was unable to hear what the gentleman from Mississippi stated.

The CHAIRMAN. The point of order is made by the gentleman from Mississippi that there has been no motion for the adoption of the amendment. The bill before the committee has an amendment.

Mr. SULLOWAY. Well, I move the adoption of the amendment.

The CHAIRMAN. The gentleman from New Hampshire moves that the committee amendment be adopted.

The motion was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN M. LOGAN.

The next pension business was the bill (H. R. 16492) granting an increase of pension to John M. Logan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John M. Logan, late of Company A, Fifty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $72 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "seventy-two" and insert in lieu thereof the word "thirty-six."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES A. BOGGS.

The next pension business was the bill (H. R. 14678) granting a pension to James A. Boggs.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James A. Boggs, late of United States gunboat Louisville, and pay him a pension at the rate of $35 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "United States gunboat" and insert in lieu thereof the words "U. S. S. Nebraska, Essex, and."

In line 7, before the word "and," insert the words "United States Navy."

In same line strike out the word "thirty-five" and insert in lieu thereof the word "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIJAH CURTIS.

The next pension business was the bill (H. R. 16998) granting an increase of pension to Elijah Curtis.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elijah Curtis, late of Company C, Fifty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

VAN BUREN BEAM.

The next pension business was the bill (H. R. 16662) granting an increase of pension to Van Buren Beam.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Van Buren Beam, late of Company I, Thirtieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

Mr. WILLIAMS. Mr. Chairman, I renew the point of order.

The CHAIRMAN. The gentleman from Mississippi moves——

Mr. WILLIAMS. No; the gentleman from Mississippi did not. The gentleman from Mississippi renewed the point of order that nobody had arisen in his place to address the Chair and no motion was pending.

The CHAIRMAN. I beg the gentleman's pardon. The gentleman from New Hampshire moves that the bill be laid aside with a favorable recommendation.

The motion was agreed to; and accordingly the bill was laid aside with a favorable recommendation.

JACKSON D. TURLEY.

The next pension business was the bill (H. R. 17170) granting an increase of pension to Jackson D. Turley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jackson D. Turley, late of Company C, Seventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 strike out the word "Infantry" and insert in lieu thereof the word "Cavalry."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

GEORGE W. KOHLER.

The next pension business was the bill (H. R. 612) granting an increase of pension to George H. Kohler.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George H. Kohler, late of Company I, Forty-ninth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "H" and insert in lieu thereof the letter "W."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM F. WALKER.

The next pension business was the bill (H. R. 18486) granting an increase of pension to William F. Walker.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William F. Walker, late of Company B, One hundred and thirty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty-six" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

OLIVER T. SMITH.

The next pension business was the bill (H. R. 1438) granting an increase of pension to Oliver T. Smith.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Oliver T. Smith, late of Company I, First Regiment New York Volunteer Engineers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

BRONSON ROTHROCK.

The next pension business was the bill (H. R. 7147) granting an increase of pension to Bronson Rothrock.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Bronson Rothrock, late of Company A, Forty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN H. ANDERSON.

The next pension business was the bill (H. R. 3243) granting an increase of pension to John H. Anderson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John H. Anderson, late of Company I, Twenty-sixth Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6, before the word "Illinois," insert the word "Regiment."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

FRANKLIN M. HILL.

The next pension business was the bill (H. R. 2092) granting an increase of pension to Franklin M. Hill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Franklin M. Hill, late of Company B, Second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, after the word "Infantry," insert the words "and Company G, Second Regiment Ohio Volunteer Heavy Artillery."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty-six."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

GEORGE MERRILL.

The next pension business was the bill (H. R. 3222) granting an increase of pension to George Merrill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George Merrill, late of Company A, Fiftieth Regiment Wisconsin Volunteers, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out the word "Volunteers" and insert in lieu thereof the words "Volunteer Infantry."

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LUCY BROWN.

The next pension business was the bill (H. R. 6878) granting a pension to Lucy Brown.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lucy Brown, widow of George Brown, late of Company H, One hundred and twenty-fifth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment recommended by the committee was read, as follows:

In line 9 strike out the word "twelve" and insert in lieu thereof the word "eight."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN L. MOORE.

The next pension business was the bill (H. R. 7535) granting an increase of pension to John S. Moore.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John S. Moore, late of Company K, Twenty-second Regiment Indiana Volunteers, and pay him a pension of $25 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "S." and insert in lieu thereof the letter "L."

In line 7 strike out the word "Volunteers" and insert in lieu thereof the words "Volunteer Infantry;" in same line, after the word "pension," insert the words "at the rate;" in same line strike out the word "twenty-five" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to John L. Moore."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN PLATT.

The next pension business was the bill (H. R. 6774) granting an increase of pension to John Platt.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Platt, late of Company H, Twenty-third Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LUCY E. ENGLER.

The next pension business was the bill (H. R. 6205) granting an increase of pension to Lucy E. Engler.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lucy E. Engler, widow of Joel Engler, late of Company G, Forty-fourth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving, as long as the helpless son, George Engler, shall live; then, at his death, said Lucy E. Engler shall be placed on the roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month; and if the said Lucy E. Engler shall die and leave surviving her said helpless son, George Engler, then the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of said George Engler and pay him a pension at the rate of $12 per month.

The amendment recommended by the committee was read, as follows:

In line 9 strike out the words "as long as the helpless son;" and all of lines 10, 11, 12, 13, 14, and 15; and lines 1, 2, 3, and 4 on page 2, and insert in lieu thereof the following: "*Provided*, That in the event of the death of George T. Engler, helpless and dependent child of said Joel Engler, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Lucy E. Engler the name of said George T. Engler shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Lucy E. Engler."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN J. SCHNELLER.

The next pension business was the bill (H. R. 6190) granting an increase of pension to John J. Schneller.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John J. Schneller, late of Company E, Forty-ninth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES C. BRYANT.

The next pension business was the bill (H. R. 4956) granting an increase of pension to James C. Bryant.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James C. Bryant, late of Company G, Twenty-ninth Regiment Missouri Volunteer Infantry, who was honorably discharged during the month of June, 1865, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In lines 7, 8, and 9 strike out the words "who was honorably discharged during the month of June, 1865."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM H. RIGGIN.

The next pension business was the bill (H. R. 3588) granting an increase of pension to William H. Riggin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. Riggin, late of Company I, Ninth Regiment Illinois Volunteer Infantry, and of Company E, First Regiment United States Veterans, Hancock's corps, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, before the word "Company," strike out the word "of."

In line 8 strike out the words "Veterans, Hancock's corps," and insert in lieu thereof the words "Veteran Volunteer Infantry."

In line 9 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JESSE M. AUCHMUTY.

The next pension business was the bill (H. R. 9609) granting an increase of pension to Jesse M. Auchmutz.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jesse M. Auchmutz, late of Company D, Two hundred and eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $25 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Auchmutz" and insert in lieu thereof the word "Auchmuty."

In same line, before the word "Company," insert the words "Company C, One hundred and thirty-first Regiment, and."

In line 8 strike out the word "twenty-five" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Jesse M. Auchmuty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LOWELL M. MAXHAM.

The next pension business was the bill (H. R. 8736) granting an increase of pension to Lowell Mason Maxham.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lowell Mason Maxham, late of Company F, Seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Mason" and insert in lieu thereof the letter "M."

Amend the title so as to read: "A bill granting an increase of pension to Lowell M. Maxham."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

SAMUEL KELLY.

The next pension business was the bill (H. R. 13698) granting an increase of pension to Samuel Kelly.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel Kelly, late of Company K, Tenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALEXANDER G. PATTON.

The next pension business was the bill (H. R. 7836) granting a pension to Alexander Patton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alexander G. Patton, late lieutenant-colonel First Regiment New York Mounted Rifles, and pay him a pension at the rate of $75 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, after the word "New York," insert the word "Volunteer."

In line 8 strike out the word "seventy-five" and insert in lieu thereof the word "thirty."

Amend the title so as to read: "A bill granting an increase of pension to Alexander G. Patton."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JONATHAN SNOOK.

The next pension business was the bill (H. R. 13594) granting an increase of pension to Jonathan Snook.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jonathan Snook, late lieutenant Company A, Fifteenth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6, before the word "lieutenant," insert the word "second."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALEXANDER CALDWELL.

The next pension business was the bill (H. R. 10865) granting an increase of pension to Alexander Caldwell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alexander Caldwell, late of Company K, Thirty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

IDA L. MARTIN.

The next pension business was the bill (H. R. 13149) granting an increase of pension to Ida L. Martin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ida L. Martin, widow of Augustus N. Martin, late of Company E, Seventy-eighth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "sixteen."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THEODORE S. CURRIER.

The next pension business was the bill (H. R. 11152) granting an increase of pension to Theodore S. Currier.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Theodore S. Currier, late of Company E, First Regiment Michigan Volunteer Engineers and Mechanics, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MICHAEL AARON.

The next pension business was the bill (H. R. 11161) granting an increase of pension to Michael Aaron.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Michael Aaron, late of Company K, Twentieth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

NOAH MYERS.

The next pension business was the bill (H. R. 13824) granting an increase of pension to Noah Myers.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Noah Myers, late of Company G, Fiftieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twelve."

In same line strike out the words "in lieu of that he is now receiving" and insert in lieu thereof the words "the same to be paid to him under the rules of the Pension Bureau as to mode and time of payment, without any deduction or rebate on account of former alleged overpayments or erroneous payments of pension."

Amend the title so as to read: "A bill granting a pension to Noah Myers."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOSEPH WATSON.

The next pension business was the bill (H. R. 13993) granting an increase of pension to Joseph Watson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph Watson, late of Company G, Third Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $72 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "seventy-two" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ANTHONY VAN SLYKE.

The next pension business was the bill (H. R. 6422) granting a pension to Anthony Van Slyke.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Anthony Van Slyke, late private, Company H, Sixteenth Regiment Indiana Infantry, Mexican war, and sergeant Twelfth Regiment Indiana Cavalry, war of the rebellion, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out the words "private, Company H, Sixteenth Regiment Indiana Infantry, Mexican war, and sergeant" and insert in lieu thereof the words "of Company G."

In line 8, before the word "Cavalry," insert the word "Volunteer."

In same line strike out the words "war of the rebellion."

In line 9, after the word "month," insert the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Anthony Van Slyke."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

DANIEL M. VERTNER.

The next pension business was the bill (H. R. 17210) granting an increase of pension to Daniel Vertner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Daniel Vertner, late of Company F, One hundred and thirty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Daniel," insert the letter "M."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

Amend the title so as to read: "A bill granting an increase of pension to Daniel M. Vertner."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MATILDA J. WILLIAMS.

The next pension business was the bill (H. R. 16918) granting a pension to Matilda J. Williams.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Matilda J. Williams, dependent mother of Henry A. Williams, late of Companies I and D, Ninetieth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The bill was ordered to be laid aside with a favorable recommendation.

JACOB CLINE.

The next pension business was the bill (H. R. 16109) granting an increase of pension to Jacob Cline.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Cline, late of Company D, Nineteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $80 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "eighty" and insert in lieu thereof the word "forty-five."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS E. OWENS.

The next pension business was the bill (H. R. 15104) granting an increase of pension to Thomas E. Owens.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas E. Owens, late of Company H, One hundred and third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In lines 6 and 7 strike out the words "H, One hundred and third Regiment" and insert in lieu thereof the words "E, Ninth Regiment, Company H, One hundred and third Regiment, and Company E, Eighty-first Regiment."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN J. ERICK.

The next pension business was the bill (H. R. 9844) granting an increase of pension to John J. Erick.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John J. Erick, late of Company K, Eighty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM D. CONNER.

The next pension business was the bill (H. R. 6208) granting an increase of pension to William D. Connor.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William D. Connor, late of Company ——, Fourth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Connor" and insert in lieu thereof the word "Conner."

In the same line, after the word "Company," insert the letter "K."

Amend the title so as to read: "A bill granting an increase of pension to William D. Conner."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES RAMSEY.

The next pension business was the bill (H. R. 15056) granting an increase of pension to James Ramsey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James Ramsey, late of Company C, Third Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ORANGE BUGBEE.

The next pension business was the bill (H. R. 16915) granting an increase of pension to Orange Bugbee.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Orange Bugbee, late of Company A, Twenty-fifth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate $36 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," strike out the word "of" and insert in lieu thereof the words "first lieutenant."

In line 8 strike out the word "thirty-six" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM A. CUSTER.

The next pension business was the bill (H. R. 18356) granting an increase of pension to W. A. Custer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of W. A. Custer, late of Company I, Forty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "W." and insert in lieu thereof the word "William."

In same line strike out the word "Company" and insert in lieu thereof the word "Companies."

In same line, after the letter "I," insert the words "and B."

Amend the title so as to read: "A bill granting an increase of pension to William A. Custer."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JULIUS RECTOR.

The next pension business was the bill (H. R. 18524) granting an increase of pension to Julius Rector.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Julius Rector, late of Company C, Third Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN HAMILTON.

The next pension business was the bill (H. R. 18560) granting an increase of pension to John Hamilton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Hamilton, late of Company B, Thirty-ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HIRAM G. HUNT.

The next pension business was the bill (H. R. 18249) granting an increase of pension to Hiram G. Hunt.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hiram G. Hunt, late of Company B, Forty-second Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN LEWIS BERNARD BREIGHNER.

The next pension business was the bill (H. R. 18052) granting an increase of pension to John Lewis Bernard Breighner.

The bill was read, as follows.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Lewis Bernard Breighner, crippled and helpless son of Francis Breighner, late of Company F, Ninety-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "crippled and."

In same line, after the word "helpless," insert the words "and dependent."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JULIA WALZ.

The next pension business was the bill (H. R. 17340) granting a pension to Julia Walz.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Julia Walz, widow of Nicholas Walz, deceased, late of Companies A and B, Boonville Reserve Corps, Missouri Home Guards, and pay her a pension at the rate of $24 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "deceased."
In line 7, after the word "Corps," insert the word "Regiment."
In lines 8 and 9 strike out the word "twenty-four" and insert in lieu thereof the word "eight."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JACOB WOODRUFF.

The next pension business was the bill (H. R. 17590) granting an increase of pension to Jacob Woodruff.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Woodruff, late of Company C, Two hundred and third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $35 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty-five" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN W. STEPHENS.

The next pension business was the bill (H. R. 18039) granting an increase of pension to John W. Stephens.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Stephens, late of Company I, Thirty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7, before the word "and," insert the words "and Company H, Seventeenth Regiment Veteran Reserve Corps."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

BRYANT BROWN.

The next pension business was the bill (H. R. 18239) granting an increase of pension to Bryant Brown.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Bryant Brown, late of Company H, Forty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN W. HENRY.

The next pension business was the bill (H. R. 17772) granting a pension to John W. Henry.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Henry, late of Company G, Thirteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."
In same line, after the word "month," insert the words "in lieu of that he is now receiving."
Amend the title so as to read: "A bill granting an increase of pension to John W. Henry."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JONATHAN SKEANS.

The next pension business was the bill (H. R. 18561) granting an increase of pension to Jonathan Skeans.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jonathan Skeans, late of Company H, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

GARDINER K. HASKELL.

The next pension business was the bill (H. R. 17637) granting an increase of pension to Gardiner K. Haskell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Gardiner K. Haskell, late lieutenant of Company A, One hundred and twenty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "lieutenant," insert the word "first."
In same line, after the word "lieutenant," strike out the word "of."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN WILKINSON.

The next pension business was the bill (H. R. 18367) granting an increase of pension to John Wilkinson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Wilkinson, late of Company I, Thirty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CLARISSA L. DOWLING.

The next pension business was the bill (H. R. 17938) granting an increase of pension to Clarissa L. Downing.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Clarissa L. Downing, widow of Michael Downing, late of Companies A and B, Seventy-seventh Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "widow," strike out the word "Downing" and insert in lieu thereof the word "Dowling."
In same line, before the word "late," strike out the word "Downing" and insert in lieu thereof the word "Dowling."
In line 9 strike out the word "twelve" and insert in lieu thereof the word "sixteen."
Amend the title so as to read: "A bill granting an increase of pension to Clarissa L. Dowling."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALLEN D. METCALFE.

The next pension business was the bill (H. R. 17872) granting an increase of pension to A. D. Metcalfe.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of A. D. Metcalfe, late of Company B, Eleventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "A." and insert in lieu thereof the word "Allen."
Amend the title so as to read: "A bill granting an increase of pension to Allen D. Metcalfe."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN B. BUSSELL.

The next pension business was the bill (H. R. 14661) granting an increase of pension to John B. Bussell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to

the provisions and limitations of the pension laws, the name of John B. Bussell, late of Company B, Fourth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

NEWTON KINNISON.

The next pension business was the bill (H. R. 18319) granting an increase of pension to Newton Kinnison.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Newton Kinnison, late of Company C, First Regiment Colorado Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

AMANDA LUCAS.

The next pension business was the bill (S. 394) granting an increase of pension to Amanda Lucas.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Amanda Lucas, widow of John Lucas, late of Company E, Sixteenth Regiment United States Infantry, war with Mexico, and lieutenant-colonel Seventh Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

FRANCIS COLTON.

The next pension business was the bill (S. 442) granting an increase of pension to Francis Colton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Francis Colton, late of Company E, Second Battalion, Fifteenth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

EMMA WORRALL.

The next pension business was the bill (S. 522) granting an increase of pension to Emma Worrall.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Emma Worrall, widow of Washington M. Worrall, late captain Company D, Ninety-ninth Regiment Pennsylvania Volunteer Infantry, and major Two hundred and fourteenth Regiment Pennsylvania Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MARIOT LOSURE.

The next pension business was the bill (S. 557) granting an increase of pension to Mariot Losure.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mariot Losure, late of Company K, Thirty-eighth Regiment, and Company D, One hundred and eighty-ninth Regiment, Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ALBERT BUTLER.

The next pension business was the bill (S. 678) granting an increase of pension to Albert Butler.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Albert Butler, late of Company B, Seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

BALTZAR MOWAN.

The next pension business was the bill (S. 869) granting an increase of pension to Baltzar Mowan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Baltzar Mowan, late of U. S. S. Benton, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

SAMUEL J. LANGDON.

The next pension business was the bill (S. 993) granting an increase of pension to Samuel J. Langdon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel J. Langdon, late of Company G, Ninety-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JAMES A. MURCH.

The next pension business was the bill (S. 1508) granting an increase of pension to James A. Murch.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James A. Murch, late of Company H, Sixteenth Regiment Kentucky Volunteer Infantry, and One hundred and seventy-fourth Company, Second Battalion Veteran Reserve Corps, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HARRIETT A. RAWLES.

The next pension business was the bill (S. 1513) granting an increase of pension to Harriett A. Rawles.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harriett A. Rawles, widow of Charles H. Rawles, late of U. S. S. General Grant, United States Navy, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

LEWIS S. GEORGE.

The next pension business was the bill (S. 1705) granting an increase of pension to Lewis S. George.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lewis S. George, late of Company C, Seventh Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ANDREW H. WOLF.

The next pension business was the bill (S. 2043) granting an increase of pension to Andrew H. Wolf.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Andrew H. Wolf, late of Company F, Seventy-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MARTIN CLARK.

The next pension business was the bill (S. 2467) granting an increase of pension to Martin Clark.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Martin Clark, late of Company E, Sixteenth Regiment Illinois Volunteer Infantry, and pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

GEORGE CHAMBERS.

The next pension business was the bill (S. 2851) granting an increase of pension to George Chambers.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George Chambers, late of Company C, Twelfth Regiment Kansas Volunteer Infantry, and pay him a pension of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ELI W. KNOWLES.

The next pension business was the bill (S. 2978) granting an increase of pension to Eli W. Knowles.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eli W. Knowles, late of Company F, Eightieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

AARON F. PATTEN.

The next pension business was the bill (S. 3033) granting an increase of pension to Aaron F. Patten.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Aaron F. Patten, late of Company K, First Regiment New Hampshire Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MARY C. WILSEY.

The next pension business was the bill (S. 3040) granting a pension to Mary C. Wilsey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary C. Wilsey, widow of Andrew J. Wilsey, late of Company K, Twentieth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $8 per month.

The bill was ordered to be laid aside with a favorable recommendation.

JOSEPH M. ALLISON.

The next pension business was the bill (S. 3219) granting an increase of pension to Joseph M. Allison.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph M. Allison, late of Company E, Seventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MARGARETTE E. BROWN.

The next pension business was the bill (S. 3271) granting an increase of pension to Margarette E. Brown.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Margarette E. Brown, widow of John W. Brown, late of Company A, Second Regiment Delaware Volunteer Infantry, and Company D, Twentieth Regiment Veteran Reserve Corps, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

SPENCER C. STILWILL.

The next pension business was the bill (S. 3299) granting an increase of pension to Spencer C. Stilwill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Spencer C. Stilwill, late of Company A, Fifth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM L. SHEAFF.

The next pension business was the bill (S. 3483) granting an increase of pension to William L. Sheaff.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William L. Sheaff, late of Company I, One hundred and twenty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MATHIAS HAMMES.

The next pension business was the bill (S. 3485) granting an increase of pension to Mathias Hammes.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mathias Hammes, late of Company F, Twenty-ninth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

AHIMAAZ E. WOOD.

The next pension business was the bill (S. 3797) granting an increase of pension to Ahimaaz E. Wood.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ahimaaz E. Wood, late second lieutenant Company B, Fourth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

CHARLES FARREL.

The next pension business was the bill (S. 3798) granting an increase of pension to Charles Farrel.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles Farrel, late of Company B, Forty-seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MICHAEL QUILL.

The next pension business was the bill (S. 4005) granting an increase of pension to Michael Quill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Michael Quill, late of Company A, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HENRY S. KNECHT.

The next pension business was the bill (S. 4048) granting an increase of pension to Henry S. Knecht.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry S. Knecht, late of Company I, One hundred and ninety-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

Mr. WILLIAMS. Mr. Chairman, I beg the Chair's pardon, but there is no procedure in the rules of the House of Representatives, so far as I know, which enables the Chair to just declare a bill laid aside with a favorable recommendation without consulting the House of Representatives by vote.

The CHAIRMAN. The Chair has constructively consulted the Committee of the Whole upon each of the bills so far presented by the present occupant of the chair.

Mr. WILLIAMS. I beg the Chair's pardon, but a moment ago the Clerk read a bill, or the title of it, and immediately afterwards it was laid aside with a favorable recommendation. There was no intervening consultation of the House at all, nor the committee.

The CHAIRMAN. The Chair will say that probably the gentleman from Mississippi was not giving proper attention to the words of the Chair to the committee.

Mr. WILLIAMS. Well, if that is the case, "the gentleman from Mississippi" withdraws the parliamentary inquiry and apologizes for making it. But "the gentleman from Mississippi" understood that to be the procedure of the Chair. He also understood, a moment ago, the Clerk read one bill after another without any intervention of the Chair himself. I may have been mistaken in that. If I was, I regret it, and hope it will not be repeated if it was.

The CHAIRMAN. If it should have occurred, the Chair will be very careful that the rules of the House are preserved. The Chair desires to state that, without objection, the procedure will continue as it has been. The Clerk will report the next bill.

JOHN CAVERLY.

The next pension business was the bill (S. 4175) granting an increase of pension to John Caverly.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Caverly, late of Company F, First Regiment Maine Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HARLAN P. COBB.

The next pension business was the bill (S. 4177) granting an increase of pension to Harlan P. Cobb.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harlan P. Cobb, late of Company B, Battalion United States Engineers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOB RICE.

The next pension business was the bill (S. 4239) granting an increase of pension to Job Rice.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Job Rice, late of Company A, Second Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

THOMAS M'CORMICK.

The next pension business was the bill (S. 4358) granting an increase of pension to Thomas McCormick.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas McCormick, late of Company F, Seventeenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN W. DALEY.

The next pension business was the bill (S. 4361) granting an increase of pension to John W. Daley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Daley, late of Company G, One hundred and forty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

GEORGE W. TOMLINSON.

The next pension business was the bill (S. 4401) granting an increase of pension to George W. Tomlinson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Tomlinson, late of Company D, Thirteenth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

LOUIS A. TYSON.

The next pension business was the bill (S. 4457) granting an increase of pension to Louis A. Tyson.

The bill was read, as follows:

Be it eacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Louis A. Tyson, late of Battery E, Fourth Regiment United States Artillery, and Twenty-eighth Independent Battery, New York Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ANN J. THOMPSON.

The next pension business was the bill (S. 4460) granting an increase of pension to Ann J. Thompson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ann J. Thompson, widow of Robert M. Thompson, late major, Sixth Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

DAVID OGLEVIE.

The next pension business was the bill (S. 4525) granting an increase of pension to David Oglevie.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David Oglevie, late of Company I, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JACOB WIGAL.

The next pension business was the bill (S. 5247) granting an increase of pension to Jacob Wigal.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Wigal, late of Company B, Thirty-seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN MARAH.

The next pension business was the bill (S. 5163) granting an increase of pension to John Marah.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Marah, late of Company A, First Regiment Rhode Island Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

DAVID N. WINSELL.

The next pension business was the bill (S. 5082) granting an increase of pension to David N. Winsell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David N. Winsell, late of Company E, Eighteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

GEORGE H. WOODARD.

The next pension business was the bill (S. 5054) granting an increase of pension to George H. Woodard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George H. Woodard, late of Company H, Eighty-third Regiment Pennsylvania Volunteer Infantry, and Troop A, Second Regiment United States Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

LORINDA J. WHITE.

The next pension business was the bill (S. 4796) granting an increase of pension to Lorinda J. White.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lorinda J. White, widow of Daniel W. White, late of Ninth Battery, Indiana Volunteer Light Artillery, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

THOMAS J. TIDSWELL.

The next pension business was the bill (S. 4752) granting an increase of pension to Thomas J. Tidswell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas J. Tidswell, late second lieutenant Company C, Forty-fourth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

GEORGE W. GILSON.

The next pension business was the bill (S. 4718) granting an increase of pension to George W. Gilson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George W. Gilson, late of Captain Riddle's independent company, Ohio Volunteer Infantry, war with Mexico, and captain Company B, Fortieth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ADALINE M. THORNTON.

The next pension business was the bill (S. 4692) granting an increase of pension to Adaline M. Thornton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Adaline M. Thornton, widow of James L. Thornton, late first lieutenant and quartermaster, Sixty-fifth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $15 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

LEWIS DU BOIS.

The next pension business was the bill (S. 4665) granting an increase of pension to Lewis Du Bois.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lewis Du Bois, late of Company D, Fifth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

AUGUSTUS A. NEVINS.

The next pension business was the bill (S. 4569) granting an increase of pension to Augustus A. Nevins.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Augustus A. Nevins, late of Company C, One hundred and fourteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ERNEST H. WARDWELL.

The next pension business was the bill (S. 5343) granting an increase of pension to Ernest H. Wardwell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ernest H. Wardwell, late first lieutenant and quartermaster, Second Regiment North Carolina Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM H. WARD.

The next pension business was the bill (S. 5359) granting an increase of pension to William H. Ward.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. Ward, late of Company E, Tenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

OTTO A. RISUM.

The next pension business was the bill (S. 5379) granting an increase of pension to Otto A. Risum.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Otto A. Risum, late first lieutenant and adjutant Fifteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOSEPH F. TEBBETTS.

The next pension business was the bill (S. 5942) granting an increase of pension to Joseph F. Tebbetts.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph F. Tebbetts, late of Company C. Sixth Regiment, and Company H, Thirty-third Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOSEPH DICKSON.

The next pension business was the bill (S. 5504) granting an increase of pension to Joseph Dickson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph Dickson, late of Company F, One hundred and twenty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ALFRED M. HAMLEN.

The next pension business was the bill (S. 5516) granting an increase of pension to Alfred M. Hamlen.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alfred M. Hamlen, late of Company B, Sixteenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

CHARLES E. SISCHO.

The next pension business was the bill (S. 5522) granting an increase of pension to Charles E. Sischo.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles E. Sischo, late of United States steamer Marmora, United States Navy, and Company D, Tenth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

THOMAS J. PICKETT.

The next pension business was the bill (S. 5523) granting an increase of pension to Thomas J. Pickett.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas J. Pickett, late of Company C, One hundred and thirty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

SIMON A. SNYDER.

The next pension business was the bill (S. 5532) granting an increase of pension to Simon A. Snyder.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Simon A. Snyder, late of Company K, Eighty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HERMANN MUEHLBERG.

The next pension business was the bill (S. 5539) granting an increase of pension to Hermann Muehlberg.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hermann Muehlberg, late captain Company D, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN HULL.

The next pension business was the bill (S. 5562) granting an increase of pension to John Hull.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Hull, late of Company D, One hundred and twentieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

BETSEY B. WHITMORE.

The next pension business was the bill (S. 5571) granting an increase of pension to Betsey B. Whitmore.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Betsey B. Whitmore, widow of George L. Whitmore, late captain Company C, Nineteenth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HENRY T. SISSON.

The next pension business was the bill (S. 5579) granting an increase of pension to Henry T. Sisson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry T. Sisson, late colonel Fifth Regiment Rhode Island Volunteer Heavy Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

KATE S. HUTCHINGS.

The next pension business was the bill (S. 5603) granting a pension to Kate S. Hutchings.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pensions laws, the name of Kate S. Hutchings, widow of Jasper Hutchings, late first lieutenant Company C, Twenty-second Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $17 per month.

The bill was ordered to be laid aside with a favorable recommendation.

ISAAC M. HOWARD.

The next pension business was the bill (S. 5631) granting an increase of pension to Isaac M. Howard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Isaac M. Howard, late of Third Battery, Minnesota Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

CLINTON B. WINTERSTEEN.

The next pension business was the bill (S. 5640) granting an increase of pension to Clinton B. Wintersteen.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Clinton B. Wintersteen, late of Company C, Sixty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN W. FLETCHER.

The next pension busines was the bill (S. 5641) granting an increase of pension to John W. Fletcher.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Fletcher, late of Company F, First Regiment New Hampshire Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

NANCY PRUIT.

The next pension business was the bill (S. 5658) granting an increase of pension to Nancy Pruitt.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nancy Pruit, widow of John Pruit, late of Company G, Third Regiment Arkansas Volunteer Cavalry, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

GEORGE P. SEALEY.

The next pension business was the bill (S. 5668) granting an increase of pension to George P. Sealey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George P. Sealey, late of Company B, Second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

RICHARD L. DELONG.

The next pension business was the bill (S. 5671) granting an increase of pension to Richard L. Delong.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Richard L. Delong, late of Company B, Fifth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HILTON SPRINGSTEED.

The next pension business was the bill (S. 5673) granting an increase of pension to Hilton Springsteed.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hilton Springsteed, late of Company E, Ninth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

THOMAS J. BOWSER.

The next pension business was the bill (S. 5680) granting an increase of pension to Thomas J. Bowser.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas J. Bowser, late of Company B, Fourth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ANNA C. BINGHAM.

The next pension business was the bill (S. 5702) granting an increase of pension to Anna C. Bingham.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Anna C. Bingham, widow of Lafayette Bingham, late lieutenant-colonel Ninety-second Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

RUTH P. PIERCE.

The next pension business was the bill (S. 5704) granting an increase of pension to Ruth P. Pierce.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ruth P. Pierce, widow of William H. Pierce, late of Company G, Second Regiment Rhode Island Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ANDREW D. DANLEY.

The next pension business was the bill (S. 5735) granting an increase of pension to Andrew D. Danley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Andrew D. Danley, late of Company D, Twenty-third Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MARY CLARK.

The next pension business was the bill (S. 5736) granting an increase of pension to Mary Clark.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary Clark, widow of George Clark, late of Company A, Fourth Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HANNAH M'CARTY.

The next pension business was the bill (S. 5754) granting a pension to Hannah McCarty.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to

the provisions and limitations of the pension laws, the name of Hannah McCarty, widow of Lemington McCarty, late of Company F, Second Regiment Massachusetts Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The bill was ordered to be laid aside with a favorable recommendation.

LORENZO E. JOHNSON.

The next pension business was the bill (S. 5780) granting a pension to Lorenzo E. Johnson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lorenzo E. Johnson, late acting assistant surgeon, United States Army, and pay him a pension at the rate of $12 per month.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN M. FARQUHAR.

The next pension business was the bill (S. 4983) granting an increase of pension to John M. Farquhar.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John M. Farquhar, late captain Company B, Eighty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ROBERT A. SCOTT.

The next pension business was the bill (H. R. 7589) granting an increase of pension to Robert A. Scott.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert A. Scott, late of Company B, Second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN BROUGHTON.

The next pension business was the bill (H. R. 9828) granting an increase of pension to John Broughton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Broughton, late of Company A, Twenty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twelve" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

FREDERICK W. CLARK.

The next pension business was the bill (H. R. 8852) granting a pension to Frederick W. Clark.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Frederick W. Clark, late of Company C, Tenth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month.

The amendments recommended by the committee were read, as follows:

In line 8, after the word "month," insert the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Frederick W. Clark."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LEANDER GILBERT.

The next pension business was the bill (H. R. 18655) granting an increase of pension to Leander Gilbert.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Leander Gilbert, late of Company I, Forty-seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

GREEN EVANS.

The next pension business was the bill (H. R. 18116) granting an increase of pension to Green Evans.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Green Evans, late of Company D, One hundred and fifteenth Regiment Kentucky Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 strike out the word "Kentucky" and insert in lieu thereof the words "United States."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN NAY.

The next pension business was the bill (H. R. 1420) granting an increase of pension to John Nay.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Nay, of Shinnston, Harrison County, W. Va., and pay him a pension at the rate of $15 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "of Shinnston, Harrison County, W. Va.," and insert in lieu thereof the words "late guide, United States Volunteers."

In line 7 strike out the word "fifteen" and insert in lieu thereof the word "twelve."

Amend the title so as to read: "A bill granting a pension to John Nay."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CHRISTOPHER S. GUTHRIE.

The next pension business was the bill (H. R. 7244) granting an increase of pension to Christopher S. Guthrie.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Christopher S. Guthrie, late sergeant of Company E, Fifty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "sergeant."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN HECKER.

The next pension business was the bill (H. R. 6914) granting an increase of pension to John Hecker.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Hecker, late of Company K, First Regiment Wisconsin Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HENRY CHUBB.

The next pension business was the bill (H. R. 5560) granting an increase of pension to Henry Chubb.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry Chubb, late of Company F, Fifteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN H. WHITING.

The next pension business was the bill (H. R. 4715) granting an increase of pension to John H. Whiting.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John H. Whiting, late of Company B, One hundred and eighty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of —— dollars per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8, before the word "dollars," insert the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

DAVID B. COLEMAN.

The next pension business was the bill (H. R. 4241) granting an increase of pension to David B. Coleman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David B. Coleman, late of Company D, Twenty-ninth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ROBERT BEATTY.

The next pension business was the bill (H. R. 4161) granting an increase of pension to Robert Beatty.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert Beatty, late of Company C, Eighty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty-five."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM L. RILEY.

The next pension business was the bill (H. R. 3572) granting a pension to William L. Riley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William L. Riley, late of Company C, Twenty-first Regiment New York Cavalry, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 7, before the word "Cavalry," insert the word "Volunteer."
In line 8, after the word "month," insert the words "in lieu of that he is now receiving."
Amend the title so as to read: "A bill granting an increase of pension to William L. Riley."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

GEORGE KING.

The next pension business was the bill (H. R. 3351) granting a pension to George King.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George King, late of Company F, Forty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month.

The amendments recommended by the committee were read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."
In same line, after the word "month," insert the words "in lieu of that he is now receiving."
Amend the title so as to read: "A bill granting an increase of pension to George King."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JACOB C. SHAFER.

The next pension business was the bill (H. R. 3005) granting an increase of pension to Jacob C. Shafer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob C. Shafer, late of Company F, First Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MARTIN POOL.

The next pension business was the bill (H. R. 2237) granting an increase of pension to Martin Poole.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Martin Poole, late of Company C, Forty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Poole" and insert in lieu thereof the word "Pool."
Amend the title so as to read: "A bill granting an increase of pension to Martin Pool."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM D. CHRISTY.

The next pension business was the bill (H. R. 1788) granting an increase of pension to William D. Christy.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William D. Christy, late of Company D, Second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Second," insert the words "and quartermaster-sergeant."
In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."
In same line, after the word "month," insert the words "in lieu of that he is now receiving."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

FRANK B. WATKINS.

The next pension business was the bill (H. R. 1650) granting an increase of pension to Frank B. Watkins.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Frank B. Watkins, late of Company H, First Regiment Michigan Volunteer Engineers and Mechanics, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

COLUMBUS BOTTS.

The next pension business was the bill (H. R. 1247) granting an increase of pension to Columbus Botts.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Columbus Botts, late of Company G, Eleventh Regiment, and Company C, One hundred and thirty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 9 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HERMAN BUCKTHAL.

The next pension business was the bill (H. R. 1178) granting a pension to Herman Buckthall.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Herman Buckthall, late of Company E, Fifty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 a month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Buckthall" and insert in lieu thereof the word "Buckthal."
In line 8, after the word "month," insert the words "in lieu of that he is now receiving."
Amend the title so as to read: "A bill granting an increase of pension to Herman Buckthal."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN LOGAN.

The next pension business was the bill (H. R. 1034) granting an increase of pension to John D. Logan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John D. Logan, late of Company G, First Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "D."
In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty."
Amend the title so as to read: "A bill granting an increase of pension to John Logan."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOSEPH A. BARNARD.

The next pension business was the bill (H. R. 9243) granting an increase of pension to Joseph A. Bernard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph A. Bernard, late of Company A, Eleventh Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Bernard" and insert in lieu thereof the word "Barnard."
In line 7 strike out the word "Infantry" and insert in lieu thereof the word "Cavalry."
Amend the title so as to read: "A bill granting an increase of pension to Joseph A. Barnard."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JACOB SCHULTZ.

The next pension business was the bill (H. R. 10794) granting an increase of pension to Jacob Schultz.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Schultz, late of Company A, Thirteenth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOSEPH SPRAUER.

The next pension business was the bill (H. R. 12184) granting an increase of pension to Joseph Sprauer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph Sprauer, late of Company I, One hundred and ninety-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

FRIEND S. ESMOND.

The next pension business was the bill (H. R. 13069) granting an increase of pension to Friend S. Esmond.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Friend S. Esmond, late of Company C, One hundred and twenty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," strike out the word "of," and insert in lieu thereof the word "captain."
In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MATTHEW H. BRANDON.

The next pension business was the bill (H. R. 12971) granting an increase of pension to Matthew H. Brandon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Matthew H. Brandon, late of Company D, One hundred and thirty-fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CATHARINE MYERS.

The next pension business was the bill (H. R. 12879) granting an increase of pension to Catherine Myers.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Catherine Myers, widow of Adelbert Myers, late of Company A, One hundred and forty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Catherine" and insert in lieu thereof the word "Catharine."
In line 9 strike out the word "twenty" and insert in lieu thereof the word "sixteen."
Amend the title so as to read: "A bill granting an increase of pension to Catharine Myers."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY SHEEHAN.

The next pension business was the bill (H. R. 17390) granting an increase of pension to Mary Sheehan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary Sheehan, widow of William Sheehan, late of Company A, One hundred and seventy-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM H. FARRELL.

The next pension business was the bill (H. R. 17445) granting an increase of pension to William H. Farrell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. Farrell, late of Company B, Forty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $70 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "seventy" and insert in lieu thereof the word "forty-five."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARGARET BONYNGE.

The next pension business was the bill (H. R. 2785) granting an increase of pension to Margaret Bonynge.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Margaret Bonynge, widow of Thomas Bonynge, late of Company K, First Regiment Rhode Island Volunteer Cavalry, and pay her a pension of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twelve" and insert in lieu thereof the word "sixteen."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS D. ADAMS.

The next pension business was the bill (H. R. 17922) granting an increase of pension to Thomas D. Adams.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas D. Adams, late of Company C, Seventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty.'

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

SAMUEL YEHL.

The next pension business was the bill (H. R. 17999) granting an increase of pension to Samuel Yehl.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel Yehl, late of Company G, One hundred and seventy-sixth Regiment Pennsylvania Volunteer Infantry, and Company E, Twenty-eighth Regiment Pennsylvania Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out the words "Company G, One hundred and seventy-sixth Regiment Pennsylvania Volunteer Infantry, and."

In line 8 strike out the word "Veteran.'

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM R. HINER.

The next pension business was the bill (H. R. 18041) granting an increase of pension to William R. Hiner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William R. Hiner, late of Company E, Eleventh Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty' and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ORRIN A. A. GARDNER.

The next pension business was the bill (H. R. 8795) granting an increase of pension to O. A. A. Gardner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of O. A. A. Gardner, late of Company A, Eleventh Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "O." and insert in lieu thereof the word "Orrin."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Orrin A. A. Gardner."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM B. WARREN.

The next pension business was the bill (H. R. 9862) granting an increase of pension to William B. Warren.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William B. Warren, late of Company A, Twenty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty-five."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIZA ROGERS.

The next pension business was the bill (H. R. 9531) granting an increase of pension to Eliza Rogers.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eliza Rogers, late of Company ——, ——— Regiment, United States Marine Corps, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "late of Company ——, ——— Regiment" and insert in lieu thereof the words "widow of Michael Rogers, late of."

In line 7 strike out the word "him" and insert in lieu thereof the word "her."

In line 8 strike out the word "twenty" and insert in lieu thereof the word "sixteen."

In same line strike out the word "he" and insert in lieu thereof the word "she."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

GEORGE STILLMAN.

The next pension business was the bill (H. R. 8867) granting an increase of pension to George Stillman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George Stillman, late of Company I, Eighteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

STEPHEN CUNDIFF.

The next pension business was the bill (H. R. 10395) granting an increase of pension to Stephen Cundiff.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Stephen Cundiff, late of Company A, Third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Third" and insert in lieu thereof the word "Second."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES P. HALL.

The next pension business was the bill (H. R. 17466) granting an increase of pension to James P. Hall.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James P. Hall, late of Company K, Forty-seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIZABETH BARTLEY.

The next pension business was the bill (H. R. 18076) granting an increase of pension to Elizabeth Bartley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Bartley, widow of Reuben Bartley, late of Company G, One hun-

dred and twenty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6, 7, and 8 strike out the words "of Company G, One hundred and twenty-third Regiment Pennsylvania Volunteer Infantry" and insert in lieu thereof the words "second lieutenant, Signal Corps, United States Army."

In line 9 strike out the word "twenty" and insert in lieu thereof the word "fifteen."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

BENEDICT SUTTER.

The next pension business was the bill (H. R. 18135) granting an increase of pension to Benedict Sutter.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Benedict Sutter, late of Independent Battery B, Pennsylvania Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALFRED GUDE.

The next pension business was the bill (H. R. 18724) granting an increase of pension to Alfred Gude.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alfred Gude, late of Company H, Fifty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty-six."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIJAH G. GOULD.

The next pension business was the bill (H. R. 18447) granting an increase of pension to Elijah G. Gould.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elijah G. Gould, late of Company K, Tenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JACOB S. RICKARD.

The next pension business was the bill (H. R. 18243) granting an increase of pension to Jacob S. Rickard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob S. Rickard, late of Company K, One hundred and ninety-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HANNAH R. JACOBS.

The next pension business was the bill (H. R. 18449) granting an increase of pension to Hannah R. Jacobs.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws. the name of Hannah R. Jacobs, widow of Abram B. Jacobs, late of Company H, Sixth Regiment United States Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "twelve."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN J. HOWELLS.

The next pension business was the bill (H. R. 18184) granting an increase of pension to John J. Howells.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John J. Howells, late of Company C, Thirty-third Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN W. BLANCHARD.

The next pension business was the bill (H. R. 18132) granting an increase of pension to John W. Blanchard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Blanchard, late of Company B, First Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

PATRICK M'CARTHY.

The next pension business was the bill (H. R. 17388) granting an increase of pension to Patrick McCarthy.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Patrick McCarthy, late of Company D, Twenty-eighth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN A. LYLE.

The next pension business was the bill (H. R. 18105) granting an increase of pension to John A. Lyle.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John A. Lyle, late of Company E, Ninety-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty-four" and insert the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ISOM WILKERSON.

The next pension business was the bill (H. R. 17374) granting an increase of pension to Isom Wilkerson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Isom Wilkerson, late of Company I, Second Regiment California Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM E. STARR.

The next pension business was the bill (H. R. 18357) granting an increase of pension to William E. Starr.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William

E. Starr, late of Eighteenth Battery, Indiana Volunteer Light Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Battery," insert the word "Independent."

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CLAY RIGGS.

The next pension business was the bill (H. R. 18308) granting a pension to Clay Riggs.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Clay Riggs, late of Company I, Forty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

In same line, after the word "month," insert the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Clay Riggs."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JACOB STAUFF.

The next pension business was the bill (H. R. 18165) granting an increase of pension to Jacob Stauff.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob Stauff, late of Company I, Twenty-sixth Regiment Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7, before the word "Volunteer," insert the word "Wisconsin."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN CAIN.

The next pension business was the bill (H. R. 17542) granting an increase of pension to John Cain.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Cain, late of Company D, Second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN M. CARROLL.

The next pension business was the bill (H. R. 13828) granting an increase of pension to John M. Carroll.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John M. Carroll, late of Twelfth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $35 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Twelfth," insert the words "Company K."

In line 8 strike out the word "thirty-five" and insert the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN H. EVERSOLE.

The next pension business was the bill (H. R. 14264) granting an increase of pension to John H. Eversole.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John H. Eversole, late of Company I, One hundred and seventy-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

DAVID FORD.

The next pension business was the bill (H. R. 14729) granting an increase of pension to David Ford.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David Ford, late of Company H, Twenty-seventh Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CHRISTIAN SCHLOSSER.

The next pension business was the bill (H. R. 14702) granting an increase of pension to Christian Schlosser.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Christian Schlosser, late of Company I, Second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JOSEPH J. GOODE.

The next pension business was the bill (H. R. 16441) granting an increase of pension to Joseph J. Good.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph J. Good, late of Company K, Fifth Regiment Tennessee Volunteer Mounted Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Good" and insert in lieu thereof the word "Goode."

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Joseph J. Goode."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

DAVID H. PARKER.

The next pension business was the bill (H. R. 17171) granting an increase of pension to David H. Parker.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David H. Parker, late of Company D, Two hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES R. HICKS.

The next pension business was the bill (H. R. 16595) granting an increase of pension to James Russell Hicks.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James Russell Hicks, late of Company B, Seventy-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Russell" and insert in lieu thereof the letter "R."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "twelve."

Amend the title so as to read: "A bill granting a pension to James R. Hicks."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HEZEKIAH J. REYNOLDS.

The next pension business was the bill (H. R. 16005) granting an increase of pension to Hezekiah J. Reynolds.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hezekiah J. Reynolds, late of Company E, One hundred and forty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

DUDLEY M'KIBBEN.

The next pension business was the bill (H. R. 16812) granting an increase of pension to Dudley McKibben.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Dudley McKibben, late of Company I, Thirty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ADAM DIXON.

The next pension business was the bill (H. R. 16252) granting an increase of pension to Adam Dixon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Adam Dixon, late of Company B, One hundred and fourth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," strike out the word "of" and insert in lieu thereof the word "captain."

In same line strike out the letter "B" and insert in lieu thereof the letter "G."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

GEORGE H. GORDON.

The next pension business was the bill (H. R. 16565) granting an increase of pension to George H. Gordon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George H. Gordon, late first lieutenant, Ninetieth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "late," insert the words "alias Gorton."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "thirty."

Amend the title so as to read: "A bill granting an increase of pension to George H. Gordon, alias Gorton."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES B. ADAMS.

The next pension business was the bill (H. R. 16878) granting an increase of pension to James B. Adams.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James B. Adams, late of Company E, Fifteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ISABEL NEWLIN.

The next pension business was the bill (H. R. 16977) granting a pension to Isabel Newlin.

The bill was read, as follows.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Isabel Newlin, widow of Ellis P. Newlin, late of Company L, Seventeenth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $25 per month.

The amendments recommended by the committee were read, as follows:

In line 8 strike out the word "twenty-five" and insert in lieu thereof the word "twelve."

In line 9, after the word "month," insert the words "in lieu of that she is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Isabel Newlin."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM K. TRABUE.

The next pension business was the bill (H. R. 15126) granting an increase of pension to William K. Trabue.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William K. Trabue, late captain Companies E and G, Thirteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALBERT G. PACKER.

The next pension business was the bill (H. R. 18959) granting an increase of pension to Albert G. Packer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Albert G. Packer, late captain Company F, Sixty-first Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

EVANS P. HOOVER.

The next pension business was the bill (H. R. 18678) granting an increase of pension to Evans P. Hoover.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Evans P. Hoover, late of Company G, Eighty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the word "Eighty-fifth" and insert in lieu thereof the word "Thirty-fifth."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS GARRATT.

The next pension business was the bill (H. R. 18236) granting an increase of pension to Thomas Garrett.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Garrett, late of Company L, First Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Garrett" and insert in lieu thereof the word "Garratt."

In the same line strike out the word "First" and insert in lieu thereof the word "Sixteenth."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Thomas Garratt."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ERASTUS W. BRIGGS.

The next pension business was the bill (H. R. 18038) granting an increase of pension to E. W. Briggs.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of E. W. Briggs, late of Company H, Second and Eighty-sixth Regiments Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in liew of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "E." and insert in lieu thereof the word "Erastus."

In same line and in line 7 strike out the words "Company H, Second and Eighty-sixth Regiments," and insert in lieu thereof the words "band, Thirty-eighth Regiment."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

Amend the title so as to read: "A bill granting an increase of pension to Erastus W. Briggs."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

RACHEL A. WEBSTER.

The next pension business was the bill (H. R. 18355) granting an increase of pension to Rachel A. Webster.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Rachel A. Webster, widow of William A. Webster, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "William," strike out the letter "A." and insert in lieu thereof the letter "L."

In same line, before the word "and," insert the words "late captain Company I, Fifth Regiment Tennessee Volunteer Mounted Infantry."

In line 7 strike out the word "twenty" and insert in lieu thereof the word "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

GIDEON M. BURRISS.

The next pension business was the bill (H. R. 19005) granting an increase of pension to Gideon M. Burriss.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Gideon M. Burriss, late of Company H, Third Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $20 per month.

The amendments recommended by the committee were read, as follows:

In line 7 strike out the word "Mounted" and insert in lieu thereof the word "Volunteer."

In same line strike out the word "Volunteer" and insert in lieu thereof the word "Mounted."

In line 8 strike out the word "twenty" and insert in lieu thereof the word "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

EDGAR SLATER.

The next pension business was the bill (H. R. 17528) granting an increase of pension to Edgar Slater.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edgar Slater, late of Company F, Thirty-sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

NEWTON S. DAVIS.

The next pension business was the bill (H. R. 17346) granting an increase of pension to Newton S. Davis.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Newton S. Davis, late of Tenth Independent Battery, Wisconsin Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILHELM GRIESE.

The next pension business was the bill (H. R. 18125) granting an increase of pension to William Griasa.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Griasa, late of Company K, First Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the words "William Griasa" and insert in lieu thereof the words "Wilhelm Griese."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

VIRGIL A. BAYLEY.

The next pension business was the bill (H. R. 18310) granting an increase of pension to Virgil A. Bayley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Virgil A. Bayley, late of Company C, Sixteenth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELLEN L. STONE.

The next pension business was the bill (H. R. 18509) granting an increase of pension to Ellen L. Stone.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ellen L. Stone, widow of Joseph C. Stone, late adjutant First Regiment Iowa Volunteer Cavalry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "adjutant" and insert in lieu thereof the word "captain."

In line 7 strike out the words "First Regiment Iowa Volunteer Cavalry" and insert in lieu thereof the words "and assistant adjutant-general, United States Volunteers."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

NELSON S. PRESTON.

The next pension business was the bill (H. R. 18976) granting an increase of pension to Nelson S. Preston.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nelson S. Preston, late of Company B, Sixth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $60 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "sixty" and insert in lieu thereof the word "forty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HENRY BALLARD.

The next pension business was the bill (H. R. 17476) granting an increase of pension to Henry Ballard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry Ballard, late of Company I, Fifth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN W. JONES.

The next pension business was the bill (H. R. 18121) granting an increase of pension to John W. Jones.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Jones, late of Company G, Eighty-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

EDWARD B. PRIME.

The next pension business was the bill (H. R. 18702) granting an increase of pension to Edward B. Prime.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward B. Prime, late of Company G, Tenth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty-six."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

EDWARD C. BOWERS.

The next pension business was the bill (H. R. 16188) granting a pension to Edward C. Bowers.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward C. Bowers, late ensign in the United States Navy, and pay him a pension at the rate of $6 per month.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "ensign," insert the word "acting."

In same line strike out the words "in the."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CHARLES F. TOWER.

The next pension business was the bill (H. R. 3495) granting an increase of pension to Charles F. Tower.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles F. Tower, late of Company I, Tenth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

EDWARD D. LOCKWOOD.

The next pension business was the bill (H. R. 5911) granting a pension to Edward D. Lockwood.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edward D. Lockwood, late of Company A, Ninth Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $24 per month.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "late," insert the words "alias George E. McDaniel."

In line 8 strike out the word "twenty-four" and insert in lieu thereof the word "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS H. THORNBURGH.

The next pension business was the bill (H. R. 16842) granting an increase of pension to Thomas H. Thornburgh.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas H. Thornburgh, late of Company A, Eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "late," strike out the word "of" and insert in lieu thereof the words "second lieutenant."

In same line strike out the letter "A" and insert in lieu thereof the letter "F."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "forty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS DAILEY.

The next pension business was the bill (H. R. 16496) granting an increase of pension to Thomas Daily.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Daily, late of Company B, Fifty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "Daily" and insert in lieu thereof the word "Dailey."

In line 8 strike out the word "thirty-six" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM HAMMOND.

The next pension business was the bill (H. R. 16682) granting an increase of pension to William Hammond.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Hammond, late of Company D, Eighth Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

BENJAMIN F. FINICAL.

The next pension business was the bill (H. R. 15288) granting an increase of pension to Benjamin F. Finical.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Benjamin F. Finical, late of Company C, First Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM W. COMBS.

The next pension business was the bill (H. R. 15613) granting an increase of pension to William W. Combs.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William W. Combs, late of Company A, Seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Company," insert the words "Company G, Twenty-second Regiment, and."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN GINTHER.

The next pension business was the bill (H. R. 16073) granting an increase of pension to John Ginther.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John

Ginther, late of Company G, Eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JAMES E. HAMMONTREE.

The next pension business was the bill (H. R. 13443) granting an increase of pension to James E. Hammontree.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James E. Hammontree, late of Company H, Fifth Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CYRUS VANMATRE.

The next pension business was the bill (H. R. 11457) granting an increase of pension to Cyrus Van Matre.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Cyrus Van Matre, late of Company B, Eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Van Matre" and insert in lieu thereof the word "Vanmatre."

In same line, before the word "Eighth," insert the words "and first lieutenant Company E."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Cyrus Vanmatre."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MICHAEL LENNON.

The next pension business was the bill (H. R. 10828) granting a pension to Michael Lennon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Michael Lennon, late of Company G, Second Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 8, after the word "month," insert the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Michael Lennon."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS P. CRANDALL.

The next pension business was the bill (H. R. 12418) granting an increase of pension to Thomas P. Crandall.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas P. Crandall, late of Company C, Fiftieth Regiment New York Volunteer Engineers, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

MARGARET A. MONTGOMERY.

The next pension business was the bill (H. R. 12336) granting an increase of pension to Margaret A. Montgomery.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Margaret A. Montgomery, widow of James Montgomery, late of Company C, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 9 strike out the word "twelve" and insert in lieu thereof the word "sixteen."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LEWIS J. POST.

The next pension business was the bill (H. R. 11057) granting an increase of pension to Lewis J. Post.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lewis J. Post, late of Company C, Twenty-seventh Regiment New York Volunteer Infantry, and Company H, Sixth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "C, Twenty-seventh" and insert in lieu thereof the words "A, Thirteenth."

In line 7 strike out the words "New York Volunteer Infantry."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN T. WISE.

The next pension business was the bill (H. R. 12249) granting an increase of pension to John T. Wise.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John T. Wise, late of Company B, Fifty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

Mr. SULLOWAY. Mr. Chairman, the beneficiary in this bill is dead, and I move that the bill be laid aside with the recommendation that it be laid upon the table.

The motion was agreed to.

JAMES C. STRONG.

The next pension business was the bill (H. R. 8894) granting an increase of pension to James C. Strong.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James C. Strong, late lieutenant-colonel, colonel, and brevet brigadier-general, United States Volunteers, and pay him a pension at the rate of $72 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In lines 6 and 7 strike out the words "colonel, and brevet brigadier-general, United States Volunteers," and insert in lieu thereof the words "Thirty-eighth Regiment New York Volunteer Infantry."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CALVIN M. LATHAM.

The next pension business was the bill (H. R. 8817) granting an increase of pension to Calvin Latham.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Calvin Latham, late of Company F, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after the word "Calvin," insert the letter "M."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty-six."

Amend the title so as to read: "A bill granting an increase of pension to Calvin M. Latham."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES M. JARED.

The next pension business was the bill (H. R. 8232) granting an increase of pension to James M. Jared.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James M. Jared, late of Company K, Twenty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7, before the word "and," insert the words "and Company K, Ninth Regiment United States Veteran Volunteer Infantry."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

EDWIN M. TODD.

The next pension business was the bill (H. R. 7402) granting an increase of pension to Edwin M. Todd.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Edwin M. Todd, late of Companies H and I, Forty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

HENRY E. SEELYE.

The next pension business was the bill (H. R. 8155) granting an increase of pension to Henry E. Seelye.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry E. Seelye, late of Company A, Ninth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM E. CHAMBERS.

The next pension business was the bill (H. R. 18628) granting an increase of pension to William E. Chambers.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William E. Chambers, late of Company F, Eighth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "forty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS J. BYRD.

The next pension business was the bill (H. R. 17934) granting an increase of pension to Thomas J. Byrd.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas J. Byrd, late of Company E, First Regiment Alabama Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ALEX. O. HUFFMAN.

The next pension business was the bill (H. R. 6596) granting an increase of pension to A. O. Huffman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of A. O. Huffman, late of Company —, —— Regiment —— Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "A." and insert in lieu thereof the word "Alex."

In same line, after the word "Company," insert the letter "F."

In same line, before the word "Regiment," insert the word "Twenty-first."

In line 7, before the word "Volunteer," insert the word "Kentucky."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to Alex. O. Huffman."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY C. CHAPMAN.

The next pension business was the bill (H. R. 6505) granting an increase of pension to Mary C. Chapman.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary C. Chapman, widow of Mathew D. Chapman, late of Company G, Ninth Regiment Missouri State Militia Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In lines 8 and 9 strike out the word "twenty-four" and insert in lieu thereof the word "twelve."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOSEPH MONTGOMERY.

The next pension business was the bill (H. R. 5040) granting an increase of pension to Joseph Montgomery.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph Montgomery, late of Company F, One hundred and twenty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALLEN L. GARWOOD.

The next pension business was the bill (H. R. 5958) granting an increase of pension to Allen L. Garwood.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Allen L. Garwood, late of Company A, Fifty-fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Company," insert the words "Company I, Third Regiment Pennsylvania Reserve Volunteer Infantry, and."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIAS HANES.

The next pension business was the bill (H. R. 6059) granting an increase of pension to Elias Hanes.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elias Hanes, late of Company B, One hundred and twenty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JACOB H. LYNCH.

The next pension business was the bill (H. R. 1614) granting an increase of pension to Jacob H. Lynch.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jacob H. Lynch, late of Company C, Sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "G, Sixth" and insert in lieu thereof the words "A, Twenty-second."

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CHARLES A. WALKER.

The next pension business was the bill (H. R. 1736) granting an increase of pension to Charles A. Walker.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to

the provisions and limitations of the pension laws, the name of Charles A. Walker, late of Company F, Thirteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the letter "F" and insert in lieu thereof the letter "I."

In line 8 strike out the word "forty" and insert in lieu thereof the word "thirty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HUDSON J. VAN SCOTER.

The next pension business was the bill (H. R. 2265) granting an increase of pension to Hudson J. Van Scoter.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hudson J. Van Scoter, late of Company G, Twenty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ANTHONY SANSPEUR.

The next pension business was the bill (H. R. 2247) granting an increase of pension to Anthony Sanspeur.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Anthony Sanspeur, late first lieutenant Company E, Twelfth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the words "Company E" and insert in lieu thereof the words "and quartermaster."

In line 8 strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

EGBERT J. OLDS.

The next pension business was the bill (H. R. 3488) granting an increase of pension to Egbert J. Olds.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Egbert J. Olds, late of Company B, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM SAPHAR.

The next business was the bill (H. R. 9238) for the relief of William Saphar;

The bill was read, as follows:

Be it enacted, etc. That William Saphar shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company F, Seventh Regiment United States Veteran Volunteer Infantry, on the 14th day of December, 1865.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM W. DUDLEY.

The next pension business was the bill (H. R. 17915) granting an increase of pension to William W. Dudley.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William W. Dudley, late of Nineteenth Regiment Indiana Volunteer Infantry, brevet colonel and brevet brigadier-general, United States Volunteers, and pay him a pension at the rate of $100 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, before the word "Nineteenth," strike out the word "of" an insert in lieu thereof the word "lieutenant-colonel."

In lines 7 and 8 strike out the words "brevet colonel and brevet brigadier-general, United States Volunteers."

In line 9 strike out the words "one hundred" and insert in lieu thereof the word "seventy-two."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN W. CHASE.

The next pension business was the bill (H. R. 17309) granting an increase of pension to John W. Chase.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Chase, late of Company B, Eighteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

PATRICK CONLIN.

The next business was the bill (H. R. 7226) for the relief of Patrick Conlin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to place the name of Patrick Conlin on the records as a member of Company I, Fifty-seventh Regiment Ohio Volunteer Infantry, and grant him an honorable discharge, to date from September 1, 1865.

The amendment recommended by the committee was read, as follows:

In line 8, after the word "sixty-five," insert: "*Provided*, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARTIN ELLISON.

The next pension business was the bill (H. R. 4597) granting an increase of pension to Martin Ellison.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Martin Ellison, late a soldier of the United States in the war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out "a soldier of the United States in the," and in the same line, after the word "late," insert "of Company C, Colonel Lane's battalion, Texas Mounted Volunteers."

In line 7 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HORACE SALTER.

The next pension business was the bill (H. R. 6533) granting a pension to Horace Salter.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Horace Salter, late of Morgan's independent company, Iowa Mounted Volunteers, Mexican war, and pay him a pension at the rate of $50 per month.

The amendments recommended by the committee were read, as follows:

In line 7 strike out "Mexican war" and insert "war with Mexico."

In line 8 strike out "fifty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY ANN SHELLY.

The next pension business was the bill (H. R. 11855) granting an increase of pension to Mary A. Shelly.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Shelly, widow of Bailey Shelly, late of Company D, Third Regiment Indiana Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

Change the initial "A." in the claimant's name where it appears in the title and body of the bill to "Ann."

In line 7 change "Volunteer" to "Volunteers," and in the same line strike out "Infantry."

In line 8 strike out "twenty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HESTER A. VAN DERSLICE.

The next pension business was the bill (H. R. 12330) granting an increase of pension to Hester A. Van Derslice.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hester A. Van Derslice, widow of Joseph H. Van Derslice, late captain, Fourteenth Regiment United States Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM D. WILLIS.

The next pension business was the bill (H. R. 16272) granting a pension to William D. Willis.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William D. Willis, and pay him a pension at the rate of $12 per month.

The amendment recommended by the committee was read, as follows:

In line 6, after "Willis," insert "late of Battery A, Fourth Regiment United States Artillery."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY AMANDA NASH.

The next pension business was the bill (H. R. 16525) granting an increase of pension to M. A. Nash.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of M. A. Nash, widow of S. K. Nash, late of Company D, —— Regiment North Carolina Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

Change the claimant's name in the title and body of the bill to "Mary Amanda Nash."

In line 6 change the initial "S." in the soldier's name to "Shepard."

In line 7, before "Regiment," insert "First;" and in the same line change "Volunteer" to "Volunteers" and after the same insert "war with Mexico;" and in the same line strike out "Infantry."

In line 8 strike out "thirty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

BOLIVAR WARD.

The next pension business was the bill (H. R. 17825) granting an increase of pension to Bolivar Ward.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Bolivar Ward, late of Company I, Separate Battalion of Missouri Mounted Volunteers, war with Mexico, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "forty" and insert "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIZA M. BUICE.

The next pension business was the bill (H. R. 17891) granting an increase of pension to Eliza M. Buice.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eliza M. Buice, widow of Elijah E. Buice, late of Company —, ——— Regiment ——— Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 insert, before the word "Regiment," "H, First" and after the word "Regiment," in the same line, insert "Tennessee Mounted."

In line 8 strike out "twenty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

SALLIE E. BLANDING.

The next pension business was the bill (H. R. 17920) granting an increase of pension to Sallie E. Blanding.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sallie E. Blanding, widow of Ormsby Blanding, late of Company D, Twelfth Regiment South Carolina Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out "South Carolina Volunteer," and in the same line insert, after "Regiment," the words "United States."

In line 8, after "Infantry," insert "war with Mexico," and in the same line strike out "thirty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ANDREW C. WOODARD.

The next pension business was the bill (H. R. 17935) granting an increase of pension to Andrew C. Woodward.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Andrew C. Woodward, late of Capt. Melvin Hart's company, ——— Regiment ——— Volunteer Infantry, Seminole Indian war, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change claimant's surname in the title and body of the bill from "Woodward" to "Woodard."

In line 6 strike out "Melvin," and in the same line, after "Hart's," insert "independent."

In line 7 strike out "Regiment" and "Volunteer Infantry, Seminole," and in the same line, after "pany," insert "Florida Mounted Volunteers."

In line 8, before the word "Indian," insert "Florida," and in the same line strike out "thirty" and insert "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

RHETTA FLORENCE TILTON.

The next pension business was the bill (H. R. 17940) granting a pension to Florence Tilton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Florence Tilton, widow of Palmer Tilton, late first lieutenant Company C, Twentieth Regiment United States Infantry, and pay her a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

Change the Christian name of the claimant where it appears in the title and body of the bill to "Rhetta Florence."

In line 7 strike out "Company C."

In line 8 strike out "thirty" and insert "seventeen," and add to the end of the bill the words "and $2 per month additional on account of the minor child of said Palmer Tilton until he reaches the age of 16 years."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY A. MONTGOMERY.

The next pension business was the bill (H. R. 18034) granting a pension to Mary A. Montgomery.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Montgomery, widow of Richard J. Montgomery, late of Company —, ——— Regiment ——— Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6 change "Richard" to "Ritchard."

In line 7 strike out "of Company —, ——— Regiment ——— Volunteer Infantry," and in the same line, after "late," insert "recruit, general service, United States Army."

In line 8 strike out "twelve" and insert "eight."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY M'FARLANE.

The next pension business was the bill (H. R. 18073) granting an increase of pension to Mary McFarlane.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary McFarlane, widow of Anjin W. McFarlane, late of Captain Cowan's company, Alabama Volunteers, Indian war, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 change "Anjin" to "Anjer."
In line 7, after "Alabama," insert "Mounted," and in the same line, after "Volunteers," insert "Florida."
In line 8 strike out "thirty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY E. PATTERSON.

The next pension business was the bill (H. R. 18106) granting an increase of pension to Mary E. Patterson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary E. Patterson, widow of George W. Patterson, who under the name of W. Patterson served as a private in Captain Newsom's company, Taylor's battalion, Middle Florida Mounted Volunteers, Florida Indian war, and pay her a pension at the rate of $12 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In lines 6 and 7 strike out "who under the name of W. Patterson served as a private in" and insert in lieu thereof "late of."
In line 8 strike out "Newsom's" and insert "D. P. F. Newsom's," and in the same line strike out "Taylor's Battalion Middle."
In line 9 strike out "Mounted."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN H. BROADWAY.

The next pension business was the bill (H. R. 18262) granting an increase of pension to John H. Broadway.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name o John H. Broadway, late of Company E, First Regiment Tennessee Mounted Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 6 strike out the letter "o" and insert the word "of."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARTHA A. DUNLAP.

The next pension business was the bill (H. R. 18378) granting an increase of pension to Martha A. Dunlap.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Martha A. Dunlap, widow of John M. Dunlap, late of Bowman's company, Regiment Georgia Volunteers, Indian war, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, after the word "of," insert "captain," and in the same line strike out "Regiment."
In line 8, before the word "Indian," insert "Cherokee," and in the same line strike out "war" and insert "disturbance."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

PAULINE BIETRY.

The next pension business was the bill (H. R. 18399) granting an increase of pension to Pauline Bietry.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Pauline Bietry, widow of John Bietry, late of Company G, First Regiment Michigan Volunteers, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ELMIRA M. GAUSE.

The next pension business was the bill (H. R. 18400) granting an increase of pension to Elmira M. Gause.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elmira M. Gause, widow of Edward A. Gause, late of Captain Elmo's company, Alabama Volunteers, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 strike out "Elmo's" and insert "Elmore's."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LUCY W. POWELL.

The next pension business was the bill (H. R. 18402) granting an increase of pension to Lucy W. Powell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lucy W. Powell, widow of Owen C. Powell, late of Company A, First Regiment Texas Mounted Volunteers, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ELIZABETH HATHAWAY.

The next pension business was the bill (H. R. 18426) granting a pension to Elizabeth Hathaway.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Hathaway, dependent mother of John Hathaway, late of Company G, Thirty-fourth Regiment United States Infantry, war with Spain, and pay her a pension at the rate of $12 per month.

The amendments recommended by the committee were read, as follows:

In line 6 change "John Hathaway" to "John C. Hathaway."
In line 8, before "Infantry," insert "Volunteer."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

BENJAMIN F. TUDOR.

The next pension business was the bill (H. R. 18460) granting a pension to B. F. Tudor.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of B. F. Tudor (enlisted as Franklin Tutor), late of Company B, Santa Fe Battalion, Walker's Missouri Mounted Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month.

The amendments recommended by the committee were read, as follows:

Change the initial "B." where it appears in claimant's name in the title and body of the bill to "Benjamin."
In line 6 strike out "(enlisted as Franklin Tutor)."
In line 7 strike out "Walker's."
In line 9 strike out "twenty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

RUDOLPH W. H. SWENDT.

The next pension business was the bill (H. R. 18467) granting a pension to Rudolph W. H. Swendt.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Rudolph W. H. Swendt, late of Company C, Fifth Regiment Tennessee Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 7 change "Volunteer" to "Volunteers," and in same line strike out "Infantry."
In line 8 strike out "thirty" and insert "twenty," and add to the end of the bill the words "in lieu of that he is now receiving."
Amend the title so as to read: "A bill granting an increase of pension to Rudolph W. H. Swendt."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

SAMUEL C. DEAN.

The next pension business was the bill (H. R. 18469) granting a pension to Samuel C. Dean.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Samuel C. Dean, late of Company G, Third Regiment Ohio Volunteers, war with Mexico, and pay him a pension at the rate of $30 per month.

The amendments recommended by the committee were read, as follows:

In line 7, after "Mexico," insert "and Company I, Second Regiment California Volunteer Cavalry."

Add to the end of the bill the words "in lieu of that he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Samuel C. Dean."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

M. BELLE MAY.

The next pension business was the bill (H. R. 18505) granting an increase of pension to M. Belle May.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of M. Belle May, widow of Henry J. May, late captain and quartermaster, United States Volunteers, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

Strike out the word "Volunteers," in line 7, and insert in lieu thereof the word "Army."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HUGH R. RUTLEDGE.

The next pension business was the bill (H. R. 18510) granting an increase of pension to Hugh R. Rutledge.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Hugh R. Rutledge, late surgeon, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after "late," insert "assistant;" in the same line, after "surgeon," insert "United States Army."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ANGELINE R. LOMAX.

The next pension business was the bill (H. R. 18539) granting an increase of pension to Angeline R. Lomax.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Angeline R. Lomax, widow of William A. Lomax, late of Palmetto Regiment South Carolina Volunteers, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7, before the word "Palmetto," insert "Company E."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

SARAH ANN DAY.

The next pension business was the bill (H. R. 18542) granting an increase of pension to Sarah Ann Day.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sarah Ann Day, widow of Lloyd Day, late of the Maryland Militia, war of 1812, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "the" and in the same line, after "late of," insert "Captains Hamilton's, McEldry's, and Lieutenant Blacklock's companies."

In line 7, after "land," insert "Volunteer."

In line 8 strike out "thirty" and insert "twenty-four."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM D. DROWN.

The next pension business was the bill (H. R. 18551) granting an increase of pension to William D. Drown.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of W. D. Drawn, late of Company I, Second Regiment United States Dragoons, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change claimant's name in the title and body of the bill to "William D. Drown."

In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALLAMANZA M. HARRISON.

The next pension business was the bill (H. R. 18572) granting an increase of pension to Allamanza M. Harrison.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Allamanza M. Harrison, widow of William Harrison, late of Company C, Santa Fe Battalion Missouri Mounted Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 add the letter "s" to the letters "teer," and in the same line strike out "sixteen" and insert "twelve."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN M. QUINTON.

The next pension business was the bill (H. R. 18573) granting an increase of pension to John M. Quinton.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John M. Quinton, late of Company H, Fourth Regiment Kentucky Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 change "Volunteer" to "Volunteers;" and in the same line strike out "Infantry."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM LAWRENCE.

The next pension business was the bill (H. R. 18605) granting an increase of pension to William Lawrence.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Lawrence, late of Company E, Third Regiment Kentucky Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 change "Volunteer" to "Volunteers;" and in the same line strike out "Infantry."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIZABETH A. ANDERSON.

The next pension business was the bill (H. R. 18627) granting an increase of pension to Elizabeth A. Anderson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth A. Anderson, widow of Antonio Anderson, late seaman, United States revenue cutter Erving, United States Navy, war with Mexico, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 strike out "Erving" and insert "Ewing."

In line 8, after "Mexico," insert "also seaman, United States ships James Campbell, Crawford, Miami, and Ewing, United States Navy."

In line 9 strike out "thirty" and insert "sixteen."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JENNIE F. BELDING.

The next pension business was the bill (H. R. 18633) granting an increase of pension to Jennie F. Belding.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Jennie F. Belding, widow of Wallace J. Belding, late of Company I, First

Regiment Pennsylvania Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

ELIZABETH THOMAS.

The next pension business was the bill (H. R. 18651) granting an increase of pension to Elizabeth Thomas.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Thomas, widow of Dudley Thomas, late of Company K, Second Regiment Missouri Mounted Volunteers, war with Mexico, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "sixteen" and insert "twelve."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ROBERT D. GARDNER.

The next pension business was the bill (H. R. 18654) granting an increase of pension to R. D. Gardner.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of R. D. Gardner, late of Capt. J. F. Preston's company, First Regiment Virginia Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change the initial "R." in the claimant's name where it appears in the title and the body of the bill, to "Robert."

In line 6 strike out the initials "J. F.," and in the same line, after "Preston's," insert "Grenadiers." In the same line strike out "company."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LOUISA C. GIBSON.

The next pension business was the bill (H. R. 18696) granting an increase of pension to Louisa C. Gibson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Louisa C. Gibson, widow of Ralph J. Gibson, late of Company K, Second Regiment Mississippi Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In lines 7 and 8 strike out the words "Volunteer Infantry" and insert the word "Volunteers."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARTHA L. BEESLEY.

The next pension business was the bill (H. R. 18697) granting an increase of pension to Martha L. Beasely.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Martha L. Beasely, widow of J. S. Beasely, late of Company K, First Regiment Texas Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

Change the claimant's surname where it appears in the title and the body of the bill to "Beesley."

In line 6 change the soldier's name to "John S. Beesley."

In line 7 strike out "Infantry" and insert "Foot Riflemen."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM C. MAHAFFEY.

The next pension business was the bill (H. R. 18730) granting an increase of pension to W. C. Mahaffey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of W. C. Mahaffey, late of Company K, Third Regiment Kentucky Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change the initial "W." where it appears in claimant's name in the title and body of the bill to "William."

In line 6 strike out "K" and insert "F."

In line 7 strike out the words "Volunteer Infantry" and insert the word "Volunteers."

In line 8 strike out the word "twenty-four" and insert the word "twenty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ISAAC HOWARD.

The next pension business was the bill (H. R. 18746) granting an increase of pension to Isaac Howard.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Isaac Howard, late of Company D, First Regiment North Carolina Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM H. COLEGATE.

The next pension business was the bill (H. R. 18747) granting an increase of pension to W. H. Colegate.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of W. H. Colegate, late of battle ship Columbus, United States Navy, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

Change the initial "W." where it appears in the claimant's name in the title and body of the bill, to "William."

In line 6 strike out the words "of battle;" and in the same line, after "late," insert "landsman, United States."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

WILLIAM C. M'ROY.

The next pension business was the bill (H. R. 18794) granting an increase of pension to William C. McRoy.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William C. McRoy, late of Company E, First Regiment Tennessee Mounted Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "thirty" and insert "twenty."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES E. RANEY.

The next pension business was the bill (H. R. 18795) granting an increase of pension to James E. Raney.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James E. Raney, late of —— company, First Regiment Tennessee Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving

The amendments recommended by the committee were read, as follows:

In line 6, after "late of," insert "Captain Frierson's."

In line 8 strike out "thirty" and insert "twenty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIZA JANE WITHERSPOON.

The next pension business was the bill (H. R. 18821) granting an increase of pension to Eliza Jane Witherspoon.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eliza Jane Witherspoon, widow of George McC. Witherspoon, late of South Carolina Mounted Infantry, Florida Indian war, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7, after "late of," insert "Captain Gibson's company;" and in the same line, after "Mounted," insert "Volunteer."
In line 8 strike out "twenty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

SOPHIE S. PARKER.

The next pension business was the bill (H. R. 18822) granting an increase of pension to Sophie S. Parker.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Sophia S. Parker, widow of Newton O. Parker, late of Company A, First Oregon Mounted Volunteers, Indian wars, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

Change the spelling of claimant's Christian name where it appears in the title and body of the bill to "Sophie."
In line 7, after the word "First," insert "Regiment;" and in the same line, after "Volunteers," insert "Oregon and Washington Territory."
In line 8 strike out "twenty-five" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOSEPH H. WEAVER.

The next pension business was the bill (H. R. 18862) granting an increase of pension to Joseph H. Weaver.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Joseph H. Weaver, late of First Regiment Mississippi Mounted Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 6, after "late of," insert "Company B." In the same line strike out "Mississippi" and insert "Missouri."
In line 7, after "Mexico," insert "and Company H, Eleventh Regiment Kansas Volunteer Cavalry."
In line 8 strike out "twenty" and insert "thirty."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ALEXANDER W. CARRUTH.

The next pension business was the bill (H. R. 18887) granting an increase of pension to Alexander W. Carruth.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alexander W. Carruth, late of Capt. James O. Fuqua's company, Sixth Regiment, Second Brigade, Louisiana Volunteers, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendments recommended by the committee were read, as follows:

In line 8 change "James" to the initial "J."
In line 7 strike out "Second Brigade."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

ELIZA J. MAYS.

The next pension business was the bill (H. R. 18930) granting an increase of pension to Eliza J. Mays.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eliza J. Mays, widow of William Mays, late of Captain Johnson's company, Colonel Hay's regiment, Texas Mounted Volunteers, war with Mexico, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 9 strike out "thirty" and insert "twelve."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MIMA A. BOSWELL.

The next pension business was the bill (H. R. 18935) granting an increase of pension to Mima A. Boswell.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mima A. Boswell, widow of William B. Boswell, late of Company G, First Regiment North Carolina Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The amendments recommended by the committee were read, as follows:

In line 7 change "Volunteer" to "Volunteers;" and in lines 7 and 8 strike out "Infantry."
In line 8 insert before the word "and" the words "war with Mexico;" and in the same line strike out "thirty" and insert "twelve."

The amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN W. WARD.

The next pension business was the bill (H. R. 18966) granting a pension to John W. Ward.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John W. Ward, late of Fourteenth Company United States Coast Artillery, and pay him a pension at the rate of $12 per month.

The bill was ordered to be laid aside with a favorable recommendation.

ELIZABETH A. M'KAY.

The next pension business was the bill (H. R. 19001) granting an increase of pension to Elizabeth A. McKay.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth A. McKay, widow of Daniel A. McKay, late of Company C, First Regiment Mississippi Volunteer Infantry, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The amendment recommended by the committee was read, as follows:

In line 7 change "Volunteer" to "Volunteers;" and in the same line strike out "Infantry."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MARY E. BRONAUGH.

The next pension business was the bill (S. 1223) granting a pension to Mary E. Bronaugh.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary E. Bronaugh, widow of William V. Bronaugh, late lieutenant-commander, United States Navy, and pay her a pension at the rate of $30 per month.

The bill was ordered to be laid aside with a favorable recommendation.

HENRY SISTRUNK.

The next pension business was the bill (S. 1739) granting a pension to Henry Sistrunk.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Henry Sistrunk, late of Capt. L. G. Lesley's company, Florida Volunteers, Seminole Indian war, and pay him a pension at the rate of $12 per month.

The amendment recommended by the committee was read, as follows:

In line 8 strike out "twelve" and insert "eight;" it being the uniform rule of the committee not to recommend a rating in excess of that which would be allowed the claimant under the general law.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LISANIA JUDD.

The next pension business was the bill (S. 3738) granting an increase of pension to Lisania Judd.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lisania Judd, widow of Hiram Judd, late of Company E, Mormon Battalion Iowa Volunteers, war with Mexico, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM H. SWEENEY.

The next pension business was the bill (S. 2194) granting a pension to William H. Sweeney.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to

the provisions and limitations of the pension laws, the name of William H. Sweeney, jr., late first lieutenant and adjutant First Regiment Colorado Volunteer Infantry, war with Spain, and pay him a pension at the rate of $30 per month.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM H. H. ROBINSON.

The next pension business was the bill (S. 5349) granting an increase of pension to William H. H. Robinson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William H. H. Robinson, late of Captain Mower's company, First Regiment Illinois Volunteers, war with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

JAMES F. AMIS.

The next pension business was the bill (S. 4488) granting an increase of pension to James F. Amis.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of James F. Amis, late of Company E, Sixteenth Regiment United States Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM I. BREWER.

The next pension business was the bill (S. 5659) granting an increase of pension to William I. Brewer.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William I. Brewer, late of Company D, First Regiment Indiana Volunteer Infantry, war with Mexico, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM O. CLARK.

The next pension business was the bill (S. 5536) granting a pension to William O. Clark.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William O. Clark, late of Captain Sisson's company, Illinois Mounted Volunteers, Black Hawk Indian war, and pay him a pension at the rate of $8 per month.

The bill was ordered to be laid aside with a favorable recommendation.

ISAAC L. DUGGAR.

The next pension business was the bill (S. 5670) granting an increase of pension to Isaac L. Duggar.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Isaac L. Duggar, late of Lieutenant Addison's company, Florida Mounted Volunteers, Seminole Indian war, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment recommended by the committee was read, as follows:

In line 8 strike out the word "twenty" and insert in lieu thereof the word "sixteen."

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

PHILO E. DAVIS.

The next pension business was the bill (H. R. 18910) granting an increase of pension to Philo E. Davis.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pensions laws, the name of Philo E. Davis, late of Company I, One hundredth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was ordered to be laid aside with a favorable recommendation.

Mr. SULLOWAY. Mr. Chairman, I move that the committee do now rise and report the bills and amendments to the House with a recommendation that the amendments be agreed to, and that the bills—some with and some without amendments—do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CAPRON, Chairman of the Committee of the Whole House, reported that the Committee had had under consideration bills on the Private Calendar and directed him to report the same—some with and some without amendments—with a recommendation that the amendments be agreed to, and the bills as amended do pass.

THOMAS GARRATT.

The next business was the bill (H. R. 18236) granting an increase of pension to Thomas Garrett, reported from the Committee of the Whole with the following amendments:

In line 6 strike out the word "Garrett" and insert in lieu thereof the word "Garratt."

In same line strike out the word "First" and insert in lieu thereof the word "Sixteenth."

The SPEAKER pro tempore (Mr. CAPRON). The question is on agreeing to the amendments.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The SPEAKER pro tempore. Did the gentleman from Mississippi [Mr. WILLIAMS] address the Chair?

Mr. WILLIAMS. I did address the Chair.

The SPEAKER pro tempore. But the gentleman addressed the Chair while sitting in his place.

Mr. WILLIAMS. The gentleman now addresses the Chair while standing, and while the gentleman does that he would like to remind the Chair of the fact that the Chair has been recognizing an imaginary Member who must have been sitting for about a half hour.

The SPEAKER pro tempore. The Chair thinks that the gentleman from Mississippi is too modest when he calls himself an imaginary Member.

Mr. WILLIAMS. But it is not this real Member, but some imaginary Member who has been making imaginary motions to the Chair, and which the Chair has been in imagination entertaining now for about a half hour. Now, then, I call for a division upon the amendments to the pending bill.

The SPEAKER pro tempore. Upon the motion to adopt the committee amendments, the gentleman from Mississippi [Mr. WILLIAMS] demands a division.

Mr. GOULDEN. Will the Chair kindly inform us what the amendments are?

The SPEAKER pro tempore. The Clerk will report the amendments.

The amendments were again read.

The SPEAKER pro tempore. The question is on agreeing to the amendments.

The House divided; and there were—ayes 67, noes 11.

Mr. WILLIAMS. Mr. Speaker, no quorum.

The SPEAKER pro tempore. The gentleman from Mississippi makes the point of order that there is no quorum, and the Chair will count.

Mr. HILL of Connecticut. Mr. Speaker, I make the point of order that the gentleman did not make a point of order, but simply in an interlocutory way suggested to the Chair that there was no quorum, and made no point—in an imaginary way, I would say.

The SPEAKER pro tempore. The Chair thinks that the gentleman from Mississippi [Mr. WILLIAMS] has proceeded in a parliamentary way. The Chair will ask the gentleman from Mississippi if he will withhold his point of order to receive a message from the Senate?

Mr. WILLIAMS. In a moment. I merely want to remind the Chair of the singular absence of information about the word "interlocutory" existing in the mind of the gentleman from Connecticut [Mr. HILL]. The exact language of "the gentleman from Mississippi" was, "I make the point of order that there is no quorum present." I would advise the gentleman to get his Connecticut in range with his English.

Mr. HILL of Connecticut. Mr. Speaker, I simply suggest that the gentleman did not make the remark that he made the point of order. He simply said, "No quorum."

The SPEAKER pro tempore. Does the gentleman from Mississippi renew his point of order?

Mr. WILLIAMS. I just held it in abeyance while the report was being made. It has never been withdrawn.

The SPEAKER pro tempore. The Chair will count. [After counting.] There is a quorum present, the Chair having found 198 Members by actual count; and the amendment is agreed to.

The Clerk will report the next amendment.

The Clerk read as follows:

Strike out "thirty" and insert "twenty-four."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended as recommended by the committee.

HOUSE BILLS WITH AMENDMENTS.

In the following House bills, reported from the Committee of the Whole with amendments, the amendments were agreed to; and the bills as amended were ordered to be engrossed for a third reading, read the third time, and passed:

H. R. 11260. A bill granting an increase of pension to James H. Van Camp;

H. R. 16492. A bill granting an increase of pension to John M. Logan;

H. R. 14678. A bill granting a pension to James A. Boggs;

H. R. 16998. A bill granting an increase of pension to Elijah Curtis;

H. R. 17170. A bill granting an increase of pension to Jackson D. Turley;

H. R. 612. A bill granting an increase of pension to George H. Kohler (title amended);

H. R. 18486. A bill granting an increase of pension to William F. Walker;

H. R. 1438. A bill granting an increase of pension to Oliver T. Smith;

H. R. 7147. A bill granting an increase of pension to Bronson Rothrock;

H. R. 3243. A bill granting an increase of pension to John H. Anderson;

H. R. 2092. A bill granting an increase of pension to Franklin M. Hill;

H. R. 3222. A bill granting an increase of pension to George Merrill;

H. R. 6878. A bill granting a pension to Lucy Brown;

H. R. 7535. A bill granting an increase of pension to John S. Moore (title amended);

H. R. 6774. A bill granting an increase of pension to John Platt;

H. R. 6205. A bill granting an increase of pension to Lucy E. Engler;

H. R. 6190. A bill granting an increase of pension to John J. Schneller;

H. R. 4956. A bill granting an increase of pension to James C. Bryant;

H. R. 3588. A bill granting an increase of pension to William H. Riggin;

H. R. 9609. A bill granting an increase of pension to Jesse M. Auchmutz;

H. R. 8736. A bill granting an increase of pension to Lowell Mason Maxham (title amended);

H. R. 13698. A bill granting an increase of pension to Samuel Kelly;

H. R. 7836. A bill granting a pension to Alexander G. Patton (title amended);

H. R. 13594. A bill granting an increase of pension to Jonathan Snook;

H. R. 10865. A bill granting an increase of pension to Alexander Caldwell.

H. R. 13149. A bill granting an increase of pension to Ida L. Martin;

H. R. 13824. A bill granting an increase of pension to Noah Myers (title amended);

H. R. 13993. A bill granting an increase of pension to Joseph Watson;

H. R. 6422. A bill granting a pension to Anthony Van Slyke (title amended);

H. R. 17210. A bill granting an increase of pension to Daniel Vertner (title amended);

H. R. 16109. A bill granting an increase of pension to Jacob Cline;

H. R. 15104. A bill granting an increase of pension to Thomas E. Owens;

H. R. 9844. A bill granting an increase of pension to John J. Erick;

H. R. 6208. A bill granting an increase of pension to William D. Connor (title amended);

H. R. 16915. A bill granting an increase of pension to Orange Bugbee;

H. R. 18356. A bill granting an increase of pension to W. A. Custer (title amended);

H. R. 18524. A bill granting an increase of pension to Julius Rector;

H. R. 18560. A bill granting an increase of pension to John Hamilton;

H. R. 18249. A bill granting an increase of pension to Hiram G. Hunt;

H. R. 18052. A bill granting an increase of pension to John Lewis Bernard Breighner;

H. R. 17340. A bill granting a pension to Julia Walz;

H. R. 17590. A bill granting an increase of pension to Jacob Woodruff;

H. R. 18039. A bill granting an increase of pension to John W. Stephens;

H. R. 18239. A bill granting an increase of pension to Bryant Brown;

H. R. 17772. A bill granting a pension to John W. Henry (title amended);

H. R. 18561. A bill granting an increase of pension to Jonathan Skeans;

H. R. 17637. A bill granting an increase of pension to Gardiner K. Haskell;

H. R. 18367. A bill granting an increase of pension to John Wilkinson;

H. R. 17938. A bill granting an increase of pension to Clarissa L. Downing (title amended);

H. R. 17872. A bill granting an increase of pension to A. D. Metcalfe (title amended);

H. R. 18319. A bill granting an increase of pension to Newton Kinnison;

H. R. 7589. A bill granting an increase of pension to Robert A. Scott;

H. R. 9828. A bill granting an increase of pension to John Broughton;

H. R. 8852. A bill granting a pension to Frederick W. Clark;

H. R. 18116. A bill granting an increase of pension to Green Evans;

H. R. 1420. A bill for the relief of John Nay;

H. R. 7244. A bill granting an increase of pension to Christopher S. Guthrie;

H. R. 5560. A bill granting an increase of pension to Henry Chubb;

H. R. 4715. A bill granting an increase of pension to John H. Whiting;

H. R. 4161. A bill granting an increase of pension to Robert Beatty;

H. R. 3572. A bill granting a pension to William L. Riley (title amended);

H. R. 3351. A bill granting a pension to George King (title amended);

H. R. 2237. A bill granting an increase of pension to Martin Poole (title amended);

H. R. 1788. A bill granting an increase of pension to William D. Christy;

H. R. 1650. A bill granting an increase of pension to Frank B. Watkins;

H. R. 1247. A bill granting an increase of pension to Columbus Botts;

H. R. 1178. A bill granting a pension to Herman Buckthall (title amended);

H. R. 1034. A bill granting an increase of pension to John D. Logan (title amended);

H. R. 9243. A bill granting an increase of pension to Joseph A. Bernard (title amended);

H. R. 10794. A bill granting an increase of pension to Jacob Schultz;

H. R. 13069. A bill granting an increase of pension to Friend S. Esmond;

H. R. 12971. A bill granting an increase of pension to Matthew H. Brandon;

H. R. 12879. A bill granting an increase of pension to Catherine Myers (title amended);

H. R. 17445. A bill granting an increase of pension to William H. Farrell;

H. R. 2785. A bill granting an increase of pension to Margaret Bonynge;

H. R. 17922. A bill granting an increase of pension to Thomas D. Adams;

H. R. 17999. A bill granting an increase of pension to Samuel Yehl;

H. R. 18041. A bill granting an increase of pension to William R. Hiner;

H. R. 8795. A bill granting an increase of pension to O. A. A. Gardner (title amended);

H. R. 9862. A bill granting an increase of pension to William B. Warren;

H. R. 9531. A bill granting an increase of pension to Eliza Rogers;

H. R. 10395. A bill granting an increase of pension to Stephen Cundiff;

H. R. 17466. A bill granting an increase of pension to James P. Hall;

H. R. 18076. A bill granting an increase of pension to Elizabeth Bartley;
H. R. 18135. A bill granting an increase of pension to Benedict Sutter;
H. R. 18724. A bill granting an increase of pension to Alfred Gude;
H. R. 18447. A bill granting an increase of pension to Elijah G. Gould;
H. R. 18243. A bill granting an increase of pension to Jacob S. Rickard;
H. R. 18449. A bill granting an increase of pension to Hannah R. Jacobs;
H. R. 18184. A bill granting an increase of pension to John J. Howells;
H. R. 18105. A bill granting an increase of pension to John A. Lyle;
H. R. 18357. A bill granting an increase of pension to William E. Starr;
H. R. 18308. A bill granting a pension to Clay Riggs (title amended);
H. R. 18165. A bill granting an increase of pension to Jacob Stauff;
H. R. 17542. A bill granting an increase of pension to John Cain;
H. R. 13828. A bill granting an increase of pension to John M. Carroll;
H. R. 14729. A bill granting an increase of pension to David Ford;
H. R. 16441. A bill granting an increase of pension to Joseph J. Good (title amended);
H. R. 17171. A bill granting an increase of pension to David H. Parker;
H. R. 16595. A bill granting a pension to James Russell Hicks (title amended);
H. R. 16252. A bill granting an increase of pension to Adam Dixon;
H. R. 16565. A bill granting an increase of pension to George H. Gordon (title amended);
H. R. 16977. A bill granting a pension to Isabel Newlin;
H. R. 15126. A bill granting an increase of pension to William K. Trabue;
H. R. 18959. A bill granting an increase of pension to Albert G. Packer;
H. R. 18678. A bill granting an increase of pension to Evans P. Hoover;
H. R. 18038. A bill granting an increase of pension to E. W. Briggs (title amended);
H. R. 18355. A bill granting an increase of pension to Rachael A. Webster;
H. R. 19005. A bill granting a pension to Gideon M. Burriss;
H. R. 17528. A bill granting an increase of pension to Edgar Slater;
H. R. 17346. A bill granting an increase of pension to Newton S. Davis;
H. R. 18125. A bill granting an increase of pension to William Griasa (title amended);
H. R. 18310. A bill granting an increase of pension to Virgil A. Bayley;
H. R. 18509. A bill granting an increase of pension to Ellen L. Stone;
H. R. 18976. A bill granting an increase of pension to Nelson S. Preston;
H. R. 17476. A bill granting an increase of pension to Henry Ballard;
H. R. 18702. A bill granting an increase of pension to Edward B. Prime;
H. R. 16188. A bill granting a pension to Edward C. Bowers;
H. R. 5911. A bill granting a pension to Edward D. Lockwood (title amended);
H. R. 16842. A bill granting an increase of pension to Thomas H. Thornburgh;
H. R. 16496. A bill granting an increase of pension to Thomas Daily (title amended);
H. R. 15288. A bill granting an increase of pension to Benjamin F. Finical;
H. R. 15613. A bill granting an increase of pension to William W. Combs;
H. R. 13443. A bill granting an increase of pension to James E. Hammontree;
H. R. 11457. A bill granting an increase of pension to Cyrus Van Matre (title amended);
H. R. 10828. A bill granting a pension to Michael Lennon (title amended);
H. R. 12336. A bill granting an increase of pension to Margaret A. Montgomery;
H. R. 11057. A bill granting an increase of pension to Lewis J. Post;
H. R. 8894. A bill granting an increase of pension to James C. Strong;
H. R. 8817. A bill granting an increase of pension to Calvin Latham (title amended);
H. R. 8232. A bill granting an increase of pension to James M. Jared;
H. R. 18628. A bill granting an increase of pension to William E. Chambers;
H. R. 6596. A bill granting an increase of pension to A. Q. Huffman (title amended);
H. R. 5040. A bill granting an increase of pension to Joseph Montgomery;
H. R. 6505. A bill granting an increase of pension to Mary C. Chapman;
H. R. 5958. A bill granting an increase of pension to Allen L. Garwood;
H. R. 6059. A bill granting an increase of pension to Elias Hanes;
H. R. 1614. A bill granting an increase of pension to Jacob H. Lynch;
H. R. 1736. A bill granting an increase of pension to Charles A. Walker;
H. R. 2265. A bill granting an increase of pension to Hudson J. Van Scoter;
H. R. 2247. A bill granting an increase of pension to Anthony Sanspeur;
H. R. 17915. A bill granting an increase of pension to William W. Dudley;
H. R. 17309. A bill granting an increase of pension to John W. Chase;
H. R. 4597. A bill granting an increase of pension to Martin Ellison;
H. R. 6533. A bill granting a pension to Horace Salter;
H. R. 11855. A bill granting an increase of pension to Mary A. Shelly (title amended);
H. R. 16272. A bill granting a pension to William D. Willis;
H. R. 16525. A bill granting an increase of pension to M. A. Nash (title amended);
H. R. 17825. A bill granting an increase of pension to Bolivar Ward;
H. R. 17891. A bill granting an increase of pension to Eliza M. Buice;
H. R. 17920. A bill granting an increase of pension to Sallie E. Blanding;
H. R. 17935. A bill granting an increase of pension to Andrew C. Woodward (title amended);
H. R. 17940. A bill granting a pension to Florence Tilton (title amended);
H. R. 18034. A bill granting a pension to Mary A. Montgomery;
H. R. 18073. A bill granting an increase of pension to Mary McFarlane;
H. R. 18106. A bill granting an increase of pension to Mary E. Patterson;
H. R. 18262. A bill granting an increase of pension to John H. Broadway;
H. R. 18378. A bill granting an increase of pension to Martha A. Dunlap;
H. R. 18400. A bill granting an increase of pension to Elmira M. Gause.
H. R. 18426. A bill granting a pension to Elizabeth Hathaway (title amended);
H. R. 18460. A bill granting a pension to B. F. Tudor (title amended);
H. R. 18467. A bill granting a pension to Rudolph W. H. Swendt (title amended);
H. R. 18469. A bill granting a pension to Samuel C. Dean (title amended);
H. R. 18505. A bill granting an increase of pension to M. Belle May;
H. R. 18510. A bill granting an increase of pension to Hugh R. Rutledge;
H. R. 18539. A bill granting an increase of pension to Angeline R. Lomax;
H. R. 18542. A bill granting an increase of pesnion to Sarah Ann Day;
H. R. 18551. A bill granting an increase of pension to W. D. Drawn (title amended);
H. R. 18572. A bill granting an increase of pension to Allamanza M. Harrison;
H. R. 18573. A bill granting an increase of pension to John M. Quinton;

H. R. 18605. A bill granting an increase of pension to William Lawrence;
H. R. 18627. A bill granting an increase of pension to Elizabeth A. Anderson;
H. R. 18651. A bill granting an increase of pension to Elizabeth Thomas;
H. R. 18654. A bill granting an increase of pension to R. D. Gardner (title amended);
H. R. 18696. A bill granting an increase of pension to Louisa C. Gibson;
H. R. 18697. A bill granting an increase of pension to Martha L. Beasely (title amended);
H. R. 18730. A bill granting an increase of pension to W. C. Mahaffey (title amended);
H. R. 18747. A bill granting an increase of pension to W. H. Colegate (title amended);
H. R. 18794. A bill granting an increase of pension to William C. McRoy;
H. R. 18795. A bill granting an increase of pension to James E. Raney;
H. R. 18821. A bill granting an increase of pension to Eliza Jane Witherspoon;
H. R. 18822. A bill granting an increase of pension to Sophia S. Parker (title amended);
H. R. 18862. A bill granting an increase of pension to Joseph H. Weaver;
H. R. 18887. A bill granting an increase of pension to Alexander W. Carruth;
H. R. 18930. A bill granting an increase of pension to Eliza J. Mays;
H. R. 18935. A bill granting an increase of pension to Mima A. Boswell; and
H. R. 19001. A bill granting an increase of pension to Elizabeth A. McKay.

HOUSE BILLS WITHOUT AMENDMENTS.

The following bills, reported from the Committee of the Whole House, were ordered to be engrossed, read a third time, and passed:
H. R. 16662. A bill granting an increase of pension to Van Buren Beam;
H. R. 11152. A bill granting an increase of pension to Theodore S. Currier;
H. R. 11161. A bill granting an increase of pension to Michael Aaron;
H. R. 16918. A bill granting a pension to Matilda J. Williams;
H. R. 15056. A bill granting an increase of pension to James Ramsey;
H. R. 14661. A bill granting an increase of pension to John B. Bussel;
H. R. 18655. A bill granting an increase of pension to Leander Gilbert;
H. R. 6914. A bill granting an increase of pension to John Hecker;
H. R. 4241. A bill granting an increase of pension to David B. Coleman;
H. R. 3005. A bill granting an increase of pension to Jacob C. Shafer;
H. R. 12184. A bill granting an increase of pension to Joseph Sprauer;
H. R. 17390. A bill granting an increase of pension to Mary Sheehan;
H. R. 8867. A bill granting an increase of pension to George Stillman;
H. R. 17388. A bill granting an increase of pension to Patrick McCarthy;
H. R. 18132. A bill granting an increase of pension to John W. Blanchard;
H. R. 17374. A bill granting an increase of pension to Isom Wilkerson;
H. R. 14264. A bill granting an increase of pension to John H. Eversole;
H. R. 14702. A bill granting an increase of pension to Christian Schlosser;
H. R. 16005. A bill granting an increase of pension to Hesekiah J. Reynolds;
H. R. 16812. A bill granting an increase of pension to Dudley McKibben;
H. R. 16878. A bill granting an increase of pension to James B. Adams;
H. R. 18121. A bill granting an increase of pension to John W. Jones;
H. R. 3495. A bill granting an increase of pension to Charles F. Tower;
H. R. 16682. A bill granting an increase of pension to William Hammond;
H. R. 16073. A bill granting an increase of pension to John Ginther;
H. R. 12418. A bill granting an increase of pension to Thomas P. Crandall;
H. R. 7402. A bill granting an increase of pension to Edwin M. Todd;
H. R. 8155. A bill granting an increase of pension to Henry E. Seelye;
H. R. 17934. A bill granting an increase of pension to Thomas J. Byrd;
H. R. 3488. A bill granting an increase of pension to Egbert J. Olds;
H. R. 9238. An act for the relief of William Saphar;
H. R. 12330. An act granting an increase of pension to Hester A. Van Derslice;
H. R. 18399. An act granting an increase of pension to Pauline Bietry;
H. R. 18402. An act granting an increase of pension to Lucy W. Powell;
H. R. 18633. An act granting an increase of pension to Jennie F. Belding;
H. R. 18746. An act granting an increase of pension to Isaac Howard;
H. R. 18966. An act granting an increase of pension to John W. Ward; and
H. R. 18910. An act granting an increase of pension to Philo E. Davis.

SENATE BILLS WITHOUT AMENDMENTS.

The following Senate bills, reported from the Committee of the Whole House without amendment, were ordered to a third reading, read the third time, and passed:
S. 394. An act granting an increase of pension to Amanda Lucas;
S. 442. An act granting an increase of pension to Francis Colton;
S. 522. An act granting an increase of pension to Emma Worrall;
S. 557. An act granting an increase of pension to Mariot Losure;
S. 678. An act granting an increase of pension to Albert Butler;
S. 869. An act granting an increase of pension to Baltzar Mowan;
S. 993. An act granting an increase of pension to Samuel J. Langdon;
S. 1508. An act granting an increase of pension to James A. Murch;
S. 1513. An act granting an increase of pension to Harriett A. Rawles;
S. 1705. An act granting an increase of pension to Lewis S. George;
S. 2043. An act granting an increase of pension to Andrew H. Wolf;
S. 2467. An act granting an increase of pension to Martin Clark;
S. 2851. An act granting an increase of pension to George Chambers;
S. 2978. An act granting an increase of pension to Eli W. Knowles;
S. 3033. An act granting an increase of pension to Aaron F. Patten;
S. 3040. An act granting a pension to Mary C. Wilsey;
S. 3219. An act granting an increase of pension to Joseph M. Allison;
S. 3271. An act granting an increase of pension to Margarette E. Brown;
S. 3299. An act granting an increase of pension to Spencer C. Stilwill;
S. 3483. An act granting an increase of pension to William L. Sheaff;
S. 3485. An act granting an increase of pension to Mathias Hammes;
S. 3797. An act granting an increase of pension to Ahimaaz E. Wood;
S. 3798. An act granting an increase of pension to Charles Farrel;
S. 4005. An act granting an increase of pension to Michael Quill;
S. 4048. An act granting an increase of pension to Henry S. Knecht;
S. 4175. An act granting an increase of pension to John Caverly;

S. 4177. An act granting an increase of pension to Harlan P. Cobb;
S. 4239. An act granting an increase of pension to Job Rice;
S. 4358. An act granting an increase of pension to Thomas McCormick;
S. 4361. An act granting an increase of pension to John W. Daley;
S. 4401. An act granting an increase of pension to George W. Tomlinson;
S. 4457. An act granting an increase of pension to Louis A. Tyson;
S. 4460. An act granting an increase of pension to Ann J. Thompson;
S. 4525. An act granting an increase of pension to David Oglevie;
S. 5247. An act granting an increase of pension to Jacob Wigal;
S. 5163. An act granting an increase of pension to John Marah;
S. 5082. An act granting an increase of pension to David N. Winsell;
S. 5054. An act granting an increase of pension to George H. Woodard;
S. 4796. An act granting an increase of pension to Dorinda J. White;
S. 4752. An act granting an increase of pension to Thomas J. Tidswell;
S. 4718. An act granting an increase of pension to George W. Gilson;
S. 4692. An act granting an increase of pension to Adaline M. Thornton;
S. 4665. An act granting an increase of pension to Lewis Du Bois;
S. 4569. An act granting an increase of pension to Augustus A. Nevins;
S. 5343. An act granting an increase of pension to Ernest H. Wardwell;
S. 5359. An act granting an increase of pension to William H. Ward;
S. 5379. An act granting an increase of pension to Otto A. Risum;
S. 5492. An act granting an increase of pension to Joseph F. Tebbetts;
S. 5504. An act granting an increase of pension to Joseph Dickson;
S. 5516. An act granting an increase of pension to Alfred M. Hamlen;
S. 5522. An act granting an increase of pension to Charles E. Sischo;
S. 5523. An act granting an increase of pension to Thomas J. Pickett;
S. 5532. An act granting an increase of pension to Simon A. Snyder;
S. 5539. An act granting an increase of pension to Hermann Muehlberg;
S. 5562. An act granting an increase of pension to John Hull;
S. 5571. An act granting an increase of pension to Betsey B. Whitmore;
S. 5579. An act granting an increase of pension to Henry T. Sisson;
S. 5603. An act granting a pension to Kate S. Hutchings;
S. 5631. An act granting an increase of pension to Isaac M. Howard;
S. 5640. An act granting an increase of pension to Clinton B. Wintersteen;
S. 5641. An act granting an increase of pension to John W. Fletcher;
S. 5658. An act granting an increase of pension to Nancy Pruitt;
S. 5668. An act granting an increase of pension to George P. Sealey;
S. 5671. An act granting an increase of pension to Richard L. Delong;
S. 5673. An act granting an increase of pension to Hilton Springsteed;
S. 5680. An act granting an increase of pension to Thomas J. Bowser;
S. 5702. An act granting an increase of pension to Anna C. Bingham;
S. 5704. An act granting an increase of pension to Ruth P. Pierce;
S. 5735. An act granting an increase of pension to Andrew D. Danley;
S. 5736. An act granting an increase of pension to Mary Clark;
S. 5754. An act granting a pension to Hannah McCarty;
S. 5780. An act granting a pension to Lorenzo E. Johnson;
S. 4983. An act granting an increase of pension to John M. Farquhar;
S. 1223. An act granting a pension to Mary E. Bronaugh;
S. 2194. An act granting a pension to William H. Sweeney, jr.;
S. 3738. An act granting an increase of pension to Lisania Judd;
S. 4488. An act granting an increase of pension to James F. Amis;
S. 5349. An act granting an increase of pension to William H. H. Robinson;
S. 5536. An act granting a pension to William O. Clark; and
S. 5659. An act granting an increase of pension to William I. Brewer.

The following Senate bills, reported from the Committee of the Whole House with amendment, were ordered to a third reading, read the third time, and passed.

S. 1739. An act granting a pension to Henry Sistrunk; and
S. 5670. An act granting an increase of pension to Isaac L. Duggar.

On motion of Mr. SULLOWAY, a motion to reconsider the several votes by which the various bills were passed was laid on the table.

JOHN T. WISE.

The next business reported from the Committee of the Whole was the bill (H. R. 12249) granting an increase of pension to John T. Wise, with a recommendation that it do lie on the table.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bill of the following title:

H. R. 6101. An act for the relief of the estate of Charles M. Demarest, deceased.

The message also announced that the Senate had passed with amendment bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 17576. An act to provide for the entry of agricultural lands within forest reserves.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 395) concerning foreign-built dredges.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 6003. An act to construct and place a steel light vessel on Swiftsure Bank, off the entrance of Juan de Fuca Strait;
S. 5512. An act defining the qualifications of jurors for service in the United States district court in Porto Rico; and
S. 6129. An act to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers.

The message also announced that the Vice-President had appointed Mr. PETTUS and Mr. GALLINGER members of the joint committee on the part of the Senate, as provided for in the act of February 16, 1889, entitled "An act to authorize and provide for the disposition of useless papers in the Executive Departments," for the disposition of useless papers in the Post-Office Department.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CLARK of Missouri. Mr. Speaker, no quorum!

The SPEAKER. The gentleman from Missouri makes the point of no quorum. The Chair will count.

Mr. CANDLER (during the count). Mr. Speaker, is there a quorum here?

The SPEAKER. There will be.

Mr. CANDLER. I move that the House do now adjourn.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CANDLER. I call for a division.

The House divided; and there were—ayes 161, noes 11.

Mr. CANDLER. I make the point of order that there is no quorum present.

The SPEAKER. Ossa has been piled on Pelion, and there are no more mountains to pile. [Great laughter.] One hundred and ninety-two gentlemen are present; the ayes have it, and the motion is agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. CRUMPACKER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill. When the committee rose yesterday evening a point of order was pending to the paragraph of the bill on page 33, which the Clerk will report.

The Clerk read as follows:

Steel floating dry dock: Steel floating dry dock (to cost $1,250,000), $100,000.

Mr. OLMSTED. Mr. Chairman, as I am compelled to leave the House very shortly, the gentleman who made the point of order, the gentleman from Minnesota [Mr. TAWNEY], kindly consented that I might be heard first in opposition to it.

Mr. MUDD. Just a moment, if I may interrupt the gentleman. Do I understand that the point of order is that it is not authorized by law?

Mr. OLMSTED. I understand that to be the point of order.

Mr. Chairman, while it was not definitely stated, I understand the point of order is based upon the second clause of Rule XXI of this House, which provides:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

That is a time-honored rule, and one whose usefulness and importance ought not to be frittered away or impaired by construction. On the other hand, it ought not, by too rigid construction, be converted into an engine of evil and inconvenience to the House rather than an instrument of usefulness. These rules relating to our procedure in the House may be compared, in a sense, to the Constitution, the organic law of the Government.

I need not say to a lawyer so well versed as the present occupant of the chair that when it is alleged that an act of the assembly is in conflict with a constitutional provision, every doubt is resolved in favor of the statute. So I submit for your consideration the proposition that when a rule is invoked against a paragraph in a bill reported by a committee, in a clear case of doubt it should be resolved in favor of the regularity of the proposed measure.

Now, it is quite probable that there will not be found a precedent upon this precise case, and we shall have to reason from the rule itself, the mischief which it was intended to remedy, and to consider analogous cases which have been passed upon by Chairmen and Speakers and by the House in Committee of the Whole. Now, it is important at the outset to consider the exception to this rule in favor of such public works and objects as are already in progress. And I shall endeavor to show that this particular paragraph is within that exception.

It is not pretended that this floating dry dock itself is in course of construction or is in progress, but that the United States Navy is a work in progress, a Government object, and that this dry dock is in continuation thereof and in maintenance of that Navy.

First, let us consider for a moment what a floating dry dock is. Upon that point you will be more fully enlightened by the members of the Committee on Naval Affairs, who are much better informed than myself; but I understand, in a general way, that it is not local, it is not stationary, it is not attached to the land. It floats upon the navigable waters of the United States. Its usefulness consists in enabling vessels of the Navy to be repaired at sea. There are many of the navy-yards which our largest vessels can not enter, by reason of the great amount of water that they draw. A floating dock of this character is taken out to the vessel, it is sunk under the vessel, and then it rises up and brings the vessel with it, so that the vessel may be repaired out there in the water. It is an exceedingly important adjunct of the Navy, just as much an essential and standing much in the same line as the colliers which supply the coal to our men-of-war. You will find nowhere any express authority of law for the construction of the torpedo boats, the torpedo-boat destroyers, the colliers, and many of the other things that are appropriated for in this bill. We find, for instance, appropriated for in this bill not only torpedo boats and torpedo-boat destroyers and submarine boats and a battle ship, but also rifles, revolvers, cartridges, bayonets, swords, drums, etc., the repair of tents, postage stamps, the making of parade grounds, and all that class of appropriations which are found in every naval appropriation bill. In fact, this bill covers appropriations for everything pertaining to the Navy from a 2-cent postage stamp to a $6,000,000 battle ship. There are very few items in it for which there can be found specific statutory authority, but they are all part of the naval establishment. They are there in continuation of the United States Navy or for the maintenance thereof. Now, that question has been distinctly passed upon by this committee and by previous Chairmen.

Mr. GAINES of Tennessee. I should like to ask the gentleman a question.

Mr. OLMSTED. Certainly.

Mr. GAINES of Tennessee. Does the gentleman mean to state that there is no statute permitting the purchase of ammunition, but that we simply carry that along year after year in the appropriation bill?

Mr. OLMSTED. I know of no express statute which mentions ammunition or guns or any one of a dozen of things appropriated for in this bill. There is, I think, a general statute providing for the manner in which the Secretary of the Navy shall purchase supplies, and some of these items may be covered by that; but for more than half the vessels in the Navy there is no statutory provision at all. They were simply appropriated for in appropriation bills.

Now, that point was passed upon long ago. At least as early as February 6, 1887, there was offered an amendment to a naval appropriation bill for the purchase of two swift, double-bottomed steel cruisers, and this very point of order was made against it by William S. Holman, of Indiana. The point was decided, after elaborate consideration and discussion, by JAMES B. MCCREARY, of Kentucky, then in the chair. He said:

If the work be a public work, or if the object is a public object, and it is already in progress, then there need not be any previous legislation authorizing it. The Chair believes that the construction of the Navy is a public object or a public work, and the language of the bill which we have been considering, and the appropriation made at the last session, show that the construction of the Navy is in progress.

Not of those two particular steel cruisers, but of the Navy.

It is very agreeable to the present occupant of the chair to be able to refer to a precedent.

I will not stop to read the precedent, but it was a decision made in the Forty-sixth Congress by Mr. Carlisle, also of Kentucky, then in the chair, in which he held that the word "objects," as used in the rule, meant something in addition to the word "works," and must be held to include, among other things, the naval establishment recognized by law and supported by the Government.

Chairman MCCREARY then said, and you will find it in paragraph 487 of the Parliamentary Precedents:

The Government has undertaken to maintain, and is annually maintaining, a naval establishment, and under the rule appropriations may be made for it in a general appropriation bill, and such has always been the practice until last session, when appropriations for the construction of ships for the Navy and armaments for them were made in a separate bill. Before the last session such appropriations were made in the naval appropriation bill under the rule exactly as it now is.

There is no law prescribing the number of ships that shall constitute the Navy or the number of guns they shall carry. Those matters depend entirely on the amount of money appropriated for those purposes, just as the number of clerks and other employees in the Departments depend upon the appropriations made. * * * This decision allows an important amendment to be offered, but it gives to the Committee of the Whole the right to pass upon this interesting question and an opportunity to say whether it is in favor of increasing the Navy or not.

Mr. PERKINS. May I interrupt the gentleman?

Mr. OLMSTED. Certainly.

Mr. PERKINS. Would the gentleman think an appropriation for a new navy-yard was subject to a point of order?

Mr. OLMSTED. I think an appropriation for a new navy-yard would be subject to a point of order.

Mr. PERKINS. Why, under the gentleman's argument?

Mr. OLMSTED. Because it is not a part of the Navy. It is not a part of the naval establishment.

Mr. PERKINS. Why not, just as much as a new dry dock?

Mr. OLMSTED. That reasoning would extend to the ownership of the coal mine, to the mining of coal, to the quarrying of limestone and the iron ore and the manufacture of pig iron, and so on through all the processes until it reached the machinery in the navy-yard and it was made into something else.

Mr. PERKINS. The argument of the gentleman from Pennsylvania goes too far.

Mr. OLMSTED. Not mine, but the argument of the gentleman from New York goes too far.

Mr. DALZELL. Does not the gentleman from Pennsylvania think that there is a difference between an appropriation for a dry dock and an appropriation for a floating dock?

Mr. OLMSTED. I think there is a wide difference; that is what I am coming to. A navy-yard must be on the land, must be attached to the land upon a site, and the Government must first acquire a site. Under the rules and under the precedents the Government must first take some steps to acquire a site by proper legislation before the work can be said to be in progress.

Mr. GAINES of Tennessee. Is not a floating dock a floating

workshop, and isn't the navy-yard a place on land where the workshop is?

Mr. OLMSTED. A yard necessarily implies land, and a floating dry dock necessarily implies no attachment to the land, but a floating upon the water, and the site is already acquired by the Government.

Mr. PERKINS. Does the Government own the seas?

Mr. OLMSTED. The Government has, as the gentleman knows, entire control of the waters of the sea for a marine league, and beyond that it has just as good a right as anybody else and does not have to ask permission of anybody or get an act of Congress. Now, this decision has been carried further than that, as you will see on page 488 of the Parliamentary Precedents. It has been held that under this rule an act for the authorization of additional seamen for the Navy was in continuation of a public work. That is going a good deal further than the decision as to the ship itself.

Joseph D. Sayers, of Texas, made the point of order against an item which reads thus:

As many additional seamen as in his discretion he may deem necessary, not to exceed 2,000.

He made the point of order that the employment of these seamen was not authorized by law. It was found that there was no statute authorizing their employment, and upon that point Joseph H. O'Neil, of Massachusetts, in the chair, said:

The rulings which have been made from time to time on points of order raised on the naval appropriation bill have established a pretty clear line of precedents; and whatever may have been the opinion or feeling of the Chair on the original proposition, yet, in pursuance of the practice of the House, he feels bound to follow the precedent established by previous presiding officers. So that when a provision was offered to a bill providing for an additional ship to the Navy, notwithstanding the fact that it added to the Navy and increased the expenditure, it has been uniformly held that it was in continuation of existing works or objects already in progress, and was not subject to the point of order.

Without reading the whole of it, he concludes thus:

Now, it would seem to the Chair that under the rulings which have been made it is entirely competent for the committee to bring in a provision in continuation of any public work or object already in progress; that when it is admitted, as it has been by the practice of the House, that it is competent to bring in a provision authorizing the construction of a new ship it carries with it also—

I call attention, Mr. Chairman, now to this language:

It carries with it also the right to maintain that ship, or to continue and maintain work already in progress. This seems to the Chair to be very clear, and after giving a great deal of consideration to the question he is obliged to overrule the point of order.

That is to say, the Chairman ruled that it was in order to appropriate a sum of money to maintain a ship without previous authority of law. This appropriation is for the maintenance of the Navy. It is just as important to repair a disabled battle ship as it is to have men to operate the ship.

Mr. TAWNEY. Mr. Chairman, will the gentleman permit an interruption?

Mr. OLMSTED. Yes.

Mr. TAWNEY. Is it not a fact that naval vessels are repaired at navy-yards?

Mr. BATES. Not always.

Mr. DALZELL. Not always.

Mr. TAWNEY. Such repairs as necessitate the use of a dry dock are made invariably and always at a navy-yard, are they not?

Mr. DALZELL. Oh, no.

Mr. OLMSTED. Not invariably and always, because we have a number of floating dry docks.

Mr. TAWNEY. How many?

Mr. OLMSTED. We have a very prominent instance of one now on the broad sea, on its way to Subig Harbor.

Mr. BUTLER of Pennsylvania. We have one at Algiers and one at Habana and one at Guantanamo.

Mr. OLMSTED. And we have appropriated for two already in this bill in the portion that has passed. I do not think they are always repaired in navy-yards. They are repaired wherever they can be repaired, but there is certainly no provision of law requiring them to be repaired in a navy-yard, and there are navy-yards in which I am told there is not sufficient depth of water to permit our largest vessels to enter. Therefore a vessel might have to be taken a hundred miles away to another yard, and thus delay would occur which might involve great danger to the whole country, whereas with these floating docks they could go out to the vessel, and it might be repaired with great promptness and could get into service very quickly.

I call attention to the fact that the decision made by Mr. O'Neill, of Massachusetts, to which I referred, does not rest entirely upon itself, but, Mr. Sayers having appealed, the decision was sustained by a vote of 143 ayes to 37 nays; so it was the decision of this House in Committee of the Whole House on the state of the Union that an appropriation for the maintenance of the Navy is in order, although not previously covered by authority of law. I find in section 489 a ruling by Samuel S. Cox, of New York, then in the chair, that a new building, the construction of a fireproof building, on the site of the public grounds at West Point was within the purview of the rule—that is, within that exception—that the construction of a building is an incident to the maintenance of the academy iself, the object being already in progress, the main object contemplated not only by the bill but by the very institution of the academy itself. Now, if that fireproof building was necessary to the maintenance of the academy, how much more is this floating dry dock and kindred structures necessary to the maintenance of the Navy, and therefore strictly within all three of the rulings to which I have referred. Again, in 1898, Mr. MUDD, of Maryland, offered an amendment to the naval appropriation bill authorizing the erection of such new buildings at the Naval Academy at Annapolis as the Secretary of the Navy might consider necessary, and by Mr. SHERMAN, of New York, then in the chair, that was sustained. Then I find that on March 2, 1892, Mr. James D. Richardson, of Tennessee, afterwards chosen by the minority as its candidate for Speaker of this House, sustained a provision for the erection and completion of suitable building at the United States reform school farm in the District, to be used as a reform school for girls, in the course of which he referred to the decisions to which I have referred, made by Mr. MCCREARY and Mr. Cox, and he said in the case decided by the gentleman from Kentucky, Mr. MCCREARY, that was for the construction of a naval war college built upon property owned by the Government, and in that case the Chair held it was an appropriation for works already in progress—that the Government owned the property and was bound to maintain that property and that institution. So we are bound to maintain the Navy, and in maintaining the Navy we are continuing a Government work or object already in progress. And Mr. Richardson further said that the Government was bound to maintain the institutions referred to in former cases, and in this case the Government was not certainly in any way bound to maintain either a boy's reform school or this school, and having thus reasoned he submitted the proposition to the Committee of the Whole, and by a vote of 27 yeas to 72 nays the committee overruled the point of order. So that twice at least the House itself in Committee of the Whole has overruled points of order which I contend are in keeping with the point that is now under discussion.

It is true, and no doubt attention will be called to the fact, that in the Fifty-first Congress a provision for a site for a navy-yard and dry dock at or near the lands bought by the United States for a naval depot at Algiers was ruled out and another one for a timber dry dock at Algiers upon the ground that no previous appropriations had been made for the purchase of the land as a site or the erection of a structure upon such site. But here we need no such thing as a site. As I have already stated, this improvement is not to be made on land; it is not to be attached to the land, but it floats upon the navigable waters, just the same as the war vessels of the Navy, just the same as the lifeboats that are carried on every war ship, and just the same as the colliers which carry along the coal or take the coal to our fleets.

Mr. JOHNSON. Where will the dry dock be built?

Mr. OLMSTED. That does not matter. The dry dock will not be built at sea, and neither will the battle ship provided for in this bill be built at sea, and the battle ships and the cruisers which have been ruled in order heretofore have not been built at sea. It does not matter where they are built, but where they are to be used and for what purpose. If they are in continuation of the Navy and for the maintenance of the Navy, then under all of these rulings I have cited the provision is in order.

Why, it has been held that the continuation of special facilities for mail service on trunk lines was a continuation of work in progress and a maintenance of that service, and points of order against it were ruled out, ruled out by Mr. Newton C. Blanchard, of Louisiana, then in this chair, as appears in section 500 of Parliamentary Precedents, and an appeal having been taken from the decision of the Chair, the Chair was sustained by a vote of 98 ayes to 23 noes. I find that a similar point was similarly decided by Mr. PAYNE, of New York, on the 10th of March, 1896. Now, I find another precedent here, to which it seems desirable to call the attention of the Chair. On May 4, 1900, as will appear on page 5172 of the RECORD, there was offered a provision—

For all necessary employees to man and equip the vessels of the Coast and Geodetic Survey to execute the work of the Survey herein provided for and authorized by law, etc.

And the point of order was made against that that there was

no authority for it, but the present Speaker of the House opposed that point of order successfully, and my present colleague from Pennsylvania [Mr. DALZELL] overruled the point of order upon the ground that the vessels belonged to the Government and that it was the duty and the right of the Government to maintain them by providing the necessary men and the procurement of the necessary equipment, and that therefore the paragraph appropriating for that purpose was not subject to the point of order, it being fairly construed as within the exception and was in continuation of public work already in progress. And on the opposite page I find that this paragraph was objected to:

For the construction of a bridge across Rock Creek on the line of the roadway from Quarry road entrance, etc., $22,000.

The point of order was made against it by Mr. BANKHEAD, and the present distinguished, popular, and young Speaker of this House made this argument, which I think is right in point. He said:

Of course there is no law in specific words, letters, and punctuation authorizing the construction of this bridge, but there is a law creating the Zoological Park; and the Lord has put a stream of water through the park, and the park is thrown open to the public, and there has been a bridge there, but it has rotted down. There is no law to authorize the buying of an elephant, or of a boa constrictor, or a white bear, or a bull pup; but as we have created the Zoological Park by law, and as it is now in esse, we can, without express law, improve the roads, build fences and bridges, and do anything necessary to carry on this magnificent park for the amusement of the boys and girls on Sunday.

The Chairman [Mr. DALZELL] said:

The Chair has no doubt that this appropriation is in continuation of a public work already begun, and is not subject to the point of order.

The Government had the property; it was the duty of the Government to maintain it, even at the expense of building a new bridge. Here the Government has a navy. It is the duty of the Government to maintain it even at the expense of building a dry dock, and if the appropriation in one instance is in order, upon what reasoning can it be found not to be in order to-day? I might cite many other authorities, but they are all to the same effect. This case is not ruled by the two decisions on dry docks and navy-yards. Of course an appropriation for a navy-yard is subject to a point of order if the Government has not provided for a site or done anything for it. Nobody pretends that is part of the Navy any more than an ore mine from which ore is obtained which goes into the guns that finally go on the ships of the Navy. It may be used incidentally for the advantage of the Navy, but this floating dry dock is a part of the Navy established upon the water, and I submit that a fair construction of this rule and of the important exceptions to the rule warrants the overruling of this point of order.

Mr. TAWNEY. Mr. Chairman, the argument of the gentleman from Pennsylvania has proceeded upon a point of order which I reserved to this paragraph last evening at the close of the session. My purpose in reserving the point of order was to ask the chairman of the Committee on Naval Affairs several questions before making the point of order and discussing the point. However, since the gentleman from Pennsylvania has argued the point of order, I will now make it——

Mr. OLMSTED. The gentleman will understand I do not insist upon his making the point of order.

Mr. TAWNEY. Oh, you do not insist upon my making it? Well, I will make it, just the same. The provision itself is the best evidence of the fact that it is not in order. It is a provision for a steel floating dry dock, to cost $1,250,000, and appropriates $100,000 to begin, I presume, the construction of the work. The gentleman says that this steel dry dock is a necessary part of the naval establishment. There is not a line in that paragraph to indicate that this dry dock is to be a part of the naval establishment. There is not a line in this paragraph to indicate that the dry dock is to be used in connection with the repair of a naval vessel or to be used by the Navy Department at all. It is nothing but a steel dry dock, to cost $1,250,000, for the beginning of the construction of which $100,000 is appropriated. So far as the use of the dry dock is concerned, it may be for the use of private commerce for aught that this House knows from the reading of the paragraph itself.

Mr. POWERS. Will the gentleman permit a question?

Mr. TAWNEY. Yes.

Mr. POWERS. Is there anything in the bill to show that a dry dock is needed or called for by the Navy Department?

Mr. TAWNEY. There is nothing in the bill to indicate that a dry dock is necessary in connection with the maintenance of our present naval establishment. There is, however, Mr. Chairman, in the hearings, some statement made by the representatives of the Navy Department, who favor the construction of a steel dry dock at Solomons Island, in Chesapeake Bay, which the Secretary of the Navy states ought to be built, and where he says there ought to be established and maintained a naval station. This, therefore, means the beginning of the authority for the construction and maintenance of another navy-yard.

I understand that Solomons Island is peculiarly well located for the establishment and maintenance of a navy-yard; that they have there abreast of the shore a stage of water equaling 40 feet, sufficient to float any naval vessel to-day on the sea or any floating dry dock that may be necessary in connection with the Navy. But the influence of Solomons Island in the past has not been sufficiently strong to secure the establishment of a navy-yard at that point. The navy-yards have been established elsewhere on the Atlantic coast, where the influence was stronger in favor of their establishment, although the location was not as admirable for it, perhaps, as at Solomons Island. Now, this proposed floating dry dock, so far as the paragraph is concerned, which is the only thing that is before the House officially, does not appear to be even a part of the naval establishment or incident to or necessary for the naval establishment of this country. But, Mr. Chairman——

Mr. OLMSTED. May I ask a question?

Mr. TAWNEY. Certainly.

Mr. OLMSTED. The gentleman will not contend that the passage of the bill with this paragraph in it will authorize the establishment of a navy-yard at Solomons Island?

Mr. TAWNEY. No; it would not authorize the establishment of a navy-yard at Solomons Island; I grant you that. But it is in the minds of those who are behind this proposed appropriation for a steel dry dock to be located and constructed at Solomons Island. And if the Navy Department has been able to convince the committee of the necessity of the establishment of a steel dry dock where we do not have a navy-yard, where naval vessels can not be repaired except in a navy-yard, it is but reasonable to suppose that when they get the steel dry dock the Department will be able to convince the committee then of the necessity for the construction of a navy-yard in order to use the dry dock.

We have a great many dry docks. I am informed that we have a dry dock practically at every navy-yard on the Atlantic coast. We have dry docks of sufficient capacity to accommodate all of the naval vessels that have heretofore been constructed or are now authorized. There is not a scintilla of evidence presented to indicate the necessity for another floating dry dock, unless it be inferred that when this dry dock is completed it will be towed off to some other country or some distant island possession for the accommodation of our Navy in that part of our country. The question, Mr. Chairman, when you get at the facts, assuming that this is a dry dock to be used in connection with the Navy, which fact must be assumed, because there is nothing in the bill to indicate it; but assuming it is a floating dry dock to be used in connection with the repair of vessels, then it comes within a number of precedents.

Every decision that has been made by a Chairman of the Committee of the Whole on this question relating to the appropriation of money for a dry dock not authorized by law has been in favor of the point of order holding that the provision was not in order. I have here a series of precedents in House document, volume 80, of Parliamentary Precedents, page 285. The head note is this:

The construction of a new dry dock for the Navy, except where specially authorized by law, has been held not to be the continuation of a public work within the meaning of the rule.

And the rule referred to is the rule which I invoke against this provision—clause 2 of Rule XXI.

On April 10, 1890, the House was in Committee of the Whole House on the state of the Union, considering the naval appropriation bill. Mr. Theodore S. Wilkinson, of Louisiana, offered this amendment:

For the purchase, under such regulations as the Secretary of the Navy may prescribe, of additional lands for a site for a navy-yard and dry dock at or near the lands bought by the United States for a naval depot at Algiers, La., the establishment of which navy-yard and dry dock at Algiers, La., was recommended by the commission of naval officers appointed under the act of Congress approved September 7, 1888, a sum not exceeding $75,000.

Now, here was a paragraph incorporated in the naval appropriation bill carrying a provision embodying the recommendation of a commission appointed by authority of Congress for the purpose of investigating the question of the propriety of a navy-yard or naval station and the construction of a dry dock, which had far more force than the present paragraph has, assuming that this paragraph authorizes the construction or appropriates money for the construction of a steel floating dry dock to be used in connection with the Navy.

Mr. Charles A. Boutelle of Maine made the point of order against the amendment. The Chairman ruled:

The Chair is of opinion that this amendment is obnoxious to clause 2 of Rule XXI. The proposition of the honorable gentleman from Louisiana is to make an appropriation for the purchase of a site and

the establishment of a navy-yard and dry dock, which is not an "expenditure previously authorized by law," nor is it an appropriation "in continuation of appropriations for such public works and objects as are already in progress." It does change existing law by authorizing that to be done which is not now authorized by law. It is in sympathy with the proposition contained in the bill against which the point of order was made, and the Chair thinks the point of order is well taken as against this proposition, both in the letter and the spirit of the rule.

Now, that was for the establishment of a navy-yard, and if the establishment of a navy-yard can not be held to be a continuation of a public work in progress, namely, our naval establishment, then how can it be held that a provision authorizing or appropriating money for the construction of a steel floating dock at no place, for no purpose, so far as this paragraph is concerned, can be held in order?

On April 13, 1892, the House was in Committee of the Whole House on the state of the Union considering the naval appropriation bill.

Mr. William S. Holman, of Indiana, raised a point of order against a paragraph in the bill providing for the appropriation of $250,000 and the authorization of a contract for $840,000 for the construction of "a timber dry dock at Algiers, La., in accordance with the recommendation of the two commissions to report as to the most suitable site for a dry dock and navy-yard at some point on the shore of the Gulf of Mexico or the waters connected therewith, and for the purchase of such land as is shown by the report of said Commission to be necessary for the purpose in addition to the present Government reservation."

The Chairman ruled:

No existing law has been called to the attention of the Chair authorizing the adoption of a site or the purchase of the land for such site or the erection of a structure thereon. The section under consideration is therefore in conflict with the rule.

I will not read the whole decision or argument of the Chair.

Again, on March 25, 1896——

Mr. MUDD. If the gentleman would read the whole provision he would see that it provides for the purchase of land. You left out that part.

Mr. TAWNEY. I will read the whole decision. I want to be entirely fair to the Chairman and to the committee.

The question then arises, does this section come within the exception to the rule? It appears that no previous appropriations have been made for the purchase of land as a site or the erection of a structure upon such site, nor can the objects of the proposed appropriations be held to be public works or objects already in progress.

The intent of the rule is to exclude from general appropriation bills such subject-matter as involves new and original themes of discussion, and new objects of appropriation. This is a general appropriation bill, and to such bills the rule by its terms is confined. An examination of the precedents that have been called to the attention of the Chair discloses a conflict of authority. As there is such a conflict of authority, and as the provisions of the pending section appear to be in conflict with both the rule and the exception thereto, the point of order is sustained.

Mr. OLMSTED. May I interrupt the gentleman?

Mr. TAWNEY. Certainly.

Mr. OLMSTED. The gentleman will concede that both cases to which he has referred, the paragraph against which the point of order was made provided not only for a dry dock, but for the establishment of a navy-yard, or at least for the purchase of land for a site for it. Now, a navy-yard, as we both agree, would be obnoxious to the rule. Then there being anything in the paragraph against which a point of order was good, of course the whole paragraph went out. As I understand, listening as the gentleman read, the point of order was not made upon the dry dock, but upon the whole paragraph, including the navy-yard, and the absence of a site for both the navy-yard and the dry dock.

Mr. TAWNEY. Mr. Chairman, if there is any logic in the contention of the gentleman from Pennsylvania in respect to the dry dock being a necessary part of our naval establishment, then that same logic would apply with equal, if not greater force, to a provision for the construction of a navy-yard. The latter is equally essential to the naval establishment, because without a navy-yard you can not use a dry dock to any advantage.

A dry dock is for bringing vessels into the navy-yard for the purpose of having those vessels repaired. They can not be taken into a machine shop. You can neither float them nor wheel them into the machine shop where the repairs are actually made. They must be placed in a position where the mechanics can get all over them, all around them, and all through them, and the only way to do that is to float them into a dock and then get the water out by pumping or otherwise. There is where the repairs are made, and so far as that ship is concerned the dry dock is a navy-yard. I repeat, therefore, if there is any logic in the contention of the gentleman from Pennsylvania in respect to the dry dock, it applies equally to the navy-yards, and if appropriations for the purchase of land on which to construct a navy-yard are not in order, it of necessity follows that appropriations for the construction of a dry dock, which can not be used without a navy-yard, are equally out of order.

Mr. UNDERWOOD. Will the gentleman yield for a question on that point?

Mr. TAWNEY. Certainly.

Mr. UNDERWOOD. Suppose that dry dock was built for the purpose of using it in front of the New York Navy-Yard or in front of the Norfolk Navy-Yard, would it be in order, supposing the dry-dock facilities in New York and Norfolk were not sufficient? The rest of the equipment for running a navy-yard is there. Would it not be in order to build a steel dry dock to float in front of the navy-yard?

Mr. TAWNEY. I do not think it would be in order, unless it was so framed as to be used exclusively in connection with a navy-yard now in existence and the necessity for it had previously been shown.

The CHAIRMAN. The Chair would be glad to be informed of the nature of a floating dry dock. The Chair confesses he has never seen one.

Mr. TAWNEY. Never having seen a floating dry dock myself, and being a common, ordinary layman——

Mr. OLMSTED. A landlubber——

Mr. TAWNEY. Yes; a landlubber, as corrected by my friend from Pennsylvania, I will yield to my distinguished friend from Pennsylvania [Mr. BUTLER], a member of the Naval Committee, to give that information.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I am not a webfoot, but because of statements that have been made in my presence I do pretend to know what a steel floating dry dock is. Upon that I understand the Chair desires some information.

First of all, it is constructed of steel, as indicated by the name. Secondly, it is constructed at some place where such ships can be constructed. It is known as a ship, because it floats, and it floats of itself. It does not have on it any power by which it can be propelled. It is dragged from one place to another where it is needed. It may be sunk deep in the water, and where a ship is lying crippled the dry dock may be pushed under the crippled ship, the ship raised and repaired, then floated again from the dock.

The CHAIRMAN. Is it practicable to repair a ship in a floating dry dock where the water is so deep that the dry dock can not be securely moored or anchored?

Mr. BUTLER of Pennsylvania. Mr. Chairman, wherever the water is sufficiently deep to enable the dry dock to be sunk it may be sunk and floated under the ship. It is not a machine that is used exclusively in the Navy. Merchant ships are raised and floated in these dry docks. They are not new. They have been made of wood for years. A few years ago the manufacturers of steel conceived the idea that they could make them better from steel, and since that time they have been constructed of steel.

Mr. Chairman, the United States Government owns a steel floating dry dock at Algiers, La., built at some distant point and conveyed or dragged there by a steam tug owned by the Navy.

Mr. WACHTER. Built upon Chesapeake Bay.

Mr. BUTLER of Pennsylvania. Built upon Chesapeake Bay, as the gentleman says. The Government has another floating dry dock at Pensacola, Fla. That dock was purchased from Spain, and after the Spanish-American war was towed across and located at Pensacola. The Government owns a third steel dry dock, which is now on it way to the Philippine Islands and is supposed to be somewhere in the Red Sea.

Mr. Chairman, these docks contain machine shops; perhaps not sufficiently extensive to enable the mechanics to repair any kind of damage that might be done a ship, but where she has had a hole stove in her, where she needs to be painted, where she needs, perhaps, one or two steel plates removed, the capacity of the machine shop on the floating dry dock is considered sufficient. It is not a great machine shop. The floating dry dock contains, beside sufficient machinery to do this repair work, quarters for the men.

She has also quarters for officers. She has an officer in command; the docks are often in charge of officers of high rank. Offices are provided for them; quarters for the men; kitchens where they can cook, and beds wherein they can sleep. It is in all appearances and description a floating machine with a repair shop.

Mr. BATES. May I ask my colleague a question?

Mr. BUTLER of Pennsylvania. Certainly.

Mr. BATES. Did not the Secretary of the Navy point out, either in his annual report or in a statement before the Naval Committee, that the great value of the dry dock was its capa-

bility in that the dock could be taken to the fleet when many times it was impossible to take the fleet to the dock? In other words, that it is a necessary part of the equipment of the modern navy?

Mr. BUTLER of Pennsylvania. Yes; that is a fact.

Mr. TAWNEY. Are we to understand that the Secretary of the Navy is recommending a floating steel dry dock for the purpose and upon the theory that this steel dock can follow the Navy around on the ocean; that these vessels can be repaired on the high seas at any time and under all circumstances?

Mr. BATES. The gentleman from Minnesota is partly right in his idea on that subject. The Secretary of the Navy recommends that three of four of these steel dry docks be built and that they be put at as convenient locations as possible; not that they follow every fleet in all its maneuvers, but that they be at as accessible points as possible, in order that they may be brought to the fleet when the fleet can not be taken to the dock.

Mr. TAWNEY. Do I understand the gentleman to say, and his colleague, Mr. BUTLER, of Pennsylvania, to say, that you can repair a battle ship in a floating steel dry dock at sea?

Mr. BATES. Very often.

Mr. BUTLER of Pennsylvania. Yes; let me answer the gentleman from Minnesota.

Mr. TAWNEY. Have you ever known of putting a battle ship in a dry dock on the open sea?

Mr. BATES. The docks that are now in process of construction are entirely new, and as I have never served in the Navy and never have known personally of the transaction, I can not answer the gentleman of my own personal kowledge.

Mr. TAWNEY. Is it possible to put a battle ship in a dry dock without mooring the dry dock and making it fast?

Mr. BUTLER of Pennsylvania. It is.

Mr. BATES. Most certainly.

Mr. BUTLER of Pennsylvania. I will say to the gentleman that I never sailed in a dry dock, I never built one, and I never expect a trip in such a machine.

Mr. Chairman, the Secretary of the Navy reports in favor of these docks, and in the report he says:

To my mind, however, one of the chief elements of value to the service in such docks is their mobility. It may be very desirable under certain circumstances to send a dock to our fleet instead of sending our fleet to a dock, and the Department always feels some reluctance in sending ships which are to remain in commission to a navy-yard, for there is always more or less uncertainty when they will again become available for active duty.

During the investigation made by the Naval Affairs Committee I asked the Secretary of the Navy this question:

Suppose the dry dock is provided for Sullivans Island and there should arrive an emergency, a very grave one, that would require the dock at Pensacola, might not the dock be hauled around and used at Pensacola? Is there sufficient water at that place?

The Secretary of the Navy replied:

I am not sure whether there is or not sufficient water at Pensacola. Of course the dock can be taken anywhere that our big battle ships can use a permanent dock. The floating dock, in other words, will go substantially where the ships could use it.

It is further said in the hearings that wherever the water is sufficiently smooth this dock can be used. Of course where the waves are high the dock is not useful, but it is likely that the crippled vessel would not lie long enough to be caged; but where the water is smooth the dock could be taken to the crippled ship and the ship could be repaired at that point.

Mr. FITZGERALD. Let me call the attention of the Chair to the fact that on page 32 of the bill, under the head of "Naval station at Olongapo, P. I.," in order to operate the floating dry dock that is being sent there it is necessary to provide $65,000 for a wharf to moor that dock to. The section of the country from which I come is one in which floating wooden docks have been used since before the civil war, and it has never been known that a floating dock has been used away from the yard to which it was attached.

Mr. BUTLER of Pennsylvania. Mr. Chairman, in order that the Chair may have a little further light, my colleague [Mr. DAWSON] has called my attention to a further statement made by the Secretary of the Navy, which I will read. It is as follows:

As I stated in my annual report, the thing which I especially value the dry dock for is its mobility, that it will not be permanently located at any navy-yard.

The CHAIRMAN. Would it not be a good thing if you could have a dock that could move around and that you could take to Pensacola and all along the coast?

Secretary BONAPARTE. Yes; it would be very desirable. That is exactly why I say that I regard that dock as the one that will be the most useful to us and the one that would take the place under emergency of several located docks.

Mr. PERKINS. Mr. Chairman, will the gentleman answer a question?

Mr. BUTLER of Pennsylvania. I will be delighted to, if I can do it.

Mr. PERKINS. I would ask the gentleman how long he understands the Secretary of the Navy has served in the Navy and what is his actual experience? [Laughter.]

Mr. BUTLER of Pennsylvania. Mr. Chairman, that is respectfully referred, with all politeness, to my friend—to the Secretary himself.

Mr. TAWNEY. Mr. Chairman, now that the Chair has had this elaborate explanation of what a dry dock is, I will proceed to conclude my argument on the point of order.

Mr. GAINES of Tennessee. Mr. Chairman, if the gentleman from Minnesota [Mr. TAWNEY] will permit me, I will take a picture of a dry dock up to the Chairman.

Mr. TAWNEY. Well, inasmuch as the act of the gentleman from Tennessee in taking the picture up to the Chairman will not appear in the RECORD, I have no objection. [Laughter.]

Mr. GAINES of Tennessee. Well, it seems as though the gentleman who is heaving land and sea to get something into the RECORD has not succeeded.

Mr. TAWNEY. Oh, I am not objecting.

Mr. GAINES of Tennessee. I hope that the gentleman will get all into the Chairman that he wants to. [Laughter.]

Mr. TAWNEY. Mr. Chairman, another ruling that was made on this identical question was on March 25, 1896. I read:

On March 25, 1896, the House being in Committee of the Whole House on the state of the Union, considering the naval appropriation bill, Mr. HENRY H. BINGHAM, of Pennsylvania, offered an amendment for appropriating the sum of $200,000 toward the construction of a dry dock at League Island Navy-Yard.

Mr. Nelson Dingley, of Maine, made the point of order that the proposed appropriation was for an object not authorized by law.

After debate, the Chairman ruled:

"Rule XXI of the rules governing this body is identical with the rule that was adopted in the Fifty-first Congress. In that Congress, when the naval appropriation bill was under consideration, the identical question that is raised by the gentleman from Maine was then raised, and Mr. Butterworth, of Ohio, was at that time in the chair. The question was fully discussed, and after mature deliberation the Chair then held that the point of order was well taken."

The same question was raised when the naval bill was under consideration in the Fifty-second Congress. Mr. Shively, of Indiana, was then in the chair. The Chair has the RECORD before him, where the matter was fully discussed, and, while the Chair then recognized that previous to the Fifty-first Congress the ruling was as contended by the gentlemen from Massachusetts and Pennsylvania, the Chair then felt constrained to hold, both on authority and precedent, that the point was well taken. In pursuance of those two precedents, the Chair will hold that the point made by the gentleman from Maine is well taken.

I might cite other decisions which were made in succeeding Congresses on this identical point. It is impossible to distinguish, after the elaborate description of a dry dock given to the Committee of the Whole by the gentleman from Pennsylvania [Mr. BUTLER], any difference in principle from a navy-yard, or the purchase of land for the construction of a navy-yard, and the appropriation of money for the construction of a dry dock, which is a necessary incident to the work of a navy-yard. In both cases, where naval appropriation bills have carried appropriations for either of these two purposes, the Chair has uniformly held that such provisions contravene clause 2 of Rule XXI of the House of Representatives, and that the point of order against them was well taken.

I want, in conclusion, to again call the attention of the Chair to the remarkable fact that the ruling of the Chair must be made upon the paragraph as it appears in this bill. It can not be made upon the assumption of facts nor upon statements made here as to the purpose for which this dry dock may be used. But assuming the facts to exist which do not appear on the record here or in this provision of the bill—even assuming those facts, and assuming that this dry dock is to be used for the repair of naval vessels, yet under all the precedents of this House the provision is nevertheless out of order and against the rule which I have just cited.

Mr. GILL. Mr. Chairman, will the gentleman allow me to ask him a question?

Mr. TAWNEY. Certainly.

Mr. GILL. I would like to ask the gentleman if the rules of the House would permit the construction of a new vessel?

Mr. TAWNEY. Yes; that has been ruled, and the rulings made on that point draw a very clear distinction between a naval vessel and a navy-yard or a dry dock.

Mr. GILL. Now, will the gentleman permit me to ask him another question?

Mr. TAWNEY. Yes.

Mr. GILL. And that is whether the floating dock provided for in this bill is not a vessel?

Mr. TAWNEY. The floating dock that is now on its way to Subig Bay of course is a vessel, in the sense that it floats; but in the sense that it is capable of resisting the force of an enemy, of being a fighting ship, it is not; or that it can be used when it is floating for the purpose for which it has been created, it is not.

Mr. GILL. Now, permit me to ask the gentleman this question: Is not the *Dewey*——

Mr. MUDD. Mr. Chairman, I shall have to ask to go ahead.

Mr. TAWNEY. I will say further to the gentleman from Maryland that the purpose of the dry dock is not to float, the purpose of the dry dock is not to fight, but the purpose of the dry dock is to be moored or anchored where the vessels of the Navy, which are constructed for the purpose of floating and fighting, may be repaired.

Mr. GILL. I want to say to the gentleman——

The CHAIRMAN. The gentleman from Maryland [Mr. MUDD] was recognized.

Mr. MUDD. Mr. Chairman, I feel that the argument against this point of order has been so well presented by the gentleman from Pennsylvania that perhaps I ought to leave it where he left it, but I am frank to say, and I make no attempt to disguise the fact, that this is a matter in which I feel considerable interest, especially in view of the extent to which the gentleman from Minnesota undertook to strongly emphasize the objectionable features of the location of this dock, from his point of view. Mr. Chairman, I take it for granted it is not necessary to warn the Chair against letting the merits of this question enter into the discussion of the controversy as to the point of order. When we come to discuss this dry dock upon its merits I rather think the Naval Committee will be able to take care of itself and to show that it is a meritorious proposition. The gentleman from Minnesota, in his last remark, falls into error, in my judgment, wherein he answers my colleague that the purpose of this dry dock is not to float. It is the very purpose of this character of dry dock. It is the very thing that distinguishes it from other dry docks in that it floats, that it is not connected with the land in any shape, that it floats out to disabled battle ships, lifts them upon itself and repairs them. I do not know just what is the actual fact in reference to the situation at Subig Bay just referred to by the gentleman from New York, nor do I know further than I infer from what is stated in the appropriation bills as to the exact character of the dry dock at Algiers, La., but I do know from the testimony of my own eyesight, Mr. Chairman, that a dock after the pattern of the Dewey, which I understand this is to be patterned after, does not need any moorings, does not need any wharf, and that all of the dry docks heretofore constructed that did need moorings, did need wharves, and did need structures to connect them with the shore, had provisions for the moorings, for the wharves and connecting structures embraced in the provisions for, and were appropriated for in connection with the dry docks themselves.

The CHAIRMAN. Let me ask the gentleman from Maryland a question?

Mr. MUDD. Certainly.

The CHAIRMAN. Is it practical to repair a war vessel on the high seas in a rough sea with a floating dry dock without anchoring?

Mr. MUDD. I take it for granted that in a rough sea you could not, Mr. Chairman, just as you can not take coal from a collier aboard ship in very rough seas, as was demonstrated in the Spanish-Amrican war. You can not take coal from colliers in a very rough sea, but that does not make the collier any the less a ship and would not make a collier, because it could not coal in rough weather on the high seas, any the less a part of the Navy and a proper subject of appropriation in this bill or other naval bills. Why, Mr. Chairman, some of our ships can not do business at all in a rough sea. They can not safely go out upon the high seas in very rough seas, and they put into harbor, but they are still a part of the Navy and they can be appropriated for in this or a similar bill. Now, then, as to the exact character of these docks, which is somewhat a technical question, upon which, perhaps, some of the Members of the House, however, have almost as much knowledge as some of the gentlemen in the Navy, I may say that a few years ago a floating steel dry dock of the kind we are now building was a thing unknown. I believe the United States constructed the first one of this character and it was towed to Algiers. At that time, or, rather, before that time, when these decisions that have been referred to were being made, the last being in the Fifty-fourth Congress, in the year 1894, it could not be stated as a matter of fact that a floating steel dry dock was in order upon a general appropriation bill, because the floating steel dry dock was a thing unknown.

Mr. HILL of Connecticut. Let me ask the gentleman, if this is a part of the increase of the Navy, why did you not put it over in that classification in the back of the bill?

Mr. MUDD. Well, I will say I think we will try, if it goes out here, to put it in there.

Mr. HILL of Connecticut. But why did it not go there in the first place, if it is properly part of the increase of the Navy?

Mr. MUDD. Because we thought, and still think, it is appropriate and in order under the head of docks, which are an essential part of the Navy.

Mr. SPARKMAN. May I ask the gentleman a question?

Mr. MUDD. All right.

Mr. SPARKMAN. I want to ask, first, in what way does this dock differ from other floating docks?

Mr. MUDD. It does not differ much from the floating *Dewey* dry dock at all. It will perhaps be a larger one. It is the same in principle, and it is calculated, as the best expert authorities contend to-day, to be practicable, that it will be provided with large side-wall compartments that will allow the installation of extensive machinery to make extensive repairs—more extensive than even the *Dewey* or any dock yet constructed, making it, in effect, answer the purposes of a repair ship.

Mr. SPARKMAN. Is it intended to locate it at any particular place?

Mr. MUDD. It is not, necessarily so, except in so far—and I want to be perfectly frank about that—as the Secretary of the Navy has intimated that he thought for its home base when it would not be elsewhere occupied, when our ships were as convenient to that as to any other place. The place he had in mind was down at Solomons Island, at the mouth of the Patuxent River, in Chesapeake Bay, for the reason of the great depth of water that is there. I make this statement unchallenged, I think, that there is a greater depth of water at that particular spot of this earth's surface than in any harbor on the face of the earth covering the same area of space.

Mr. SPARKMAN. You have to come by Norfolk?

Mr. MUDD. Yes, sir.

Mr. SPARKMAN. Have they not a good dry dock there?

Mr. MUDD. The difficulty down there is the difficulty in nearly all our navy-yards, which is this, that the draft of vessels which we are constructing to-day is so great that they can not get to our navy-yards to have our ships repaired without the aid of a floating dry dock to take them there, and this auxiliary characteristic of a floating dry dock is one of the chief reasons which suggested to the Secretary the advisability of this dock.

Now, one or two words more, Mr. Chairman, because I have not the voice to talk to the House at this time if I wanted to.

Mr. McNARY. Mr. Chairman, I would like to ask the gentleman why it is the Navy Department could not repair ships in those yards that have dry docks at the present time?

Mr. MUDD. Mr. Chairman, I will say to the gentleman that that will be a more pertinent inquiry when the point of order shall have been decided and we get to the merits of this proposition; but if I may be permitted to answer here, I will say that the testimony of Admiral Endicott shows that we are confronting a very serious situation in this respect—that the vessels of the advanced type which we are constructing now require such a draft of water that it is almost impossible to get them to the dock in our ordinary yards.

Mr. McNARY. If the gentleman will permit me, I will ask him what yards?

Mr. MUDD. I will answer the gentleman and say this, that Admiral Endicott told me this morning that if you take the battle ships that had been and are being constructed, with the deepest drafts, and allow 4 or 5 feet more for a battle ship in a disabled condition, there are very few yards in the United States to which such a battle ship can be taken.

Mr. McNARY. What yards?

Mr. MUDD. I understand that Portsmouth, perhaps, has the greatest depth of any of them, and with the exception, perhaps, of New York, is about the best, and the only harbor in which the largest battle ships in a disabled condition can be taken to the existing graving stationary docks.

The CHAIRMAN. The Chair desires to say that this aspect of the discussion contributes nothing to the determination of the point of order.

Mr. MUDD. I hope I may be allowed to proceed very briefly upon the point of order.

Mr. Chairman, the determination of this question by the Chair, I apprehend, sir, depends very much upon matters of fact. In other words, the question largely is, What is a floating dry dock? What is a steel floating dry dock? Now, there is such a thing as a naval establishment recognized by law in this country. I apprehend there is no need for arguing that. I take it for granted it will not be contended that a dry dock of this character is not a part of the naval establishment, but independently of that, a little narrower than that, comprehended in that, there is a navy of the United States, the naval establishment being the generic expression, the navy technically being confined to those objects belonging thereto that float upon the sea.

This kind of dock, I repeat—and I speak now the testimony of my own eyesight, as of the time when I saw this dock down

in this country—was not moored to the shore; for aught that I know was not even anchored where it had taken the *Iowa* and *Colorado* and lifted them up and docked them successfully, say, perhaps, a quarter or half a mile from the shore. It could have gone a mile farther away; it could have gone 2 miles farther away; it could have gone, according to expert authority, 20 miles down and taken up a disabled ship and carried it to a place where it could best operate in the repair of the ship. That is the chief characteristic of these floating dry docks in contradistinction from the stationary docks.

Now, Mr. Chairman, as to these precedents which have been quoted, there are just four, and I want to call the Chair's attention to them briefly.

There is one in the first session of the Fifty-first Congress and one in the first session of the Fifty-second Congress, made, respectively, by Mr. Butterworth of Ohio and Mr. Shiveley of Indiana. The two that have been read as having been made in the Fifty-fourth Congress were rendered, first, by Mr. HOPKINS of Illinois and, second, by Mr. SHERMAN of New York. These gentlemen predicated their decisions upon those which had gone before, and those which had gone before were cases in which not only was there a provision for the purchase of a dry dock, but there was a provision for the purchase and for the acquisition of land. Now, I will not pause to argue whether or not the purchase of land is a continuing "work" or "object" in the line of building up the Navy. Suffice it to say, for the understanding of the Chair now, that it has been decided that the purchase of land was obnoxious to the rule, but that where buildings were placed on the land already acquired they were not obnoxious to it.

Mr. Sherman, in the decision rendered in the Fifty-fourth Congress, gave no reason at all, gave no argument. His decision was in relation to a dry dock upon the land. I think the decision was erroneous. But it can be differentiated from this, because he simply decided on the line of decisions that had been made for graving dry docks, and there was incorporated therein also in each case a provision for the purchase of land.

Now, the gentleman from Minnesota very adroitly argues—he always argues very ably—that there is nothing in this provision to show that it is for the use and the purposes of the Navy. Mr. Chairman, I take it for granted it is only necessary to read the title of the bill, wherein it is stated it is a "bill making appropriations for the naval service for the fiscal year," etc. It may just as well be argued that every line of every clause of every provision for every clerk that he provides for in the numerous bills that come from his committee should particularize the specific purpose and object of his connection with the Government service as that in every clause in this bill we should say and repeat that the provision is for the use and the object and the purposes of the Navy.

Now, I say, Mr. Chairman, there is nothing specific in the way of permanent provisions of law for one-half of the structures, one-half of the objects, one-half of the purposes for which we appropriate money in the naval appropriation bill. Let me read, for instance, from page 50, under the head of "Construction and repair of vessels." Now, no man will say that these are out of order, and yet there is no particular provision of law authorizing them, and no provision except the general requirement of law for the building and maintenance of a navy. Let me read:

Designing naval vessels. Construction and repair of yard craft, lighters, and barges.

Barges and lighters, things that float, as dry docks float. They are not moored to the land or anchored, and would anyone say that they are not a part of the Navy? There is no specific statute previously authorizing any of them. They do not fight. They are auxiliary ships. We have repair ships, as this dry dock will be, used as a repair ship. We have hospital ships. We provide for receiving ships and training ships, and they are no part of the fighting force of the Navy, and they do no more to fulfill the fighting functions of the Navy than does this ship which repairs ships which get out of order. We have, further on in this paragraph: "Wear, tear, and repair of vessels afloat." What is this dry dock for? Is it not to provide against the wear and tear, and is it not for the purpose of repairing vessels afloat? Can anyone mention one single purpose, use, or object to which this dry dock can be adapted unless it be for the repair of vessels afloat? All through this bill there are appropriations, there are such provisions as that of this dry dock, coming in the different paragraphs.

Mr. Chairman, the Constitution of the United States recognizes the existence of a navy. I do not intend to discuss the Constitution of the United States. That belongs to other gentlemen; but as pertaining to this bill, I am speaking now of the authority for the Navy and for the maintenance of the Navy. I say that there is not a single statute anywhere, outside of the Constitution of the United States, that specifically says that Congress shall provide for and maintain a navy, and I apprehend it is upon that general authority that battle ships have been declared to be exempt from the point of order made against them.

So far as my judgment goes, I think the construction of the rule excluding stationary dry docks is absolutely in error. I mean graving dry docks, to which this bears no necessary analogy.

Mr. Chairman, we appropriated for building the Naval Academy. We have had that ruled upon. We appropriate for foundries, for machine shops, for the necessary equipment of the shops, and for a thousand and one purposes for which a shop is necessary in a navy-yard, and yet, when you come to the erection of a structure, upon which a ship is to be lifted and to stand while undergoing these repairs, we find an utterly illogical and inexplicable decision declaring such a structure out of order. There is no reason whatever in the ruling which excludes such a structure even as a stationary dock from the right of incorporation in a bill making appropriations for the maintenance of our Navy. There is less of semblance of a reason for the exclusion of the floating dock, which is not only a necessity and an incident of the Navy, but a part of the Navy itself.

Mr. GAINES of Tennessee. Mr. Chairman, in this debate I have taken the Revised Statutes and have hurriedly looked through the different headings of the index, and I can not find any such institution as a steel dock, or a steel floating dock, denominated in any of the various statutes pertaining to the work of the Navy. I feel rather disposed to support a measure that is necessary to carry on the Navy as it should be carried on, but, nevertheless, I want it to be done according to law. Hence, I have investigated this matter. Now, I turn back to page 324 of the Revised Statutes, and I find this provision:

SEC. 1838. The President of the United States is authorized to procure the assent of the legislature of any State, within which any purchase of land has been made, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings without such consent having been obtained.

Clearly showing, Mr. Chairman, that a fort, magazine, arsenal, or a dockyard is neither a part of the Army nor the Navy; that they are separate and distinct institutions. Indeed, some of those institutions are nominated in the Constitution. They are procured under express statutes.

You will find, Mr. Chairman, in looking at the light-house law that the lights and buoys are treated, at page 906, as separate and distinct institutions from the Navy, and here is the law, of several pages, all providing for the establishment of light-houses and buoys. They are just as necessary in dangerous waters as, and far more so, than a floating dock. And yet here is a statute authorizing their establishment, clearly showing that Congress from time immemorial—I believe the first statute I read to the Chair was passed in 1828—for years and years the Congress has treated arsenals, magazines, dockyards, buoys, and light-houses as separate institutions, entirely disconnected with the Navy.

Again, Mr. Chairman, we had the Navy long before we had much of an Army. At all events, we have had it for a long, long time. We have had it without navy-yards, we have had it without light-houses, we have had it without buoys, we have had it without dry docks, we have had it without floating docks, we have had it without steel floating docks, and I challenge the gentlemen on this side or the other to show a single statute of the United States providing for the purchase of a steel dry dock or a steel wet dock or any other sort of a dock. On the contrary, when you were buying dockyards, or needed them, Congress, by an express statute, authorized the President of the United States to procure them, the word "procure" being used, as the statute I have just read provides.

Mr. TALBOTT. You mean procure the site.

Mr. GAINES of Tennessee. I mean procure the site, yes; a "dockyard."

Mr. TALBOTT. Will the gentleman allow me one moment?

Mr. GAINES of Tennessee. Yes.

Mr. TALBOTT. Is not the distinction this, between the dry dock that is contemplated by the act of Congress and this dry dock that is proposed now, that one of them is a floating dry dock for which you do not have to obtain a site and which can be towed by the Government to any other point it desires to use it for the purpose of repairing the vessels of the Government?

Mr. GAINES of Tennessee. Mr. Chairman, in reply to my friend, I will state to him that there are docks that do not float and there are docks that do float and some docks that do both. This steel floating dock is such a new institution, Mr. Chairman, that with the usual frankness and candor so char-

acteristic of the distinguished gentleman who occupies the chair, he called upon Members of the House to tell him what a steel floating dry dock is. It is an entirely new institution, unknown to the statute and many Members of the House.

Mr. TALBOTT. This is something which the necessities of the Navy require, and the Navy does not have to acquire from any State in the Union a site for it, but can tow it wherever it wants to tow it for the use of the Navy.

Mr. GAINES of Tennessee. It is a concern without head or tail. It is without life, it is without wheels, it is without locomotion; it is something for pushing another ship into and lifting that ship up out of the water and mending it in different ways. I have seen that performance, Mr. Chairman, but I never saw it out in mid-ocean. I have seen everything in the ocean, almost, except that sort of thing. These dry docks stay close up to the shore. Japan has one, and we have some, I think; not these steel floating docks, possibly.

Now, Mr. Chairman, replying to the proposition the gentleman from Pennsylvania [Mr. OLMSTED] alluded to, about there being no law for the purchase of ammunition, cartridges, guns, and so forth. If the gentleman will look at the statute, which I have before me, he will find that the Secretary of War is authorized to purchase "supplies" for the Army, and the Secretary of the Navy is authorized to purchase "supplies" for the Navy. They are authorized to purchase powder, ammunition, clothes, and things of that sort. Not being an expert soldier, as I infer the gentleman from Minnesota is by his gray hairs, I was at first disposed to think that steel docks was a Navy supply, and it was possible for the Chair to construe the word "supplies" as covering this dock proposition; but I find after reading the statute more thoroughly that it clearly refers to other things—things to eat, wear, guns, etc.—and does not include docks of any kind. Section 3721 speaks of "gunpowder" and of "medicines" and "clothing and hemp" and other materials of every nature and kind. By using the words "all provisions, clothing, and hemp, and other material of every nature and kind," I was disposed to believe that the Chair would be correct in ruling that under the broad language used there he might call this dock a supply for the Navy, but when you read the whole statute, you can clearly see that it does not include or cover that kind of an institution. I dare say that when that law was enacted, in 1843, 1850, and 1866, such a thing as a steel floating dry dock was never dreamed of.

Now, if we call it a building, here is the statute that requires "before any new buildings for the use of the United States is commenced the plans and full estimates shall be prepared," etc. You go along further and you will find that the question of ammunition and the question of guns and all that sort of thing is provided for there literally in the law or is covered by the word "supplies" or "the necessary demands of the Navy." Now, we know that a steel floating dry dock is not a supply; we know it is not absolutely necessary; we know it is not a part of the Navy, because we had a Navy long before that, and that we have got along thus far without it being a part of the Navy and can still do so. Congress has not, as my friend from Minnesota knows, by statute thought enough of this dock institution to pass a law authorizing Congress to build "steel floating dry docks."

Now, it may be absolutely necessary, and possibly it is, but, gentleman, if it is you have plenty of time, you have an Naval Committee that is composed ot intelligent gentlemen, a committee that is capable and patriotic, and you can take the proposition out, look into it, and report a bill, and if you show that it is needed and that the price of a million dollars and a half is reasonable, you will have little opposition.

Mr. WACHTER. I would like to ask the gentleman a question.

Mr. GAINES of Tennessee. I will yield to the gentleman.

Mr. WACHTER. I would like to ask the gentleman whether he knows—and I suppose he does—that there are already two steel floating dry docks in existence?

Mr. GAINES of Tennessee. I guess everything you have been able to make in the last ten years is in existence, because these appropriation bills have been loaded down with things and things, appropriations of dollars and dollars, but where is the statute allowing them to be built?

Mr. WACHTER. Does not the gentleman know that there are already in existence two floating dry docks?

Mr. GAINES of Tennessee. There are, I presume, a few; I don't know how many.

Mr. WACHTER. Does not the gentleman consider anything a part of the naval establishment which goes to make up the building and repair of ships?

Mr. GAINES of Tennessee. It may be a part of the machinery, but Congress has not so declared, and there is no statute broad enough to include it as a necessary appendage or to make it a part of the Navy, no more, not as much, as the light-houses and buoys. This dock is clearly not a part of a ship. As the gentleman knows, we have never built a ship that Congress has not specifically authorized its building. Here is a steel dry-dock proposition calling for nearly two millions, and yet Congress has not directed even the adoption of such an institution.

Mr. WACHTER. But they have already built two steel dry docks.

The CHAIRMAN. The Chair is practically prepared to rule.

The paragraph under consideration carries an appropriation for a floating dry dock. A rule of the House prohibits appropriations in general appropriation bills for expenditures "not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress." It is not claimed that the object for which the appropriation in question is sought to be made is authorized by law, but it is insisted that it is a public work or object already in progress within the meaning of the rule.

The question raised by the point of order in some of its aspects is a novel one. There is no precedent exactly covering it, and it must be decided by the application of principles recognized in the decision of analagous questions. It is settled that general naval appropriation bills may carry appropriations for additional officers and seamen, for new war vessels, for colliers, and for necessary equipment and supplies for the Navy without their being previously authorized by law.

On the other hand, it is settled by the precedents that appropriations for a new naval station, for a new navy-yard, for the selection of a site for a naval station, for the establishment of an armor-plate factory, for the erection of buildings for a naval hospital with authority to acquire a new site, for the construction of stationary dry docks are not in order in general naval appropriation bills unless previously authorized by law.

The logical inference from the precedents is that the Navy proper, consisting of the war fleet, officers, and seamen, with necessary equipment and supplies, is a public work or object already in progress within the meaning of the rule, and appropriations therefor are in order in appropriation bills without previous authority of law, while the administrative branches and the construction and repair establishments of the Navy Department, including, among other things, naval stations, navy-yards, hospitals, magazines, and stationary dry docks, do not ipso facto constitute a public work or object in progress, and appropriations therefor must be previously authorized by law.

The question for decision is whether a floating dry dock is an essential part of the equipment of the Navy proper or whether it belongs to the administrative service of the Navy Department. Dry docks are for the purpose of repairing vessels, and the only essential difference between floating dry docks and stationary dry docks is the portability of the former. Both kinds are intended for the same purpose and belong to the same class of service. Colliers have been held to be an essential part of the equipment of the Navy, obviously because they sail with naval squadrons and attend them in action as supply boats.

A floating dry dock can not convoy a naval squadron on the high seas after the fashion of a collier. It can only be taken from place to place where the sea is calm or it can be securely moored for the purpose of repairing vessels. It is not an essential part of the equipment of the Navy, but clearly belongs to the administrative service of the Navy Department. The point of order is, consequently, sustained.

Mr. MUDD. Mr. Chairman, I shall not appeal from the decision of the Chair, but I give notice at this time that I shall offer this as an amendment in a little different form at another stage of the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Repairs and preservation at navy-yards: For repairs and preservation at navy-yards and stations, $500,000.

Mr. HEPBURN. Mr. Chairman, I move to strike out the last word. A day or two ago the gentleman from Massachusetts [Mr. WEEKS], who has just left the Chamber, made some remarks in criticism of a criticism that I had made some weeks earlier with regard to the efficiency of certain officers of the United States as navigators and of the efficiency of our method of administering criminal justice in the Army and the Navy. The gentleman, among other things, having given a record of thirty-seven vessels that had been injured or destroyed in some forty years, said:

This record, which is complete, being taken from the records of the Navy Department, shows, etc.

Mr. Chairman, I desire to question the statement of the completeness of that record. I say that it is only partial; that it does not cover by any means the total number that should be included, and especially it is insufficient in that the larger vessels, the more expensive vessels, the vessels of modern date, are largely omitted from the list.

There is one that I have in mind that the gentleman can not be criticised for not enumerating, because the accident happened about the moment of his declaration of freedom from negligence on the part of these gentlemen. That was the one in which one of our larger vessels went ashore a few days ago while going into York River. Certainly, if there is any position, any port, any part of our navigable waters that the Navy and the officers of the Navy ought to be familiar with, it should be that historic portion of our waters. They ought to be able to get in and out there. He omitted the instance, quite recent, where one of our squadrons, I think, consisting of four vessels, attempted to get out of the port of New York. They succeeded partially in doing it, although they ran two of the vessels into the mud and got the other two into violent and dangerous collision. The gentleman has omitted that from his list.

The gentleman has omitted that other case, quite recent, where one of our larger and more valuable vessels was run into a dock in the harbor of New York. One would suppose these gentlemen would be familiar with such waters.

The gentleman also omitted that other instance where only a short time ago one of our modern vessels was run upon a rock in the vicinity of Newport. One would suppose that that place would be somewhat familiar to these gentlemen, and that they certainly would be able to navigate their vessels in such waters.

Mr. Chairman, these are only a few that occur to me from my knowledge gained from the newspapers of these instances of inefficiency, of incapacity to handle these great vessels. We are spending millions of dollars to build up a great navy. I think it is the part of patriotism to do this, but there ought to be some guaranty, some assurance, that when we secure such vessels they will not be recklessly destroyed by incompetency and inefficiency.

Another astonishing statement was made by the gentleman the other day, namely, that the longevity of one of these great vessels, costing many millions of dollars, was but sixteen years. The *Texas*, going into commission only sixteen years ago, the gentleman told the committee, was now on its way to the scrap pile, and when asked the question if that was the average period he said it ought not to be, but left the inference that it was. It is only a short while ago that I saw a criticism upon the part of some naval officer of the *Oregon*—the *Oregon* now characterized by him as obsolete. Yet, Mr. Chairman, it is only a little while ago that that then splendid vessel cost this Government between five and six millions of dollars.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more to conclude his remarks.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the gentleman from Iowa may have five minutes more. Is there objection?

There was no objection.

Mr. HEPBURN. Mr. Chairman, the gentleman criticised me, I thought, with some ascerbity because I said that, in my judgment, there was not proper punishment meted out to those who, I thought, had recklessly, carelessly, and wantonly put in jeopardy these great interests of ours. I still believe that our system of administering criminal justice in the Army and Navy is lamentably faulty; that it is almost impossible to secure fairness of judgment on the part of those who are to try criminal malefactors. Think of it! The courts are made up from the classmates, from the companions in arms, from the friends and associates, from the military family of which they are all alike members.

There is a community of interest and a community of feeling among them. They are all more or less acquainted; the children are intimates; the wives are intimates and associates; they are as a rule poor, each one knows the pecuniary condition of the other, and everyone knows that if that sentence is imposed that stops the pay or that lessens it there is suffering and want and privation. That fact is brought home to all, and it would be strange indeed if under the circumstances of the association and acquaintance and community of interest it did not have its effect, and I say that it is the truth that the punishments that have been inflicted, some of which the gentleman referred to, have been inconsiderable indeed in comparison with the offense. There are other countries where the naval officer who loses his vessel feels so overwhelmingly a sense of disgrace that suicide is his only remedy, his only relief, and it is expected that that will be his self-inflicted punishment.

Mr. WEEKS. It is a crime in this country to commit suicide, I believe.

Mr. HEPBURN. I think it is. I am not speaking of that for the purpose of suggesting that it ought to be a remedy, but I am speaking of it for the purpose of showing how this offense of throwing away your ship is regarded in other countries as compared with ours. The gravest punishment that the gentleman could find in all the annals of courts-martial for offenses of this kind, if I mistake not, was suspension from the active duties and active pay for three years.

Mr. WEEKS. Oh, I beg your pardon. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman yield?

Mr. HEPBURN. I do.

Mr. WEEKS. If the gentleman from Iowa had carefully read what was said he would have found that officers have been dismissed—several cases—for the loss of ships, and in one instance an officer was dismissed who had previously been dismissed from the service and restored by act of Congress.

Mr. HEPBURN. That may be. I stand corrected, but I had in my mind the twenty-six cases to which I referred, and in all of those punished my recollection is there was none more severe than this suspension from active duties for three years, and in that case it was finally reduced to two, and I submit that that was not a very serious punishment. Now, Mr. Chairman, I think that it is due to this House, in view of the criticism of myself that the gentleman from Massachusetts has indulged in, that he make a fair statement of all of this class of offenses and that he give to us a real statement of the cases and of the punishment, and with that I will be entirely content, satisfied that the facts as he will be compelled to give them will take away all the sting of his criticism of myself.

The Clerk read as follows:

Total public works, navy-yards and stations, $2,848,450.

Mr. FOSS. Mr. Chairman, I desire to move to strike out the words "total public works." They have not appeared heretofore in naval appropriation bills and there is no necessity for them. They were put in by the clerk, but the printer did not strike them out, as he should have done. In lines 15, 16, and 17, "total public works."

The CHAIRMAN. The question is on the motion of the gentleman from Illinois.

Mr. GAINES of Tennessee. Mr. Chairman, I desire to discuss that matter, not that particular thing, but——

Mr. FOSS. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. The gentleman from Illinois withdraws the amendment.

Mr. GAINES of Tennessee. Mr. Chairman, I simply desire to bring a little but very valuable official information before the committee, which I think is rather pertinent here, and I think when you gentlemen hear me through for a minute or two that you will be very much surprised at the statement I shall read. I hold in my hand page 946, volume 19, of Report of the Industrial Commission, issued in 1902. It states that Naval Constructor Albert W. Stahl, at a hearing of the Naval Committee of the House, submitted the following table relative to certain private-built ships, showing that the "total cost" of such ships is considerably in excess of the "contract price."

A few moments ago the distinguished gentleman from Iowa [Mr. HEPBURN] alluded to the *Oregon* as costing about five or six million dollars, I believe. This report shows her "total cost" was "$5,914,021.90," while the "contract price"—and here is the point—was "$3,301,510." The excess of the "total cost" over the "contract price" was "$2,612,511.90." The contract price of the *Massachusetts* was $3,090,000. The total cost was $5,401,844.97, or a difference of $2,311,844.97. The contract price for the *Indiana*, named for the State wherein the distinguished chairman lives, was $3,090,000. Her total cost was $5,333,708.05, or a difference of $2,243,708.05. The total cost of the *Monterey* was $2,268,281.75, and the contract price was $1,674,839.60, a difference of $593,442.15. The total cost of the *Olympia* was $2,484,027.74, and the contract price was $1,796,000, a difference of $688,027.54.

Now, I am going to ask the chairman of the committee who reports this bill, or some one else who can answer the question, for an explanation of this: Why is it that in the case of the *Monterey*, *Olympia*, *San Francisco*, *Oregon*, *Massachusetts*, and *Indiana* the "total cost" of each vessel has gone beyond the "contract price" all the way from $593,442.15 in the *Monterey* to $2,612,511.90 beyond the contract price in the *Oregon*? Can the gentleman tell us why that occurred?

Mr. FOSS. I did not get the question.

Mr. GAINES of Tennessee. It is a very important one. I would like to get some explanation.

Mr. FOSS. I would like to hear it again.

Mr. GAINES of Tennessee. It is a very important one. I have read in the hearing of the committee an official statement from the naval constructor, Albert W. Stahl, found in Industrial Commission Report, Volume XIX, page 946, and he states that in the case of building the immortal *Oregon* the "contract price" was $3,301,510, and the "total cost" was $5,914,021.90, or a difference of $2,612,511.90. Now, can the gentleman account for that increased cost? That is a sample of a number of other cases I have cited.

Mr. FOSS. The first cost is for the hull and machinery, and the other is for the completed ship, which takes in the armament.

Mr. GAINES of Tennessee. The gentleman may think he is right. I hope he is; but here is the way that Albert W. Stahl, the naval constructor, stated it, and here is the way the Industrial Commission prints it: "The total cost of the *Oregon* was $5,914,021.90, and the contract price was $3,301,510, a difference of $2,612,511.90." The "contract price" and the "total cost" are the terms used.

Now, on page 945 of this report is a statement of the cost of ships made by private contract and those made in the Government yards. The committee and these naval men were paralleling the two kinds of expenses. They were comparing Government-made ships with private-made ships. Mr. Chairman, I was in hopes that the gentleman, who is so well informed on those matters, could explain it to the committee and explain to the country——

Mr. FOSS. Let me read the report.

Mr. GAINES of Tennessee. Here it is.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. GAINES] has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word for the purpose of discussing this matter a little further. Just a brief statement, and I will be through. On the other page, as the gentleman will see, Admiral Bowles compares the *Texas* and the *Indiana*, showing that the Government-made ship, which was the *Texas*, I believe, cost, I think, 7 per cent more than the *Indiana*, that was made in a private yard, although the *Texas* had to wait for her armor, though it was called for before the private contractors called for their armor; yet the *Texas* was made to wait until the private persons were supplied. Mr. Chairman, this report gives very valuable information. It discusses two propositions, the virtues of having these ships built in Government yards and in private factories. It treats both sides of the proposition, and that being the case, Mr. Chairman, I will ask that I may be permitted to print this report in the RECORD, so that we can all read it.

Mr. FOSS. I will read it then, and make explanation of it later.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to print the document to which he has referred in the RECORD in connection with his remarks. Is there objection?

There was no objection.

The document is as follows:

GOVERNMENT AND PRIVATE MADE SHIPS.

Several witnesses before the Industrial Commission have advocated the policy that all work constructed for either the Federal, State, or local governments should be constructed directly by the employees of the Department and not through contractors. The main argument advanced in favor of this policy is the higher wages and fewer hours of public employees, and the disadvantage which, on this account, the system of direct employment is under in comparison with the longer workday and lower wages paid by contractors. An investigation made by the Department of Labor in four leading cities reaches the conclusion that in public employment, in general, the highest rate of wages is paid for the shortest working day. The advantages and disadvantages of public employment in the Navy Department have been summarized as follows by Chief Naval Constructor F. T. Bowles, in a hearing before the House Committee on Naval Affairs, wherein he advocated a larger use of the navy-yards for constructing war vessels. The advantages named are:

1. Maintenance of efficiency of the force and plant by keeping them in continuous use. These are already required for repairs, but when repairs are not needed the force must be temporarily discharged. If a vessel could be under construction at all times, the employees, when there is lack of repair work, could change to construction work, and the force could thereby be kept in constant employment.

2. Repairs could be made more economically and rapidly, since an adequate staff of employees would be at hand, without the necessity of breaking in new and inexperienced help.

3. It would reduce the amount of repair work, which at present is magnified in order to maintain a force of employees when permanent work is not ahead.

4. Maintains a standard of workmanship and design on a basis of practical experience.

5. Provides training for those who must inspect contractors' work. An ignorant inspector is fussy and demands too much in unimportant and costly ways, so that the contractor will add 15 or 20 per cent to his next price.

6. No profit to be made on the plant.

7. Indirect charges, which in commercial practice make a large percentage of the cost, are not included, because these navy-yards are already maintained for repair purposes. This is practically a saving of interest on plant, taxes, insurance, depreciation and care of property, and a large proportion of the office and organization expense. For these expenses merchant shipyards estimate from 25 to 35 per cent on the cost of material and labor going into the ship.

8. The cost of inspection is saved, since the inspectors and draftsmen of the navy-yard act as inspectors when the ships are constructed at the navy-yard. There are more people inspecting the ships built by contract than it takes to manage the work of construction of the same ships in the navy-yard.

9. Cost of trial trip is saved.

10. Saves the claims for extras by private contractors who endeavor to make these as large as possible. The builders of the *Indiana* brought suit before the Court of Claims for extras to the amount of $483,000.

Disadvantages named are:

1. The cumbersome system of design and of management by independent bureaus in the Navy Department. There is the Bureau of Construction, which designs the hull; the Bureau of Ordnance, which specifies the armament and armor plate; the Bureau of Steam Engineering, which designs the boilers and machinery; the Bureau of Equipment, which puts in the anchors, chains, and electric lighting. Practically there is no center head. In the case of contract work these bureaus feel a certain responsibility to coordinate their work, more or less, because otherwise charges for extras, which are prescribed by law, must be allowed.

2. Wages in the navy-yards are 30 to 40 per cent higher by the day than those paid in private yards, and since the number of hours is eight instead of ten, as on contract work, this adds another 30 to 35 per cent to the cost of labor per hour, making the wages per hour 60 per cent to 75 per cent higher than the wages per hour paid by contractors. The law requires that these wages be the same as those paid in the vicinity, but these are only small repair shops, without steady work, consequently wages are regulated by the trade unions on the basis of irregular work.

3. Boy and unskilled labor is not used to advantage on account of artificial restrictions of the labor board, necessitated by the civil-service law. An employee, according to that law and the regulations thereunder, can be employed only on the kind of work for which he is registered, and can not be transferred to other work. This, while it is necessary in order to protect the civil-service law against evasion, increases the cost of labor compared with the cost to contractors.

4. Seven holidays fully paid, or two and one-half times pay for holiday work.

5. Purchase of material by the navy system involves delay and extra cost. The time and trouble of bidding and furnishing bonds drives off many good contractors. The materials thus cost 10 per cent more than under private management. This is an infirmity of public management, in which interest and good management depend upon the system rather than upon the individual, but it would be largely obviated by buying in larger quantities if the Government had more work to do, as in England. Our public shipyards should be allowed to buy for future needs when prices are low, which can not be done because the contractor is not allowed to exercise his individual judgment.

6. Outside plants are better arranged and no restrictions are placed on untilization of space to the best advantage.

7. Per diem compensation is used where office work is economical.

8. Navy-yards give no bond or guaranty of performance under contract conditions.

Mr. Bowles stated that—

The English Government has shown that a government can build ships in competition with outside shipyards. Nobody can say that we can not do it, because we can. It is only a matter of the means, the regulations, and the methods, and the men; and it can be done, and it can be done very quickly, if you want to do it—very quickly. There is no question about it. In other countries the custom is somewhat different. The practice in England of building a large proportion in the merchant shipyards and varying that proportion in accordance with the degree of activity which exists outside—that is, if the outside shipyards are dull the work is put there; if they are busy the other part of the work is taken into the Government yards—encourages and keeps up the merchant shipyards and enables them to keep steadily on in their work, and at the same time gives the Government efficient yards of their own."

Constructor Bowles estimated that the cost of construction of vessels in navy-yards under the conditions existing at the time of the hearing would be fully 15 per cent in excess of the cost done by contract, but that an equivalent saving would be made over private-built ships if the navy-yards were properly organized, as they can be without much difficulty. He estimated further that, with these improvements, the New York Navy-Yard could build ships as cheaply as they are built by contractors, not including the indirect charges for interest, insurance, taxes, depreciation, and management, which are already covered by the need of the navy-yards as repair shops. In his judgment the best results are obtained when ships are constructed both by contractors and by the navy-yards.

Since the time when this testimony was given before the House Naval Committee Congress has adopted a law granting employees in the navy-yards fifteen days' leave of absence each year with full pay. This is unquestionably one of the most serious blows that have been struck against a further extension of public employment in place of contract work in the construction of war vessels. Deducting fifteen days at full pay increases the labor cost 7½ per cent, and makes it impossible, with the handicap already existing, for those who are responsible for public work to advocate a further substitution of direct employment for the contract system.

The following table was submitted by Constructor Bowles, showing comparatively the cost of four ships built in the navy-yards and three built in private yards. The final column shows the cost per ton of the finished vessel. The two battle ships, the *Maine* and the *Texas*, built in the navy-yards, may be compared with the *Indiana*, built about the same time in a private yard. The *Maine* cost somewhat more than the *Texas*, but comparing the *Texas* with the *Indiana*, including in the cost of the latter not only the first cost under the contract, but also the final cost of the finished vessel, it is seen that the cost of the *Texas* per ton was $819, and the cost of the *Indiana* per ton completed was $669, so that the *Texas* cost more than the *Indiana* by 22.4 per cent.

The *Raleigh*, built in the Government yards, was the most expensive type of ship ever built at that time, on account of the large amount of machinery put into such a very small vessel, the cost being $780 for

hull and machinery. Of vessels built by contractors, that which is nearest in type to the *Raleigh* is the *Minneapolis*, which cost $462 per ton for hull and machinery. But the final cost was $817 for the *Raleigh* and $624 for the *Minneapolis*. The *Raleigh* may also be compared with the *Detroit*, which shows a cost of $817 as against $740 in private construction.

Relative cost of battle ships in public and private plants.

Name.	Date of laying of keel.	Date of first commission.	Hull and machinery.			Ships without stores, ammunition, or water in boilers.		
			Cost of hull and machinery.	Weight of hull and machinery.	Cost per ton of hull and machinery.	Final cost of finished vessel.	Weight without stores, ammunition, or water in boilers.	Cost per ton of finished vessel.
				Tons.			Tons.	
Maine[a]	Oct. 17, 1888	Sept. 17, 1895	[c]$3,305,409.87	3,836.920	$861.47	$4,677,788.75	5,436.35	$860.46
Texas[a]	June 1, 1889	Aug. 15, 1895	[c]2,949,549.12	3,595.690	820.30	4,202,121.49	5,124.69	819.91
Cincinnati[a]	Jan. —, 1890	June 16, 1894	[c]1,995,773.30	2,358.183	846.31	2,371,904.52	2,675.92	886.38
Raleigh[a]	Dec. —, 1889	Apr. 17, 1894	[c]1,839,965.23	2,358.183	780.24	2,199,729.80	2,691.00	817.43
Minneapolis[b]	Dec. 16, 1891	Dec. 13, 1894	[d]2,690,000.00	5,816.760	462.45	3,849,996.44	6,161.20	624.87
Indiana[b]	May 7, 1891	Nov. 20, 1895	[d]3,063,000.00	5,691.100	538.20	5,983,371.98	8,943.20	[e]669.03
Detroit[b]	Feb. —, 1890	July 20, 1893	612,500.00	1,449.650	412.52	1,233,039.90	1,660.00	740.11

[a] Built in navy-yard. [b] Built in private yard. [c] Amount expended in navy-yards. [d] Contract price. [e] Contractors have sued for $483,000 damages, which would bring cost to $724, or 13 per cent of the Texas.

THE TEXAS WAS HANDICAPPED.

There were peculiar reasons why the ships built in the Government yards should have cost more at the time they were built than would be the case at the present time. No ship had been built in the Norfolk yard for twenty-five years, so that an expense of nearly *$100,000 for machinery and equipment had to be made and charged to the vessel.* The day the building of the *Texas* was begun the Navy Department appointed eleven foremen, *none of whom had ever had anything to do with the building of a steel ship.* The handicap suffered, owing to this unprepared condition, and the necessity of educating the labor, is estimated at about 15 per cent. This deducted from the cost of the *Texas* would bring that vessel down to within 7 per cent of the *Indiana*. The *Texas* was delayed by the nondelivery of the armor, although the order was delivered to the mill *before* the orders of private contractors. The contractors on the other ships had influence enough to get in ahead, on the ground that they would sue for damages if delayed.

Naval Constructor Albert W. Stahl, at the hearing of the Naval Committee of the House, submitted the following table relative to certain private-built ships, showing that the total cost of such ships is considerably in excess of the contract price:

Comparison of contract price with total cost of certain ships.

	Monterey.	Olympia.	San Francisco.	Oregon.	Massachusetts.	Indiana.
Payments on account of contract	$1,647,728.64	$1,796,000.00	$1,423,231.50	$3,272,403.99	$3,045,576.48	$3,035,272.39
Extra to contractors for authorized changes	107,093.02	103,831.30	47,739.94	265,862.69	171,111.12	149,960.42
Work done by Government plans, inspection, etc	73,588.03	70,878.67	141,840.16	248,165.75	209,293.32	257,032.19
Hull armor	237,790.26	----------	----------	828,468.34	828,929.74	837,884.62
Armor for gun protection	190,534.38	141,522.62	----------	1,029,591.42	1,030,051.58	977,134.02
Speed premiums	----------	300,000.00	100,000.00	175,000.00	100,000.00	38,500.00
Trial-trip expenses	11,547.42	39,267.09	25,446.32	22,913.99	16,822.73	17,924.41
Care and preservation, insurance, etc	----------	32,525.86	----------	71,615.72	----------	----------
Total cost	2,268,281.75	2,484,027.54	1,738,257.82	5,914,021.90	5,401,844.97	5,333,708.05
Contract price	1,674,839.60	1,796,000.00	1,428,000.00	3,301,510.00	3,090,000.00	3,090,000.00
Excess of total cost over contract price	593,442.15	688,027.54	310,257.82	2,612,511.90	2,311,844.97	2,243,708.05

Prior to the adoption of civil-service rules and their extension to the labor service, public employment was seriously handicapped through the inefficiency of those employed, but since the adoption of these rules it is quite generally agreed that the efficiency of employees in the navy-yards has greatly improved. The main handicap at the present time, in comparison with work done by contractors, is found in the fewer hours, the higher wages, the holidays and leave of absence, and the veterans' preference. This disadvantage holds true, more or less, for all branches of government, not only National, but State and local, and in the latter case it applies mainly to the larger cities, since the smaller local divisions generally pay the same wages and observe the same hours as in the neighboring private employment. Within the past few years there is to be observed a tendency to extend, through legislation, the same conditions of hours and wages to contractors on public works as those provided by law for public employees on the same class of work. Kansas in 1891 and New York in 1897 enacted a so-called "prevailing rate of wages law," requiring every contract for the construction of the public work to contain a provision that the same shall be void and have no effect unless the prevailing rate for the legal day's work in the same trade or calling in the locality where the work is to be done shall be paid by the contractor to his employees. This law was declared unconstitutional in New York by the court of appeals on the grounds that it was not a police measure and it interfered with the freedom of contract. In Great Britain, where public wages are but slightly higher than those paid in private employment, it is at the present time quite generally the rule that contractors on public works are required to pay the same wages and observe the same hours as the public departments themselves. Apart from the question of unconstitutionality, a regulation of this kind, applying to public employment in the different branches of government in this country, is not only a means of placing public and private employment on the same level of proper regard for the interests of those whose services are rendered for the public, but also the only means of placing the two systems of constructing public works on such an equality, respecting cost of labor, as not to seriously handicap public employment in a comparison between the two.

The Clerk read as follows:

PUBLIC WORKS UNDER THE SECRETARY OF THE NAVY.

Buildings and grounds, Naval Academy: Toward the construction of buildings, and for other necessary improvements at the Naval Academy, Annapolis, Md., as authorized by the acts of Congress approved June 7, 1900, and March 3, 1903, $750,000.

Mr. HEPBURN. If I had had the time a little while ago I would have made reference to an article which I observed in the Washington Post of this date, bearing upon this same subject of the inadequacy of our methods, or the inefficiency of our methods, of punishment of naval officers.

I will send it to the Clerk's desk with the request that it be read. It is the first article on the seventh column of the first page.

The Clerk read as follows:

REBUKE OF NEWBERRY—COURT-MARTIAL CENSURED IN SCHOFIELD TRIAL—LIEUTENANT IS REPRIMANDED—OFFICER WHO RAN THE TORPEDO DESTROYER WINSLOW ON A SHOAL IS SCORED IN PLAIN LANGUAGE BY THE ACTING SECRETARY OF THE NAVY—ORDERED RELEASED FROM ARREST AND RESTORED TO DUTY.

A stinging rebuke was administered by Acting Secretary of the Navy Newberry yesterday to the officers who conducted the court-martial in the case of Lieut. John A. Schofield, U. S. N., for running the torpedo destroyer *Winslow* on a shoal near Norfolk last February.

Twice Mr. Newberry sent back the proceedings of the court for reconsideration, pointing out that the board, in attempting to show leniency to the officer, was placing its interpretation of regulations and decisions of the Navy Department above the interpretation placed on them by the Department itself.

Each time the court sent back its first findings, refusing to change the sentence, which was nothing more than a public reprimand by the Secretary of the Navy.

STRONG LANGUAGE EMPLOYED.

"It is difficult to understand the display of obstinacy or obtundity thus presented," says Mr. Newberry in his remarks on the result of the court-martial. "The failure of justice which ensues and the injury which the discipline of the service must necessarily suffer at the hands of those to whom it is intrusted, and by whom it should be most zealously guarded, the court is responsible for.

"The Department considers it timely to advise courts-martial that neglect on the part of the naval courts to uphold the regulations governing the Navy is as grave a neglect of duty and as far-reaching in its injurious effect upon the service as neglect or violation of those regulations by officers while in positions of responsibility."

Mr. Newberry's view of the case is that Lieutenant Schofield clearly disregarded specific naval regulations, and this view is also held by the Judge-Advocate-General of the Navy, who reviewed the evidence of the case.

Mr. HEPBURN. I think, Mr. Chairman, if the gentleman should pursue his inquiries in this direction, he would find that there are very many cases similar to this where the reviewing

officer has refused to give his assent or has been reluctant to give his assent to the views and judgment of the court.

Mr. WEEKS. Mr. Chairman, I would like to suggest to the gentleman from Iowa that if he will pursue that inquiry as I have he will find eight similar cases in the last forty years; and, as I showed in the statement I made last Saturday, there have been four times as many cases where the sentence of the court-martial has been considered too severe and reduced as there have been where the reviewing authority, who is always a civilian, has considered the sentence too lenient. This is one of those instances which happened to occur to-day. That is all.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

The Clerk read as follows:

Naval training station, Great Lakes, buildings: Toward the construction of buildings, and for other necessary improvements at the naval training station, Great Lakes, $750,000: *Provided*, That before any of this sum is expended complete plans shall be prepared and approved by the Secretary of the Navy covering the contemplated new buildings at the naval training station, Great Lakes, which plans shall involve a total expenditure of not more than $2,000,000: *Provided further*, That after the preparation and approval of the plans herein provided for the Secretary of the Navy is authorized to enter into contract, or contracts, for the buildings on plans as approved, to an amount not to exceed $2,000,000, to be paid for as appropriations may from time to time be made by law.

Mr. FOSS and Mr. UNDERWOOD rose.

Mr. FOSS. Mr. Chairman, I want to offer an amendment there.

Mr. UNDERWOOD. I rose for the purpose of making the point of order. I will reserve it until the gentleman gets through.

Mr. FOSS. Mr. Chairman, I desire to move to strike out the words "and for other necessary improvements."

Mr. BUTLER of Pennsylvania. What line do you find those words in?

Mr. FOSS. Lines 25 and 26, page 34. So that it will read "toward the construction of buildings at the naval training station."

The CHAIRMAN. An amendment is not in order until the point of order has been disposed of.

Mr. UNDERWOOD. Mr. Chairman, I do not care to make the point of order against the first proviso. I have no objection to that part of it. I do desire to make the point of order to the second proviso, commencing on line 8, on page 35, and going down to line 13, which provides that—

After the preparation and approval of the plans herein provided, the Secretary of the Navy is authorized to enter into contract, or contracts, for the buildings on plans as approved, to an amount not to exceed $2,000,000.

My point of order against this is that it is new law. It takes out of the hands of Congress the power to control this question. I do not think it is good legislation. I would say to the gentleman from Illinois I have no objection whatever to his going ahead improving and building this college plant there, but I do object to this class of legislation.

Mr. FOSS. I will say to my friend from Alabama that it is the opinion of the Department that if they can enter into contracts for the construction of these buildings in advance this way, it will be the most economical way to do the work. The Department sent us a letter specially requesting that it be enabled to make contracts and go on with the construction of the whole plant.

Mr. UNDERWOOD. I have no doubt that is the truth about it——

Mr. FOSS. I hope the gentleman will withdraw his point of order.

Mr. UNDERWOOD (continuing). If we steadily pursue this form of legislation.

Mr. FOSS. We did this in connection with the Naval Academy, and also in connection with the academy at West Point. This is for the training of the men in the Navy, and it is following out the same line as the provisions in those two other cases. I hope the gentleman will withdraw his point of order, because it works for economy in the building of this station.

Mr. UNDERWOOD. I will state to my friend from Illinois that my objection is not to the getting the plans, but in the adoption of those plans in appropriation bills. Congress ought to control the appropriations up to the final acceptance of the plans and the completion of the work.

Now, if the gentleman intended to make a full apropriation for this amount of money, which he recognizes would be needed to complete this plant, or improvement at this time, why then I have no objection to his making an appropriation that would cover to-day the whole question; or if these plans are made next year or the year after, if he will come and lay before the House what he is going to do, Congress can appropriate intelligently in reference to what the money is going to be expended for. I would have no objection to his making the appropriation for the full amount of money. But I do object to our adopting a system of legislation that takes out of the hands of Congress this power, with a plan not having been determined on, when we do not know what we are going to do.

Mr. FOSS. The preliminary plans, the sketch plans, have been made upon which estimates were based. Of course the full detail plans have not been made.

Mr. UNDERWOOD. I think it is a bad class of legislation, and I shall insist upon objecting to all legislation of this kind. I am not going to object to the first proviso. I believe that is subject to the point of order, as I understand it, but I do not object to that.

I am perfectly willing for the gentleman to go ahead with his plans, but I think he is forcing legislation on the House that is not in accordance with the usual form of legislation, and I do not think the gentleman ought to put it in his bill. I think when he has completed these plans and is able to say to the House exactly what he is going to do, he should then come here and ask for money to carry out those plans.

Mr. FOSS. I know; but the Navy Department are very anxious to go ahead with this training station, because they need it. The Chief of the Bureau of Navigation, as I read the other day, spoke of the need of this naval training station, and the Department is very anxious to get it established at once.

Mr. UNDERWOOD. I am satisfied that between now and next winter the gentleman can not expend more than the $750,000 that the bill carries, and if he can he should increase that appropriation.

Mr. FOSS. That will not allow the Secretary to enter into any contracts for the construction of the whole thing. If we build a few buildings each year, it will cost much more than if you allow contracts for the whole proposition at once.

Mr. UNDERWOOD. I should like to agree with the gentleman, but I do not think that Congress should turn its hands loose and turn this matter entirely over to the Secretary of the Navy and the contractors. As a matter of good legislation, we ought to know what we are spending our money for, and these plans ought to be presented to the House after they are agreed on before we make the appropriation.

Mr. FOSS. The same character of legislation has been enacted in reference to the building of the Naval Academy at Annapolis and the Military Academy at West Point. Almost identically the same provisions are contained in this paragraph.

Mr. UNDERWOOD. I will say to my friend from Illinois that it is a well-known fact that we pursued this course in reference to the Naval Academy—left the drawing of those plans in the hands of the Secretary of the Navy and subject to contract—and what did we find? We found that they did not stick to what Congress had told them to do; that they made the plans so that we had to vastly enlarge the appropriations beyond anything we contemplated in the beginning. Why? Because we turned the hands of Congress loose and let the Department go ahead and complete their plans and make contracts that we had to pay afterwards, a very much larger sum than Congress contemplated.

That is the very reason why I do not want the gentleman, in building this particular building, to pursue that policy. It will be pursued—I do not mean by the gentleman from Illinois at all—but if we turn the Department loose to draw the plans and make the contracts we will find that before this building is completed we will have another bill in excess, and we will have to come here and increase the limit of cost. That is contrary to existing law, and I must insist on the point of order, because I believe we ought to hold our hands on that appropriation until these plans are made. It is in the interest of economy.

Mr. FOSS. As I said to the gentleman that sketch plans or preliminary plans have been made, and these estimates which are sent here by the Secretary of the Navy are based on those plans. If you allow this limitation, it will mean economy of construction. If you strike out the limit, then as material goes up, it may increase the limit of cost; and the purpose of the Naval Committee has been to hold the limit of cost down as far as possible. I hope the gentleman will withdraw his point of order.

Mr. UNDERWOOD. I will say to the gentleman that I should like to withdraw my point of order, if it was a matter of accommodation to him, but the House has tried this thing repeatedly, and we have never authorized a contract to be made in advance, under these circumstances, that they did not come back to increase the limit of cost, and I think right now we ought to stop. I am not objecting to the gentleman's completing his plan, but I do object to the authorization of this contract in advance.

Mr. FOSS. Mr. Chairman, the gentleman has made a point of order against what particular line?

Mr. UNDERWOOD. My point of order only applies to that part of the paragraph from line 8 to and including line 13 on page 35.

Mr. FOSS. Mr. Chairman, there is no question in my mind as to the propriety of this legislation. In view of the fact that Congress has already authorized the establishment of this station, I have no doubt that this is in order. This provision makes appropriation toward the construction of buildings, $750,000.

The proviso that the gentleman alludes to, including the one above, is a limitation upon the appropriation. I do not think it is subject to a point of order.

Mr. UNDERWOOD. The point I make relating to the proviso is not a limitation. The part of the paragraph I make the point of order to is the part of the paragraph that authorizes the Secretary of the Navy to make contracts before the appropriation is made. Now, that is directly contrary to existing law. not longer ago than the last Congress we passed an act expressly prohibiting contracts being made for money that was not appropriated, and this provision directly comes in the face of that existing law, because this provision will authorize the Secretary of the Navy to make contracts before the money is appropriated. I do not see where there can be any question that it is contrary to existing law, and to this extent repeals the statute that we enacted on the general deficiency bill at the last session of Congress.

The CHAIRMAN. Does the gentleman think that is a limitation which applies to this provision here?

Mr. UNDERWOOD. The Secretary undoubtedly, if we strike out this proviso, could not make a contract to carry on this work. Why? Because the law that we passed in the general deficiency bill of the last Congress expressly prohibited the Department officers from making any contracts or incurring any obligation that was not authorized by law and appropriated for.

The CHAIRMAN. Does the gentleman claim that the entire amount of the contract should first be appropriated for?

Mr. UNDERWOOD. That the head of a Department was not authorized to make any contract—in other words, Mr. Chairman, for many years it has been the policy pursued by the heads of Departments to go ahead and make contracts in reference to Government work, and then come back to Congress and say these contracts were made and you must pay the bill.

Now, to obviate that trouble, to stop that leak, the Congress at the last session in the general deficiency bill passed a law which made it a misdemeanor for any head of a Department to make a contract that was not expressly authorized by Congress.

Mr. FOSS. Did not that relate to the ordinary running expenses of the Government?

Mr. UNDERWOOD. It related to the ordinary running expenses of the Government and to all expenses for any purpose.

The CHAIRMAN. Where is the statute which the gentleman refers to—in what bill?

Mr. UNDERWOOD. I think it was in the last general deficiency bill. It may have been in the sundry civil bill. My recollection is that it was a part of the general deficiency bill passed at the last session of the last Congress.

Mr. PERKINS. May I make a suggestion to the gentleman?

Mr. UNDERWOOD. Certainly.

Mr. PERKINS. I suggest, Mr. Chairman, that perhaps there is no necessity of looking at that statute, for certainly no executive officer has authority to make a contract for the construction of a building that will bind the Government, unless there is an express provision of law that authorizes it. It requires a statute in order to authorize them to make such a contract. It certainly could not be for a moment questioned before a court of law that if the Secretary of the Navy, for example, should make a contract for the construction of a building at Annapolis, or elsewhere, unless there was some express authority of law, his contract would be void. In other words, the Secretary, in order to make a valid contract for the construction of these buildings, requires authority of law. That is the authority which is to be given by this provision now before the Chair. In other words, it is a provision that must be enacted in order to give the Secretary authority, and because it must be enacted it is new law.

The CHAIRMAN. Does the gentleman have in mind the fact that appropriations for war ships are carried in appropriation bills every year?

Mr. PERKINS. That is where appropriations have been made. If Congress authorizes the expenditure of money, the Department is undoubtedly authorized to expend it.

The CHAIRMAN. It is the practice to carry the authority to make the contract with the appropriation in connection with objects authorized by law or public works and objects already in progress.

Mr. PERKINS. True, but here no appropriation is made, but the Secretary of the Navy is directed to make plans, and after the plans are made he is authorized to make a contract which will in the future require an appropriation.

The CHAIRMAN. The paragraph carries the appropriation with it.

Mr. UNDERWOOD. I think the Chair misapprehends how the paragraph reads. The paragraph makes an appropriation of $750,000, and the next paragraph provides that the limitation shall be $2,000,000. When you make an appropriation for a battle ship, and you say $3,000,000 for the whole, you can make the contract for $3,000,000 of course. He has the money in his hands, he has it with which to pay for it, and he makes the contract up to the amount that Congress has appropriated; but in this case there is an appropriation of $750,000, and he is asking the authority to make contracts in excess of the amount of money that Congress has appropriated. In reference to a battle ship the bill reads:

One first-class battle ship, carrying as heavy armor and as powerful armament as any known vessel of this class, to have the highest practicable speed and greatest practicable radius of action, and to cost, exclusive of armor and armament, not exceeding $6,000,000.

I think the Chair will find, if he looks at the decisions, that where the words "by contract" are placed in a provision even of this kind for a battle ship, they have been held to be out of order.

Mr. GAINES of Tennessee. Mr. Chairman, pertinent to the proposition of law stated by the gentleman from New York [Mr. PERKINS] a moment ago, I read section 5503, as follows:

Every officer of the Government who knowingly contracts for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of $2,000.

I do not know to what extent the law of last session amends that.

The CHAIRMAN. The Chair desires to say to the committee that this point of order raises quite an important question, and the Chair desires some little time to investigate, and asks unanimous consent that the paragraph and the point of order pending may be passed without prejudice. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, does that include all amendments to the paragraph?

The CHAIRMAN. All amendments to the paragraph. It will be read, when the committee sits again, as a new paragraph.

Mr. FITZGERALD. There has been no action taken upon the amendment offered by the gentleman from Illinois [Mr. Foss]?

The CHAIRMAN. No; the amendment would not be in order until the point of order is disposed of. The Clerk will read.

The Clerk read as follows:

PUBLIC WORKS, BUREAU OF ORDNANCE.

Naval magazine, Dover, N. J.: One brick building to be used for drying smokeless powder, $4,500; electric lights and feed wires for magazines Nos. 4 and 5, $600; in all, naval magazine, Dover, Lake Denmark, New Jersey, $5,100.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word. I would ask how much is carried in the bill altogether for the manufacture by the Government of smokeless powder?

Mr. FOSS. Mr. Chairman, for the purchase and manufacture of smokeless powder $500,000 is carried under the Bureau of Ordnance in an earlier part of the bill, on page 11.

Mr. WILLIAMS. Then we have passed that item?

Mr. FOSS. Yes.

Mr. GAINES of Tennessee. How much of that is usable for the purpose of manufacturing down here at the factory?

Mr. FOSS. They can use as much as they like. Most of it I think is used for manufactures.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

The Clerk read as follows:

Naval magazine, New England coast: Toward securing the land and the erection of the necessary buildings on ground, the purchase of which is now under negotiation, as authorized by the act approved April 27, 1904, for a new naval magazine on the New England coast; also toward inclosing said grounds, grading and filling in, building roads and walks, improvement of the water front, necessary wharves and cranes, railroad tracks, and rolling stock for local service, fire and water service, and equipment of the establishment, including the service of such additional expert aids, surveyors, architects, superintendents of construc-

tion, or draftsmen, as may be necessary for the preparation of the plans and specifications and prosecution of the work to an extent not to exceed $15,000, $200,000: *Provided*, That when the naval magazine on or near the New England coast provided for by an act of Congress approved April 27, 1904, is completed, the Secretary of the Navy shall discontinue the present magazine in the city of Chelsea, Mass., and sell such portion of the magazine and naval hospital grounds in said city of Chelsea as is undesirable for hospital purposes at public auction or private sale, upon such terms and conditions as shall be satisfactory to him, and the money derived from such sale shall be applied to remodeling and modernizing the hospital buildings now on said hospital grounds, and the balance of said money, if there be any after said remodeling and modernization, shall be placed to the credit of the hospital fund of the Navy.

Mr. SLAYDEN. Mr. Chairman, I would like to ask the chairman of the committee a question with reference to the cost of plans for this naval magazine and the fees of architects. After the experience we had at the Naval Academy and the extravagance in that direction, it is an interesting proposition to know what the architect is going to cost.

Mr. FOSS. Well, I could not state to the gentleman. I do not think that any architects have yet been employed in reference to the building. In fact I know they have not been.

Mr. ROBERTS. Mr. Chairman, the buildings designed for a naval magazine are very unornamental. They are not large buildings; they are small detached buildings, scattered over as wide an area as possible, in order to prevent the danger of one building being blown up if another building near it should explode. They are rather inexpensive buildings, most of them, and the greater part of the amount provided for in this item of the bill will be for the purchase of the land and the laying out and the making of it accessible, the building of wharves, and so on, so that they can get up to the magazine by water, and then the building of these inexpensive detached buildings scattered as far as possible over the surface of the ground. It is my understanding that the Department itself prepares its own plans for these naval magazines, and they do not go outside for architects, because the buildings are not large or intricate enough to require an outside architect.

Mr. GAINES of Tennessee. If that is true, why put the word "architect" in there?

Mr. SLAYDEN. There seems to be nothing in the bill to guard the public against the expenditure of excessive fees, and it may be possible, no matter how simple the building is or how easy it is to design, that an architect will be employed and will be paid a fee of 5 per cent, and, on the aggregate cost, it would be a very considerable item. The simplicity of the buildings is an argument for protecting the Government against excessive charges in that case.

Mr. ROBERTS. I desire to say to the gentleman from Texas that this item has been cut down very materially from the Department's estimates. The Department asked for the whole $430,000 necessary to complete the project, but in the economy exercised by the committee in its desire to keep the bill down as much as possible there was appropriated in this item only about enough to complete the purchase of the ground, so that very little of the $200,000 herein provided can, under any contingency, be used for buildings, and if the gentleman has in mind the placing of any restriction upon architects' fees, that will probably come along when the balance of the money is appropriated—perhaps in the next naval bill. The cost of the land will eat up nearly every dollar that is appropriated. Now, I would like to call the attention of the gentleman, in this connection, to the provision in the item just before, showing the character of the buildings, to a large extent, that go on these naval-magazine grounds. Under the head "Naval magazine, St. Juliens Creek, Norfolk, Va., one galvanized iron storehouse, $25,000." That is, to a large extent, the character of buildings that go on all these magazine sites.

Mr. BUTLER of Pennsylvania. Mr. Chairman, if the gentleman from Texas will have confidence in us, I think he may rely on the fact that there will be no extravagant architect fees here.

Mr. SLAYDEN. The gentleman will remember very well we paid a half a million dollars——

Mr. BUTLER of Pennsylvania. My dear friend, I do remember, and, furthermore, I wish you to give me credit for being among those who resisted it to the last. That was an everlasting extravagance, and since that time we have learned, and if the gentleman will have confidence in us he may depend upon it that there will be no extravagance in this particular.

Mr. SLAYDEN. I have every confidence in the gentleman, I will say, but I would like to see the limitation also written in the statute.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the word "architects," and I will state my reasons. The gentleman from Texas has pointed to one of the crying shames and evils of public buildings throughout the country. Not only did we pay about $500,000 for the architects' fees for the building of our naval buildings down here at Annapolis, but we had another shame to precede that here at the White House in building the little Executive Office, that has been described as looking like a "chicken coop." Outside architects designed it, New York architects designed it, the noted and distinguished Mr. McKim designed it, and the charge, I think, was 5 or 6 per cent on the immense amount of half a million dollars or more appropriated in making the improvements to the White House, this Executive Office, and overhauling the White House, and this architect and possibly others charged extra every time they changed the plans. Now, sir, after that, Mr. Chairman, I went to the Treasury Department and I found there a corps of architects employed on a salary who prepared the plans for our magnificent post-offices and custom-houses in the United States. They have just finished an annex to the magnificent post-office and custom-house at Nashville, and a more beautiful building is not in the South and possibly not in the United States, and yet we have to put a special provision in this bill here for outside architects to do this work. Why not let the architects who draw high salaries from the Government of the United States at the Treasury Department do this architectural work and save this money to the Government?

No man here, Mr. Chairman, dare defend the action of the architects about the White House either in the quality of work that they did or in the salary that was paid them, all of which was brought to the attention of the House; and now the distingished gentleman from Texas brings up another outrage, and the gentleman from Massachusetts says: The buildings are going to be very plain houses, little log cabins, I presume, little shanties, so to speak. Then why does not the gentleman take the Treasury architects to build them. Why do you want to go outside and put the Government to additional expense to get professional experts to build those little bits of houses? I am sure my friend is too big a man, too strong a man, and too broad a man to want to burden the Government with architectural fees, Mr. Chairman, to be paid to some architect in Boston or elsewhere. That is not his purpose, I hope, but we have got into slipshod ways here of putting in such provisions, and they go unchallenged, when the Government already has all the machinery, all the officers, and all the equipment to do this work that are necessary. I say it is an unnecessary waste, I say it is an oppression, and all that comes out of it is just such criticisms as the gentleman from Texas makes, and the gentleman even from Pennsylvania does not defend it. He says, "Trust us." We did "trust us" in rebuilding the White House. We did "trust us" in building the buildings at Annapolis, and now it is "trust us" on this the third proposition. Mr. Chairman, my motion is to strike out the word "architects," and then we will have the architects that are now in the employ of the Government to do the work, which means good work and no extra expense.

Mr. BUTLER of Pennsylvania. Mr. Chairman, the Navy Department has no architect. The Treasury Department, I submit to the committee, can not build this building. They would not have the authority to do it. It is a magazine to be built by men connected with the Department of the Navy, and therefore we ask them to allow a design made for the building.

Mr. PERKINS. Does not the Architect of the Treasury Department take charge of all public buildings—the post-offices?

Mr. BUTLER of Pennsylvania. They are under the Treasury. All public buildings except those belonging to the Army and Navy are under the Treasury Department.

Mr. WILLIAMS. I move to strike out the last word.

The Indianapolis News has lately dropped into something which, while it may not be poetry; might be "verse," and as it is very closely germane to the question of the expenses of the Navy, and it consists of only two verses, I thought I would communicate it to the House. It reads as follows:

How dear to one's purse are the schedules of Dingley,
When statements of prices present them to view;
Those duties specific, together or singly,
Likewise ad valorem that's sometimes charged, too.
The wide-spreading net, and the haul that it brings in,
The dough that's so easy (the foreigner pays,
Of course, all this tax which a shrewd country rings in
On the untinkered tariff in dozens of ways).

How ardent we seized it on premises glowing,
E'en while we suspected in sleeves the trusts laughed.
So let's keep this measure, perfection o'erflowing—
The untinkered tariff—oh, ain't it the graft!
The good-thing old tariff, the trusty old tariff,
The untinkered tariff—oh, ain't it the graft!

[Applause on the Democratic side].

Now, for fear, Mr. Chairman, that the verses may be attributed to me, as a good many other things are that I never

was guilty of having written, I have stated it was written by the Indianapolis News, and I will further state that it was handed to me by the gentleman from Texas [Mr. BEALL], who may be called its sponsor in Congressional baptism. Thus I am in nowise responsible for it at all, except as a channel through which it is communicated to the House.

Mr. HILL of Connecticut. Mr. Chairman, I move to strike out the last word. I would like to call the attention of the House to the proviso on page 37, and while I do not propose to embarrass the committee in any way, or move to strike it out, I want to make my individual protest against that kind of legislation. We are asked to vote to authorize the sale of property concerning the value of which we know nothing, and we are asked to authorize the Secretary of the Navy to go ahead and build such buildings as he sees fit, construct them in any way he sees fit, to remodel and modernize them in any way that he sees fit, from an indefinite and unprescribed appropriation of which we know nothing, and then to take the balance of the money, if there is anything left from the sale, and give it away to the hospital fund of the Navy, contrary to all the practice, contrary to all the law that now exists with reference to appropriations. It seems to me that the proceeds of this property should be turned into the Treasury of the United States, and an appropriation made specifically for the purposes here contemplated.

I do not believe there is any individual Member of this House that would conduct his own business as loosely as that proviso would ask us to authorize the Government's business to be conducted, and I want to enter a protest against even being asked to vote for a proposition of that kind.

Mr. ROBERTS. Mr. Chairman, I think the statement of the gentleman from Connecticut [Mr. HILL] is entitled to an explanation.

Mr. HILL of Connecticut. I think it needs one.

Mr. ROBERTS. And I am certain that had he known the facts, he never would have made the criticism which he has just given to the committee. Now, as a matter of fact, Mr. Chairman, the land now being occupied in Chelsea—some 30 acres—as a naval magazine belongs not to the Government of the United States, and never did belong to it, but belongs to the naval-hospital fund. The title to that land, Mr. Chairman, was purchased out of money of this naval-hospital fund, and the Navy Department went on and took those 30 acres of land, without compensating the naval-hospital fund in the slightest degree, and used it for a magazine for some forty or fifty years. Now that a new magazine is to be established, the old one will be discontinued, and this proviso is made so that the Secretary of the Navy, having charge of that naval-hospital fund, may sell these 30 acres, and as much other of the 105 acres now in the naval-hospital site—which was all purchased out of the naval-hospital fund—as he sees fit, and the proceeds shall be used in modernizing the naval hospital there. The Surgeon-General of the Navy has been before the Naval Committee ever since I have been a member, asking an appropriation to make that naval hospital fit for the use of the sailors of our Navy, and the committee, in its wisdom, has seen fit to deny him the appropriation he asks. Now, here is an opportunity for the Surgeon-General of the Navy, out of property belonging to the hospital fund, to build, or, rather, modernize that hospital and bring it up to date.

I would like to state in this connection also that of this same tract of land—some 130 acres, originally purchased out of the naval-hospital fund; not out of the Treasury of the United States, mind you, but out of the fund contributed from the wages of the sailors of the United States Navy, which is a trust fund—that the Treasury Department, then having control of the Marine Hospital, purchased 15 acres of that land and paid for it, the money paid going into the naval-hospital fund; and that land is now being used for the Marine Hospital. So that it is not taking any money out of the Treasury of the United States or putting into the hospital fund the proceeds from land belonging to the United States, but merely giving the hospital fund what belongs to it.

Mr. HILL of Connecticut. I am very glad to hear the explanation the gentleman has made. I suppose, however, it may be reasonably inferred that during the time—thirty or forty years—the United States has occupied that land a very large amount of money has been expended by the Government. So that there certainly may be a joint ownership between the hospital fund and the Government itself. In any event, not caring who has the title to the land, I think the legislation is very loose.

Mr. ROBERTS. Mr. Chairman, if the contention of the gentleman is correct, anybody who squats on somebody else's land and spends money on it becomes a joint owner in that land. Now, as a matter of fact, all the Government has spent on the naval-magazine site is a few thousand dollars for an old antiquated magazine which is to-day out of date, and that is the reason we are asking for a new naval magazine on that coast, because the present magazine is entirely inadequate for the service of the Navy.

Mr. GAINES of Tennessee. Mr. Chairman, just a statement. The gentleman from Pennsylvania states that there are no architects in the Navy Department.

The CHAIRMAN. The Chair understands the gentleman proposes to strike out the word "architect."

Mr. GAINES of Tennessee. Yes; but I have no bill before me.

Mr. RIXEY. It is line 25, page 36.

Mr. GAINES of Tennessee. It is line 25, page 36. Now, when I went up there to see about the work that they were doing at the White House or about the work to be done at home, the Architect of the Treasury stated to me that they prepared the plans for public buildings put up by the United States Government. Whether that would cover buildings done for the Navy any less than it does or did to buildings that are put up for the Treasury or the Post-Office Department, I do not know. But these architects are certainly there. They are paid a salary and ought to do this work.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 36, line 25, strike out the word "architect."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GAINES of Tennessee. Division, Mr. Chairman.

The committee divided; and there were—ayes 11, noes 53.

Mr. GAINES of Tennessee. I make the point of order that there is no quorum present.

Mr. WILLIAMS. I suggest to the gentleman from Illinois the propriety of moving that the committee do now rise. The gentleman will withdraw his point of order if the committee rises.

Mr. GAINES of Tennessee. I will withdraw the point of order if the committee will rise.

Mr. FOSS. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the naval appropriation bill and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 6101. An act for the relief of the estate of Charles M. Demarest, deceased.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4094. An act to amend section 4426 of the Revised Statutes of the United States, regulations of motor boats; and

S. 2292. An act for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 13783. An act to provide souvenir medallions for the Zebulon Montgomery Pike Monument Association.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 6129. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers—to the Committee the Merchant Marine and Fisheries.

S. 5512. An act defining the qualifications of jurors for service in the United States district court in Porto Rico—to the Committee on Insular Affairs.

S. 6003. An act to construct and place a steel light-vessel on Swiftsure Bank, off the entrance to Juan de Fuca Strait—to the Committee on Interstate and Foreign Commerce.

FOREIGN-BUILT DREDGES.

Mr. HEPBURN. Mr. Speaker, at the request of the gentleman from Ohio [Mr. GROSVENOR], I present a conference report for printing.

The SPEAKER. The conference report and statement will be printed under the rule.

Mr. FOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 58 minutes p. m.) the House adjourned until Monday, May 14.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of survey of Cypress Bayou and channels connecting Shreveport, La., with Jefferson, Tex.—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of Commerce and Labor submitting an estimate of appropriation for construction of the immigrant station at Angel Island, San Francisco, Cal.—to the Committee on Immigration and Naturalization, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. CUSHMAN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18963) authorizing the construction of a dam across the Pend d'Oreille River, in the State of Washington, by the Pend d'Oreille Development Company, for the development of water power, electrical power, and for other purposes, reported the same with amendment, accompanied by a report (No. 4097); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5989) to authorize the construction of a bridge across the Missouri River in Broadwater and Gallatin counties, Mont., reported the same without amendment, accompanied by a report (No. 4098); which said bill and report were referred to the House Calendar.

Mr. SMITH of California, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 1031) granting to the State of California 5 per centum of the net proceeds of the cash sales of public lands in said State, reported the same without amendment, accompanied by a report (No. 4100); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. McCLEARY of Minnesota, from the Committee on the Library, to which was referred the Senate joint resolution (S. R. 20) directing the selection of a site for the erection of a bronze statue in Washington, D. C., in honor of the late Henry Wadsworth Longfellow, reported the same without amendment, accompanied by a report (No. 4102); which said resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ESCH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18026) permitting the building of a dam across the Mississippi River, near the city of Bemidji, Beltrami County, Minn., reported the same without amendment, accompanied by a report (No. 4103); which said bill and report were referred to the House Calendar.

Mr. CAMPBELL of Kansas, from the Committee on Pensions, to which was referred the bill of the House (H. R. 19114) to extend the provisions, limitations, and benefits of an act entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," to the surviving officers and enlisted men of the Eighteenth and Nineteenth Regiments of Kansas Volunteer Cavalry, reported the same with amendment, accompanied by a report (No. 4104); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BABCOCK, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 18666) to provide for the reassessment of benefits in the matter of the extension and widening of Sherman avenue, in the District of Columbia, and for other purposes, reported the same without amendment, accompanied by a report (No. 4105); which said bill and report were referred to the House Calendar.

Mr. CAMPBELL of Kansas, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 4464) to classify the officers and members of the fire department of the District of Columbia, and for other purposes reported the same with amendment, accompanied by a report (No. 4107); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House H. R. 3416, reported in lieu thereof a resolution (H. Res. 439) referring to the Court of Claims the papers in the case of heirs of James M. Hinton, deceased, accompanied by a report (No. 4002); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 13522, reported in lieu thereof a resolution (H. Res. 440) referring to the Court of Claims the papers in the case of heirs of D. W. Morton, accompanied by a report (No. 4003); which said resolution and report were referred to the Private Calendar.

Mr. OTJEN, from the Committee on War Claims, to which was referred the bill of the House H. R. 16968, reported in lieu thereof a resolution (H. Res. 441) referring to the Court of Claims the papers in the case of the estate of Ann S. Jackson, accompanied by a report (No. 4004); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4237, reported in lieu thereof a resolution (H. Res. 442) referring to the Court of Claims the papers in the case of S. H. Lison, accompanied by a report (No. 4005); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4984, reported in lieu thereof a resolution (H. Res. 443) referring to the Court of Claims the papers in the case of Dr. Thomas P. Robinson, accompanied by a report (No. 4006); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 2104, reported in lieu thereof a resolution (H. Res. 444) referring to the Court of Claims the papers in the case of the heirs of John McAnulty, accompanied by a report (No. 4007); which said resolution and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House H. R. 11971, reported in lieu thereof a resolution (H. Res. 445) referring to the Court of Claims the papers in the case of the estate of Oneziphor Delahoussaye, deceased, accompanied by a report (No. 4008); which said resolution and report were referred to the Private Calendar.

Mr. SPIGHT, from the Committee on War Claims, to which was referred the bill of the House H. R. 15176, reported in lieu thereof a resolution (H. Res. 446) referring to the Court of Claims the papers in the case of John Dunn, accompanied by a report (No. 4009); which said resolution and report were referred to the Private Calendar.

Mr. CLAYTON, from the Committee on War Claims, to which was referred the bill of the House H. R. 13351, reported in lieu thereof a resolution (H. Res. 447) referring to the Court of Claims the papers in the case of the estate of A. W. Slemmons, Metcalfe County, Ky, accompanied by a report (No. 4010); which said resolution and report were referred to the Private Calendar.

Mr. SPIGHT, from the Committee on War Claims, to which was referred the bill of the House H. R. 11843, reported in lieu thereof a resolution (H. Res. 448) referring to the Court of Claims the papers in the case of James Hottel, Frederick County, Va., accompanied by a report (No. 4011); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 9108, reported in lieu thereof a resolution (H. Res. 449) referring to the Court of Claims the papers in the case of the estate of Mary A. Gough, deceased, accompanied by a report (No. 4012); which said resolution and report were referred to the Private Calendar.

Mr. CLAYTON, from the Committee on War Claims, to which was referred the bill of the House H. R. 10634, reported in lieu

thereof a resolution (H. Res. 450) referring to the Court of Claims the papers in the case of the legal representatives of the estate of A. C. Barton, deceased, accompanied by a report (No. 4013); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 3855, reported in lieu thereof a resolution (H. Res. 451) referring to the Court of Claims the papers in the case of Charles Clarkson, accompanied by a report (No. 4014); which said resolution and report were referred to the Private Calendar.

Mr. SPIGHT, from the Committee on War Claims, to which was referred the bill of the House H. R. 12260, reported in lieu thereof a resolution (H. Res. 452) referring to the Court of Claims the papers in the case of the estate of William A. Coffman, deceased, accompanied by a report (No. 4015); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 12265, reported in lieu thereof a resolution (H. Res. 453) referring to the Court of Claims the papers in the case of the estate of Abraham Hisey, deceased, accompanied by a report (No. 4016); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 12267, reported in lieu thereof a resolution (H. Res. 454) referring to the Court of Claims the papers in the case of the estate of James L. Miller, deceased, accompanied by a report (No. 4017); which said resolution and report were referred to the Private Calendar.

Mr. CLAYTON, from the Committee on War Claims, to which was referred the bill of the House H. R. 656, reported in lieu thereof a resolution (H. Res. 455) referring to the Court of Claims the papers in the case of John W. Noble, accompanied by a report (No. 4018); which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill of the House H. R. 3804, reported in lieu thereof a resolution (H. Res. 456) referring to the Court of Claims the papers in the case of the legal representatives of Wiley J. Davis, deceased, accompanied by a report (No. 4019); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4970, reported in lieu thereof a resolution (H. Res. 457) referring to the Court of Claims the papers in the case of the heirs of Margaret Sivley, deceased, accompanied by a report (No. 4020); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 12818, reported in lieu thereof a resolution (H. Res. 458) referring to the Court of Claims the papers in the case of the estates of Asa Faulkner, deceased, Lewis L. Faulkner, deceased, and S. B. Spurlock, deceased, accompanied by a report (No. 4021); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 6470, reported in lieu thereof a resolution (H. Res. 459) referring to the Court of Claims the papers in the case of the estate of Francis A. De Georgis, deceased, accompanied by a report (No. 4022); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 15558, reported in lieu thereof a resolution (H. Res. 460) referring to the Court of Claims the papers in the case of Howard T. Bunch, accompanied by a report (No. 4023); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 3992, reported in lieu thereof a resolution (H. Res. 461) referring to the Court of Claims the papers in the case of the estate of L. D. Crawley, deceased, Decatur County, Tenn., accompanied by a report (No. 4024); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4005, reported in lieu thereof a resolution (H. Res. 462) referring to the Court of Claims the papers in the case of the legal representatives of Richard Odle, deceased, accompanied by a report (No. 4025): which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4065, reported in lieu thereof a resolution (H. Res. 463) referring to the Court of Claims the papers in the case of T. F. Allison, accompanied by a report (No. 4026); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 18840, reported in lieu thereof a resolution (H. Res. 464) referring to the Court of Claims the papers in the case of John W. Kirby, accompanied by a report (No. 4027); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 17440, reported in lieu thereof a resolution (H. Res. 465) referring to the Court of Claims the papers in the case of Mrs. Mary A. Coe, accompanied by a report (No. 4028); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 14849, reported in lieu thereof a resolution (H. Res. 466) referring to the Court of Claims the papers in the case of the heirs of Alfred Mullins, deceased, accompanied by a report (No. 4029); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 7819, reported in lieu thereof a resolution (H. Res. 467) referring to the Court of Claims the papers in the case of the heirs and representatives of William G. Burke, deceased, accompanied by a report (No. 4030); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 7818, reported in lieu thereof a resolution (H. Res. 468) referring to the Court of Claims the papers in the case of the heirs of Washington Dorney, accompanied by a report (No. 4031); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 11177, reported in lieu thereof a resolution (H. Res. 469) referring to the Court of Claims the papers in the case of J. W. Knox, Gallatin County, Ky., accompanied by a report (No. 4032); which said resolution and report were referred to the Private Calendar.

Mr. HAUGEN, from the Committee on War Claims, to which was referred the bill of the House H. R. 10617, reported in lieu thereof a resolution (H. Res. 470) referring to the Court of Claims the papers in the case of James N. Bowles, accompanied by a report (No. 4033); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 8879, reported in lieu thereof a resolution (H. Res. 471) referring to the Court of Claims the papers in the case of J. A. Reagan, accompanied by a report (No. 4034); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 1759, reported in lieu thereof a resolution (H. Res. 472) referring to the Court of Claims the papers in the case of John Morgan's heirs, accompanied by a report (No. 4035); which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill of the House H. R. 16081, reported in lieu thereof a resolution (H. Res. 473) referring to the Court of Claims the papers in the case of Eli W. Owens, accompanied by a report (No. 4036); which said resolution and report were referred to the Private Calendar.

Mr. HAUGEN, from the Committee on War Claims, to which was referred the bill of the House H. R. 1761, reported in lieu thereof a resolution (H. Res. 474) referring to the Court of Claims the papers in the case of F. F. Morris, accompanied by a report (No. 4037); which said resolution and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House H. R. 17813, reported in lieu thereof a resolution (H. Res. 475) referring to the Court of Claims the papers in the case of Albert L. Scott, surviving partner of the late firm of E. L. Pemberton, James R. Lee, and Albert L. Scott, accompanied by a report (No. 4038); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 14859, reported in lieu thereof a resolution (H. Res. 476) referring to the Court of Claims the papers in the case of the heirs of William M. West, accompanied by a report (No. 4039); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 11884, reported in lieu thereof a resolution (H. Res. 477) referring to the Court of Claims the papers in the case of John T. Graves, accompanied by a report (No.

4040); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 14703, reported in lieu thereof a resolution (H. Res. 478) referring to the Court of Claims the papers in the case of Mrs. Corinne Lawrence, the widow of W. L. B. Lawrence, accompanied by a report (No. 4041); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 11895. reported in lieu thereof a resolution (H. Res. 479) referring to the Court of Claims the papers in the case of Spencer Etheredge, J. E. Berry, and Charles Meekins, trustees of Roanoke Island Baptist Church, of Roanoke Island, N. C., accompanied by a report (No. 4042); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 2845, reported in lieu thereof a resolution (H. Res. 480) referring to the Court of Claims the papers in the case of First Baptist Church, of Newbern, N. C., accompanied by a report (No. 4043); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 17110, reported in lieu thereof a resolution (H. Res. 481) referring to the Court of Claims the papers in the case of Margaret Morarity, accompanied by a report (No. 4044); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 6802, reported in lieu thereof a resolution (H. Res. 482) referring to the Court of Claims the papers in the case of James F. White, accompanied by a report (No. 4045); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 13996, reported in lieu thereof a resolution (H. Res. 483) referring to the Court of Claims the papers in the case of Baptist Church of Dardanelle, Ark., accompanied by a report (No. 4046); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 17166, reported in lieu thereof a resolution (H. Res. 484) referring to the Court of Claims the papers in the case of the heirs of John G. Freeman, deceased, accompanied by a report (No. 4047); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 15182, reported in lieu thereof a resolution (H. Res. 485) referring to the Court of Claims the papers in the case of Loron W. Forrest, accompanied by a report (No. 4048); which said resolution and report were referred to the Private Calendar.

Mr. PATTERSON of South Carolina, from the Committee on War Claims, to which was referred the bill of the House H. R. 13289, reported in lieu thereof a resolution (H. Res. 486) referring to the Court of Claims the papers in the case of Methodist Church South, of Franklin, Tenn., accompanied by a report (No. 4049); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 10968, reported in lieu thereof a resolution (H. Res. 487) referring to the Court of Claims the papers in the case of Cumberland Presbyterian Church, at Waverly, Tenn., accompanied by a report (No. 4050); which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill of the House H. R. 17017, reported in lieu thereof a resolution (H. Res. 488) referring to the Court of Claims the papers in the case of A. L. Anderson, accompanied by a report (No. 4051); which said resolution and report were referred to the Private Calendar.

Mr. PATTERSON of South Carolina, from the Committee on War Claims, to which was referred the bill of the House H. R. 3947, reported in lieu thereof a resolution (H. Res. 489) referring to the Court of Claims the papers in the case of the heirs of Jennie Hunter, deceased, accompanied by a report (No. 4052); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 7606, reported in lieu thereof a resolution (H. Res. 490) referring to the Court of Claims the papers in the case of St. John's Episcopal Church, at Winnsboro, S. C., accompanied by a report (No. 4053); which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill of the House H. R. 18057, reported in lieu thereof a resolution (H. Res. 491) referring to the Court of Claims the papers in the case of the estate of James S. Ford, deceased, accompanied by a report (No. 4054); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 2129, reported in lieu thereof a resolution (H. Res. 492) referring to the Court of Claims the papers in the case of Lydia A. Newby, accompanied by a report (No. 4055); which said resolution and report were referred to the Private Calendar.

Mr. FULKERSON, from the Committee on War Claims, to which was referred the bill of the House H. R. 18511, reported in lieu thereof a resolution (H. Res. 493) referring to the Court of Claims the papers in the case of Samuel R. Couch, accompanied by a report (No. 4056); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 18189, reported in lieu thereof a resolution (H. Res. 494) referring to the Court of Claims the papers in the case of the heirs of James Brandenburgh, deceased, accompanied by a report (No. 4057); which said resolution and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House H. R. 8190, reported in lieu thereof a resolution (H. Res. 495) referring to the Court of Claims the papers in the case of Mrs. Abigail A. Stover, accompanied by a report (No. 4058); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 15213, reported in lieu thereof a resolution (H. Res. 496) referring to the Court of Claims the papers in the case of the trustees of the Methodist Episcopal Church South, of Clarksville, Ark., accompanied by a report (No. 4059); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 9885, reported in lieu thereof a resolution (H. Res. 497) referring to the Court of Claims the papers in the case of John R. Martin, accompanied by a report (No. 4060); which said resolution and report were referred to the Private Calendar.

Mr. LEE, from the Committee on War Claims, to which was referred the bill of the House H. R. 5086, reported in lieu thereof a resolution (H. Res. 498) referring to the Court of Claims the papers in the case of M. H. Carr, accompanied by a report (No. 4061); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 14565, reported in lieu thereof a resolution (H. Res. 499) referring to the Court of Claims the papers in the case of the heirs of Jane McCartney, accompanied by a report (No. 4062); which said resolution and report were referred to the Private Calendar.

Mr. FULKERSON, from the Committee on War Claims, to which was referred the bill of the House H. R. 15315, reported in lieu thereof a resolution (H. Res. 500) referring to the Court of Claims the papers in the case of John W. Watkins, accompanied by a report (N. 4063); which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill of the House H. R. 4044, reported in lieu thereof a resolution (H. Res. 501) referring to the Court of Claims the papers in the case of the estate of R. H. Crider, accompanied by a report (No. 4064); which said resolution and report were referred to the Private Calendar.

Mr. FULKERSON, from the Committee on War Claims, to which was referred the bill of the House H. R. 16277, reported in lieu thereof a resolution (H. Res. 502) referring to the Court of Claims the papers in the case of George C. Jenkins, accompanied by a report (No. 4065); which said resolution and report were referred to the Private Calendar.

Mr. HASKINS, from the Committee on War Claims, to which was referred the bill of the House H. R. 1439, reported in lieu thereof a resolution (H. Res. 503) referring to the Court of Claims the papers in the case of the heirs of Asa O. Gallup, accompanied by a report (No. 4066); which said resolution and report were referred to the Private Calendar.

Mr. FULKERSON, from the Committee on War Claims, to which was referred the bill of the House H. R. 15987, reported in lieu thereof a resolution (H. Res. 504) referring to the Court of Claims the papers in the case of the heirs of Burton Randolph, deceased, accompanied by a report (No. 4067); which

said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 18700, reported in lieu thereof a resolution (H. Res. 505) referring to the Court of Claims the papers in the case of Richard Graham, accompanied by a report (No. 4068); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 15825, reported in lieu thereof a resolution (H. Res. 506) referring to the Court of Claims the papers in the case of John R. Adams, accompanied by a report (No. 4069); which said resolution and report were referred to the Private Calendar.

Mr. PATTERSON of South Carolina, from the Committee on War Claims, to which was referred the bill of the House H. R. 13287, reported in lieu thereof a resolution (H. Res. 507) referring to the Court of Claims the papers in the case of the Presbyterian Church of Lynnville, Giles County, Tenn., accompanied by a report (No. 4070); which said resolution and report were referred to the Private Calendar.

Mr. LEE, from the Committee on War Claims, to which was referred the bill of the House H. R. 5090, reported in lieu thereof a resolution (H. Res. 508) referring to the Court of Claims the papers in the case of the estate of F. L. Hammond, deceased, accompanied by a report (No. 4071); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4570, reported in lieu thereof a resolution (H. Res. 509) referring to the Court of Claims the papers in the case of Mrs. G. W. Ross, Mrs. H. C. Cary, Mrs. Annie Brooks, L. C. Wilcoxon, and Willie Wilcoxon, heirs of Wiley Franks, deceased, accompanied by a report (No. 4072); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4899, reported in lieu thereof a resolution (H. Res. 510) referring to the Court of Claims the papers in the case of the estate of Willis Ramsey, accompanied by a report (No. 4073); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 5100, reported in lieu thereof a resolution (H. Res. 511) referring to the Court of Claims the papers in the case of James R. Nance, accompanied by a report (No. 4074); which said resolution and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on War Claims, to which was referred the bill of the House H. R. 1900, reported in lieu thereof a resolution (H. Res. 512) referring to the Court of Claims the papers in the case of the personal representatives of John Gates, deceased, accompanied by a report (No. 4075); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 5007, reported in lieu thereof a resolution (H. Res. 513) referring to the Court of Claims the papers in the case of the estate of Susanna Fleming, accompanied by a report (No. 4076); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 3963, reported in lieu thereof a resolution (H. Res. 514) referring to the Court of Claims the papers in the case of J. E. Caldwell, accompanied by a report (No. 4077); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 1259, reported in lieu thereof a resolution (H. Res. 515) referring to the Court of Claims the papers in the case of George A. Exline, accompanied by a report (No. 4078); which said resolution and report were referred to the Private Calendar.

Mr. SOUTHARD, from the Committee on War Claims, to which was referred the bill of the House H. R. 12283, reported in lieu thereof a resolution (H. Res. 516) referring to the Court of Claims the papers in the case of Thomas J. Austin, accompanied by a report (No. 4079); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 4996, reported in lieu thereof a resolution (H. Res. 517) referring to the Court of Claims the papers in the case of Daniel Smith, accompanied by a report (No. 4080); which said resolution and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 16201) for the relief of the legal representatives of Samuel Schiffer, reported the same without amendment, accompanied by a report (No. 4083); which said bill and report were referred to the Private Calendar.

Mr. KENNEDY of Nebraska, from the Committee on War Claims, to which was referred the bill of the House (H. R. 8896) to cancel charge of $26.26 against Lieut. John W. Ward, reported the same without amendment, accompanied by a report (No. 4084); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on War Claims, to which was referred the bill of the House (H. R. 12902) for the relief of Frank W. Tucker, reported the same without amendment, accompanied by a report (No. 4085); which said bill and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 5391) for the relief of Oakley Randall, reported the same without amendment, accompanied by a report (No. 4086); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13593) for the relief of Joseph Swisher, reported the same without amendment, accompanied by a report (No. 4087); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18304) for the relief of the Compañía de los Ferrocarriles de Puerto Rico, reported the same without amendment, accompanied by a report (No. 4088); which said bill and report were referred to the Private Calendar.

Mr. OTJEN, from the Committee on War Claims, to which was referred the bill of the House (H. R. 12012) for the relief of Charles L. Jenney, reported the same without amendment, accompanied by a report (No. 4089); which said bill and report were referred to the Private Calendar.

Mr. FULKERSON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 15636) for the relief of Ellen Mansfield and Mattie Mansfield, reported the same without amendment, accompanied by a report (No. 4090); which said bill and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 3279) for the relief of W. J. Warren, reported the same without amendment, accompanied by a report (No. 4091); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on War Claims, to which was referred the bill of the House (H. R. 18630) for the relief of C. L. Huey, reported the same without amendment, accompanied by a report (No. 4092); which said bill and report were referred to the Private Calendar.

Mr. FULKERSON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 13838) for the relief of Ellis W. Joy, reported the same without amendment, accompanied by a report (No. 4093); which said bill and report were referred to the Private Calendar.

Mr. OTJEN, from the Committee on War Claims, to which was referred the bill of the Senate (S. 661) for the relief of Levi J. Billings, reported the same without amendment, accompanied by a report (No. 4094); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2724) for the relief of Delia B. Stuart, widow of John Stuart, reported the same without amendment, accompanied by a report (No. 4095); which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 3357) granting an honorable discharge to James B. Mulford, reported the same with amendment, accompanied by a report (No. 4101); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 1954) for the relief of Israel Yount, reported the same adversely, accompanied by a report (No. 4081); which said bill and report were ordered laid on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 2804) for the relief of George H. Suits,

reported the same adversely, accompanied by a report (No. 4082); which said bill and report were ordered laid on the table.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8539) to fix the grade on the retired list of Col. James W. Powell, United States Army, reported the same adversely, accompanied by a report (No. 4096); which said bill and report were ordered laid on the table.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8840) for relief of the widow and children of William Burchard, late lieutenant, Battery A, First Virginia United States Volunteers, reported the same adversely, accompanied by a report (No. 4106); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GAINES of Tennessee: A bill (H. R. 19233) to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee, at Chattanooga, and the northeastern division of the eastern district of Tennessee, at Greeneville, and for other purposes—to the Committee on the Judiciary.

By Mr. SMITH of California: A bill (H. R. 19234) for the protection of animals, birds, and fish in the forest reserves in California, and for other purposes—to the Committee on the Public Lands.

By Mr. PEARRE: A bill (H. R. 19235) to authorize the Secretary of War to provide a flag or flags for the use of the Francis Scott Key Monument Association, of Frederick, Md.—to the Committee on Military Affairs.

By Mr. GILLETT of California: A bill (H. R. 19236) to reimburse the State of California for moneys expended in placing at the disposal of the United States 18,715 volunteer troops between 1861 and 1865—to the Committee on Claims.

By Mr. MAHON, from the Committee on War Claims: A resolution (H. Res. 439) referring to the Court of Claims the bill H. R. 3416—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 440) referring to the Court of Claims the bill H. R. 13522—to the Private Calendar.

By Mr. OTJEN, from the Committee on War Claims: A resolution (H. Res. 441) referring to the Court of Claims the bill H. R. 16968—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 442) referring to the Court of Claims the bill H. R. 4237—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 443) referring to the Court of Claims the bill H. R. 4984—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 444) referring to the Court of Claims the bill H. R. 2104—to the Private Calendar.

By Mr. MAHON, from the Committee on War Claims: A resolution (H. Res. 445) referring to the Court of Claims the bill H. R. 11971—to the Private Calendar.

By Mr. SPIGHT, from the Committee on War Claims: A resolution (H. Res. 446) referring to the Court of Claims the bill H. R. 15176—to the Private Calendar.

By Mr. CLAYTON, from the Committee on War Claims: A resolution (H. Res. 447) referring to the Court of Claims the bill H. R. 13351—to the Private Calendar.

By Mr. SPIGHT, from the Committee on War Claims: A resolution (H. Res. 448) referring to the Court of Claims the bill H. R. 11843—to the Private Calendar.

Also, from the same committee, a resolution (H. Res 449) referring to the Court of Claims the bill H. R. 9108—to the Private Calendar.

By Mr. CLAYTON, from the Committee on War Claims: A resolution (H. Res. 450) referring to the Court of Claims the bill H. R. 10634—to the Private Calendar.

Also, from the same committee, a resolution (H. Res 451) referring to the Court of Claims the bill H. R. 3855—to the Private Calendar.

By Mr. SPIGHT, from the Committee on War Claims: A resolution (H. Res. 452) referring to the Court of Claims the bill H. R. 12260—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 453) referring to the Court of Claims the bill H. R. 12265—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 454) referring to the Court of Claims the bill H. R. 12267—to the Private Calendar.

By Mr. CLAYTON, from the Committee on War Claims: A resolution (H. Res. 455) referring to the Court of Claims the bill H. R. 656—to the Private Calendar.

By Mr. SIMS, from the Committee on War Claims: A resolution (H. Res. 456) referring to the Court of Claims the bill H. R. 3804—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 457) referring to the Court of Claims the bill H. R. 4970—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 458) referring to the Court of Claims the bill H. R. 12818—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 459) referring to the Court of Claims the bill H. R. 6470—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 460) referring to the Court of Claims the bill H. R. 15558—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 461) referring to the Court of Claims the bill H. R. 3992—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 462) referring to the Court of Claims the bill H. R. 4005—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 463) referring to the Court of Claims the bill H. R. 4065—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 464) referring to the Court of Claims the bill H. R. 18840—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 465) referring to the Court of Claims the bill H. R. 17440—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 466) referring to the Court of Claims the bill H. R. 14849—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 467) referring to the Court of Claims the bill H. R. 7819—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 468) referring to the Court of Claims the bill H. R. 7818—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 469) referring to the Court of Claims the bill H. R. 11177—to the Private Calendar.

By Mr. HAUGEN, from the Committee on War Claims: A resolution (H. Res. 470) referring to the Court of Claims the bill H. R. 10617—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 471) referring to the Court of Claims the bill H. R. 8879—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 472) referring to the Court of Claims the bill H. R. 1759—to the private Calendar.

By Mr. SIMS, from the Committee on War Claims: A resolution (H. Res. 473) referring to the Court of Claims the bill H. R. 16081—to the Private Calendar.

By Mr. HAUGEN, from the Committee on War Claims: A resolution (H. Res. 474) referring to the Court of Claims the bill H. R. 1761—to the Private Calendar.

By Mr. MAHON, from the Committee on War Claims: A resolution (H. Res. 475) referring to the Court of Claims the bill H. R. 17813—to the Private Calendar.

Also, from the same committee a resolution (H. Res. 476) referring to the Court of Claims the bill H. R. 14859—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 477) referring to the Court of Claims the bill H. R. 11884—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 478) referring to the Court of Claims the bill H. R. 14703—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 479) referring to the Court of Claims the bill H. R. 11895—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 480) referring to the Court of Claims the bill H. R. 2845—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 481) referring to the Court of Claims the bill H. R. 17110—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 482) re-

ferring to the Court of Claims the bill H. R. 6802—to the Private Calendar.

Also, from the same committee, a resolution (R. Res. 483) referring to the Court of Claims the bill H. R. 13996—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 484) referring to the Court of Claims the bill H. R. 17196—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 485) referring to the Court of Claims the bill H. R. 15182—to the Private Calendar.

By Mr. PATTERSON of South Carolina, from the Committee on War Claims: A resolution (H. Res. 486) referring to the Court of Claims the bill H. R. 13289—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 487) referring to the Court of Claims the bill H. R. 10968—to the Private Calendar.

By Mr. SIMS, from the Committee on War Claims: A resolution (H. Res. 488) referring to the Court of Claims the bill H. R. 17017—to the Private Calendar.

By Mr. PATTERSON of South Carolina, from the Committee on War Claims: A resolution (H. Res. 489) referring to the Court of Claims the bill H. R. 3947—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 490) referring to the Court of Claims the bill H. R. 7606—to the Private Calendar.

By Mr. SIMS, from the Committee on War Claims: A resolution (H. Res. 491) referring to the Court of Claims the bill H. R. 18057—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 492) referring to the Court of Claims the bill H. R. 2129—to the Private Calendar.

By Mr. FULKERSON, from the Committee on War Claims: A resolution (H. Res. 493) referring to the Court of Claims the bill H. R. 18511—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 494) referring to the Court of Claims the bill H. R. 18189—to the Private Calendar.

By Mr. MAHON, from the Committee on War Claims: A resolution (H. Res. 495) referring to the Court of Claims the bill H. R. 8190—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 496) referring to the Court of Claims the bill H. R. 15213—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 497) referring to the Court of Claims the bill H. R. 9885—to the Private Calendar.

By Mr. LEE, from the Committee on War Claims: A resolution (H. Res. 498) referring to the Court of Claims the bill H. R. 5086—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 499) referring to the Court of Claims the bill H. R. 14565—to the Private Calendar.

By Mr. FULKERSON, from the Committee on War Claims: A resolution (H. Res. 500) referring to the Court of Claims the bill H. R. 15315—to the Private Calendar.

By Mr. SIMS, from the Committee on War Claims: A resolution (H. Res. 501) referring to the Court of Claims the bill H. R. 4044—to the Private Calendar.

By Mr. FULKERSON, from the Committee on War Claims: A resolution (H. Res. 502) referring to the Court of Claims the bill H. R. 16077—to the Private Calendar.

By Mr. HASKINS, from the Committee on War Claims A resolution (H. Res. 503) referring to the Court of Claims the bill H. R. 1439—to the Private Calendar.

By Mr. FULKERSON, from the Committee on War Claims: A resolution (H. Res. 504) referring to the Court of Claims the bill H. R. 15987—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 505) referring to the Court of Claims the bill H. R. 18700—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 506) referring to the Court of Claims the bill H. R. 15825—to the Private Calendar.

By Mr. PATTERSON of South Carolina, from the Committee on War Claims: A resolution (H. Res. 507) referring to the Court of Claims the bill H. R. 13287—to the Private Calendar.

By Mr. LEE, from the Committee on War Claims: A resolution (H. Res. 508) referring to the Court of Claims the bill H. R. 5090—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 509) referring to the Court of Claims the bill H. R. 4570—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 510) referring to the Court of Claims the bill H. R. 4899—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 511) referring to the Court of Claims the bill H. R. 5100—to the Private Calendar.

By Mr. HOLLIDAY, from the Committee on War Claims: A resolution (H. Res. 512) referring to the Court of Claims the bill H. R. 1900—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 513) referring to the Court of Claims the bill H. R. 5007—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 514) referring to the Court of Claims the bill H. R. 3963—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 515) referring to the Court of Claims the bill H. R. 1259—to the Private Calendar.

By Mr. SOUTHARD, from the Committee on War Claims: A resolution (H. Res. 516) referring to the Court of Claims the bill H. R. 12283—to the Private Calendar.

Also, from the same committee, a resolution (H. Res. 517) referring to the Court of Claims the bill H. R. 4996—to the Private Calendar.

By Mr. MONDELL: A resolution (H. Res. 518) authorizing the Committee on Irrigation of Arid Lands to print—to the Committee on Printing.

By Mr. BENNET of New York: A resolution (H. Res. 519) for the reprinting of the bill H. R. 11943—to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ALEXANDER: A bill (H. R. 19237) granting an increase of pension to James Rout—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19238) granting an increase of pension to Daniel S. Conover—to the Committee on Invalid Pensions.

By Mr. BARTLETT: A bill (H. R. 19239) granting a pension to Salome Jane Marland—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: A bill (H. R. 19240) granting a pension to Albert Ury—to the Committee on Pensions.

By Mr. CALDERHEAD: A bill (H. R. 19241) granting an increase of pension to Henry A. Conant—to the Committee on Pensions.

Also, a bill (H. R. 19242) granting an increase of pension to Anthony W. Miller—to the Committee on Invalid Pensions.

By Mr. CUSHMAN (by request): A bill (H. R. 19243) granting a pension to Mary Allen—to the Committee on Pensions.

Also (by request), a bill (H. R. 19244) to refund the internal-revenue taxes paid by owners of private dies—to the Committee on Claims.

By Mr. DE ARMOND: A bill (H. R. 19245) granting an increase of pension to William C. Hoover—to the Committee on Pensions.

By Mr. FLOYD: A bill (H. R. 19246) for the relief of B. J. Deaver—to the Committee on War Claims.

By Mr. GILBERT of Indiana: A bill (H. R. 19247) granting an increase of pension to Frederick C. Waterman—to the Committee on Invalid Pensions.

By Mr. GILLESPIE: A bill (H. R. 19248) granting an increase of pension to John Randolph Featherstone—to the Committee on Pensions.

By Mr. HASKINS: A bill (H. R. 19249) granting an increase of pension to Lorenzo W. Shedd—to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 19250) for the relief of the Loudoun Street Presbyterian Church, Winchester, Va.—to the Committee on War Claims.

By Mr. HINSHAW: A bill (H. R. 19251) granting an increase of pension to Julia A. Brown—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19252) granting an increase of pension to Dallas Seaburg—to the Committee on Invalid Pensions.

By Mr. LITTLE: A bill (H. R. 19253) granting an increase of pension to Charles H. Thompson—to the Committee on Invalid Pensions.

By Mr. MUDD: A bill (H. R. 19254) granting a pension to Sarah E. Roby—to the Committee on Invalid Pensions.

By Mr. OLCOTT: A bill (H. R. 19255) granting an increase of pension to John Bradford—to the Committee on Invalid Pensions.

By Mr. PATTERSON of North Carolina: A bill (H. R. 19256) granting an increase of pension to Louisa J. Birthright—to the Committee on Pensions.

By Mr. PATTERSON of Tennessee: A bill (H. R. 19257) for the relief of George L. Whitmore—to the Committee on War Claims.

By Mr. RIVES: A bill (H. R. 19258) granting an increase of pension to A. F. McEwen—to the Committee on Invalid Pensions.

By Mr. TALBOTT: A bill (H. R. 19259) for the relief of Nicholas H. Clemson and Rachel Clemson, executors of John D. Clemson, deceased—to the Committee on War Claims.

Also, a bill (H. R. 19260) for the relief of Elizabeth Cramer, administratrix of J. Henry Cramer—to the Committee on War Claims.

Also, a bill (H. R. 19261) for the relief of the heirs of John D. Clemson—to the Committee on War Claims.

By Mr. WELBORN: A bill (H. R. 19262) granting an increase of pension to John Wickline—to the Committee on Invalid Pensions.

By Mr. ZENOR: A bill (H. R. 19263) granting an increase of pension to John Ingram—to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BONYNGE: Petition of citizens of Weed County, Colo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURTON of Ohio: Petition of the National Supply and Machinery Dealers' Association, against adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. DEEMER: Petition of H. J. Moore, M. J. Colcord, H. D. Caskey, and the Herald Printing and Publishing Company, to amend the postage laws by making all subscriptions legal whether paid for by subscribers or others—to the Committee on the Post-Office and Post-Roads.

By Mr. DICKSON of Illinois: Petition of citizens of Mount Carmel, Ill., against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. DRESSER: Petitions of J. H. Hayes, master of Grange No. 964; F. M. Dunlap, master of Grange No. 1277; Jeremiah A. Hay, master of Grange No. 757, and N. B. Young, master of Grange No. 1201, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Keystone Gazette, for an amendment of the postal laws making legal all subscriptions, by whomever paid for—to the Committee on the Post-Office and Post-Roads.

By Mr. ESCH: Petition of J. D. Eldridge, E. F. Gauz, the Norwalk Star, and the Landsman, to amend the postal laws by making legitimate all subscriptions paid for by others than the recipients of the paper—to the Committee on the Post-Office and Post-Roads.

By Mr. HINSHAW: Paper to accompany bill for relief of Elston Armstrong—to the Committee on Invalid Pensions.

By Mr. HOUSTON: Paper to accompany bill for relief of George E. Johnson—to the Committee on War Claims.

By Mr. WILLIAM W. KITCHIN: Petition of the Southern Mills, Greensboro, N. C., against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. LE FEVRE: Petition of George W. Kelly et al., for the Crumpacker bill relative to the fraud order—to the Committee on Rules.

By Mr. LINDSAY: Petition of C. E. Redeker, Patriotic Order Sons of America, favoring bill H. R. 18673, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of George White—to the Committee on Invalid Pensions.

By Mr. OLCOTT: Paper to accompany bill for relief of John Bradford—to the Committee on Invalid Pensions.

By Mr. PATTERSON of North Carolina: Paper to accompany bill for relief of Louisa J. O. Birthright—to the Committee on Pensions.

By Mr. SCHNEEBELI: Petition of the Amalgamated Street and Electric Railway Employees of America, Lodge No. 169, of Easton, Pa., against modification of the Chinese-exclusion act—to the Committee on Foreign Affairs.

By Mr. STERLING: Petition of the College Alumni Club and 14 other literary clubs, of Bloomington and Normal, Ill., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

SENATE.

SATURDAY, *May 12, 1906.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

ESTATE OF ALFRED SWEARINGIN, DECEASED.

The VICE-PRESIDENT. The Chair invites the attention of the Senator from Mississippi [Mr. MONEY]. However, the Senator from Oregon [Mr. FULTON], who objected to the proposed order yesterday, is not now in the Chamber.

Mr. MONEY. Mr. President, I should like to make a statement. I hoped the Senator from Oregon would come in. But that is an order in a case where the bill was sent to the Court of Claims. I know nothing on earth about the case, but the clerk of the Committee on Claims brought down this written order to me and said that it was necessary for me to introduce it, to meet the application of the Court of Claims. They have the bill before them, but the papers were not transmitted when the bill was sent down. This is simply a demand from the committee for the papers, and they can only be sent down on the order of the Senate. The committee discharged itself by sending down the bill, but did not send the papers. I presume if the Senator from Oregon were here he would have no objection to it.

The VICE-PRESIDENT. The Senator from Mississippi does not press the order now?

Mr. MONEY. I do not press it in the absence of the Senator from Oregon.

Mr. KEAN. I do not think the chairman of the committee would object to it, but he did not exactly understand what it was. When he comes in I have no doubt he will withdraw his objection.

Mr. FULTON subsequently entered the Chamber.

Mr. MONEY. I ask now that the order be made I called for yesterday. I have explained it to the Senator from Oregon.

The VICE-PRESIDENT. The Senator from Mississippi asks for the adoption of an order which will be read.

The Secretary read as follows:

Ordered, That the Committee on Claims be discharged from the further consideration of the bill (S. 3355) for the relief of the estate of Alfred Swearingin, deceased, and that the Secretary of the Senate be directed to transmit the papers accompanying the same to the Court of Claims in accordance with the request.

Mr. FULTON. Last evening I objected to the consideration of the order, as I did not then fully understand it. I see now that it refers to papers relative to a case that is pending before the Court of Claims, and I withdraw my objection to the adoption of the order.

The order was agreed to.

LANDS IN NEW MEXICO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting letters from the Commissioner of the General Land Office, together with the report on the sale of lands in New Mexico, and stating that Congress alone has the power to enforce the conditions of the grant to that Territory; which, with the accompanying papers, was referred to the Committee on Territories, and ordered to be printed.

FINDINGS OF THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the Methodist Episcopal Church South, of Oak Bowery, Ala., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the John Mann Methodist Church (Colored), of Winchester, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 5536) granting a pension to William O. Clark.

The message also announced that the House had passed the

following bills, each with an amendment; in which it requested the concurrence of the Senate:

S. 1739. An act granting a pension to Henry Sistrunk; and

S. 5670. An act granting an increase of pension to Isaac L. Duggar.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 612. An act granting an increase of pension to George W. Kohler;

H. R. 1034. An act granting an increase of pension to John Logan;

H. R. 1178. An act granting an increase of pension to Herman Buckthall;

H. R. 1247. An act granting an increase of pension to Columbus Botts;

H. R. 1420. An act granting a pension to John Nay;

H. R. 1438. An act granting an increase of pension to Oliver T. Smith;

H. R. 1614. An act granting an increase of pension to Jacob H. Lynch;

H. R. 1650. An act granting an increase of pension to Frank B. Watkins;

H. R. 1736. An act granting an increase of pension to Charles A. Walker;

H. R. 1788. An act granting an increase of pension to William D. Christy;

H. R. 2092. An act granting an increase of pension to Franklin M. Hill;

H. R. 2237. An act granting an increase of pension to Martin Pool;

H. R. 2247. An act granting an increase of pension to Anthony Sanspeur;

H. R. 2265. An act granting an increase of pension to Hudson J. Van Scoter;

H. R. 2785. An act granting an increase of pension to Margaret Bonynge;

H. R. 3005. An act granting an increase of pension to Jacob C. Shafer;

H. R. 3222. An act granting an increase of pension to George Merrill;

H. R. 3243. An act granting an increase of pension to John H. Anderson;

H. R. 3351. An act granting an increase of pension to George King;

H. R. 3488. An act granting an increase of pension to Egbert J. Olds;

H. R. 3495. An act granting an increase of pension to Charles F. Tower;

H. R. 3572. An act granting an increase of pension to William L. Riley;

H. R. 3588. An act granting an increase of pension to William H. Riggin;

H. R. 4161. An act granting an increase of pension to Robert Beatty;

H. R. 4241. An act granting an increase of pension to David B. Coleman;

H. R. 4597. An act granting an increase of pension to Martin Ellison;

H. R. 4715. An act granting an increase of pension to John H. Whiting;

H. R. 4956. An act granting an increase of pension to James C. Bryant;

H. R. 5040. An act granting an increase of pension to Joseph Montgomery;

H. R. 5560. An act granting an increase of pension to Henry Chubb;

H. R. 5911. An act granting a pension to Edward D. Lockwood, alias George E. McDaniel;

H. R. 5958. An act granting an increase of pension to Allen L. Garwood;

H. R. 6059. An act granting an increase of pension to Elias Hanes;

H. R. 6190. An act granting an increase of pension to John J. Schneller;

H. R. 6205. An act granting an increase of pension to Lucy E. Engler;

H. R. 6208. An act granting an increase of pension to William D. Conner;

H. R. 6422. An act granting an increase of pension to Anthony Van Slyke;

H. R. 6505. An act granting an increase of pension to Mary C. Chapman;

H. R. 6533. An act granting a pension to Horace Salter;

H. R. 6596. An act granting an increase of pension to Alex. O. Huffman;

H. R. 6774. An act granting an increase of pension to John Platt;

H. R. 6878. An act granting a pension to Lucy Brown;

H. R. 6914. An act granting an increase of pension to John Hecker;

H. R. 7147. An act granting an increase of pension to Bronson Rothrock;

H. R. 7244. An act granting an increase of pension to Christopher S. Guthrie;

H. R. 7402. An act granting an increase of pension to Edwin M. Todd;

H. R. 7535. An act granting an increase of pension to John L. Moore;

H. R. 7589. An act granting an increase of pension to Robert A. Scott;

H. R. 7836. An act granting an increase of pension to Alexander G. Patton;

H. R. 8155. An act granting an increase of pension to Henry E. Seelye;

H. R. 8232. An act granting an increase of pension to James M. Jared;

H. R. 8736. An act granting an increase of pension to Lowell M. Maxham;

H. R. 8795. An act granting an increase of pension to Orrin A. A. Gardner;

H. R. 8817. An act granting an increase of pension to Calvin M. Latham;

H. R. 8852. An act granting an increase of pension to Frederick W. Clark;

H. R. 8867. An act granting an increase of pension to George Stillman;

H. R. 8894. An act granting an increase of pension to James C. Strong;

H. R. 9238. An act for the relief of William Saphar;

H. R. 9243. An act granting an increase of pension to Joseph A. Barnard;

H. R. 9531. An act granting an increase of pension to Eliza Rogers;

H. R. 9609. An act granting an increase of pension to Jesse M. Auchmuty;

H. R. 9828. An act granting an increase of pension to John Broughton;

H. R. 9844. An act granting an increase of pension to John J. Erick;

H. R. 9862. An act granting an increase of pension to William B. Warren;

H. R. 10395. An act granting an increase of pension to Stephen Cundiff;

H. R. 10794. An act granting an increase of pension to Jacob Schultz;

H. R. 10828. An act granting an increase of pension to Michael Lennon;

H. R. 10865. An act granting an increase of pension to Alexander Caldwell;

H. R. 11057. An act granting an increase of pension to Lewis J. Post;

H. R. 11152. An act granting an increase of pension to Theodore S. Currier;

H. R. 11161. An act granting an increase of pension to Michael Aaron;

H. R. 11260. An act granting an increase of pension to James H. Van Camp;

H. R. 11457. An act granting an increase of pension to Cyrus Vanmatre;

H. R. 11855. An act granting an increase of pension to Mary Ann Shelly;

H. R. 12184. An act granting an increase of pension to Joseph Sprauer;

H. R. 12330. An act granting an increase of pension to Hester A. Van Derslice;

H. R. 12336. An act granting an increase of pension to Margaret A. Montgomery;

H. R. 12418. An act granting an increase of pension to Thomas P. Crandall;

H. R. 12879. An act granting an increase of pension to Catharine Myers;

H. R. 12971. An act granting an increase of pension to Matthew H. Brandon;

H. R. 13069. An act granting an increase of pension to Friend S. Esmond;

H. R. 13149. An act granting an increase of pension to Ida L. Martin;

H. R. 13443. An act granting an increase of pension to James E. Hammontree;
H. R. 13594. An act granting an increase of pension to Jonathan Snook;
H. R. 13698. An act granting an increase of pension to Samuel Kelly;
H. R. 13824. An act granting a pension to Noah Myers;
H. R. 13828. An act granting an increase of pension to John M. Carroll;
H. R. 13993. An act granting an increase of pension to Joseph Watson;
H. R. 14264. An act granting an increase of pension to John H. Eversole;
H. R. 14661. An act granting an increase of pension to John B. Bussel;
H. R. 14678. An act granting a pension to James A. Boggs;
H. R. 14702. An act granting an increase of pension to Christian Schlosser;
H. R. 14729. An act granting an increase of pension to David Ford;
H. R. 15056. An act granting an increase of pension to James Ramsey;
H. R. 15104. An act granting an increase of pension to Thomas E. Owens;
H. R. 15126. An act granting an increase of pension to William K. Trabue;
H. R. 15288. An act granting an increase of pension to Benjamin F. Finical;
H. R. 15613. An act granting an increase of pension to William W. Combs;
H. R. 16005. An act granting an increase of pension to Hesekiah J. Reynolds;
H. R. 16073. An act granting an increase of pension to John Ginther;
H. R. 16109. An act granting an increase of pension to Jacob Cline;
H. R. 16188. An act granting a pension to Edward C. Bowers;
H. R. 16252. An act granting an increase of pension to Adam Dixon;
H. R. 16272. An act granting a pension to William D. Willis;
H. R. 16441. An act granting an increase of pension to Joseph J. Goode;
H. R. 16492. An act granting an increase of pension to John M. Logan;
H. R. 16496. An act granting an increase of pension to Thomas Dailey;
H. R. 16525. An act granting an increase of pension to Mary Amanda Nash;
H. R. 16565. An act granting an increase of pension to George H. Gordon, alias Gorton;
H. R. 16595. An act granting a pension to James R. Hicks;
H. R. 16662. An act granting an increase of pension to Van Buren Beam;
H. R. 16682. An act granting an increase of pension to William Hammond;
H. R. 16812. An act granting an increase of pension to Dudley McKibben;
H. R. 16842. An act granting an increase of pension to Thomas H. Thornburgh;
H. R. 16878. An act granting an increase of pension to James B. Adams;
H. R. 16915. An act granting an increase of pension to Orange Bugbee;
H. R. 16918. An act granting a pension to Matilda J. Williams;
H. R. 16977. An act granting an increase of pension to Isabel Newlin;
H. R. 16998. An act granting an increase of pension to Elijah Curtis;
H. R. 17170. An act granting an increase of pension to Jackson D. Turley;
H. R. 17171. An act granting an increase of pension to David H. Parker;
H. R. 17210. An act granting an increase of pension to Daniel M. Vertner;
H. R. 17309. An act granting an increase of pension to John W. Chase;
H. R. 17340. An act granting a pension to Julia Walz;
H. R. 17346. An act granting an increase of pension to Newton S. Davis;
H. R. 17374. An act granting an increase of pension to Isom Wilkerson;
H. R. 17388. An act granting an increase of pension to Patrick McCarthy;
H. R. 17390. An act granting an increase of pension to Mary Sheehan;
H. R. 17445. An act granting an increase of pension to William H. Farrell;
H. R. 17466. An act granting an increase of pension to James P. Hall;
H. R. 17476. An act granting an increase of pension to Henry Ballard;
H. R. 17528. An act granting an increase of pension to Edgar Slater;
H. R. 17542. An act granting an increase of pension to John Cain;
H. R. 17590. An act granting an increase of pension to Jacob Woodruff;
H. R. 17637. An act granting an increase of pension to Gardiner K. Haskell;
H. R. 17772. An act granting an increase of pension to John W. Henry;
H. R. 17825. An act granting an increase of pension to Bolivar Ward;
H. R. 17872. An act granting an increase of pension to Allen D. Metcalfe;
H. R. 17891. An act granting an increase of pension to Eliza M. Buice;
H. R. 17915. An act granting an increase of pension to William W. Dudley;
H. R. 17920. An act granting an increase of pension to Sallie E. Blanding;
H. R. 17922. An act granting an increase of pension to Thomas D. Adams;
H. R. 17934. An act granting an increase of pension to Thomas J. Byrd;
H. R. 17935. An act granting an increase of pension to Andrew C. Woodard;
H. R. 17938. An act granting an increase of pension to Clarissa L. Dowling;
H. R. 17940. An act granting a pension to Rhetta Florence Tilton;
H. R. 17999. An act granting an increase of pension to Samuel Yehl;
H. R. 18034. An act granting a pension to Mary A. Montgomery;
H. R. 18038. An act granting an increase of pension to Erastus W. Briggs;
H. R. 18039. An act granting an increase of pension to John W. Stephens;
H. R. 18041. An act granting an increase of pension to William R. Hiner;
H. R. 18052. An act granting an increase of pension to John Lewis Bernard Breighner;
H. R. 18073. An act granting an increase of pension to Mary McFarlane;
H. R. 18076. An act granting an increase of pension to Elizabeth Bartley;
H. R. 18105. An act granting an increase of pension to John A. Lyle;
H. R. 18106. An act granting an increase of pension to Mary E. Patterson;
H. R. 18116. An act granting an increase of pension to Green Evans;
H. R. 18121. An act granting an increase of pension to John W. Jones;
H. R. 18125. An act granting an increase of pension to Wilhelm Griese;
H. R. 18132. An act granting an increase of pension to John W. Blanchard;
H. R. 18135. An act granting an increase of pension to Benedict Sutter;
H. R. 18165. An act granting an increase of pension to Jacob Stauff;
H. R. 18184. An act granting an increase of pension to John J. Howells;
H. R. 18236. An act granting an increase of pension to Thomas Garratt;
H. R. 18239. An act granting an increase of pension to Bryant Brown;
H. R. 18243. An act granting an increase of pension to Jacob S. Rickard;
H. R. 18249. An act granting an increase of pension to Hiram G. Hunt;
H. R. 18262. An act granting an increase of pension to John H. Broadway;
H. R. 18308. An act granting an increase of pension to Clay Riggs;
H. R. 18310. An act granting an increase of pension to Virgil A. Bayley;

H. R. 18319. An act granting an increase of pension to Newton Kinnison;
H. R. 18355. An act granting an increase of pension to Rachael A. Webster;
H. R. 18356. An act granting an increase of pension to William A. Custer;
H. R. 18357. An act granting an increase of pension to William E. Starr;
H. R. 18367. An act granting an increase of pension to John Wilkinson;
H. R. 18378. An act granting an increase of pension to Martha A. Dunlap;
H. R. 18399. An act granting an increase of pension to Pauline Bietry;
H. R. 18400. An act granting an increase of pension to Elmira M. Gause;
H. R. 18402. An act granting an increase of pension to Lucy W. Powell;
H. R. 18426. An act granting a pension to Elizabeth Hathaway;
H. R. 18447. An act granting an increase of pension to Elijah G. Gould;
H. R. 18449. An act granting an increase of pension to Hannah R. Jacobs;
H. R. 18460. An act granting a pension to Benjamin F. Tudor;
H. R. 18467. An act granting an increase of pension to Rudolph W. H. Swendt;
H. R. 18469. An act granting an increase of pension to Samuel C. Dean;
H. R. 18486. An act granting an increase of pension to William F. Walker;
H. R. 18505. An act granting an increase of pension to M. Belle May;
H. R. 18509. An act granting an increase of pension to Ellen L. Stone;
H. R. 18510. An act granting an increase of pension to Hugh R. Rutledge;
H. R. 18524. An act granting an increase of pension to Julius Rector;
H. R. 18539. An act granting an increase of pension to Angeline R. Lomax;
H. R. 18542. An act granting an increase of pension to Sarah Ann Day;
H. R. 18551. An act granting an increase of pension to William D. Drown;
H. R. 18560. An act granting an increase of pension to John Hamilton;
H. R. 18561. An act granting an increase of pension to Jonathan Skeans;
H. R. 18572. An act granting an increase of pension to Allamanza M. Harrison;
H. R. 18573. An act granting an increase of pension to John M. Quinton;
H. R. 18605. An act granting an increase of pension to William Lawrence;
H. R. 18627. An act granting an increase of pension to Elizabeth A. Anderson;
H. R. 18628. An act granting an increase of pension to William E. Chambers;
H. R. 18633. An act granting an increase of pension to Jennie F. Belding;
H. R. 18651. An act granting an increase of pension to Elizabeth Thomas;
H. R. 18654. An act granting an increase of pension to Robert D. Gardner;
H. R. 18655. An act granting an increase of pension to Leander Gilbert;
H. R. 18678. An act granting an increase of pension to Evans P. Hoover;
H. R. 18696. An act granting an increase of pension to Louisa C. Gibson;
H. R. 18697. An act granting an increase of pension to Martha L. Beesley;
H. R. 18702. An act granting an increase of pension to Edward B. Prime;
H. R. 18724. An act granting an increase of pension to Alfred Gude;
H. R. 18730. An act granting an increase of pension to William C. Mahaffey;
H. R. 18746. An act granting an increase of pension to Isaac Howard;
H. R. 18747. An act granting an increase of pension to William H. Colegate;
H. R. 18794. An act granting an increase of pension to William C. McRoy;
H. R. 18795. An act granting an increase of pension to James E. Raney;
H. R. 18821. An act granting an increase of pension to Eliza Jane Witherspoon;
H. R. 18822. An act granting an increase of pension to Sophie S. Parker;
H. R. 18862. An act granting an increase of pension to Joseph H. Weaver;
H. R. 18887. An act granting an increase of pension to Alexander W. Carruth;
H. R. 18910. An act granting an increase of pension to Philo E. Davis;
H. R. 18930. An act granting an increase of pension to Eliza J. Mays;
H. R. 18935. An act granting an increase of pension to Mima A. Boswell;
H. R. 18959. An act granting an increase of pension to Albert G. Packer;
H. R. 18966. An act granting a pension to John W. Ward;
H. R. 18976. An act granting an increase of pension to Nelson S. Preston;
H. R. 19001. An act granting an increase of pension to Elizabeth A. McKay; and
H. R. 19005. An act granting a pension to Gideon M. Burriss.

Subsequently, the foregoing pension bills were severally read twice by their titles, and referred to the Committee on Pensions.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 2292. An act for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant;
S. 4094. An act to amend section 4426 of the Revised Statutes of the United States, regulation of motor boats; and
H. R. 6101. An act for the relief of the estate of Charles M. Demarest, deceased.

PETITIONS AND MEMORIALS.

Mr. SCOTT presented memorials of the Conductors' Association of West Virginia, of Grafton; of Link Division, No. 352, Brotherhood of Locomotive Engineers of Martinsburg, and of sundry citizens of Charles Town, all in the State of West Virginia, remonstrating against the adoption of an amendment to the railway rate bill prohibiting the issuance of free transportation to the families of railway employees; which were ordered to lie on the table.

Mr. GALLINGER presented a memorial of the New England Hardware Dealers' Association, of Boston, Mass., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KEAN presented a petition of sundry citizens of Westfield, N. J., and the petition of R. D. Cann, of Plainfield, N. J., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented petitions of Sanford E. Cobb, of East Orange; of Thomas Fenton Taylor, of South Orange, and of the De Ronde-Osborn Company, of Englewood, all in the State of New Jersey, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of sundry citizens of Montclair, N. J., praying for the establishment of a national bureau in the Interior Department in behalf of the children of the country; which were referred to the Committee on Territories.

He also presented petitions of the Ladies' Auxiliary of the Home Missionary Society of the Roseville Methodist Episcopal Church, of Newark; of the congregation of the Monroe Avenue Methodist Episcopal Church, of Plainfield, and of sundry citizens, all in the State of New Jersey, praying that the direction of the schools of Alaska remain with the Bureau of Education, and also that the Bureau continue the control of the reindeer industry in that Territory; which were referred to the Committee on Territories.

Mr. RAYNER presented a petition of sundry citizens of Frederick, Md., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

WILLIAM PERSONS.

Mr. LODGE, from the Committee on Military Affairs, to whom was referred the bill (S. 3256) for the relief of William Persons, reported it without amendment, and submitted a report thereon.

BRIDGE NEAR WHEELING, W. VA.

Mr. SCOTT. I introduce a bill, and ask for its present consideration.

The bill (S. 6146) to authorize the Back River Bridge Company to construct a bridge across the west or smaller division of the Ohio River from Wheeling Island, West Virginia, to the Ohio shore, was read the first time by its title, and the second time at length, as follows:

Be it enacted, etc., That the Back River Bridge Company, a corporation organized under the laws of the State of West Virginia, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto, for street railway and wagon traffic and other appropriate public uses, across the west or smaller channel of the Ohio River, known as the Back River, from a point near the southerly end of Wheeling Island, which is a part of the city of Wheeling, in the State of West Virginia, to the Ohio shore, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. KEAN. From what committee does the bill come?

The VICE-PRESIDENT. It is not reported from a committee, as the Chair understands.

Mr. KEAN. Is it a bill that has been just introduced?

The VICE-PRESIDENT. The bill was introduced by the Senator from West Virginia [Mr. SCOTT].

Mr. SCOTT. And I ask unanimous consent for its consideration.

Mr. KEAN. I do not like to object to anything the Senator from West Virginia wants, but I think the bill should be considered in its regular order.

Mr. SCOTT. Will the Senator allow me a moment?

Mr. KEAN. Certainly.

Mr. SCOTT. We have been passing bridge bills without having them referred. This bill was taken by me to the War Department yesterday, and the Chief Engineer recommends it; he said there would be no objection to it whatever. These people are waiting to construct a bridge over the Back River, that is not navigable; and it is a serious question whether it is necessary to have a bill passed at all in order to bridge it.

Mr. KEAN. I think we had better not pass the bill now. Let it take the regular course.

The VICE-PRESIDENT. Under objection, the bill will be referred to the Committee on Commerce.

BILLS INTRODUCED.

Mr. GALLINGER introduced a bill (S. 6147) authorizing changes in certain street railway tracks within the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. FRAZIER introduced a bill (S. 6148) granting an increase of pension to James S. Whitlock; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6149) to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENT TO RAILROAD RATE BILL.

Mr. McCUMBER. I submit an amendment to the rate bill, which I ask may be read and lie on the table.

The amendment was read, and ordered to lie on the table, as follows:

Amendment intended to be proposed by Mr. McCUMBER to the bill (H. R. 12987) entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission."

Insert after the word "dollars," in line 18 of page 4 of the reprint of sections 1, 2, 3, and 4, as amended by the Committee of the Whole, the following: "*Provided*, That nothing herein contained shall prevent such carrier from giving free or reduced transportation to any destitute or indigent sick, injured, or crippled person, or to laborers transported to any place to supply a demand for labor at such place, or to land or home seekers, or to the officers, agents, or employees, or members of the families of the officers, agents, or employees of such carrier, over the lines of railway operated by it."

IRRIGATION INVESTIGATIONS.

Mr. FRAZIER submitted an amendment proposing to increase the appropriation for irrigation and drainage investigations from $102,200 to $120,000, intended to be proposed by him to the agricultural appropriation bill; which was referred to the Committee on Agriculture and Forestry, and ordered to be printed.

WITHDRAWAL OF PAPERS—C. E. MOORE.

On motion of Mr. LONG, it was

Ordered, That on the application of C. E. Moore he is authorized to withdraw from the files of the Senate all papers accompanying Senate bill No. 3027, Fifty-sixth Congress, first session, entitled "A bill for the relief of C. E. Moore," there having been no adverse report thereon.

HOUSE BILL REFERRED.

H. R. 9238. An act for the relief of William Saphar was read twice by its title, and referred to the Committee on Military Affairs.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. The morning business is closed, and the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. CULBERSON. I understand that section 5 of the bill is now under consideration. On page 13, line 18, I move to amend by striking out the word "two"——

The VICE-PRESIDENT. There is an amendment pending.

Mr. CULBERSON. Then this amendment is not in order. I thought there was no amendment pending.

The VICE-PRESIDENT. The pending amendment will be stated by the Secretary.

The SECRETARY. On page 17, line 14, after the word "office," strike out the period and insert a comma, and insert the words:

And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office, and if the carrier has its principal operating office in the District of Columbia then the venue shall be in the district where said carrier has its principal office; and jurisdiction to hear and determine such suits is hereby vested in such courts.

Mr. NELSON. Mr. President, I inquire what is the parliamentary status?

The VICE-PRESIDENT. The Chair was having the pending amendment stated.

Mr. NELSON. Is this an amendment to the amendment offered by the Senator from Illinois [Mr. CULLOM] last evening?

The VICE-PRESIDENT. This is the amendment offered by the Senator from Illinois [Mr. CULLOM]. To that an amendment has been offered by the Senator from Maryland [Mr. RAYNER], which will now be stated by the Secretary. The Secretary will read the amendment proposed by the Senator from Maryland.

The SECRETARY. After the word "courts," the last word of the proposed amendment, add:

But such jurisdiction shall not attach unless the order complained of was beyond the authority of the Commission or in violation of the rights of the carrier secured by the Constitution.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Maryland to the amendment of the Senator from Illinois.

Mr. CULBERSON. I dislike to ask it, but I would be glad to have the amendment to the amendment read again.

The VICE-PRESIDENT. It will be again read at the request of the Senator from Texas.

Mr. CULBERSON. Whose amendment is it?

The VICE-PRESIDENT. The original amendment was proposed by the Senator from Illinois [Mr. CULLOM]. The amendment to it is the one proposed by the Senator from Maryland [Mr. RAYNER]. Does the Senator from Texas wish to have both the amendment and the amendment to the amendment read?

Mr. CULBERSON. We might as well have both restated.

The VICE-PRESIDENT. The Secretary will again read the amendment and the amendment to the amendment.

The Secretary again read the amendment and the amendment to the amendment.

Mr. ALDRICH. Is the amendment to the amendment the same amendment the Senate voted down yesterday?

Mr. RAYNER. No.

Mr. ALDRICH. It must be substantially the same. There may be a change of a word, or something of that kind.

Mr. RAYNER. It is not the same amendment. It is the amendment of the Senator from Kansas [Mr. LONG] submitted some weeks ago, and identical with the amendment of the Senator from Kansas.

Mr. LONG. The Senator is very unfortunate in his understanding of the amendment he proposes. This is not the amendment that I proposed.

Mr. RAYNER. It is identical, and that is about as close as you can get.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment.

Mr. RAYNER. One moment, Mr. President——

Mr. CULBERSON. I desire to ask the Senator from Maryland what construction he puts on the word "authority" in his amendment? Does he believe that would give the courts a broad review in addition to passing upon the constitutionality of rates—that is to say, would it give the courts authority to pass upon whether or not the rate was in violation of the statute?

Mr. RAYNER. When I offered the amendment yesterday I used the word "jurisdiction," because I think the word "jurisdiction" is a better word than the word "authority." But, in my judgment, the word "authority" would refer to the statute and to nothing beyond—that is to say, if the Commission did not exceed its powers under the statute the act of the Commission would be lawful.

I have changed the word "jurisdiction" to the word "authority," because I have taken identically, word for word, the amendment of the Senator from Kansas, which he said he would vote for yesterday if I offered it. I repeat, I have taken it word for word.

Mr. CULBERSON. Will the Senator pardon another inquiry? I want to vote for his amendment if I can consistently with my views upon the question. I understand him to say now that the word "authority" would permit the court to pass upon the question as to whether the Commission had acted within the statute.

Mr. RAYNER. Yes.

Mr. CULBERSON. Would not that give them authority then to pass upon a question other than the constitutional question covered by the other phase of the amendment proposed?

Mr. RAYNER. I am perfectly willing to explain what I think the word "authority" means. If the Commission fixes a rate, I do not think the court would have the right to review the proposition whether the rate fixed by the Commission——

Mr. SPOONER. I want to hear the Senator from Maryland, but I can not hear him.

The VICE-PRESIDENT. The Senate will be in order.

Mr. SPOONER. I am not very far from him and can not hear him.

The VICE-PRESIDENT. The difficulty seems to be in the Senator's neighborhood.

Mr. SPOONER. I am not responsible for that, except as addressing the Chair. I was absolutely silent.

Mr. RAYNER (to Mr. CULBERSON). Am I in your time or my own?

Mr. CULBERSON. I simply asked the Senator a question.

Mr. RAYNER. I will answer the question by stating that I think under the amendment of the Senator from Iowa the court would have the right to determine whether or not a rate fixed by the Commission was in accordance with the reasonable standard provided for by Congress. That is as concise as I can put it.

Mr. SPOONER. Mr. President——

Mr. RAYNER. Let me just finish this sentence. That to my mind draws the distinction between what is called the constitutional amendment and the statutory amendment. And I want to say right here, and it is the view I think has been running in the mind of the Senator from Pennsylvania all the time, that when the courts review the action of the Commission under the Allison amendment they have the right in every case to say whether or not the rate or the regulation or the practice fixed by the Commission was in accordance with the standard of reasonableness adopted by Congress. Now, when you use the word "jurisdiction," that, I think, prevents the court from considering that question, because the sole question under the head of jurisdiction would be whether or not the Commission had exceeded its powers as defined in the statute.

Mr. SPOONER. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Wisconsin?

Mr. RAYNER. I do.

Mr. SPOONER. If the Commission fixes a rate unreasonably and unjustly low, would it be within or without the authority conferred by the statute?

Mr. LONG. It was impossible to hear the Senator from Wisconsin in this part of the Chamber.

Mr. SPOONER. My question was, If the Commission fixes a rate unreasonably low, would it be within or without the authority conferred by the statute on the Commission?

Mr. RAYNER. In my judgment it would be absolutely within the law, and the court would have a right to review it under the Allison amendment, but not under the Long amendment I have now duplicated and offered.

If the Allison amendment was not here the courts would have no right to inquire into the question whether or not the rate fixed by the Commission was in accordance with the reasonable standard provided for by Congress. My whole argument is that under the Allison amendment you give the courts the power not to determine the constitutional question whether or not the property of a carrier had been taken without just compensation, but to inquire into the proposition in every case whether the rate fixed by the Commission, or the regulation or practice adopted by the Commission, was reasonable in accordance with the standard here legislated by Congress, and the two propositions are different.

Mr. SPOONER. If the Commission fixes a rate unreasonably low, would it not be a violation of the Constitution?

Mr. RAYNER. In what respect, I should like to ask the Senator from Wisconsin, unless it took the property of the carrier without just compensation?

Mr. SPOONER. If unreasonably low, would it be just compensation under the Constitution?

Mr. RAYNER. It may undoubtedly be unreasonably low, and still afford just compensation to the carrier. It may be unreasonably low so far as the carrier is concerned, and still not deprive the carrier of just compensation under the Constitution. There is a broad margin between those two propositions.

Mr. ALDRICH. That is what I was wondering about. I was very curious to hear what the Senator from Maryland would say in answer to the question of the Senator. I am awaiting his answer with great interest.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Minnesota?

Mr. NELSON. I rise to a point of order.

The VICE-PRESIDENT. The Senator from Minnesota will state his point of order.

Mr. NELSON. As I understand the situation, last night the Senator from Illinois [Mr. CULLOM] offered an amendment, which was pending, and then the Senator from Maryland [Mr. RAYNER] offered a substitute, or an amendment to that amendment. Those are the two propositions that are pending, and at this time the amendment of the Senator from Texas can not be in order. I call the attention of the Chair to page 6900 of the RECORD. So the question now is upon the amendment of the Senator from Maryland to the amendment of the Senator from Illinois.

The VICE-PRESIDENT. That is as the Chair stated it. The question is on agreeing to the amendment proposed by the Senator from Maryland to the amendment.

Mr. RAYNER. Mr. President, I did not intend to make any remarks at all this morning.

Mr. GALLINGER. Will the Senator kindly allow me to offer an amendment to the pending bill, to be printed? I submit a proposed amendment, which need not be read. I ask that it be printed.

The VICE-PRESIDENT. The amendment will be printed, and lie on the table.

Mr. RAYNER. As I have said, I did not intend to make any further remarks this morning. I do not see that I accomplish anything, practically; but the question has been asked and I propose to answer it. I answer it in this way: I say that this present amendment opens up the whole case for a new trial in the courts. The first amendment submitted by the Senator from Kansas [Mr. LONG] only confers upon the court the right to try the question whether the property of the carrier has been taken without just compensation or whether the Commission has exceeded its jurisdiction or authority. I have used the words "jurisdiction" and "authority" interchangeably. I like the word "jurisdiction" much better, but I am inclined to think "authority" answers the same purpose.

Now, I want to answer the question of the Senator from Wisconsin by a practical illustration. Suppose the Commission fixed the rate between Baltimore and Washington. We will say the rate now is a dollar. Suppose it fixed the rate at 90 cents. That would be unreasonably low by comparison; and the Baltimore and Ohio Railroad could show, perhaps, that the rate of 90 cents or 80 cents would be unreasonably low, because the comparison is the test. The Supreme Court has held that comparison is the best test. But it would be impossible for the railroad to show that the rate of 90 cents has taken its property without just compensation, within the meaning of the fifth amendment. It could not possibly do it. Under the first amendment of the Senator from Kansas, which I am in favor of, it would be compelled to do it. Under this amendment, which confers upon the court the jurisdiction to suspend, to set aside or annul any rate, a carrier would have a right to show that that rate is un-

reasonably low. That is the distinction between the two propositions.

I wanted to say this yesterday, if I had had time, that this proposition opens the courts to the whole inquiry that is before the Commission, and the constitutional review only opens the court to the proposition whether or not the property of the carrier has been taken without just compensation. Let me read you what this review opens the courts to. Of course, if any Senator can not see any distinction between these two propositions, it is not my fault—the distinction between a rate that is unreasonably low between a carrier and a shipper, and a rate that takes away the property of the carrier without just compensation.

Let me read to the Senator from Rhode Island [Mr. ALDRICH] what the court will inquire into in an action where the whole case goes into court, as it does under the Allison amendment. I read from a text writer upon this subject—from the "Annotated Interstate Commerce Act and Federal Anti-Trust Laws," by Snyder. It is a very valuable book. Here is the proposition that the court will inquire into:

> First, amount of through and local business; bonded debt; bulk; character of commodity; comparison of rates; cost of service; distance; former rates; geographical situation; return loads; special train service; value of freight; weight—

And a dozen other propositions that this text writer has given, that the court inquires into when the whole case goes before the court as it does under the present law.

Mr. NELSON. Will the Senator allow me a question?

Mr. RAYNER. I have only fifteen minutes, and as the Senator from Minnesota will have fifteen minutes of his own time I hope he will allow me to proceed.

The VICE-PRESIDENT. The Senator from Maryland declines to yield.

Mr. RAYNER. How much time have I remaining? It is impossible with these interruptions to tell.

The VICE-PRESIDENT. The Senator has one minute and a half more.

Mr. RAYNER. I do not think I have spoken thirteen and a half minutes.

The VICE-PRESIDENT. The Senator from Maryland took the floor at 11 o'clock and 15 minutes, according to the record of the Secretary. The Chair will state for the benefit of Senators that the time consumed by interruptions is deducted from the fifteen minutes. A Senator has it within his own power to control his time absolutely by objecting to interruptions.

Mr. RAYNER. The first part of these remarks was taken up in answering the Senator from Texas, who asked me a question in his own time.

Mr. ALDRICH. Oh, no.

Mr. RAYNER. I was not on the floor. Now, I want to state to the Senator from Rhode Island that I will get the fifteen minutes, and I will answer the question before this amendment is voted on.

Mr. ALDRICH. I hope the Senator will.

Mr. RAYNER. I will get the floor if I want it, and I will answer the question. The Senator from Rhode Island seems to be in a great hurry now, though in the last four or five weeks he was in favor of delaying this bill. Now when we have this pivotal matter before us he wants to rush it through; but I will try to prevent it with all the zeal I can and whatever ability I have if I desire to obtain the floor again.

Mr. LONG. Mr. President, the amendment offered by the Senator from Maryland to the amendment of the Senator from Iowa [Mr. ALLISON] is not the amendment that I proposed some weeks since and had printed. As I stated yesterday, I believe that the action of the courts would be the same under the amendment which I proposed as under the amendment of the Senator from Iowa. Under both these amendments or without any amendment to the House bill as to a court review, the question would be presented whether under section 4 of this bill, which amends section 15 of the present law, the courts would review and revise the discretion of the Commission. That section is the foundation stone of this legislation. Certain powers and duties are imposed upon the Interstate Commerce Commission. It is empowered to determine and prescribe a rate which in its judgment is just and reasonable. Discretion is lodged by Congress in the Commission by these words, and that being the case, under the amendment of the Senator from Iowa, under my amendment, or under the House bill without any amendment, the following propositions sustained by the decisions of the Supreme Court are applicable:

First. *As a general rule when Congress confides to a public officer or tribunal the performance of a specific duty which requires the exercise of discretion and judgment, the finding of the officer or tribunal upon the facts presented is conclusive, and while subject to judicial review, the finding or judgment will not be disturbed by the courts unless there is a statutory provision which shows that Congress intended the courts to consider all the facts and revise the judgment or discretion of the officer or tribunal.*

This doctrine is so firmly established by the decisions of the Supreme Court that it is hardly necessary to refer to cases. It was announced by Justice Story in the United States circuit court in the case of Allen *v.* Blunt (3 Story, 745), in which he said:

> In short, it may be laid down as a general rule that where a particular authority is confided to a public officer to be exercised by him in his discretion upon an examination of facts, of which he is made the appropriate judge, his decision upon these facts is, in the absence of any controlling provisions, absolutely conclusive as to the existence of those facts.

The above decision was rendered in 1845, and was followed by the Supreme Court, and quoted with approval in United States *v.* Wright (11 Wallace, 650), in which the court, speaking of the authority of the Postmaster-General to conclusively determine a matter that had been confided to him by Congress, said:

> Congress constituted him the sole judge to determine not only whether the exigencies in the case had arisen, but, if they had, the manner and extent of the allowance, and it is not competent for court or jury to revise his decision, nor is it reexaminable anywhere else, as there is no provision in the law to that effect.

The leading case which has been cited or referred to in all other cases since decided was that of Murray's Lessee *v.* Hoboken (18 Howard, 284), handed down in 1855, in which Justice Curtis, speaking for the court, said:

> To avoid misconstruction upon so grave a subject, we think it proper to state that we do not consider Congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty; nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination. At the same time there are matters, involving public rights, which may be presented in such form that the judicial power is capable of acting on them, and which are susceptible of judicial determination, but which Congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper. Equitable claims to land by the inhabitants of ceded territories form a striking instance of such a class of cases; and as it depends upon the will of Congress whether a remedy in the courts shall be allowed at all, in such cases, they may regulate it and prescribe such rules of determination as they may think just and needful. Thus it has been repeatedly decided in this class of cases, that upon their trial the acts of executive officers, done under the authority of Congress, were conclusive, either upon particular facts involved in the inquiry or upon the whole title. (Foley *v.* Harrison, 15 How., 433; Burgess *v.* Gray, 16 How., 48; ——— *v.* The Minnesota Mining Company at the present term.)
>
> It is true, also, that even in a suit between private persons to try a question of private right, the action of the executive power, upon a matter committed to its determination by the Constitution and laws, is conclusive. (Luther *v.* Borden, 7 How., 1; Doc *v.* Braden, 16 How., 635.)

In the above case it was clearly decided that there were matters involving public rights which Congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper; that it depends upon the will of Congress whether a remedy in the courts will be allowed at all, and that Congress may regulate it and prescribe such rules as it may deem just and needful. The court clearly states that, in this class of cases, the acts of executive officers, done under the authority of Congress, were conclusive.

In Nishimura *v.* United States (142 U. S., 660), Justice Gray announced the same doctrine and used the following language:

> And Congress may, if it sees fit, as in the statutes in question in United States *v.* Jung Ah Lung, just cited, authorize the courts to investigate and ascertain the facts on which the right to land depends. But, on the other hand, the final determination of those facts may be entrusted by Congress to executive officers; and in such a case, as in all others, in which a statute gives a discretionary power to an officer, to be exercised by him upon his own opinion of certain facts, he is made the sole and exclusive judge of the existence of those facts, and no other tribunal, *unless expressly authorized by law to do so*, is at liberty to reexamine or controvert the sufficiency of the evidence on which he acted. (Martin *v.* Mott, 12 Wheat., 19, 31; Philadelphia and Trenton Railroad *v.* Stimpson, 14 Pet., 448, 458; Benson *v.* McMahon, 127 U. S., 457; In re Oteiza, 136 U. S., 330.)

It will be observed that Justice Gray made the same distinction that had been made by Justice Curtis in the previous case, and stated that Congress might, if it saw fit, authorize the courts to investigate and ascertain the facts upon which the right to admission into the United States depends. But, on the other hand, Congress might intrust the final determination of those facts to executive officers, and that in such a case, as in all others, in which a statute gives discretionary power to an officer to be exercised by him upon his own opinion of certain facts, he is made the sole and exclusive judge of the existence of those facts, and no other tribunal, unless expressly authorized by law to do so, is at liberty to reexamine or controvert the sufficiency of the evidence on which he acted.

In Fong Yue Ting *v.* United States (149 U. S., 712) Justice Gray reaffirmed the same doctrine, and stated that the power to

exclude aliens is regulated by treaty or act of Congress, and the duty being imposed upon the Executive the judicial department would not interfere unless authorized by treaty or by statute, or unless required to do so by the paramount law of the Constitution.

In Lem Moon Sing *v.* United States (158 U. S., 546) Justice Harlan, for the court, said:

> The remedy of the appellant was by appeal to the Secretary of the Treasury from the decision of his subordinate, and not to the courts. If the act of 1894 had done nothing more than appropriate money to enforce the Chinese-exclusion act, the courts would have been authorized to protect any right the appellant had to enter the country if he was of the class entitled to admission under existing laws or treaties, and was improperly excluded. But when Congress went further, and declared that in every case of an alien excluded by the decision of the appropriate immigration or customs officers "from admission into the United States under any law or treaty," such decision should be final, unless reversed by the Secretary of the Treasury, the authority of the courts to review the decision of the executive officers was taken away. (United States *v.* Rogers, 65 Fed. Rep., 787.) If the act of 1894, thus construed, takes away from the alien appellant any right given by previous laws or treaties to reenter the country, the authority of Congress to do even that can not be questioned, although it is the duty of the courts not to construe an act of Congress as modifying or annulling a treaty made with another nation, unless its words clearly and plainly point to such a construction.

It will be seen that the above case follows the same doctrine of the previous cases, holding that Congress had the power to determine the procedure for the exclusion of aliens. Under acts previous to that of 1894 the courts had been authorized to investigate the facts and determine certain questions. But in the act of 1894 Congress said that the decision of the immigration officer was final, unless reversed by the Secretary of the Treasury, and the Supreme Court decided that the authority to review the decisions of the executive officers was taken away by this act. In the same case the court decided that as the question had been constitutionally committed by Congress to officers of the Executive Department that their determination was final.

In Travelers' Insurance Company *v.* Connecticut (185 U. S., 371), Justice Brewer, for the court, said that the courts are not authorized to substitute their views for those of the legislature in a taxation case.

In Japanese Immigration case (189 U. S., 97) Justice Harlan, for the court, said:

> The constitutionality of the legislation in question, in its general aspects, is no longer open to discussion in this court. That Congress may exclude aliens of a particular race from the United States; prescribe the terms and conditions upon which certain classes of aliens may come to this country; establish regulations for sending out of the country such aliens as come here in violation of law; and commit the enforcement of such provisions, conditions, and regulations exclusively to executive officers, *without judicial intervention*, are principles firmly established by the decisions of this court. (Nishimura Ekiu *v.* United States, 142 U. S., 651; Fong Yue Ting *v.* United States, 149 U. S., 698; Lem Moon Sing *v.* United States, 158 U. S., 538; Wong Wing *v.* United States, 163 U. S., 228; Fok Yung Yo *v.* United States, 185 U. S., 296, 305.)

It will be observed that in this case the power of Congress to commit the enforcement of the exclusion laws to executive officers, without judicial intervention, was considered to be firmly established. To the same effect is the case of Riverside Oil Company *v.* Hitchcock (194 U. S., 324), in which Justice Peckham, for the court, announced the doctrine that neither injunction nor mandamus would lie against an officer of the land deparment to control him in discharging an official duty which required the exercise of his judgment and discretion. Speaking of the Secretary of the Interior, to whom had been committed the duty of deciding certain questions, Justice Peckham said:

> Whether he decided right or wrong, is not the question. Having jurisdiction to decide at all, he had necessarily jurisdiction, and it was his duty to decide as he thought the law was, and the courts have no power whatever under those circumstances to review his determination by a mandamus or injunction. The court has no general supervisory power over the officers of the land department, by which to control their decision upon questions within their jurisdiction. If this writ were granted we would require the Secretary of the Interior to repudiate and disaffirm a decision which he regarded it his duty to make in the exercise of that judgment which is reposed in him by law, and we should require him to come to a determination upon the issues involved directly opposite to that which he had reached, and which the law conferred upon him the jurisdiction to make. Mandamus has never been regarded as the proper writ to control the judgment and discretion of an officer as to the decision of a matter which the law gave him power and imposed upon him the duty to decide for himself. The writ never can be used as a substitute for a writ of error. Nor does the fact that no writ of error will lie in such a case as this, by which to review the judgment of the Secretary, furnish any foundation for the claim that mandamus may therefore be awarded. The responsibility as well as the power rests with the Secretary, uncontrolled by the courts.

Justice Brown, in Bates *v.* Payne (194 U. S., 108), for the court, announced the same rule in the following language:

> But there is another class of cases in which the rule is somewhat differently, and perhaps more broadly, stated, and that is, that where Congress has committed to the head of a Department certain duties requiring the exercise of *judgment and discretion*, his action thereon, whether it involve questions of law or fact, will not be reviewed by the courts, unless he has exceeded his authority or this court should be of opinion that his action was clearly wrong.

He further said:

> The rule upon this subject may be summarized as follows: That where the decision of questions of fact is committed by Congress to the *judgment and discretion* of the head of a Department, his decision thereon is conclusive; and that even upon mixed questions of law and fact, or of law alone, his action will carry with it a strong presumption of its correctness, and the courts will not ordinarily review it, although they may have the power, and will occasionally exercise the right of so doing.

In the Public Clearing House *v.* Coyne (194 U. S., 508) Justice Brown, in delivering the opinion of the court, stated that most of the matters presented to the Departments required for their solution the judgment or discretion of the head of the Department, and in many cases, notably those connected with the disposition of the public lands, the action of the Department is accepted and followed by the courts, and even when involving questions of law there is a strong presumption of its correctness.

In United States *v.* Ju Toy (198 U. S., 263) Justice Holmes, delivering the opinion of the court, said that even though the Fifth Amendment did apply to one seeking entrance to this country, and to deny him admission may deprive him of liberty, yet due process of law does not necessarily require a judicial trial, and Congress may intrust the decision of his right to enter to an executive officer, whose decision in the matter is final and not subject to review by the courts.

In the case of Pittsburg Railway Company *v.* Backus (154 U. S., 434) Justice Brewer, for the court, stated the rule in the following language:

> Whenever a question of fact is thus submitted to the determination of a special tribunal, its decision creates something more than a mere presumption of fact, and if such determination comes into inquiry before the courts it can not be overthrown by evidence going only to show that the fact was otherwise than as so found and determined.

In order that the determination of an executive officer upon an investigation made of certain facts on a subject committed by Congress to the determination of that officer shall be conclusive, the words of the statute must show that it was the intention of Congress to leave the determination of the question to the judgment or discretion of the officer or board.

In section 3929 of the Revised Statutes, being the statute authorizing the Postmaster-General to close the mails to lotteries, gift enterprises, etc., the statute says:

> The Postmaster-General may, upon evidence satisfactory to him that any person is engaged in conducting any fraudulent lottery, etc.

In the case of Buttfield *v.* Stranahan (192 U. S., 470) the act of March 2, 1897, in relation to tea, was sustained. By section 3 of that act the Secretary of the Treasury, upon the recommendation of a board that he was to appoint, was authorized to fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States, etc., and it provided that all teas or merchandise described as teas of inferior quality and fitness for consumption to such standard, should be deemed to be within the prohibition of the section of the act which provided that all teas which were inferior to certain standards should not be imported.

In the case of Field *v.* Clark (143 U. S., 680) section 3 of the act of October 1, 1890, was sustained, and by that act the President was authorized to suspend the free introduction of certain articles into the United States and impose certain duties upon them when the President *shall be satisfied* that a foreign government imposes duties on our products which he may deem to be reciprocally unequal and unreasonable.

In all these acts which have been sustained as not conferring legislative power, words are used which clearly show the intention of Congress to lodge in the executive officer discretion and the power to use his judgment in the decision of certain facts.

In section 4 of this bill authority is given to the Interstate Commerce Commission, when it shall be of the opinion that rates made by a carrier are unjust and unreasonable, to determine and prescribe what shall in its judgment be a just, reasonable rate, to be thereafter observed as a maximum to be charged. These words clearly show the intent of Congress to confer upon the Commission a discretion in determining what are just and reasonable rates, and these words, or language of the same import, are necessary in order that the power conferred upon the Commission shall be of any substantial worth.

In construing the present interstate-commerce law the Supreme Court, under the statute providing that the findings of the Commission are to be taken as prima facie evidence in court, has decided it is the duty of the Commission to investigate the facts, and then the court will give great weight to the findings of the Commission, and will not set them aside except in cases where they were clearly wrong.

In the case of Texas and Pacific Railway *v.* Interstate Commerce Commission (162 U. S., 238) Justice Shiras, in delivering the opinion of the court, said:

> The defendant was entitled to have its defence considered, in the first instance at least, by the Commission upon a full consideration

of all the circumstances and conditions upon which a legitimate order could be founded. The questions whether certain charges were reasonable or otherwise, whether certain discriminations were due or undue, were questions of fact, to be passed upon by the Commission in the light of all facts duly alleged and supported by competent evidence, and it did not comport with the true scheme of the statute that the circuit court of appeals should undertake, of its own motion, to find and pass upon such questions of fact, in a case in the position in which the present one was.

We do not, of course, mean to imply that the Commission may not directly institute proceedings in a circuit court of the United States charging a common carrier with disregard of provisions of the act, and that thus it may become the duty of the court to try the case in the first instance. Nor can it be denied that, even when a petition is filed by the Commission for the purpose of enforcing an order of its own, the court is authorized to "hear and determine the matter as a court of equity," which necessarily implies that the court is not concluded by the findings or conclusions of the Commission; yet as the act provides that, on such hearing, the findings of fact in the report of said Commission shall be prima facie evidence of the matters therein stated, we think it plain that if, in such a case, the Commission has failed in its proceedings to give notice to the alleged offender, or has unduly restricted its inquiries upon a mistaken view of the law, the court ought not to accept the findings of the Commission as a legal basis for its own action, but should either inquire into the facts on its own account, or send the case back to the Commission to be lawfully proceeded in.

In the case of the Louisville Railroad Company *v.* Behlmer (175 U. S., 675), Justice White in delivering the opinion of the court said:

If, then, we were to undertake the duty of weighing the evidence, in this record, we would be called upon, as a matter of original action, to investigate all these serious considerations which were shut out from view by the Commission, and were not weighed by the circuit court of appeals, because both the Commission and the court erroneously construed the statute. But the law attributes prima facie effect to the findings of fact made by the Commission, and that body, from the nature of its organization and the duties imposed upon it by the statute, is peculiarly competent to pass upon questions of fact of the character here arising.

In the case of East Tennessee Railway Company *v.* Interstate Commerce Commission (181 U. S. 27), Justice White, in delivering the opinion of the court, said:

To state these issues is at once to demonstrate that their decision, as a matter of first impression, properly belonged to the Commission, since upon that body the law has specially imposed the duty of considering them. Whilst the court has in the discharge of its duty been at times constrained to correct erroneous constructions which have been put by the Commission upon the statute, it has steadily refused, because of the fact just stated, to assume to exert its original judgment of the facts, where, under the statute, it was entitled, before approaching the facts, to the aid which must necessarily be afforded by the previous enlightened judgment of the Commission upon such subjects.

These decisions are under the present statute in which the Commission is not given authority to determine and prescribe a reasonable maximum rate to take the place of one that it condemns. This bill imposes that duty upon the Commission, and under the decisions above quoted I believe the courts will follow the rule above referred to.

Second. *It must not be inferred that the courts can not review or set aside determinations of officers or tribunals to which Congress has confided certain duties. Their action or determinaton is always set aside when they act beyond the authority of the law which authorized them to act at all.*

It is scarcely necessary to refer to authorities to support the above proposition. The jurisdiction of such subordinate tribunals is, of necessity, limited and they can only act within the scope of the authority given them by Congress. One of the latest cases decided by the Supreme Court is that of School of Magnetic Healing *v.* McAnnulty (187 U. S., 108), in which Justice Peckham discussed the limitations under which an executive officer acts, to whom Congress committed a certain duty. He said:

That the conduct of the Post-Office is a part of the administrative department of the Government is entirely true, but that does not necessarily and always oust the courts of jurisdiction to grant relief to a party aggrieved by any action by the head or one of the subordinate officials of that department which is unauthorized by the statute under which he assumes to act. The acts of all its officers must be justified by some law, and in case an official violates the law to the injury of an individual the courts generally have jurisdiction to grant relief.

The land department of the United States is administrative in its character, and it has been frequently held by this court that, in the administration of the public-land system of the United States, questions of fact are for the consideration and judgment of the land department, and its judgment thereon is final. (Burfenning *v.* Chicago, etc., Railway Company, 163 U. S., 321; Johnson *v.* Drew, 171 U. S., 93, 99; Gardner *v.* Bonestell, 180 U. S., 362.)

While the analogy between the above-cited cases and the one now before us is not perfect, yet even in them it is held that the decisions of the officers of the department upon questions of law do not conclude the courts, and they have power to grant relief to an individual aggrieved by an erroneous decision of a legal question by department officers.

He further said:

The facts, which are here admitted of record, show that the case is not one which by any construction of those facts is covered or provided for by the statutes under which the Postmaster-General has assumed to act, and his determination that those admitted facts do authorize his action is a clear mistake of law as applied to the admitted facts, and the courts, therefore, must have power in a proper proceeding to grant relief. Otherwise, the individual is left to the absolutely uncontrolled and arbitrary action of a public and administrative officer, whose action is unauthorized by any law and is in violation of the rights of the individual. Where the action of such an officer is thus unauthorized he thereby violates the property rights of the person whose letters are withheld.

The above case establishes the doctrine that where an executive officer is authorized by Congress to perform an administrative function, that his acts, beyond the scope of his authority, are void, and if he misconstrues the law relief may be had by injunction in the courts to restrain his illegal and unauthorized acts.

In the case of Public Clearing House *v.* Coyne (194 U. S., 508) Justice Brown, in construing the McAnnulty case above referred to, stated that the constitutionality of a law authorizing the Postmaster-General to make seizure of certain kinds of mail was assumed, the only reservation being that the person injured may apply to the courts for redress in case the Postmaster-General has exceeded his authority, or his action is palpably wrong. Many more cases might be cited, showing that while the courts will not review or revise the discretion of an officer to whom Congress confided certain duties, yet when that officer exceeded his authority or acts without warrant of law, his illegal acts will be restrained by the courts.

In the Reagan case (154 U. S., 362), to which I referred yesterday, there was an examination of the justness and reasonableness of rates made by the Texas commission, but only to ascertain whether any constitutional right of the carrier had been invaded or the commission had exceeded its authority. The railroad law of Texas has the broadest kind of review. It was construed by the supreme court of that State in The Railroad Commission case (90 Texas, 363) as imposing the duty upon the court to examine into the whole question irrespective of the finding of the commission. Yet the Supreme Court of the United States in considering an order of the Texas commission confined itself to the question as to whether or not the rates were so low as not to give the carrier a fair return on the property that was employed in the service.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Texas?

Mr. LONG. Certainly.

Mr. CULBERSON. Before the Senator from Kansas passes from the Reagan case, I call his attention to the fact that, as I understand the law, he states that case too broadly when he says that it permits a broad review as to whether a rate is just or reasonable. If he will turn to that case and examine it, especially the statement——

Mr. LONG. I can not hear what the Senator says.

Mr. CULBERSON. If the Senator will turn to the statement of that case, which contains the law on the subject, he will find that there is an absolute prohibition against an examination of the justness of the rate as between the individual shipper and the carrier. The statute, in the second place, provides that in a single suit brought by a railroad company against the railroad commission of Texas the reasonableness of the rates may be inquired into. To that extent it is a broad review, and it does not permit any inquiry at all into the reasonableness of the rate as between the individual shipper and the carrier.

Mr. LONG. It permits the carrier in a suit that it may bring against the Commission to show that the rates or charges complained of are unreasonable and unjust to it or to them, and that is the whole question. It permits them to do this independently of what the finding of the Commission may have been.

In the Railway Commission case (90 Tex., 363), the court said:

It is true that the courts have established the rule that the reasonableness and justice of rates fixed by the legislature, or by a commission empowered by it so to do, are ordinarily questions committed to the discretion of those bodies and not subject to revision by the courts, but in such cases the law did not authorize any revision of such action by the judicial department.

This case was followed in Railway Commission case (96 Texas, 394).

Third. *The Supreme Court has decided that when a rate made by legislative authority, either by the legislature direct or through the assistance of a commission, is challenged in court, that the court will only inquire into the question whether the rate is so low as not to afford a fair return on the property employed in performing the service. The decision of the commission is final on all questions, except when constitutional rights are involved or when the commission acts beyond the authority of the law.*

A trial before a board or executive officer has been determined to be due process of law when Congress has committed to such

an officer a certain duty to perform according to his judgment, but it is not due process of law when the question of a rate made by legislative authority is under consideration. In such a case due process of law means a trial in a court of justice, and was so decided in the Minnesota Milk case (134 U. S., 459). In that case the constitutional rights of the carrier were invaded, and the court decided that it was entitled to a hearing in a court of justice on the determination of those questions, but it has never decided that without special statutory authority a court will review the justness and reasonableness of rates made by a commission. In determining whether a rate is just and reasonable a great many elements are taken into consideration by the carrier or by a commission in making a rate. The questions of wisdom and policy are involved, and these questions will not be reviewed by the court.

The court will, without any special authority by statute, inquire whether a rate made by Congress direct, or through the assistance of a commission, is so high as to be extortionate to the shipper, or so low as to be confiscatory to the carrier.

Justice Brewer, while judge of the United States circuit court, in the Chicago Northwestern Railway Company *v.* Dey (35 Fed. Rep., 874), laid down the following rule for judicial interference of rates made by legislative authority. He said:

> It is obvious from these last quotations that the mere fact that the legislature has pursued the forms of law in prescribing a schedule of rates does not prevent inquiry by the courts, and the question is open, and must be decided in each case, whether the rates prescribed are within the limits of legislative power, or mere proceedings which, in the end, if not restrained, will work a confiscation of the property of complainant. Of course, some rule must exist, fixed and definite, to control the action of the courts, for it can not be that a chancellor is at liberty to substitute his discretion as to the reasonableness of rates for that of the legislature. The legislature has the discretion, and the general rule is that where any officer or board has discretion, its acts within the limits of that discretion are not subject to review by the courts.

The following extracts from Walter C. Noyes's book on American Railroad Rates, pages 211, 212, and 213, agree with the above opinion of Judge Brewer:

> The standard of reasonableness applied by the courts in determining the validity of a schedule of rates prescribed by legislative authority is essentially different from that considered in a controversy between a shipper and the railroad. As we have seen, the courts, under the common law, have power to pass upon the reasonableness of the charges of common carriers. In determining the question of reasonableness, the courts must consider all the factors entering into the rate. They may substitute their judgment of a just and proper charge for that of the carrier. But the courts can not substitute their judgment of a reasonable rate in place of that of the legislature or the legislature's subordinate body. The act of the legislature in fixing a rate is a law that such shall be the rate. The courts can no more question its expediency or propriety than in the case of any other law. It is immaterial whether they think, under all the circumstances, that it should have been greater or less. The courts have nothing to do with legislative-made rates except to determine whether they violate constitutional provisions. The inquiry is whether the rates prescribed by law are so unreasonably low as to infringe the property rights of the railroad. The duty of the courts is to determine whether the rates are confiscatory, not whether they are fair between shipper and carrier. * * * And it makes no difference that the statute empowering the Commission to act provides that rates shall be reasonable and just. This is a general rule for the Commission, but the discretion to be exercised in determining what rates *are* reasonable and just is the discretion of the Commission upon which the discretionary power has been conferred, and not of the courts upon which the power has not been conferred.

If the decision of the Commission is not to be final on such questions, why have a commission at all? If Congress imposes the duty upon the Commission of ascertaining what is a just and reasonable rate, then its decisions should be conclusive, unless it makes a rate that compels the carrier to perform a service without a fair return on the property employed in the service. It is the question of an adequate and fair return that the courts will inquire into, and upon which the determination of the Commission is not final. On all other questions before the Commission its decisions should be final and conclusive, as they will be, unless we place in this bill a provision authorizing the courts to review the justness and reasonableness of the rate fixed, aside from the constitutional question as to whether it affords a fair return, and then, I believe, the courts would not perform that duty, but possibly declare the whole act void.

I see no need of a commission if all of its acts are to be subject to be set aside by the courts. The court will not inquire into the whole case and try it de novo, unless there is special statutory authority to do so, and it will not review or revise the discretion of the Commission or set aside its orders unless the rate fixed is so low as not to afford a fair return on the property employed in the service. This is a judicial function that we can not and should not attempt to take away from the courts. The inquiry before the Commission on this point is not due process of law, but this question must be tried in a court. If the Commission fixes a rate so low that it does not afford a fair return, then it would be taking the property of the carrier without due process of law to put the rate immediately into effect and keep it in effect until the final hearing of the case. If the rate is fixed so low by the Commission that it does not afford a fair return on the property employed, the carrier can not be compelled to accept such a rate for a single day, and Congress can not take from the courts the power to grant a carrier immediate relief under such circumstances. If a carrier can demand a trial in court on this question of a fair return and prevent the Commission from permanently taking his property, it can not be prevented from having the right to prevent the temporary taking of his property unless there has been a trial of this question in a court where due process of law can be secured.

On the constitutional question as to whether the rate affords a fair return on the property employed, the hearing before the Commission is not due process of law, and the rate can not be enforced for a single day unless it affords a fair return on the property employed.

The constitutionality of State statutes authorizing the fixing of rates by a commission was sustained in the two leading cases, the Railroad Commission case (116 U. S., 307) and the Reagan case (154 U. S., 362). Justice Brewer, in the Maximum Rate case (167 U. S., 479), said:

> Congress might itself prescribe the rates, or it might commit to some subordinate tribunal this duty.

That this is not a delegation of legislative power is shown by the cases of Field *v.* Clark (143 U. S., 680) and Buttfield *v.* Stranahan (192 U. S., 496). If Congress can not fix rates through the instrumentality of a commission it can not be done at all. Congress can provide that rates shall be just and reasonable and then leave to a commission the duty of ascertaining the facts and fixing the rate according to this standard. As was said by Justice White in the Stranahan case:

> Congress legislated on the subject as far as was reasonably practicable, and from the necessities of the case was compelled to leave to executive officials the duty of bringing about the result pointed out by the statute. To deny the power of Congress to delegate such a duty would, in effect, amount but to declaring that the plenary power vested in Congress to regulate foreign commerce could not be efficaciously exerted.

If Congress can not fix rates in the manner prescribed in this bill, then the only other course to be pursued is to delegate to a commission the power to fix just and reasonable rates and then report its proceedings to Congress for approval.

This would not be practicable, for Congress could not approve every rate fixed by the Commission, and its approval would generally be of but little value on account of lack of definite information. Justice Brewer, in the recent Michigan tax case, said that the duty of local assessors was to act *according to their judgments* in respect to local taxes committed to their charge. That when they had finished their action, it must be assumed to have been taken in a conscientious discharge of the duties assumed. If the legislature should be convened after they had finished their action, and approve their acts, no question could be raised as to its validity. He asks the question whether it is any the less a legislative determination that the legislature assumes that the various local officials will discharge their duties honestly and fairly. He asks why is it necessary that the legislature be convened to add its formal approval of the integrity of the action of the local officers. So in this case, it may be assumed that when Congress fixes the standard of rates—something that must be just and reasonable—and then confides to a commission the duty of ascertaining the facts and applying the standard, it must be assumed that the commission will exercise an honest judgment and discretion, and that judgment will not be revised or reviewed by the courts if the commission acts within the scope of its authority and does not fix a maximum rate that is so low that it does not afford a fair return on the property employed. If the commission acts beyond the scope of its authority under the law or fixes a rate that does not afford just compensation, then the courts will restrain its action at the suit of anyone that has been injured by its orders.

The bill under consideration, either with or without the amendment of the Senator from Iowa [Mr. ALLISON], does not prevent a court from inquiring into the question whether an order made by the Commission takes the property of the carrier or the shipper without just compensation. It recognizes the right of review in the courts, but does not enlarge or restrict the present jurisdiction of the court. Unless this jurisdiction is enlarged by an amendment, the courts will only consider whether the Commission acted within the authority of the law or whether the rate is so high as to take the property of the shipper, or so low as to take the property of the carrier, without just compensation. The courts will not attempt to decide whether the rate is just and reasonable as between the shipper and the carrier. They will only determine the question of just compensation. If Congress confides to the Commission the duty of making a rate that is just and reasonable as be-

tween the shipper and carrier, in performing that duty the Commission must exercise its discretion and judgment. If it does not abuse its discretion and makes a rate that is so high that it takes the property of the shipper or so low that it takes the property of the carrier without just compensation, then the courts will not disturb the rate on review, unless there is a provision placed in this bill authorizing the courts to ascertain whether the rate is just and reasonable. If this is done and the courts assume this duty, then there is no necessity for having the Commission fix the rate. If they do not assume it, then the whole law may be declared invalid. Section 15, of the bill, as it passed the House, provides that when, in the *opinion* of the Commission the rates of a carrier are unjust or unreasonable, then it shall determine and prescribe what will, *in its judgment*, be a just and reasonable rate. These words evidently mean that Congress intends that the Commission shall exercise its judgment and discretion, and if so, "its acts within the limits of that discretion are not subject to review," quoting Judge Brewer in the case above referred to.

The amendment proposed by the Senator from Iowa [Mr. ALLISON], which provides that the United States circuit courts shall have jurisdiction to hear and determine suits against the Commission, makes only clear and definite what I believe to be in the bill as it passed the House of Representatives. I believe that, Congress having clearly imposed a duty upon the Commission to determine and prescribe what is a just and reasonable rate, the courts will not revise or set aside its decision, except under the conditions that I have heretofore referred to. The purpose of the amendment is to make clear by an affirmative statement what is now in the bill. The courts will now inquire whether the rate is extortionate or confiscatory, but the question whether it is a just and reasonable rate is left for the Commission to determine, and the courts will not modify or revise the discretion of the Commission.

It must not be forgotten that the opponents of this bill have contended that, without a specific amendment showing that Congress intended the courts should have jurisdiction to hear and determine the *reasonableness* and *justness* of a rate, they will only determine whether the rate is extortionate or confiscatory. In order to interfere with the determination of the Commission, an amendment must be placed in this bill enlarging the jurisdiction of the courts. This the amendment of the Senator from Iowa does not attempt to do. The opponents of this measure have abandoned their efforts to put into it a court-review amendment that will transfer the whole controversy to the courts. Under this amendment the courts will only consider the two questions specifically designated in my amendment—whether the Commission has exceeded its authority and whether the constitutional rights of anyone have been invaded.

Those who are in favor of this legislation will be successful if the amendment of the Senator from Iowa is adopted, or if the bill is passed without a specific amendment providing for review by the courts.

The VICE-PRESIDENT. The Chair informs the Senator from Kansas that his time has expired.

Mr. McCUMBER. Mr. President, I intend to vote for the Allison amendment, which I believe represents the wishes of the friends of this bill not only in the Senate, but also that it has the concurrence of the President, who has shown himself to be friendly to the bill. In voting for this amendment, however, I shall vote for it upon my own construction of what it means, and not upon the construction that may be given to it by any other Senator. My construction I can place in a very few words. I do not need to go outside of the bill itself to determine what that proper construction shall be. On page 3 of this bill it is provided, in line 14:

> All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable.

Mr. President, that is the standard that is laid down by Congress—the primary power to fix rates to guide the Interstate Commerce Commission. That permission can not go either one side or the other of that standard. They are limited; they are bounded by it.

Now, if we will turn a little further in the bill, we will find that the language is somewhat different on page 10, where the Commission is required to fix the standard, because it says, on line 19, after a hearing the Commission has then the power—

> to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed, etc.

The only difference between those two propositions is that in this one the words "in its judgment" are inserted. Those words, however, can not control the first proposition, because Congress has no power to confer upon the Interstate Commerce Commission the right to determine, in its own judgment, without Congress fixing the standard what the rate shall be. Otherwise, it would be a clear delegation of legislative power. So we are back to the main proposition that the standard must be whether the rates are just and reasonable.

When we come to the Allison amendment upon the venue, we find this:

> The venue of suits brought in any of the circuit courts of the United States against the Commission to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be, etc.

And the closing words:

> And jurisdiction to hear and determine such suits is hereby vested in such courts.

Jurisdiction to hear and determine what? We confer upon the Commission the power to fix reasonable rates. What is reviewed, then? The question of whether or not the Commission has in its fixing of rates measured up to the standard that is fixed by Congress is reviewed, and that is the only thing, outside of the questions, which, of course, always may arise, as to whether or not their rates are so low that it would be confiscation of the property and subject to the restriction of the Constitution.

So, Mr. President, if the Commission should fix, under my construction, a rate which, we will say, grants but 1 per cent upon the investment—1 per cent on the net returns—I believe that under this construction the court would say, not whether that would be a destruction of the property but simply whether or not the rate would be just and reasonable. For my part, I believe that it ought to have that power. On the other hand, if it should fix a rate which would be 15 or 20 per cent, then, I believe, the court ought to have the power, upon a suit brought by the shipper himself, to reduce it within this standard. That is the reason I vote for this amendment, because it raises but that one single question of justness and reasonableness; and justness and reasonableness, under my construction, mean just compensation.

Mr. RAYNER. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Maryland?

Mr. McCUMBER. I yield.

Mr. RAYNER. Mr. President, does the Senator from North Dakota, then, believe that this amendment is broader than the original amendment offered by the Senator from Kansas [Mr. LONG]?

Mr. McCUMBER. I am inclined to think that, even under the original amendment offered by the Senator from Kansas, the courts could litigate the same thing, because we have fixed the standard, and the Commission is bound to follow that standard. I do not think that any amendment which has been offered changes that standard or the requirement of the Commission to make its rates in harmony with that particular standard.

Mr. President, that is about all that I have to say on the subject. I simply wanted to say to the Senate that I was going to vote for this amendment upon my own construction of what it meant. Though others might consider that it was broader or that it was narrower, I did not intend to bind myself to follow either of those constructions by my vote.

Mr. BACON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. I yield.

Mr. BACON. I should like to inquire of the Senator whether he considers the amendment offered by the Senator from Iowa [Mr. ALLISON] as one which could by any additional language be made any broader than it is in the matter of review?

Mr. McCUMBER. Oh, I think it possibly could be made broader, but if we made it broader to such an extent that the court would be permitted to substitute its own judgment as to what would be a just and reasonable rate for the judgment of the Commission, it would be clearly unconstitutional, because it would be fixing rates by the court, and we could grant no authority to the court to fix rates.

Mr. BACON. If the Senator will pardon me, he will recall that the amendment proposes to give the right of review, to enjoin, or set aside any order or any requirement. Now, I wish the Senator would accommodate me by suggesting what words can be used which would broaden that scope.

Mr. McCUMBER. There are other requirements than that of fixing rates. We have fixed a standard upon the question of rates——

Mr. BACON. The Senator will pardon me——

Mr. McCUMBER. That is a standard of justness and reasonableness.

Mr. BACON. If the Senator will pardon me, this amend-

ment does not limit it to an order or a requirement fixing rates, but it is any order or any requirement made by the Commission.

Mr. McCUMBER. I understand.

Mr. BACON. As a matter of curiosity, I should like to know if there is any other word in the English language which can be added to make that any broader than it is.

Mr. McCUMBER. We are speaking now of the reasonableness of rates and the construction that is to be given to this section as to whether or not it increases or enlarges the power of the courts, so that they can determine anything further than the question of the reasonableness and justness of rates. In reference to hundreds of other orders, no such question would necessarily arise. There might be an order requiring them to place in a spur; there might be an order requiring them to do many other things where the question of the justness or the reasonableness of it is not the standard; and where that is not the standard, as in the case of rates, then, of course, the decision, in my opinion, of the Commission would be conclusive unless it went so far as to be contrary to the constitutional provision.

Mr. BACON. I am speaking not of the construction the Senator from North Dakota has put upon the words, but I have asked him as a scholar to give me a single word out of the entire dictionary, which he can add to the words "any order or requirement," which will broaden the scope of these words—"any order or requirement of the Commission" is the language of the amendment. Now, out of the entire lexicon, will the Senator give me a word which will broaden the scope covered by those words?

Mr. McCUMBER. I do not think we can broaden the scope as to what may be considered. The court may consider any of those orders.

Mr. BACON. I am speaking about the language of the amendment, and I ask, can the Senator suggest any words, or any single word, in the English language, that would broaden the scope covered by the words "any order or requirement of the Commission?"

Mr. McCUMBER. I do not know that I entirely comprehend what the Senator is aiming at. He can probably make himself clear by an illustration, and then I will answer.

Mr. BACON. The proposed amendment gives to the courts the jurisdiction to enjoin or set aside any order or requirement made by the Commission. Now, I want to know if, in the opinion of the Senator, there is any word in the English language which can broaden the scope of the jurisdiction which those words would give to the courts if the amendment is adopted? I am not talking about the construction of the Senator, but I am talking about the words.

Mr. McCUMBER. Undoubtedly a set of words could be used, but I do not say that any one single word could broaden the jurisdiction.

Mr. BACON. Any one will do.

Mr. McCUMBER. I have tried to make plain to the Senator my contention that in the rehearing upon any other orders, except the orders to determine the reasonableness of a rate, there must be some interference with the constitutional protection of property rights; and, if there is none, then, under this amendment, I do not for a moment concede that the courts could interfere with it.

Mr. BACON. I will ask the Senator another question, then, with his permission, of course.

Mr. McCUMBER. Certainly.

Mr. BACON. Does the Senator think that the scope of the jurisdiction which is conferred by this proposed amendment can, by any other words, be made any other than those words make it?

Mr. McCUMBER. I have stated that I thought it could. I have answered the Senator several times.

Mr. BACON. I hope the Senator will suggest another.

Mr. McCUMBER. I am not taking the time now to reformulate this section for the benefit of the Senator so that it may be made to express more. I conceive that it can be made to express more than it expresses now, but I insist that, in so far as the reasonableness of rates is concerned, if it is made broader than it is now it may be subject to the constitutional inhibition.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Oregon?

Mr. McCUMBER. Certainly.

Mr. FULTON. I should like to suggest, Mr. President, that if these words were inserted, "and in the exercise of such jurisdiction the court is authorized to review the discretion exercised by the Commission," it would open up an immensely wider field. Whether or not the courts would exercise the jurisdiction, certainly that language would be broader.

Mr. McCUMBER. Mr. President, there can be no question about that. The court can review the discretion of the Commission only to the extent of ascertaining whether or not in the exercise of that discretion it has measured up to the standard that is prescribed by the bill itself.

Mr. LONG. Mr. President——

Mr. CLAY. Mr. President, will the Senator from North Dakota allow me to ask him a question?

The VICE-PRESIDENT. The time of the Senator from North Dakota has expired.

Mr. McCUMBER. I am obliged to yield.

Mr. DANIEL. Mr. President, the Senator from North Dakota [Mr. McCUMBER] has shown plainly that what is designed by this amendment is to carry all of the transactions of the Interstate Commerce Commission and their judgment and discretion in all the details of this bill to the Supreme Court, utterly ignoring that the only ground on which the review by the Supreme Court has been predicated by it is the violation of the Constitution in the fifth amendment, where the Constitution applies solely to the States in the fourteenth amendment. In fact, Mr. President, the Supreme Court has said time and again and over and over that it is no part of its function either to prescribe what is a reasonable rate—which it will never do—or to review a rate on the ground that it was unreasonable, even though, with the same testimony before them, they were to think that another rate would be more reasonable than the one fixed.

In the remarks which I had the honor to make, and which I do not intend to repeat, I went over this ground with some fullness and was forced to take that ground by a careful perusal of the decisions of the Supreme Court of the United States. Mr. Justice Harlan said in one of those cases to which prominence has been justly given in this debate:

> But it should also be remembered that the judiciary ought not to interfere with the collection of rates established under legislative sanction unless they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just to both the owner and the public—that is, judicial interference should never occur unless the case presents clearly and beyond all doubt such a flagrant attack upon the rights of property under the guise of regulations as to compel the court to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for the public use.

This was said in the San Diego Land Company case (174 U. S.), and the cases which Justice Harlan cites, which might be read to the same effect, are the Chicago and Grand Trunk Railway Company *v.* Wellman (143 U. S., pp. 339–344), Reagan *v.* Farmers' Loan and Trust Company (154 U. S., pp. 362–399), Smyth *v.* Ames (167 U. S.), and Henderson Bridge Company *v.* Henderson City (173 U. S.). A half dozen other cases might also be cited.

Mr. President, there is no tenet of our Federal law so clearly defined or more frequently maintained and illustrated by the decisions of the United States Supreme Court than that for which the Senator from Maryland [Mr. RAYNER] contends. The defense by the Senator from North Dakota [Mr. McCUMBER] completely shows that the interpretation of it by the Senator from Maryland is correct and that it is attempted here to carry up to the higher tribunals and to the Supreme Court of the United States those elements of this law which it has shown time and again, and luminously shown, belong to the administrative department of the Government and should be left to its administrative officers, just as it is left to the Secretary of State and to every other Cabinet minister, and sometimes to subordinate officers of less dignity and less weight of character, in such concerns.

To my mind the Senate would make a great mistake if it were to form a plan, under the guise of protection of property, which has no more relation to the protection of property than all the administrative acts of the United States which compass civil liberty, titles to land, pensions, and property rights in all their infinite varieties.

I shall, therefore, vote—and feel that I ought to vote under the repudiation of the courts of such ideas as have now been interpolated in this bill—for the amendment of the Senator from Maryland.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Maryland [Mr. RAYNER] to the amendment of the Senator from Iowa [Mr. ALLISON].

Mr. SIMMONS. Mr. President, I shall only detain the Senate for a few moments. Some time in March I offered a proposed amendment to this bill, which embodied several distinct propo-

sitions. One of those propositions provided for what we have termed here a "narrow" or a "limited" court review. I shall not offer that part of my amendment, because the amendment offered by the Senator from Maryland [Mr. RAYNER], upon which we voted yesterday, embraced substantially the same proposition; but, Mr. President, in view of the fact, as stated by the Senator from Oregon [Mr. FULTON], that there is a misunderstanding in the country as to the exact line of cleavage here in the Senate upon this question of court review and in view of the fact that Senators on the other side of the Chamber who have been supposed to be in favor of a limited court review have suddenly changed their position upon that question and have advanced here in justification of their present position a legal proposition which has not been discussed up to this time, I think the time which the Senate has given to-day to the discussion of this question has been time well spent.

Most of the discussion upon this measure up to the present time has been upon the proposition of the Senator from Texas [Mr. BAILEY] with reference to the suspension by the courts of the rate fixed by the Commission. There has been but little discussion of the question of court review.

Mr. President, I want to state my position with reference to this question of court review, because I have found what the Senator from Oregon has just said with reference to a misunderstanding on the part of the people as to the line of cleavage between Senators on this question is true from personal contact with people in my own State on the occasion of a recent visit to that State. No Senator on this side of the Chamber has at any time insisted that the courts should not have the right under any circumstances to review an order of the Commission. Some have insisted that the courts had the right of review in certain cases, whether there was any express provision in the act conferring that power or not; but every Senator on this side of the Chamber who has expressed himself upon this subject has taken the position that if the courts did not have inherently and without express provision in the bill power to review questions which involved the constitutional rights of the carrier or the shipper that power ought to be conferred upon them by an express declaration. Mr. President, while common carriers are charged with a public duty, and therefore are subject to governmental supervision, the ownership of railroads is private property, and is just as much entitled to the protection guaranteed by the fifth amendment to the Constitution as any other private property, and I would not myself consciously cast a vote that would in any way impair that right. This, I think, is the position taken by every Senator on this side who has addressed himself to this phase of the subject.

The Supreme Court has decided—and that decision meets the approval of my judgment—that if Government, whether national or State, shall fix a rate which is so low as to deprive the carrier of its property without just compensation, that would be an unlawful rate; that such a rate would violate the fifth amendment to the Constitution, and that the courts would not only restrain such rate, but set it aside as null and void. It is also true that if the Commission, acting for Congress—and the Commission is nothing more than the agent of Congress in the matter of fixing rates—shall fix a rate which is so low as to deprive the carrier of his property without just compensation the courts would restrain such rate and set it aside.

Not only that, Mr. President, but if the Congress or the Commission, performing the functions of Congress and acting as its agent, shall fix a rate so unreasonably high as to be extortionate, it is probable that the shipper would have a right to complain, and that the courts would declare such a rate unconstitutional, because it would to a certain extent take the property of the shipper without just compensation. In both of these cases the rate, whether fixed by Congress directly or by the Commission acting as its agent, would violate the constitutional guaranty of the fifth amendment, and no action of Congress could deprive the courts of the power to review such a rate.

Again, if the Commission should exceed the jurisdiction conferred upon it by the interstate-commerce act and by this act, if it should make an order which it is not authorized to make under the laws of its creation, if it should attempt to exercise a power not conferred upon it by Congress, such act or order would be ultra vires and unlawful, and the courts would have the power to review and set it aside, despite the action of even prohibition of Congress. But, Mr. President, there is a broad gulf, so to speak, between a rate that is confiscatorily low, and therefore unconstitutional, and a rate which is extortionately high, and therefore unconstitutional. And every rate prescribed by the Commission within these limits, between these two boundary lines, is a lawful and a constitutional rate. That rate ought to stand, and no court ought to have power or jurisdiction to review, modify, set it aside, or suspend its operation for a single day, hour, or minute.

Why? Because fixing a rate is a legislative function. If it be fixed by Congress, it is a purely legislative function; if by the Commission, acting under a standard and rule prescribed by Congress, it is a quasi legislative function.

The courts have no power, and none should be given them, to review an act of Congress or of the Commission acting for it under a standard prescribed by it which does not violate the Constitution and is not ultra vires. The courts have no more power to review a rate so fixed than they have to review a law passed by Congress in the lawful exercise of its lawful powers. If the Congress shall pass an act which is unconstitutional, the courts have a right to set it aside, but if the act be constitutional, the court has no power to inquire whether that act proceeded upon lines of wise public policy. It has no power to inquire and determine whether that act is sound in policy or in principle. So when the Commission fixes a lawful rate as distinguished from an unconstitutional rate, the courts have no right to review that rate. They have no right to inquire into and settle the question of whether such rate is fixed in accordance with wise policy or sound principle.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Carolina yield to the Senator from Montana?

Mr. SIMMONS. I should like very much to yield, but I have much I wish to say, and under the fifteen-minute rule I will not have time to say it if I yield. The Senator can have the floor when my time expires.

Mr. President, after we have discussed here for three months the question of limited and of broad court review, suddenly the gentlemen on the other side of the Chamber, who have agreed with us in our position upon that proposition, have changed front and given their sanction to an amendment which I think, and which every lawyer is bound to think, is as broad a court review as human language can express. When charged with inconsistency and surrender they attempt to justify their present position by a contention as to the statutory powers of the courts which has not been asserted or declared during the course of this debate by a single one of them until yesterday, and which is utterly inconsistent with their former position and contentions.

The amendment introduced by the Senator from Iowa changes materially the provisions in the bill as it came from the House. The bill as it came from the House provided for the venue of suits to set aside, annul or enjoin the orders and requirements of the Commission. It went no further than to say that any action which the court might entertain, under the general law as it now exists, should be brought within a certain district. It fixed the venue of such suits and stopped there. That is as far as the original bill went.

The VICE-PRESIDENT rapped with his gavel.

Mr. SIMMONS. Has my time expired?

The VICE-PRESIDENT. The Senator's time has expired.

Mr. SIMMONS. I shall pursue the course of my distinguished colleague from Maryland, and shall try to finish this speech upon some other amendment.

Mr. CARTER. Mr. President, I would not attempt to make a contribution to this debate at this late hour were it not for the manner in which the discussion on this particular amendment was initiated or brought into the Chamber. I feel that the time for action has arrived, and that the period for discussion has substantially closed. But the Senator from Texas [Mr. BAILEY] and likewise the Senator from Maryland [Mr. RAYNER], precipitating a discussion on this amendment or one similar, thought proper to reflect upon the attitude of the President of the United States, whose relation to this legislation is only of the character contemplated by the Constitution. The President might, in the strict discharge of his duty, decline to exchange views with any member of the Senate calling at the Executive offices for the purpose of suggesting or considering any part or portion of this or any other pending legislation. It so happens, however, that the President is deeply interested in the success of this legislation. Before his nomination, while a candidate for the Presidency, I think the present Chief Executive gave the most heroic and courageous exhibition on a public question, in dealing with this subject, to be found in our political annals within the last forty years of our political life. The statesmen of the country have been somewhat timid in assailing the majestic and supposedly invincible railroad power. A few men in this Chamber have from time to time uttered sentiments contrary to the generally accepted theory upon which the laws were being administered. They had found from time to time political graves, and they at least believed in many

instances that their political extinction was due to no considerable extent to the temerity they displayed in suggesting that reasonable regulation of railroad rates should be provided by Congress.

The Senator from Texas and the Senator from Maryland vouchsafed to us the opinions entertained by them, respectively, that the President had finally abandoned the bill for which he stood so firmly in the beginning, and this charge is hypothecated upon the proposed amendment to section 5 of the bill, or section 16 of the interstate-commerce act, as proposed to be amended by this bill.

Permit me, for the purpose of making the RECORD explicit, to read the text of the bill to which the amendment is directed as it was passed by the House of Representatives and transmitted to this body:

> The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office.

Now I will ask the Senators if it is true that anyone supporting that proposition had a mental reservation to the effect that the courts would have no jurisdiction to try or determine the subjects-matter referred to in the section? If that mental reservation existed in the light of the language quoted, then I submit that it was a dishonest reservation; that anyone willing to deal fairly and squarely and honestly and above board would only construe that part of the section as conferring jurisdiction on the courts, and only those, if any there be, willing to cheat through language of indirection could possibly otherwise construe it. It was insisted, however, that there was an ambiguity as to the jurisdiction. In every public utterance throughout this country and in messages to Congress the President had made it clearly manifest that he believed in the jurisdiction of the courts extending over the acts of the Commission; and to him it was obvious that if this bill did not provide for court jurisdiction in the language I have read, it should be made to so provide. And therefore the amendment offered by the Senator from Iowa is but intended to clear up an ambiguity in the bill as it came from the House.

No one familiar with the President's record upon this railroad rate legislation, or upon any other public question, I assume, can justly charge him with either cowardice or shiftiness. There are some who charge that he is too bold and fearless and outspoken, but for the first time is it intimated by the Senators from Texas and Maryland that he is prepared to, or did make, an abject surrender. In consenting to this amendment, and I believe it has his full approval, the President merely made the bill honest and square, made it to clearly express what I believe all Senators understood it to contain, with the exception of those few who, in a hypercritical mood, questioned the sufficiency of the language to clearly convey court jurisdiction.

Now, Mr. President, as to the critics. I say the President's record upon this and every other public question he has touched is a record of courage unmatched, certainly unexcelled. The Senator from Maryland, who thought proper to assail the President as having abjectly surrendered, was an honored member of the Committee on Interstate and Foreign Commerce in the House of Representatives when Theodore Roosevelt was a young ranchman riding the range with the cowboys in North Dakota. For six years he was a member of the House of Representatives. He has been a respected member of this body for quite a period of time, and his enthusiasm upon this question led me to ask what he had offered in the way of contribution to check the mighty power of the railways of this country in all these years. I find upon inquiry at the document room that this is the sum total of the legislation offered by the Senator from Maryland to curb the railroad power up to the opening of the present Congress. It will be found that in the bill H. R. 3291, Fifty-third Congress, second session, the Senator from Maryland presented this proviso as an amendment of the interstate-commerce act:

> *Provided further*, That nothing in this act shall prevent the issuance of joint interchangeable 5,000-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of 1,000 or more miles.

That is the record of the critic from Maryland.

Mr. RAYNER. Do you mean I offered that in the Senate?

Mr. CARTER. No; it was offered in the Fifty-third Congress, in the House of Representatives.

Mr. RAYNER. How far back are you going now?

Mr. CARTER. Over the whole record.

Mr. RAYNER. You are going back to what I did fifteen years ago?

Mr. CARTER. The Senator from Texas, in all candor, stands in no better position to criticise the President. He was a leader of his party, and a superb leader he made. He is a gifted man, with mighty resources. He was for ten years a member of the House of Representatives before Theodore Roosevelt reached a place where he could exercise any influence on national legislation. And yet the Senator from Texas, in all the ten years of his superb devotion to the people on the railroad question, only introduced, by request, on the 28th day of February, 1894, a bill providing that scalpers' tickets should not be sold throughout the country, and providing a fine of $5,000 to be applied to any man who sold a ticket he had purchased, unless he had first offered it back to the railroad company.

I do submit in all candor that the Senators should have desisted from any very drastic criticism of the President of the United States on railroad rate records. I do not, however, blame the Senators for this paucity of production. They belong to a party of negation. The Senators are not expected, from that standpoint, to engage in constructive legislation, and I am not surprised that at this stage of the proceedings, when the Senators perceive that we are about to crystallize something into law, they are suddenly seized with a chill. The talking is about to be concluded and action is about to begin.

The Senator vouchsafed us some information concerning the component parts of our party organization, and referred to the Senator from Rhode Island [Mr. ALDRICH] as having come into camp or the camp having gone to the Senator—I do not know in what particular form. The fact that we get together is due to a certain clearly defined basic principle. The people who believe in doing things, who believe in reconciling differences, who believe in results, are on this side of the Chamber. The people who enjoy bickerings and continuous strife and ceaseless controversy naturally belong to the other side, and some of them enjoy the speeches made by both the Senator from Maryland and the Senator from Texas. We do not pretend to have such orators upon this side. So in our humble way we proceed to achieve things, and we stand responsible for results when results are attained.

Mr. President, I say this in a kindly spirit, because no one respects the eminent Senator from Texas more than I do. No one has higher regard for the superb abilities of the Senator from Maryland than I have. But I do think that when they establish themselves as critics of the Republican party, and particularly of the President of the United States, they should be backed by better records than either has presented upon this question.

Mr. BAILEY. Mr. President, the ebullition which the Senate has just witnessed is due entirely to the fact that the Senator from Maryland [Mr. RAYNER] forgot to mention the Senator from Montana [Mr. CARTER] yesterday as among the President's special ambassadors to the Senate. And the Senator from Montana was afraid that this debate would close without the attention of the country being called to the fact that he had borne some, though an inconspicuous part, in the reconciliation which has been brought about among Republican Senators.

When the Senator talks about my record he ought to know—of course he does not know many things, but he has searched the RECORD enough to have learned—that during the ten years I served in the House of Representatives my party was in a majority only the first four years of my service there. In the Congress to which he alludes as having passed under my leadership he must know that the Democrats were in the minority, and from that time to this I have had the misfortune—but the country has suffered the greater misfortune—of having a Republican majority, first in the House and then in the Senate. And so, if I had introduced a bill to regulate the railroads, I would have been performing an act of mere buncombe, such as that performed by the Senator from Montana this morning.

The Senator from Montana says that I assailed the President because he had changed his position on the character of a court review. I said nothing about the President's position on that question. In the short speech which I made in the beginning of the session yesterday I did say that the President had changed his position with reference to a suspension of rates pending a reversal by the court, and I did call attention to the fact that the President had abandoned his first demand for an absolute rate and had accepted the compromise of a maximum rate. But I said nothing about a change in his attitude toward the court review; and in a subsequent speech which I made in reply to the honorable Senator from Iowa [Mr. ALLISON] I did not refer to the President's position in that respect. Therefore, when the Senator from Montana is lecturing other people about misrepresenting the President he ought to be careful not to fall within his own condemnation.

The Senator from Montana in his enthusiasm to be recognized as a friend, a defender, an ambassador, as it were, of the President, declares that in the face of the last Presidential election the President gave the country an exhibition of match-

less courage in defying the tremendous power of the railroads. Has the Senator from Montana examined the record on that question, as he did the record of the Senator from Maryland and myself? What will the Senate say when I tell the Senator from Montana that in his messages of 1902 and 1903 the President was as silent as the grave upon the question of regulating the railroads; that standing in the presence of the American people, pending the great contest of 1904, he spoke never a word in its favor, either in his letter of acceptance or in his speech of acceptance.

Let me put it in the RECORD. In the President's message of 1901 he said:

The act should be amended.

The interstate-commerce act.

The railway is a public servant. Its rates should be just to and open to all shippers alike.

In his message of 1902 he said nothing at all. In his message of 1903 he was still silent upon the subject, and only after his election in 1904 did he challenge the railroad power to mortal combat. Did the Senator from Montana know that when he declared that the President had exhibited a marvelous courage in defying the powerful influence of the railroads prior to his election?

Mr. CARTER. Will the Senator from Texas yield?

Mr. BAILEY. I do.

Mr. CARTER. Does not the Senator from Texas know that in a public address, delivered in the city of Minneapolis, before his nomination, to which the Senator refers, the President of the United States had, in clear, distinct, and unequivocal terms, announced his position upon the subject, and likewise upon necessary antitrust prosecutions and legislation?

Mr. BAILEY. I am free to say that I did not know the President had discussed the railroad question in his speech at Minneapolis. I have examined his public messages to Congress; I have examined his speech of acceptance; I have examined his letter of acceptance, and I have found no word in them. I will tell the Senator from Montana more. But first let me say, Mr. President, that this turn in the debate is not of my choosing. I have studiously refrained from speaking any bitter word against the President during this prolonged struggle. I have felt that all the friends of efficient legislation on this subject ought to spare each other from attack and bitter speech, and I have borne patiently some things of which I had a right to complain rather than create divisions and dissensions among the friends of this bill.

Let me tell the Senator from Montana, further, that in the summer of 1904, before the President had spoken his speech or written his letter of acceptance, his secretary, in reply to a letter addressed to President Roosevelt by the publication known as "Freight," said to the editor of that paper that the President in his letter or speech of acceptance would speak out on the railroad question, and speak in a manner entirely satisfactory to that editor. And yet, sir, the Senator will search in vain both the letter of acceptance and the speech of acceptance for a word to redeem the promise of the President's secretary.

I do not say the President put it in his message and then when his astute political advisers told him that the railroads would not contribute to his campaign that he cut it out. I will not say that, although there are many men uncharitable enough to say it. I only put before the Senate and the country the fact that his secretary said the President would speak on it and that he did not speak on it. Perhaps those insurance companies which were contributing the trust funds of widows and orphans to secure his election owned so many of these railroad bonds that they deterred, not the President, but the President's advisers, from proclaiming his hostility against the railroads immediately preceding the election.

Mr. President, I love a brave man; I love a fighter; and the President of the United States is both—on occasions; but he can yield with as much alacrity as any man who ever went to battle, civic or political. That he fights furiously at first I grant you, but he seems to have no endurance in these political contests. Only a short time ago he was going to revise the tariff, but his friends called him off. When that great voice was filling the nation with a demand for tariff revision, suddenly it sank into the gentleness and sweetness of a whisper. Next he was going to have the railroads regulated, and it was announced that Congress would be convened in extraordinary session to deal with it; but the great leaders assembled with the President, prayed with him a little while, and no call was issued for an extraordinary session of Congress. He waited until the regular session, and five months of that has elapsed and still no legislation.

If the President were the heroic figure which the Senator from Montana would have us believe him, you know what he would have done. He would have summoned these Republican leaders of the House and the Senate to a conference, and he would have said to them: "Gentlemen, I am not talking to you now as President of the United States; I am talking to you as Theodore Roosevelt, a Republican, and I am talking to you as Republicans. I want to tell you that I happen to know that unless you pass a good bill the President of the United States intends to veto it." They would then have passed a bill fulfilling in some degree the reasonable expectations of our people. If Congress had failed to do that, and he had vetoed the bill they passed and then convened them in extraordinary session to pass a good one, he would have written his name with the names of Jefferson and Jackson and Lincoln among his illustrious predecessors. But he did not deal with the situation in that firm way, and let us have no more talk in the Senate and in the country about this iron man. He is clay, and very common clay.

Mr. ALDRICH. Will the Senator from Texas permit me to ask him a question?

Mr. BAILEY. I will.

Mr. ALDRICH. Does the Senator think that the bill which passed the House of Representatives and received the unanimous vote of the Republicans in that body is an effective piece of legislation?

Mr. BAILEY. I do not, and I will go further and say it is not as good as that same bill will be when it passes this body. But both of them together are not as good as they ought to be.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Maryland [Mr. RAYNER] to the amendment.

The amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Illinois [Mr. CULLOM]. [Putting the question.] The ayes have it.

Mr. TILLMAN. Mr. President, I addressed myself to you before you announced the vote, and I notified the Chair last night that there was a verbal change in the amendment I wished to make.

The VICE-PRESIDENT. The Chair did not understand the Senator from South Carolina to rise to this question. The amendment is open.

Mr. TILLMAN. I suggest that the amendment proposed by the Senator from Illinois, originated by the Senator from Iowa, be changed so as to insert at the beginning in regard to the suits against carriers these words in lieu of the words that are now in the amendment:

In case such order or requirement affects two or more carriers the suit may be brought by them jointly in the district wherein the principal operating office of either is situated.

It prevents two suits where there is a joint rate between two roads by having one against both in the district where the principal operating office of either is situated. It does not alter in any sense the meaning or purport of the amendment; it simplifies the procedure; and I hope the Senator from Iowa will accept it.

Mr. ALLISON. I hope the Senator will indicate what it proposes and how it will read.

Mr. TILLMAN. "In case such order or requirement"——

Mr. CULLOM. Where is it to come in?

Mr. TILLMAN. In place of the language in the amendment now pending relating to this very same subject.

Mr. CULLOM. Where? Locate it so that we can turn to it.

The VICE-PRESIDENT. Will the Senator from South Carolina kindly state the page and line?

Mr. TILLMAN. I have it somewhere here, if I can find it.

Mr. ALLISON. Page 17, line 14, after the word "office."

Mr. TILLMAN. Yes; page 17, line 14, after the word "office."

The Allison amendment proposes the following:

And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office, etc.

The language I wish to substitute is:

In case such order or requirement affects two or more carriers the suit may be brought by them jointly in the district where the principal operating office of either is situated.

If there are joint rates between two roads——

Mr. ALLISON. I must confess I do not see the difference in phraseology in the Senator's amendment and the amendment pending:

And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office.

Mr. TILLMAN. Yes; but you do not include the joint rate,

and it requires a suit in each district where the two carriers are located, whereas the language I suggest is:

In case such order or requirement affects two or more carriers the suit may be brought by them jointly in the place wherein the principal operating office of either is situated.

In other words, you have one suit against two carriers, and you have that suit against each in the district where the principal operating office of either is situated. That is the purpose I have in view.

Mr. CULLOM. Those words are proposed to be inserted after the word "office," in the provision as it was introduced by myself for the Senator from Iowa. Is that what the Senator is trying to do?

Mr. TILLMAN. Yes; I am trying to substitute a provision by which instead of having two suits, one against one carrier in one district and another against another carrier in another district, there may be a joint suit against both in the districts wherein the principal operating office of either is situated. It is not very material. I am not insisting on it at all.

Mr. ALLISON. I think under the language as it stands that could be done.

Mr. TILLMAN. Very well; if the Senator from Iowa does not accept it, it is all right to me.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Illinois.

Mr. BAILEY. I understood the amendment had been agreed to.

The VICE-PRESIDENT. It has not been agreed to. It is still open to amendment.

Mr. BAILEY. I am not able quite to see the form in which it is presented. I wish to inquire if the entire amendment proposed by the Senator from Illinois [Mr. CULLOM] in behalf of the Senator from Iowa [Mr. ALLISON] is now before the Senate?

Mr. CULLOM. Only the one amendment we have been discussing lately.

Mr. BAILEY. And only those words in italics are now before the Senate?

Mr. CULLOM. So I understand.

Mr. BAILEY. I wanted to move to strike out the venue there, which is laid in the district where the carrier has its principal operating office, and substitute "the district from which the complaint comes or in which it originates," but if the entire proposition is not now before the Senate then that is improper.

The VICE-PRESIDENT. The Chair did not understand the suggestion of the Senator from Texas. The entire amendment of the Senator from Iowa is now pending.

Mr. BAILEY. Then I will ask the Chair the distinct question, Are lines from line 1 to the word "office, in line 6, on page 9, of the amendment proposed by the Senator from Illinois in behalf of the Senator from Iowa now before the Senate?

Mr. CULLOM. That amendment was adopted yesterday.

Mr. BAILEY. Not the whole amendment.

Mr. CULLOM. The amendment introduced consisted of several amendments, and the first amendments which were reached in the order of sections were disposed of up to and including the amendment on page 17 of the bill.

The VICE-PRESIDENT. The Chair does not have the text before him, but will have the Secretary again state the pending amendment, and then the Senator from Texas can determine whether his amendment will be in order at this time.

The SECRETARY. On page 17 of the printed bill, line 14, after the word "office," the last word in the line, strike out the period and insert a comma and insert the words:

And if the order or requirement has been made against two or more carriers——

Mr. BAILEY. That is far enough, Mr. President, to advise me that the part I want to amend is not the pending question.

Mr. BACON. Mr. President, I desire to offer an amendment. I have before me the printed amendment of the Senator from Iowa.

Mr. CULLOM. Has the amendment of the Senator from Iowa been acted upon?

The VICE-PRESIDENT. Not yet.

Mr. LODGE. Mr. President, I wish to make a parliamentary inquiry. Is there any amendment now pending to the amendment of the amendment of the Senator from Iowa?

The VICE-PRESIDENT. No; that has been withdrawn; but the Senator from Georgia is proposing an amendment to the amendment.

Mr. BACON. On page 317 of the compilation, line 12, where the amendment is found, I move to insert after the word "and" in the twelfth line these words:

Concerning orders and requirements not involving the exercise of discretion by the Commission.

So that it will read:

And concerning orders and requirements not involving the exercise of discretion by the Commission, and jurisdiction to hear and determine such suits is hereby vested in such courts.

The VICE-PRESIDENT. The Secretary will read the amendment to the amendment.

Mr. NELSON. I make the point of order that that is not an amendment to the pending amendment, but to a different paragraph of the bill.

Mr. BACON. I was unfortunate in expressing myself surely, because it is directly an insertion of words in the amendment offered by the Senator from Iowa, and it can not be anything else than an amendment to the amendment.

The VICE-PRESIDENT. The Secretary will state the proposed amendment to the amendment.

Mr. BACON. I will hand it to the Secretary.

The SECRETARY. In the proposed amendment of the Senator from Illinois, line 8 of the printed amendment, printed separately, after the word "any" and before the word "jurisdiction," insert the following:

Concerning orders and requirements not involving the exercise of discretion by the Commission.

So that, if amended, the amendment will read:

Then the venue shall be in the district where said carrier has its principal office, and concerning orders and requirements not involving the exercise of discretion by the Commission jurisdiction to hear and determine such suits is hereby vested in such courts.

Mr. BACON. Now, Mr. President, just a word. The discussion which we have had as to the meaning of the amendment has elicited from Senators repeatedly the expression of the opinion that the amendment means exactly what these words specify it shall mean. When the attention of Senators is called to the fact that the words found in the amendment proposed by the Senator from Iowa are of so broad a scope that no word can be found in the English language which can broaden that scope, Senators rejoin that the courts will construe it to mean what these words sought to be interpolated will express.

If the Senators are candid in that statement—if they mean what they say, if they are in earnest when they contend that this amendment will not give to the courts the right to review the act of the Commission in any particular in the making of rates or in any other order or requirement where such order or requirement is in the exercise of discretion—then, of course, they will vote for this amendment to the amendment.

Mr. President, I can see no reason why Senators would vote against this amendment, except that they do not agree with what has been said by Senators in that regard. The Senator from Iowa himself on yesterday said that if a question was brought before the court which involved an order or a requirement by the Commission in the exercise of its discretion, the court would undoubtedly refuse to review such act in making such order or requirement.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. BACON. I do.

Mr. FULTON. I ask the Senator if the amendment he has offered would not prohibit the court from inquiring into orders made by the Commission in order to ascertain whether or not the constitutional rights of a party had been invaded?

Mr. BACON. That is the first suggestion out of the many we have had in this debate that the question of constitutional right can possibly be raised, either directly or indirectly, in the exercise of any discretion.

Mr. FULTON. Very well; this is the point: The court has to inquire into the order made by the Commission. The Commission is supposed to make all orders in the exercise of its discretion, but it may abuse that discretion to the extent that it violates constitutional right. Now, the amendment offered by the Senator would prohibit the court from making inquiry in order to ascertain whether or not a constitutional right had been invaded.

Mr. BACON. By no means, Mr. President. If this section read simply that jurisdiction is given to the courts to hear, the contention of the Senator, while still not, I think, well founded, might be plausible; but it says "hear and determine;" in other words, to determine that it is wrong, to reverse it, to annul it; but if this amendment is adopted, while the court, of course, will inquire as to anything that is brought before it when it comes to determine upon it, if it finds it to be a matter of discretion, it will say "this is without our jurisdiction; we have no jurisdiction to determine that which rests within the discretion of the Commission."

Mr. FULTON. But they hear and determine that the discretion had not been abused; that the constitutional rights had not been invaded.

Mr. BACON. No; it would be outside their jurisdiction altogether.

Mr. President, this will test the sincerity of Senators. If they believe that it is the scope of the amendment to exclude from the jurisdiction of the courts the right to hear and determine questions which involve simply the exercise of discretion on the part of the Commission, they will of course vote for this amendment.

Mr. SPOONER. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. With pleasure.

Mr. SPOONER. Does the Senator think that the fixing of rates involves in no degree discretion?

Mr. BACON. The question as to whether or not it is just and reasonable has been determined by the courts repeatedly, as the Senator knows better than I do, because he is more familiar with this subject than I am, to be strictly a judicial question. So the question of the Senator can not have pertinency in this connection.

Mr. SPOONER. But the language of the bill is—I think it is dangerous language myself—that the Commission shall fix what in their judgment will be a reasonable rate.

Mr. BACON. I think that is dangerous language, and I would rather have it out.

Mr. SPOONER. Is the Senator absolutely certain that the language he employs in his amendment would not, if given any effect whatever, defeat the judicial-review provision?

Mr. BACON. I think it certainly would not. But, Mr. President, here is the plain issue. Here is an amendment offered by the Senator from Iowa which is absolutely without limitation, which is as broad as human language can make it, giving to the court the right to review every order or requirement made by the Commission; and when Senators are challenged by the fact that they have made such a review the reply is that it will not embrace a review of matters involving the exercise of discretion. I have simply put in words the language already uttered by Senators and ask that it may be incorporated in the bill, so that if what they say is correct it may not depend simply upon their understanding, but may be specified in the language of the act. That is the plain issue, Mr. President, and all the talking from now until the adjournment of this Congress could not make that which lies upon the surface any plainer than it is.

Mr. LONG. Mr. President, the amendment offered by the Senator from Georgia [Mr. BACON], would, in my opinion, render this bill unconstitutional. It provides that only orders and requirements not involving the exercise of discretion by the Commission can be investigated in the courts. By section 4 of this bill authority is given the Commission to prescribe and determine a rate which, in its judgment, is just and reasonable. In doing that the Commission must of necessity exercise its discretion, and if it exercises its discretion then under this amendment the order could not be reviewed by the court. The effect of the amendment would be to prohibit a review by the courts of practically all of the orders of the Commission——

Mr. BACON. If the Senator from Kansas will pardon me, I desire to say that I think the effect of this amendment will be practically to make the bill what it would have been if the amendment offered by the Senator from Kansas had been adhered to by him and persisted in by him and had been adopted. But as he has abandoned it I am trying to bring it back to the same position that he so continually represented himself as being in favor of here for several weeks.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Ohio?

Mr. LONG. Certainly.

Mr. FORAKER. I only wanted to ask the Senator what I did not understand by his statement, that the Commission must of necessity in making a rate exercise its discretion. Have we not created a standard by which the Commission is to be governed in the making of rates?

Mr. LONG. We have provided a standard, but the duty is imposed upon the Commission to exercise its judgment in determining and prescribing a rate according to that standard.

Mr. FORAKER. The point is one about which I think the Senator will not disagree with me. I only want to bring it out and put it in the RECORD that the standard which we have created, or will have created when this bill has become a law, namely, that rates shall be just and reasonable, is a standard that can not be conformed to except by the exercise of discretion and judgment on the part of the Commission. It would follow, of course, that the judgment of one Commission might differ from the judgment of another Commission or the judgment of one man might differ from the judgment of another man.

Mr. LONG. But the discretion exercised by the Commission would not be interfered with or revised by the court unless there was an abuse of the discretion, or unless the rate was fixed so low that it did not give a fair return to the carrier on the property employed in the service.

The Senator from Georgia says it is his intention to bring this question back to where it would be under my amendment. As I have already stated to the Senate, the action of the courts under my amendment or under the amendment of the Senator from Iowa would be exactly the same. They would take cognizance of judicial questions; they could not be prevented from considering such questions, but questions of policy or wisdom would not be considered by the courts under either of these amendments.

Mr. McCUMBER. Mr. President, may I ask the Senator a question?

Mr. LONG. Certainly.

Mr. McCUMBER. I will put the case directly to the Senator. Suppose the Commission finds that a net revenue of 3 per cent would be sufficient, and fix the rate accordingly, does the Senator then contend that the court could not hold that that 3 per cent was not a just and reasonable rate and did not measure up to the standard fixed for the Commission?

Mr. LONG. As a question of compensation?

Mr. McCUMBER. Would not the court have a right to set it aside upon that ground alone?

Mr. LONG. The question as to whether or not a given rate afforded just compensation would be a judicial question that the courts would determine for themselves, without regard to the determination of the Commission.

Mr. McCUMBER. Then the judgment of the court may set aside the discretion of the Commission if, in the judgment of the court, the discretion of the Commission does not measure up to the standard fixed by Congress?

Mr. LONG. To the standard fixed by the Constitution—of just compensation. The objection which I have to the amendment of the Senator from Georgia is that it attempts to prohibit the review of practically all of the orders made by the Commission. If an order is made in which it exercises discretion, under the amendment of the Senator from Georgia the courts would be prohibited from reviewing such an order; and that would clearly fall within the decision of the Supreme Court in the Minnesota Milk case (134 U. S., 459), in which the statute was declared unconstitutional because it was construed to prevent a review by the courts.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. LONG. Certainly.

Mr. BACON. I have stated that I have endeavored in this amendment to restore the status which was at least possible when the Senator presented his amendment. The Senator has not yet offered his amendment, nor has he withdrawn it. If some of us will offer it for him, will the Senator vote for it?

Mr. LONG. I discussed that question yesterday with the Senator from Maryland [Mr. RAYNER]. No one has yet presented my amendment. I will meet that question when it arises.

Mr. BACON. I will accommodate the Senator. I will present the amendment.

Mr. LONG. A short time ago, while interrupting the Senator from North Dakota [Mr. McCUMBER], the Senator from Georgia [Mr. BACON] wanted to know what language could be used that would broaden the review amendment offered by the Senator from Iowa [Mr. ALLISON]. In my remarks yesterday I referred to language that would broaden that amendment. I wish to call the attention of the Senator again to words that would make a broad review of that amendment. I suggest these words:

> And jurisdiction to hear and determine in such suits whether the rate fixed by the Commission is *in fact just and reasonable* is hereby vested in such court.

With the permission of the Senate, I desire to print in connection with my remarks made this morning extracts from my speech on this question made on April 3, 1906; also extracts from the document which was prepared by the Senator from Pennsylvania [Mr. KNOX], showing the court reviews in the different States, to which I referred yesterday. I also desire to print extracts from the decisions of the Supreme Court in support of the propositions I made this morning. I will not read these documents and decisions now, but, with the permission of the Senate, will insert them in my remarks of this morning.

The VICE-PRESIDENT. In the absence of objection, the permission is granted.

The question is on agreeing to the amendment proposed by the Senator from Georgia [Mr. BACON] to the amendment of the Senator from Iowa [Mr. ALLISON].

Mr. BACON. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). As I have several times heretofore announced, I have a general pair with the Senator from Tennessee [Mr. CARMACK], who is absent. I transfer that pair to the Senator from Pennsylvania [Mr. PENROSE]; which leaves me at liberty to vote. I vote "nay."

The roll call was concluded.

Mr. CLARK of Wyoming. I wish to announce that my colleague [Mr. WARREN] is absent, having been called out of the city on important business. He desired me to also announce the fact that he is paired with the Senator from Mississippi [Mr. MONEY].

Mr. MONEY. I am paired with the Senator from Wyoming [Mr. WARREN], who has gone home on important business. If he were present, I should vote "yea" on this amendment to the amendment. I make this as an announcement sufficient for succeeding votes.

Mr. LATIMER (after having voted in the affirmative). I had forgotten that I had a pair with the Senator from New York [Mr. PLATT], and I therefore withdraw my vote.

The result was announced—yeas 22, nays 46, as follows:

YEAS—22.

Bacon	Daniel	McCreary	Rayner
Berry	Dubois	McLaurin	Simmons
Blackburn	Foster	Martin	Stone
Clarke, Ark.	Frazier	Morgan	Taliaferro
Clay	Gearin	Newlands	
Culberson	La Follette	Overman	

NAYS—46.

Aldrich	Clapp	Gamble	Nixon
Alger	Clark, Wyo.	Hale	Perkins
Allee	Cullom	Hansbrough	Piles
Allison	Dick	Hemenway	Scott
Ankeny	Dillingham	Hopkins	Smoot
Beveridge	Dolliver	Kean	Spooner
Brandegee	Dryden	Kittredge	Sutherland
Bulkeley	Elkins	Lodge	Teller
Burkett	Flint	Long	Warner
Burnham	Foraker	McCumber	Wetmore
Burrows	Fulton	Millard	
Carter	Gallinger	Nelson	

NOT VOTING—21.

Bailey	Frye	Mallory	Proctor
Burton	Gorman	Money	Tillman
Carmack	Heyburn	Patterson	Warren
Clark, Mont.	Knox	Penrose	
Crane	Latimer	Pettus	
Depew	McEnery	Platt	

So Mr. BACON's amendment to Mr. ALLISON's amendment was rejected.

The VICE-PRESIDENT. The question now recurs on the amendment proposed by the Senator from Iowa [Mr. ALLISON].

Mr. LA FOLLETTE. Mr. President, I offer the amendment which I send to the desk, to be inserted after the word "courts," in line 9 of the pending amendment.

The VICE-PRESIDENT. The amendment proposed by the Senator from Wisconsin to the amendment will be stated by the Secretary.

The SECRETARY. At the end of Mr. ALLISON's amendment it is proposed to insert the following:

Every Federal judge who owns any share of the capital stock or any of the bonds of a common carrier subject to the provisions of this act, or who accepts or uses, or who procures for the use of any person, any pass or privilege for transportation withheld from any other person, is hereby disqualified and prohibited from hearing or passing upon as such judge any motion, question, application, proceeding, or from presiding at or hearing any trial arising under the provisions of this act.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE] to the amendment of the Senator from Iowa [Mr. ALLISON].

Mr. LA FOLLETTE. I should like to have the yeas and nays on that amendment, Mr. President.

I understand, from queries within my hearing, that many Senators do not understand what the amendment is, Mr. President, and, if I am in order, I should like to explain it just in a word, or I will ask to have the amendment again read, in order that it may be understood.

The VICE-PRESIDENT. The amendment will be again read.

The Secretary again read the amendment proposed by Mr. LA FOLLETTE to Mr. ALLISON's amendment.

Mr. LA FOLLETTE. Mr. President, the law now precludes any member of the Interstate Commerce Commission from holding or owning any stocks or bonds in any railroad company subject to the provisions of this act. Why the courts or the judges who are to review the proceedings of the Commission here should not be likewise barred from ownership of the stocks or bonds of any railroad company subject to the provisions of this act, I am at a loss to understand.

In addition to that, my proposed amendment would disqualify any Federal judge from hearing any motion, presiding at any trial, or deciding any question affecting an interstate railroad where such judge has accepted a railroad pass or has procured railroad passes for others. Any judge who does that now violates the interstate-commerce law. I assert that there are Federal judges who are accepting and using passes in this country to-day in violation of law.

No judge should be permitted to hear, try, and determine a case under a statute the provisions of which he is himself guilty of violating.

Since I have offered this amendment Senators on this floor have informed me of specific instances where Federal judges have procured passes for members of their families; of other cases where they have been furnished private cars and transportation for large parties, in violation of the positive but somewhat weak provisions of existing statute. It offends one's sense of justice as well as propriety, and in every such case the law should disqualify the judge from acting.

If any Senator upon this floor can find a good reason for saying that a judge who is to determine any question arising under this bill, when it shall become a law, should be interested in the property of the railroad company that is to be affected by the question of rates involved, I should like to have him rise in his place and proclaim it now. There is not a lawyer on this floor who in any suit against a railway company would be willing to submit the case of his client to a jury of twelve men with railroad passes in their pockets. Neither should a judge who receives favors from a railroad company be permitted to try any case in which the interests of the railroad company are involved.

Mr. HALE. Mr. President, I have some respect for the judiciary of the United States. I think there ought to be a halt in the Senate somewhere, so I move to lay the amendment upon the table, and upon that motion I ask for the yeas and nays.

The VICE-PRESIDENT. The question is on the motion of the Senator from Maine to lay the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE] to the amendment of the Senator from Iowa [Mr. ALLISON] on the table, on which motion the Senator from Maine demands the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. LATIMER (when his name was called). I am paired with the senior Senator from New York [Mr. PLATT]. If he were present, I should vote "nay."

The roll call having been concluded, the result was announced—yeas 40, nays 27, as follows:

YEAS—40.

Aldrich	Clapp	Frye	Millard
Alger	Clark, Wyo.	Fulton	Nixon
Allee	Cullom	Gamble	Perkins
Allison	Dick	Hale	Piles
Ankeny	Dillingham	Hansbrough	Scott
Brandegee	Dolliver	Hopkins	Smoot
Bulkeley	Dryden	Kean	Spooner
Burnham	Elkins	Kittredge	Sutherland
Burrows	Flint	Lodge	Warner
Carter	Foraker	Long	Wetmore

NAYS—27.

Bacon	Daniel	McCreary	Rayner
Bailey	Dubois	McCumber	Simmons
Berry	Foster	McLaurin	Stone
Blackburn	Frazier	Martin	Taliaferro
Clarke, Ark.	Gallinger	Morgan	Teller
Clay	Gearin	Newlands	Tillman
Culberson	La Follette	Overman	

NOT VOTING—22.

Beveridge	Depew	McEnery	Pettus
Burkett	Gorman	Mallory	Platt
Burton	Hemenway	Money	Proctor
Carmack	Heyburn	Nelson	Warren
Clark, Mont.	Knox	Patterson	
Crane	Latimer	Penrose	

So the motion of Mr. HALE to lay Mr. LA FOLLETTE's amendment to the amendment of Mr. ALLISON on the table was agreed to.

Mr. TILLMAN. Mr. President, I am exceedingly anxious to bring this bill to a vote, and I would not intrude on the Senate or present an amendment which has practically been voted down three times already were it not for the purpose of making a statement. I send to the desk an amendment which I offer.

The VICE-PRESIDENT. The amendment proposed by the Senator from South Carolina will be stated.

Mr. TILLMAN. It is to be added to the amendment now pending proposed by the Senator from Iowa [Mr. ALLISON].

The SECRETARY. After the word "courts," on line 9 of the printed amendment offered by Mr. ALLISON, it is proposed to insert:

And if such court shall find that the order was beyond the authority of the Commission or was a violation of the constitutional rights of the carrier, it shall issue an injunction against the enforcement thereof.

Mr. TILLMAN. Mr. President, the paternity of that idea will probably never be wholly known. I have my opinion as to what brain coined that exact language, but, without positive evidence, I am unwilling to declare who was its originator. It is known as the "Long amendment." It followed a conference of Senators at the White House and was introduced in this body two or three days after that by the Senator from Kansas [Mr. LONG]—I mean that the amendment I now submit is in substance the Long amendment, the central idea involved being the same.

The Senator from Montana [Mr. CARTER] this morning, in his earnest defense and eulogium of the President, declared that the President need not—I believe I quote his words correctly—have conferred with Senators at all. That is the substance of what he said; but the Senator must know, because he himself has been to the White House and been talked to by the President on this business, that the President has conferred with a great many Senators about this matter. There will be some surprise when I say to the Senate that, through another, the President has conferred with the Senator from South Carolina who is now speaking. [Laughter.] It is, therefore, somewhat in the nature of a confession, as well as to give some of the inside history of recent events connected with this legislation, that I now take the floor to offer this amendment.

My Lord Bacon, in those famous essays of his, has declared that "Reading maketh a full man, conference a ready man, and writing an exact man." Senators know that I seldom or never write anything to be read in this Chamber. When I want to communicate to those who are listening I almost always speak the words that come without choice. Very often they are badly spoken or, rather, badly put together, but they at least convey my opinion and feeling at that particular moment. In order that I might be careful to misstate nothing and to be certain in my facts, I have written out the account of my negotiations with the President of the United States.

On Saturday evening, March 31, 1906, I was informed by ex-Senator William E. Chandler that President Roosevelt had sent to him a note asking him to call at the White House that evening; that he had obeyed the call, and had been told by the President that he desired through him to get into communication with me as the Senator in charge of the railroad rate bill, and with Senator BAILEY, representing the Democrats of the Senate, for the purpose of ascertaining whether there could be such united action among the friends in the Senate of the Hepburn bill as would make a sure majority in its favor and against injurious amendments. Mr. Chandler said that the President named various Republican Senators who he thought were true friends of the bill, but said that it might require nearly all the Democrats to defeat obnoxious amendments. Mr. Chandler said the President had stated that he had come to a complete disagreement with the Senatorial lawyers who were trying to injure or defeat the bill by ingenious constitutional arguments, naming Senator KNOX in addition to Senators SPOONER and FORAKER [laughter]; that the President stated carefully and deliberately the basis upon which he thought there should be cooperation, viz: An amendment expressly granting a court review, but limiting it to two points; (1) an inquiry whether the Commission had acted beyond its authority—ultra vires was his expression—and (2) whether it had violated the constitutional rights of the carrier. Mr. Chandler stated that the President repeated that he had reached a final decision that the right of review should be thus limited, that thus far he would go and no farther; that his decision would be unalterable.

Mr. Chandler further said he told the President he believed it highly probable that the greater part of the Democrats would join in the President's limitation of the powers of the court, but that Mr. BAILEY and myself would urge in addition some prohibition of the courts from issuing ex parte injunctions; and he said that the President stopped him, saying that he need not enlarge upon his point, because he was heartily in favor of such a restriction of injunctions.

On the next day, Sunday, April 1, I repeated to Senator BAILEY Mr. Chandler's statements, and that day or Monday morning informed Mr. Chandler that we did not believe there would be any difficulty in coming to an understanding on the basis proposd by the President; and on the evening of Monday Mr. Chandler told me he had so assured the President and asked him not to be disturbed by the newspaper items growing out of the talk about Senator LONG's amendment, published in the newspapers as one agreed upon at a White House conference on Saturday.

Mr. Chandler and I continued to see each other every day, and on April 5 I told him of the existing situation; that there was no trouble and that progress was being made; and he went to the White House to make a favorable report to the President. On Saturday, April 7, I was called to South Carolina, but saw Mr. Chandler and gave him the substance of an interview with Mr. BAILEY on that day, which had indicated that everything was going on as we could wish.

On Wednesday, April 11, I had a full talk with Mr. Chandler, who afterwards on that day informed me he had reported to the President. Mr. Chandler told me that he had on April 8 conferred with Senator ALLISON and had asked him to intervene in the conferences that were going on, and that Mr. ALLISON had agreed to do so, and that the President had seen Senator ALLISON about it.

On April 13 Mr. Chandler informed me that he was sure that Mr. BAILEY and I had better confer not wholly with him, but also with Attorney-General Moody, as a representative of the President and his trusted adviser, on the law points involved.

Therefore, on April 15, by an arrangement made by Mr. Chandler, Mr. BAILEY and I had a long conference with Mr. Moody, in which we found ourselves in perfect accord with him, except that there was a difference of opinion on the question whether the prohibition of injunction should be only until after notice and hearing, and not necessarily until the final decision of the case. There was absolute accord from the first on the proposition that the court review should be limited to the inquiry whether the Commission had exceeded its authority or violated the carrier's constitutional rights.

After talking over the whole case, Mr. Moody said: "I will send you what I understand to be the kind of an amendment we can agree on, and which I think he will accept." Mr. Moody on the following day sent a typewritten draft of a memorandum of our joint views to Mr. BAILEY, and I have the original here.

The morning after the Democratic conference I went to see Mr. Moody alone and told him not to be alarmed by the newspaper reports; that we could, I felt sure, get 26 votes, and possibly 1 or 2 more, for the proposed amendment, and if the President was certain of 20 Republican votes it was a sure thing. Subsequently Mr. Chandler made another appointment with Mr. Moody, and Mr. BAILEY and I saw him at the Department of Justice. The conference was brief, and one or two slight verbal changes were made in the proposed amendment, and everything was agreed upon, the understanding being that we would work together with the President to get the necessary votes to pass it. Mr. Moody expressed the doubt whether President Roosevelt could get enough Republicans to pass the Bailey proviso, but felt sure the Overman amendment would go. But he declared it to be the President's fixed purpose to insist on the Long amendment as to a narrow court review.

With this draft made by Mr. Moody before me, I prepared a brief amendment, which was offered in the Senate on May 3. The day before I had talked with Senator ALLISON concerning such a condensed amendment, and on the morning of the 3d I sent to him a copy, with a letter, he being then sick at the Portland.

During the period covered by this statement—from March 31 to May 4—Mr. BAILEY and I made constant efforts to learn the sentiments of Democratic Senators, and also conferred with a few Republicans, and we informed Mr. Chandler and Mr. Moody that there was no doubt of the passage through the Senate of the amendment under consideration if the President would adhere to his programme. We had no suspicion that any change was intended until the afternoon of May 4, when the President summoned the thirty-six newspaper correspondents to see and hear him at the White House.

Mr. President, I ask to have the draft of this amendment, prepared by Mr. Moody after conference with Mr. BAILEY and myself, and amended by Mr. Moody at the second conference in one particular as to words and in another particular by Mr. BAILEY as to words, but not changing the substance at all, printed in the RECORD.

Several SENATORS. Have it read.

Mr. TILLMAN. Let it be read. This stuff has been bandied about so extensively it is almost nauseating to hear it any more. But I will let it go in.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

AMENDMENT TO THE HEPBURN BILL.

First. Strike out the words "fairly remunerative" wherever they occur.

Second. Allow the bill to stand in the respect of providing for maximum rates only.

Third. Adopt an amendment which is a composite of the amendment printed in Collier's on March 24—the Long amendment—and the Bailey amendment of March 21, as follows:

"That the orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time as shall be prescribed by the Commission, and shall continue for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless sooner set aside by the Commission, or by a court in a suit brought by any carrier, person, or corporation, party to the complaint, affected by the order of the Commission, against the Commission in the circuit court of the United States, sitting as a court of equity in the district wherein any carrier party to said suit has its principal operating office; and jurisdiction is hereby conferred on the circuit courts of the United States to hear and determine in any such suit whether the order complained of was beyond the authority of the Commission or in violation of the rights of the carrier secured by the Constitution; and if, upon the hearing, the court shall find that the order complained of was beyond the authority of the Commission or in violation of the rights of the carrier secured by the Constitution, it shall enjoin the enforcement of the same: *Provided, however*, That no order of the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of the court. Said proceedings shall have precedence over all other cases on the docket of a different character, and the court shall have power to make orders to secure the attendance of persons from any part of the United States, and the existing laws relative to evidence and proceedings under the acts to regulate commerce shall be applicable. Either party to said proceeding shall have the right to appeal directly to the Supreme Court of the United States, and such appeal shall have precedence in said Supreme Court over all other cases of a different character pending therein.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. The time of the Senator from South Carolina has expired.

Mr. TILLMAN. I ask unanimous consent to complete my statement.

The VICE-PRESIDENT. Is there objection to the request of the Senator from South Carolina? The Chair hears none. The Senator will proceed.

Mr. TILLMAN. I will not impose on the good nature and courtesy of the Senate.

On Friday night, I believe it was—yes, Friday night—after the correspondents had been called to the White House, and the President had notified the country that he was now getting all he wanted in the then baby Allison amendment, which has grown considerably since, but which at that time, I believe, embraced only the clause giving jurisdiction to the court to hear and determine such suits—at that time that was the breadth to which the little fellow had grown—I heard of this—I will not say surrender. I am waiting to find out what it was. Well, I will not say anything. I will just go along and state the facts. I heard of this at dinner, about 7 o'clock. One of the newspaper men who had been in the Cabinet room came to my hotel and reported what had occurred. He had met Senator Chandler on the street, and they had come in together.

I will say here that the Senator was much more excited than I was over it. As soon as I finished eating, we two, having been, you might say, conspirators together, if it was conspiracy, went to see my colleague, the Senator from Texas [Mr. BAILEY]. He was equally innocent of any knowledge, except what he had heard on the street on his way home. And then, wishing to get at the third or fourth conspirator, we went immediately to the residence of Mr. Moody. He was absolutely innocent of any knowledge of any such purpose on the part of the President, and so stated. He was preparing to leave when we reached his residence, and left for the South or somewhere on a visit of rest and recuperation. So the opportunity to get fuller facts from him did not occur.

Now, when it is recalled that my relations to the President are unfriendly, that I have been severely criticised in this Chamber because in pursuing an argument on another point I had made some allusions to him that, possibly, were not altogether Senatorial or in consonance with the amity and good relations that ought to exist between the Senate and the Executive, and that I had been called down by the Senator from Maine and others, it can readily be understood that when the ex-Senator from New Hampshire, who is a warm personal friend of mine, came to me with a notice that the President had sent for him, and then returning said he had sent for him for the purpose of getting in touch with the Democrats, to get their help, I thought very seriously for a while before I would consent to pocket my pride and lay aside my just indignation for a past wrong, as I considered it; but having regard for my duty, in charge of a great legislative bill, affecting the rights of the entire country, I decided it to be necessary for me to cooperate and help Theodore Roosevelt pass a good railroad law.

I have conferred, as I said in the statement, with several Republicans. The day I think Senator ALLISON was taken sick I showed him this amendment of mine. He said, "I think that is all right, except that we can hardly get votes enough for the Bailey proviso; but we will, I think, be sure to carry the Overman amendment." The next day I showed it to the junior Senator from Iowa, and he assured me that there were twenty-two Republicans sure for the amendment which I sent to the desk a moment ago, limiting the court review to questions involving the authority of the Commission and the constitutional rights of the carrier.

It therefore follows that I had every assurance that there were enough votes in the Senate on the two sides, laying aside all partisanship and coming together to discharge a great public duty, to secure the passage through the Senate of such provisions in the Hepburn bill as would guarantee the business interests of the country against interference and destruction by the judges in the work of beneficent work which we hoped that the Commission would do.

I shall not pursue the argument. I presume it is useless. The Senator from Rhode Island [Mr. ALDRICH] has resumed control of the Republicans. He shakes his head. That may be due to his modesty, or the fact that he has come nearer being unhorsed and thrown into the ditch in this struggle than ever before since I have been here. All the same, I repeat it.

I do not know whether it be partisanship and a desire that the Republicans should all line up, or whether the timid ones, who have been considering very seriously their duty to their constituents and were therefore anxious and willing to get behind the President and would therefore have voted for this provision, are not now rejoiced that Theodore Roosevelt gets between them and the people and says, as he has said in the dispatch to the legislative committee of the State Grange of Pennsylvania, that he has obtained all he ever desired to obtain.

The Senator from Texas, by repeated quotations from his messages and speeches, has demonstrated that the President has absolutely given up his contention in regard to the breadth of the court review. I will ask to have this printed—this dispatch which has been read by all and therefore it is not necessary to read it.

The VICE-PRESIDENT. Without objection, the dispatch will be printed.

The dispatch is as follows:

WASHINGTON, *May 6, 1906.*

W. F. HILL AND MEMBERS LEGISLATIVE COMMITTEE,
Pennsylvania State Grange, Harrisburg, Pa.:

Telegram received. I am happy to tell you that not only am I standing on my original position as regards rate legislation, but it seems likely that Congress will take this position, too.

The Hepburn bill meets my views, as I have from the beginning stated. The Allison amendment is only declaratory of what the Hepburn bill must mean, supposing it to be constitutional, and no genuine friend of the bill can object to it without stultifying himself.

In addition, I should be glad to get certain amendments, such as those commonly known as the Long and Overman amendments, but they are not vital, and even without them the Hepburn bill, with the Allison amendment, contains practically exactly what I have both originally and always since asked for, and if enacted into law it will represent the longest step ever yet taken in the direction of solving the railway rate problem.

THEODORE ROOSEVELT.

Mr. TILLMAN. But I want to call attention to the fact that in the message delivered to us on May 4, the day before these interesting occurrences took place, the President of the United States, in writing those burning words which have been flashed all over the United States about the Standard Oil trust, used these words:

It is impossible to work a material improvement in conditions such as above described merely through the instrumentality of a lawsuit. A lawsuit is often a necessary method, but by itself it is an utterly inadequate method. What is needed is the conferring upon the Commission of ample affirmative power, so conferred as to make its decisions take effect at once, subject only to such action by the court as is demanded by the Constitution.

The broad review which has been contended for from the first by the Senator from Rhode Island, the review which gives the court the right to determine whether the Commission has fixed a just and reasonable rate without regard to its having invaded the constitutional rights of the carrier, has been yielded by the President, if I know anything about the English language, and, although he reiterated his views the day before he sent for the newspaper correspondents, he now says, and his friends here say, that there is practically no change, no difference; and yet we have been kept here for four months debating this proposition. We had won our fight, as I believe, and would be to-day in possession of the majority of the Senate, to put those words into the bill, if the President had stood fast by his oft-repeated assertion of his desire and purpose and that he would not yield one jot or tittle.

As for the treatment of me, as for the failure to say to those with whom he had sought to enter into negotiations that he had changed his mind, the failure to notify, I suppose, although

I do not know, the Attorney-General that he had changed his mind; that negotiations were off; that he could get all he wanted from the Republicans without any help from us, I shall say nothing. I leave the facts to go to the country and let the people of the United States judge whether Theodore Roosevelt is entitled to the glory and honor of the rate legislation originally conceived by the Democratic convention in the last three campaigns and demanded in our platforms; whether we have not missed a golden opportunity to enact a really effective law and thus give the relief which the people demand. Whatever be the outcome the fact remains that had the Senate been left to itself this bill would be a great deal better than is now possible.

Mr. CARTER. Mr. President, I feel, as we approach the conclusion of this discussion, that it is due the Senator from South Carolina [Mr. TILLMAN] that expression be given to the general appreciation in this Chamber of his uniform courtesy and good temper in the conduct of the bill under consideration. That the Senator from South Carolina has worked industriously for the achievement of the result sought no one will question, here or elsewhere. I feel that in the light of the paper he has just read and the exhibit made in connection with it that the general well-being of the country and the gayety of nations would be greatly increased if I were to ask unanimous consent that the Hon. William E. Chandler, late a Senator from the State of New Hampshire, be given the privileges of the floor for the remainder of the debate. However, inasmuch as that request would be somewhat unusual. I withhold it, notwithstanding the fact that I am quite sure the ex-Senator from New Hampshire would make a contribution to current parliamentary literature very interesting, if not instructive.

Mr. TILLMAN. Will the Senator allow me?

Mr. CARTER. Certainly.

Mr. TILLMAN. I shall be more than delighted to hear what the ex-Senator from New Hampshire, Hon. William E. Chandler, has to say about this, and I should also like to hear from Theodore Roosevelt and William H. Moody.

Mr. CARTER. I have no doubt that Mr. Chandler will be heard from, and, perchance, the President and the Attorney-General will likewise give the incident such notice as may seem to them appropriate.

The papers presented by the Senator from South Carolina in substance mean that the President was anxious from the beginning to maintain the integrity of the Hepburn bill as it came from the House. Finding that this could be done without amendment other than inserting a mere interpretation in the matter of jurisdiction, he was content with that. As the bill stands under the so-called "Allison amendment," the matter of jurisdiction is interpolated merely for the purpose of interpreting and making clear that which it is insisted was in the bill from the beginning.

The Senator from Texas [Mr. BAILEY] desired, apparently, to avoid the issue, although unconsciously, I think. With his usual display of mental acumen he undertook to differentiate between jurisdiction and court power and the restraining of courts from granting temporary injunctions. All of the quotations to which the Senator referred in his speech upon yesterday, beginning on page 6873 of the RECORD, go to the question of the President's position with reference to the orders of the Commission standing until set aside by a final adjudication in court. That goes to the exercise of court power and jurisdiction. The President's position, to my mind, has been consistent from the beginning. It has been my privilege to hear an expression of his views, and on every occasion he has insisted that the bill as it came from the House was, in his judgment, the best possible legislation that could be secured upon the subject. Finding that amendments were offered in such vast volume in the Senate, it is no wonder the President sought to restrict in some manner the adoption of amendments and the utter confusion and ruin of the bill.

I take it that the Senator from Texas did himself little credit in attempting to evade the issue by claiming that he was not discussing the jurisdiction of the courts on the occasion of his assault upon the President. The subject-matter to which he referred related practically to that subject only. The Senator sought to make answer to some observations I thought proper to submit by referring to me as an inconspicuous member of this body in connection with this measure. It is true I have been here but a brief space of time, and I at once disclaim any purpose to indulge in such lofty pretensions as the Senator from Texas arrogates to himself. I would prefer, Mr. President, in every walk and relation of life to occupy the position of an unobtrusive citizen or official performing duties as they arise, rather than to seek special distinction by walking about wrapped in a mantle of egotism and strutting through an atmosphere of vanity, considering all other men as puny pigmies. I believe it is the right and privilege of any Senator to refer in this Chamber to a public record, and I at once and cheerfully ascribe to any Senator the privilege of making a personal allusion when only public records are involved. I have been inconspicuous in connection with this legislation, but I would prefer the inconspicuous position rather than to assume the burden attached to some Senators who have been more conspicuous in offering certain amendments to this bill.

Mr. BAILEY. The Senator from Montana [Mr. CARTER] misquoted what I said in order to make it a little easier to answer it. I did not describe him as an inconspicuous member of this body. What I said was that his services in reconciling Republican differences had been inconspicuous, and he might just as well treat himself to the novel sensation of being accurate once in a while.

Mr. President, I shall not allow myself drawn into a debate over what I think of my own capacity. It is true I do not go through the world wringing my hands and begging everybody's pardon because I happen to be in their way. It is true I maintain my opinions with some persistence and occasionally with a regrettable degree of dogmatism. But there is a vast difference, sir, between egotism and dogmatism. I have always believed that egotism is an offensive trait; but I do not believe that a lack of confidence on the part of any man who aspires to a seat in the Senate of the United States in the correctness of his own views is a special qualification for service in this body. If a Senator does not have confidence in his own views, in God's name how can he ask the people of a State to give him one-half of their authority in this, the greatest legislative assembly in the world?

Every man who announces himself as a candidate for the Senate testifies to the people whose suffrage he seeks a high degree of confidence in his own ability. The man who tells me that he does not value his own judgment, and yet asks the people to clothe him with the dignity of this great office, confesses that he seeks an office which he thinks himself incapable of filling. I do not belong to that class. I have never sought an office I did not think myself qualified to fill, and I never shall.

If it pleases the Senator to provoke—no, I will not use that word, because no Senator shall provoke me into a debate of that kind—a personal exchange, this is not the place to give the provocation. If one Senator entertains toward another a feeling which leads to personal and offensive criticism, it ought to be given vent at other times and in other places. This Senate Chamber shall never be the scene of a disorderly personal debate between me and any other Senator. With this I dismiss the allusion of the Senator from Montana, who began the attempt at personal controversy in his previous speech.

I shall only detain the Senate long enough now to say that what the Senator from South Carolina has said as to my connection with what we will call this unfortunate misunderstanding between him and the President is correct. I did not myself interview ex-Senator Chandler, and I derived all the information I have as to the messages of the President through Senator Chandler to the Senator from South Carolina from the Senator from South Carolina alone.

When I was invited to go with him to discuss with the Attorney-General this matter, I replied that I was willing to discuss a law question with the law officer of the Government; that while I had always declined and while I should continue to decline discussing with any member of the executive branch of the Government the propriety or the wisdom of legislation in Congress, I was willing to discuss with the Attorney-General the question of law involved in the amendment which I had proposed.

I went with the Senator from South Carolina to the Department of Justice, and I discussed at some length and with a result entirely satisfactory the legal question with the Attorney-General. I said to him what every Senator on this floor has known from the beginning, that my deepest concern in respect to a court review is to protect the orders of the Commission from judicial interference until the court is ready to render a final judgment, and as I understand it these suggestions and this amendment which the Senator from South Carolina has read were not only drawn by the Attorney-General, but were approved by the President before they were transmitted to me. As this paper came to me it included what is known as my anti-injunction amendment, word for word, as it was taken out of the amendment on the subject of a court review which I had presented to the Senate. It was not even changed to conform to the new court provision which the Attorney-General had drawn, and the pencil line which has been drawn through certain words I drew myself. In order to make that part of the amendment conform to what had preceded it, I added the words

"or order" in lieu of what I had stricken out, and in the second interview that change was approved by the Attorney-General.

Mr. President, I hope the Senate and the country will draw one moral from this disagreeable affair. I hope it will tend to convince Senators and citizens of the vast importance of preserving forever and completely the separation between the several departments of this Government, for as surely as the Executive calls legislators to a conference with him, misunderstandings will arise; and as surely as the Executive is permitted to influence the judgment of legislators, just that surely and just that far they violate the spirit and the letter of this splendid system.

This misunderstanding will probably be fruitful of some good, which shall in the years to come outweigh the evil which has resulted from it. I would rather see this bill defeated until a new judgment could be taken from the people upon it; I would rather see the court amendment as broad as the English language can make it, and that would not be broader than you gentlemen have made it now; I would rather suffer any single evil, than to see the great, separate, and independent departments of this Government brought under the dominion of a single will.

Mr. DOLLIVER. Mr. President, I would not feel any disposition to take a part in such a controversy as is now going on if the honorable Senator from South Carolina had not appeared, at least, to call me as one of his witnesses. I have been engaged in this rate discussion now for a good deal over a year. I never sought any responsibility in connection with it, but found that responsibility upon me as a member of the Interstate Commerce Committee of the Senate.

I do not intend to indulge a tone of criticism, much less of scolding, but I can not forbear to say that we have spent nearly a year magnifying the little questions connected with the railway problem and treating with neglect the substantial questions which are involved. I said more than a year ago in this Chamber that we ought promptly to pass a bill in pursuance of the recommendation of the President. I did everything possible to induce the Senate to take that action at the second session of the last Congress, and, in common with others, spent the whole spring and nearly the whole summer helping to discharge the business which the Senate laid upon the Interstate Commerce Committee.

We are now advanced to the concluding stages of this controversy, and as I reflect upon it the thing that impresses me most is that this bill, which is a very simple and a very complete response to the petition of the business community and to the recommendations of the President of the United States, has had almost as much trouble from its friends as it has had from its enemies.

It has had to stand fire from two directions—from the camp of its opponents and from the scattered tents which shelter its adherents. The fact that it has escaped the steady fusilade of the one and the random shots of the other is not only an unusual fortune of war, but a gratifying evidence that it is made of proper stuff. In the first place it has survived the criticism of the constitutional lawyers. I do not underestimate their powers, nor their influence in a deliberative body like this.

Here is the only spot in the world where no limits are ever set on the learning of the profession. The courts protect themselves against such inundations of legal lore; while we all bow, with the multitude, before these displays of forensic genius which enthrall the Senate and enchain the galleries till, like our great ancestor conversing in the garden, we forget all time. Fortunately this bill was prepared to stand the siege guns of constitutional lawyers. It was drawn on lines laid down in the great decisions of our courts. The worst fate that could befall it in the judgment seat would only teach the American people what steps to take to accomplish the work which they have in hand. Therefore they can await the outcome of judicial proceedings with an equal mind. To have the measure vetoed by the Supreme Court is one thing; to have it overwhelmed in the Senate Chamber by the onset of constitutional lawyers is quite another. That fate it has happily escaped, for the champions of the Constitution, whose combined attack might have been ruinous to the measure, have spent their time refuting one another, introducing here an intellectual Kilkennyism never before seen in the Senate of the United States.

Senators have begun speeches by denouncing the measure as unconstitutional and ended by declaring their purpose to vote for it, as if the proverb read, "Be sure you are wrong, and then go ahead." A Senator who is against the bill made a speech for it, while another who is for it made a speech against it. A Senator who has gone over the measure three times in elaborate arguments finds no soundness in it, sees in every section the mangled remains of the Constitution, seriously proposes to take a little bill of his own and tuck it in tenderly by the side of these wicked and repugnant offenses against constitutional government as an alternative remedy.

And so the conflict has raged from day to day, from week to week, from month to month, and, as the end of the struggle approaches, the friends of this measure can join in the admiration of the prowess of the legal gladiators, without concealing their gratitude that in the confusion the bill itself has escaped without material injury.

These rival detective agencies of the law that have been shadowing the Constitution all winter are about to be retired from business so far as this bill is concerned. We are surely in no position to regret that the President of the United States has been willing to take the leadership of this controversy, a post which he has occupied from its very beginning.

It is no use to reproach my friend from Texas [Mr. BAILEY] and my friend from Maryland [Mr. RAYNER] because they did not worry themselves about interstate commerce while they were in the House of Representatives. That is an attack on nearly everybody, but it simply illustrates the fact that when these personalities begin to intrude you can not tell who is going to get into difficulty.

Few of either party exhibited any activity in the House of Representatives or anywhere else, because everybody knows that the entire attention of the American people was for five years preoccupied by the war with Spain and the problems that grew out of it, and it is no particular reproach to anybody that he did not become excited about other questions.

We can trace the new public interest in this question and all kindred questions to the leadership of the President of the United States. I have described it on this floor as the most superb moral leadership that this generation has had, and I rejoice that his hold on the affection and the good will of the American people is so complete that not even the eloquence of my friend from Texas can disturb their confidence either in his integrity or in his sagacity.

Now, Mr. President, I do not intend to enter into a discussion of the law applicable to the amendments which have been offered by my honored colleague, the Senator from Iowa [Mr. ALLISON]. He has been my counselor and my guide in these undertakings ever since I have given attention to them. For more than forty years he has devoted his life to the services of the American people, and I do not propose to permit it to be said that he either has allowed himself to be misled or has misled anybody else in connection with this matter.

The original Hepburn bill omitted any affirmative words conferring jurisdiction on the courts. It did so designedly. I will say to my honored friend from Texas that that omission was made with the knowledge and advice of one of the greatest lawyers in the State of Texas, a man whose fame as a jurist has been won in the courts. Night after night we sat up together and gave our entire attention to the problems with which we have to deal in this bill. We agreed that nobody knows exactly what the courts of the United States will do with an order of the Commission; but we agreed that whatever they may do their jurisdiction does not depend on the language of this bill conferring it. Therefore, aside from providing the venue of the suits and distinctly providing that the orders of the Commission may be set aside or suspended by a court of competent jurisdiction, we said nothing. But the bill was drawn with the distinct understanding that the courts of the United States have in relation to these orders a jurisdiction which the Congress can not abridge in any way.

My honored colleague [Mr. ALLISON] yesterday stated the whole law of this case. He has not won very great fame as a constitutional lawyer, but he has been in contact with the business of the Government of the United States long enough to know more about legislation and the problems connected with it than any man who has occupied a seat in this Chamber in our generation, and with that intuitive common sense which he applies to every question he went right to the root of this matter.

What are we doing? We are exercising the power of Congress over interstate commerce. What is this order of the Commission when it is made and the rate which it fixes? Taken with the statute which authorizes it, it is the act of the Congress of the United States, and the position of the courts in respect to it is exactly the position which the courts occupy toward every other act of Congress. It does not lie with them to supervise the wisdom of it. It does not lie with them to pass upon the public policy of it. It does not lie with them to rewrite it. It lies with them only to judge of its conformity to the supreme law. Therefore these amendments which my honored colleague has offered have only put affirmatively into the Hepburn bill the jurisdiction which its friends have from the beginning claimed

that it conferred upon the courts. They have given heed to the argument made by my honored friend from Pennsylvania [Mr. KNOX], who pointed out that while a suit was apparently intended, there was no defendant in sight, and that it would greatly strengthen the bill from a legal standpoint if a positive statement of the jurisdiction was made in the bill itself.

Whoever says that the President of the United States has surrendered anything impeaches a courage which needs no defense before the American people. Neither ought we to listen without protest to the suggestion that the President of the United States has been trapped. He is surrounded by official advisers who are great lawyers—great constitutional lawyers, if you please—and he needs no indorsement here, when he says to the American people that these amendments leave the Hepburn bill exactly as he desires it to be left, with that jurisdiction in the courts of which no act of Congress can deprive them.

The very object of this bill is to get the judgment of somebody wholly removed from the bias of interest as to what the rate ought to be and to give the finding effect within a reasonable time. The courts have steadfastly refused to assume that duty, because the act of establishing a rate is a power expressly conferred upon Congress. This bill creates a Commission to do that business, because, even if the courts had the power to do it, it is not within the field of their training and experience. We create the Commission, therefore, in order that this work may be done by men specially qualified to do it. The bill increases the number of the Commissioners, and pays salaries nearly equal to the compensation of our highest courts. The questions involved are not questions of law. They concern the practical adjustment of everyday affairs of business, yet men stand here gravely and declare that a direct recognition of the jurisdiction of the circuit court to hear a suit brought to vacate one of these orders takes all findings of the Commission and subjects them to the scrutiny of a judge in order that its mistakes may be brought into chancery and exposed to the vicissitudes of an interminable lawsuit.

While it may be regretted that this discussion has been so largely given over to a battle of the law books, the outcome of it has not been as disastrous as might have been anticipated. For expositors of the Constitution, equally famous in American public life, while they have not convinced one another, have made everybody's position comfortable and everybody's opinion respectable.

If they have not simplified the transaction in which we are engaged, they have at least given us an opportunity to simplify it for ourselves. It does not require a law library to ascertain the limitations which must guide the work which we are trying to do. The power to regulate interstate commerce is confided to Congress, and to no other department of the Government. Whatever else may be said about the Commission which we are creating, the act which they perform becomes a part of the act of Congress through which they derive their authority, and the rate which they fix, in the language of Mr. Justice Miller, becomes the law of the land as completely as if Congress had established it without the intervention of an administrative board. Therefore the courts have exactly the same relation which they have to other acts of Congress and can be given no other jurisdiction over it.

This bill responds to the petition of the business community of America. It responds to the recommendations of the President of the United States. It will have the approval of the American people; and the President of the United States makes no surrender when he gives to it in the form in which it will pass this body his unreserved approbation.

Mr. CLAPP. Mr. President, it is my purpose to say a word on this occasion, without any invective or without any sarcasm or any attempt at humor.

Mr. President, when the smoke of this struggle shall have passed away, when the written provisions of this bill shall have been submitted to the American people, through the exercise of their own judgment upon it, instead of taking the dictum of members of this Senate as to what the bill means, Theodore Roosevelt will be recognized as having achieved the greatest moral victory in all the moral victories which have stamped him so conspicuously as an ideal American citizen.

When this bill came from the House of Representatives and was in the Committee on Interstate Commerce of the Senate, I was one who voted to bring the bill out upon the theory, as I believed then and believe now after weeks of weary and ofttimes dreary debate, that it was above the power of Congress in legislation to restrict or enlarge those rights which are guaranteed under the Constitution, and that the right of the carrier under this bill to go into court and defend his property rights exists not because written into this bill, but because it exists under the Constitution of our country.

There was one thing in this bill which I always regretted as an omission, and that was the failure to name the Commission distinctively and affirmatively as the party against whom the suit should be brought. In the process of discussion it came that that suggestion was made; in the process of discussion it came that the amendment which, for brevity's sake I shall refer to as the Long amendment, was suggested; in the process of discussion it came that the amendment, to which I shall refer as the Allison amendment, was also suggested; and I say to-day, Mr. President, that it may go into the RECORD and go as a prophecy that when the hysteria of this hour has passed away, when the American people, laymen and lawyers alike, shall read the statute as it will be printed, the American people will realize, as Theodore Roosevelt and the Republican members of this Senate realize, that in the essentials of this bill there has been no change whatever.

It was the demand of the people, accentuated and emphasized and crystallized by the President's message, that the Interstate Commerce Commission should be given power, not only to condemn an existing rate, but to name a rate which should take its place—a power which they lacked under the law of 1887. It was also insisted that the order of the Commission should go into effect, throwing upon the carrier the burden of relieving itself from that order if the order violated a constitutional right. Those two basic principles are wrought into this bill, and are wrought into it so plainly that no man can misread them.

I join somewhat with the Senator from Iowa [Mr. DOLLIVER] that much of this constitutional debate has been among the shadows and in the clouds, and, I maintain, as I did in the opening of this debate, that it is beyond our power to either restrict or enlarge the constitutional guaranties.

Now, one word in regard to the President himself. When this matter reached this point, there were three things which Theodore Roosevelt might have done. He might have stood back and said: "It is not for me to discuss the details of this legislation; I have said what the country requires, what the interests of the country demand, and you must work out the details;" but that would have been a cowardly position, inconsistent with the courage of Theodore Roosevelt. He might have taken, sir, another position. He might have built himself still greater and drawn himself still nearer to the American heart had he wanted to play the part of a demagogue and stand back upon private expressions, and have said: "The Hepburn bill, without change of line or letter;" and the American people, sir, would have believed in his attitude in that respect, that it was wrong to amend the bill. If he had been playing for popular favor, that is what he might have done. But that would have been inconsistent with the character of Theodore Roosevelt; and with that resolute fixity of purpose which has so characterized the man, he took hold of this matter. He knew, undoubtedly, had he stopped to think—which I doubt, for I do not believe the man counts the cost in popular favor, one way or the other, when duty points the way—but if he did at all, he must have realized that on the floor of this body, in the excitement and the frenzy of this hour, it would be charged that a great change had been wrought in this bill; but, sir, fearlessly and resolutely facing that proposition, he took the responsibility for this in the telegram issued, I think, last Saturday.

I want to predict to-day, Mr. President, on this floor, that, when the frenzy of this hour shall have passed away, when the American people in calmness shall judge his action, they will recognize in his courage in facing what might be criticism of his political and personal enemies, one of the most splendid exhibitions of courage in his character and career, distinguished for courage. For, Mr. President, after all, the supreme test of greatness is to be great enough to be greater than self.

Mr. LONG. Mr. President, the Senator from South Carolina [Mr. TILLMAN] in offering his amendment stated that it was the amendment that I had printed some weeks since. In this the Senator from South Carolina is mistaken, just as the Senator from Maryland [Mr. RAYNER] was mistaken when he said that the amendment which he offered was identical with the amendment I presented. That amendment was prepared, after consultation with the senior Senator from Iowa [Mr. ALLISON], the junior Senator from Minnesota [Mr. CLAPP], and other Senators. As first prepared, it was practically the same as what is now known as the Allison amendment. It was based upon the assumption that if the bill did not give jurisdiction to the courts over orders of the Commission, it was necessary to give that jurisdiction. I was impressed with the speech of the Senator from Pennsylvania [Mr. KNOX], in which he pointed out that the bill as it came from the House did not affirmatively give jurisdiction to the courts; and we who were in favor of the legislation admitted that if it did not give jurisdiction, or

rather if it could be so construed as to prevent the jurisdiction from attaching, then the bill would be unconstitutional. So, in order to make the point plain that we did not intend to prevent a review by the courts, my amendment was prepared and presented. There were in the closing part of that amendment these words:

And jurisdiction is hereby conferred on the circuit courts of the United States to hear and determine in any such suit whether the order complained of was beyond the authority of the Commission or in violation of the rights of the carrier secured by the Constitution.

Those words were added not with the view of restricting the jurisdiction of the courts to those two questions, but for the purpose of expressing affirmatively the jurisdiction the Supreme Court had taken over orders of State commissions in cases brought before them. It was to be placed in contrast with the proposition presented by the Senator from Ohio, in which he sought to have the court, on review, consider the wisdom and the policy of the orders of the Commission. So it was that in the preparation and presentation of my amendment we sought to do nothing more than to affirmatively state that jurisdiction was conferred on the courts to review the orders of the Commission.

In the remarks that I made on this bill on the 3d of April, the day the amendment was presented, I used this language:

But I agree with the Senator from Pennsylvania that there should be no question in regard to the right of a carrier that has been injured by an order of the Commission to sue the Commission in the United States circuit court.

I do not object to an amendment authorizing suit to be brought against the Commission and conferring jurisdiction upon the United States circuit court sitting in equity to hear and determine any such suit. I believe under this bill without amendment that two questions can be inquired into by the court in a suit brought by the carrier or anyone else injured by an order of the Commission, and I am not opposed to amending the bill by defining such jurisdiction of the court. I believe that suit can be brought to set aside the order of the Commission when the Commission has acted beyond its authority, for general unlimited jurisdiction is not conferred upon the Commission to make rates. It is a body of limited jurisdiction, and the law clearly defines its duties, and it must act within the law or its actions are void. I also believe that under this bill, without amendment, if the Commission makes an order that is a violation of the rights of the carrier, which are secured by the Constitution, the court, on a suit being brought, will suspend or set aside such order; and believing that these things are in the bill now I am not opposed to making the bill clear and definite by inserting such provisions.

I then quoted the amendment I offered, and made this statement:

But I fear that this amendment will not be satisfactory to the Senator from Pennsylvania and the other Senators who are seeking to amend this bill by inserting a provision for a court review. It is not the intention of those who are insisting upon a review to insert a provision to limit the jurisdiction of the courts to the two questions suggested in this amendment. They know that the courts would assume this jurisdiction now, for they have assumed it in cases arising under State statutes and have clearly defined the length to which the courts will go in examining the orders of a subordinate tribunal. If the Commission has acted within its authority in making the order, then the rate will only be set aside by a court if it is so unreasonably low as to amount to confiscation, and a confiscatory rate has been defined to be one that does not give a fair return on the property that is employed in performing the service.

I then said, after quoting from the speeches of the Senator from Massachusetts [Mr. LODGE] and the Senator from Ohio [Mr. FORAKER] as to the kind of court reviews which they desired:

I believe that if we have a commission to which Congress gives the authority to fix maximum rates under certain restrictions, it is the duty of that commission to exercise its judgment as to the limit to be fixed, and that judgment when once exercised should not be controlled or revised by a court on review, if the commission acted within its authority, unless the rate is fixed so high as to be extortionate to the shipper or so low as to be confiscatory to the carrier.

But what the Senators from Massachusetts and Ohio desire, and what the Senator from Pennsylvania desires, if we take the provisions for court review in the document which he had printed, is to place in this bill provisions that will authorize the court to sit in judgment on the *wisdom* and *policy* of the rates made by the Commission and suspend or set them aside, not only when they are confiscatory, but when for other reasons they deem them unwise or unfair.

I also said in the same speech:

If a provision for review is placed in this bill, similar to the provisions in the different States contained in the document prepared by the Senator from Pennsylvania, one of three things will occur:

First, the United States courts will follow a course similar to that taken by the supreme court of Minnesota, decline to exercise the rate-making function, and confine their consideration of the rate, as they do now, to the question as to whether it is confiscatory, and as to whether the Commission acted within the authority of the law;

or

Second, the courts will assume the jurisdiction, and if they do, then we should not assume to confer this power on the Commission, when, in fact, it is to be exercised by the courts on review, but we should adopt the plan of the Senator from Ohio, and impose the duty on the courts in the first instance;

or

Third, the Supreme Court, following its decisions and taking a course similar to that taken by the supreme court of Kansas in the Court of Visitation case, will determine that this attempt to confer upon the courts the legislative and administrative function of fixing rates is unconstitutional, for the reason that the Constitution gives to Congress the power to regulate interstate commerce, and Congress can not transfer that power to the courts, and this provision being incorporated in a bill that might not have been enacted without it, is so closely interwoven with the other provisions of the bill that the whole act is unconstitutional and void.

If the court should take the first course under such a provision for review as is desired by the Senator from Massachusetts [Mr. LODGE] and the Senator from Ohio [Mr. FORAKER], no injury would be done and those who favor this legislation would not be disappointed; but if the court should take either the second or third course which I have designated—and I think that one of these two courses would surely be taken—then the purpose and object of this legislation would entirely fail.

And so while I believe that this bill would not be held unconstitutional in its present form, for it specifically recognizes the right of review, and can not be construed as an attempt to prevent a review, yet I am willing to place in it provisions that are more definite along this line. But I am not in favor of any provision for review similar to those in the different States, to which reference has been made, because I believe that such a provision would imperil the constitutionality of the law and result in its being declared invalid by the courts. If a provision for a court review is inserted in this bill that is so broad as to be construed as imposing the rate-making power upon the courts, it will be done without my vote.

Mr. President, holding these views, I did not insert in the amendment I offered those words as a limitation upon the court, but as an expression of the jurisdiction they had assumed in such cases. It was after consultation by me with the Senator from Iowa [Mr. ALLISON], the senior Senator from Minnesota [Mr. NELSON], and the Senator from Oregon [Mr. FULTON] that the amendment which has been presented by the Senator from Iowa [Mr. ALLISON] was prepared. I said then to those Senators, as I say now, that, in my opinion, the judicial interference of the courts with the orders of the Commission would be the same under the amendment of the Senator from Iowa as under my amendment. The amendment presented by the Senator from Iowa is entirely satisfactory to me, and is not broader than mine. In this bill we give the Commission the power to determine and prescribe a rate which, in its judgment, is just and reasonable, and an order made by it will not be set aside unless it exceeds its authority or invades the constitutional rights of the carrier or shipper. The courts will not review the discretion of the Commission.

Mr. TILLMAN. Mr. President, it is very evident that the "grand old Republican party" are united absolutely and without any misgivings or doubts among any of its members in carrying out the programme agreed upon. I therefore withdraw the amendment, as I know it will be voted down. It has already been voted down in different forms about four times.

The VICE-PRESIDENT. The Senator from South Carolina withdraws his amendment. The question is on the amendment of the Senator from Iowa [Mr. ALLISON].

Mr. ALLISON. Before voting on the amendment, I desire to modify it by inserting the words which I send to the Secretary's desk.

The VICE-PRESIDENT. The proposed modification of the Senator from Iowa will be stated.

The SECRETARY. Before the word "and," the first word in the proposed amendment, insert the following:

And may be brought at any time after such order is promulgated.

Mr. ALLISON. A period should follow the word "promulgated," and the next word—"and"—should begin with a capital letter.

Mr. SIMMONS. Mr. President, I desire to offer an amendment, to come in immediately after the word "courts."

Mr. ALLISON. I presume I have a right to modify my amendment, Mr. President?

The VICE-PRESIDENT. The Senator has a right to modify his amendment. The amendment as modified is now before the Senate. The Senator from North Carolina [Mr. SIMMONS] offers an amendment to the amendment as modified, which will be stated.

The SECRETARY. After the word "courts," at the end of the amendment offered by Mr. ALLISON, it is proposed to insert the following:

Whenever an application for a preliminary injunction or interlocutory order is made in any such suit, for the purpose of such motion the order of the Commission and the evidence upon which the same was made shall be taken by the court as prima facie establishing that the rate or charge fixed in such order is just and reasonable.

Mr. FORAKER. I should like to have that amendment reported again.

The VICE-PRESIDENT. The Secretary will again state the amendment.

The Secretary again read the amendment to the amendment.

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Carolina yield to the Senator from Iowa?

Mr. SIMMONS. Certainly.

Mr. ALLISON. I suggest to the Senator from North Carolina that his amendment, it seems to me, more properly should be placed on page 10 of the printed amendments.

Mr. SIMMONS. I will say to the Senator that I will examine into that later, but I desire to submit some remarks before the vote is taken upon his amendment.

Mr. ALLISON. I withdraw the suggestion.

Mr. SIMMONS. After I have finished my remarks I will withdraw the amendment and later will offer it to the section to which the Senator refers.

The VICE-PRESIDENT. The Senator from North Carolina is entitled to the floor.

Mr. SIMMONS. Mr. President, when I was interrupted by the expiration of my fifteen minutes earlier during the day, I stated that I proposed to finish upon some other amendment the discussing which I was then engaged. I will now start where I then left off.

The Hepburn bill, as it was sent to us from the other House, contained the provision which the Senator from Iowa [Mr. ALLISON] retains in his amendment, so far as fixing the place of venue for such actions as might be brought under the general law and equity practice for the purpose of enjoining, setting aside, or annulling an order of the Commission. No objection has been made by any Senator to this provision of the bill, because both sides of this Chamber are agreed that in certain cases—cases involving questions of constitutional right and cases involving questions of ultra vires—it is beyond the power of Congress to prevent the interference of the courts, and therefore it is admittedly appropriate and necessary that the bill should provide for a venue for the trial of such actions as might, under the principles of law and the Constitution, be instituted against the Commission upon these grounds.

Mr. President, after we have been discussing here for nearly three months the question of whether we should provide in this bill for a broad or a narrow review; after the President had assured the Senate and the country that under no circumstances would he consent to the insertion of any provision which would confer upon the courts unlimited authority to review the actions and the orders of the Commission; after the gentlemen on the other side of the Chamber, who have all along stood with the President upon this proposition, had repeatedly asserted upon the floor of the Senate and in private conferences with Senators on this side that they would stand inflexibly and unalterably against a broad court review provision, the Senator from Iowa, speaking for the President and for that part of the Senators on the other side who have heretofore stood with the President in this matter, now proposes to amend the venue provision of the Hepburn bill and confer upon the courts jurisdiction to hear and determine every possible order and requirement of the Commission.

It has been said here, and truthfully said, that language could not frame a court review broader than that provided in the amendment of the Senator from Iowa. Mr. President, when we say to the Senators on the other side who have for three months been standing with us on this question and who have now deserted us, "This provision is as broad as it can be made; jurisdiction more complete could not be conferred upon the courts," we are met with an amazing explanation. What is that explanation? The explanation is this: Though the language of this amendment may be, and is, sufficiently broad to confer upon the courts unlimited jurisdiction over all the orders and the requirements of the Commission, the courts will not, although ample jurisdiction is conferred upon them, have power to review any orders or requirements of the Commission, except orders which violate constitutional rights or which are ultra vires.

In other words, that it makes no difference how broad the language of the court-review provision is, the powers of the court to hear and determine a controversy as to the orders of the Commission is limited to such orders as are unconstitutional or ultra vires.

If that be true, if, notwithstanding the fact that the bill gives the courts the broadest possible jurisdiction to review these orders, the courts can not exercise that power except in cases involving constitutional rights or ultra vires, what in the name of common sense is the difference, so far as any possible provision of this bill is concerned, between a broad and a limited review? What has all this controversy during the last three months been about? Why have the gentlemen during these long months of debate insisted so strenuously that Congress should not write into this bill a broad court review, if, when it write it there, the courts have no greater powers in this regard than they would have under a provision giving the courts only limited powers of review?

If the explanation, if the reason these gentlemen give as a justification for their change of front be sound, Congress has no control whatever over this question of court review; it is a constitutional question; there is no difference between a broad and limited review, and this whole controversy has been a vain and a foolish controversy from the beginning. I say it is amazing that our erstwhile friends on the other side have just made this astonishing discovery.

Mr. President, the people of this country were reasonably satisfied with the Hepburn bill as it came from the House. They knew that it did not give them much; they knew that it did not give them as much as they demanded; they knew that it did not give them as much as they were entitled to demand of their representatives in Congress; but they recognized it as a step in the right direction; they regarded it as the recognition of a principle for which they contended, and they were content to wait until the Senate and the House should be constituted in a way that would enable them to come with increased demands with some hope and assurance of having them recognized.

When this bill came over from the House, instantly assaults began to be made upon it in this body. It was sought to weaken it in its essential remedial provisions, weaken it in the interest of the railroads instead of strengthen it in the interest of the people. They were assaults calculated to emasculate the bill and impair the little it offers in the way of relief from hard and oppressive conditions.

Under the old law the Commission had the right to declare a rate unreasonable and to denounce it. All this bill added to that power was the power to substitute for the denounced rate a rate found by it to be just and reasonable. Now, we are met with a proposition—and I say it is a proposition not in the interest of the people, but in the interest of the railroads—that when the Commission shall substitute a rate for one found unreasonable the matter may be taken, upon an ex parte proceeding, into the courts and the rate suspended until the court has determined what it will do about it.

I believe the people demand and have a right to demand that when the Commission shall fix a rate that rate shall not be suspended except upon final hearing and determination by the court. More than that, they demand that the court shall keep its hands off the rate unless a constitutional right is involved or unless the order fixing it is ultra vires. These are the cardinal contentions of the people in this controversy. Both of these demands of the people have been turned down by the agreement on the other side, and their interests in these respects ignored and trampled under foot.

Mr. President, if this bill shall pass the Senate, as I take it it will, with no power to prevent the courts from suspending a rate until final hearing, with full power invested in the courts to review and to set aside every order that the Commission may make, this legislation will not be what the people want and expect and demand. A victory will have been won by somebody—I will not say who—but that victory will not be a victory for the people, it will be a victory for the railroads.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Iowa. The Chair understood the Senator from North Carolina to withdraw his amendment.

Mr. SIMMONS. I withdraw temporarily the amendment offered by me.

Mr. McLAURIN. Mr. President, I desire to offer an amendment to the amendment of the Senator from Iowa.

The VICE-PRESIDENT. The Senator from Mississippi proposes an amendment to the amendment of the Senator from Iowa. It will be stated.

The SECRETARY. After the word "courts," the last word in the amendment of the Senator from Iowa, it is proposed to insert:

> No judge who owns any stock in a corporation engaged in interstate commerce shall be eligible to make a fiat for the issuance of any process or to sit in the trial in any case where such corporation is a party, or directly or indirectly interested, in the result of the trial of the case.

Mr. McLAURIN. Mr. President, I favored and voted for the amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. HALE. There is so much noise that it is impossible to hear the Senator. I ask that the amendment be again read.

The VICE-PRESIDENT. The amendment will again be stated by the Secretary.

The Secretary again read the amendment.

Mr. HALE. The amendment offered by the Senator is not, I think, in the exact language of the one that was tabled by the Senate, and therefore I have no doubt, not being identically the same, is in order. But I shall move, when the Senator has presented the case and it has been discussed by him—as I did in the other case—that it be laid on the table.

Mr. McLAURIN. Mr. President, I suppose the motion of the Senator from Maine [Mr. HALE] will carry. But I wish to state that the suggestion made by the Senator from Maine a while ago, when the amendment to the amendment that was

offered by the Senator from Wisconsin [Mr. LA FOLLETTE] was before the Senate, that the Senator has respect for the judiciary, is not to be understood as an assertion that no other Senator has respect for the judiciary except the Senator from Maine. The sentiment of respect for the judiciary is a sentiment of which no Senator has a monopoly. I myself have respect for the courts, and a very great respect for their judgment, their learning, their ability, and for their decisions; but I would not like to have a judge sitting in a case between me and my opponent where that judge was a partner in business with my opponent, and especially a partner in the business about which the litigation proceeds. If the judge who sits in the trial of a case in which I may be involved is to be interested in the business of either litigant, I would like to have his interest on my side, and I do not suppose any Senator would be willing to have his case tried before a judge who is a partner of the opposing litigant.

It is no reflection upon the court to say that the judge who sits shall be an impartial judge and shall have no interest in the litigation. It is no reflection upon the judge who sits in the case to say that he is human and that he is impressed with the frailties and weaknesses of human nature. The framers of the Constitution understood that men in very high and exalted positions were nothing more than men, and that they were impressed with the human nature that causes everyone to look out first for his own interest and the interests of those who are near to him. I will read what the framers of the Constitution provided with reference to Senators and Representatives:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

This provision of the Constitution recognizes that all men, and it does not make any difference how high they may rise in official station, are imbued with human nature, which looks first to one's own interest. No judge ought to sit in a case where he is interested in a corporation which is a party to the litigation. No judge ought to make a fiat for the issuance of any process in any case where he is interested in the result of the litigation. For that reason I think this amendment ought to be adopted.

Mr. CLAY. Will the Senator from Mississippi allow me to ask him a question?

Mr. McLAURIN. Certainly.

Mr. CLAY. Is it not true that the amendment is the law now? Could any judge at the present time try a case in which a railroad was involved if he owned stock in it? Could not counsel disqualify him by calling attention to that fact? Would any judge with any self-respect want to try a case involving a railroad when he owned stock in the railroad company? Is not the amendment offered by the Senator from Mississippi the law at this time?

Mr. McLAURIN. It may be in some measure the law at this time, but I do not know whether it would exactly fit the case. But there can be no objection to providing that such a judge shall not issue a preliminary injunction.

There has been a good deal of discussion on the constitutional question, if there be such a question (and but for the fact that the opposing view is supported by the very able Senators who have supported it I would not think there was any question), whether Congress has the right to limit the power of a court to issue a preliminary injunction. If a court can not be limited in that particular, and if the Congress has no power over that—and I do not believe that is the constitutional construction which is correct—if that be so, and if the courts are to issue preliminary injunctions prohibiting the taking effect of the Commission's order or rate, then certainly the judge who does issue that injunction ought to be perfectly impartial, and there ought to be no objection to putting in this provision, because we are making a separate provision here for the courts to take jurisdiction of these questions, and some question may arise as to whether judges who have been prohibited heretofore from proceeding in cases where they are interested would have the right to grant a preliminary injunction or to make a fiat for the issuance of a preliminary injunction.

I think this amendment ought to be adopted. I do not desire to make any reflection upon the judiciary; I have not made any, and I do not make any, unless it is a reflection to say that judges are just like other people. It does not make any difference whether they are the humblest people in the land or the highest people in the land, all men are impressed alike with their own interests when it comes to deciding a question between themselves and others litigating with them.

Mr. FORAKER. I do not desire to address the Senate, but I wish to ask the Senator from Mississippi a question before he takes his seat. Does he think there is a judge of a United States court to be found anywhere throughout the length and breadth of the land who would sit in judgment in a case where he was personally interested?

Mr. McLAURIN. It is not for me to say whether or not a judge of that kind can be found. But I will ask the Senator, as an answer to that question, another question. Does he think that any Senator or Representative could be influenced in the creation of an office to which he might be appointed?

Mr. FORAKER. No; I do not think so. The Constitution——

Mr. McLAURIN. Then what was the necessity of putting the provision in the Constitution prohibiting a thing of that kind?

Mr. FORAKER. I would have to think so, because it is in the Constitution. But here we are free to legislate. The objection I have to the proposition of the Senator from Mississippi is not based upon the idea that I think a judge interested in a case should sit in judgment, but because I think it is pretty nearly an insult to the judiciary of the country to provide by legislation that they shall not do a thing so inappropriate that according to my observation and experience and belief there is not a judge in the whole United States who would think of doing it.

Mr. McLAURIN. I do not think it is any more of an insult to a judge of the Supreme Court of the United States, even to make laws to apply to him, than it is an insult to the humblest citizen to make laws to apply to him. I do not think, and I never have thought, that there ought to be any difference between the highest and the lowest citizen in the land when you come to making laws for their conduct.

Mr. FORAKER. Mr. President——

Mr. McLAURIN. I want fully to answer the question, in addition to what I have answered, by asking the Senator from Ohio another question. I want to say that I do not know whether there is a judge in the United States who would sit in a case in which he was interested, or whether there is a judge in the United States who would issue a fiat for the issuance of an injunction or any other process in a case in which he was interested. But if there is such a judge in the United States I want to have a law that will apply to him. I do not believe that judges are immaculate. I do not believe the judges are above the law any more than I believe any other citizen is.

Mr. FORAKER. The objection I have to the Senator's amendment is that he does assume not only that they are not immaculate, as he expresses it, but he assumes necessarily that there are judges who are violating their sense of propriety to such an extent that they have to be restrained. I think the Senator from Maine well said this morning that it is time here in the United States Senate to stop doing that which is necessarily in itself an offense to a coordinate branch of the Government that has certainly enjoyed the confidence, and deservedly so, of the American people for more than a hundred years of the existence of the American nation.

Mr. McLAURIN. I do not assume any such thing, but I assume that if there is such a judge, he ought not to be permitted to sit. I do not any more assume in this amendment that there are such judges than the law of Congress assumes that Senators and Representatives will be guilty of a felony if they go before the Department and practice there for pay. There is no more assumption that a judge will sit upon the bench in a case in which he is interested, because there is a provision made by law that he shall not do it, than there is an assumption that a Senator or Representative in Congress will practice before the Department for pay when there is a law that will send him to the penitentiary if he does it.

Mr. HALE. Mr. President, the proposition is monstrous that a Federal judge of a great court—and all United States courts are great courts—would sit in a case and pass upon it when he is a partner with one of the sides in controversy and has an interest in the profits of that side. Any judge who would so forget the duties of his great office and would have any share in such a scandal and such a corruption is to be reached by other processes. He is subject under the Constitution to impeachment, and will be turned from his high place on impeachment, as judges have been heretofore for less grievous offenses. It is not comporting with the dignity of legislation here that the Senate shall pass any proposition as an amendment to this bill which assumes or admits for a moment that the judge of a United States court would be found in such a position. I do not think I need to say more. I move to lay the amendment on the table.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment proposed by the Senator from Mississippi.

Mr. McLAURIN. On that I demand the yeas and nays.

Mr. MORGAN. Mr. President, I think the spirit of the amendment offered by the Senator from Mississippi is correct. But the law is full of it now, and the judges always apply it when any suggestion is made, even a slight intimation that they may possibly have an interest in the suit by relationship or by personal interest, etc. But it seems to me that the amendment——

Mr. HALE. I ask the Chair——

The VICE-PRESIDENT. The Senator from Maine has moved to lay the amendment on the table.

Mr. MORGAN. I ask the Senator from Maine to withdraw that motion for a moment.

Mr. HALE. Certainly, if the Senator from Alabama desires to say anything.

Mr. MORGAN. It seems to me there is an objection to the amendment offered by the Senator from Mississippi to this effect, that it produces a disqualification in the judge upon the existence merely of the fact of his interest, more or less direct or remote, in some corporation or some company that is concerned in the litigation. Facts of that sort may exist, which, if they were brought to the attention of the judge, would at once require a judgment on his part that he ought to retire, that he ought to recuse himself from the judgment in the case. But suppose a case passes into judgment, and it is afterwards shown, in a collateral attack upon that judgment, that these disabilities did actually exist. There your judgment becomes void, because of proof of the fact that the disabilities did exist. That is dangerous legislation. If a judge by misadventure or even misbehavior should render a judgment in court, and it should afterwards become ascertained that he was disqualified, the judgment does not thereby become void. No collateral attack can be made upon it.

In my own State I remember a case where a man was condemned for punishment for a felony of very high grade, and the question of the judge's qualification to sit on the bench was then pending in some of the courts, and was afterwards determined against him. The question was raised upon a motion of some kind—I forget the precise proceeding—that the judgment was void because the judge had been declared as being disqualified at the time he pronounced it. The supreme court of Alabama held that the judgment was valid notwithstanding his alleged disabilities and notwithstanding they had been so determined against him.

It is for the sake of preserving the validity of judgments that I make this question. I do not want to make a law by positive enactment of the statute in such shape that any party can come in after judgment has been rendered and attack it collaterally by proving that in fact certain disqualifications existed because of this remote or direct interest of the judge in different corporations. I think it is dangerous legislation.

Mr. McLAURIN. Will the Senator from Maine withhold his motion long enough for me to read a section of the Revised Statutes and ask him a question?

Mr. HALE. Yes.

Mr. McLAURIN. Section 5499 of the Revised Statutes reads:

SEC. 5499. Every judge of the United States, who in anywise accepts or receives any sum of money, or other bribe, present, or reward, or any promise, contract, obligation, gift, or security for the payment of money, or the delivery or conveyance of anything of value, with the intent to be influenced thereby in any opinion, judgment, or decree in any suit, controversy, matter, or cause depending before him, shall be fined and imprisoned at the discretion of the court, and shall be forever disqualified to hold any office of honor, trust, or profit under the United States.

I will ask the Senator—and the same question would apply to the Senator from Ohio—if he supposes that the Congress which enacted that law was making a reflection, a direct charge, upon the judges and judiciary of the country?

Mr. FORAKER. No; I do not. That was statutory provision against the commission of a crime.

Mr. BAILEY. It is more likely that a judge would commit an impropriety than that he would commit a crime.

Mr. FORAKER. I intended to call attention a moment ago to the fact that it is the law, as well established as though written in so many words, that no judge shall sit in judgment in his own case.

Mr. McLAURIN. If the Senator will allow me, that is a very different proposition from what the Senator urged as an objection to this amendment.

Mr. HALE. Mr. President, I shall have to insist upon my motion.

Mr. McLAURIN. The objection was that it was a reflection upon the judges even to offer the amendment.

Mr. FORAKER. I meant a reflection under all the circumstances. It is already provided in the statute, section 615, to which my attention has just been called——

Mr. McLAURIN. If the Senator will allow me——

Mr. FORAKER. I ask to have that section read before the motion to lay on the table is insisted upon.

Mr. HALE. Mr. President, I seem to be powerless.

The VICE-PRESIDENT. Does the Senator from Maine insist upon his motion?

Mr. HALE. I do.

The VICE-PRESIDENT. The Senator from Maine moves to lay on the table the proposed amendment of the Senator from Mississippi to the amendment. Upon that question the yeas and nays are demanded. Is there a second?

The yeas and nays were ordered; and the Secretary called the roll.

Mr. CLARK of Wyoming. I wish to announce the unavoidable absence of my colleague [Mr. WARREN], and to announce his pair with the Senator from Mississippi [Mr. MONEY]. I desire that this announcement shall stand for the remainder of the day.

The result was announced—yeas 49, nays 23, as follows:

YEAS—49.

Aldrich	Crane	Hansbrough	Perkins
Alger	Cullom	Hemenway	Piles
Allee	Dick	Hopkins	Platt
Allison	Dillingham	Kean	Scott
Ankeny	Dolliver	Kittredge	Smoot
Brandegee	Dryden	Knox	Spooner
Bulkeley	Elkins	Lodge	Sutherland
Burkett	Flint	Long	Teller
Burnham	Foraker	McCumber	Warner
Burrows	Frye	Millard	Wetmore
Carter	Fulton	Morgan	
Clapp	Gamble	Nelson	
Clark, Wyo.	Hale	Nixon	

NAYS—23.

Bailey	Daniel	La Follette	Overman
Berry	Dubois	Latimer	Rayner
Blackburn	Foster	McCreary	Simmons
Clarke, Ark.	Frazier	McEnery	Taliaferro
Clay	Gallinger	McLaurin	Tillman
Culberson	Gearin	Martin	

NOT VOTING—17.

Bacon	Depew	Newlands	Stone
Beveridge	Gorman	Patterson	Warren
Burton	Heyburn	Penrose	
Carmack	Mallory	Pettus	
Clark, Mont.	Money	Proctor	

So Mr. MCLAURIN's amendment to the amendment was laid on the table.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Iowa [Mr. ALLISON].

Mr. DANIEL. I move an amendment. I move to insert, after line 13, page 9, of the amendment, the following words:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made in the hearing before the Interstate Commerce Commission and of all the testimony in the case.

The VICE-PRESIDENT. At what point does the Senator from Virginia propose his amendment?

Mr. DANIEL. Immediately after line 13, page 9, at the bottom of the provision as to the venue of suits.

The VICE-PRESIDENT. Page 9 of what print?

Mr. DANIEL. Page 9 of the amendments "intended to be proposed by Mr. CULLOM for Mr. ALLISON and by Mr. RAYNER" May 8.

The VICE-PRESIDENT. The amendment proposed by the Senator from Virginia to the amendment of the Senator from Iowa will be read.

The SECRETARY. After the word "courts," at the end of the amendment proposed by the Senator from Iowa, insert:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made in the hearing before the Interstate Commerce Commission and of all the testimony in the case.

Mr. DANIEL. Mr. President, I have heretofore set forth the considerations which appear to my mind to commend such an amendment to the bill. I shall not repeat them except with great brevity.

Attention has been called to the fact frequently in this debate that in the great majority of the cases which have been brought in equity to set aside the orders of the Interstate Commerce Commission a new case has been made a different case from that which was before the Commission when they determined it. Attention has been also called to the fact that in thirty-six of forty-two cases in which the court made different decisions from those of the Interstate Commerce Commission it was upon the new case made and not upon the case which had been heard by the Commission. The production of the record with the bill of complaint in the suit in equity which is contemplated will permit the court to see in taking up the case exactly upon what testimony the decision had been made.

In the bill which was prepared by the Interstate Commerce Commission and sent to the Committee on Interstate Commerce, or which, at least, that committee had before it, a process was

recommended and put down by the committee after the fashion of the old English bill of certiorari, and in one of its sections it was provided that the respondent in such suit should present the record. Now, instead of leaving it for the respondent to present the record, it is proposed here that the carrier complaining of the decision, seeking in equity to bring about a different one, shall lay before the court the full record and all the testimony upon which the Interstate Commerce Commission gave its order or decree.

It is economical to do this, Mr. President, and avoids repeating the same thing under process of law. If depositions have already been taken, they will be produced without the necessity of taking them again. If exhibits from records and statistics had been laid before the Interstate Commerce Commission, the court will receive them without the expense, trouble, and delay of going over the same road a second time. One great public and private interest will be subserved in this provision, the great object which is sought to be obtained by various of the provisions of the Allison amendment—the prevention of delay—will be attained.

We are not, Mr. President, without precedents, and in Federal jurisprudence for this action I have already called attention to the fact that in the settlement of titles of thousands—I may say of millions—of acres of public land in California, as long ago as 1851, Congress provided just such a procedure. I have laid before the Senate in previous remarks a copy of the statute in which Congress required that a transcript of the record should be taken to the appellate court with the record of what the Commissioners had done.

There are some very commendable provisions in this Allison amendment, especially that which relates to the interlocutory order or decree suspending or restraining the enforcement of an order of the Commission. It is provided in a part of one of the Allison amendments that no such order or decree shall be made without five days' notice to the Commission. This is a new rule of practice and one which is evidently directed to prevent delay. It is also provided that the case shall be heard, if I mistake not, before the interlocutory injunction is granted.

If this be the case and if this be the order of procedure which Congress is so wisely amending to suit this case, it will be much aided and subserved by taking up the record, so that the whole case anterior to that time, at least, will be seen in the very opening of the procedure without the necessary delays which would otherwise arise in taking again the same depositions, in getting again the same exhibits, and in going again over the same long and prolix road which had been pursued.

Mr. ALLISON. Will the Senator from Virginia yield to me for a moment?

Mr. DANIEL. Yes, sir; I will yield the floor to the Senator from Iowa. I am done with what I have to say.

Mr. ALLISON. I do not wish to occupy time except to suggest to the Senator that these are suits which are to be commenced by the carrier——

Mr. DANIEL. I understand that.

Mr. ALLISON. And against the Interstate Commerce Commission.

Mr. DANIEL. That is right.

Mr. ALLISON. It seems to me it would be the regular course for the Interstate Commerce Commission to file with their answer all the proceedings had before the Commission and that that will be done without a statutory provision. It is perfectly sure that the entire record must go into the court, and I suggest to the Senator that the Interstate Commerce Commission will be quite sure that it does go into the court.

Mr. RAYNER. I should like to suggest, if the Senator will permit me, that there is no power at all to bring this record into court. Under the present law the record is prima facie evidence. In this proposed law it is only prima facie evidence as to a money demand. If the case is tried de novo, even if you only try it under a constitutional question, there is no way to get the record into court that I know of. I may be mistaken, but I submit it to the Senator from Iowa.

Mr. ALLISON. It is perfectly sure that the record ought to be in court; I quite agree to that. But it seems to me the natural way to bring the record in will be by the Interstate Commerce Commission when they file their answer to the complaint in the court or in their answer to an application for an injunction by way of showing that the injunction should not be granted.

I agree with the Senator from Virginia that there ought to be a full record made in these cases. The bill as amended does not specifically provide for that as does the present law, because under section 14, if I remember aright, of the existing law there must be a full record kept, including the testimony.

Mr. RAYNER. That is right.

Mr. ALLISON. But section 14 has been modified in the bill so as to require only the decision of the Interstate Commerce Commission. So if the Senator from Virginia will withhold his amendment until later we will have time to examine that question. I think that in some way the record should be brought before the court, but the carrier will not be in possession of it, and therefore he may be embarrassed in securing possession. I am in favor of having a complete record in the court, whether on an application for injunction or upon the final trial of the case before the court: and I think it ought to be done.

Mr. RAYNER. This is a question of some importance. What power would the court have to examine the testimony? If a case goes into court, it is a new case that is tried; it is not a review; it is not an appeal; it is entirely an original case.

Mr. ALLISON. It is an original case.

Mr. RAYNER. Now, what power would the court have unless you give it the power. And that power I consider to be very questionable unless you give it the power. What right would a court have to consider the testimony taken before the Commission in hearing an adjudication of the case before the court?

Mr. ALLISON. That is a question I would defer to the Senator from Maryland and the Senator from Virginia to answer rather than undertake to answer it myself; but if we are to have this record carried into the case in the court compulsorily, then we should also provide in some place in section 14 that the record shall be taken and presented to the court, and when presented shall become prima facie evidence. I agree to that. So if the Senator would allow this to go over, that proper amendment or amendments may be made covering that case, I should be very glad.

Mr. DANIEL. May I inquire how many minutes more I have?

Mr. ALLISON. I beg pardon; I thought the Senator had finished. I have nothing further to say.

Mr. DANIEL. I was very glad to yield any time the Senator from Iowa wished to occupy.

The VICE-PRESIDENT. The Senator from Virginia has four minutes more.

Mr. DANIEL. Mr. President, I have consulted with the Interstate Commerce Commissioners on this subject. I have studied this matter with all the aid of books that I could find upon the subject. The Interstate Commerce Commissioners inform me that it is their custom to furnish the record, and that it will be a very convenient matter to do so; that there is no impediment to its being readily and easily done. I am very glad to find that this idea has struck so favorably such an experienced and practical mind as that of the Senator from Iowa.

There is one other idea alone which I will refer to now. The Supreme Court in several cases, which I could cite here if I chose to take the time of the Senate to read them, has commented upon the fact that carrier companies frequently fail to put in their testimony before the Interstate Commerce Commission, and then show their full hand in a case de novo before the court; and it has arisen from the fact that the courts have taken jurisdiction of this matter through the old channels of equity jurisdiction and according to the usages in the growth of equity as to a different class of cases, whereas herein we have a very peculiar class of cases, partly administrative and partly judicial, which never can be fully and appropriately reached without that assistance from new legislation which this Government has been accustomed to accord whenever a new class of cases arose. In this particular I am following what is already the precedent of Congress and what has been passed on by the Supreme Court of the United States; and I cited at least three cases in previous remarks in which they had commented upon a like procedure.

I will withdraw my amendment, as suggested by the Senator from Iowa, so that this matter may receive the fuller attention of Senators upon the other side, hoping that it may be thereby matured.

Mr. ALLISON. I will say to the Senator from Virginia that under the existing law the Commission is bound to make a finding of fact, and the testimony and their finding of fact and their decision go to the court. So I think this is a necessary provision. I think it should be a little broader than is now suggested by the Senator, and if he will withdraw the amendment I will be glad to call his attention to what I think ought to be done in the matter.

Mr. DANIEL. Just this additional thought, Mr. President. It is important that in the first blush of the case, especially when suspending orders are in view, the court that takes up that case

should have an opportunity to see its full history without waiting for a response.

The VICE-PRESIDENT. Does the Senator from Virginia withdraw his amendment to the amendment?

Mr. DANIEL. I withdraw the amendment to the amendment.

The VICE-PRESIDENT. The amendment to the amendment is withdrawn. The question recurs on the amendment proposed by the Senator from Iowa [Mr. ALLISON].

Mr. SIMMONS. Mr. President, at the suggestion of the Senator from Iowa, I withdraw the amendment which I had offered a while ago, stating that I would examine his suggestion that there was a more appropriate place in the bill for that amendment. From the result of that examination I think the appropriate place for the amendment is the section now under consideration. I wish to renew that amendment with some qualifications, and I will ask the Secretary to change it as I may suggest. Strike out the words "and the evidence upon which the same was made" and strike out the words "taken as prima facie establishing" and insert:

Accorded by the court or judge the same degree of verity as that accorded in a court of equity to the finding of a special master as establishing.

Mr. CULLOM. Does the Senator from North Carolina withdraw his amendment until the Allison amendment is disposed of?

Mr. SIMMONS. I offer a modified amendment.

The VICE-PRESIDENT. The amendment of the Senator from North Carolina will be read.

The Secretary read as follows:

Whenever an application for a preliminary injunction or interlocutory order is made in any such suit, for the purpose of such motion the order of the Commission shall be accorded by the court or judge the same degree of verity as that accorded in a court of equity to the finding of a special master, as establishing that the rate or charge fixed in said order is just and reasonable.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from North Carolina to the amendment proposed by the Senator from Iowa.

Mr. SIMMONS. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment to the amendment was rejected.

Mr. SIMMONS. I now desire to offer the amendment as originally offered by myself.

The VICE-PRESIDENT. The Senator from North Carolina proposes an amendment, which will be stated by the Secretary.

The SECRETARY. After the word "courts," the last word in the amendment proposed by the Senator from Iowa, insert:

Whenever an application for a preliminary injunction or interlocutory order is made in any such suit for the purpose of such motion, the order of the Commission and the evidence upon which the same was made shall be taken by the court as prima facie establishing that the rate or charge fixed in said order is just and reasonable.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from North Carolina [Mr SIMMONS] to the amendment of the Senator from Iowa [Mr. ALLISON]. [Putting the question.] The noes have it, and the amendment to the amendment is rejected.

Mr. SIMMONS. I ask for the yeas and nays, Mr. President.

The yeas and nays were not ordered.

The VICE-PRESIDENT. The question now is on agreeing to the amendment proposed by the Senator from Iowa [Mr. ALLISON].

The amendment was agreed to.

Mr. BACON. I offer an amendment, to come in immediately after the amendment which has just been adopted.

The VICE-PRESIDENT. The amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. After the amendment which has just been adopted it is proposed to insert:

In case any application, motion, or prayer for such interlocutory or preliminary order or decree shall be made by any party to such complaint, other than the carrier or carriers to be affected by the rate or charge, practice, or regulation, in question prescribed by the Commission, then and in that case said carrier or carriers shall, before the hearing of said application, motion, or prayer, by appropriate order and process, be made a party or parties to the said complaint in equity to abide such orders and decrees as may be made by the court pending said cause and the final judgment and decree in the same. Upon the granting of any interlocutory or preliminary order or decree restraining, setting aside, suspending, or modifying any rate or charge, regulation, or practice prescribed by the Commission, before said interlocutory or preliminary order or decree shall be operative or of any effect, the carrier, person, or corporation seeking such order or decree shall deposit in the registry of the court and subject to the order thereof, as hereinafter specified, such an amount as may be required in the discretion of the court, either in lawful money of the United States or in lawful bonds of the United States at the par value thereof. It shall, in addition thereto, be the duty of the said carrier or carriers to be affected by the rate or charge, practice, or regulation in question to pay into the registry of the court, subject to its order, the sums of money as herein specified, and to effectuate the same, at the time of granting such preliminary or interlocutory order or decree, the court shall by appropriate order require the said carrier or carriers affected by the rate or charge, practice, or regulation in question prescribed by the Commission to pay into the registry of the court and subject to its order, on or before the 10th day of each month pending the said interlocutory or preliminary order or decree, in lawful money of the United States, all money received by such carrier or carriers during the calendar month next preceding said date and subsequent to the date of filing said complaint from the collection made for all shipments upon the rates and charges in question in excess of the rates and charges as fixed and determined by the order of said Commission. On the said 10th day of each month there shall be filed in court by said carrier or carriers, through their duly authorized officer or officers, a statement under oath of the shipments on account of which said collections have been made, setting forth in detail the character and amounts of said shipments, the point of each shipment and of its destination, the names of the consignors and consignees, the amount collected from each for said shipment, and separately the excess collected as aforesaid, and the names of the persons from whom collected. The said court at the time of granting said temporary or interlocutory order or decree, and in its discretion thereafter from time to time, shall require the said carrier or carriers to give such bond and security as may be deemed sufficient to insure the filing of said reports and the payment of said amounts; and in addition thereto shall, by the orders and processes of a court of equity, enforce summarily the prompt payment of said amounts into the registry of the court, from which orders of the court there shall be no appeal. Any refusal or failure to comply with said orders and to pay into the court the said sum of money as herein provided shall constitute a contempt of the court. For the purpose of said orders the court shall be deemed to be always in session. From said orders or decrees for the payment into court of the said amounts no appeal shall lie.

If upon the final decree in said cause the rate or charge prescribed by the Commission shall be adjudged to be valid, the court shall, by proper orders and decrees out of the said deposit or the proceeds of the sale thereof and the additional payments made into the court by the said carrier or carriers, caused to be paid to each of the persons from whom collections have been made the several amounts paid by each of them to said carrier or carriers in excess of the said rate or charges prescribed by the Commission, with interest thereon from the date of each payment at the rate of 6 per cent per annum.

If upon the final decree in said cause the rate or charge prescribed by the Commission shall be adjudged to be invalid and the enforcement of the same shall be enjoined, the court shall, by proper orders and decrees, direct to be paid over to the said carrier or carriers the sum of money thus theretofore deposited and paid into the registry of the court, less such amounts for costs as the court, in its discretion, under the circumstances of any case, may in justice and equity deem to be reasonably chargeable to said carrier or carriers.

Pending said cause, it shall be within the power of the court, by appropriate proceedings, either in open court or through a master in chancery or commissioner, to examine into the correctness of the reports herein required to be made under oath by the said carrier or carriers, and to this end to examine, under oath, their officials and employees, and to require, by order, the production of the books and papers of said carrier or carriers.

If, upon the said examination, it shall be adjudged that the said carrier or carriers have not made complete returns of all of said shipments and the amounts collected thereon, as herein specified, the court shall, by order, require the said carrier or carriers to pay into the registry of the court, in lawful money of the United States, the amount received on account of said shipments in excess of the amounts theretofore reported to the court.

Mr. BACON. Mr. President, I only desire to say a few words. I shall not take the time of the Senate to discuss this amendment at length. It has been printed and on the desks of Senators for weeks and, of course, they are familiar with it. I think it very important, and I shall be glad if those who have a majority in this body will adopt it and engraft it upon the bill.

There are two or three things which the amendment will certainly accomplish. If this amendment be adopted, there will never be a frivolous case brought against the Interstate Commerce Commission. No company will ever attempt to seek to set aside the orders of the Commission unless there is a very serious grievance, in their opinion, from which they seek to be freed.

Another very important feature in regard to this amendment, or rather one which will result or flow from it, would be that there would be certainly no delay on the part of railroad companies in the prosecution of a case. They would, on the contrary, have every reason to be stimulated to the highest diligence and the utmost speed.

Of course I recognize the fact that it is not a complete remedy, for the reason that the consumer, who would largely suffer from these increased rates, possibly, and not only possibly, but in fact, would not receive his part of the compensation which would be paid into the court; but it goes a long way in that direction. Aside from the fact of the protection of the public, the two things I have mentioned are of the utmost importance, and there is nothing in the bill as it now stands which would accomplish either of those purposes, to wit, a deterrent against frivolous suits and a stimulus to the highest expedition in the prosecution of a suit when brought.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Georgia [Mr. BACON].

The amendment was rejected.

Mr. ALLISON. I now offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. On page 17, line 18, after the word "suits," it is proposed to insert the words "including the hearing on an application for a preliminary injunction."

The amendment was agreed to.

Mr. ALLISON. I offer another amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. On page 18, line 6, after the word "causes," it is proposed to strike out the period and insert a colon and the following language:

Provided, That no injunction, interlocutory order, or decree suspending or restraining the enforcement of an order of the Commission shall be granted except on hearing, after not less than five days' notice to the Commission. An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: *Provided further*, That the appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes, except causes of like character and criminal causes.

Mr. OVERMAN. I offer an amendment to the amendment of the Senator from Iowa [Mr. ALLISON], which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from North Carolina will be stated.

Mr. OVERMAN. In the amendment of the Senator from Iowa are the following words:

Provided, That no injunction, interlocutory order or decree, suspending or restraining the enforcement of an order of the Commission shall be granted except on hearing, after not less than five days' notice to the Commission.

I wish to amend the amendment by substituting for those words the following:

Provided, however, That no rate or charge, regulation, or practice prescribed by the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of court or judge without first giving reasonable notice to the Commission of the time and place of moving to set aside the same, nor until bill of complaint and answer or demurred filed and hearing thereon had.

Mr. President, we have heard very much said in the newspapers and upon this floor about the Overman amendment. It has been suggested by a Senator near me that it is the Overman amendment with the Overman left out. The amendment just introduced by the Senator from Iowa is practically my amendment, except it has eviscerated the very meat contained in the amendment introduced by myself. It leaves out the words "answer and bill of complaint." I state here, Mr. President, that if this amendment is adopted it will be no more than the law as it now stands. Section 718 of the Revised Statutes provides as follows:

SEC. 718. Whenever notice is given of a motion for an injunction out of a circuit or district court, the court or judge thereof may, if there appears to be danger of irreparable injury from delay, grant an order restraining the act sought to be enjoined until the decision upon the motion; and such order may be granted with or without security, in the discretion of the court or judge.

This amendment has been under discussion in the Senate for more than sixty days, and I have yet to hear one Senator say that it was not a proper amendment to this bill and that it was not constitutional. Now, sir, under the amendment as introduced by the Senator from Iowa, if adopted, any man can go, as he can now, before the court and simply upon an ex parte petition get out an injunction. Upon a hearing? A hearing of what? Upon a petition? My amendment provides that there shall be a petition filed, that there shall be an answer filed, that there shall be a hearing, that there shall be an issue joined, and the whole matter be brought before the court upon its merits. The provision of the amendment of the Senator from Iowa requires that three judges shall hear it—this is a wise provision—and that there may be an appeal directly to the Supreme Court. Under the amendment of the Senator from Iowa any railroad lawyer can present his petition and allege that property of the railroad is being taken without just compensation. It goes before the judges. There is no answer filed. Then it is heard upon ex parte statements, and it goes immediately to the Supreme Court upon these ex parte statements. The issue is not joined; it is not heard upon its merits. This amendment, which will prevent these ex parte injunctions, has been indorsed by the President himself in a telegram sent throughout the country. I ask that this amendment be adopted in lieu of the amendment proposed by the Senator from Iowa.

The VICE-PRESIDENT. Does the Senator from North Carolina propose to strike out all of the amendment?

Mr. OVERMAN. No, sir; I said in lieu of certain words which I stated.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from North Carolina to the amendment of the Senator from Iowa.

The amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on agreeing to the amendment proposed by the Senator from Iowa.

Mr. BAILEY. Mr. President, I would be a little less than human, or perhaps it would be better to say that I would be a little more than human, if I did not express my great satisfaction at seeing the Republican party at last accept my contention that Congress can limit the injunctive process of inferior Federal courts. I know that the Senate is impatient for a vote, and yet I venture to believe that they will indulge me while I recall for a moment the argument which was made against my proposition, and then test that argument by this proposition.

The Senator from Wisconsin [Mr. SPOONER] and the Senator from Pennsylvania [Mr. KNOX] both admitted that Congress could control the jurisdiction of the court, though that proposition itself was stubbornly disputed in the beginning. But those Senators said—they said it in the open Senate, and other Senators said it out of the Senate—that the moment Congress gave jurisdiction to a court over a case the judicial power of the Constitution attached, and Congress could not limit or control that judicial power. Does this amendment of the Senator from Iowa conform to that argument? Let us see.

No injunction shall be granted except upon a hearing after not less than five days' notice.

Now, mark you, Mr. President, if it is depriving a carrier of its property without due process of the law, or if it is taking its property without just compensation to deny a preliminary injunction, then Congress can no more deny it for five days than it could for five years. The Constitution does not say that a person shall not be deprived of his property without due process of law for an unreasonable time; the Constitution does not say that a man shall not be deprived of his property without just compensation for a month or a year, but that he shall not be deprived of it at all without due process or without just compensation. It is as much a violation of the Constitution to take a man's property for an hour as it is for a year, and it is as much a violation to take it for a year as it is to take it for a century.

I have contended all the time, and I contend now, and I am supported in that contention by this amendment, that all the constitutional requirement of due process demands is that the carrier shall have one fair trial for its property rights. I have contended that we can take its property and pay it a just compensation as ascertained by the Commission and that we can use it until the compensation has been established to be less than just upon a final trial. Under this amendment the carrier can not set aside the Commission's rate by alleging that it is less than a just compensation or less than a just and reasonable rate. Shippers can go on and take the carriers' services for five days, it is certain, because the court can not enjoin it until after notice of five days has been given, and then they must wait for a hearing. Senators, how long will it take the Commission and the carrier to prepare for that hearing? One week or one month? The principle is the same, and so it is this amendment asserts the power——

Mr. CLARKE of Arkansas. Judge Brewer said in the Tompkins case that it could not be done with three weeks of diligent labor.

Mr. BAILEY. I thank the Senator for his suggestion. The Senator from Iowa agrees with me that the court can be prevented from issuing preliminary injunction. The only difference between the Senator from Iowa and myself is how long will we prevent it. As the Senator from Colorado [Mr. TELLER] well says, if we can prevent it for five days, we can prevent it for five weeks; and if we can prevent it for five weeks, we can prevent it for five months, or five years; and so it is, that, after all, the difference between the Senator and myself is one of policy and not of principle. I have had some trouble in satisfying myself as a matter of justice that the Commission's rate ought always to be kept in effect, though I have never had any trouble as a matter of law, and I now welcome to my support the senior Senator from Iowa and his distinguished colleagues.

The complaint of the junior Senator from Iowa against those constitutional lawyers who are always saying that things are unconstitutional I leave him to settle with his political friends on his own side. I have not been saying that this bill or any of its provisions are unconstitutional. I have been offering perfectly constitutional propositions, and the lawyers about whom he complains are the ones who have been inveighing against my propositions as unconstitutional.

But, Mr. President, I want to remind the Senator from Iowa that one of the most important enactments of Congress in recent years was held unconstitutional, and I remember advising the friends of the Wilson bill to take out of it that provision which laid an income tax upon the interest received from

county, State, and municipal bonds, and they answered my suggestions by saying that I was trying to exploit my doctrine of State's rights. But yet when the Supreme Court come to review that question it unanimously held that feature of the Wilson bill unconstitutional. I make no apology for the constitutional lawyers; they need none. They are generally attacked by the men who can not understand their arguments. Some men attack them in a jocular way, as the junior Senator from Iowa did. He was not seriously complaining of them, I assume. If we did not have them here, about half the laws we pass would go into the waste basket of the Supreme Court, because that great tribunal can not amend them for us, and unless we send them there perfected they hold them void. I shall never complain of any Senator in this body or elsewhere who strives with persistence to make the legislation of Congress conform to the Constitution of this country. The only constitutional lawyer against whom I complain is the one who says that my proposition is unconstitutional and then proposes one just like it for himself. Against all such I level my criticism.

Mr. President, I believe no Senator in this body will vote against this proposition, and yet I have vanity, if you call it that, enough to want to see them all recorded on it. They have all been recorded in the same way and all in the right way, as I recall it, only on the pipe-line amendment. I will not detain the Senate by further discussion, but I demand the yeas and nays on this amendment.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Iowa [Mr. ALLISON].

Mr. TELLER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CULBERSON. I rise merely to inquire whether the proposition of the Senator from North Carolina [Mr. OVERMAN] is pending?

The VICE-PRESIDENT. It was disagreed to.

Mr. CULBERSON. Very well.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Iowa [Mr. ALLISON]; on which the yeas and nays have been ordered.

Mr. CULBERSON. Let that amendment be reported again, Mr. President.

The VICE-PRESIDENT. The Secretary will again state the amendment of the Senator from Iowa at the request of the Senator from Texas.

The SECRETARY. On page 18 of the bill, line 6, after the word "causes," it is proposed to insert:

Provided, That no injunction, interlocutory order, or decree suspending or restraining the enforcement of an order of the Commission shall be granted except on hearing after not less than five days' notice to the Commission. An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: *Provided further*, That the appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes, except causes of like character and criminal causes.

The Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). My pair with the Senator from Tennessee [Mr. CARMACK] has been transferred to the Senator from Pennsylvania [Mr. PENROSE], and I will vote.

Mr. TILLMAN. The Senator from Wisconsin can vote. I am going to vote "yea."

Mr. SPOONER. I vote "yea."

The roll call having been concluded, the result was announced—yeas 73, nays 3, as follows:

YEAS—73.

Aldrich	Crane	Hale	Overman
Alee	Culberson	Hansbrough	Perkins
Allison	Cullom	Hemenway	Piles
Ankeny	Daniel	Hopkins	Platt
Bacon	Dick	Kean	Rayner
Bailey	Dillingham	Kittredge	Scott
Berry	Dolliver	Knox	Simmons
Beveridge	Dryden	La Follette	Smoot
Blackburn	Dubois	Latimer	Spooner
Brandegee	Elkins	Lodge	Stone
Bulkeley	Flint	Long	Sutherland
Burkett	Foraker	McCreary	Taliaferro
Burnham	Foster	McCumber	Teller
Burrows	Frazier	McLaurin	Tillman
Carter	Frye	Martin	Warner
Clapp	Fulton	Millard	Wetmore
Clark, Mont.	Gallinger	Nelson	
Clark, Wyo.	Gamble	Newlands	
Clay	Gearin	Nixon	

NAYS—3.

Clarke, Ark.	Morgan	Pettus

NOT VOTING—13.

Alger	Gorman	Money	Warren
Burton	Heyburn	Patterson	
Carmack	McEnery	Penrose	
Depew	Mallory	Proctor	

So Mr. ALLISON's amendment was agreed to.

Mr. ALLISON. I ask that the next amendment may be read. It is really a formal amendment.

The SECRETARY. On page 19, line 22, after the word "order," strike out the remainder of the section in the following words:

Whenever an order of the Commission made in pursuance of section 15 as amended, other than an order for the payment of money, shall have been complied with for the period of three years such order shall not thereafter be in force as against the carrier so complying therewith.

Mr. LODGE. Mr. President, I was unfortunately out of the Chamber and did not have the felicity of hearing the statement which was read in the Senate by the Senator from South Carolina [Mr. TILLMAN]. When I returned to the Chamber I was told about the statement, and there were repeated to me some of the statements that were contained in it. One of the statements attributed to Mr. Chandler in regard to the Senator from Ohio [Mr. FORAKER], in regard to the Senator from Wisconsin [Mr. SPOONER], and in regard to the Senator from Pennsylvania [Mr. KNOX] struck me as so extraordinary, and seemed to me on its face so unlikely to be correct and as so unjust to the three Senators involved that I took it upon myself to go to the office of the stenographers and get the sentence accurately copied out. The sentence to which I refer from the stenographer's notes is this:

Mr. Chandler said the President had stated that he had come to a complete disagreement with the Senatorial lawyers, who were trying to injure or defeat the bill by ingenious constitutional arguments, naming Senator KNOX, in addition to Senators SPOONER and FORAKER.

I then took the liberty of calling up the White House by telephone; it was the most rapid way of reaching the President, and I took down the statement which he made to me over the telephone, and which I will now read to the Senate, because I think it is important that it should go to the country with the allegation which I have just read.

I read to the President over the telephone the sentence which I have just read to the Senate, and he said in reply that the statement which I had read to him, attributed to him by Mr. Chandler, was a deliberate and unqualified falsehood; that Senator FORAKER's name was never mentioned at all in conversation; that Senator SPOONER's name was only mentioned by him to express a cordial approval of Senator SPOONER's amendment. "As to Senator KNOX, I said that I did not agree with a portion of his proposed amendment, but that I thought he had made out a very strong argument for asserting affirmatively the jurisdiction or authority of the court."

I think, Mr. President, that it is a mere act of justice to allow this statement to go out with that which was read and attributed to the late Senator from New Hampshire, Mr. William E. Chandler.

Mr. BAILEY. Will the Senator from Massachusetts be good enough to tell the Senate whether the President admits that he sent ex-Senator Chandler to see the Senator from South Carolina?

Mr. LODGE. I did not cross-question him in regard to the statement made by the Senator from South Carolina, for I had not heard the statement myself, and the President, of course, has not heard or read one word of it. I imagine tomorrow, when he has the opportunity of reading the statement in full, he will make reply to it in such manner as to satisfy the utmost curiosity of the Senator from Texas.

Mr. BAILEY. It was not a matter of curiosity, Mr. President. If it were true that the President of the United States had not requested, through the ex-Senator from New Hampshire, his conferences with the Senator from South Carolina, that also ought to go into the RECORD, because I take it that the Senator from South Carolina is just as willing as the Senator from Massachusetts for the President of the United States to have the full benefit of the truth.

But I think it is also important for those of us on this side, who had no communication with the President and who had no conversation with Mr. Chandler, to know whether an ex-member of this body has improperly assumed an authority to speak for the President.

Mr. LODGE. It must be perfectly obvious to the Senator from Texas from what I have read that the President admits fully, that he does not seek in any way to deny, that he had a conversation with Senator Chandler.

Mr. BAILEY. On the subject?

Mr. LODGE. On the subject, as he has had with dozens and scores of other men, with Senators of both parties in this Chamber. More than that, of course, can not be said, as the whole statement is not before the President.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Iowa [Mr. ALLISON].

The amendment was agreed to.

Mr. McCUMBER. I move to strike out the word "regularly,"

where it appears on page 16, line 19, and to insert in lieu thereof the word "lawfully."

The VICE-PRESIDENT. The amendment of the Senator from North Dakota will be stated.

The SECRETARY. On page 16, line 19, strike out the word "regularly" and insert "lawfully;" so that it will read:

If, upon such hearing as the court may determine to be necessary, it appears that the order was lawfully made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience.

Mr. McCUMBER. Is there any objection to the amendment?

Mr. ALLISON and Mr. FRYE. No.

The amendment was agreed to.

Mr. CULBERSON. On page 13 of the printed bill, of date February 26, line 18, I move to amend by striking out the word "two" and inserting the word "three."

The VICE-PRESIDENT. The amendment proposed by the Senator from Texas will be stated by the Secretary.

The SECRETARY. On page 13, line 18, before the word "years," it is proposed to strike out the word "two" and insert "three;" so as to read:

All complaints for the recovery of damages shall be filed with the Commission within three years from the time the cause of action accrues, and not after.

Mr. CULBERSON. Mr. President, just a word in explanation. This paragraph is a mere statute of limitations, as I take it, and yesterday I received a telegram from the attorney of the Cattlemen's Association, which reads as follows, after the date and direction:

Cattlemen's claims for reparation have been accruing; three years' limitation clause of Hepburn bill possibly bars prior to two years; insert amendment allowing one year to file accrued claims before Commission.

S. H. COWAN.

It seems to me that that statement is sufficient reason for the Senate to adopt this mere verbal amendment extending the time one year in which accrued claims may be presented.

Mr. DOLLIVER. I should like to hear the amendment again.

The Secretary again stated the amendment.

Mr. DOLLIVER. That section refers to claims for damages on account of overcharges. I think we ought to be careful not to get it in such shape that a claimant may allow his claims to accumulate for a long time before he even complains about them, and then by these actions recover a large accumulation of damages. I think the matter could be better got at by leaving the limitation two years and adding "in case of claims already accrued, an additional year." It certainly would not be a good thing to allow a man to wait three years before even complaining about an overcharge, and then be entitled to recover for the entire three years.

Mr. CULBERSON. I think the suggestion of the Senator simply accomplishes the matter in another way. I have no objection to it. I move, therefore, at the suggestion of the Senator from Iowa, to add, after the word "after," in line 22, page 13, the words:

Provided, That accrued claims may be presented within one year.

That means one year after the passage of this act.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Texas.

The amendment was agreed to.

The VICE-PRESIDENT. The other amendment, the Chair presumes, is withdrawn.

Mr. CULBERSON. It is.

Mr. McCUMBER. I desire to call the attention of the Senate to three words in this bill on page 10, line 19, where the Commission is to "determine and prescribe" what will, in its judgment, be the just and reasonable rate or charges. I understand there has been a practical agreement not to interfere with those words, and I am not going to move to strike them out, but I want to say now that I consider that by leaving those words in it you are crowding very close to the unconstitutional limit. It is extremely questionable in my mind whether with those words left in the bill it does not substitute the judgment of the Commission for the judgment of Congress as to what shall be a just and reasonable rate.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Maine?

Mr. McCUMBER. Certainly.

Mr. HALE. I want to say, Mr. President, that I agree entirely with the Senator who has just spoken. In my judgment the retention of these words may be found to work a most profound mischief to the whole legislation. I do not believe it is worth while to run that risk by insisting upon the insertion of these words; but I shall equally with the Senator make no further opposition except to enter my protest and my note of warning, little as it may be worth, as to what may result from retaining these words in the measure.

Mr. BAILEY. May I ask the Senator——

Mr. FRYE. Mr. President, there is no amendment pending, and discussion is entirely out of order.

The VICE-PRESIDENT. The Chair agrees with the Senator from Maine. There is no pending amendment.

Mr. SIMMONS. Mr. President——

Mr. DANIEL. I have an amendment to offer. Will the Senator from North Carolina allow me to offer an amendment agreed to by the Senator from Iowa [Mr. ALLISON] and gentlemen on the other side?

The VICE-PRESIDENT. The Senator from Virginia proposes an amendment.

Mr. DANIEL. I now reoffer the amendment which I withdrew at the request of the Senator from Iowa [Mr. ALLISON], after adding, to his satisfaction and to that of the Senator from Kansas [Mr. LONG], who represents him, a few words. I will now read the whole amendment as I offer it with the addition:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made on the hearing of the case before the Interstate Commerce Commission and of all the testimony therein, which shall be certified and furnished by the Commission to the complainant on demand.

The only addition is to require that the Commission shall furnish a certified copy to the complainant on demand.

Mr. FRYE. Let it be read.

The VICE-PRESIDENT. The Chair will inquire where the amendment is to come in?

Mr. DANIEL. After line 13, on page 9.

The VICE-PRESIDENT. In what print?

Mr. DANIEL. At the end of the amendment as to court review submitted by the Senator from Iowa [Mr. ALLISON].

The SECRETARY. After the word "courts," in the amendment agreed to, which was offered by the Senator from Iowa [Mr. ALLISON], insert:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made on the hearing of the case before the Interstate Commerce Commission and of all the testimony therein, which shall be certified and furnished by the Commission to the complainant on demand.

The amendment was agreed to.

Mr. SIMMONS. When the Senator from North Dakota [Mr. McCUMBER] rose a few minutes ago I was on my feet seeking the recognition of the Chair for the purpose of offering an amendment.

Mr. LODGE. I rise to a question of order. What amendment is now pending?

The VICE-PRESIDENT. There is no amendment now pending.

Mr. FORAKER. I ask that the amendment just adopted may be read.

Mr. SIMMONS. My purpose is to offer an amendment.

The VICE-PRESIDENT. The Secretary will read the amendment just adopted, if the Senator from North Carolina will suspend for a moment.

The SECRETARY. After the word "courts," in the amendment agreed to, insert the following:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made on the hearing of the case before the Interstate Commerce Commission and of all the testimony therein, which shall be certified and furnished by the Commission to the complainant on demand.

The VICE-PRESIDENT. The Senator from North Carolina is entitled to the floor.

Mr. SIMMONS. Mr. President, I have attempted to state——

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Carolina yield to the Senator from Ohio?

Mr. FORAKER. Is the Senator speaking to the amendment which was just read?

Mr. SIMMONS. That amendment has already been passed. I rose for the purpose of offering another amendment.

Mr. FORAKER. I want to say a word about the amendment just read. It was announced passed before I could get the attention of the Chair. Before we get away from it, I should like to call attention to the fact that it is not, I think, properly drawn.

Mr. SIMMONS. I will yield to the Senator for that purpose, without surrendering the floor.

The VICE-PRESIDENT. The Senator from North Carolina yields to the Senator from Ohio.

Mr. FORAKER. I am very much obliged to the Senator.

As I understand the amendment as it was read a moment ago, it requires that the complete record made before the Interstate Commerce Commission shall be attached to the bill of complaint, or shall be filed with it. It seems to me that it

would be better to adopt the usual provision in that respect in all the States—I have examined a number of them—that after the suit has been commenced, upon notice to the Commission, the Commission shall furnish this complete report by sending it to the court, where the court shall give to it such consideration as the court may deem it entitled to. It does not seem to me that it is proper to require that it shall be certified and attached to the bill of complaint and be filed with it at the very beginning of the suit.

I wish to add, however, that in whatever form it may be adopted, if we are going to put in the bill any statement as to what evidence shall be heard by the court, for fear that the expression of one class would exclude all other classes, I want to add if this amendment is adhered to——

The VICE-PRESIDENT. Does the Senator from Ohio move that the vote by which the amendment was adopted be reconsidered?

Mr. GALLINGER (to Mr. FORAKER). Ask unanimous consent.

Mr. FORAKER. I ask that it be considered as open.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Ohio that the vote by which the amendment was agreed to be reconsidered? There is no objection, and the amendment proposed by the Senator from Virginia [Mr. DANIEL] is before the Senate.

Mr. FORAKER. I ask that the following may be added to it.

The VICE-PRESIDENT. The Senator from Ohio proposes an amendment to the amendment submitted by the Senator from Virginia.

Mr. FORAKER. I propose to add:

Any party to such action may introduce original evidence in addition to the transcript of the evidence offered to said Commission.

I read those words from the provision for a court review adopted by the Ohio legislature in the statute recently enacted. I do it only because I think if we mention any class of evidence it might be held that that was intended to exclude the consideration of any other evidence, and I do not suppose any Senator has offered it with any such idea as that. When we give the court jurisdiction to hear and determine as to the order, whether or not it shall be enforced, annulled, or modified, the court has complete control, I presume, of the trial and can hear whatever evidence it may deem competent. But if we recite any class of evidence we ought to make it clear that any kind of evidence will be received.

The VICE-PRESIDENT. The Secretary will state the amendment to the amendment.

The SECRETARY. It is proposed to add at the end of the amendment proposed by the Senator from Virginia [Mr. DANIEL] the following words:

Any party to such action may introduce original evidence in addition to the transcript of the evidence offered to the Commission.

Mr. NELSON. I should like to hear the whole amendment now read.

The VICE-PRESIDENT. At the request of the Senator from Minnesota the amendment of the Senator from Virginia as proposed to be amended by the amendment of the Senator from Ohio will be read.

The Secretary read as follows:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made on the hearing of the case before the Interstate Commerce Commission, and all of the testimony therein, which shall be certified and furnished by the Commission to the complainant on demand. Any party to such action may introduce original evidence in addition to the transcript of the evidence offered to the Commission.

Mr. CLARKE of Arkansas. I wish to offer an amendment to the amendment offered by the Senator from Ohio.

Mr. KEAN. That is not in order, being an amendment in the third degree.

Mr. DANIEL. Mr. President——

Mr. CLARKE of Arkansas. I yield to the Senator from Virginia.

Mr. DANIEL. I had in my hand and intended to offer, if the Senator from Ohio had not done so, an amendment in the nature of an amendment to the like effect, but with a proviso thereto which I hope it may be agreeable to his mind to accept. I would accept his amendment and suggest this proviso, which I ask the Secretary to take down, as I have written it in pencil on this paper:

Provided it is such as could not have been obtained by due diligence while the case was before the Interstate Commerce Commission.

A word on that, Mr. President, and then I will take my seat.

The great difficulty is in getting the full case made up as speedily as possible. It is recognized that the suit which will be brought by the carrier is an original suit, but it is desired to preserve the testimony already taken. In the event that the party may have discovered other testimony which he had no opportunity to put in before the Interstate Commerce Commission this amendment saves him from surprise and from any possible disparagement. So all the evidence he could possibly produce he will have the full opportunity to present in the hearing of his cause, but he is not to trifle with the matter while it is before the Interstate Commerce Commission and compel a rethrashing of the same old straw.

Mr. FORAKER. If the Senator will allow me to interrupt him, I will state the trouble about accepting his amendment, and I would accept it without any hesitation except for this trouble. The proceeding before the Interstate Commerce Commission is to be hereafter as it has always been heretofore—irregular; that is to say, there are no formal pleadings filed; no issue is arrived at. The whole hearing is upon a complaint and in such manner as the Commission may direct. While it is true that after the Commission has made orders in its experience heretofore and the same case has been taken to the court much evidence has been introduced in the court that was not introduced before the Commission, that has not been as a rule through any unwillingness on the part of the carrier or other party to produce it there, but solely because no issue had been made up that advised counsel what testimony should be presented; and not until the Commission has made its order and announced its opinion, in many instances of which I happen to have knowledge, have counsel been advised what really was the competent testimony that should be produced. Then when it went to the court where issues were made up by pleadings they proceeded in accordance with the rules governing the admission of testimony.

If we were to adopt the proviso of the Senator from Virginia, it might do a great injustice. I think it is better to leave it with the court, and I hope the Senator will accept my amendment without any modification.

[Mr. CLARKE of Arkansas addressed the Senate. See Appendix.]

The VICE-PRESIDENT. The Secretary will report the proposed amendment of the Senator from Virginia.

Mr. KEAN. Do I understand that the Senator from Virginia has accepted the amendment of the Senator from Ohio?

The VICE-PRESIDENT. The Chair will make the inquiry after the amendment presented by the Senator from Virginia has been read.

The SECRETARY. After the word "courts," the last word in the amendment agreed to, which was offered by the Senator from Iowa, insert:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made on the hearing of the case before the Interstate Commerce Commission and of all the testimony therein, which shall be certified and furnished by the Commission to the complainant on demand.

The VICE-PRESIDENT. To that the Senator from Ohio offered an amendment, which will be stated.

The Secretary read as follows:

Any party to such action may introduce original evidence in addition to the transcript of the evidence furnished by the Commission.

Mr. FORAKER. Does the Senator from Virginia accept that?

Mr. DANIEL. I will accept it, but move to add to it——

Mr. DOLLIVER. Would it be disagreeable to the Senator from Ohio to add that this new evidence shall be evidence which the complainant could not, by the use of reasonable diligence, have presented to the Commission?

Mr. DANIEL. If in order, I will offer the amendment I suggested to the amendment.

The VICE-PRESIDENT. The Chair will state that the Senator from Virginia, having accepted the amendment of the Senator from Ohio, a further amendment is in order now.

Mr. DANIEL. Mr. President, I am very glad to find that my own mind is working so nearly in accord with those of two such able lawyers as the Senator from Arkansas and the Senator from Ohio, and I wish to be in as accommodating a spirit as I feel the full and perfect justice of this case may require. The difficulty has been in getting a full case made before the Interstate Commerce Commission. The result has been that the public justice has been disparaged and all the parties to the case have been disappointed by a thin and imperfect presentation of a case which is afterwards fully presented.

A proper construction and a plain construction of the words which I would now append, it seems to me, is broad enough to perfect the matter so that nobody can be surprised or injured—that is to say, by limiting the new evidence to such as could not have been obtained by due diligence while the case was

before the Interstate Commerce Commission. If the Senator from Ohio will suggest any more elastic words to be added to "due diligence" which would the better reach any new aspect of the case, I would be glad to accept that also, for I do not intend to cut anybody off from a presentation of the proper defense of the case to the court when it is heard.

Mr. FORAKER. I think the best way to do is to say nothing at all about the evidence that shall be heard by the court.

Mr. DANIEL. If that were the case——

Mr. FORAKER. If the Senator will allow me——

Mr. DANIEL. If the Senator will just let me answer that point, I am afraid if that be the case the court would treat the matter entirely de novo, and would not get the benefit of the testimony, and would have to do it all over again. That is the reason why we want some limitations.

Mr. FORAKER. Mr. President——

Mr. RAYNER. May I interrupt the Senator? My own judgment is that if you adopt that amendment you kill this bill.

Mr. DANIEL. This amendment?

Mr. RAYNER. Yes, sir; if you adopt that amendment you do not give the parties any due process of law. You can not confine it to testimony taken before the Commission. Everyone when he came into court would have a perfect right to take whatever testimony he wants, without any regard to any testimony taken before the Commission. Due process of law under the Constitution gives them that right, and you can not say they have had due process of law before an administrative body. This is not an appeal. It is not a review, and it is not a certiorari, as the Senator from Wisconsin [Mr. SPOONER] suggests. It is an original proposition, and you must give them an unlimited right to produce whatever witnesses or testimony they want. If you do not, you interfere with the constitutional right of due process of law. I call upon the Senate not to adopt that amendment, unless you want to kill the bill, because that is the vital point.

Mr. FORAKER. I have said all that the Senator from Maryland has just now so well said.

Mr. RAYNER. I did not hear you.

Mr. FORAKER. That was the very point of my interruption of the Senator from Virginia.

Mr. RAYNER. I was in the gallery.

Mr. FORAKER. I will say to him that I do not think we ought to say anything about what evidence should be heard, but leave that to the court. But if we say anything at all as to what testimony shall be heard, we must go further and say something that would save it from the objection made so well by the Senator from Maryland. I suggest that we might provide for "any original evidence that may be competent."

Mr. RAYNER. I will say to the Senator from Ohio that I doubt very much whether you can make this testimony prima facie evidence.

Mr. FORAKER. I am not trying to make it prima facie.

Mr. RAYNER. It has been made prima facie evidence. But if you go a step further and preclude any party from giving any testimony in court in reference to his case, you deprive him of his constitutional right. It runs through the whole bill, in my humble judgment, and defeats the bill, for it is the vital part of it.

Mr. DANIEL. If the Senator from Ohio will permit me—or I will wait until he gets through.

Mr. FORAKER. I was starting in to answer the Senator's inquiry when the Senator from Maryland interrupted me. I was about to say that the words "due diligence," employed by the Senator from Virginia—"evidence which the party might by due diligence have secured"—are not broad enough, because the carrier might by due diligence get a dozen witnesses who were immediately about it, whose testimony he had no advice he would have any need of, because there was no issue, and for that reason he did not get them. A man writes a letter to the Commission and the Commission immediately proceeds to hear a complaint. No definite charge is made in many of these cases; there is no answer filed; there is no issue joined, and therefore there is no advice to the party litigant as to what testimony will be received in many of the cases.

Mr. DANIEL. I would add after the words of the amendment of the Senator from Ohio "admitting new and original evidence." I ask that that sentence may be read to me that I may make these words fit in with it.

The Secretary read as follows:

Any party to such action may introduce original evidence in addition to the transcript of the evidence furnished by the Commission.

Mr. RAYNER. I should like to ask the Senator from Virginia a question.

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Maryland?

Mr. DANIEL. If the Senator will kindly yield a moment, I am trying to frame words to fit in the amendment.

Mr. RAYNER. I do not think you can frame any words that will fit, and I was going to ask——

Mr. DANIEL. I can not be interrupted every moment and do it. I will be glad to yield to the Senator then.

Mr. RAYNER. All right.

Mr. DANIEL. I think this is it, Mr. President:

Provided it is such as could not have been obtained by due diligence while the case was before the Interstate Commerce Commission or is such as the court may deem essential to the justice of the case.

Mr. FORAKER. I suggest that it read "unless it be such as the court may deem essential."

Mr. DANIEL. Very well; that is better, I think. I want, while I am on my feet, to answer the new objection which has come from the Senator from Maryland [Mr. RAYNER].

Mr. RAYNER. Let me state it——

Mr. DANIEL. If the Senator from Ohio is through——

Mr. FORAKER. I am through if the Senator has accepted the language which I have suggested.

Mr. DANIEL. Very well.

We have had the suggestion made for the first time, Mr. President, by the Senator from Maryland that, if we make the evidence solemnly taken before the Interstate Commerce Commission prima facie so far as it goes, we are denying to the litigants due process of law, this being a case in which they are entitled to juridical process.

I take issue with the Senator from Maryland on that subject, and confidently claim that the case before the court, when it reaches there with a solemn record made under the inspection and direction of officers of high standing of this Government, taken under oath, is a solemn procedure, and that it is perfectly legitimate to this body, and that it is usual in such cases, to declare the record to be at least prima facie correct and to import what it seems. The only question that has ever been raised and debated, so far as I know, is as to making that record conclusive. We could make it conclusive, not simply prima facie, but for the fact that it is considered that the courts have the right to look into it and see that the party has not been injured in the ways defended and protected by our Constitution. If the Senator from Maryland will read again the case of the San Diego Water Company, where the evidence was taken in a much looser fashion than it is required to be taken here, and will note the emphatic opinion of the Supreme Court in passing upon it, that it was taken with due notice and that the rates were properly fixed under it, I think his mind will be disposed to modify the opinion which he has to-day expressed; and if these words of amendment, such as seem now to meet and comport with the judgment of the Senator from Ohio [Mr. FORAKER], are added, the most scrupulous care of the rights of everybody will have been consummated in provisions which give them a perfect remedy—a remedy, in the first instance, to be represented by their attorneys, to have their witnesses heard, to have oaths applied, and to defend their testimony by all the adminicle of jurisprudence; then to have it certified, and then when the case comes before a court, to have it inspected and to allow any additional testimony which could not have been gotten by due diligence before; and then, furthermore—and here is where the Senator's suggestion of lack of due process is fully met and completely defeated—any other evidence which the court may deem essential to the justness of the case, and he may add, if he pleases, "due process of law."

It is simply, Mr. President, to put the hands of Congress on this case and mold it by Congress so as to prevent delay, and the wit of man can not conceive of a rounder or a more complete remedy than the carrier or any other party will thus possess.

Mr. NELSON. Mr. President, the proposition of the Senator from Virginia [Mr. DANIEL] is based upon a false assumption. It is based upon the theory that transferring the consideration of a rate case from the Interstate Commerce Commission is in the nature of an appeal. It is nothing of the kind. When the case gets into the circuit court, it is an original suit, commenced there in the first instance. When such a suit is commenced in the circuit court of the United States, there are only two ways in which testimony can be taken. One is by oral testimony and the other is by deposition.

To my mind, the Senator from Virginia goes very far in his amendment. He goes to the verge of unconstitutionality by declaring that whatever testimony is taken before the Interstate Commerce Commission shall be deemed prima facie evidence in the circuit court. It is possible that that may be good; but when he goes a step further and undertakes in any way to limit

that court as to what testimony they shall use or not use, and as to what evidence a party to a suit shall use or not use, he clearly invades constitutional rights, and to that extent the provision would be a nullity.

I trust that such an amendment as the Senator from Virginia has suggested will not be incorporated in the bill; at all events, not the last amendment suggested by him. I trust the Senator will omit the latter part of his amendment. I can vote for the first part of it, making the testimony taken before the Interstate Commerce Commission prima facie evidence; but when he undertakes to limit the power of the circuit court as to the testimony which shall be taken and used in a case being tried in that court, he goes further than he is entitled to go by law.

[Mr. CLARKE of Arkansas addressed the Senate. See Appendix.]

Mr. HALE. Unless some Senator is prepared to move to adjourn, I move to lay the amendment on the table.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine withdraw his motion?

Mr. HALE. For the time being.

The VICE-PRESIDENT. The Senator from Oregon is recognized.

Mr. FULTON. I do not intend——

Mr. TILLMAN. Will the Senator yield to me to try to get an agreement?

Mr. FULTON. I am not going to speak over three minutes, and then I will yield.

I do not intend to take up any time in discussing this question. I simply want to say that I am very clearly of the opinion, and I have been, that the carrier should be confined to the testimony taken before the Interstate Commerce Commission, unless it can be shown that by the exercise of due diligence that testimoney could not have been presented at the hearing.

I wish to submit that the contention that this would not afford them due process of law can not have any sound foundation. They have notice in advance that if they wish to offer further testimony when they get into court they must produce that testimony before the Commission. Will any Senator who is contending that that would deny them due process of law tell me that the legislative body might not require a party proposing to go into court to take his testimony by way of depositions or otherwise in advance, except in a case where he is entitled to a trial by jury, and that by such a requirement he would be denied due process of law?

Mr. President, due process of law means, so far as judicial investigation is concerned, that the party shall have an opportunity to submit his case and the evidence to the court. He may be required to take that evidence in advance, but that is not denying him due process of law. So I submit that the parties should be required to produce their testimony before the Interstate Commerce Commission, unless they can show some reason for not having done so.

Mr. TILLMAN. Mr. President, I move that when the Senate adjourn to-night it be to meet at 10 o'clock on Monday morning.

The VICE-PRESIDENT. The Senator from South Carolina moves that when the Senate adjourns to-night it be to meet at 10 o'clock on Monday morning. The question is on that motion.

Mr. HALE. Mr. President——

Mr. BACON. I hope the Senator will make it 11 o'clock.

Mr. TILLMAN. Is the motion carried, Mr. President?

Mr. HALE. The motion is not carried, because it is not understood. Nobody knew what was going on.

Mr. TILLMAN. I will restate it. I move that when the Senate adjourns to-day it be to meet at 10 o'clock on Monday next.

Mr. HALE. Does the Senator propose to follow that up?

Mr. TILLMAN. I propose to follow it up, if the Senate will put that through, by asking for unanimous consent to vote before we adjourn on Monday night.

Mr. HALE. The Senator will not get that consent, and can not get it. Some of us have not taken twenty minutes of the whole time. There are provisions in this bill that are of most vital importance. Section 8, which deals with the construction of the Commission, is a section that I do not propose to be shut out from discussing by any agreement which will call upon us to vote finally before that section is reached. I am one of those who believe that too much time has been spent in looking at the other end—the judicial end—of this question.

I want a great Commission; I want to dignify it; I want to make it of such importance and to pay it so much, that in every circuit where a member is appointed he shall be taken from that circuit, and shall be the first man in that circuit for this service. When that is done, half of the trouble about this whole matter will be ended, and the deliberations and the decisions of the Commission will carry weight as they have not heretofore. I say this without meaning to reflect upon the present Commission; but, I repeat, that too much time has been given here to the other end of the matter; and now we are asked to agree to a vote by which section 8 may not be reached at all, and the real thing in this bill—that is, to create a great Commission, whose decisions and mandates shall carry effect with them, so that any court will hesitate before it interferes with them—has not been touched on. Nobody has argued it, because we have not reached it. I shall not consent, Mr. President, that any agreement shall be made that may cut off the consideration of what to me is of primal and profound importance in this matter, and that is the tribunal that initiates and first tries these cases.

Mr. TILLMAN. Mr. President, I agree with the Senator from Maine that we have had a great deal of unnecessary talk and that we have devoted a great deal of time to trivial and unimportant matters and there have been repetition and duplication of speeches.

Mr. HALE. Certainly the Senator can not charge me with that.

Mr. TILLMAN. I am not charging anybody, but I am trying to speak what I believe to be the truth, and that is that we have had a great deal of unnecessary discussion on this bill on points that have been determined by the Senate over and over again.

Mr. HALE. We have had nearly three months of what is called "general debate," and we have had a little more than a week of debate under the fifteen-minute rule, which was intended to give an opportunity to all Senators for fifteen-minute speeches. The time of the Senate under the fifteen-minute rule has been taken up by the half dozen Senators who did all the talking in the general debate.

Mr. TILLMAN. I can not help that. I am merely stating what I believe to be a fact.

Mr. HALE. I will not rest passively under the imputation that there has been here a disposition, shared in by the Senate generally, to postpone or delay this measure. I am not a miserable sinner in that regard. I have not repeated. But there are things in this bill that I propose to take hold of and adjust, and I will not make any agreement or consent to an agreement that will cut me off and other Senators who feel as I do. There are Senators here wanting to be heard who have not yet been able to get the floor and be recognized.

Mr. TILLMAN. I am the last man to try to cut off anybody from speaking who wants to speak on this bill. If the Senator from Maine can suggest a method by which we can reach a vote on the amendments. I hope he will do so. There are a hundred of them, or such matter. I do not know how many of them will appear still-born and never be offered. The way we are going on we will be here another month. If the Senator from Maine will agree, or if I can get the Senate to agree, or if he will make a suggestion from his long experience as to how we may make progress more rapidly and not have the appearance of dragooning the Senate, I should like him to do so.

Mr. HALE. I will tell the Senator. He and I have both seen ironbound agreements made which were carried out in accordance with their provisions, where many Senators have been shut out and important considerations have never been permitted to come before the body. Now, that is the result of agreeing upon a time for taking the last vote. I hope we may meet at 10 o'clock on Monday, and that before we adjourn we will have considered the things in this bill that are in the minds of Senators and ought to be considered. I will agree that so far as I am concerned I will not intrude by taking up any undue time of the Senate. But I am not willing now, at this stage, under the very conditions that the Senator has described, of scores of amendments having been piled up and not having been considered, to agree upon a time when the final vote shall be taken. On Monday I will help him to get through, if possible. I will say to the Senator——

Mr. TILLMAN. I want to ask the Senator, and I ask the Senate in connection with the Senator himself, whether or not, if I should undertake, as the Senator in charge of this bill, to assume the responsibility of asking the Senate to lay on the table amendments which to me seem trivial or repetitions, or a mere waste of time to discuss things which have been discussed and discussed and killed and killed and killed and killed, and yet we go on repeating, repeating, repeating, the Senator and the Senate will back me up?

Mr. HALE. The Senator need not ask me that question, because I am the only Senator who thus far has had the temerity to move to lay anything on the table.

Mr. TILLMAN. I have moved to lay a lot of amendments on the table, but the Senate did not sustain me.

Mr. HALE. I had forgotten that.

Mr. TILLMAN. Therefore I have become very chary and cautious and modest about repeating it.

Mr. HALE. It is my idea that before we get to the determination of this business, in order to clear away the wreckage, we will have to resort to the motion to lay on the table.

Mr. TILLMAN. Would the Senator call this book [exhibiting] a record? We have not gotten a third way through it. A great many amendments are pending here, and the egotism, if I may use the word, or vanity of the men who have offered them will cause them to feel compelled to offer them and to speak to them.

Mr. HALE. I mean the subjects that have already been considered and voted on, and yet Senators try to renew them. I call that wreckage. We can get rid of that.

Mr. TILLMAN. I was going to ask unanimous consent, but the Senator from Maine having notified me that he will not agree to any time being fixed, I will move that the Senate adjourn.

Mr. LODGE obtained the floor.

Mr. NELSON. I move to amend the motion——

Mr. LODGE. I thought I was recognized.

The VICE-PRESIDENT. The Senator from Massachusetts is entitled to the floor. Does he yield to the Senator from Minnesota?

Mr. LODGE. I want to say a word.

Mr. ALDRICH. Is this a debatable question, Mr. President?

The VICE-PRESIDENT. It is not. The debate is proceeding by unanimous consent.

Mr. LODGE. Very well; then I have nothing to say.

Mr. NELSON. I move to amend the motion of the Senator from South Carolina by changing it from 10 to 11 o'clock.

The VICE-PRESIDENT. The Senator from Minnesota moves to amend the motion of the Senator from South Carolina to the effect that when the Senate adjourns to-day it be to meet at 11 instead of 10 o'clock on Monday.

The amendment was agreed to.

The motion as amended was agreed to.

Mr. NELSON. A motion to lay on the table was made by the Senator from Maine.

Mr. DANIEL. The Senator withdrew his motion.

Mr. HALE. It is the understanding that the amendment of the Senator from Virginia shall go over until Monday.

Mr. FORAKER. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 52 minutes p. m.) the Senate adjourned until Monday, May 14, 1906, at 11 o'clock a. m.

SENATE.

MONDAY, *May 14, 1906.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of Post J, Indiana Division, Travelers' Protective Association of America, of Evansville, Ind., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

Mr. PLATT presented petitions of sundry citizens of New York City, Albany, and Yonkers, all in the State of New York, and of sundry citizens of Sidney, Nebr., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. NELSON. I present a memorial relating to the rate bill, which I ask may be read and lie on the table.

There being no objection, the memorial was read and ordered to lie on the table, as follows:

[Telegram.]

ST. PAUL, MINN., *May 12, 1906.*

Hon. KNUTE NELSON,
United States Senate, Washington, D. C.:

As you know, I am in full sympathy with the main features of the amendment proposed to the interstate-commerce act, but I desire to protest against the injustice of the proposed amendment imposing fine and imprisonment on officers and agents of railway companies for allowing rebates. Such penalties can never be inflicted upon presidents and high officials of 160,000 miles of railways of this country, who live in New York and do not deal directly with rates, while their demand for more revenue will induce some freight agent on a salary of three or four thousand dollars a year to grant a rebate. Make the penalty as high as you please against the railway company. This is the only way to reach the railway czars and grand dukes. The penalty of imprisonment was in existence for many years and only one man, a poor freight agent trying to support his family on a meager salary, was imprisoned.

A. B. STICKNEY.

Mr. BURNHAM presented a memorial of the New England Hardware Dealers' Association, remonstrating against the passage of the so-called "parcels-post" bill; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the national committee on legislation, Patriotic Order Sons of America, of Odenton, Md., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the legislative committee, American Federation of Labor, of Washington, D. C., praying for the enactment of legislation for the relief of shipkeepers at Mare Island Navy-Yard, Cal.; which was referred to the Committee on Claims.

Mr. BURROWS presented a petition of the Unity Club, of Lansing, Mich., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of Jackson, Webberville, Springport, Hemlock, Big Rapids, Azalia, Lansing, Detroit, Cadillac, Sault Ste. Marie, Grand Rapids, McBrides, Gobleville, Alto, Manton, Mosherville, Ludington, Cedar Springs, Fremont, Hope, Almont, and Adrian, all in the State of Michigan, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. WARNER presented petitions of sundry citizens of St. Louis, Shawneetown, Raymore, Meadville, Adrian, Gregory, Fredericktown, Maryville, Galena, Arcola, Kansas City, Lebanon, Oregon, Green Ridge, Tarkio, Clinton, Linneus, Sedalia, Bluffton, Grand View, Carthage, and Nixa, all in the State of Missouri, and of sundy citizens of Pittsburg, Pa.; Chicago, Ill.; Somerville, Mass., and New Orleans, La., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. GAMBLE presented a memorial of the Black Hills District Medical Society, of Deadwood, S. Dak., remonstrating against the adoption of a certain amendment to the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented memorials of sundry citizens of Sioux Falls, Yankton, Mitchell, and Woonsocket, all in the State of South Dakota, and of sundry citizens of Chicago, Ill., and St. Paul, Minn., remonstrating against the adoption of an amendment to the railroad rate bill to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. HEMENWAY presented petitions of the Versailles Republican, of Versailles; of the Young Business Men's Club, of Terre Haute; of the Studebaker Brothers' Manufacturing Company, of South Bend, and of Stony Point Grange, No. 1733, Patrons of Husbandry, of Stony Point, all in the State of Indiana, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of Golden Rule Council, No. 5, Junior Order United American Mechanics, of Winslow, Ind., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the congregation of the Presbyterian Church of Kingston, Ind., and a petition of the congregation of the First Presbyterian Church of Hammond, Ind., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented a memorial of Crescent City Council, No. 14, United Commercial Travelers of America, of Evansville, Ind., and a memorial of Post J, Indiana Division Travelers' Protective Association, of Evansville, Ind., remonstrating against the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of sundry citizens of Evansville, Lafayette, Linton, Muncie, Jonesboro, Bristol, Logansport, Wingate, Ashley, Bicknell, Walkerton, Madison, Elwood, Waveland, Pittsboro, Hartford, Shelbyville, St. Paul, Rockport, Noblesville, and Dale, all in the State of Indiana, praying for the adoption of an amendment to the postal laws relating to news-

paper publications; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. GALLINGER presented a petition of the Trades League of Philadelphia, Pa., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Eclectic Club, of New York City, N. Y., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was ordered to lie on the table.

He also presented the petition of R. W. Walker, of Washington, D. C., praying that an appropriation be made to construct a road east of the Zoological Park and connecting with Adams Mill road, to be called Park avenue; which was referred to the Committee on Appropriations.

He also presented a petition of the Inter-Municipal Research Committee, of New York City, N. Y., praying for the enactment of legislation to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment of situations; which was referred to the Committee on the District of Columbia.

Mr. KNOX presented petitions of Blue Mountain Lodge, No. 694, Brotherhood of Railroad Trainmen, of Marysville; of Camp No. 714, Patriotic Order Sons of America, of Globe Mills; J. E. Hoffman, of Tower City; W. H. Price, of Aristes; John Houtz, of Aristes; W. F. Welker, of Tower City; William Weand, of Philadelphia; Camp No. 151, Patriotic Order Sons of America, of Freeburg; Camp No. 38, Patriotic Order Sons of America, of Aristes; Pennsylvania State Camp, Patriotic Order Sons of America, of Clearfield; Camp No. 87, Patriotic Order Sons of America, of Annville; Council No. 255, Junior Order United American Mechanics, of Suterville; William Searer, of Tower City; Council No. 1, Junior Order United American Mechanics, of Germantown; and C. W. Biddinger, of Steelton, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of sundry citizens of Hunting; sundry citizens of Indiana; Methodist Protestant Church of New Brighton; sundry citizens of New Brighton; sundry citizens of Allegheny; Woman's Christian Temperance Union of Homestead; Woman's Home Missionary Society, Methodist Episcopal Church, of Pittsburg; J. W. Grantham, of Scottdale; and Carrie M. Reed, of Pittsburg, all in the State of Pennsylvania, praying for the enactment of legislation conditioning the appropriation to the Jamestown Exposition on the closing of the gates of the exposition on Sunday; which were referred to the Select Committee on Industrial Expositions.

He also presented petitions of W. W. Gilcrist, of Philadelphia; Norma Edith Leavenworth, of Harrisburg; the Right Rev. Alex. Mackay-Smith, of Philadelphia, all in the State of Pennsylvania, praying for the enactment of legislation providing for the preservation of Niagara Falls on the American side; which were referred to the Committee on Foreign Relations.

He also presented petitions of the Allegheny County Woman's Christian Temperance Union, of Pittsburg; J. F. Bucher, of Waynesburg; Charles Spiegel, of Germantown; Dr. William M. Findley, of Altoona; Rev. Edward Berger, of Susquehanna; the Findlay Clay Pot Company, of Washington; Rev. W. J. Coleman, of Allegheny, all in the State of Pennsylvania, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented petitions of the East Whiteland Presbyterian Church, of Frazier; Woman's Home Missionary Society of Abington Presbyterian Church, of Abington; Huntingdon Valley Presbyterian Church, of Huntingdon Valley; Presbyterian Church of Elwood City; First Presbyterian Church of West Chester; Second Presbyterian Church of Butler; Woman's Home Missionary Society, Presbyterian Church, of Media; the Woman's Club of Media; First Presbyterian Church of Marienville; Second Presbyterian Church of Wyalusing, all in the State of Pennsylvania, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented petitions of the Union Centenary Auxiliary of the Woman's Home Missionary Society of the Methodist Episcopal Church of Etna, the Woman's Home Missionary Society of the Methodist Episcopal Church of Wilkinsburg, and the Woman's Home Missionary Society of the Methodist Episcopal Church of Pittsburg, all in the State of Pennsylvania, praying that the direction of the schools of Alaska be left with the Bureau of Education; which were referred to the Committee on Territories

REPORTS OF COMMITTEES.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally with out amendment, and submitted reports thereon:

A bill (S. 5924) to extend the provisions of the existing bounty-land laws to the officers and enlisted men, and the officers and men of the boat companies, of the Florida Seminole Indian war;

A bill (H. R. 10177) granting a pension to Elizabeth Kohler;

A bill (H. R. 16566) granting an increase of pension to Whitman V. White;

A bill (H. R. 16648) granting an increase of pension to Henry B. Teetor;

A bill (H. R. 16699) granting an increase of pension to Lewis P. Chandler;

A bill (H. R. 16749) granting an increase of pension to Henry A. Jones;

A bill (H. R. 17654) granting an increase of pension to Hannah J. K. Thomas;

A bill (H. R. 17933) granting an increase of pension to Harriet E. Vandine;

A bill (H. R. 17950) granting an increase of pension to James W. Hager;

A bill (H. R. 18175) granting an increase of pension to Jeremiah Van Riper; and

A bill (H. R. 17971) granting an increase of pension to James G. Wall.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 6063) granting an increase of pension to F. A. Sullivan; and

A bill (S. 6039) granting an increase of pension to George Gardner.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 6027) granting a pension to Hattie S. Carruth; and

A bill (H. R. 18032) granting an increase of pension to Mary H. Scott.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with an amendment, and submitted reports thereon;

A bill (S. 5808) granting an increase of pension to Washington Brockman;

A bill (S. 453) granting an increase of pension to George K. Green; and

A bill (S. 4379) granting an increase of pension to Roy E. Knight.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (S. 3261) granting an increase of pension to Charles B. Town, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4171) granting an increase of pension to Joseph Bovee;

A bill (H. R. 12807) granting a pension to Nancy Ann Gee;

A bill (H. R. 13991) granting an increase of pension to Wiley H. Dixon;

A bill (H. R. 16255) granting an increase of pension to James S. Brand;

A bill (H. R. 17035) granting an increase of pension to Samuel Smith;

A bill (H. R. 17373) granting an increase of pension to William T. Stott; and

A bill (H. R. 18158) granting a pension to Isaac Cope.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 18188) granting an increase of pension to David B. Guthrie;

A bill (H. R. 17843) granting an increase of pension to Samuel Watkins;

A bill (H. R. 17771) granting an increase of pension to Deloss Williams;

A bill (H. R. 17711) granting an increase of pension to John Dietz;

A bill (H. R. 16783) granting an increase of pension to David W. Kirkpatrick;

A bill (H. R. 16423) granting an increase of pension to Andrew J. Roe;

A bill (H. R. 16398) granting an increase of pension to David Ross; and

A bill (H. R. 15032) granting a pension to Milton Diehl.

Mr. BURNHAM, from the Committee on Pensions, to whom was referred the bill (S. 6) granting an increase of pension to Ella N. Harvey, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5728) granting an increase of pension to Emery Wyman; and

A bill (S. 4550) granting an increase of pension to Henry Moody.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 1428) granting an increase of pension to Daniel Lamprey;

A bill (S. 1664) granting an increase of pension to Elizabeth L. W. Bailey;

A bill (S. 16295) granting an increase of pension to Laurence Foley;

A bill (H. R. 16704) granting a pension to Lucy C. Strout;

A bill (H. R. 17175) granting an increase of pension to Andrew E. Kinney;

A bill (H. R. 17548) granting a pension to David J. Bentley;

A bill (H. R. 17736) granting an increase of pension to Josephine B. Phelon;

A bill (H. R. 17797) granting an increase of pension to Wilbur F. Lane;

A bill (H. R. 17939) granting an increase of pension to Robert A. Seaver;

A bill (H. R. 18075) granting an increase of pension to Anna E. Kingston; and

A bill (H. R. 18149) granting an increase of pension to S. Horace Perry.

Mr. WARNER, from the Committee on Pacific Islands and Porto Rico, to whom was referred the bill (H. R. 18443) to amend the act to provide a government for the Territory of Hawaii, approved April 30, 1900, reported it without amendment, and submitted a report thereon.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 4790) granting an increase of pension to Edward W. Smith;

A bill (S. 3697) granting an increase of pension to Sarah A. Petherbridge; and

A bill (S. 2728) granting an increase of pension to Louisa Carr.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 1133) granting a pension to Mary Lockard;

A bill (H. R. 8479) granting an increase of pension to Nellie A. Batchelder;

A bill (H. R. 16751) granting an increase of pension to Samuel Hough;

A bill (H. R. 17361) granting an increase of pension to Margaret McGiffin;

A bill (H. R. 17480) granting an increase of pension to Charles P. Lord;

A bill (H. R. 17788) granting a pension to Charles E. Benson;

A bill (H. R. 17830) granting an increase of pension to William R. Snell;

A bill (H. R. 18054) granting an increase of pension to Stewart J. Donnelly;

A bill (H. R. 18094) granting an increase of pension to William G. Melick; and

A bill (H. R. 18325) granting an increase of pension to John W. Schofield.

Mr. PILES, from the Committee on Pensions, to whom was referred the bill (S. 4811) granting a pension to Mae Spaulding, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 6024) granting an increase of pension to Franklin B. Beach;

A bill (S. 1510) granting an increase of pension to Byron K. May;

A bill (H. R. 13077) granting an increase of pension to James S. Prose;

A bill (H. R. 16586) granting an increase of pension to William Mattison;

A bill (H. R. 16629) granting an increase of pension to Louis Stoeckig;

A bill (H. R. 16630) granting an increase of pension to Philip Dumont;

A bill (H. R. 17268) granting an increase of pension to Charles L. Westfall;

A bill (H. R. 17333) granting an increase of pension to Esek W. Hoff;

A bill (H. R. 17996) granting an increase of pension to Alonzo Wells; and

A bill (H. R. 18393) granting an increase of pension to David F. Crouch.

Mr. GEARIN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 16824) granting an increase of pension to James Waskom;

A bill (H. R. 17162) granting an increase of pension to Scott Ruddick;

A bill (H. R. 17173) granting an increase of pension to Thomas J. Davis;

A bill (H. R. 17826) granting a pension to Wincy A. Lindsey; and

A bill (H. R. 18157) granting a pension to James J. Winkler.

Mr. PERKINS, from the Committee on Commerce, to whom was referred the bill (H. R. 15078) granting to the Ocean Shore Railway Company a right of way for railroad purposes across Pigeon Point Light-House Reservation, in San Mateo County, Cal., reported it without amendment.

Mr. HOPKINS, from the Committee on Commerce, to whom was referred the bill (S. 6004) to provide an American register for the steam yacht *Waturus*, reported it with an amendment, and submitted a report thereon.

Mr. ALGER, from the Committee on Pensions, to whom was referred the bill (S. 5022) granting an increase of pension to Henry S. Olney, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4346) granting an increase of pension to William E. Holloway, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 1443) granting an increase of pension to Hiram C. Clark;

A bill (H. R. 15486) granting a pension to William H. M. Carpenter;

A bill (H. R. 16284) granting an increase of pension to George Rogers;

A bill (H. R. 16285) granting an increase of pension to Henry Johnson;

A bill (H. R. 17592) granting an increase of pension to Margaret Haynes;

A bill (H. R. 18147) granting an increase of pension to Perry F. Belden; and

A bill (H. R. 18169) granting a pension to Margaret Stevens.

BILLS INTRODUCED.

Mr. FRYE, introduced a bill (S. 6150) to authorize the appointment of Joshua L. Chamberlain, late a brigadier and brevet major-general of volunteers, to be a brigadier-general in the Army on the retired list; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced a bill (S. 6151) granting an increase of pension to Mark Ham; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6152) concerning licensed officers of sail vessels; which was read twice by its title, and referred to the Committee on Commerce.

Mr. HEMENWAY introduced a bill (S. 6153) granting an increase of pension to William F. Browning; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6154) granting an increase of pension to Edwin Freeman; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 6155) granting an increase of pension to Samuel H. Davis; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PENROSE introduced the following bills; which were

severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6156) for the relief of George W. Schroyer (with accompanying paper);

A bill (S. 6157) for the relief of S. K. Yundt;

A bill (S. 6158) for the relief of John G. Stauffer & Son;

A bill (S. 6159) for the relief of parties from whom cigars were seized on account of bearing counterfeit stamps (with accompanying paper);

A bill (S. 6160) for the relief of the Columbia National Bank, of Columbia, Pa. (with accompanying paper); and

A bill (S. 6161) for the relief of the estate of David B. Landis, deceased, and the estate of Jacob F. Sheaffer, deceased (with accompanying paper).

Mr. PENROSE introduced a bill (S. 6162) granting a pension to Matilda Kuhn; which was read twice by itis title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. WETMORE introduced a bill (S. 6163) granting an increase of pension to William H. Westcott; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DUBOIS. I regret that my colleague [Mr. HEYBURN] is quite ill, and I am sure the Senate shares in that regret. I fear he will not be able to be here during the remainder of the session. In his behalf I introduce a bill.

The bill (S. 6164) granting an increase of pension to Julius S. Cuendet was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CARTER introduced a bill (S. 6165) granting to Beaver Lodge, Independent Order of Odd Fellows, of Ekalaka, Mont., certain lands for public cemetery purposes; which was read twice by its title, and referred to the Committee on Public Lands.

NAVAL STATION, KEY WEST, FLA.

Mr. TALIAFERRO submitted an amendment proposing to appropriate $94,200 for dredging and filling in and other improvements at the naval station at Key West, Fla., intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

SCHOOLS IN ALASKA.

Mr. TELLER submitted the following concurrent resolution, which was referred to the Committee on Appropriations:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Interior is hereby authorized to use, at his discretion, for the native schools and reindeer enterprises in Alaska, the unexpended balance of "the license fund for schools outside of incorporated towns in Alaska," which was collected for schools in Alaska previous to January 27, 1905, the same being, after outstanding obligations are paid, $6,221.84, and is hereby appropriated for such purpose.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On May 11:

S. 2140. An act to authorize the Postmaster-General to dispose of useless papers in post-offices;

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with the St. Marys Falls Ship Canal; and

S. 5203. An act granting to the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation, in Montana, and for other purposes.

On May 12:

S. 1975. An act granting an increase of pension to Mary E. Dugger;

S. 2801. An act to withhold from sale a portion of Fort Brady Military Reservation at Sault Ste. Marie, Mich.;

S. 5572. An act to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States;

S. 5683. An act to provide for the removal of derelicts and other floating dangers to navigation;

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee; and

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. The morning business is closed, and the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The VICE-PRESIDENT. The pending question is on the amendment offered by the Senator from Virginia [Mr. DANIEL], which will be stated.

The SECRETARY. On page 17 of the bill, after the word "courts," the last word in the amendment offered by the Senator from Iowa [Mr. ALLISON] and agreed to, insert:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made on the hearing of the case before the Interstate Commerce Commission, and of all the testimony therein, which shall be certified and furnished by the Commission to the complainant, on demand. Any party to such suit may introduce original evidence in addition to the transcript of the evidence furnished by the Commission: *Provided*, That it is such evidence as could not have been obtained by due diligence while the case was before the Interstate Commerce Commission, or is such as the court may deem essential to the justice of the case.

Mr. DANIEL. I desire to withdraw the last sentence in the amendment, as to what the court may deem essential to the justice of the case.

The VICE-PRESIDENT. The Secretary will state the modification made by the Senator from Virginia.

Mr. DANIEL. I will ask that the amendment be read, and then I will indicate it.

The Secretary read as follows:

In any such suit the bill or other complaint shall be accompanied by a full copy of the record made on the hearing of the case before the Interstate Commerce Commission and of all the testimony therein, which shall be certified and furnished by the Commission to the complainant on demand. Any party to such suit may introduce original evidence in addition to the transcript of the evidence furnished by the Commission: *Provided*, That it is such evidence as could not have been obtained by due diligence while the case was before the Interstate Commerce Commission, or is such as the court may deem essential to the justice of the case.

Mr. DANIEL. I ask leave to leave out the words "or is such as the court may deem essential to the justice of the case."

The VICE-PRESIDENT. The Secretary will state the amendment as modified by the Senator from Virginia.

The SECRETARY. It is proposed to modify the proposed amendment by striking out the following words at the end thereof.

Or is such as the court may deem essential to the justice of the case.

Mr. DANIEL. I ask leave to withdraw those words. I think I have the right to withdraw them.

The VICE-PRESIDENT. The Senator from Virginia has a right to withdraw them.

Mr. DANIEL. Now, an explanation is due to the Senate. I was about to observe that the Senator from Ohio [Mr. FORAKER] is not in his seat, and I did not wish this matter acted on in his absence.

The VICE-PRESIDENT. The Senator from Ohio is present.

Mr. DANIEL. I was delaying hoping he would be here. I see the Senator has now come in.

I beg leave to state to the Senate that we have now before this body the amendment that was being considered late Saturday afternoon, when in answer to a suggestion of the Senator from Ohio I assented to the addition of the words which I now ask to withdraw, and I will state my reasons for doing so.

What is desired, Mr. President, is that the evidence that is fully taken in a case shall not be taken a second time, and if this amendment shall be adopted I shall offer the following amendment to consummate the plan of which it is a part:

In any hearing before the Commission under this act or any of the acts aforesaid, the parties thereto shall fully adduce all of their testimony that may be procured by reasonable diligence, and in any proceeding in equity or otherwise to set aside and annul the rates fixed by the Commission as unjust and as unreasonable, no other evidence shall be heard by the court saving only such evidence as the party offering the same may show to the court by proper affidavits could not have been obtained and submitted by reasonable diligence before the Interstate Commerce Commission.

The VICE-PRESIDENT. The Chair will state to the Senator from Virginia that he is at entire liberty to make such modification of his amendment as he desires.

Mr. DANIEL. Then, having withdrawn those words, I will propose this amendment instead of the one I have already offered.

The VICE-PRESIDENT. The Senator from Virginia withdraws his amendment heretofore proposed and offers an amendment which will be read by the Secretary.

The SECRETARY. In lieu of the matter intended to be proposed insert the following:

In any hearing before the Commission under this act or any of the acts aforesaid the parties thereto shall fully adduce all of their testimony that may be procured by reasonable diligence, and in any proceeding in equity or otherwise to set aside and annul the rates fixed by the Commission as unjust and as unreasonable no other evidence shall be heard by the court, saving only such evidence as the party offering the

same may show to the court by proper affidavits could not have been obtained and submitted by reasonable diligence before the Interstate Commerce Commission.

Mr. DANIEL. Mr. President, one of the great objects sought to be obtained by the shipping people of the United States, whom we should endeavor to subserve in this measure, is a prompt and a full hearing of their cause. How to obtain both is now a most important object to the Senate. One of the main causes of delay has been, as the Supreme Court has time and again remarked, the putting in of small testimony by the carriers before the Interstate Commerce Commission and developing the full testimony after they had gotten into court.

The Senator from Maine [Mr. HALE] said on Saturday afternoon that instead of looking so much, too much, to court review he thought we ought to look more to upbuilding the Commission. The very object of this amendment is to build up the Commission. He says that we propose to make the Commission a more powerful and a more dignified body than it has been heretofore. All the more does it behoove us, therefore, to attach more importance to what they have done and not to allow it to be regarded as a nonentity, as has been the case heretofore.

The Senator from Minnesota [Mr. NELSON] suggests that this is a bill of equity that we are legislating concerning, and not an appeal, and so I think was suggested also by the junior Senator from Arkansas [Mr. CLARKE].

There are three cases in the Supreme Court in which this very question has been gone over. The one is the case of the Cherokee Land Scrip, where a procedure was styled as a "bill" and was treated as a bill in equity. Another is a case of the California land grants, where the procedure was made by petition, and not called a bill in equity. Another is the case of Duell before the Patent Office, in which appeals were declared to lie from the administrative procedures in the Patent Office to the courts. Congress has complete jurisdiction to regulate the practices and orders of procedure of courts of equity.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Oregon?

Mr. DANIEL. In one moment. The Supreme Court, under authority from Congress, has put ninety-four new rules of equity into the practice of the inferior courts under our authority and from no constitutional jurisdiction of its own. What we recommend here is simply a matter of practice, and, as shown by the Senator from Oregon [Mr. FULTON], who is now upon his feet, in his great remarks on Saturday last, it is entirely legitimate within well-known orders of judicial and legislative procedure.

Now, if the Senate is really in mind and desirous to aid the shippers of this country to get an early and a full hearing of their case, here is the method to obtain that good end. If the Senate will fix its attention upon this system of review, which it is itself proposing to modify through some most advantageous and desirable elements of the Allison amendment, it will succeed in doing so without the necessity of shearing any court of its proper and legitimate jurisdiction or raising any question of law which is of doubtful use.

Mr. FULTON. I wish to ask the Senator a question, if he will allow me. I will premise my question with the statement that, so far as the principle of requiring testimony to be adduced before the Commission is concerned, and all the testimony that the party by the exercise of reasonable diligence can adduce, I am in sympathy with him; but I call the Senator's attention to the fact that his amendment provides—I am not giving the exact language, but that is the effect—that in any suit or proceeding to set aside the order of the Commission on the ground that it is unjust and unreasonable the party shall do so and so. It seems to me that that amendment would directly authorize the review of an order of the Commission on the ground that it was unjust and unreasonable, and thus go to the question of reviewing the discretion of the Commission.

Mr. DANIEL. I will ask the Secretary to again read the last amendment which I offered.

The SECRETARY. After the word "courts," on page 17, insert:

In any hearing before the Commission under this act or any of the acts aforesaid the parties thereto shall fully adduce all of their testimony that may be procured by reasonable diligence, and in any proceeding in equity or otherwise to set aside and annul the rates fixed by the Commission as unjust and as unreasonable no other evidence shall be heard by the court, saving only such evidence as the party offering the same may show to the court by proper affidavits could not have been obtained and submitted by reasonable diligence before the Interstate Commerce Commission.

Mr. DANIEL. Mr. President, I am perfectly willing to leave out the words "and as unreasonable," as the Senator has suggested. I am using the terms "unjust" and "unreasonable" as they have been explained by the decisions of the Supreme Court, that they will not regard the question as one of constitutionality unless it is so unreasonable as to be unjust in the sense of not rendering just compensation, and that is conformable to the present framework of the Allison amendment. But I am very willing to leave out the words "and as unreasonable," and will do so.

The VICE-PRESIDENT. The Secretary will modify the amendment as requested by the Senator from Virginia.

Mr. HOPKINS. I should like to ask the Senator from Virginia a question before he takes his seat.

Mr. DANIEL. Certainly.

Mr. HOPKINS. Under the bill as it is framed now, does not the Commission have the privilege, on proper evidence being presented to it, to modify or make a new order?

Mr. DANIEL. I can not hear the Senator's question.

Mr. FORAKER. Mr. President, we are unable to find the text the Senator from Virginia is proposing to amend. He speaks of page 17. I suppose that is the end of the Allison amendment, but I have not any print before me from which I can see it.

Mr. DANIEL. It has just been offered this morning in lieu of the amendment which we debated Saturday afternoon.

The VICE-PRESIDENT. The Senator from Ohio desires to know at what point the amendment comes in.

Mr. FORAKER. At what point in the text?

The SECRETARY. After the word "courts," the last word in the amendment offered by the Senator from Iowa [Mr. ALLISON] and already agreed to.

Mr. FORAKER. That we can not get. Nobody seems to be able to identify that amendment and furnish it to Senators at their desks. I have been asking for it ever since this debate commenced.

Mr. HOPKINS. Now, I should like to put my question to the Senator from Virginia.

If an order is made by the Commission under the bill as it is now framed, the Commission has the power of modifying that order or of setting it aside, has it not?

Mr. DANIEL. Certainly.

Mr. HOPKINS. If that be so, why, then, provide that new evidence can go before the court? If the carrier has evidence that has been discovered, or that it has been able to produce since the order of the Commission was made, why not require it to go before the Commission with that new evidence on an application for a modification of the order instead of going into the court with the new evidence?

Mr. DANIEL. My impression is that the Senate has already voted down an amendment of that sort, but that already the carrier has the right to ask for a modification of the order and to adduce new testimony.

Mr. HOPKINS. Yes. Now, the point I am making——

Mr. DANIEL. But if the carrier should go to the court——

Mr. HOPKINS. That would exclude the idea that the court at any time will ever have a different record before it on the question of the order of the Commission than the evidence which was before the Commission.

Mr. DANIEL. That is just the purpose of it. The purpose of it is to exclude the court from hearing new testimony which the parties could have adduced before the Interstate Commerce Commission and purposely did not; and to meet an evil which the Supreme Court has, as I have repeated here three or four times, frequently pointed out, the failure of the carriers to use their evidence before the Commission and develop it for the first time after they have brought a suit in equity in court.

Mr. HOPKINS. I desire to suggest to the Senator from Virginia that if the amendment as now framed is adopted it will permit the court, under certain conditions, to hear an entirely different case than the one committed to the Commission.

Mr. DANIEL. Only in those cases in which they exercised due diligence to put in their testimony and afterwards found some other testimony which they could not at that time get.

Mr. HOPKINS. Now, is it not better——

Mr. DANIEL. In such cases it is a matter of grace to the carrier.

Mr. HOPKINS. But is it not better when that evidence is discovered to require the carrier to go to the Commission instead of to the court and ask for a modification of the order rather than to take it to court to have the order set aside?

Mr. DANIEL. I would be very glad to do that. If this bill contemplated that, I would be very glad to vote for it.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. The Chair will state that the time of the Senator from Virginia has expired.

Mr. NEWLANDS. Mr. President, I will state in reply to the inquiry of the Senator from Illinois that it is my understanding that the Senator from Wisconsin [Mr. LA FOLLETTE] introduced an amendment involving the procedure to which the Senator

from Illinois refers and which he approves, and that that amendment was lost; but it is a very proper amendment.

Mr. HOPKINS. I will say to the Senator from Nevada that that amendment is an entirely different proposition from the one which is now pending. As I understand it, it was not put in the form that I suggested to the Senator from Virginia.

Mr. SPOONER and Mr. LA FOLLETTE addressed the Chair.

The VICE-PRESIDENT. The senior Senator from Wisconsin.

Mr. SPOONER. I yield to my colleague.

Mr. LA FOLLETTE. If it is in order, I wish to offer a substitute for the pending amendment.

The VICE-PRESIDENT. It is in order. The junior Senator from Wisconsin moves a substitute, which will be read.

The SECRETARY. After the word "courts," on page 17, insert:

Upon the trial of any action brought to set aside or modify any order made by the Commission under this section a copy of the evidence introduced by the plaintiff upon motion made upon behalf of the Commission shall be transmitted to the Commission, and the court shall stay further proceedings in such action for fifteen days from the date of such transmission. Upon the receipt of such evidence the Commission shall consider the same, and may alter, modify, amend, or rescind its order relating to such rate or rates, fares, charges, classification, joint rate or rates, regulation, practice, or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence.

If the Commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify, or amend the same, such altered, modified, or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by the Commission in the first instance. If the original order shall not be rescinded or changed by the Commission, judgment shall be rendered upon such original order.

Mr. HALE. Mr. President, I move to lay the amendment on the table.

The VICE-PRESIDENT. The Senator from Maine moves to lay the substitute proposed by the Senator from Wisconsin [Mr. LA FOLLETTE] on the table.

Mr. LA FOLLETTE. On that I will ask for the yeas and nays.

Mr. HOPKINS. I wish to know if the Senator from Maine will not suspend that motion until we can hear from the Senator offering the substitute?

The VICE-PRESIDENT. Is there a second to the demand for the yeas and nays?

The yeas and nays were ordered.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. OVERMAN. Mr. President, I ask that the amendment may be read.

Mr. ALDRICH, Mr. FRYE, and others. Too late!

The VICE-PRESIDENT. The Senator from North Carolina [Mr. OVERMAN] rose before a response had been made to the roll call. The Secretary will again state the proposed amendment.

The Secretary again read Mr. LA FOLLETTE's amendment to the amendment proposed by Mr. DANIEL.

The VICE-PRESIDENT. The Secretary will resume the calling of the roll.

The Secretary resumed the calling of the roll.

Mr. SPOONER (when his name was called). As I announced the other day, I am paired with the Senator from Tennessee [Mr. CARMACK], who is absent. If I were at liberty to vote, I should vote "yea."

Mr. CLARK of Wyoming (when Mr. WARREN's name was called). I desire to announce the unavoidable absence of my colleague [Mr. WARREN] from the city. I desire also to announce that he is paired with the Senator from Mississippi [Mr. MONEY]. I make this announcement for the remainder of the day.

The roll call having been concluded, the result was announced—yeas 41, nays 30, as follows:

YEAS—41.

Aldrich	Clark, Wyo.	Gamble	Perkins
Alger	Crane	Hale	Piles
Allee	Dick	Hansbrough	Platt
Allison	Dillingham	Hemenway	Proctor
Brandegee	Dolliver	Kean	Scott
Bulkeley	Dryden	Kittredge	Smoot
Burkett	Flint	Lodge	Sutherland
Burnham	Foraker	Long	Wetmore
Burrows	Frye	McCumber	
Carter	Fulton	Nixon	
Clark, Mont.	Gallinger	Penrose	

NAYS—30.

Bacon	Foster	McLaurin	Simmons
Berry	Frazier	Mallory	Stone
Blackburn	Gearin	Martin	Taliaferro
Clay	Hopkins	Morgan	Teller
Culberson	Knox	Newlands	Tillman
Cullom	La Follette	Overman	Warner
Daniel	McCreary	Pettus	
Dubois	McEnery	Rayner	

NOT VOTING—18.

Ankeny	Clapp	Heyburn	Patterson
Bailey	Clarke, Ark.	Latimer	Spooner
Beveridge	Depew	Millard	Warren
Burton	Elkins	Money	
Carmack	Gorman	Nelson	

So Mr. LA FOLLETTE's amendment to the amendment proposed by Mr. DANIEL was laid upon the table.

Mr. HALE. I now renew the motion I made on Saturday and withdrew, to lay the pending amendment on the table.

The VICE-PRESIDENT. The Senator from Maine moves to lay the pending amendment on the table. [Putting the question.] The "ayes" have it and the amendment is rejected.

Mr. DANIEL. I ask for the yeas and nays, Mr. President.

The yeas and nays were not ordered.

Mr. TELLER. What is now the pending question, Mr. President?

The VICE-PRESIDENT. The bill itself.

Mr. TELLER. Have we passed the stage for amendments?

The VICE-PRESIDENT. The Secretary will resume the reading of the bill.

Mr. TELLER. The reading of the bill, then, has not yet been completed?

The VICE-PRESIDENT. It has not. The Secretary will proceed with the reading of the bill.

Mr. DANIEL. I desire to offer an amendment. On page 9, in the section relative to the venue in suits, line 6, after the word "office," I move to insert—and I ask the Secretary to take down the words——

Mr. LONG. Mr. President——

Mr. DANIEL. I ask the Senator from Kansas not to interrupt me until I am through with the sentence.

The VICE-PRESIDENT. The Senator from Virginia declines to yield.

Mr. DANIEL. On page 9 of the amendment offered by the Senator from Iowa [Mr. ALLISON], after the word "office," in line 6, I move to insert the following words——

Mr. SPOONER. On what page?

Mr. DANIEL. On page 9.

Mr. CULLOM. May I interrupt the Senator from Virginia long enough to say that he has not the bill before him, but has a print of some amendment?

Mr. DANIEL. I have the amendments intended to be offered by Mr. ALLISON——

The VICE-PRESIDENT. The amendment proposed to be offered by the Senator from Virginia will be stated.

The SECRETARY. On page 17 of the amendment offered by the Senator from Iowa [Mr. ALLISON] and agreed to, after the words "operating office," it is proposed to insert——

Mr. DANIEL. That is the correct place. At that point I move to insert:

And such suit shall be brought in thirty days after the entry of any such order or requirement of the Interstate Commerce Commission, and not afterwards.

A word of explanation, Mr. President——

Mr. BEVERIDGE. I should like to know at what point the Senator wishes to insert that amendment?

Mr. DANIEL. On page 9. Before yielding I desire to say a few words in explanation of this amendment.

The VICE-PRESIDENT. The Chair understands the amendment proposed by the Senator from Virginia [Mr. DANIEL] to the amendment proposed by the Senator from Iowa is to an amendment already agreed to. If so, the Senator's amendment is out of order at this stage of the bill.

Mr. DANIEL. Then, Mr. President, I move to insert at the close of that amendment the following words:

Such suit to enjoin, set aside, annul, or suspend any order or requirement of the Interstate Commerce Commission shall be brought in thirty days after the entry of any such order or requirement of the Commission, and not afterwards.

The VICE-PRESIDENT. The Chair understands the amendment just proposed by the Senator from Virginia to be an amendment to an amendment already agreed to.

Mr. DANIEL. Not at all, Mr. President.

The VICE-PRESIDENT. If that be so, the amendment is still out of order.

Mr. DANIEL. But, Mr. President, it is not an amendment to anything already agreed to. This matter has not been brought up before. It is an independent proposition.

The VICE-PRESIDENT. If it is an entirely independent proposition, then, of course, it is in order.

Mr. DANIEL. It is an entirely independent proposition.

Mr. KEAN. In what section does the Senator propose his amendment?

Mr. DANIEL. After the Allison amendment.

Mr. KEAN. To what section of the bill?

Mr. DANIEL. There are so many editions of these amendments that I am not certain that I have the copy before me which is now before the Senate. If a page will bring me a copy of the bill which is now pending before the Senate, I will examine it.

The VICE-PRESIDENT. The Senate will suspend its proceedings until the Senator from Virginia has submitted his proposed amendment.

Mr. DANIEL. As an independent proposition.

The VICE-PRESIDENT. There are several prints of the bill.

Mr. DANIEL. I ask that I may be furnished with a copy of the bill that is pending before the Senate. I have the one which has been laid on my desk.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Indiana?

Mr. DANIEL. For a question.

Mr. BEVERIDGE. My question is directed to the Chair, but I think it is as valuable to the Senator from Virginia as to myself. I want to know whether or not there has been a reprint of the bill containing all the amendments agreed to up to the time of our last adjournment? It is difficult for Senators to find just where the amendment proposed by the Senator from Virginia comes in in the print which is now before us.

The VICE-PRESIDENT. There has been no reprint up to the adjournment on Saturday evening.

Mr. BEVERIDGE. Then there is no reprint of the bill really showing the place where the amendment proposed by the Senator from Virginia comes in.

Mr. ALDRICH. Mr. President, I rise to a question of order.

Mr. DANIEL. I have the floor.

Mr. ALDRICH. But I rise to a point of order.

Mr. DANIEL. I have the floor, and the Senator can not rise in order to a point of order while I have the floor.

Mr. ALDRICH. I think I can.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Colorado?

Mr. DANIEL. Not to make a point of order.

Mr. ALDRICH. I am not asking the Senator from Virginia to yield to me. I rise to a question of order.

Mr. TELLER. I rise to a question of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his point of order.

Mr. ALDRICH. My point of order is that the amendment is not in order; that it is an amendment to an amendment already agreed to, and is therefore not in order.

Mr. DANIEL. I do not offer the amendment as an amendment to an amendment already agreed to.

The VICE-PRESIDENT. The Chair is endeavoring to ascertain from the Senator from Virginia whether his amendment is an independent proposition or whether it is proposed to an amendment which has already been agreed to.

Mr. ALDRICH. It refers to language in the substitute which is included in the amendment already agreed to; and therefore is not in order.

Mr. DANIEL. The amendment as I now wish to offer it has not the words "such suit" in it.

Mr. ALDRICH. I think it has.

Mr. DANIEL. It had originally, but——

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Colorado?

Mr. DANIEL. With pleasure.

Mr. TELLER. I do not want the Senator to yield to me. I rise to a question of order.

The VICE-PRESIDENT. The Senator from Colorado will state his question of order.

Mr. DANIEL. I yield to the Senator from Colorado.

Mr. TELLER. I do not want the Senator from Virginia to yield to me. I do not want to take up the Senator's time.

Mr. DANIEL. The Senator can do as he pleases about that. I can be courteous to him whether he is to me or not.

Mr. TELLER. I want to have the floor in my own time on the question of order.

The VICE-PRESIDENT. The Senator from Colorado will state his question of order.

Mr. TELLER. I want to find out what print of the bill is before the Senate, so that we may know where we may look to find where proposed amendments are to come in. I understand that the print of the bill before the Senate is that which was reported on February 26.

The VICE-PRESIDENT. The Chair so understands.

Mr. TELLER. Then, Mr. President, amendments should be addressed to that bill. Otherwise it will be utterly impossible for us to determine what effect the proposed amendment would have unless we knew the particular point where it was to appear in the bill.

The VICE-PRESIDENT. The Senator from Colorado is entirely correct; and the Chair would suggest to the Senator from Virginia that his amendment be addressed to the print of the bill reported to the Senate February 26.

Mr. DANIEL. Mr. President, after the place in that bill in which was inserted the Allison amendment, I move, as an independent proposition, the words which I have stated. Now I ask that those words may be read.

Mr. BACON. Will the Senator from Virginia permit me to make a suggestion?

The VICE-PRESIDENT. Will the Senator from Virginia send the proposed amendment to the Secretary's desk with the point clearly indicated at which it is proposed to be inserted in the bill?

Mr. DANIEL. As there is no bill printed, Mr. President, with the amendments in it, I can not send to the desk what is not before me. I have had one of the pages looking to see if he could find such a print of the bill, but there seems to be none here.

Mr. BACON. If the Senator will permit me to suggest——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Georgia?

Mr. DANIEL. I yield.

Mr. TILLMAN. Will the Senator yield to me for a moment to make a request?

Mr. DANIEL. I have already yielded to the Senator from Georgia [Mr. BACON].

The VICE-PRESIDENT. The Senator from Virginia has yielded to the Senator from Georgia.

Mr. TILLMAN. There is so much confusion in the various prints and reprints of the bill that it is difficult for Senators to find what they want and to have it before them when they want to insert amendments. I therefore ask that the Public Printer be immediately ordered to send to the Senate a copy of the bill as it was when we quit work on Saturday night, so that we may know what has been done up to date.

Mr. BEVERIDGE. I suggest that the amendments agreed to shall in the proposed reprint be printed in italics, so that we may be able to distinguish them.

Mr. TILLMAN. Of course I want the amendments which have been agreed to printed in italics, so that when the reprint comes to us it will appear on its face what amendments have already been agreed to.

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Iowa?

Mr. BACON. I thought the Senator had yielded to me.

The VICE-PRESIDENT. The Chair understood the Senator from Iowa to rise to the question proposed by the Senator from South Carolina. The Chair will put the request of the Senator from South Carolina. Is there objection to a reprint of the bill as it stood on Saturday evening? The Chair hears none, and that order is made. The Senator from Georgia [Mr. BACON] is entitled to the floor.

Mr. BACON. I simply——

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. ALLISON. I only wish to make a suggestion, but I will not ask the Senator to yield if he wishes to speak. I intended to make an effort——

Mr. BACON. I have no objection to yielding, except that the time of the Senator from Virginia is being consumed.

Mr. ALLISON. I will make a simple suggestion to the Senator from Virginia, and that is that his amendment should go in on page 17 of the printed bill, after the amendment that is already in the bill on line 14.

Mr. BACON. That is what I have been trying to say for ten minutes, but I was not permitted to do it.

Mr. ALLISON. I would have been glad to have said it before, but I did not have an opportunity. I am much obliged to the Senator for allowing me to say it, instead of saying it himself.

Mr. FRYE. Please let the amendment be reported in the place suggested by the Senator from Iowa.

The VICE-PRESIDENT. The Secretary will state the proposed amendment.

The SECRETARY. On page 17, before line 15, it is proposed to insert:

Any suit to enjoin, set aside, annul, or suspend any order or requirement of the Interstate Commerce Commission shall be brought within thirty days after the entry of any such order or requirement of the Commission, and not afterwards.

The VICE-PRESIDENT. The question is on agreeing to the amendment just stated.

Mr. MORGAN. Is the amendment of the Senator from Virginia a new proposition?

Mr. DANIEL. It is a new proposition.

Mr. MORGAN. And to be inserted in a point of the bill where no amendment has as yet been agreed to?

Mr. DANIEL. It is an independent proposition.

Mr. MORGAN. I desire to inquire of the Chair whether it is now in order for me to offer a substitute for that amendment?

The VICE-PRESIDENT. It is in order for the Senator to offer a substitute for the amendment of the Senator from Virginia.

Mr. MORGAN. The substitute that I propose to offer is copied from the existing law, which I think will cover all that the Senator from Virginia desires to accomplish. The existing law on the point raised by the Senator from Virginia controls the action of the circuit court when a suit is brought in that court for the revision or reversal or reconsideration of an order of the railroad commission. The amendment I propose, Mr. President, merely restates the law as it stands on the statute book to-day, and covers, as I think, not only all of the provisions that are necessary to be adopted by the Senate, but also covers a very important constitutional question which has been taken out of the law as it stands to-day by the Hepburn bill, and merely reinstates it. I ask that the amendment be read.

The VICE-PRESIDENT. The Secretary will read the amendment of the Senator from Alabama [Mr. MORGAN] proposed as a substitute for the amendment of the Senator from Virginia [Mr. DANIEL].

The SECRETARY. In lieu of the matter intended to be inserted by the Senator from Virginia it is proposed to insert the following:

That if the matters involved in any order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said Commission as provided in the fifteenth section of the act to regulate commerce, approved February 4, 1887, as the same is amended by act of Congress approved March 2, 1889, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the circuit court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made; and it shall be the duty of the marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition and of said order upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same as aforesaid. At the trial the findings of fact of said Commission, as set forth in its report, shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing then the court shall try the issues in said cause and render its judgment thereon. Either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal and without regard to the value of the subject in dispute; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said circuit court. If the judgment of the circuit court shall be in favor of the party complaining he or they shall be entitled to recover a reasonable counsel or attorney's fee, to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session.

Mr. MORGAN. Mr. President, if that were new matter, or if a word in it were new matter, I should not venture to bring it before the Senate at this late hour in this debate; but no provision has been made in the bill as yet for a jury trial in those cases where the remedy of the complainant, whether it is a railroad company or whether it is a private citizen, is plain, adequate, and complete at law. Such a provision is in the existing law, and it quotes the constitutional article to which it refers. In the preparation of this bill in the House of Representatives that provision was entirely stricken out, and it has not been supplied by any legislation or even attempted to be supplied in the Senate.

I am here to appeal, Mr. President, in favor of a trial by jury in those cases in the circuit courts of the United States that may originate there under this bill, as the Constitution requires a trial by jury if the remedy in the case is plain, adequate, and complete at law. My purpose is to try to prevent the effort that I recognize in this bill, and recognize through the whole of the progress of this attempted legislation, to prevent the equity court, to prevent the chancellors of the United States from being substituted in place of jury trials where the remedy is plain, adequate, and complete at law. I regard that security of the Constitution of the United States against the aggression, which so far obtains in this bill, as being amongst the most personal and beneficial liberties of the citizens of this country; and I am not willing to see this bill passed into a law with that portion of the Constitution stricken out, as it has been stricken out by the committee that reported the bill, and no effort made to reinstate it.

There is not a word of this amendment in controversy in the slightest degree with any provision that this bill contains, after it has been amended to the extent that it has been, and I am here now for the purpose merely of demanding a jury trial in the circuit courts of the United States in all those cases where a party would be entitled to a jury trial, the question being one where the remedy at law is plain, adequate, and complete.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Alabama [Mr. MORGAN] in the nature of a substitute to the amendment of the Senator from Virginia [Mr. DANIEL].

Mr. DANIEL. I observe from the printed amendment of the Senator from Alabama that it has been offered as an independent section. As printed, it reads "to strike out the words 'Sec. 16. That,' in line 18, on page 12, and insert the following."

Mr. MORGAN. This is the first offer I have made of it.

Mr. DANIEL. It is the first offer on the floor of the Senate, but it was sent to the desk.

Mr. MORGAN. Oh, well, I have a right to offer it to any part of the bill.

Mr. DANIEL. I understand the Senator has a right to do it, but I was just suggesting that there is now no limitation, as this bill stands, upon the suits that may be brought to set aside——

Mr. McCREARY. Mr. President——

Mr. DANIEL. Please permit me to finish the sentence.

Mr. McCREARY. I am not able to hear the Senator from Virginia.

Mr. DANIEL. I will try to speak louder.

Mr. McCREARY. Let the Senator speak louder, and let there be better order in the Senate.

Mr. DANIEL. As the case stands now, there is no limitation provided for, that I can discern, for the suits that are brought to set aside the orders of the Interstate Commerce Commission, and I should be very glad if the Senator would allow my amendment to be voted on separately and to offer his as an independent proposition.

Mr. MORGAN. The Senator can amend the amendment by putting that in if he chooses to do so.

Mr. DANIEL. Of course I could get out of the way of the Senator, but he complicates matters. I think I would vote for his amendment as an independent proposition, and expect to do so.

Mr. MORGAN. I am willing to simplify matters and not complicate them——

Mr. DANIEL. The Senator's amendment does not cover exactly the same thing. This is for all suits.

Mr. MORGAN. If the Senator from Virginia desires to put a limitation upon the time within which a suit shall be brought in the circuit court that brings in question the action of the railroad commission——

Mr. DANIEL. That is all I am trying to do.

Mr. MORGAN. He can put it in my amendment. I have no objection to it.

The VICE-PRESIDENT. The Senator from Alabama can modify his amendment, but the Chair is of opinion that as an amendment to the substitute it is not in order.

Mr. MORGAN. I will modify it.

Mr. DANIEL. Withdraw the amendment and immediately reoffer it after mine has been voted upon.

Mr. MORGAN. It is not necessary to withdraw it.

Mr. DANIEL. I know it is not necessary, but——

Mr. MORGAN. Suggest an amendment, and I will accept it.

Mr. DANIEL. I do not want to amend it. I want to have a vote on my amendment as a separate proposition.

Mr. MORGAN. I have no ambition to figure as the author of any amendment to this bill. This law which I ask the Senate to adopt is the law of the land to-day, without the change of a word.

Mr. DANIEL. I will vote for the Senator's amendment if he will offer it not in antagonism to the one I have offered. I think, according to the best reading of the bill that I can give,

that my amendment is a desirable one to speed the character of causes with which the preceding section deals. I hope that the Senator will withdraw his amendment.

Mr. MORGAN. With the leave of the Senate, and in order to give the Senator from Virginia his way in the matter, I will withdraw the amendment for the present and will offer it later.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Virginia.

Mr. TELLER. Let us have it read again. It has been changed half a dozen times.

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Iowa?

Mr. TELLER. I only want to call for the reading of the amendment before I vote upon it. I want to know what it is.

Mr. ALLISON. I ask that it may be read.

The VICE-PRESIDENT. The amendment will again be stated.

The SECRETARY. On page 17 of the printed bill, after the amendment offered by the Senator from Iowa and already agreed to, add as a separate paragraph the following:

> Any suit to enjoin, set aside, annul, or suspend any order or requirement of the Interstate Commerce Commission shall be brought within thirty days after the entry of any such order or requirement of the Commission, and not afterward.

Mr. ALLISON. Mr. President, I desire to make a suggestion with reference to the amendment. The orders of the Commission, as I understand the bill, are to take effect within not less than twenty days. The amendment of the Senator from Virginia provides that no suit shall be brought after thirty days. So it seems to me that this amendment is inconsistent with the bill as it now stands.

Mr. DANIEL. Of course it means after the order shall have become effective, and I shall be glad to make it more plain, if the Senator from Iowa thinks it should be.

Mr. ALLISON. As I understand the amendment as it now reads, it is that these suits must be brought within thirty days after the order is made.

Mr. DANIEL. That is the expression, but it should be extended as the Senator suggests. That is what it had reference to.

Mr. ALLISON. I wish to make another suggestion, and that is that this suit is to set aside or annul or suspend the order, and therefore it is not so material that the time should be fixed at an early day, if at all, because if a suit is brought, it is to set aside the order, and the order is in force after thirty days or whatever time the Commission may fix. It may fix sixty days. Suppose at the end of sixty days no bill is filed. Then there will be no suspension of the order. This proposition is attached to a provision with respect to setting aside or annulling the order of the Commission. If that order is made and goes into effect, that is the end of the matter, unless afterwards one of the parties seeks to suspend the order already in force. It seems to me that that is rather a radical and harsh provision, not giving sufficient play for the commencement or prosecution of a suit.

Mr. McCUMBER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from North Dakota?

Mr. DANIEL. Certainly.

Mr. McCUMBER. May I make a suggestion to the Senator?

Mr. DANIEL. Certainly.

Mr. McCUMBER. It seems to me that the result of this amendment would be practically to compel the roads, if they desire ever to test the question, to appeal immediately or within the thirty days. Suppose the company can not tell absolutely what the effect of an order is going to be until after the order has been in effect for some time. Is it not better to allow the companies to determine whether or not the order is going to be injurious to them, by attempting to operate under it, before compelling them to take the appeal? The order is in effect only two years, and it seems to me it is best to allow the company to work under the order to see whether its effect will be injurious or not, and not practically require them to take an appeal until they ascertain that some injury will follow.

Again, an order might not be injurious for one year or for eighteen months, and yet there might be such a change after that time that it would be injurious. It seems to me we ought to allow the order to stand and give the carrier the right to institute the suit at any time within the two years in which the order will be effective, whenever the company itself determines that the order is injurious to it.

Mr. DANIEL. Mr. President, first, in answer to the suggestion of the Senator from Iowa, I would change the phraseology of the amendment so as to read "after the order or requirement of the Commission has become effective." It is spoken of there as an entry. It meant to refer to the time when the order became effective, and it is better to say so in express words than by mere implication. So I will ask the Secretary to make that change. Let it read "thirty days after the order or requirement has become effective."

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. Now, in answer to the Senator from North Dakota, I wish to say this——

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. I hope he will allow me to finish——

Mr. ALDRICH. The Senator from Virginia has spoken once upon this amendment.

Mr. DANIEL. The Senator from North Dakota——

The VICE-PRESIDENT. The Chair asks the Senator from Virginia whether he has heretofore spoken to this amendment?

Mr. DANIEL. I have spoken for a few minutes. Of course I can not explain my amendment, in answer to objections, unless the Senate allows me an opportunity.

The VICE-PRESIDENT. Under a strict interpretation of the rule, the Senator has exhausted his right.

Mr. DANIEL. I do not desire to intrude upon the Senate.

Mr. McCUMBER. I merely wanted to ask a question. I did not want to take the Senator's time.

Mr. BACON. When the Senator spoke before, it was upon the amendment of the Senator from Alabama, which was withdrawn.

The VICE-PRESIDENT. The Chair asked the Senator from Virginia whether he had previously spoken on the amendment, and the Chair understood him to say he had.

Mr. DANIEL. I believe it was in respect to the amendment of the Senator from Alabama. But the RECORD will show, and I have no desire to evade or to trench on any rule of the Senate. But I think the Senate will be courteous enough to allow me by unanimous consent to answer the suggestion of a colleague in debate, both of us seeking to reach the truth in this matter.

The VICE-PRESIDENT. Is there objection to the Senator from Virginia proceeding? The Chair hears none.

Mr. McCUMBER. Assuming that the Senator has spoken, have I not the right to ask a question of the Senator and allow him to answer it? I asked him a question, and it seems to me he has a right to answer it, provided it does not take more than fifteen minutes.

Mr. ALDRICH. Is the Senator from North Dakota willing to assume that he has not concluded?

Mr. McCUMBER. I have concluded only when the Senator has answered my question.

The VICE-PRESIDENT. The Chair hears no objection, and the Senator from Virginia will proceed.

Mr. DANIEL. The thirty days is provided in order to make it conformable to the appeal provided for on the next page of the Allison amendment. On the next page it says:

> An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: *Provided further*, That the appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes, except causes of like character and criminal causes.

Mr. NELSON. Will the Senator allow me?

Mr. DANIEL. The answer that the Senator from Iowa would make and which the Senate will probably make by adopting that provision, if it has not already done so, and which I make——

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Minnesota?

Mr. DANIEL. I do not yield for the moment, until I am through with the sentence.

The VICE-PRESIDENT. The Senator from Virginia declines to yield.

Mr. DANIEL. The object of all of these amendments is simply to prevent delay. The Senator from Iowa proposes to prevent delay as to an appeal from the circuit court to the Supreme Court, and so, conformable to that, it is proposed in this amendment to prevent delay in exactly the same kind of suits by providing the same time as to the introduction of a bill to bring the procedure of the Interstate Commerce Commission into court; and that is the whole matter.

Mr. ALDRICH. I move to lay the amendment on the table.

The motion was agreed to.

Mr. MORGAN. I offer the amendment which has already been read.

The VICE-PRESIDENT. The Senator from Alabama proposes an amendment, which has already been read.

The amendment of Mr. MORGAN was to insert as an additional section the following:

SEC. —. That if the matters involved in any order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said Commission as provided in the fifteenth section of the act to regulate commerce, approved February 4, 1887, as the same is amended by act of Congress approved March 2, 1889, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the circuit court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made; and it shall be the duty of the marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition and of said order upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same as aforesaid. At the trial the findings of fact of said Commission, as set forth in its report, shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing then the court shall try the issues in said cause and render its judgment thereon. Either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal and without regard to the value of the subject in dispute; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said circuit court. If the judgment of the circuit court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee, to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Alabama [Mr. MORGAN].

The amendment was rejected.

Mr. MORGAN. I desire to give notice that in the Senate I will ask for a yea-and-nay vote on the amendment just voted down by a vote of 4 to 7.

The reading of the bill was resumed, as follows:

SEC. 7. That section 20 of said act be amended so as to read as follows:

"SEC. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act, to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as the Commission may require; and the Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

"Said detailed reports shall contain all the required statistics for the period of twelve months ending on the 30th day of June in each year, and shall be made out under oath and filed with the Commission, at its office in Washington, on or before the 30th day of September then next following, unless additional time be granted in any case by the Commission; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such parties shall forfeit to the United States the sum of $100 for each and every day it shall continue to be in default with respect thereto. The Commission shall also have authority to require said carriers to file monthly reports of earnings and expenses or special reports within a specified period, and if any such carrier shall fail to file such reports within the time fixed by the Commission it shall be subject to the forfeitures last above provided.

"Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this act.

"The oath required by this section may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

"The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. The Commission shall at all times have access to all accounts, records, and memoranda kept by carriers subject to this act, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority under the order of the Commission to inspect and examine any and all accounts, records, and memoranda kept by such carriers. This provision shall apply to receivers of carriers and operating trustees.

"In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of $500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

"Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment.

"Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the Commission or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $5,000 or imprisonment for a term not exceeding two years, or both.

"That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney-General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said act to regulate commerce or of any act supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

"And to carry out and give effect to the provisions of said acts, or any of them, the Commission is hereby authorized to employ special agents or examiners who shall have power to administer oaths, examine witnesses, and receive evidence."

Mr. LA FOLLETTE. Mr. President, to follow——

Mr. GALLINGER. While the Senator from Wisconsin is getting his amendment ready, I should like to ask a question, if the Senator will permit me.

Mr. LA FOLLETTE. Certainly.

Mr. GALLINGER. I should like to ask some Senator—I do not see present the Senator who is in charge of the bill—precisely what is meant in lines 21, 22, and 23, on page 22:

And it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission.

Does it mean that the president of a railroad corporation, for instance, shall not make an entry of any kind relating to the business of the corporation except such as is entered in the books that the Commission prescribes? I do not know what the grievance is in this direction, but it seems to me that is a very far-reaching provision. Perhaps the Senator from Rhode Island can answer it, or the Senator from Iowa.

Mr. DOLLIVER. The object of that provision is to secure uniformity and publicity in railway accounts, and the requirement is that certain accounts shall be kept, approved, and prescribed by the Interstate Commerce Commission. Now, the question which the Senator from New Hampshire raises is whether additional accounts——

Mr. GALLINGER. Or memoranda.

Mr. DOLLIVER. Or memoranda should be kept——

Mr. GALLINGER. May be kept.

Mr. DOLLIVER. May be kept; whether secret accounts, for example, may be kept. I believe the provision is an excellent one, although I can imagine a case where a railway might desire to have a more elaborate system of accounts for the guidance of its own business than the one that would be prescribed as a uniform system of railroad accounting for the whole country. It is possible there would be no objection to that, provided all the accounts which were actually kept by the railroad company were open to the same inspection that is provided for in this section.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Illinois?

Mr. GALLINGER. I will yield to the Senator, because I am seeking light on this matter.

Mr. HOPKINS. I think the reading of the language of the bill itself is an answer to the Senator from New Hampshire. This only touches the books that are kept by the corporation. I think under a proper construction of this language the president of the company or the secretary or any other officer of the company could keep any book or books he saw fit to keep relating to his particular department that does not deal with the general affairs of the corporation; and it would not be illegal to keep them. But, as stated by the Senator from Iowa,

the purpose of this section, from the reading, seems to be to have entire uniformity in the bookkeeping of all the different railroads of the country.

Mr. GALLINGER. Mr. President, I fully agree with the Senator that it is an exceedingly desirable thing to have done to have uniform books, so far as the business of the corporation is concerned, and have them subject to examination; but it does seem to me that the provision, which is followed by severe penalties, is a very drastic one:

And it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission.

Mr. HOPKINS. I think, if the Senator will allow me, that language relates entirely to the corporation. The corporation——

Mr. ALDRICH. It does not say so.

Mr. GALLINGER. No; it does not say so.

Mr. HOPKINS. It says "carriers."

Mr. ALDRICH. It says "any person."

Mr. GALLINGER. No; it does not.

Mr. HOPKINS. The carrier is the corporation. If an officer, for his own convenience, keeps a book or set of books that has no relation to this clause here. But every item relating to the corporation or to the carrier must be recorded in the books of the corporation. If the officer has some relation to the company or to somebody else, it is not covered by this section.

Mr. FRYE. Mr. President, is there an amendment pending?

The VICE-PRESIDENT. There is not.

Mr. ALDRICH. I was about to offer an amendment.

Mr. GALLINGER. I move to strike out those words.

Mr. FRYE. Then this debate is out of order.

Mr. GALLINGER. It is out of order, as most of the discussion has been. I move to strike out the words:

And it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission.

I make that motion simply for the purpose of having this matter explained.

Mr. ALDRICH. I have been trying to get the attention of the Senator from New Hampshire to suggest an amendment to which I think he will consent. It is to insert after the word "Commission," in the twenty-fourth line of the printed bill, page 23, "unless the same are kept open to the inspection herein provided." That simply makes them subject to inspection, which, I suppose, is all anyone could ask. Does not that answer the objection of the Senator from New Hampshire?

Mr. GALLINGER. I think that is——

Mr. FORAKER. There is another difficulty about this matter that suggests itself to my mind. Nearly all of these carriers are corporations incorporated under the laws of different States We have authority to legislate with respect to them only because they are engaged in interstate commerce, and only to the extent that they are engaged in interstate commerce. To that extent we have a right, of course, to exercise the power of visitation, to examine their books, and to supervise their business in all its details. But inasmuch as all these carriers so incorporated and so engaged in interstate commerce are also engaged in intrastate commerce, with which we have not anything to do, I do not believe we have the power, except only for statistical purposes, perhaps, to superintend the bookkeeping and exercise the power of visitation with respect to their accounts.

I suggest to the Senator who offers this amendment, if I may be told who he is (I was out of the Chamber when it was offered), that this should be carefully looked after before we act upon it.

Mr. ALDRICH. I suggested an amendment which I thought would cover the objection of the Senator from Ohio.

Mr. FORAKER. I came in just as the discussion was proceeding, and I thought the discussion was upon an amendment made to the bill as it was sent to us.

Mr. DRYDEN and Mr. GALLINGER addressed the Chair.

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from New Jersey?

Mr. GALLINGER. I yield to the Senator from New Jersey.

Mr. FRYE. We had better have the amendment before the Senate.

The VICE-PRESIDENT. The Senator from Ohio was entitled to the floor by the courtesy of the Senator from New Hampshire.

Mr. FORAKER. I am entitled to the floor, and I supposed there was an amendment pending to the text of the bill.

Mr. GALLINGER. There is an amendment pending, I will say to the Senator, and it was offered by me for the purpose of discussing the bill under the rules, the Senator from Maine having raised an objection to some inquiries that I made. I moved to strike out, on page 22, in lines 21, 22, and 23, the words:

And it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission.

I will say to the Senator from Ohio before he proceeds that my own impression was that it might not be desirable to strike out those words, but they ought to be qualified in some way. The Senator from Rhode Island suggested on page 23, line 24, after the word "Commission" it might be well to insert the words "unless the same be kept open to the inspection herein provided for." Possibly that might cure the objection that I see to the provision.

Mr. FORAKER. If I understand it, I think both the suggested amendments are proper amendments; but still they do not go as far as I think we should go. I think there should be an amendment to this amendment to the effect that this power of visitation is to be exercised with respect to interstate commerce. If we undertake to exercise it with respect to purely State commerce, the intrastate commerce, we go entirely beyond the power of Congress, and put the bill in jeopardy unnecessarily.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. Certainly.

Mr. TILLMAN. Can the Senator from Ohio conceive of any method of bookkeeping by which the business of the railroads, intrastate and interstate, could be separated? All classes of business are received every day, in the same office, by the same agent, and entered on the same set of books, right on through. They would not undertake to divide the two. But I will point to the Senator that in the paragraph beginning on line 14 the words occur: "The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act." It does not say a word about a carrier who is engaged in intrastate commerce alone. Therefore I can not see any force in the Senator's objection. The bill, as we now have it, or are trying to get it, does not require any books in regard to intrastate commerce. It deals only with carriers subject to this act, and those are the interstate-commerce railroads.

Mr. FORAKER. I was going to suggest to the Senator that there is difficulty about keeping them separate, and the carriers may not see fit because of that difficulty to undertake to keep the accounts separate. But there is no difficulty whatever about the legislation that we should enact, because the limitations of our power are well known and recognized.

Mr. TILLMAN. And they are put here.

Mr. FORAKER. If we require that they shall keep only such books as the Interstate Commerce Commissioners may prescribe they shall keep with respect to interstate commerce, and they want to mingle the accounts, that is their own affair. If they want to go to the trouble to keep a separate set of books that also is their affair, and we need not be concerned about it.

But the only point I want to make is what I have already made, namely, to call the attention of those having the bill in charge to the fact that I think it is open to that criticism as the text now stands, and I think it ought to be made to appear in the text of the law we enact that we are all the while legislating about interstate commerce, and that we are not seeking to go beyond what properly falls to us to legislate about.

Mr. FULTON. May I ask the Senator from Ohio a question?

Mr. FORAKER. Certainly.

Mr. FULTON. I ask the Senator if he does not think that as a condition on which they may engage in interstate commerce, Congress may require them to keep all of their books in reference to carrying subject to inspection by the agents of the Government? May not Congress require that as a condition on which they are permitted to enter into interstate commerce?

Mr. FORAKER. There is great force in that. It may be that the Senator is right about that. I think, however, we could easily avoid any trouble about it by putting in the limitation I have suggested; but I do not want to press it.

Mr. DRYDEN. Mr. President, it is very evident that it is important that books of a uniform character should be kept by these railroads for the intelligent and efficient discharge of the duties of the Interstate Commerce Commission. I think there can be no dispute about that. But it can be easily seen that the officers will find it necessary from time to time to have books of their own for the discharge of their own official duties,

which would be of such a character that the Interstate Commerce Commission would not feel it necessary to prescribe such forms for the use of the carriers generally. They would differ with each particular road.

When an officer goes out upon his road to inspect his property he takes his stenographer, his private secretary, or perhaps his directors along with him to examine into the needs of the road, to ascertain and explain the condition of the road. He will, of necessity, require a different set of books from those that the Commission would be likely to prescribe for the general use of the railroad, and he ought to have that privilege. What he does, he does not as an individual, but as an officer of the road, and therefore he acts for the road.

I think that no set of books which he keeps in his official capacity should be withheld from the inspection of the Commission if they desire to examine them, but he should not be tied down to a set of books which the Commission would be likely to prescribe for the use of roads generally when it would be absolutely necessary for him to have a peculiar set of books responding to the demands of his own particular property.

Mr. NELSON. This is a very important question, Mr. President. It goes to the one question of rebates and secret preferences. If carriers grant rebates and secret preferences—and it is conceded they do and still persist in it—they will be careful not to put it on their regular books; they will keep a private set of books.

With reference to the objection made by the Senator from New Jersey [Mr. DRYDEN], I wish to reiterate what the Senator from Illinois [Mr. HOPKINS] stated a moment ago, that these books of accounts are the books of the carrier—the corporation—and it does not interfere in the least with the officers of the road when they are out doing their work and keeping their own private memoranda. These are the books of account to show the business of the carrier.

In reference to the objection made by the Senator from Ohio [Mr. FORAKER] I want to say that, in the first place, you can not well segregate, as the Senator from South Carolina [Mr. TILLMAN] has pointed out, from day to day the interstate business and the local business. In the next place, in connection with enforcing a regulation of interstate commerce, we have a right to impose this condition, and in order to make it effective not only to know what their interstate traffic is, but also what their local traffic is.

Mr. DRYDEN. May I ask the Senator from Minnesota a question?

Mr. NELSON. Certainly.

Mr. DRYDEN. I ask the Senator from Minnesota if he does not understand from this provision in the bill that it absolutely prohibits any officer of the road in his official capacity from keeping not only any set of books, but any memoranda relating to the business?

Mr. NELSON. Not at all. I do not understand it that way. This simply refers to the books of account of the corporation. The phrase "carrier" there refers to the corporation and does not refer to the agents, officers, or employees of the corporation. Unless you want to qualify this matter of rebate you do not want to tamper with that provision of the bill as passed by the House. It ought to be left as it is. It does not interfere with officers keeping private memoranda for their own use; but all the corporate transactions, all the books of account of the carrier, ought to be under one uniform system, as provided for in the bill. To emasculate that part of it is to open a door again for secret rebates. It is to allow the carriers to keep a set of books in their dealings with reference to those customers like the Standard Oil and other concerns that are accustomed to get rebates from day to day.

Mr. DRYDEN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from New Jersey?

Mr. NELSON. Certainly.

Mr. DRYDEN. I will ask the Senator whether if the president of the railroad or his secretary keeps a memoranda of the business of his railroad for his use as such officer, if that is not the memoranda of the corporation?

Mr. NELSON. No, sir; it is his own private memoranda. We all know——

Mr. KNOX. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Pennsylvania?

Mr. NELSON. Certainly.

Mr. KNOX. I call the attention of the Senator from Minnesota to the fact that under the Elkins Act as it was reenacted the other day in the amendment offered by the Senator from Massachusetts [Mr. LODGE] it is provided that—

> In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper, as well as that of the person.

So if any officer of a railroad company should make a memorandum relative to the business of the railroad company under the terms of the Elkins law as it stood before this amendment, and it is repeated in this amendment, it is conclusively presumed to be the act of the carrier.

Mr. NELSON. No; it is not. Mr. President, I differ entirely with the Senator. It is where the officer acts on behalf of the corporation in keeping the books of account with shippers. It relates to their transactions with shippers and their dealings in that way. Where they keep accounts of those transactions they must all be accounts such as are provided for in the bill. That does not relate to private memorandum. The object of that clause is simply that if the officers of the corporation, their bookkeepers or their managing officers, direct the accounts of the corporation to be kept in such and such manner, that act is to be deemed the act of the corporation, and they are to be deemed liable. To illustrate, if the secretary of a corporation directs a subordinate or a clerk, in entering and making up the accounts of the corporation, to conceal or hide a part of the rebate business and keep it out of the accounts, that act is to be deemed the act of the corporation. But if, as that officer goes about his business he has a little pocketbook in his coat and pulls it out and makes a little private memorandum as to what takes place and afterwards gives the facts to the bookkeeper of the corporation, the provision does not affect that. It is only when an officer, or a clerk, or a secretary, or a manager of a corporation gives directions to in any way tamper or change or mislead in the accounts of the corporation that the act is to be deemed the act of the corporation.

I want to say again to Senators if you tamper with that provision of the bill as passed by the House, you will open another door for fraud by these carriers, if they are disposed to keep secret rebates, to keep one set of books showing the rebates and their dealings with their favorite customers, while they keep another book for the public and for the interstate commerce. It is to prevent that, it is to prevent these carriers from keeping secret books showing their rebates and their dealings with their favorite customers that this provision was put into the bill, and it ought to be retained.

Mr. FORAKER. Before the Senator takes his seat I should like to ask him—and he does not want to accomplish the purpose he expresses any more than I do—would it be objectionable to insert at the end of the paragraph:

> *Provided*, That this section shall not apply to the private accounts, records, or memoranda of officers, agents, or other employees.

Mr. NELSON. As long as they do not concern any rebates, add that proviso to it.

Mr. HOPKINS. Mr. President, I desire to make a suggestion in answer to the Senator from Ohio. That amendment is entirely unnecessary, because the Commission may not require the officers of the different roads to have uniform books, and unless they do they can have just such memorandum books as they choose. I think it would be better to leave the text as it is in the bill.

Mr. LODGE. Mr. President, in order to put a stop to the evil of rebates it is necessary that prosecutions under the law should be successful, and in order that prosecutions should be successful it is necessary to have the evidence. This clause is the principal protection of the Government in bringing any prosecution under this act. I regard this clause as one of the most important and operative in the bill to cure what I think is the only very real evil that we have to deal with. It is the purpose of it to get rid of secret accounts and to enable the Government officials to see all of the accounts of the road. I should be very sorry to see any part of the provision stricken out.

It does not seem to me that the amendment proposed by the Senator from Rhode Island [Mr. ALDRICH] would injure the paragraph or hurt the effect which is sought to be attained. I agree with the Senator from Minnesota [Mr. NELSON] that it is extremely important to keep this section substantially as it is. I think it is about the most important section in the entire bill.

Mr. GALLINGER. The Senator from Massachusetts will permit me. Does the Senator from Massachusetts agree with the Senator from Minnesota?

The VICE-PRESIDENT. The Senator from New Hampshire has already spoken.

Mr. GALLINGER. I am asking a question.

Mr. LODGE. I yield to the Senator for a question.

Mr. GALLINGER. That has never been denied, so far as I know.

Mr. LODGE. I yield with pleasure, of course.

The VICE-PRESIDENT. The Senator from Massachusetts had yielded the floor.

Mr. GALLINGER. I ask him to retake it.

Mr. LODGE. Certainly.

Mr. GALLINGER. I was about to ask the Senator from Massachusetts whether he agrees with the Senator from Illinois and the Senator from Minnesota that this inhibition applies only to the corporation and not to the officials of the corporation?

Mr. LODGE. I take it it applies only to the accounts of the carrier. I do not suppose the private personal accounts of the president of a road have anything to do with it. It applies to the accounts which have anything to do with the business of the carrier.

Mr. NEWLANDS. Mr. President, I also regard it as very important that a rule should be prescribed by the Interstate Commerce Commission to prevent the keeping of secret accounts showing rebates, preferences, and other things forbidden by law.

But the question presented by the Senator from Ohio [Mr. FORAKER] is one of power, and that is whether the Congress of the United States, acting under the granted power of the Constitution relating to the regulation of interstate commerce, can prescribe to a State corporation what the general form of its books and accounts shall be. His contention is that the regulation of Congress can only be applied to these books which relate to interstate commerce. He contends, I believe, that the language here is broad enough to cover all the books and accounts kept by a State corporation, whether they relate to State commerce or to interstate commerce.

Mr. President, I do not intend to enter into that inquiry. I wish simply to state the proposition in order to present to the Senate another proposition, and that is that we will never adequately regulate carriers engaged in interstate commerce until the nation itself creates the corporations that are to do the nation's business. If the nation creates the corporation, it can then prescribe the forms of its books of account, whether that corporation engages in State or interstate commerce, for the corporation then will be the creation of the national sovereignty and the nation itself can prescribe any rule whatever regulating that corporation in its practices.

I do not wish to enter extensively into this subject. I have prepared an amendment to the bill providing for the incorporation of carriers engaged in interstate commerce by the nation. I simply wish to call the attention of Congress to the fact that we can never adequately regulate common carriers engaged in interstate commerce in the important matters relating to the keeping of their books and the important matter relating to over-capitalization and the important matter as to the rule that shall be prescribed for taxation with a view to making it uniform throughout the United States and in important matters as to the relation of such carriers to their employers and to the public unless Congress passes an act for national incorporation.

Mr. CLAY obtained the floor.

Mr. MALLORY. I ask that the pending amendment be read.

The VICE-PRESIDENT. The Secretary will read the amendment proposed by the Senator from New Hampshire.

The SECRETARY. On page 22, line 21, after the word "act," strike out the following:

> And it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission.

Mr. CLAY. Mr. President, just a word. The Senator from New Hampshire is usually correct in what he attempts to do, but, in my opinion, in this instance he is not correct.

The object and purpose of this bill as it came from the House was to give the public the privilege of examining into the transactions of corporations that nothing may be kept from the public, and if you permit a corporation to keep a private book, whereby it can enter rebates and subscriptions to campaigns, it will practically destroy this bill.

Now, what will be the effect if a corporation desires to charge rebates, desires to give a favor to one shipper as against another in order to avoid the law? This favor given to one citizen over another will be recorded in the private book, and the public will never know anything about it.

Mr. President, again, if the corporation wishes to subscribe to the municipal, a State, or a national campaign and use the funds of the stockholders for the purpose of carrying on a campaign and paying the expense of it, those subscriptions will be entered in the private book, and the public will never know anything about it. The object and purpose of the House bill was to have the Commission prescribe the form of accounts to be kept by the corporations. This was to be the only form of accounts kept by the corporation, and the public, through examiners, was to know everything that transpired in the transaction of the business of the corporation.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from New Hampshire?

Mr. CLAY. Certainly.

Mr. GALLINGER. I am not going to enter into any controversy over this matter, but if contributions are made by a corporation and recorded in a private book must that not appear in the books of the corporation in some form or other, under some heading?

Mr. CLAY. Not necessarily. If the Senator—and doubtless he has done so—will critically examine the report of the Industrial Commission appointed to examine into the condition of corporations and to report to this body, he will find that most of the rebates that were granted were not kept on the regular books of the corporations, but they were simply private memoranda.

Mr. GALLINGER. I agree to that, so far as rebates are concerned, but I had reference to the abstraction of money from the treasury of the corporation. That must appear in some form or other, probably under the head of "Legal fees," for instance.

Mr. CLAY. Yes; that is true. I will say to the Senator that I have seen where donations have been made by corporations to campaigns—and I have no reference to any particular party—they have been made and entered under the head of "Legal fees."

Mr. GALLINGER. Now, Mr. President, just one word further. I thank the Senator for the suggestion he made concerning me a moment ago, and I will say to the Senator—possibly he was not in the Chamber—that I raised the question concerning this matter, thinking that it might be desirable in some way to amend it, calling attention to the fact that the keeping of a memorandum is forbidden, which, it seemed to me, went a long distance. It has been insisted by certain Senators—and the Chair will pardon me for a moment—that this relates to the corporation itself, to the carrier, and not to the officials of the road. My purpose was to withdraw my motion to strike out those words, which I shall do when the Senator from Georgia gets through; but in the hope——

Mr. CLAY. I beg to say to the Senator that there is nothing I would rather see than to have this bill completed, and I have no desire to speak. If the Senator intends to withdraw his amendment, I have nothing further to say.

Mr. GALLINGER. I do this in the hope that before the bill gets into the Senate Senators will think this matter over and see if some amendment might not be made to these words. Mr. President, I withdraw the amendment.

The VICE-PRESIDENT. The Senator from New Hampshire withdraws the amendment.

Mr. ALDRICH. I move to modify the amendment of which I gave notice. In the twenty-third line on page 23, after the word "memoranda," I move to insert the words "relating to the business of the carrier."

The VICE-PRESIDENT. The Secretary will state the amendment of the Senator from Rhode Island as modified.

The SECRETARY. After the word "memoranda," line 23, page 23, insert the words "relating to the business of the carrier."

The VICE-PRESIDENT. The question is on agreeing to the amendment just read. [Putting the question.] The ayes have it and the amendment is agreed to.

Mr. BACON. What amendment is that?

The VICE-PRESIDENT. It was proposed by the Senator from Rhode Island to insert in line 23, on page 23, after the word "memoranda," the words "relating to the business of the carrier."

Mr. TILLMAN. It seems to me that the Senator from Rhode Island is trying to annul by this amendment the provision over here that no books shall be kept other than those prescribed the Commission. By inserting those words permission is granted to keep other memoranda, provided they do not relate to the business of the carrier. How could that be done?

Mr. ALDRICH. We certainly can not provide that a man shall keep no private memoranda of his own business.

Mr. TILLMAN. If a man keeps private memoranda of his own business, he has no business with this public carrier.

Mr. ALDRICH. In regard to his own affairs?

Mr. TILLMAN. It is not his own affair. The corporation is a public carrier transacting public business.

Mr. ALDRICH. That is exactly what I am trying to put into this bill.

Mr. TILLMAN. Do not let us mix them up. Let us not put it in at all.

Mr. ALDRICH. It seems to me absolutely necessary that it should go in, if you want to have the bill mean what you say it means.

Mr. TILLMAN. If I understand the language of the bill, it means that the Interstate Commerce Commission shall prescribe the character of books and memoranda and all that kind of thing. Now, the Senator goes over here and at the tail proposes to provide that the memoranda shall relate to such public carrier's business. It is either surplusage or else it is a contradiction.

Mr. ALDRICH. Mr. President, I think I must decline to yield further to the Senator.

Mr. TILLMAN. Perhaps the Senator can explain it in a satisfactory way.

Mr. ALDRICH. I will try to do so. I think I can, even to his apprehension. The language as now used in the bill is:

Or shall keep any other accounts—

Mind you, the disjunctive "or"—

Or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission.

At the beginning of the clause it says "any person." Apparently that means that no man can keep any other accounts except those approved by this Commission, whether connected with the business of the carrier or not. Certainly it is not the intention of Congress to go into everybody's business and to provide that they shall not keep any accounts except such as are approved by the Interstate Commerce Commission. If the language is open to that construction, as it seems to me very plain that it is, then Congress certainly ought not to adopt a law that would be simply ridiculous on its face. What I want to do, is to provide that no person shall keep any accounts, memoranda, or records pertaining to the business of any carrier that are not open to the inspection of the Interstate Commerce Commission, and that, if he does so, he must be subject to the penalties of this proposed act.

Mr. HOPKINS. Will the Senator from Rhode Island permit me?

Mr. ALDRICH. Certainly.

Mr. HOPKINS. I think the words "accounts, records, or memoranda" read by him relate to the words in the earlier part of the paragraph.

Mr. ALDRICH. They certainly ought not to be used.

Mr. HOPKINS. I think so.

Mr. ALDRICH. Certainly not.

Mr. HOPKINS. Because the "memoranda" may be a different method of keeping accounts.

Mr. ALDRICH. If the Senator will permit me—I do not yield for an argument—the word "or" disjoins this part of the sentence from the remainder of the sentence in this clause. Clearly, in my mind, it makes it a misdemeanor for any person, without any regard to his business, whether it be a corporation or a carrier, to keep memoranda that are not approved by the Interstate Commerce Commission. The language is certainly open to that construction. I want to make it clear. Neither the Senator from Illinois nor any other Senator would undertake to say that he desires to make the keeping of any other accounts, except such accounts as pertain to the business of a common carrier, subject to the approval of the Commission.

Mr. HOPKINS. If the Senator will allow me, the trouble, it seems to me, all arises from the fact that there would be a question between the carrier and the Interstate Commerce Commission as to whether its books related to the exception the Senator proposes; and to avoid such a controversy, I think the language should be retained.

Mr. ALDRICH. Does the Senator from Illinois seriously think that a man ought to be subjected to a fine and imprisonment upon a question of that kind? If it were the business of the carrier, the man would be punished; and, if it were not the business of the carrier, he ought not to be punished.

Mr. DRYDEN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from New Jersey [Mr. DRYDEN]?

Mr. ALDRICH. I yield the floor entirely, Mr. President.

Mr. DRYDEN. Mr. President, I am in favor of having uniform books kept by the different carriers, which will, of course, be open at all times to the inspection of the Interstate Commerce Commission. I am in favor of providing that any books which an officer of a company in his official capacity keeps relating to the business of his company, and that any memoranda which an officer of a company as such keeps relating to the business of the company, shall be open to the inspection of the Interstate Commerce Commission. The importance of having uniform books in order that the Interstate Commerce Commission can perform their duties intelligently is so obvious that I suppose that it will not be denied or disputed by anybody.

In my judgment, the evil of the provision we are now considering lies right here: That no officer of a carrier company can keep a book or a memorandum relating to his business without first having it approved by the Interstate Commerce Commission. I think that is not necessary and that it will serve no useful purpose, because the claim that these books or memoranda can be used to conceal rebates or for other vicious purposes has no foundation in fact. If the Interstate Commerce Commission prescribes books for keeping records of the transactions of these great corporations, it can prescribe forms of books and data which will bring out every single transaction of the company.

The point that I make is that any memoranda, any data, any book kept by an officer of a company in his official capacity for his purposes and uses as such officer is a book of the corporation. That is the very thing which is denied him by this provision of the proposed law. Could an officer of a company going over the road take along with him the immense ledgers and books which are kept at the home office of the company for the uses of the corporation there, and, if he could take them along, could he do it without interfering with the business of his corporation? Are not those books required at the head office of the company to record the daily transactions of the company? What is going to be done in the way of recording those transctions when the books are away?

I say that this amendment will tie up the business of the road and unnecessarily and improperly cramp the officers of the company in the discharge of their duties.

Mr. TILLMAN. Mr. President——

Mr. HOPKINS. Before the Senator from New Jersey takes his seat I desire to ask him a question.

The VICE-PRESIDENT. The Senator from New Jersey [Mr. DRYDEN] has yielded the floor, and the Chair has recognized the Senator from South Carolina [Mr. TILLMAN].

Mr. TILLMAN. I will yield to the Senator from Illinois, if he wishes.

The VICE-PRESIDENT. The Senator from South Carolina yields to the Senator from Illinois.

Mr. HOPKINS. I only desire to put a question to the Senator from New Jersey.

Mr. TILLMAN. I yield to the Senator.

Mr. HOPKINS. I should like to know from the Senator from New Jersey what kind of a book or set of books does he think the division superintendent of a railroad would keep in going out over his division or the general manager would keep in going over the line of the road?

Mr. DRYDEN. If he wishes to act intelligently, he must carry with him a transcript from the official records of the company.

Mr. HOPKINS. Of what character?

Mr. DRYDEN. Of any character that may be necessary to enable him intelligently and properly to investigate the particular subject he may have under consideration.

Mr. HOPKINS. If the Senator will allow me, the division superintendent goes out from Chicago, for example, over his division in the morning and back at night. He makes his inspection during the day. If there is anything on that inspection that should go upon the books of the company, when he returns at night original entries are made respecting the work of the day. Any private memoranda that he might make in the course of his trip during the day is no part of the books of the company, but is simply to aid his memory during the day, so that when he returns to the office such matters as should go upon the books of the company can be properly transcribed.

Mr. DRYDEN. Yes.

Mr. HOPKINS. If this bill is left as it is provided in the paragraph before us, no harm can come to a division superintendent under these conditions; but if they are permitted to have another set of books, I can see where trouble might arise.

Mr. ALDRICH. I withdraw the amendment, Mr. President.

The VICE-PRESIDENT. The amendment is withdrawn.

Mr. LA FOLLETTE. Mr. President, I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Wisconsin will be stated.

The Secretary proceeded to read the proposed amendment of Mr. LA FOLLETTE, which appears on page 139 of the pamphlet amendments.

Mr. LA FOLLETTE. There is much confusion on the floor, and, as the amendments which I offer seem to be waited for by some Republican colleagues with motions to lay upon the table, I should like to have order at least when the amendments are read, so that they may be understood when voted upon.

The VICE-PRESIDENT. The Senate will be in order.

Mr. TILLMAN. Will the Senator please indicate on what page of the pamphlet amendments his amendment comes in?

The SECRETARY. On page 139.

Mr. LA FOLLETTE. I will ask that the amendment be again read from the beginning, as there has been such confusion in the Chamber that I am sure not only the place where the amendment is to be inserted is not understood, but the character of the amendment itself is not understood.

The VICE-PRESIDENT. The Secretary will resume from the beginning the reading of the amendment.

The SECRETARY. On line 2, page 25, it is proposed to insert a new section, as follows:

SEC. 7a. That section 19 of said act be amended by adding thereto a new section to be known as section 19a, and to read as follows:

"SEC. 19a. The Commission shall investigate and ascertain the fair value of the property of every railroad engaged in interstate commerce, as defined in this act, and used by it for the convenience of the public. For the purpose of such investigation the Commission is authorized to employ such engineers, experts, and other assistants as may be necessary. Such investigation shall be commenced not later than July 1, 1906, and shall be prosecuted with diligence and thoroughness and the results thereof reported to Congress at the beginning of each regular session. Such valuation shall show the value of the property of every railroad as a whole, and the value of its property in each of the several States or Territories or the District of Columbia. Every such railroad shall furnish to the Commission, from time to time, and as the Commission may require, maps, profiles, contracts, reports of engineers, and other documents, records, and papers, or copies of any or all of the same, in aid of such investigation and determination of the value of the property of said railroad, and every such railroad is required to cooperate with the Commission in the work of the valuation of its property in such further particulars and to such extent as the Commission may direct.

"The Commission shall, thereafter, in like manner, keep itself informed of all extensions and improvements or other changes in the conditions of the property of the said railroads, and ascertain the fair value thereof, and from time to time, as may be required for the regulation of railways under the provisions of this act, revise and correct its valuation of railway property. To enable the Commission to make such changes and corrections in its valuation, every railroad engaged in interstate commerce, as defined in this act, is required to report currently to the Commission, and as the Commission may require, all improvements and changes in its property, and to file with the Commission copies of all contracts for such improvements at the time the same are executed.

"Whenever the Commission shall have completed the valuation of the property of any railroad, and before said valuation shall become final, the Commission shall give notice by registered letter, to the company or companies owning or operating said railroad, stating the valuation placed upon the several lines of road and classes of property of the said company, used by it for the convenience of the public, and shall allow the company or companies twenty days in which to file a protest of the same with the Commission. If no protest is filed within twenty days, such valuation shall become final.

"If notice of contest is filed by any railroad the Commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto presented by such railroad in support of its protest so filed as aforesaid. If after hearing any contest of such valuation under the provisions of this act, the Commission is of the opinion that its valuation is incorrect, it shall make such changes as shall make the same a fair valuation of such property, and shall issue an order making such corrected valuation final. All final valuations by the Commission shall be prima facie evidence of the fair value of the railroad property in all proceedings under this act."

Mr. CLARKE of Arkansas. Mr. President——

Mr. HALE. I move to lay the amendment on the table.

The VICE-PRESIDENT. The Senator from Maine moves to lay the amendment on the table.

Mr. MONEY. Mr. President, I should like to have the Senator from Maine, if he will, withhold that motion for a moment. I am not at liberty to vote on this proposition, because I am paired, but I should like to have about a minute to state exactly how I stand on it, if the Senator does not object to my consuming so much time.

Mr. HALE. The Senator is so modest in his request, that I for a moment withhold the motion.

Mr. MONEY. I am obliged to the Senator.

Mr. President, I do not want that amendment tabled without placing myself fairly upon the record in regard to it. I believe it would be the most valuable part of this bill if it could be adopted. I do not understand how the railroad Commission can ever fix a just and reasonable rate without first ascertaining, as a basis for valuation, the value of the roads themselves; what dividends will be declared upon a certain amount invested, and what profits should accrue from certain services rendered. I do not understand how it is possible to come accurately and reasonably near the truth except by a valuation of the property and the amount of money invested. Of course, there are other circumstances that will enter into account in fixing the rate and the compensation of the carrier; but this certainly must be the basis. It is what I understand the Interstate Commerce Commission have been for years calling for, and in one decision of the Supreme Court they said it was the only means by which a fair rate could be fixed.

I desired to make these remarks simply that I might go upon the record as supporting this amendment.

Mr. HALE. I move to lay the amendment on the table.

Mr. SPOONER. Mr. President, I do not know whether or not my colleague [Mr. LA FOLLETTE] desires to be heard upon this amendment. If he does for fifteen minutes, I think upon every principle which has prevailed in the Senate he is entitled to do so.

Mr. HALE. Mr. President, the junior Senator from Wisconsin [Mr. LA FOLLETTE] has never shown himself incapable of asserting his own rights. He did not rise to debate the amendment, and no Senator rose for that purpose.

Mr. CLARKE of Arkansas. I beg the Senator's pardon. When he makes that statement, he evidently overlooked the fact that I had addressed the Chair at the time, with a view of having something to say, though I could not hope that the Senate would be greatly enlightened thereby.

Mr. LA FOLLETTE. If I may be permitted, I should like to say that before the Senator from Maine took the floor the Senator from Arkansas was on his feet to debate this amendment.

Mr. HALE. I had not perceived that.

Mr. LA FOLLETTE. I know that several other Senators desire to debate it.

Mr. HALE. Mr. President, the amendment speaks for itself. It involves in itself a very large proposition, a distinctive feature, which with all ingenuity that might be employed, Senators could not be much better impressed than by the reading of the amendment. My object was not to interfere personally with any one Senator, or another Senator, but, in accordance with what I believe to be the feeling of the Senate upon matters which the Senate understands and comprehends, when an amendment is read, for one I propose, whenever an opportunity affords, to give the Senate a chance of laying the amendment upon the table, and thereby to end it. I shall not waive this right in this case, if the Chair recognizes me, for general debate upon this matter. If the Senator from Wisconsin, who has offered the amendment, believes that he can add anything to the clear, measured language of his amendment by anything that he may say, I will withhold my motion until he has that opportunity; but I will leave that entirely to him.

Mr. CLARKE of Arkansas. Mr. President, I do not understand that any Senator has the right to indicate what particular Senator shall address the Senate, nor for how long, nor what he shall say about any pending matter. When the Senator from Maine withdraws his motion and turns the question over to the Senate, it will be a matter of opportunity whether or not he can be recognized a second time to make his motion; but he can not extend his motion with a string to it, and say who shall speak and who shall not. He may insist upon the decision of his motion now, or withdraw it.

Mr. HALE. I am withholding the motion only as a matter of courtesy. I said to the Senator offering the amendment that if he asked to explain it, I would, as a matter of courtesy, withhold my motion. I do not in that select him. He has selected himself. He has a right to offer the amendment. I am not invidious in any distinction; I am not seeking to interfere with the Senator from Arkansas particularly, but I think that the Senate is ready for the question.

Mr. CLARKE of Arkansas. Let the Senate be the judge of that. If the Senator makes a motion, it is before the Senate to be disposed of; if he withdraws that motion, then it is for the Senate to determine its own course of proceeding.

Mr. HALE. On the other hand, if I do not withdraw the motion, then the Senate can decide the question——

Mr. CLARKE of Arkansas. Then it is before the Senate.

Mr. HALE. If I do withdraw the motion the Senate has no opportunity, and it goes on indefinitely upon debate, which, however bright it might be, would probably not make the understanding of Senators much clearer. The Senator is not a Senator who obtrudes remarks unnecessarily; he is not one of the Senators who wastes time; I admit that. He has shown in what he has said heretofore in the Senate his capacity; I realize all that; but if I do not insist on the right of moving to lay the amendment on the table and thereby bringing the matter to an end and proceeding to other parts of the bill, there will be no end to this subject, and if I do not make the motion somebody else will.

Mr. CLARKE of Arkansas. I am not insisting that the Senator from Maine has no right to make the motion to lay upon the table. I know he has that right; but I insist that he has no right to make a motion of that sort and then withhold it, without unanimous consent, for a specific purpose. When a motion is presented to the Senate parliamentarily, it is within the control of the Senate, to be disposed of one way or another.

Mr. HALE. I am making no pretense of having a right to control that motion to allow one Senator to speak and to deny that right to another.

The VICE-PRESIDENT. The Chair will state that this debate is out of order.

Mr. CLARKE of Arkansas. I think so.

The VICE-PRESIDENT. It is proceeding by unanimous consent.

Mr. HALE. Well, I will ask the sense of the Senate on the motion to lay the amendment on the table.

The VICE-PRESIDENT. The Senator from Maine moves that the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE] be laid on the table.

Mr. BACON. I rise to a point of order.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. BACON. The point of order I make is that a motion to lay an amendment on the table before the same has been discussed, or when a Senator has expressed a desire to debate it, is in violation of the unanimous-consent agreement of April 30, which declares that discussion upon amendments shall proceed under the fifteen-minute rule until discussion thereon is concluded.

The unanimous-consent agreement is in these words:

It is agreed by unanimous consent that on Friday, May 4, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill H. R. 12987, "'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission;" the bill to be read by sections for the purpose of amendment, the discussion upon amendments offered to proceed under a fifteen-minute rule, the amendments to be disposed of when the discussion thereon is concluded.

Mr. President, I ask permission to submit very briefly the grounds upon which I base that point of order. The Senate will remark that, in the absence of this unanimous-consent rule, there would not be in order a vote upon any amendment—in other words, the discussion would be proceeding, and it would be only when the Senate came to a final vote upon the bill that the votes on the amendments would be in order. It is solely by reason of the fact that we have made this unanimous-consent agreement that, in advance of the time when the vote on the bill is in order, we are proceeding to vote upon the amendments. The original proposition, as Senators will recall, was that we should take up the amendments for discussion. That was the purpose of it—to bring Senators to a discussion upon the amendments. Subsequently, in the course of the colloquy and the debate, as will be shown by the RECORD, there was engrafted upon that the further proposition that after the amendments had been thus debated, instead of being laid aside to be voted on at the conclusion when the bill came to be voted upon, we would go outside of the ordinary routine practice—take the amendments up and vote upon them in advance of what we would otherwise do.

So that, Mr. President, the question of order is to be considered, not with reference to the regular rule of the right to move to lay upon the table at any time, but to be taken with reference solely and exclusively to the terms of the unanimous-consent order, because it is only by the unanimous-consent order that any vote is in order at all, and according to the terms of the unanimous-consent order a vote is only in order after an opportunity for discussion——

Mr. ALDRICH. Mr. President——

Mr. BACON. Now, I do not mean to say, if the Senator will pardon me a minute——

The VICE-PRESIDENT. The Senator from Georgia declines to yield.

Mr. BACON. I do not mean to say, Mr. President, that that means that there is no time at which the Senate would claim to itself the right to determine the debate on an amendment by a motion to lay upon the table, but I do say that after Senators, in consideration of the opportunity furnished by the rule to debate amendments, agreed upon it, that there could be a vote upon such an amendment prior to the ordinary time of the debate, it would be a great breach of faith——

Mr. ALDRICH. I think I must rise to a point of order.

Mr. BACON. I hope the Senator will pardon me.

Mr. ALDRICH. I withhold it for a moment, but the Senator is clearly out of order.

Mr. BACON. I am not out of order. I am proceeding with the consent of the Chair. I got the consent of the Chair before I began.

Mr. ALDRICH. Did the Senator get the consent of the Senate?

Mr. BACON. No; the consent of the Chair.

Mr. ALDRICH. I wish to make the point of order that the Senator is proceeding out of order.

The VICE-PRESIDENT. The Chair is of the opinion that the Senator can proceed only by the consent of the Senate.

Mr. BACON. If the Chair will pardon a suggestion, the Chair is called upon to rule upon a point of order, and it is certainly competent for the Chair to ask that the Senator making the point of order give his view to the Chair in order that the Chair may determine it.

Mr. ALDRICH. My point of order is——

Mr. BACON. I therefore asked the consent of the Chair before I begun.

Mr. ALDRICH. My point is that pending a question which is not debatable there is no debate permissible upon the point of order. That has been decided here a thousand times.

Mr. BACON. It is done every day by consent.

Mr. ALDRICH. I was objecting to the Senator's proceeding further.

Mr. BACON. I was proceeding by the consent of the Chair, as I understood; not by the consent of the Senator from Rhode Island. I will simply state that if Senators violate the consent agreement they need not expect any more unanimous-consent agreements.

The VICE-PRESIDENT. The Chair is of the opinion that this question was settled by the Senate in its interpretation of this very rule on the 8th instant. The Chair is of the opinion that the motion to lay on the table is in order. The question is on agreeing to the motion to lay on the table.

The motion was rejected.

Mr. CLARKE of Arkansas. Mr. President, I have but little to say in support of this amendment. If the interruption had not occurred, I would have been through long since.

Many amendments have been presented here about which there existed room for differences of opinion among those who favor a law upon the general subject of the regulation of railroad rates. This is an amendment——

The VICE-PRESIDENT. The Senator from Arkansas will suspend until the Senate is in order.

Mr. CLARKE of Arkansas. As I was saying, many amendments have been presented, discussed, and disposed of——

Mr. HALE. Will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Arkansas yield to the Senator from Maine?

Mr. CLARKE of Arkansas. Certainly.

Mr. HALE. I rise to the only point of order I can make—that there ought to be order in the Chamber. At the little distance that I am from the Senator I can not hear a word he says. It is not his fault. It is the fault of the Senate.

The VICE-PRESIDENT. The Senate will be in order.

Mr. CLARKE of Arkansas. As I was saying, Mr. President, many amendments have been offered for consideration in connection with the pending bill which presented different theories of regulation or different theories of disposing of some feature of the general plan of regulating railroad rates. There was room for discussion, room for differences of opinion, as to the best method of disposing of them. But this amendment is one that presents no issue between those who favor the passage of any effective bill. The only issue that could arise would be between those who favor the passage of such a measure and those who oppose the passage of any legislation whatever on the subject. It is the primary and fundamental step to be taken in any rational system of regulation. There must be an ascertainment of the value of the property to be regulated before there can be computed a just and reasonable compensation for its use. That computation must be made by some one before any step whatever can be taken in the matter of fixing rates.

The Supreme Court of the United States has fixed somewhat the limits of the authority to be delegated to those who administer this right to fix rates to be charged by common carriers, and the doctrine there declared is that the compensation to which the carrier is entitled is a just return upon the value of the property at the time the same is used in the public service. Just and reasonable return upon the value of the property is the fundamental and, as I said a moment ago, the primary step in the whole transaction. Without the ascertainment of that by some one called upon to discharge that duty, no subsequent steps can be taken intelligently.

If the rate is challenged in court, the court must provide for an ascertainment of the value before it can determine whether the rate is reasonable and just or whether it is otherwise. No single step can be taken that will amount to anything unless there has been an ascertainment of the value of the property. I do not understand that anyone pretends to the contrary, the only difference here being whether it shall be intelligently made by the Commission when that transaction forms the major purpose of the investigation, or in a mere incidental manner through the courts upon partial investigation and hearing. Of course it leaves very wide room for uncertainty in decision when undertaken as a merely incidental issue by the courts. In such controversies the proof in the particulars must govern in its

decision by the court. This must depend in large degree upon the competency of counsel engaged in preparing the case for hearing, the importance attached to the issue in the particular case, and other circumstances connected with that particular case. The decision of the same fact of value of the same railway may therefore be decided differently on different hearings.

This amendment ought to commend itself to those who want clearness instead of confusion. I think there can be no objection on the part of anyone who favors the enactment of a railroad regulation law that this matter, being of such great importance, shall be taken up deliberately and shall receive the very fairest attention it is possible to provide by law. I think the carrier ought to be heard. I think the Commission ought to provide the fullest investigation, and after the fullest hearing determine the fundamental question of the value of the property. Unless that is done there will be no step taken that will amount to anything more than a guess. Before the court will be able to say whether the rate is fair and just it must have an investigation made. It may be said that in the general direction to the Commission to fix a just and reasonable rate, by implication the power to fix the value of the property employed in the service is conferred, and that that will probably follow. But I think this step is second only in importance to the fact that a rate is to be fixed, and a very full, complete, and minute direction should be given as to how it should be done, and I think it should be a preliminary step. I think we can in that way answer in a measure the suggestion of the Supreme Court and conform to the rule laid down by that tribunal. Of all the persons who should be interested in the adoption of this amendment it would seem to me that the broad court revisionists are the ones who would insist that this fundamental step should be taken and under such circumstances as to impart to the ascertainment such verity that it would not thereafter be questioned.

Mr. HALE. Mr. President, as the mover of the measure has not indicated any desire to explain it, I move to lay the amendment on the table.

Mr. LA FOLLETTE. With the permission of the Senator from Maine, I will submit a few remarks to the Senate.

Mr. HALE. It is not for me to permit the Senator. I stated, and I renew it, that if the Senator himself who offered the amendment desires to explain it I will not insist, until after he has left the floor, upon my motion. But I shall then make the motion and have it submitted to the Senate. I am not discriminating for or against the Senator personally. He has offered the amendment, and I am willing to withhold my motion until he, having offered the amendment, explains it under the rule as he desires. Then I shall ask recognition from the Chair for my motion.

Mr. LA FOLLETTE. Mr. President, I was not aware that any Senator upon this floor, by serving notice upon the Senate that he proposed to move to lay an amendment on the table, could foreclose all other Senators from even rising and asking for recognition to discuss the amendment. I knew that the Senator from Arkansas [Mr. CLARKE] desired to speak upon this amendment; I know that other Senators desire to speak upon it, for they so indicated to me. For that reason I waited, after the Senator from Arkansas [Mr. CLARKE] took his seat, to see whether others desired to speak before I rose. Before any other Senator could secure recognition the Senator from Maine [Mr. HALE] interposed his motion for the purpose of preventing debate.

Mr. President, I can not be quite indifferent to the fact that the distinguished Senator from Maine [Mr. HALE] has applied his motion to table the amendments so far, I believe, in the debate, which were offered by myself, with one exception, and that was the amendment offered by the Senator from Mississippi [Mr. MCLAURIN], which was so near akin to one I had offered that the Senator from Maine [Mr. HALE] doubtless felt constrained to make his motion, in that case, merely to be consistent.

Mr. President, I will say, that while I remain a member of the Senate, there will never again be unanimous consent given for the adoption of such a rule as that under which we are proceeding which does not permit a vote to be taken directly upon the amendments as a part of the unanimous-consent agreement—excluding the motion to table.

Mr. President, with respect to the amendment which is before the Senate, I have to say just this: It is the foundation of any legislation that is to be effective to secure reasonable rates that there shall be a valuation of the railroad property of this country. In support of that I call the attention of the Senate to the following language of the Supreme Court:

> The utmost that any corporation operating a public highway can rightfully demand at the hands of the legislature when exerting its general power is that it receives what, under all the circumstances, is such compensation for the use of its property as will be *just* both to it and to the public.

And then, Mr. President, they went on and laid down for the consideration of every legislative, administrative, or judicial body that should deal with this question, a method of ascertaining what rate would be just both to the public and to the public-service corporation, and in defining the basis upon which reasonable rates must be fixed they said this:

> If a railroad corporation has bonded its property for an amount that exceeds in its fair value, or if its capitalization is largely fictitious, it may not impose upon the public the burden of such increased rates as may be required for the purpose of realizing profits upon such excessive valuation or fictitious capitalization.
>
> * * * * * * *

They said further:

> If a corporation can not maintain such a highway and earn dividends for stockholders, it is a misfortune for it and them, which the Constitution does not require to be remedied by imposing unjust burdens upon the public.

Now, sir, with respect to the vital importance of this valuation before any commission or any legislative or any judicial tribunal can fix a reasonable rate, I wish to call attention to the language of the Interstate Commerce Commission, submitted to this body in its report for 1903. That was quite recently; and at that time, in urging upon Congress the importance of authorizing the Commission to make a valuation of railway property, they said:

> Among the subjects which deserve the attention of Congress is the need of a trustworthy valuation of railway property.
>
> * * * * * * *
>
> A large number of questions incident to the valuation of railway properties suggest themselves in addition to those which have been mentioned. This report can not, however, enter into further detail. Sufficient has been said to indicate the importance of an authoritative determination of railway values. It is respectfully recommended that Congress take this matter under advisement with a view to such legislative action as may be deemed appropriate.

They said, further, these important words with respect to the valuation of railway property:

> No tribunal upon which the duty may be imposed, whether legislative, administrative, or judicial, can pass a satisfactory judgment upon the reasonableness of railway rates without taking into account the value of railway property.

Now, what is it proposed to do by this legislation? Is it proposed to give to the people of this country reasonable rates? Will anyone contend on this floor that the public is not entitled to reasonable rates? Will anyone contend that the railroad companies, the common carriers of this country, are entitled to more than reasonable rates? If the reasonable rate is that which does justice to the public and justice to the common carrier—and if it is desired to have justice done to the public and to the carrier—then why not incorporate in this legislation the means of enabling the Commission to ascertain the reasonable rate? You have not yet done it. You will never do it until you adopt an amendment authorizing and requiring the Commission to make a valuation of the property of every railway company subject to the provisions of this act.

With respect to this proposition, the Chicago Record-Herald had this to say editorially:

> There is one feature * * * which is bound to be pressed, no matter what laws are enacted this year. That is for the valuation of railroad property. The Interstate Commerce Commission has asked the power. The convention of railroad commissioners in Washington a month ago voted unanimously in favor of it. Many States which are struggling with the assessment of railroad property would be interested in it. Whether in connection with proposals for broader rate-making legislation or entirely apart from such a movement, we are certain to hear a good deal more of it in the future.

The Chicago Tribune had this to say editorially with reference to the proposition which is now before the Senate:

> It is obvious that both the Interstate Commerce Commission and the Senator from Wisconsin are correct in affirming that no intelligent regulation of rates can be carried out without a knowledge of the real value of the physical value of the railroads. To expect that Commission to fix rates or the courts to review them without such valuation would be to repeat Pharaoh's old demand for bricks without straw. To make the proposed appraisement would cost some millions and some time, but effective public rate regulation by the Interstate Commerce Commission—such regulation as would be likely to stand the test of judicial review—implies and requires that the appraisement be made.

Now, I say to Senators here that the only justification which you can offer for a vote against this amendment is that it is not the purpose to pass a bill here to enable the Commission to institute any efficient regulation of railways or to defend in the courts the reasonableness of a single rate or regulation which it may seek to establish. But if it is the purpose to so empower the Commission, provision must be made for the valuation of railway property, because when the Commission fixes its rates and the railroad company resists those rates, the question which will be raised is whether the rates as established will yield a fair return upon the fair value of the property of the railroad company. If the rate will not yield such return it can not

stand. Whether the Commission can maintain its rates or not will depend upon its ability to show in the court that the rates which they have established do yield a fair return upon the fair value of the railroad property. Clearly, it can not do this unless it knows what is the fair value of that property.

Now, I undertake to say that the bill which is before the Senate does not provide for ascertaining a reasonable rate upon the basis fixed by the Supreme Court.

It certainly does not profess to provide for fixing reasonable rates. It provides only that the Commission may fix maximum rates, but it provides no means by which the Commission can ascertain whether the rate which is fixed as a maximum is a just and reasonable maximum rate. Until the Commission is authorized to make, and does make, a true valuation of railway property, it can never make it clear to the court that the maximum rate which it establishes is a reasonable maximum rate.

I insist, Mr. President, that this is a bill for the benefit of the shipper, who does not really pay the charges. It aims only to clothe the Commission with power to ascertain whether rates are relatively equal between shippers. It provides that, upon complaint, the Commission may prescribe such rates. But the only standard of comparison by which the Commission can be guided in its effort to fix rates is the standard set by other rates made by the railroads, and the reasonableness of which is known only to the railroads.

The VICE-PRESIDENT. The Senator's time has expired.

Mr. HALE. I move to lay the amendment on the table.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Maine [Mr. HALE] to lay on the table the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. HALE. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I again announce my pair with the Senator from Tennessee [Mr. CARMACK], who is absent. If I were at liberty to vote I should vote "yea."

The roll call was concluded.

Mr. ALLISON. Has the senior Senator from Alabama [Mr. MORGAN] voted.

The VICE-PRESIDENT. He has not.

Mr. ALLISON. I am paired with that Senator. If he were present I should vote "yea."

The result was announced—yeas 40, nays 27, as follows:

YEAS—40.

Aldrich	Cullom	Hansbrough	Millard
Alger	Dick	Hemenway	Nelson
Allee	Dillingham	Hopkins	Nixon
Ankeny	Dryden	Kean	Penrose
Brandegee	Flint	Kittredge	Perkins
Bulkeley	Foraker	Knox	Piles
Burnham	Frye	Lodge	Platt
Carter	Fulton	Long	Scott
Clark, Wyo.	Gallinger	McCumber	Sutherland
Crane	Hale	McEnery	Wetmore

NAYS—27.

Bacon	Culberson	Gearin	Overman
Bailey	Dolliver	La Follette	Simmons
Berry	Dubois	Latimer	Taliaferro
Blackburn	Elkins	McCreary	Teller
Burkett	Foster	McLaurin	Tillman
Clarke, Ark.	Frazier	Mallory	Warner
Clay	Gamble	Newlands	

NOT VOTING—22.

Allison	Clark, Mont.	Money	Smoot
Beveridge	Daniel	Morgan	Spooner
Burrows	Depew	Patterson	Stone
Burton	Gorman	Pettus	Warren
Carmack	Heyburn	Proctor	
Clapp	Martin	Rayner	

So Mr. LA FOLLETTE's amendment was laid on the table.

Mr. FORAKER. I offer an amendment to be inserted as a separate section, following section 7, to be numbered section 8. The amendment is printed at page 191 of the larger compilation of amendments.

The VICE-PRESIDENT. The amendment proposed by the Senator from Ohio will be read.

The SECRETARY. On page 191 of the printed amendments, add at the end of section 7 a new section, to be known as section 8, as follows——

Mr. FORAKER. Unless the Senate desires that the amendment be read at this time, I will state that the amendment has been read already. I made it the subject of extended remarks here some ten days ago. I will have it read or not, as Senators desire. I can explain in a very few words what the amendment is. If Senators will turn to the printed amendments on page 191, they will find the amendment there set forth. By glancing at it they will see that while the reading would require some time the new part that is proposed of the intended law is very brief. In other words, this is simply a proposition to amend section 3 of the Elkins law as it now stands. If any Senator prefers to have it read rather than simply turn to it as it appears, of course it can be read at the desk.

Mr. HALE. It is a very important amendment. I think it had better be read.

The VICE-PRESIDENT. The Secretary will read the amendment submitted by the Senator from Ohio.

The Secretary read as follows:

SEC. 8. That section 3 of the act approved February 19, 1903, entitled "An act to further regulate commerce with foreign nations and among the States," be, and the same is hereby, amended so as to read as follows:

"SEC. 3. That whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is, either singly or in cooperation with one or more carriers, publishing and charging unjust or unreasonable rates therefor, or is committing any discriminations forbidden by law, whether as between shippers, places, commodities, or otherwise, and whether effected by means of rates, rebates, classifications, preferentials, private cars, refrigerator cars, switching or terminal charges, elevator charges, failure to supply shippers equally with cars, or in any other manner whatsoever, it shall, if the complainants so request or if for any reason it prefer or deem advisable to proceed under the provisions of this section instead of under the other provisions of this act, be its duty, if such carrier or carriers will not, after due notice, desist from such violation of the law, to file with the Attorney-General a brief statement of its grounds for such belief and the evidence in support thereof, and thereupon, under his direction, and in the name of the United States, a petition shall be presented alleging such facts to the circuit court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in any one of such judicial districts or States, whereupon it shall be the duty of the court summarily to inquire into the facts and circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary; and upon being satisfied of the truth of the allegations of said petition said court shall enjoin, according to the ground of complaint, the publishing and charging of all of any such rate or rates so complained of in excess of what the court shall find to be reasonable and just, which shall continue to be the lawful rate as heretofore and now prescribed by statute, such injunction to continue in force during such period as the same or substantially the same conditions may continue as are established by the evidence in such case, or shall enforce an observance of the published tariffs if they are found to be just and reasonable, or direct and require a discontinuance of such discriminations by such proper orders, writs, and process as will, as nearly as may be, prohibit unlawful discriminations as to both persons and places and secure equality of right and treatment to all shippers and localities, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier or carriers complained of; and all proceedings hereunder shall be subject to the right of appeal to the Supreme Court, as now provided by the act of February 11, 1903, to expedite the hearings of suits in equity; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon, unless the circuit or Supreme Court, on application therefor made for good cause, so order. It shall be the duty of the several district attorneys of the United States, whenever the Attorney-General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by this act shall be prosecuted at the cost of the United States or the railroad company or companies as the court may adjudge equitable and just, and such proceedings shall not preclude the bringing of suit for the recovery of damages by any party injured or any other action provided by said act approved February 4, 1887, entitled 'An act to regulate commerce' and the acts amendatory thereof. And in proceedings under this act and the acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and any shipper or shippers who may be interested, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper or shippers, which relate directly or indirectly to such transaction. The claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence or information, documentary or otherwise, in such proceeding: *Provided*, That the provisions of an act entitled 'An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies." "An act to regulate commerce," approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted, approved February 11, 1903,' shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission."

Mr. FORAKER. Mr. President, I think the bill under consideration has been greatly improved by the amendments made by the Senate. I think it was a great improvement to adopt the so-called "court-review provision." I think it was also a great improvement on the bill as passed by the House to amend it by adopting the provision which requires carriers to confine themselves after the 1st day of May, 1908, to the business of carrying alone; in order words, to require them to go out of the carrying on of other business than that which properly belongs to common carriers.

I think it was an improvement also to restore the imprison-

ment clause, and I think we have improved the bill further and very materially by providing penalties for shippers who ask for and receive rebates. I think the Senator from North Dakota [Mr. MCCUMBER] did a good day's work when he offered that amendment and secured its adoption.

But notwithstanding all these improvements, Mr. President, the bill which we are about to enact is yet open to some very serious objections; objections that go to the constitutionality of the measure as well as to its efficiency, if it should be upheld in the courts. In the first place, notwithstanding all we have done and all we are likely to do, the bill as it will become a law will confer upon the Interstate Commerce Commission the three independent and coordinate powers of Government—judicial power, executive power, legislative power. I do not see how the bill can be upheld in the courts with that commingling of all these powers in the Commission.

It also will, in my judgment, clearly delegate legislative power. The Senator from Wisconsin [Mr. LA FOLLETTE] in addressing the Senate a few moments ago in behalf of his amendment made a strong argument in favor of his proposition by pointing out that the bill has that deficiency. I understood him to go so far as to express the opinion that if the amendment he was then discussing should not be adopted the standard of just and reasonable by which the Commission is to determine rates will remain so indefinite as to be no standard at all, practically.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the junior Senator from Wisconsin?

Mr. FORAKER. I do, simply for a question. I am limited as to my time.

Mr. LA FOLLETTE. I wish merely to state that I did not mean to say what the Senator represented me as saying. I simply mean to say that it does not afford any means for the Commission to ascertain whether the rate is reasonable or not.

Mr. FORAKER. I may not have correctly understood the Senator. But I do not understand that his explanation changes the effect of what he said. I understood him to be of the opinion that the fixing of rates would be a matter of judgment, without any definite standard, and therefore the legislative power would be delegated. But whether that was his opinion or not, it is clearly my opinion.

In addition to that, Mr. President—I have only time to enumerate them, not to discuss them—the bill will still be liable to the constitutional difficulty I argued at length on a previous day in this debate of fixing through routes and joint rates in such a way as to have the legal effect of taking private property without just compensation, and it will be, in my opinion, unconstitutional on that account.

There is a trouble I commented on frequently during this debate about jury trials, and there is a question about the power of visitation that I spoke of this morning when that clause of the bill was under consideration. In addition to that we have got to run the risk in the courts of the effect of the severe penalties that have been commented on previously in this debate not only by myself, but by many others.

So, Mr. President, when we shall have done for this bill all we have done and all we are likely to do, so far as we are at present advised, it will be a bill as to which there can be urged very serious objections. It may perish—and it is my opinion that it will—in the courts.

Now, whether Senators agree with me in that or not, they must concede, one and all, and I think one and all do concede, that these serious objections to the validity and constitutionality of the bill will remain, after we have done all we can, to be urged against it in the courts.

Now, Mr. President, I take it that every Senator here is actuated by a desire to remedy the evils that have been justly complained of by the shippers of this country. I have no other purpose. I want a law that will be efficient, a law that will be upheld in the courts, a law that will not be a disappointment to the people of this country when we have put it upon the statute books; and it is because we have apprehension about the efficiency and the constitutionality of the bill we have been considering that I have, by the amendment which has just been read at the Clerk's desk, suggested an alternative remedy.

Now, that is what I want Senators to get into their minds. What I have suggested is not in conflict with a line of the bill we have been considering. It does not weaken or destroy any provision of the bill. It is an addition to that. It is what I have properly called it, an alternative remedy. It provides that when a complaint is made to the Interstate Commerce Commission, the complainant, whether the complainant be a shipper or be a community, whether the complaint be of a rebate or of an excessive rate, or of a discrimination, the complainant shall, if he so desires, make known to the Commission that instead of proceeding before the Commission under the bill we have been considering, to there have a full and complete hearing and then to go into the courts to have all that reviewed, shall make request of the Commission, and it shall be the duty of the Commission to send it at once to the court. First, of course, I should have said, the Commission shall stop to inquire whether or not there is a reasonable ground for the complaint.

If Senators will look at the amendment I have offered, they will see it is but an amendment of the existing law. The Commission shall stop and inquire, when they receive the complaint in a preliminary way, whether there is probable ground for the complaint. They shall see whether or not they can induce the railroad, just as they do now, to desist from the practice, if they think they are engaged in a wrong practice. Failing in that, they shall at once send it to the court, where it shall be prosecuted by the United States district attorney in the name of the United States, without any expense whatever to the shipper; and it shall apply to excessive rates, to rebates, and to discriminations.

Mr. President, I have not time, as Senators recognize, to go into any detailed and elaborate explanation of this amendment. I want to say again, as I have said heretofore, that this is a proposition by which I am seeking only to broaden and strengthen existing law. It is a law that has already been put to the test in the courts. It has been found efficient, for notwithstanding criticisms that have been passed upon it in the course of this discussion, it is the law under which to-day everything is being done that is being done by the Department of Justice to break up and prevent these practices of which the people so complain as against the railroads.

Now, while we are legislating about this subject, while we are familiar with it, when we are fully advised, I do not understand why, in addition to the particular plan we have already legislated upon, we should not make better and stronger and more efficient the law under which these proceedings are already being successfully carried forward.

That is all there is of this amendment. I might cite authorities, and I would gladly do that if it should be necessary, to show that there is not a provision here that has not been passed on by the courts favorably. There is not a provision here that the courts have not expressly upheld, and therefore if we should adopt the amendment we have no risk to run in that regard.

I hope the amendment may be adopted.

Mr. NELSON. Mr. President, I regret that I can not see my way clear to agree with the Senator from Ohio [Mr. FORAKER] in respect to this amendment. I realize the beneficent purpose he has in view; but the practical effect of the amendment, in the first instance, is to transfer the rate-making power from the Commission to the court. The first clause provides that after any complaint is made to the Interstate Commerce Commission in reference to unjust and unreasonable rates and discriminations "between shippers, places, commodities, or otherwise," whether it is affected by rebates, etc., the complainant may in that case, if he prefers, without any other ceremony bring it into court.

In reference to that provision, I wish to suggest how easy it would be for a railroad company to get some shipper to make a pro forma complaint to the Interstate Commerce Commission, and then after he has made that complaint avail himself of this privilege and take it into court. Then on page 3 of the amendment you will find the following:

> And upon being satisfied of the truth of the allegations of said petition said court shall enjoin, according to the ground of complaint, the publishing and charging of all of any such rate or rates so complained of, in excess of what the court shall find to be reasonable and just, which shall continue to be the lawful rate as heretofore and now prescribed by statute.

That amounts to nothing else, Mr. President, than the court in that case to pronounce upon the rate complained of, and then if the court find that any part of the rate is too high, to scale it down and fix a rate that is just and reasonable. Now, that is in fact the power we propose to vest in the Interstate Commerce Commission. It is giving the court the right in the first instance to exercise a legislative function to pass upon rates.

I have not time to dwell more on that feature of the amendment, but I want to call your attention to the remarkable concluding paragraph, which attempts not only to nullify the interstate-commerce act, but also the Sherman Act.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Ohio?

Mr. NELSON. Certainly.

Mr. FORAKER. The Senator from Minnesota is mistaken. I

did not offer that as a part of the amendment. Even if it had been offered, it is only what the President has recommended twice to Congress at this session should be done. That is excluded, however. I do not stop to discuss it; but I commend to the Senator what I think would be a very good reason for it.

Mr. NELSON. I will simply say that I am glad the Senator has excluded it, because, in my mind, that was the worst feature of it. The language is:

SEC. —. That nothing in the act to regulate commerce, approved February 4, 1887, or in the act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890—

That is the Sherman antitrust law—

or in any act amendatory of either of said acts, shall hereafter apply to the establishment of rates or the changing or publication of the same with respect to foreign commerce, or shall prohibit any necessary and reasonable agreement of two or more carriers with respect to rates or charges and the maintenance and observance of the same for interstate transportation that is not in unreasonable restraint of trade or commerce with foreign nations or among the several States.

But, leaving out that part of it, the objection, as I said, to the other portion of the amendment which the Senator from Ohio has offered is that it would be entirely in contravention of the spirit and purpose of this act, which proposes to give the rate-making power to the Interstate Commerce Commission in the first instance, and then to allow their action to be subsequently reviewed. This proposes to have the court, upon complaint of a shipper, investigate the question and pass upon the rate as to whether it is too high or too low; and if too high, to scale it down; so that if a rate of a dollar a hundred is complained of, the court can scale it down and say: "We find 75 cents a hundred is a reasonable rate, and we will enjoin all in excess of that." Then there is no limitation as to the period of time the court may enjoin the rate.

Mr. FORAKER. Mr. President, I do not wish to reply to the Senator from Minnesota, but I wish to ask him a question, if he will yield for that purpose.

Mr. NELSON. Certainly.

Mr. FORAKER. I want simply to say to him that, so far as the power of the court to enjoin a rate is concerned, I have followed the decisions in 7 Federal Reporter, in 8 Federal Reporter, in 123 Federal Reporter, in 186 United States Reports, 174 Massachusetts Reports, and in a number of other cases.

But the question I want to ask the Senator from Minnesota is, why should not the shipper have the right to have his case proceeded with in the courts, where there is only one hearing, and without any expense at all, rather than compel him to have two hearings at his own expense, as now?

Mr. NELSON. For the reason that the rate-making power is not invested in the courts, in the first instance, but belongs to the Interstate Commerce Commission. That is the objection to it.

Mr. FORAKER. If the Senator will allow me, there is no rate-making power whatever conferred on the court here. The court is authorized to hear and determine what is a just and reasonable rate, which is the lawful rate prescribed by the statute; and if the carrier was charging any more than the lawful rate the court is authorized to enjoin all in excess of it; in other words, not to make a rate, but to give effect to a rate which Congress has made.

Mr. NELSON. The judicial power is limited to this: The court has the right to say whether a rate complained of is too high or too low and to enjoin it; but the court has no right to go further and say that any other rate below that is just and reasonable. What I have stated is the limit of the power of the court.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio [Mr. FORAKER].

Mr. FORAKER. I call for the yeas and nays.

The yeas and nays were ordered; and having been taken, the result was announced—yeas 10, nays 56, as follows:

YEAS—10.

Aldrich	Foraker	Morgan	Wetmore
Bulkeley	Gallinger	Platt	
Dick	Kean	Scott	

NAYS—56.

Alger	Clay	Gearin	Newlands
Allee	Crane	Hansbrough	Nixon
Allison	Culberson	Kittredge	Overman
Bailey	Cullom	Knox	Perkins
Berry	Daniel	La Follette	Pettus
Blackburn	Dillingham	Latimer	Piles
Brandegee	Dolliver	Lodge	Proctor
Burkett	Dryden	Long	Rayner
Burnham	Dubois	McCreary	Simmons
Burrows	Flint	McCumber	Stone
Carter	Foster	McLaurin	Taliaferro
Clapp	Frazier	Mallory	Teller
Clark, Mont.	Frye	Martin	Tillman
Clarke, Ark.	Gamble	Nelson	Warner

NOT VOTING—23.

Ankeny	Depew	Heyburn	Penrose
Bacon	Elkins	Hopkins	Smoot
Beveridge	Fulton	McEnery	Spooner
Burton	Gorman	Millard	Sutherland
Carmack	Hale	Money	Warren
Clark, Wyo.	Hemenway	Patterson	

So Mr. FORAKER's amendment was rejected.

Mr. MORGAN. Mr. President——

Mr. LA FOLLETTE. Mr. President, I offer an amendment——

The VICE-PRESIDENT. The Chair will state that the Senator from Alabama first rose.

Mr. LA FOLLETTE. I give way to the Senator from Alabama [Mr. MORGAN], and desire to be recognized later.

The VICE-PRESIDENT. The Chair will recognize the Senator from Wisconsin later.

Mr. LA FOLLETTE. Very well.

Mr. MORGAN. I offer an amendment as a separate section, which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Alabama will be stated.

The SECRETARY. It is proposed at the end of section 7 to insert the following:

That nothing in this act contained shall be construed as depriving any person who sues in his own right and name from instituting any suit under its provisions, or any other suit, at law or in equity, in any State court, or in any court of the United States, against any common carrier.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Alabama.

Mr. MORGAN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KEAN. Let the amendment be again stated, Mr. President.

The VICE-PRESIDENT. The Secretary will again state the amendment proposed by the Senator from Alabama.

The Secretary again read Mr. MORGAN's amendment.

The VICE-PRESIDENT. The roll will be called.

The Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I again announce my pair with the Senator from Tennessee [Mr. CARMACK]. If I were at liberty to vote, I should vote "nay."

The roll call having been concluded, the result was announced—yeas 23, nays 41, as follows:

YEAS—23.

Berry	Dubois	McLaurin	Rayner
Blackburn	Foster	Mallory	Scott
Bulkeley	Frye	Martin	Simmons
Clark, Mont.	Gearin	Morgan	Taliaferro
Clay	Latimer	Pettus	Tillman
Daniel	McEnery	Platt	

NAYS—41.

Aldrich	Clarke, Ark.	Gamble	Nelson
Alger	Crane	Hansbrough	Nixon
Allee	Cullom	Hemenway	Perkins
Allison	Dick	Hopkins	Piles
Ankeny	Dillingham	Kean	Proctor
Brandegee	Dolliver	Kittredge	Sutherland
Burkett	Dryden	Knox	Warner
Burnham	Flint	Lodge	Wetmore
Burrows	Foraker	Long	
Carter	Fulton	McCumber	
Clapp	Gallinger	Millard	

NOT VOTING—25.

Bacon	Depew	McCreary	Spooner
Bailey	Elkins	Money	Stone
Beveridge	Frazier	Newlands	Teller
Burton	Gorman	Overman	Warren
Carmack	Hale	Patterson	
Clark, Wyo.	Heyburn	Penrose	
Culberson	La Follette	Smoot	

So Mr. MORGAN's amendment was rejected.

Mr. LA FOLLETTE. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Wisconsin will be stated.

The SECRETARY. At the end of section 7 it is proposed to add a new section, to be known as section 7 (a), as follows:

SEC. 7 (a). That the Commission is authorized and empowered to require all railroads engaged in interstate commerce as defined by this act to adopt the block system upon all its lines over which passenger trains are run prior to the 1st day of July, 1911, and the Commission may after reasonable notice and hearing determine and by order direct the portion of such lines upon which the block system shall be adopted and installed, not exceeding one-fourth of the entire mileage of the passenger lines of such railroad in any one year. That any railroad failing to comply with any lawful order made by the Commission hereunder shall be liable to a penalty of $1,000 for each day that such failure continues, to be recovered in a suit to be brought in the name of the United States by the United States attorney in the circuit court of the United States having jurisdiction in the locality where such violation shall have occurred, and it shall be the duty of such United States attorney to bring such suit upon duly verified information being lodged with him of such violation. For the purposes of this act the term "block system" shall be taken to mean the methods and rules by

means of which the movement of railroad trains may be regulated in such manner that an interval of space of absolute length may at all time be maintained between the rear end of a train and the forward end of the train next following. The term shall be taken to include automatic block signaling, so called, but no order shall specify the kind of block system or make or cause any discrimination between automatic, so called, and nonautomatic.

Mr. LA FOLLETTE. Mr. President, scarcely a day passes that does not record some case of gross negligence on the part of a railroad company in the operation of its trains, resulting in collision and in the consequent destruction of the lives of passengers and of employees. The accidents which occur in the United States outnumber those of foreign countries three, four, five, and six to one, depending upon the country with which comparison is made. In the year ending June 30, 1905, the railroads of the United States killed and injured 10,617 passengers and 48,487 employees.

An instructive comparison may be made with the railroads of England. England has a little over 22,000 miles of road. We have over 200,000 miles of road. The passenger trains of England in 1903 traveled less than one-half the total mileage which the passenger trains in this country traveled, but the English railroads carried twice as many passengers as were carried by the railroads of the United States during that year. It will thus be seen that the English trains were much more heavily loaded and followed each other much more closely in order to handle this traffic on their limited trackage.

It is accepted, sir, as a rule of accidents, that they increase somewhat in proportion to the density of the traffic. The density of the English traffic as compared with the traffic in this country is as 6 to 1, but, notwithstanding that fact and the further fact that England hauled twice as many passengers with a train mileage less than half as great as ours, and did the work with only 22,000 miles of track, its railroads killed and injured in 1903 only one-tenth of the number killed and injured by the railroads of this country in that year. England has adopted the block system, and requires the railroads of that country to operate under it.

But there is another reason, Mr. President, why the fatalities and injuries in this country exceed those of other countries. The parsimonious policy pursued by the railroad companies and their failure to employ a sufficient number of men to guard their tracks is responsible to a large extent for the excessive number of accidents. The railroads of the United States kill six and a half times as many and injure twenty-nine times as many passengers as the Prussian railroads; while the number of employees killed in the United States is more than three times and the number of injured more than twenty-five times as great, relatively, as the number killed and injured on the Prussian railroads.

The significant fact that helps us to understand this difference is that in the case of relatively the same number of miles of track the Prussian roads employ 636,000 men where the railways of the United States employ 50,000 men.

It seems to me, Mr. President, that it is time to require the railroads of this country to exercise greater care for safeguarding the traveling public. The adoption of the amendment which I have introduced is an important step in that direction.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was rejected.

Mr. LA FOLLETTE. Mr. President, I have another amendment which I desire to offer, to come in at the end of the section.

The VICE-PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 25, after line 2, at the end of section 7, it is proposed to insert a new section, to be known as section 20 (a), to read as follows:

SEC. 20 (a). That every common carrier by railroad subject to the provisions of this act shall be liable for damages for all injuries, whether resulting in death or not, sustained by any of its employees, subject to the provisions hereinafter contained regarding contributory negligence on the part of the injured employee:

a. When such injury is caused by a defect in any locomotive, engine, car, rail, track, roadbed, machinery, or appliance required by said common carrier to be used by its employees in and about the business of their employment.

b. When such injury shall have been sustained by any officer, agent, servant, or employee of such common carrier while engaged in the line of his duty as such and which injury shall have been caused in whole or in greater part by the carelessness or negligence of any other employee, officer, agent, or servant of such common carrier in the discharge of or by reason of failure to discharge his duties as such.

In every action to recover damages for such injuries or death the court shall submit to the jury the question whether the employee injured or killed was guilty of contributory negligence, and shall instruct the jury that if they shall answer such question in the affirmative, that they shall then answer the following question: Was the negligence of the employee injured (or killed) slighter or greater as a contributing cause to such injury (or death) than the negligence or carelessness of the common carrier, or any other officer, agent, or employee of such common carrier? And in all cases where the jury shall find the carelessness or negligence of the common carrier, or any other officer, agent, or employee of such common carrier, was greater than the negligence of the employee so injured or killed, and contributed in a greater degree to such injury or death, then the plaintiff shall be entitled to recover, and the negligence, if any, of the employee so injured or killed shall be no bar to such recovery, and in all cases under this act the questions of negligence and contributory negligence shall be for the jury.

Mr. LA FOLLETTE. Mr. President, in legislation for the protection of railway employees certain elementary facts should be considered. The employment is an extra hazardous one. From the very character of the business a railway employee is at the mercy of every other employee with whom he works. He can exercise no choice of association. He is bound to work with his coemployee, whatever his character. He is part of a system. He may be placed in great jeopardy through the carelessness of a fellow-servant, and yet be compelled to accept the risk, or imperil others whose safety depends upon his self-sacrifice.

The personal safety and lives of the public and the property of the public depend upon the fidelity and courage of men employed in the railway service. The proper safeguarding of railway employees is a matter of public concern. It is a plain proposition that in proportion as the liability of the railway company is increased, for the acts and defaults of its officers, agents, and employees, in that degree will be secured greater diligence and care upon its part, and the hazard to the public thereby lessened.

Mr. MALLORY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Florida?

Mr. LA FOLLETTE. Certainly.

Mr. MALLORY. I should like to ask the Senator from Wisconsin, for my own information, as to his idea of the application of the terms of this amendment if it is enacted into law? Every accident of this kind has to occur in a State, and each State has its laws on the subject. Some States have passed laws modifying the common law on the subject. In fact most of them have. I should like to inquire of the Senator whether the amendment, as he proposes to enact it into law, would take precedence of the State laws on the same subject where a railroad is engaged in interstate commerce? It seems to me there would be a conflict necessarily if the laws differed.

Mr. LA FOLLETTE. It would apply to injuries received in interstate traffic. I can take no more time, because I have here some matter which I wish to have presented on this question. It gives the history of this legislation, and I ask that the Secretary may read it as a part of my remarks. I may say that the communication is from Mr. Fuller, the representative of the railroad organizations of the country, maintained here by them to look after their legislation.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Wisconsin that the document submitted by him be read by the Secretary? The Chair hears none, and the Secretary will read as requested.

Mr. OVERMAN. I should like to ask the Senator from Wisconsin a question.

Mr. LA FOLLETTE. I can not yield, because I have some matter——

Mr. OVERMAN. I merely wish to ask how the amendment differs from the bill now before the Interstate Commerce Committee?

Mr. LA FOLLETTE. It differs very materially. I regret that there is not time to discuss the points of difference fully.

The Secretary proceeded to read the communication.

Mr. LA FOLLETTE. As my time has expired, I request leave to have the remainder of the communication printed in the RECORD.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Wisconsin? The Chair hears none.

The communication in full is as follows:

WASHINGTON, D. C., *May 1, 1906.*

Hon. ROBERT M. LA FOLLETTE,
United States Senator, Washington, D. C.

DEAR SENATOR: In compliance with your personal request, I take pleasure in submitting the following history of employers' liability bills relating to railroads introduced in Congress:

On December 8, 1885, and during the first session of the Forty-ninth Congress, a bill relating to the liability of railroad companies to their employees was introduced in the Senate by Senator J. Z. George, of Mississippi. This bill was numbered S. 181, and was referred to the Committee on Education and Labor, but received no further consideration.

On February 15, 1896, and during the third session of the Fifty-third Congress, a similar bill was introduced in the House by Congressman M. J. McEttrick, of Massachusetts. This bill was numbered H. R. 8881, and was referred to the Committee on Interstate and Foreign Commerce, but received no further consideration.

On December 5, 1895, and during the first session of the Fifty-fourth Congress, Senator Wilkinson Call, of Florida, introduced a similar bill in the Senate, which was numbered S. 498. This bill received no

consideration by the Committee on Interstate Commerce, to which it was referred.

On February 28, 1902, and during the first session of the Fifty-seventh Congress, Congressman J. S. Little, of Arkansas, introduced a bill (H. R. 11913) entitled "A bill to define who are and who are not fellow-servants of persons, corporations, and companies, and defining the defense of said corporations, persons, and companies on account thereof." This bill was referred to the Committee on the Judiciary, but received no further consideration.

On December 8, 1902, and during the second session of the Fifty-seventh Congress, a bill relating to the liabiliay of common carriers by railroad in the District of Columbia and the Territories, and common carriers by railroad engaged in interstate commerce, to their employees was introduced in the Senate by Senator H. C. LODGE, of Massachusetts. This bill was numbered S. 6451, and was referred to the Committee on the Judiciary. During the same session, and on December 12, 1902, the same bill was introduced in the House by Representatives by A. L. BATES, of Pennsylvania. This bill was numbered H. R. 15990, and was referred to the Committee on Interstate and Foreign Commerce. These bills received no consideration by the committees to which they were referred.

Bills identical with the Lodge-Bates bills were introduced during the second session of the Fifty-eighth Congress, the first one, H. R. 7041, by Mr. Bates on December 11, 1903, which was referred to the Committee on the Judiciary, which committee took no action upon it. The second one, S. 4092, by Senator BOIES PENROSE, of Pennsylvania, on February 3, 1904. This bill was referred to the Committee on the Judiciary. On March 7, 1904, Senator G. F. Hoar, of Massachusetts, from the Committee on the Judiciary, asked that said committee be discharged from the further consideration of the bill, and that it be referred to the Committee on Interstate Commerce, which request was agreed to by the Senate. The bill remained in the Committee on Interstate Commerce during the rest of the Fifty-eighth Congress and no report was made upon it. On February 17, 1905, the following statement was made by the junior Senator from Virginia, Mr. MARTIN.

"LIABILITY OF COMMON CARRIERS.

"Mr. President, I desire to call the attention of the Committee on Interstate Commerce to the bill (S. 4092) relating to liability of common carriers by railroads in the District of Columbia and Territories and common carriers by railroads engaged in commerce between the States and between the States and foreign nations to their employees. It is the bill generally known as the 'employers' liability bill.' I wish to say that this bill was referred to the Interstate Commerce Committee more than twelve months ago. I simply desire to invite the attention of the committee to it. It is to be hoped that some report, either favorable or adverse, will be made at an early date. I do not at present move to discharge the committee from the further consideration of the bill, but I feel that it is proper for me to call this matter to the attention of the committee and invite them to consider it and give us a report."

On March 2, 1905, the following action was taken by the Senate:

"INTERSTATE COMMERCE COMMITTEE INVESTIGATION.

"Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution proposing an investigation by the Interstate Commerce Committee, to report it favorably without amendment, and I ask for its present consideration.

"The PRESIDING OFFICER (Mr. GALLINGER in the chair). The resolution will be read.

"The resolution reported by Mr. KEAN, from the Committee on Interstate Commerce, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate on the 28th ultimo, was read, as follows:

"'*Resolved*, That the Committee on Interstate Commerce, or any subcommittee thereof, is instructed to sit during the recess of the Senate, at such times and places as may suit the convenience of said committee or subcommittee, to consider the question of additional legislation to regulate interstate commerce and to authorize the Interstate Commerce Commission to fix rates of freights and fares, and to acquire further information as to interstate commerce, including violations or evasions of the antirebate law and the devices and methods by which evasions are accomplished, and including refrigerator and other private car systems, industrial railway tracks, switching charges, and the like; said committee or subcommittee is authorized to employ experts, administer oaths, take testimony, send for persons and papers, employ a stenographer to report its hearings, and to have them printed, which hearings shall be sent, as soon as printed, to each member of the Senate. Said committee shall make a full report of its proceedings hereunder by bill or otherwise within ten days after the meeting of the next Congress. And all necessary expenses to carry out the provisions of this resolution shall be paid from the contingent fund of the Senate.'

* * * * * * *

"Mr. MARTIN. Mr. President, I offer an amendment to the resolution, which I ask may be read.

"The SECRETARY. In line 12, after the word 'like,' insert:

"'And also to consider what legislation should be enacted in relation to the liability of railroad companies engaged in interstate traffic or operating lines in any Territory of the United States for injuries received by their employees when in discharge of duty.'

"Mr. KEAN. Mr. President, personally I have no objection to that amendment, but as this is a resolution prepared by a subcommittee of the Committee on Interstate Commerce, and includes all the subjects they thought were proper for them to consider, I do not feel authorized to accept it. I know that the Committee on Interstate Commerce is perfectly willing to consider what is known as the 'employers' liability bill' at any time when they have occasion, or when it is called to their attention. Therefore I do not feel authorized to accept the amendment.

"Mr. MARTIN. As I understand the Senator from New Jersey, he thinks that the proposition embraced in the amendment is already included in his resolution.

"Mr. KEAN. Practically so.

"Mr. MARTIN. And he also says that the committee to act under his resolution will certainly take up this matter if asked to do it. If that is so, it is inconceivable that there should be any objection to the amendment.

"Mr. President, this amendment is, in my judgment, one of importance. There are about 300,000 men in the United States engaged in the train service. The measure of liability of the railroad companies to these employees under existing law is exceedingly unsatisfactory and unjust. The old doctrine of fellow-servants which grew up under very different conditions from such as we have to-day is still in force in many of the States. In my own State it has been abolished, and in most of the States of the Union it has been abolished.

"A bill was introduced here at the commencement of the Fifty-eighth Congress seeking to have this antiquated and unjust doctrine abolished in all interstate traffic. That bill has slumbered in the committee room. I have made earnest efforts to get a report on the bill in order that the Senate might vote upon it. I have been unable to get a report. The employees engaged in this important and responsible service feel that they have a right to have Congress consider this question and pass upon it one way or the other. It was of sufficient importance to induce the President of the United States, in his annual message sent to Congress, to make recommendations that a law should be enacted on this subject.

"All I ask is that there be left no doubt about the duty of this committee, when it takes up the question of amending the laws in relation to interstate commerce, to take up also this proposition and examine it in the vacation and make a report at the commencement of the next session of Congress, so that it may be dealt with in one way or another. I think the amendment is one that commends itself to the consideration of the Senate, and I hope it will be adopted.

"Mr. TELLER. Mr. President, the resolution offered by the Senator from New Jersey in behalf of the committee deals with an entirely different question, a question of sufficient importance for one committee; and I should like to suggest to the Senator from Virginia, if I can have his attention for a moment, that it would be better for him to raise a committee on this particular subject. In the first place, to load the committee with two very important questions of this kind is simply to have delay in getting results. I shall be glad to join the Senator in raising a proper committee for this special purpose.

"I agree with him that most of the States have gotten rid of the antiquated idea he speaks of. The State in which I live has passed a law upon the subject and probably does not need any more, and some other States have done the same. What I am anxious about is that the committee suggested by the resolution which was reported by the Senator from New Jersey shall proceed, and proceed intelligently and thoroughly, to do what I think they will find big enough work for any committee during vacation.

"It may be that I am impressed with the difficulty they are going to meet more than I ought to be, but I know something about this matter. I doubt whether there is a committee in the Senate now, if they had the facts before them, that could under several weeks arrange the facts in such way as to determine what line of procedure they should adopt in order to carry out the purpose of a just and proper regulation of these roads. I have been anxious for years that we should regulate them in the interest of the transportation people who are using them, and in the interest also of the people who have their money in these roads. I said the other day I should look—I think I used the term 'terror,' if I did not, I can now—upon the proposition if I thought it would be accepted that the Government of the United States should attempt to manage and control all the lines of transportation which are engaged in interstate commerce, for that practically includes all the roads in the United States.

"I hope the Senator from Virginia will move for a separate committee, and I shall be glad to join him in raising such a committee, but it ought not to be composed of the same membership as the committee that is charged with this other great duty.

"The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

"Mr. NEWLANDS. Mr. President, I was inclined to share the views of the junior Senator from Iowa [Mr. DOLLIVER] as to a joint commission to inquire into the matter of rate regulation. Some time ago, anticipating that the Senate would not have time at this session to finally dispose of this question, I introduced a resolution providing for such a joint commission and defining the principles which should control in the framing of a comprehensive law, intended to meet every phase of the interstate-commerce question, providing for a national incorporation of railways, providing for a valuation of the railways and stock issued and bonds issued upon such valuation, and the approval of all bonds and stocks hereafter issued by such corporation by the Interstate Commerce Commission. These resolutions also provided for rate regulation by the Interstate Commerce Commission and for a pension for disabled employees, thus covering the question raised by the Senator from Virginia [Mr. MARTIN], and also for arbitration between railroads and their employees.

"Those resolutions have gone to the Interstate Commerce Commission for their views as to the plans outlined and for suggestions and modifications of such plans, and they have also gone to the Commissioner of Corporations for similar report.

"Now, Mr. President, I wish to add that I believe that if this committee of the Senate can sit consecutively for one month without being disturbed by other business it will be prepared to submit a bill to the Senate which ought to meet the approval of everyone.

"For that reason I am in favor of the immediate session of this committee, and I am in favor of an early session of Congress for the purpose of considering its report. I trust the President of the United States will call an extra session in the middle of April, or the first of May, in order that we may be able to dispose of this question, clear our decks and proceed to other matters of reform legislation called for by the President's message, for I am glad to say that that message is, for the first time in the last decade, devoted almost entirely to questions of domestic reform, those questions which have not received the consideration which they ought to have received whilst the country has been engaged in this era of expansion and of legislation regarding extra-territorial questions.

"I believe the time has now come for the serious consideration of many domestic problems, and I am glad to see that the President of the United States has called attention to them in his message. I believe that these extra sessions should be called for until these questions are disposed of.

"We have one great question now pending of reform in our public-land laws, which ought to be the next question taken up, and, if it is not disposed of by the next Congress, I hope that an extra session will be called for the purpose of considering it.

"Now, Mr. President, I do not believe there will be any adjustment of this railroad question, any complete adjustment, until we unify and simplify the railway systems of this country, and I do not believe we can accomplish that except through a national incorporation act, and that in inaugurating a national incorporation act we should simplify the system of taxation by making it a matter of mere mathematical calculation in the shape of a percentage tax on gross receipts, and thus do away with these innumerable taxing bodies and these innumerable taxing officials, and that we should center the power of rate regulation as far as practicable in one great tribunal of character and

dignity, whose judgment will be looked upon with respect by the entire American people.

"This is all I have to say regarding this resolution. I should have preferred a resolution for a joint commission. I believe a joint commission has worked admirably with reference to the merchant marine question. I believe it would work admirably with reference to this question and would bring the two Houses in harmony; but as it seems impossible to secure it I shall vote for this resolution.

"The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

"Mr. HALE. I do not object, if the Senator from New Jersey can bring the matter to a conclusion immediately, but the general deficiency appropriation bill ought to be taken up at once.

"Mr. CULLOM. I agree to that, and I think that the resolution is about to be adopted. I do not mean the amendment of the Senator from Virginia. I do not want that to be attached to the resolution. If we load up this committee with all sorts of questions pertaining to the general subject of regulation, we shall never get to the end of it, and we shall get nothing done.

"The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

"Mr. CARMACK. Mr. President——

"Mr. HALE. I must object.

"Mr. CARMACK. I am entirely in sympathy with the purpose of the resolution, and I hope under the circumstances the Senator from Virginia will withdraw his amendment.

"Mr. CULLOM. And bring it in hereafter.

"Mr. MARTIN. Mr. President, I have not the slightest idea of withdrawing the amendment. If the Senate wants to have the matter considered which is presented by this amendment there is no reason why it should not be done in this way. There is nothing in this proposition to hinder investigation on the main proposition. I realize that the question of regulating the rate making is the most important question now interesting this country, and under no circumstances would I impede that investigation.

"But I do not intend that a proposition of this sort shall be disposed of without having fair consideration at so opportune a time as is presented now. I have been trying for a long time to get the Committee on Interstate Commerce——

"Mr. KEAN. Mr. President, I will accept the amendment.

"Mr. MARTIN. All right.

"Mr. KEAN. And let the resolution pass.

"Mr. HALE. Let us have a vote.

"Mr. KEAN. I can not take up the time of the Senate at this late hour.

"The PRESIDING OFFICER. The question is on the amendment of the Senator from Virginia.

"The amendment was agreed to.

"The resolution as amended was agreed to."

During the recess of the Senate various witnesses appeared both for and against legislation making railroad companies liable to their employees for injuries received in the course of employment.

On December 4, 1905, and during the present session, Representative BATES again introduced his bill, which was numbered H. R. 239, and was referred to the Committee on the Judiciary. On December 6, 1905, S. 156, the same being a bill identical with the Penrose bill of the last Congress, was introduced by Senator J. W. DANIEL, of Virginia, and the Penrose bill was reintroduced on December 14, 1905, by Senator PENROSE. This bill was numbered S. 1657, and both it and the Daniel bill were referred to the Committee on Interstate Commerce. On December 14, 1905, that chairman of the committee, Senator S. B. ELKINS, of West Virginia, made the following report:

"Mr. ELKINS. Mr. President, I ask permission out of order to make a verbal report from the Interstate Commerce Committee.

"The VICE-PRESIDENT. The Senator from West Virginia asks permis-Senate March 2, 1905, authorizing the Committee on Interstate Commerce. Is there objection to the request? The Chair hears none.

"Mr. ELKINS. Mr. President, under the resolution adopted by the Senate March 2, 1905, authorizing the Committee on Interstate Commerce to hold sessions during the recess of the Senate, I am instructed to report that the committee proceeded, under the resolution, Monday, April 17, and continued its sessions until the early part of June. The committee gave hearings to all persons who manifested a desire to be heard on the subject. The result of the labors of the committee is contained in five volumes of testimony, which has been put in print, and I now place it, by direction of the committee, before the Senate for such disposition.

"Under the terms of the resolution the committee was required to report in ten days after the beginning of the present session of the Senate by bill or otherwise. While the committee can not report a bill to-day, I am authorized to state to the Senate, on behalf of the committee, that it went into session on the 21st of November and has been holding meetings, not every day since, but as often as it suited the convenience of the members, to consider the various and difficult subjects raised in the resolution that was adopted by the Senate. The committee is giving careful consideration to the subject-matter of the questions which have been raised, and I am authorized to state that it is the belief of the members of the committee that later on it will be able to report a bill to the Senate for its consideration."

On January 29 and 30, 1906, the following took place in the Senate:

IN THE SENATE,
Monday, January 29, 1906.

* * * * * * *

"EMPLOYERS' LIABILITY BILLS.

"Mr. ELKINS. I am instructed by the Committee on Interstate Commerce to ask to be discharged from the further consideration of Senate bill 156 and Senate bill 1657, two bills on the same subject, and which are alike, and to ask that they be referred to the Committee on the Judiciary, with the accompanying documents.

"Mr. PENROSE. I believe I introduced one of these bills, and I should like to ask the Senator from West Virginia whether both of these measures have been already taken from the Judiciary Committee and referred to the Committee on Interstate Commerce by order of the Senate?

"Mr. ELKINS. I think not. I will make this explanation: In the resolution authorizing the Interstate Commerce Committee to take testimony during the recess of the Senate the subject covered by these two bills was included. The committee accordingly took testimony on that subject, and I have accompanied with the bills the testimony taken in part, and we have further testimony which we will send down to the Judiciary Committee. The Committee on Interstate Commerce was of the opinion unanimously that the subject belongs to the Judiciary Committee.

"Mr. PENROSE. I did not quite understand the order of the Senate in the sense placed upon it by the Senator from West Virginia. I understood that the Senate simply made an order that the bill was improperly referred to the Committee on the Judiciary and properly belongs to the Interstate Commerce Committee. So it seems to me rather an unusual and extraordinary proceeding for the Senate to take a bill from one committee for the purpose of referring it to another committee with the object of taking testimony on the measure.

"Mr. GALLINGER. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from New Hampshire?

"Mr. PENROSE. Certainly.

"Mr. GALLINGER. If the Senator will permit me, I should like to inquire what the bills relate to.

"Mr. PENROSE. They are known as 'employers' liability bills.' One of them was introduced by the Senator from Virginia [Mr. DANIEL] and the other was introduced by me. They are both on similar lines. If it is the practice of the Senate to take a bill from one committee and refer it to another committee for the purpose of taking testimony thereon, then I have much to learn about the practice of the Senate. But if the Interstate Commerce Committee desires to avoid its responsibility in the consideration of this measure and to refer the bills back to the committee from which they have already been formally taken by the Senate, then it seems to me it is time for the Senate to pause and consider whether the bills can fairly be permitted to be taken from one committee to another without any prospect of definite action from either.

"I ask the Senator from West Virginia to permit his request to go over until to-morrow, so that we can ascertain just what was the order of the Senate in reference to these bills. Surely they were not referred to the committee of which the distinguished Senator is chairman simply for the purpose of relieving the Judiciary Committee of the labor and responsibility of taking testimony.

"Mr. ELKINS. Mr. President, this is the first time I have heard that these two bills were ever before the Committee on the Judiciary. It is quite new to me.

"Mr. PENROSE. That is my information, Mr. President.

"Mr. ELKINS. They came to us, if the Senator will allow me, as original bills, introduced by the Senator from Virginia and the Senator from Pennsylvania. The subject-matter of the two bills was covered in the resolution, and it was investigated and we took testimony; and I tried to accompany the testimony taken in print with the motion I made. It was the judgment of the committee that these bills and this subject belong to the Judiciary Committee. I do not think the committee had any knowledge whatever of the bills having ever been before the Judiciary Committee.

"I quite willingly consent to the suggestion that the matter may go over until the Senator from Pennsylvania and the Senate are better informed on the subject.

"Mr. PENROSE. My attention was only called to the fact a few moments ago that this action was contemplated, and I certainly thought I received the information that the bills had been taken from the Judiciary Committee and transferred to the Interstate Commerce Committee. I am not certain that I am correct, and that is the reason why I should like to have the matter go over until it can be thoroughly examined.

"The VICE-PRESIDENT. Without objection, the motion of the Senator from West Virginia——

"Mr. MCCUMBER. Mr. President, I simply rose to ask the Senator from West Virginia if it is not a fact that practically the same bills were introduced at a previous session and referred to the Committee on the Judiciary, and the Committee on the Judiciary asked to be relieved from the further consideration of the bills and have them referred to the Committee on Interstate Commerce? Was not that done at a previous session?

"Mr. ELKINS. I have no remembrance of the fact. I do not think that was the action taken.

"Mr. BEVERIDGE. Did not the bills come to your committee in that way?

"Mr. ELKINS. No; the bills came to the Interstate Commerce Committee as bills introduced in the Senate and referred to the Committee on Interstate Commerce.

"Mr. LODGE. I wish to inquire simply what is the request before the Senate? I did not hear it.

"The VICE-PRESIDENT. The Senator from West Virginia moves that the Committee on Interstate Commerce be discharged from the further consideration of Senate bill 156 and Senate bill 1657 and that they be referred to the Committee on the Judiciary. The Senator from West Virginia assents to the request that his motion may lie over until to-morrow, and without objection it is so ordered.

"Mr. BEVERIDGE. I would suggest, Mr. President, the record ought to show what the facts are in this interesting matter, and between now and the time the request of the Senator comes up for consideration to-morrow the record should be looked into. Certainly it is an important thing, if a bill has been referred to one committee, and then that committee asks to be relieved from it and have it referred to another committee and that is done, and then that committee asks to have it referred back to the first one. Are reports of committees in order?

"The VICE-PRESIDENT. Reports of standing and select committees are now in order."

IN THE SENATE,
Tuesday, January 30, 1906.

* * * * * * * *

"EMPLOYERS' LIABILITY BILLS.

"Mr. DANIEL. I inquire whether the motion of the Senator from West Virginia [Mr. ELKINS] for the discharge of the Committee on Interstate Commerce from what are known as the 'employers' liability bills' has been laid before the Senate?

"The VICE-PRESIDENT. It has not yet been laid before the Senate, but will be when in order.

"Mr. CULBERSON. Mr. President, I inquire if the routine morning business has been concluded?

"The VICE-PRESIDENT. The routine morning business has not been closed. Are there any further concurrent or other resolutions? If not, the morning business is closed.

"Mr. PATTERSON. Mr. President——

"The VICE-PRESIDENT. If the Senator from Colorado will withhold for a moment, the Chair will lay before the Senate the request of the Senator from West Virginia [Mr. ELKINS], coming over from yesterday, that the Committee on Interstate Commerce be discharged from the further consideration of Senate bill 156 and Senate bill 1657, and that they be referred to the Committee on the Judiciary, with the accompanying documents. Is there objection to the request?

"Mr. ELKINS. Mr. President, I do not see in the Chamber the senior Senator from Pennsylvania [Mr. PENROSE], but I observe the Senator from Virginia [Mr. DANIEL] is present. I have looked into the RECORD with respect to the disposition of the bills referred to at the last session and at the present session of the Senate, and I find that in the Fifty-eighth Congress, second session, the Senator from Pennsylvania [Mr. PENROSE] introduced Senate bill 4092, which was referred to the Committee on the Judiciary.

"On March 7, 1904, Senator Hoar, from the Committee on the Judiciary (see vol. 38, pt. 3, CONGRESSIONAL RECORD, p. 2906), asked that said committee be discharged from the further consideration of the bill and that it be referred to the Committee on Interstate Commerce, which was agreed to.

"In the Fifty-ninth Congress, first session, the Senator from Pennsylvania [Mr. PENROSE] introduced Senate bill 1657, which was referred to the Commitee on Interstate Commerce; and the Senator from Virginia [Mr. DANIEL] introduced Senate bill 156, which was referred to the same committee.

"Mr. NEWLANDS. Mr. President——

"The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Nevada?

"Mr. ELKINS. I do.

"Mr. NEWLANDS. I simply ask that we may have order in the Chamber, as it is impossible to hear what is being said.

"The VICE-PRESIDENT. The Senate will be in order.

"Mr. ELKINS. The two bills I have named are those which are covered by the motion I made yesterday under instructions from the Committee on Interstate Commerce, that they be discharged from their further consideration and that they be referred to the Committee on the Judiciary.

"The question that is raised on these bills is covered in the resolution authorizing sessions of the Interstate Commerce Committee during the recess of the Senate. That question came up also in connection with these two bills, and the committee authorized the chairman to report that they had considered the subject and felt that it belonged rather to the Committee on the Judiciary than to the Committee on Interstate Commerce. Therefore it was that I made the motion yesterday that is now before the Senate.

"Mr. DANIEL. Mr. President, there are two bills involved in this motion. One was offered by myself on December 6, 1905, and the other a little later by the Senator from Pennsylvania [Mr. PENROSE].

"Mr. CLARK of Wyoming. It is impossible for us to hear, Mr. President.

"The VICE-PRESIDENT. The Senate will be in order.

"Mr. DANIEL. As I have said, the other bill was introduced a little later——

"Mr. TELLER. I think we ought to have order enough to be able to hear what is going on. Nobody on this side of the Chamber heard the Senator from West Virginia [Mr. ELKINS] and I doubt whether anybody on the other side can hear the Senator from Virginia [Mr. DANIEL]. I think we had better have order established before the Senator from Virginia proceeds.

"Mr. DANIEL. Mr. President, the motion of the Senator from West Virginia [Mr. ELKINS] involves two bills. One was offered by myself on December 6, 1905, and the other by the Senator from Pennsylvania [Mr. PENROSE] on December 14. Both of them, however, involve the same principle as a previous bill offered by the Senator from Pennsylvania, with some variations. They relate to the subject-matter of the liability of common carriers, of railroads in the District of Columbia and in the Territories, and as to that liability affecting their employees. The principle of the bill is that the carrier shall not be excused from negligence on account of the fellow-service of employees. That principle has been put into the constitution of the State of Virginia and has been adopted by the legislatures of many States. This is not the time to discuss it, nor do I propose to bring up the merits of either of those bills, but I wish to call the attention of the Senate to the fact that a proposition of this general nature has been pending in this body for over four years, and that as yet no committee has made a report upon it. It first appeared on December 8, 1902, during the Fifty-seventh Congress, in a bill introduced by the present senior Senator from Massachusetts [Mr. LODGE]. That bill was referred to the Committee on the Judiciary and there disappeared.

"On February 3, 1904, the Senator from Pennsylvania offered a bill of the same general nature, which was also referred to the Committee on the Judiciary. This was in the Fifty-eighth Congress.

"On March 7 of that year the then senior Senator from Massachusetts, Mr. Hoar, who was chairman of the Committee on the Judiciary, reported that bill to the Senate and asked that that committee be discharged from its further consideration and that it be referred to the Committee on Interstate Commerce. This was agreed to. The bill at that session went to the Committee on Interstate Commerce, which made no report.

"In 1905, when the Senator from New Jersey [Mr. KEAN], from the Committee on Interstate Commerce, reported a resolution authorizing that committee to sit in vacation and to consider additional legislation on the interstate-commerce law, the junior Senator from Virginia [Mr. MARTIN] offered an amendment, which I will read:

"'And also to consider what legislation should be enacted in relation to the liability of railroad companies engaged in interstate traffic or operating lines in any Territory of the United States for injuries received by their employees when in the discharge of duty.'

"This resolution was considered, amended, agreed to, and ordered to be printed.

"During the vacation of the last session I think this matter was taken under consideration by that committee in connection with other matters. On December 14 of the present session the chairman of the Committee on Interstate Commerce, the Senator from West Virginia [Mr. ELKINS], who has made this motion, reported that:

"'Under the terms of the resolution the committee was required to report in ten days after the beginning of the present session of the Senate by bill or otherwise. While the committee can not report a bill to-day, I am authorized to state to the Senate, on behalf of the committee, that it went into session on the 21st of November and has been holding meetings, not every day since, but as often as it suited the convenience of the members, to consider the various and difficult subjects raised in the resolution that was adopted by the Senate.'

"He concluded by saying:

"'It is the belief of the members of the committee that later on it will be able to report a bill to the Senate for its consideration.'

"Mr. President, I am not criticising the Senator from West Virginia, but I simply wish to fix the attention of the Senate upon the fact that a procedure in the nature of a game of battledore and shuttlecock has progressed in this body for now four years; and that, with no report on this measure, it now hangs fire again in the Senate, the committee to which it has been referred from year to year declining to make any report upon it.

"I am well aware, Mr. President, that that committee has had some of the gravest questions of the age under consideration; but at the same time the question involved in this separate measure is a matter which has been discussed for a decade or more in the United States, and the learning of it fills the judicial reports and the literature of the law. The principle is very simple, and a very few hours would enable any man to collate the substance of this learning and to determine which way he stood, one side or the other, on this question.

"There is now no legislation on this subject in the districts and Territories over which the United States has sole jurisdiction. All that I am seeking now is to get action on this bill and have it brought before the Senate, so that this body shall determine whether or not it desires to embody it into law. The Interstate Commerce Committee does not want it; the Judiciary Committee has twice had it—once affirmatively shelved it as an overcoat that they did not wish to wear, and the other time said nothing about it.

"I move, Mr. President, if it be in order to do so at this juncture, that this bill be referred to the Committee on Education and Labor.

"The VICE-PRESIDENT. There is pending a motion to refer, and the Senator's motion is not in order.

"Mr. FORAKER. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Ohio?

"Mr. DANIEL. I yield to the Senator.

"Mr. FORAKER. I was not aware until a moment ago to what the Senator was addressing himself, having been otherwise occupied.

"Mr. DANIEL. It was with reference to the common carriers' liability bill.

"Mr. FORAKER. I am a member of the Interstate Commerce Committee, as the Senator knows, and I am also a member of the Committee on the Judiciary. I have no objection to considering these bills in either of those committees, and I do not think there is any objection to the consideration of them by the Interstate Commerce Committee.

"Mr. KEAN. None whatever.

"Mr. FORAKER. I am certainly quite willing to take up the bills for consideration at any time.

"In the Committee on Interstate Commerce we have been, as the Senator well knows, very busily occupied with the general railway-rate legislation proposition that has been referred to us for consideration. I do not think the request that these bills be sent to the Committee on the Judiciary was due to any lack of disposition on the part of the Interstate Commerce Committee to consider these particular bills. I know it was not so far as I am concerned.

"I might say more than that. I think attention was not particularly called to the bills at the time when this action was taken. I was otherwise engaged in the committee. I do not know how the other members of the committee feel, but I am quite sure that if these bills be left with the Interstate Commerce Committee or be sent to the Judiciary Committee they will receive attention. I know they will so far as I am concerned, and I have not heard of any member of either committee expressing any disposition not to give them consideration.

"I think the bills ought to go to the Judiciary Committee because of the important legal questions involved, or else they should remain with the Interstate Commerce Committee.

"The VICE-PRESIDENT. The question is on the motion of the Senator from West Virginia [Mr. ELKINS].

"Mr. DANIEL. I move to strike out "Committee on the Judiciary" and insert "Committee on Education and Labor" in the matter of reference. I suppose that motion is in order.

"Mr. ALDRICH. If I am not mistaken, Mr. President, the parliamentary situation is this: The chairman of the Committee on Interstate Commerce asked unanimous consent that that committee be discharged from the further consideration of this subject, and that the bills be referred to the Committee on the Judiciary. I think he made no motion at all upon the subject. It was a request for unanimous consent by the Senator from West Virginia, and that is not a motion.

"The VICE-PRESIDENT. The Senator from West Virginia yesterday stated:

"'Mr. ELKINS. I am instructed by the Committee on Interstate Commerce to ask to be discharged from the further consideration of Senate bill 156 and Senate bill 1657, two bills on the same subject, and which are alike, and to ask that they be referred to the Committee on the Judiciary, with the accompanying documents.'

"The Chair understood this to be in effect a motion, and distinctly stated it to the Senate as a motion.

"Mr. DANIEL. That is right.

"Mr. ALDRICH. Mr. President, I think the ordinary course of procedure is similar cases has been that unanimous consent has been asked. Such suggestions are usually made at a time when a motion would not be strictly in order. That has been the usual course.

"The VICE-PRESIDENT. The Chair understands that under Rule XXVI a motion to discharge a committee from the further consideration of a specific subject must be considered as an independent proposition, and before considering the reference to another committee.

"Mr. ALDRICH. That is a motion.

"The VICE-PRESIDENT. Yes; a motion.

"Mr. ALDRICH. But it is not the intention, I am sure, of the committee, and I imagine it was not the intention of the chairman of the committee to make a motion to that effect, but simply to ask the Senate by unanimous consent to have this change of reference made. Of course that can only be done by unanimous consent.

"The VICE-PRESIDENT. If there should be objection to a request for unanimous consent, a motion would be in order.

"Mr. ALDRICH. If the Senator chose to make the motion; yes. But if he did not, I assume it would be entirely within his control.

"Mr. PENROSE. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Pennsylvania?

"Mr. DANIEL. Certainly.

"Mr. PENROSE. I made objection yesterday to the unanimous consent asked for by the Senator from West Virginia [Mr. ELKINS], and the matter went over until to-day. As I understand, it is now open to such a motion as the Senator from Virginia [Mr. DANIEL] has made. Unanimous consent was not granted. The matter is now taken from the table for consideration, and any motion that any Senator chooses to make is applicable.

"Mr. FORAKER. I only want to add, if the Senator from Virginia will indulge me to that extent——

"The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Ohio?

"Mr. DANIEL. I do.

"Mr. FORAKER. I have no desire to keep these bills from the Inter-

state Commerce Committee or the Committee on the Judiciary. I only want to say for myself that there has been no attempt to avoid consideration of the bills, so far as I am aware. The bills were never brought up for consideration in the Interstate Commerce Committee, and if they were considered by the Judiciary Committee in the last Congress I naturally know nothing about it, because I was not then a member of that committee. If the Senate sees fit to leave the bills with the Interstate Commerce Committee I am quite sure they will receive consideration. If it is agreed to take them away from that committee, so far as I am concerned, I shall be very happy, because we are not looking for more work.

"Mr. LODGE. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Massachusetts?

"Mr. DANIEL. Yes.

"Mr. LODGE. The question of order which I desire to make is, as I understand, first, the motion—if it is to be a matter of motion—I do not know whether or not a motion was made to discharge the committee——

"The VICE-PRESIDENT. The Chair would ask the Senator from West Virginia [Mr. ELKINS] to kindly state whether he made a motion or a request for unanimous consent.

"Mr. ELKINS. What I made was in the nature of a request. I asked unanimous consent that the committee be discharged. I did not feel at liberty to make a motion, and I did not make a motion. It was a report to the Senate, under the order of business as called by the presiding officer, and under the order of reports of committees I reported that I was authorized to ask that the committee be discharged from the further consideration of the bills.

"Mr. LODGE. Then, Mr. President, the point of order I make is that no motion has yet been made, and that, if such a motion is made, it must lie over under the rule.

"Mr. DANIEL. If the Senator will allow me, I will inform him that the motion was made on yesterday, and that it has lain over a day under the rule.

"Mr. ALDRICH. Will the Senator allow me to make an additional suggestion?

"The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

"Mr. DANIEL. Yes.

"Mr. ALDRICH. If it was a motion to refer, that motion is not amendable under the Senate rules.

"Mr. LODGE. But my point of order was that the motion to discharge the committee must in any event, whether considered to-day or to-morrow, be first decided.

"The VICE-PRESIDENT. The Senator from Massachusetts is correct. The motion to discharge the committee must be first decided.

"Mr. ELKINS. Will the Senator from Virginia allow me a word?

"The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from West Virginia?

"Mr. DANIEL. I should like to ask the Senator a question while he is on his feet, and then I will yield the floor. Does the Senator think, if these bills were referred back to the Interstate Commerce Committee, that a report could be made upon them in twenty or thirty days?

"Mr. ELKINS. I can hardly say. We have had the subject under consideration and took testimony in the hearings held during the recess. I can not say that within twenty or thirty days we can bring in a general bill on the rate question, but I think in that time we may be able to do so. Now, will the Senator, before he proceeds further, allow me to make a further statement?

"Mr. President, the subject-matter of these two bills is a judicial question. The committee so considered it. Here is a bill to establish the carrier's liability for a fellow-servant's negligence. Railroads are now incorporated in the States. Jurisdiction in these cases is sought under the interstate-commerce clause of the Constitution where railroads are engaged in interstate traffic. There is a nice distinction as to whether the action in one of the cases should be brought in a State court or in a Federal court. This is an attempt to establish such liability on the part of the carrier, and, under the law it is proposed to pass, to put these causes in the Federal courts.

"That distinction is what moved those members of the committee who were present unanimously to ask that the committee be discharged from the further consideration of the bill, in order that the underlying judicial question might be first determined.

"There was no disposition in the committee, nor is there now, to avoid the consideration of this question if it is the judgment of the Senate that the Interstate Commerce Committee is the proper committee to take up and consider it.

"It was considered to some extent at the last session. I am not authorized to state what happened in committee. It would not be proper for me to tell here what happened. As I say, it was to some extent considered then. It was considered during the vacation, and it has been considered at this session. For the reason I have stated, that we thought and still think the question whether such an action should lie in a State court or in a Federal court ought to be disposed of by the Judiciary Committee, and for that reason only, I asked that the Committee on Interstate Commerce be discharged from the further consideration of the subject, and that it be referred to the Committee on the Judiciary. But if there is any disposition on the part of the Senate, or if it is the judgment of the Senate that this question should be left with the Committee on Interstate Commerce, I assure the Senate it will have prompt consideration.

"Mr. NEWLANDS. Mr. President, when this question came up before the Interstate Commerce Committee I did not object to the motion to refer the bill to the Judiciary Committee, but I did not then know that the bill had prior to that time been before the Judiciary Committee and that that committee had recommended that it be referred to the Interstate Commerce Committee. The Senator from Virginia [Mr. DANIEL] has well said this is a game of battledore and shuttlecock, and in such a game I do not wish to participate.

"Now, with reference to this measure, it is a part of the legislation that is being pressed not only before the Congress of the United States, but in every State of the Union—pressed by the labor unions, the railroad unions, the unions of employees of railroads, and opposed in every legislature in every State in the Union by the railroads themselves. It is one of the fruitful causes of that activity in politics by railroad corporations which is so much deplored, and it is with reference to diminishing that activity in politics that I have urged before the Senate that we enter upon a comprehensive plan of incorporating the interstate railroads under a national incorporation act. If we can do that, we can cover this question of the insurance of employees against injuries, whether those injuries are the result of the negligence of the corporation itself or whether they are the result of the negligence of a fellow-employee.

"Now we are legislating piecemeal every day and every month and every year upon the question of interstate commerce. We are now legislating with reference to rates——

"Mr. HOPKINS. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Illinois?

"Mr. NEWLANDS. Certainly.

"Mr. HOPKINS. I trust the Senator does not propose to defer action on these bills which are now up for discussion here to-day until the nationalization of railroads under the plan suggested by the Senator.

"Mr. NEWLANDS. I do not propose to defer the one. What I wish to do is to accelerate the other, and I insist upon it that we are prepared now to enter upon the question of the national incorporation of railroads——

"Mr. HOPKINS. Why combine the two? Why not let each stand on its merits?

"Mr. NEWLANDS. And that within a month, if the Senator will permit me to say it, a bill can be reported to the Congress of the United States for the national incorporation of railroads which will cover every question of this piecemeal legislation that is now occupying the attention of Congress, taking up its time unnecessarily. We have within easy reach in a national incorporation act a solution for all these vexed questions.

"What was one of the proposals of the national incorporation act which I have suggested, in addition to the question of the control of capitalization, in addition to the question of return upon capital, in addition to the question of a fair, comprehensive rule of taxation that would apply throughout the United States? One of the propositions was that a certain percentage of the gross receipts of all railroads engaged in interstate commerce should be put into an insurance fund, that fund to be responsive to the demands of employees who received injuries in the service, which is the public service.

"The gross receipts of these railroads are $2,000,000,000 a year. If you set aside 1 per cent of the gross receipts, it will amount to $20,000,000 annually. Set that aside in a fund in the Treasury, to be invested in approved securities, and then allow the Interstate Commerce Commission to fix the rules under which payments shall be made to the men receiving the injuries. It is a brutal thing to compel the employee receiving an injury, or his heirs if he is killed in an accident, to resort to the courts, to employ counsel, to submit to the law's delay, in order to recover damages. There ought to be some easier and speedier method of securing justice to these people who serve the public in this great service, and the entire expense of it should be fastened upon the public in the shape of a transportation charge.

"As it is to-day, the public, in freights and fares, pay the railroads the $2,000,000,000 which they receive. The public pay the operating expense. The public pay the taxes. The public pay interest upon the debt. The public pay dividends to the stockholders. Why should not the public pay 1 per cent more—only one-hundredth of the present receipts—into a fund in order to protect these men who are engaged in the service of the public in a semihazardous occupation? Such a percentage should be regarded as part of the fixed charges against railroad corporations, like taxes and insurance, and rates should be so fixed as to cover this charge in addition to the other operating expenses and fixed charges of the companies.

"Mr. HOPKINS. I am not sure I understand the position of the Senator from Nevada, and for that reason I desire to ask him a question. Is it his position, relating to the nationalization of railroads, that if an employee—a brakeman or a conductor or flagman—on the Pennsylvania Railroad is injured and loses a leg or an arm, instead of the railroad company being liable for the damage, the general public shall pay it?

"Mr. NEWLANDS. My proposition is this: That the public pays the entire income, the gross receipts of the railroads; that the entire transportation of the country is imposed upon the business and the transportation of the country; that $2,000,000,000 is received from the public for freights and fares. What I insist upon is that 1 per cent of that sum shall be set aside in an insurance fund for the protection of employees receiving injuries.

"Mr. HOPKINS. Is the theory that the Senator presents on the question of damages that if an employee of a road in Pennsylvania or in Ohio is injured that that road has no more to do with paying damages than a road in New England or in California?

"Mr. NEWLANDS. No; it has no more to do with the payment of that damage than a road in California or in New England. That is my proposition.

"Mr. HOPKINS. In view of that——

"Mr. NEWLANDS. My proposition is to take the whole subject-matter out of litigation——

"Mr. HOPKINS. Yes.

"Mr. NEWLANDS. And to do away with the necessity——

"Mr. HOPKINS. In view of that——

"Mr. NEWLANDS. If the Senator will permit me to conclude——

"Mr. HOPKINS. I desire to ask the Senator from Nevada, if he is a friend of the employees of railroad companies and desires to see that justice is done them, whether it would not be better to consider these bills which are now being discussed in the Senate separately and on their merits than to delay them until this plan which is now advocated by the Senator from Nevada becomes a law?

"Mr. NEWLANDS. I have already answered that question. I propose to delay nothing. I do not propose to delay the consideration of the bill which has been presented by the railroad employees of the country. I do not wish to delay action upon the bill that is intended to regulate interstate rates. All I do suggest is that contemporaneously with that action and as a part of it we can within the next month present a national incorporation act which will embrace all these questions, and which will do away with this friction between the public and the railroads, between the employees and the railroads, and which will settle all these questions in a rational, comprehensive, and scientific way.

"Mr. HOPKINS. I dislike to take up the time of the Senator, but he says it can all be done in a month.

"Mr. NEWLANDS. Yes.

"Mr. HOPKINS. The Senator means it could all be done in a month if everybody approved of his plan in its comprehensive outline and in its details.

"Mr. NEWLANDS. It could be done if that were accepted.

"Mr. HOPKINS. The Senator from Nevada has been discussing this subject somewhat before the Interstate Commerce Committee. I should like to ask him if there is any prospect of that committee presenting his bill to the Senate within the near future?

"Mr. NEWLANDS. I can not say. I see evidence of progress. Let me say that thus far almost every man who talks to me upon the subject says that the measure is all right, but it is ahead of the time.

My answer is that if a thing is right, now is the time always; and this thing is right.

"I ask what additional questions does the national incorporation act involve?

"Mr. SPOONER. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Wisconsin?

"Mr. NEWLANDS. Certainly.

"Mr. SPOONER. I recollect that the Senator and I had a little discussion one day in a general way on his proposition, and I at that time was troubled by one phase of it, and that was the theory upon which the Senator was to arrange to take out of the States' power of taxation and regulation transportation so far as it was intrastate. Has the Senator satisfied himself that it is within the constitutional capacity of Congress to pass a national railroad incorporation act requiring the interstate corporations of the country to organize under it, and to control independently of the State the purely State business which such railroad corporations would do?

"Mr. NEWLANDS. Yes; I will say to the Senator that I have given a great deal of consideration to that question.

"Mr. SPOONER. I know that.

"Mr. NEWLANDS. It has not been decided by the courts whether or not the National Congress in incorporating an interstate railway can exempt it from State regulations as to intrastate rates. But the courts have not decided to the contrary, and in the case of the Texas Pacific Railway, to which the Senator from Texas [Mr. BAILEY] referred the other day, they have determined that it is an open question; and the Senator from Texas objected to the national incorporation act which I proposed because he feared that the Supreme Court would finally determine that a national corporation chosen as a national instrumentality for the purpose of carrying out a national purpose, would be freed from State regulation as to purely State commerce. That was his fear. My reply to him was that I hoped that that fear would be realized; that I believed that as interstate commerce constitutes three-fourths of the business of the entire country, and in some States, like Nebraska, embraces nineteen-twentieths of the business of the State, the greater sovereignty ought to create the machine that is to do all the people's business, and that it is unwise and impolitic to burden it with State legislation either as to taxation or regulation; that the public interest requires simplicity in taxation and in regulation, and that the varying systems of taxation and regulation embodied in the legislation of eight or ten or fifteen States through which an interstate railroad system passes tends to complexity and confusion.

"Mr. SPOONER. I inferred from the observation of the Senator to the effect that this national incorporation act accomplishing a great reform could be passed within a month; that the Senator had become, upon further reflection and examination, satisfied that there was no constitutional impediment to his plan, through a national incorporation act, to entirely extricate the railroad transportation of the country from State taxation and State supervision, which is one of the objects the Senator very clearly and eloquently set forth in support of his proposition.

"Mr. NEWLANDS. But that is not the only object, let me state.

"Mr. SPOONER. I know; but if this is a constitutional impediment, it could hardly be removed by the passage of an act of Congress. It would require something beyond that. It would require an amendment to the Constitution. I have not been able quite to make up my mind that the States can be compelled, by an act of Congress, to surrender to a national corporation the transportation arising in the State and ending in the State. Has the Senator?

"Mr. NEWLANDS. No; I have not; but the bill can be made permissive or it can be made coercive. In the latter case only will the question to which the Senator has referred arise. But permissive legislation will, in my judgment, accomplish great good.

"Mr. DANIEL. I dislike to interrupt this interesting discussion, if the Senator desires to go on, but we are very anxious to get this measure acted upon before 2 o'clock. There have been so many interruptions that I fear the Senator may be detained and we may not get action on the motion. If our friends will abbreviate their curiosity till after this motion is disposed of, it will be very agreeable. I do not mean this in the sense of a rebuke, of course.

"Mr. NEWLANDS. Of course I do not wish to delay the Senate in the consideration of this motion, but I should like to answer very briefly—it will not take me more than five minutes, unless I am interrupted—the interrogatories of the Senator from Wisconsin, because I think it is appropriate that the answer should go into the RECORD now.

"I will say to the Senator from Wisconsin that while I should hope that in the end corporations organized under a national incorporation act, doing an interstate business amounting to three-fourths of the business of the country, should not be subject to State legislation either as to taxation or regulation, yet I should favor a national incorporation act even if the corporations were subject to both. I do not regard the regulation of intrastate rates as a very serious matter, for it involves so little of the commerce of each one of these corporations engaged in interstate commerce, and even though the legislation of the State may be somewhat embarrassing, it can not be so embarrassing as to counterbalance the great advantages which I think would be obtained by the scientific consolidation of roads under a national charter.

"Now, so far as the question of taxation is concerned, I have not the slightest doubt, inasmuch as the power to tax involves the power to destroy, and as that taxation is to be imposed upon the entire instrumentality, in its completeness, used by Congress for the transaction of interstate commerce, that if Congress decides upon a fixed rule of taxation, uniform, reasonable, and just throughout the entire country, permitting the States to collect the tax upon that rule, the Supreme Court would determine that Congress has the power to fix such a rule.

"We find that in the case of the national banks to-day the Congress of the United States fixes the rules of taxation and the States have to conform to it.

"Mr. SPOONER. The Senator speaks of Congress permitting the States to collect this tax. Does he mean that the States are to collect taxes levied by Congress; that the States are to become agents of the National Government for the collection of taxes?

"Mr. NEWLANDS. No; I do not propose that the National Government shall collect the taxes, but that the States shall.

"Mr. SPOONER. But the rule is to be fixed by Congress?

"Mr. NEWLANDS. The rule can be prescribed by Congress.

"I go further than that. I think Congress can, if it chooses, absolutely exempt these corporations, as national instrumentalities, from all taxation, national or State; and as the greater must include the less, it necessarily follows that the Government can lay down the rule for the taxation by the States of these corporations engaged in interstate commerce; and I cite the Senator to the case of the national banks, which are national instrumentalities, and the Senator will find in the law incorporating national banks that the United States lays down the rule for their taxation by the States.

"Mr. NELSON. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Minnesota?

"Mr. NEWLANDS. Certainly.

"Mr. NELSON. Will the Senator from Nevada permit me to suggest, in reference to the bills now under consideration, that the railroad employees are not here asking for the relief the Senator from Nevada suggests? They are simply asking that they be put on a par, in respect to injuries received, with the rights given them in many of the States. Some of our Federal courts hold that a man engaged in the railroad service assumes the risk of the service, and hence that there is no liability. Then again they have extended the doctrine of fellow-servant, holding that where an injury occurs through a mistake or ignorance of a fellow-servant, there is no liability.

"Now, in many of the Western States—and I am not familiar with the situation in all the States—the rule is that if an injury happens to an employee engaged in the railway service without his negligence contributing thereto, although it may have occurred through the negligence of a fellow-servant, as it is called, or although it may result from a defective machine or other matters pertaining to it, the railroad company is liable. This is not a question that belongs appropriately to the Judiciary Committee. It is simply a question of public policy—whether the Federal Government will accord to these railroad employees the same rights and privileges in respect to injuries that are accorded them by the laws of many of the States. That is the only question, and in respect to that question of public policy I should think the Committee on Interstate Commerce is as appropriate a committee as any. It is not a question involving legal technicalities or legal matters. It is simply a question whether it is right and just to make the railroads liable in these cases. I submit that the committee which deals with interstate commerce and all that pertains to it is the appropriate committee.

"Now, when the railroad employees ask for the relief the Senator from Nevada suggests, that, I think, will be the proper time to consider that question. But they are not asking for that now. The question is whether we will give them the relief they ask for now in these bills or something of that kind.

"Mr. NEWLANDS. I trust the Senator from Minnesota understands that I am not opposing any fair law for determining the liability of corporations engaged in interstate commerce for accidents to employees. I am simply pointing out what I regard as a better method of accomplishing the same result, one more humane to the employees, one less costly to the employees, one that takes this whole question out of politics—and it is now in politics in every State in the Union—and one that settles the matter for all time.

"I do not wish the Senate to understand for a moment that I am going to delay the consideration of this bill, or that I oppose its consideration by the Interstate Commerce Committee, but I do say that we are taking up this whole question of interstate commerce in the most fragmentary way, by piecemeal legislation, and that by the time we get through we shall find that years of legislation will have covered almost every inch of ground that would be covered by a national incorporation act passed now.

"In the interest of the public, in the interest of the railroads themselves, and in the interest of the employees of the railroads, it does seem to me that we should have some comprehensive adjustment of this question that will prevent the overcapitalization of these great consolidated railroads; that will put them under some public control; that will fix the returns on capital; that will lay down a scientific rule of taxation; that will provide some humane method of compensating men who have received injuries or the heirs of men who have died as the result of injury in the service of the great railroad companies.

"I insist upon it that now is as good a time as one year or two years hence, and that we will save the time of the Congress of the United States if, while considering this great regulation bill, we also attach to it simple provisions—and you will be amazed how simple the legislation is when your mind is directed to it—permitting the consolidation of railroads by national corporations under the supervision of the Interstate Commerce Commission.

"Right now many of the consolidations of the country which have been eminently beneficial to the country are being threatened. In the House the other day a resolution was passed inquiring into the merger accomplished by the Pennsylvania Railroad, a merger which it is said has practically eliminated competition in the entire area covered by the trunk lines—the New York Central, the Pennsylvania Railroad, the Baltimore and Ohio, the Chesapeake and Ohio, and the Norfolk and Western.

"Mr. KEAN. Do I understand the Senator from Nevada to say the New York Central and the Pennsylvania and all those roads are merged?

"Mr. NEWLANDS. I said that a resolution had passed the House inquiring into such a merger.

"Now, for my part, I believe that these consolidations are wise, provided they are entered into with the approval of some commission representing the country at large, such commission controlling the capitalization and preventing overcapitalization. I believe that unrestrained and uncontrolled and undirected combination is bad. I believe that restrained and controlled and directed combination is good.

"As a matter of fact, we know that in almost every section of the country competition is being eliminated by combinations that have taken place—many of them, under the doctrine of the Northern Securities decision, in absolute violation of law. It would be a great misfortune if the entire country were thrown into confusion by decisions annulling the combinations which have been already accomplished.

"It will not do to wait till a crisis comes. We should consider this question now instead of waiting till the courts destroy and dismember these combinations and reduce the entire transportation of the country to confusion, and then by legislation take up the fragments and endeavor to mold them into legalized combinations.

"It is a well-known fact, whether a merger has been accomplished or not, that competition has been practically eliminated in the entire trunk-line area. It is an absolute fact in ten Southern States that competition has been practically eliminated by the mergers that have been accomplished through the Southern Railway system, the Atlantic Coast Line system, and the Illinois Central Railroad system, those

three systems having combined now 26,000 miles of railroad out of less than 30,000 miles of railroad in ten or twelve Southern States. Mergers accomplished under the law of a single State, yet effectual in the commerce of many States.

"I am admonished that we are approaching the close of the morning hour, Mr. President, and I will not pursue this line further. I shall take the opportunity, however, at a later day to say something on this subject.

"Mr. PATTERSON obtained the floor.

"Mr. BACON. Mr. President——

"The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Georgia?

"Mr. PATTERSON. Yes; because it was my desire to get the floor not for the purpose of discussing this question. I want to discuss the resolution of the Senator from South Carolina [Mr. TILLMAN] and give my views, which are not quite in harmony with the views of my colleagues upon this side of the Chamber, on the matter of the Monroe doctrine, the Santo Domingo treaty, and the pending arrangement between the President and Santo Domingo. But it is very desirable, I think, that this motion should be disposed of in some way, and I yield the floor for the time being to the Senator from Georgia, to resume it when I can.

"The VICE-PRESIDENT. The Senator from Georgia will proceed.

"Mr. BACON. Mr. President, as there has been no distinct statement by any member of the Judiciary Committee who was a member at the time the bill was reported back to the Senate with a request that the committee be discharged and that it be then referred to the Committee on Interstate Commerce, I desire to state, so far as I myself understood the action of the committee, the ground upon which it was based. It was not from any disposition to shirk a duty nor from any disposition to engage in the game of shuttlecock and battledoor, to which allusion has more than once been made.

"The bill, as it appeared to the committee, is an extremely far-reaching measure, one, so far as I know, absolutely novel in its provisions and in the purposes which it seeks to accomplish. If it were a bill which sought to fix the rule of the liability of railroad companies to its employees in the District of Columbia or in the Territories there would be no question that it would be a bill which should go to the Judiciary Committee. But the bill goes very much farther than that. In fact, that feature of it is infinitesimal compared with that which it embraces in its totality.

"It is a bill which proposes to fix the rule of the liability of railroad companies for damages to employees not simply in the District of Columbia or in the Territories, but the rule of damages in all cases and in all jurisdictions of railroads which are engaged in interstate commerce, and as almost every railroad in the United Sttes of any consequence is engaged in interstate commerce it may be said to be practically a bill which proposes to take away from the State the right to fix what shall be the rule of damages in case of an injury to an employee by a railroad company in that State and to have a rule of damages which shall be enacted by the Congress of the United States applied to every railroad in the United States that is engaged in interstate commerce. This would also necessarily devolve upon the Federal courts in each State the jurisdiction to try all cases against railroad companies in suits against them to recover damages for personal injuries. The magnitude of that question must strike everyone without any comment upon it whatever. The Senate will percelve that the great question presented by the bill is not the question, as suggested, simply whether this is a correct rule of damages, but whether or not under the interstate-commerce provision of the Constitution it is a matter within the jurisdiction of the Congress of the United States to pass a law which shall fix the rule of liability for damages in all cases in the United States in suits for personal injuries to employees.

"It was for that reason, Mr. President, that the Judiciary Committee thought that a bill involving a question which hinged, and necessarily turned, upon the question whether it was a matter within the interstate-commerce provision of the Constitution should be with the Interstate Commerce Committee rather than with the Judiciary Committee. The Judiciary Committee considered this question in two sessions of Congress, and the then chairman of the committee, the former senior Senator from Massachusetts, Mr. Hoar, was very decidedly of the opinion that is was a question which should be determined, or rather which should be examined upon and reported to the Senate, by the Interstate Commerce Committee rather than by the Judiciary Committee.

"I will state for the information of the Senate that, so far as the interests of my State are concerned, the bill would have very little effect, because the first two sections of the bill, which are the important ones, and which more immediately relate to the question of liability, are now substantially the law of Georgia. That is the fixed law of Georgia, and I approve of that law as the law of my State. But as to whether or not the Congress of the United States shall hereafter have jurisdiction to fix the question of what shall be the liability of a railroad company in California, or in Maine, or in Louisiana, or Texas, or Pennsylvania, and whether each of these States and all other States shall thereafter surrender the right to fix the question of the liability of railroads for such damages, and shall surrender the jurisdiction of the State courts to try such cases and turn them all over to the Federal courts, is an immense question.

"The Senator from Virginia [Mr. DANIEL], who is the author of the bill, says to me that the States would not surrender it. Of course I would hesitate to differ from him on that subject, because he has given it very much more thought than I have. I have simply been guided by what I think is the plain reading of the bill and what I know to have been the view taken of it by the Judiciary Committee. I will read it for the purpose of seeing whether or not I am correct, and I will take but a minute; I see the time is nearly out before the expiration of the morning hour. The language is this:

"'That every common carrier by railroad engaged in trade or commerce in the District of Columbia, or in any Territory of the United States, or between the several States, or between any Territory and another, or between any Territory or Territories and any State or States, or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be liable to any of its employees who are occupied in such trade or commerce, or, in the case of his death, to his heirs at law, for all damages which may result from the negligence or mismanagement of any of its officers, agents, or employees, or by reason of any defect or insufficiency in its cars, engines, appliances, machinery, track, roadbed, ways, or works.'

"That, as I have said, is the law of Georgia now. So I am not arguing as to anything which would affect my State or change the law from what it now is, except in so far as it would take the jurisdiction in all such cases from our State courts and confer the same upon the Federal courts, which would be a great hardship on the railroad employees. But it seems to me that that language would confer upon the Congress of the United States the right to legislate as to those matters, as to any railroads engaged in interstate commerce, and it could not be a concurrent jurisdiction between the Congress of the United States and the several States to legislate upon the same subject.

"But I do not propose to discuss the question now. I simply rose for the purpose of suggesting the reasons why the Judiciary Committee thought the bill ought to go to the Interstate Commerce Committee. It was because it involved a great interstate-commerce question and must hinge upon the decision whether it was within the provision of the Constitution giving to Congress the right to legislate with reference to interstate commerce. I wished also to say that I think it ought to remain with the Committee on Interstate Commerce and that the Judiciary Committee was correct in the suggestion upon which the Senate acted in referring it to that committee.

"Mr. TILLMAN. Mr. President——

"Mr. PATTERSON. Mr. President, if there will be a vote taken upon the motion of the Senator from West Virginia now, I will yield for that purpose, but I will not yield for any other purpose.

"Mr. TILLMAN. We can not get a vote until after I am heard. I have been sitting here for about an hour in order to get in. I did not care to rush roughshod over others.

"The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from South Carolina?

"Mr. PATTERSON. It is perfectly manifest that this matter can not be disposed of this afternoon.

"Mr. DANIEL. Let it go over until to-morrow.

"Mr. PATTERSON. Therefore I desire to hold the floor until the time for placing the regular business of the session before the Senate arrives, that I may have the floor at the conclusion of the morning business to-morrow.

"Mr. CLARK of Wyoming. Mr. President, I rise to a parliamentary inquiry. I should like to ask from the Chair the present parliamentary status of this matter of reference.

"The VICE-PRESIDENT. The question is on the motion of the Senator from West Virginia [Mr. ELKINS] that the Committee on Interstate Commerce be discharged from the further consideration of the bills and that they be referred to the Committee on the Judiciary. Two questions are involved, and the first question is on the motion to discharge the committee.

"Mr. CLARK of Wyoming. Before the motion is put, as a member of the Judiciary Committee I wish to say with reference to the merits of the bill or any other that it was only upon due consideration in the last Congress the Judiciary Committee came to the conclusion, and so reported through its chairman to the Senate, that the proper jurisdiction of the bill belonged to the Committee on Interstate Commerce. They did that after consideration, and did it with no desire to evade responsibility or to shirk work. That was the position of the Senate Committee on the Judiciary at that time, and it is the position held by some members of the committee at this time. I make that statement simply as an explanation.

"Mr. ELKINS. Will the Senator from Colorado allow me just one word?

"The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from West Virginia?

"Mr. PATTERSON. Yes.

"Mr. ELKINS. After the Senator from South Carolina [Mr. TILLMAN], who is a member of the Interstate Commerce Committee, has an opportunity to be heard, with the consent of the members of the committee, which has been obtained, I will ask unanimous consent to withdraw my request. But I will not do so until after the Senator from South Carolina has had an opportunity to be heard. I want to give notice to the Senator from Colorado what my purpose is.

"Mr. PATTERSON. I did not understand the Senator from West Virginia.

"Mr. ELKINS. I stated that after the Senator from South Carolina [Mr. TILLMAN], who is a member of the Interstate Commerce Committee, has had an opportunity to be heard, I will ask unanimous consent to withdraw the request I made and leave the two bills in the Interstate Commerce Committee. That will dispose of the question. But I do not want to make that request until after the Senator from South Carolina has been heard, if the Senator from Colorado will yield to him.

"Mr. PATTERSON. Mr. President, I did intend to address the Senate upon the subject that has engrossed a good deal of its time and that involves questions as momentous as those that are involved not so much in the resolution of the Senator from South Carolina as in cognate questions that have been referred to and discussed and enlarged upon by Senators upon both sides of the Chamber."

On April 2, 1906, the House bill H. R. 239 passed the House, and upon its receipt by the Senate on April 3 Senator MARTIN of Virginia made this statement:

"EMPLOYERS' LIABILITY BILL.

"H. H. 239. An act relating to liability of common carriers by railroads in the District of Columbia and Territories and common carriers by railroads engaged in commerce between the States and between the States and foreign nations to their employees was read twice by its title.

"Mr. MARTIN. Mr. President, that is the bill known as the 'employers' liability bill.' Of course it will go to the Committee on Interstate Commerce. I simply desire to call the attention of the committee to the bill and to the fact that I made a laborious effort during the last session of Congress to get a report from the Senate committee. I hope the committee will give prompt attention to the bill, so that the Senate may have a report one way or the other on the measure.

"The VICE-PRESIDENT. The bill will be referred to the Committee on Interstate Commerce."

It was then referred to the Committee on Interstate Commerce, and as yet no report has been made by that committee on either it or the Senate bills.

Very truly, yours, H. R. FULLER,

Legislative Representative Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen, Order of Railway Conductors, and Brotherhood of Railroad Trainmen.

Mr. NEWLANDS. Mr. President, with reference to the pending amendment, I wish to say that I shall vote for it, although I have not had an opportunity to scrutinize it carefully. But I shall vote for it, because if it goes into the bill it will go into conference, and if it is at all defective the whole matter will be properly shaped there and submitted to the determination of Congress.

So far as concerns the Interstate Commerce Committee, of which I am a member, I feel that the committee has not fully discharged the duty that was imposed upon it by the resolution which was adopted by the Senate. That resolution——

Mr. KEAN. I only want to say that if the committee has been negligent no member of it has been more so than the Senator from Nevada.

Mr. NEWLANDS. I hardly think that that statement is justified by the record. I have not charged the committee with negligence, nor do I charge myself with negligence. But what I do say is that the committee has not discharged the full duty imposed upon it by the Senate in the resolution which instructed it to report a bill for the regulation of interstate commerce, as that resolution included the framing of a bill popularly known as an "employers' liability bill."

I wish to say further that when the bill which passed the House came to the Senate committee for consideration I voted for its report to the Senate. So that so far as I am concerned, while I make no reflection upon the committee or its members, I simply wish to say that my full duty has been discharged.

THE PRESENT LAW A BURDEN ON THE EMPLOYEE.

Now, with reference to the amendment itself, I wish to say that I have always thought that this was a brutal way of dealing with the entire subject. When an employee is injured he must bring suit against the railroad company. He must employ a lawyer, to whom he gives an agreement entitling him probably to 50 per cent of the judgment. Railroads make a business of contesting almost all these cases, for they fear if they do not they will be subjected to infinite litigation.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from New Hampshire?

Mr. NEWLANDS. Certainly.

Mr. GALLINGER. I am pleased to say to the Senator from Nevada that the New England roads do not contest these cases as a rule, but generally settle them out of court.

Mr. NEWLANDS. I am very glad to know that; and yet I cannunderstand how a railroad, as a matter of settled policy, would contest these cases, for oftentimes the suits are exaggerated as to the amount claimed; the services of unscrupulous lawyers are obtained; a popular prejudice is aroused; and as a result, the railroads often feel themselves compelled to defend all cases lest the settlement of one would only be an invitation for the commencement of another. So, also, when a man is killed, his representatives are compelled to sue, and they go through the same long and weary process, failing in proper relief to the employee or his representatives, and resulting largely in vexation and harassment to the corporation.

CONGRESS SHOULD RECOGNIZE THE HAZARDOUS NATURE OF THE EMPLOYMENT.

I believe that the Congress of the United States, in dealing with interstate commerce, should recognize the hazardous nature of the occupation, should recognize these injuries as incident to the occupation, and should provide a pension and insurance fund by these corporations which will automatically take care of these cases and relieve the courts of their determination.

THE RAILROADS SHOULD BE COMPELLED TO RESERVE A PENSION AND INSURANCE FUND.

Mr. President, the Supreme Court has determined that in the regulation of rates the corporations are entitled, after the payment of operating expenses, the payment of taxes, the payment of fixed charges, to receive a fair return upon the value of their property. I see no reason why corporations should not be compelled to set aside a certain percentage of their gross receipts, and put that percentage into a pension and insurance fund, out of which men who are injured and the families of men who are killed may be reimbursed. A charge of 1 per cent upon the gross receipts of all these corporations would mean $20,000,000 annually. A charge of a half per cent would mean $10,000,000 annually. Either of these sums invested in a pension and insurance fund in good interest-bearing securities under the supervision of the Interstate Commerce Commission would take care of these employees for all time.

THE FUND SHOULD BE CHARGED TO OPERATING EXPENSES.

Now, that charge should not be imposed in whole or in part either on the employees or the shareholders of the corporation. It should be frankly imposed upon the transportation of the country as one of the expenses of operation. Then the Interstate Commerce Commission itself, in determining what is a fair return upon the value of the roperty of such a corporation engaged in interstate commerce, would be compelled to allow as the operating expenses not only the salaries and wages of employees, but the moneys paid into this section and insurance fund. That is the rational and humane way of dealing with this entire question. It takes the employees out of court; it relieves the carriers of litigation. It recognizes the humanity of the situation, and makes the entire transportation of the country maintain this accident, pension, and insurance fund, for what is regarded and ought to be regarded as one of the risks incident to employment in the public service—risks that entitle the employees or their families to compensation in the shape of substantial and immediate relief when such employees are injured, disabled, or killed.

This is the system that is pursued in Germany. It is the system that is pursued in France. It is the system that is voluntarily pursued by some of the corporations in this country, though with the undesirable feature of contribution by the employees themselves. It is the system which ought to be made a matter of obligation upon all carriers engaged in the interstate commerce. If we should take hold of this matter properly, through a national incorporation act, we could, in the very charter of every national company, provide for this pension and insurance fund and reach this entire situation.

But, Mr. President, Congress is not yet prepared to take up the national incorporation of railroads, with all its attendant provisions relating to the safety of the employees and the creation of an insurance and pension fund, and hence, although I have not critically examined this amendment, not having had the opportunity to do so, I shall vote for it as a step in advance, trusting that whatever defects there may be in the amendment will be remedied in conference and by the action of both Houses upon the conference report.

Mr. ELKINS. Mr. President, I think it is due the Senate to state that the Interstate Commerce Committee has now before it for consideration a bill substantially of the character of the amendment offered by the Senator from Wisconsin.

It has adopted two sections of the bill. It is the House bill that came over some weeks ago, and was referred to the committee. But we have not had time to conclude its consideration.

I would ask the Senator from Wisconsin if he has seen the bill pending before the committee?

Mr. LA FOLLETTE. I will say to the Senator from West Virginia, that I have seen the bill pending before the committee, and that I am informed the committee has agreed upon a report on the House bill. I have the House bill before me with the amendments which the Interstate Commerce Committee of the Senate have adopted to it, and those amendments practically eviscerate the House bill. I have them here, and should be glad to have them incorporated in the RECORD.

Mr. ELKINS. Let me see them. [After a pause.] The amendments referred to by the Senator from Wisconsin and which have been interlined in this copy of the bill were so interlined when it was in charge of the junior Senator from Mississippi [Mr. MCLAURIN], and the amendments which have been adopted were such amendments as he proposed. The amendments to the third section have not been considered for want of time.

I think it is fair to say, although I do not know definitely, that the committee will agree to the House bill with perhaps one or two other amendments to meet this question. I have not had time to read the Senator's amendment which is before the Senate. I suppose it is substantially the same. I hardly think the amendments take all the good out of the bill, as suggested by the Senator from Wisconsin. The bill as it came from the House with the amendments already made by the committee is a very good bill. I call the attention of the junior Senator from Mississippi to those amendments.

Mr. LA FOLLETTE. I ask unanimous consent to have the bill which I sent across to the Senator from West Virginia printed in the RECORD.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Wisconsin?

Mr. MCLAURIN. Mr. President, I do not think it is proper to have the bill which the Committee on Interstate Commerce have under consideration printed in the RECORD until the committee makes a report upon the bill.

Mr. LA FOLLETTE. If there is objection, I will ask to have the bill returned to me.

The VICE-PRESIDENT. The Senator from Wisconsin withdraws his request.

Mr. FORAKER. Mr. President, there is another reason why the bill should not be incorporated in the RECORD in the way proposed, and that is, although I understand there was action taken by the committee in the way of amendments, it is not final. Some members of the committee gave notice at the meeting of the committee that they would ask the privilege of further consideration on that very question.

Mr. MCLAURIN. I so understood it and so remember the action of the committee, and that is one reason why the bill with the interlineations should not be inserted in the RECORD, because it is not the action of the committee.

Mr. NELSON. Mr. President, I ask the indulgence of the Senate for a moment. Regarding this amendment, I desire to say that I am now and have been for years in favor of remedial legislation along these lines. Whether this amendment is in proper form I am not prepared to say, but there is one thing I am clear about, and that is that it has no appropriate place on this bill. This is a bill to regulate interstate commerce, and we do not want to inject into it a proposition entirely foreign to that subject. I am ready to support and vote for a proper measure of this kind. I am not hostile to the proposition of granting employees of railroads relief in this direction if the measure is properly formulated. But I think it has no place on this bill, and I believe that in making this statement I am voicing the sentiment of many of my colleagues in this Chamber.

Mr. ELKINS. I think at the next meeting of the committee the committee will be able to report the House bill with some amendments. I agree with the Senator from Minnesota that the subject has no place on this bill. I think the House and the Committee on Interstate Commerce can be trusted to frame a bill, and I think they are quite equal——

Mr. ALDRICH. Mr. President, has not the Senator from West Virginia spoken once on this subject?

Mr. FRYE. Yes; he has.

The VICE-PRESIDENT. The Chair thinks the Senator from West Virginia is out of order.

Mr. TILLMAN. Mr. President, it will be recalled that the subject-matter of this amendment has been before the Senate once before at this session in a complaint of the Senator from Virginia that a bill of this character had been traveling back and forth from one committee to another, none of them apparently willing to take it up and consider it, and that finally it got back to the Committee on Interstate Commerce. That committee has been so engrossed with other matters, mainly the bill under consideration here, that it apparently has not had the time or been willing—I can not say which—to give this matter the attention it deserves.

I at first was opposed to this legislation, because, as I stated to my friends in South Carolina who had written me in regard to it, urging me to vote for the bill, it puts the jurisdiction of such cases in the Federal courts, and suits for damages in the Federal courts in our State (Senators are probably well aware now of my opinion on such matters) would largely be determined against the persons seeking redress for damages. But having been appealed to by those who are interested——

Mr. DANIEL. Will the Senator from South Carolina yield to me for a moment?

Mr. TILLMAN. I should like to get through, and then the Senator can go on.

Mr. DANIEL. I merely wish to make a suggestion here.

Mr. TILLMAN. Certainly.

Mr. DANIEL. Is it not true that the State courts would still have jurisdiction?

Mr. TILLMAN. I am not lawyer enough to answer the Senator.

Mr. DANIEL. I think so. That is my understanding.

Mr. TILLMAN. I therefore decided that I would vote for this measure to come out of the committee. We have had meeting after meeting called to consider this bill, and for one reason and another nothing was done except to talk over it and interline it some and to suggest amendments. I therefore am now ready to vote to put it on this bill rather than to get no bill, and while we may get something out of the committee, I fear unless we put it in this legislation it will be hung up to dry somewhere and die in conference or never get through.

Mr. BAILEY. Mr. President, if the Committee on Interstate Commerce have practically agreed upon a proposition of this kind——

Mr. TILLMAN. They have not.

Mr. BAILEY. Then it would save time and trouble to incorporate it in this bill. If they have not agreed, and if any important details of the bill are in dispute, then probably we could settle them as well here as they could be settled in the committee room.

This legislation would not have been necessary a few years ago. For well-nigh a century the Federal courts sitting in the various States administered the law of fellow-servant according to the law of the States; and if that were still the rule Congress might safely remit these questions and all similar questions for adjudication according to the laws of the several States. But something like ten years ago, or probably something like fifteen years ago, the Supreme Court of the United States, in the celebrated case of the Baltimore and Ohio Railroad Company *v.* John Baugh, refused to follow the fellow-servant doctrine as laid down by the supreme court of the State of Ohio, the case coming from that State, and they held that there is a general law of fellow-servant obtaining throughout the United States. That doctrine once established, it now becomes necessary for Congress to control it or else leave it with its wide and, as I think, improper application announced in that case.

So it seems to me that we simply in this practically go back to the rule as it existed before the decision in the John Baugh case, and I hope the amendment will be adopted.

Mr. FULTON. Mr. President, I would much prefer that a measure of this character might be considered in a separate bill, and I think it properly should be so considered. I doubt if anyone, or, at least, if many have had an opportunity to give that consideration to the provisions of this amendment that their importance demands.

Personally I am in favor of legislation doing away with the common-law rule in regard to fellow-servants. In my State that rule has been changed, and I was a member of the legislature of the State making the change when the law was enacted and voted for it. I favor the principle of the amendment. It ought not properly to be considered here, but it seems to me that the committee having in charge the fellow-servant bill should have reported it before this. It has not done so. Probably it has not been able to give it the necessary consideration. Be that as it may, the bill has not been reported to the Senate. It may or it may not be reported soon. I do not know, not being a member of that committee, what the probability is in that regard, but I do know that in my judgment some measure embodying the principle of the proposed amendment should be enacted. From a rather hasty reading of the proposed amendment, I am doubtful if it will afford the relief desired and expected by its friends, but in lieu of something better I shall support it. I am not going to vote against the principle, and I shall vote for the amendment rather than take chances of securing no legislation on the subject. I regret it has not come before the Senate as a separate measure, so that we might separately consider it. Still, I think the men who work on the railroads and risk their lives every day in endeavoring to protect the lives of the traveling public should have this reasonable and necessary protection. The extent to which the doctrine of fellow-servant has been carried in some forums has led to very great injustice. Hence I favor the adoption of this amendment.

Mr. McLAURIN. Mr. President, I do not desire to say much about the pending amendment. The Committee on Interstate Commerce has the employers' liability bill before it. I believe that is the name by which it is known. It is House bill 239, according to my recollection. The committee has not been neglectful in the consideration of the bill, but has, I think, diligently considered it, and has given hearings to those who have favored the bill and those who have opposed it. There was an argument made by attorneys who were opposing the bill as to the constitutionality of one of the sections—section 3. The committee has agreed upon all the other sections of the bill, with certain amendments, and at the last meeting of the committee it was considering section 3 at the time when the hour arrived for the meeting of the Senate, and the committee had, therefore, to rise. I think, from the expressions that were made by the members of the committee, there is a practical agreement upon that section.

Mr. President, I favor any legislation that will protect the employees not only of railroads, but of any other common carriers. I would make this apply to all common carriers engaged in interstate commerce, if we have the authority to do so, whether they be common carriers by rail or by water or by any other method. But I do not think that that bill ought to be incorporated into the bill we have now under consideration. The bill we are considering will have enough load to carry without incorporating into it bodily entire bills that have been introduced, and especially bills that have been introduced into the House and have passed the House and come to the Senate and have been considered by a Senate committee.

There is another thing about this. I believe that all the evils could be remedied by a short provision requiring the United States courts, in cases of personal injuries or in cases of controversies between citizens and common carriers engaged in the business of interstate commerce, to be controlled and governed in their judgments by the law of the State where the injury complained of occurred.

If the case referred to by the Senator from Texas [Mr. BAILEY]—the case of Baugh *v.* The Baltimore and Ohio Railroad Company—laid down a different doctrine from that, then surely if Congress has a right to enact the legislation that is sought to be enacted by this amendment, Congress will have the right to change the rule laid down by the Supreme Court, because the Supreme Court was not then passing upon any statute,

and Congress can provide that the Federal courts shall be governed by the laws of the State where the injury occurred in the trial of all these cases. I do not claim to be accurate in my recollection of the case of Baugh *v.* The Baltimore and Ohio Railroad Company, because it has been a long time since I have read it.

I will support any bill that is before Congress for the purpose of giving a proper remedy——

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from Indiana?

Mr. McLAURIN. When I shall have finished this sentence.

Mr. BEVERIDGE. Very well.

Mr. McLAURIN. I shall support any bill giving a proper remedy to any employee and put that employee upon the broadest ground for relief against any common carrier, but I will not support a measure that undertakes to incorporate into this bill a bill that will serve to load it and make it more doubtful of final enactment. Now I will yield to the Senator from Indiana.

Mr. BEVERIDGE. The Senator from Mississippi is a member of the general committee and also a member of the subcommittee having the bill in charge, I believe.

Mr. KEAN. He is not a member of the subcommittee.

Mr. BEVERIDGE. Is he not a member of the subcommittee?

Mr. McLAURIN. I am not a member of any subcommittee. There was a subcommittee appointed, but I am not a member of it and have not been.

Mr. BEVERIDGE. But the Senator is a member of the general committee?

Mr. McLAURIN. I am a member of the Committee on Interstate Commerce.

Mr. BEVERIDGE. I would not have interrupted the Senator, only I understood that he is a member of the subcommittee, and I was going to ask him, as a member of both committees, when we would get a report on the bill.

Mr. McLAURIN. I think on next Friday.

Mr. BEVERIDGE. That is the only point I wanted the Senator's time on, because if many Senators understood that the bill is to be reported to the Senate as early as this week they would much prefer to wait and vote upon the bill independently, instead of attaching it to the rate measure, where logically it does not belong. But if there is not going to be a report upon this matter at a reasonably early date, that might change the consideration, and for that reason I asked the Senator how soon he expects his committee to report back the bill.

Mr. McLAURIN. Let me be understood that I can not tell exactly when the committee will make its report.

Mr. BEVERIDGE. I wish only the Senator's opinion.

Mr. McLAURIN. I think it is reasonably certain that the committee will make a report by next Friday.

Mr. CULLOM. Will the Senator from Mississippi allow me to make one remark?

Mr. McLAURIN. Certainly.

Mr. CULLOM. I simply want to say as a member of the committee that I have no doubt the committee will report that bill at the next meeting, which will be next Friday.

Mr. BEVERIDGE. That being true——

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from Rhode Island?

Mr. McLAURIN. Certainly.

Mr. ALDRICH. I should like to ask the Senator from Mississippi if it is not true that it was understood that the final vote on the bill was to be taken at the last meeting, and the bill reported and the fact——

Mr. McLAURIN. That is right.

Mr. ALDRICH. And the fact that the Senate on Friday met at 11 prevented the attendance of members of the committee; but it was understood that last Friday the bill should be reported.

Mr. McLAURIN. We had a pretty full attendance last Friday—I believe it was last Friday.

Mr. ALDRICH. Yes; it was last Friday.

Mr. McLAURIN. Had it not been that the Senate met on that day at 11 o'clock I think the bill would have been reported.

Mr. ALDRICH. It met at the same hour the committee was called for, and I myself have no doubt whatever but that the bill will be reported at the next meeting of the committee.

Mr. CLAPP. Mr. President, I think it is unnecessary for me to say that I have favored the plan of the House bill upon this question. The public requires that railroad trains shall be run, run at a high rate of speed, run at night, and the men who operate those trains must depend upon the faithful performance of those whose duty it is to see that every instrumentality is in its place. But I doubt the wisdom of loading down the pending bill and imperiling perhaps its passage by an amendment of this character.

I have worked in season and out of season to get the other bill perfected, and had it not been that on last Friday the Senate met at 11 o'clock I have no doubt whatever but that we would have reported the bill out on that day, and I have no doubt but that we will report it out on next Friday. While I favor the bill which is before the committee I know but little of the terms of the pending amendment, and rather than to load down the pending bill and possibly jeopardize it, I shall feel constrained at this time to vote against the amendment, although heartily in spirit in favor of enacting at the present session of Congress a bill of substantially this character.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. On that I ask for the yeas and nays.

The yeas and nays were ordered and the Secretary proceeded to call the roll.

Mr. SPOONER (when his name was called). I announce my pair with the Senator from Tennessee [Mr. CARMACK].

The roll call having been concluded, the result was announced—yeas 28, nays 45, as follows:

YEAS—28.

Bacon	Culberson	Kittredge	Newlands
Bailey	Daniel	La Follette	Overman
Berry	Dubois	Latimer	Rayner
Blackburn	Frazier	McCreary	Simmons
Burkett	Fulton	Mallory	Stone
Clarke, Ark.	Gamble	Martin	Taliaferro
Clay	Gearin	Morgan	Teller

NAYS—45.

Aldrich	Cullom	Kean	Pettus
Alger	Dick	Knox	Piles
Allee	Dillingham	Lodge	Platt
Allison	Dolliver	Long	Proctor
Ankeny	Dryden	McCumber	Scott
Brandegee	Elkins	McEnery	Smoot
Bulkeley	Flint	McLaurin	Sutherland
Burnham	Foraker	Millard	Warner
Carter	Frye	Nelson	Wetmore
Clapp	Gallinger	Nixon	
Clark, Wyo.	Hansbrough	Penrose	
Crane	Hopkins	Perkins	

NOT VOTING—16.

Beveridge	Clark, Mont.	Hale	Patterson
Burrows	Depew	Hemenway	Spooner
Burton	Foster	Heyburn	Tillman
Carmack	Gorman	Money	Warren

So Mr. LA FOLLETTE's amendment was rejected.

Mr. DANIEL. I beg leave to propose an amendment, to come in on page 25 as section 8.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. At the end of section 7 add a new section, to be known as section 8, and to read as follows:

SEC. 8. Every common carrier by railroad engaged in trade or commerce in the District of Columbia, or in any Territory of the United States, or between the several States, or between any Territory and another, or between any Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be liable to any of its employees who are occupied in such trade or commerce, or, in the case of his death, to his heirs at law, for all damages which may result from the negligence or mismanagement of any of its officers, agents, or employees, or by reason of any defect or insufficiency in its cars, engines, appliances, machinery, track, roadbed, ways, or works.

In all actions hereafter brought against any such common carriers by railroad to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery where his contributory negligence was slight in comparison to that of the employer.

No contract of employment, insurance, relief benefit, or indemnity for injury or death entered into by or on behalf of any employee, nor the acceptance of any such insurance, relief benefit, or indemnity by the person entitled thereto, shall constitute any bar or defense to any action brought to recover damages for personal injuries to or death of such employee.

Nothing in this act shall be held to limit the duty of common carriers by railroad or impair the rights of their employees under the safety-appliance act of March 2, 1893, as amended April 1, 1896, and March 2, 1903.

Mr. BEVERIDGE. Mr. President, I voted——

Mr. DANIEL. I thought I had the floor on this amendment.

Mr. BEVERIDGE. Very well; I merely wanted a minute or two.

The VICE-PRESIDENT. The Senator from Virginia had taken his seat, and the Senator from Indiana rose and received recognition. The Chair will recognize the Senator from Virginia.

Mr. DANIEL. I shall delay the Senator from Indiana but a few moments.

Mr. President, I shall impose but a few moments upon the Senate's long-strained patience. As it is aware, this amendment was offered by me about six weeks ago. There are no original ideas in it. It embodies the views which have been published and discussed for several years, and which have been

several times discussed in both bodies of Congress. It is substantially based upon the House bill, which was in itself a transcript of or an embodiment of the main ideas concerning a reform and advancement in actions for damages by railroad employees injured while conducting interstate commerce.

The ideas of this amendment, Mr. President, embody a world-wide progress. It is based upon propositions which have found favor not only in the Old World, but in many of the States of this country. In my own State the equity and justice of providing a liberal method for the recovery of damages by railroad employees was so highly regarded that it was embodied in the new constitution of Virginia, and it would seem that the Virginia convention was so fortunate in its expression of ideas on this subject that its views were almost literally copied afterwards by the State of Oregon. The only substantial difference between the proposition as I have now offered it and the bill which has passed the House of Representatives, and is now under consideration by the Interstate Commerce Committee, is that I have left out the proviso, which is contained in section 3, which, as we have been told, is a subject of controversy in the committee. That proviso reads:

That upon the trial of such action against any such common carrier by railroad the defendant may set off therein any sum it has contributed toward any such insurance, relief benefit, or indemnity that may have been paid to the injured employee, or, in case of his death, to his heirs at law.

I have thought it best, Mr. President, not to involve in the general rule which we shall establish for the damages to be recovered by railway employees anything whatsoever concerning the collateral relations or contracts or engagements or understandings that those employees may have with respect to their employments and the reception of benefits from the corporation which may hire them. Considerations of that description are apt to be estimated in the gauge of wages which shall be given to the employees, and I would rather that it rest there and not involve it in the plain, direct, and positive remedy which the Federal courts and other courts administering Federal law would accord to them.

With respect to the law of negligence, there is a variation between this proposition and, as I understand it, the proposition which was submitted by the Senator from Wisconsin [Mr. LA FOLLETTE], which has just been voted down. The only change in the common rule about negligence is that if the employee has been guilty of contributory negligence it shall not bar a recovery where his contributory negligence was slight and that of the employer was gross in comparison, and that the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee. I believe that that is about as far as we should go in refining upon the general doctrine of negligence, and in going this far we tread in the steps which some of the States and some of the tribunals have already taken.

We have to thank the committee, Mr. President, for the report that it has made on this subject. In the hearings before the Committee on Interstate Commerce, in the fourth volume, I think it is—at least it is in one of the volumes which concern the liability of employers—there will be found much valuable and pertinent matter upon this subject. I will not weary the Senate in quoting cases, but I will ask to append to my remarks, for general information upon this subject, a brief synopsis which that committee has made, from page 56 to page 61, inclusive, of the laws of the States on this subject. It is apropos of this proposition and is very enlightening.

Mr. President, I have no doubt from what has been said that the committee is acting in entirely good faith on this subject, and that it is working along as fast as the weight of its numerous and great labors will permit; but now is an opportunity to pass this measure. We know not what will be its fate if we do not adopt this opportunity. It is germane to this bill, which is not a mere rate bill, but a bill to regulate interstate commerce. The laborer is worthy of his hire, and the laborer is worthy of the care of this Government, which he serves in interstate commerce, and of this whole people.

In my judgment, Mr. President, if you could put in the penitentiary and let the people see in stripes some of the big thieves of this country who are gathering riches without honest service and are plundering the possessions of widows and orphans for campaign funds and other illegitimate purposes, and extend your watchful care over all honest men who are risking their lives and giving their brain and brawn to honest and intelligent service, you would be justly applauded by all the good people of this country, and upbraided by none save those whose upbraidal is a compliment.

APPENDIX.

Kentucky.—The constitution of Kentucky makes employers liable for death due to the negligence of their employees. (Kentucky Constitution, sec. 241.)

In 1894 the legislature enacted this provision into statute.

Georgia.—Georgia entirely abolished the fellow-servant doctrine as to railroads by statute in 1856. (Georgia Code, 1895, secs. 2297, 2323.)

Iowa.—In 1862 the legislature of Iowa entirely abolished the doctrine as to railroad employees operating trains. (Iowa Code, 1897, sec. 2071.)

Kansas.—In 1874 Kansas entirely abolished it as applied to railroads. (Kansas General Statutes, 1889, par. 1251.)

Wisconsin.—In 1875 Wisconsin entirely abolished it. (Wisconsin Acts, 1875, ch. 173.)

This law was repealed by chapter 232 of the acts of 1880. In 1889 the legislature enacted a new law which was more limited. (Wisconsin Acts, 1889, ch. 438.)

In 1893 this law was repealed by chapter 220, which chapter entirely abolished the fellow-servant doctrine as to men actually engaged in switching or the running of trains. In 1903 this law was amended so as to make it broader in scope. (Wisconsin Laws, 1903, ch. 448.)

Minnesota.—In 1887 Minnesota entirely abolished the doctrine as regards railroad employees engaged in operating railroads. (Minnesota General Statutes, 1894, sec. 2701.)

Florida.—In 1887 Florida abolished the doctrine as regards railroad employment. In 1891 this law was amended somewhat, but as it now stands it practically abolishes the fellow-servant doctrine in cases where employees are injured through the running of locomotives, cars, or other machinery. (Florida Revised Statutes, 1892, p. 1008.)

Ohio.—In 1890 Ohio modified the doctrine by declaring that employees who have power to direct other employees are not fellow-servants of those employees in other departments who have not the power to direct or control in the branch or department in which they are employed. (Ohio Acts, 1890, p. 149, sec. 3.)

In 1902 another law was passed which makes all employers liable for injuries to employees which are caused by reason of any defect in the condition of the machinery connected with or used in the business of the employer when such defect was due to the negligence of any person in the service of the employer, intrusted by him with the duty of inspection, repair, or of seeing that the machinery or appliances were in proper condition. (Ohio Laws, 1902, p. 114.)

Mississippi.—In 1890 by an amendment to the constitution Mississippi greatly modified the doctrine as regards railroad employees by declaring that an employee could recover for an injury received through the negligence of a superior agent or officer, or of a person having the right to control or direct the services of the party injured, and also when the injury results from the negligence of a fellow-servant engaged in another department of labor from that of the party injured, or of a fellow-servant on another train of cars, or one engaged about a different piece of work. (Mississippi Constitution, sec. 193.)

In 1892 this provision of the constitution was adopted by the legislature as official. (Mississippi Code, 1892, sec. 3559.)

In 1896 the legislature extended the provisions of this section by making them apply against all classes of corporations.

Texas.—By act of 1891 and an amendment in 1893 Texas greatly modified the doctrine as to railroad employees by declaring that employees having the authority of superintendence, control, or command of other persons in the employment or with the authority to direct any other employee in the performance of the duty of such employee are not fellow-servants, and that employees engaged in different departments are not fellow-servants. (Texas Revised Statutes, 1895, secs. 4560 F, 4660 G, 4560 H.)

In 1897 these provisions were also made to apply to street railways. (Texas Acts, 1897, ch. 6.)

New Mexico.—In 1893 the Territory of New Mexico modified the doctrine as to railway corporations by making them liable for injuries received by employees, occurring or sustained in consequence of any mismanagement, carelessness, neglect, default, or wrongful act of any agent or any employee of such corporation, while in the exercise of their several duties, when such mismanagement, carelessness, neglect, default, or wrongful act of such employee or agent could have been avoided by such corporation through the exercise of reasonable care or diligence in the selection of competent employees, agents, or by not overworking said employees or requiring or allowing them to work an unusual or unreasonable number of hours. (New Mexico Compiled Laws, 1897, sec. 3216.)

Arkansas.—In 1893 Arkansas greatly modified the doctrine as to railroad employees by declaring that employees having the authority or superintendence, control, or command of other persons in the employment or with the authority to direct any other employee in the performance of the duty of such employee are not fellow-servants, and that employees engaged in different departments are not fellow-servants. (Arkansas Digest, 1894, secs. 6248–6250.)

South Carolina.—South Carolina, in its constitution as ratified in 1895, greatly modified the doctrine as applied to railroad labor by declaring that an employee may recover for injuries received through the negligence of another employee having the right to control or direct the services of a party injured, and also when the injury results from the negligence of a fellow-servant engaged in another department of labor from that of the party injured, or of a fellow-servant on another train of cars, or one engaged about a different piece of work.

This section of the constitution also gives the legislature the authority to extend its provisions to other classes of employees. (South Carolina Constitution, art. 9, sec. 15.)

In 1901 the legislature extended the same rights to employees of street railways. (South Carolina Laws, 1901, act 405.)

Missouri.—In 1897 Missouri greatly modified the doctrine as applied to railroads by declaring employees intrusted by such corporation with the authority of superintendence, control, or command of other persons in the employ or service of such corporation, or with the authority to direct any other servant in the performance of any duty of such servant, or with the duty of inspection or other duty owing by the master to the servant, are not fellow-servants with such employees, and by saying that employees in any department or service are not fellow-servants with employees in any other department or service of such corporation. (Missouri Acts, 1897, p. 96.)

North Carolina.—In 1897 North Carolina entirely abolished the doctrine as applied to railroads. (North Carolina Acts, 1897, vol. 2, ch. 56.)

North Dakota.—In 1899 North Dakota greatly modified the doctrine as applied to railroads by giving employees the right to recover when injured through the negligence of any other employee while engaged in switching or operating trains. (North Dakota Acts, 1899, ch. 129.)

Alabama.—In 1885 Alabama greatly modified the doctrine as applied to all classes of employment, not confining itself to railroads alone, by making employers liable for the negligence of:

(1) Persons intrusted by the employer with the duty of seeing that the way, works, machinery, or plant are in proper order.

(2) Persons who have any superintendence intrusted to them by their employer.
(3) Persons authorized to give the order or direction which occasioned the injury.
(4) Persons acting in obedience to rules, regulations, or by-laws, obedience to which caused the accident.
(5) Persons obeying particular instructions given by any person duly authorized in that behalf by the employer.
(6) Persons in charge of any signal, points, locomotives, engines, switches, cars, or trains upon a railway, or upon any part of a track of a railway. (Alabama Code, 1897, secs. 1749–1750.)

Massachusetts.—In 1887 Massachusetts greatly modified the doctrine as regards all classes of employment except domestic and farm laborers.

This law was amended in 1892, 1893, and 1894, and as it now stands makes the employer liable for the negligence for the following classes of servants:
(1) Persons intrusted by the employer with the duty of seeing that the ways, works, or machinery were in proper condition.
(2) Persons intrusted and exercising superintendence, whose sole and principal duty is that of superintendence.
(3) Persons acting as superintendent with the authority and consent of the employer.
(4) Persons in charge of any signal, switch, locomotive, engine, or train upon a railroad. (Massachusetts Acts, 1887, ch. 270; also 1893, ch. 359, and 1894, ch. 499.)

Indiana.—In 1893 Indiana greatly modified the doctrine as applied to employees of all corporations, except municipal, by declaring that such corporations are liable for the injuries received through the negligence of any person in the service of such corporation to whose order or direction the injured employee at the time of the injury was bound to conform and did conform; and where such injury resulted from the act or omission of any person done or made in obedience to any rule, regulation, or by-law of such corporation, or in obedience to the particular instructions given by any person delegated with the authority of the corporation in that behalf; also where such injury was caused by the negligence of any person in the service of the corporation who has charge of any signal, telegraph office, switch yard, shop, roundhouse, locomotive engine, or train upon a railway, or where such injury was caused by the negligence of any person, coemployee, or fellow-servant engaged in the same common service in any of the several departments of the service of any such corporation, the said person, coemployee, or fellow-servant at the time acting in the place and performing the duty of the corporation in that behalf, and the person so injured obeying or conforming to the order of some superior at the time of such injury having authority to direct. (Indiana Annotated Statutes, 1894, secs. 7083, 7085, 7087, 7089.)

Colorado.—In 1893 Colorado modified the doctrine somewhat, and in 1901 it completely abolished the doctrine as applied to all classes of labor.

Utah.—In 1896 Utah greatly modified the doctrine as regards all classes of employees by declaring that employees who are intrusted by their employers with the authority of superintendence, control, or command of other persons in the employ or service of such employer, or with the authority to direct any other employee in the performance of any duties of such employer are not fellow-servants, and that all other employees are not fellow-servants unless they are working together at the same time and place, to a common purpose, of the same grade of service, and neither of such persons are intrusted by such employer with any superintendence or control over his fellow-employees. (Utah Acts, 1896, ch. 24.)

Maryland.—In 1902 the legislature of Maryland passed a law which applies to coal and clay mines, quarries, steam and street railroads, and makes the employer liable to his employees for injuries caused through the negligence of his servants or employees, unless a certain plan of insurance, which is laid down by the statute, is adopted. (Maryland Acts, 1902, ch. 139.)

Virginia.—Section 12 of the Virginia constitution of 1902 abolished the doctrine with reference to a large class of railroad employees and permits the general assembly to enlarge this class of employees and to extend these rights to employees of any firm or corporation.

In 1902 the legislature enacted a law which greatly modified the doctrine as applied to railroad employees by making railroad corporations liable to their employees for injuries received when such injury results from the wrongful act, neglect, or default of an agent or officer of such corporation superior to the employee injured, or of a person employed by such corporation having the right to control or direct the services of such employee injured, or the services of the employee by whom he is injured; and also when such injury results from the wrongful act, neglect, or default of a coemployee engaged in another department of labor from that of the employee injured, or of a coemployee on another train of cars, or a coemployee who has charge of any switch, signal point, or locomotive engine, or who is charged with dispatching trains or transmitting telegraph or telephonic orders.

Oregon.—In 1903 the legislature of Oregon enacted a law practically word for word the Virginia statute just quoted.

Montana.—The legislature of Montana, which is now sitting, has just passed an act which completely abolishes the doctrine as applied to railroad employees.

Porto Rico.—The revised statutes of Porto Rico of 1902, section 322, provides that the employer shall be liable to the employee for injury by reason of the negligence of any person in the service of the employer who has charge of, physically controls, any signal, switch, locomotive engine, car, or train in motion, whether attached to an engine or not, upon a railroad.

Mr. BEVERIDGE. Mr. President, I desire only to say that I shall vote against this amendment, as I did against the preceding amendment, only because of the public assurance given by the Senator from Mississippi [Mr. McLAURIN], who is a member of the Interstate Commerce Committee, that the bill on this subject, now being considered by the committee, will be reported out this week; also the public assurance which I understood the Senator from West Virginia [Mr. ELKINS], the chairman of the committee, gave that the bill would be reported out this week; also the assurance which the Senator from Illinois [Mr. CULLOM] gave, and also the assurance of the Senator from New Jersey [Mr. KEAN], who is the chairman of the subcommittee having the bill in charge. With the assurance of all these Senators, publicly made and also privately made, Mr. President, I myself can not get my consent, and I know that several other Senators can not get their consent, to vote for this bill as an amendment to the pending rate bill. It has no logical connection with rate making.

While I favor, and there are other Senators on this side who quite as earnestly and sincerely favor, some legislation of this kind which will be effective, as does any Senator on the other side of this Chamber, yet it does not appear to be necessary to vote for such an illogical proposition as that as an amendment to the rate bill, when, I repeat, we have the assurance, publicly and privately given, not by one, but by several members of the committee having this bill in charge, that that bill will be reported to the Senate during the present week, and that, having been reported, it will be called up for consideration.

There being, therefore, Mr. President, assurance that the Senate will have an opportunity to vote upon this precise amendment in the form in which the Senate should act upon it—namely, as a separate proposition—I have not found it proper or right to vote for either of these amendments to the rate bill, with which logically they have no connection.

Mr. GALLINGER. Mr. President, I offer the amendment to the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. At the end of the proposed amendment of Mr. DANIEL it is proposed to add the following:

Provided, however, That upon the trial of such action against any such common carrier by railroad the defendant may set off therein any sum it has contributed toward any such insurance, relief benefit, or indemnity that may have been paid to the injured employee, or, in case of his death, to his heirs at law.

Mr. GALLINGER. Mr. President, I offer that amendment because I think it ought to accompany the amendment which the Senator from Virginia [Mr. DANIEL] has submitted; but I shall vote against the amendment submitted by the Senator from Virginia. If we are to modify the old and well-established doctrine of contributory negligence in favor of the employee—and I am not expressing any opinion as to the wisdom of that—in my judgment we ought at least to protect the corporation to the extent that the corporation has contributed to the relief of the injured employee in the line indicated by the amendment I have offered to the amendment.

Mr. FORAKER. Mr. President, I want to call attention to the fact that the bill which is pending in the Interstate Commerce Committee, the bill which has passed the House, is not identical with that which has just now been offered as an amendment by the Senator from Virginia [Mr. DANIEL]. The bill as it is pending before the Interstate Commerce Committee does contain the provision—and I think very properly so—that the Senator from New Hampshire [Mr. GALLINGER] has just offered.

Mr. DANIEL. The Senator may not have heard me, but I so stated myself.

Mr. FORAKER. Namely, that if the carrier has paid the benefit, in case of the liability being established in the court, it shall have a credit to the amount of such payment. I understand that kind of provision is entirely satisfactory to those who are urging the legislation in question.

The bill as it passed the House and is now pending before the Interstate Commerce Committee is not identical with the amendment offered by the Senator from Virginia in other respects, but, inasmuch as the bill is shortly to be reported from the committee, I presume it is unnecessary to discuss the measure here. I felt, in view of the care some Senators were taking to state that assurance had been given, upon which they were relying, that they will have a chance to vote on this proposition at another time, I would call attention to the fact that it is not precisely the same proposition nor is it likely to be the same proposition.

I want to say, inasmuch as I have said this much, that I heartily favor legislation of this general character; but there is a very serious question raised by this proposed legislation as it passed the House with respect to these benefit societies. It is agreed, as I understand, by everybody that they have been of the greatest good, and that employees have been much helped by them, and there is a very serious question as to whether we are not destroying their efficiency by this kind of legislation. I do not know whether I will agree with that proposition. We had only reached the consideration of it when our committee was compelled to rise at its last meeting to attend the session of the Senate. It is in order that we may consider that proposition that we are to have another meeting this week. What the action of the committee will be I do not know. I may favor it or I may not favor it. I have not had any time to examine the arguments that have been made pro and con with respect

to it, and I do not want anybody to give any assurance, so far as I am concerned, as to the form in which this measure will be reported from that committee.

I do not entirely agree with some of my colleagues on the committee—a majority of them, perhaps—as to the amendment which it has been stated has been adopted. I reserved the right, when the committee took that action and we were compelled to rise without making a report, to further consider it and to ask the committee to consider it again at its next meeting. I was not satisfied with it then; I am not satisfied with it now; but when we further consider it I may change my mind about it. I only want to reserve the right to do so. I may disappoint some people, but I will not mislead anybody.

Mr. DOLLIVER. Mr. President, for many years the State of Iowa has had in its legislation provisions similar to these amendments, and I have felt ever since this question has been before the Senate that legislation involving these changes in the common-law liability of employers should be adopted. I have hesitated to vote to put the provisions upon this bill in view of the legislative situation.

The House of Representatives has discharged its duty according to its lights in respect to both these bills, and I am not sure what attitude the House would take toward the Senate if they should find their own bill left without consideration here, and similar propositions placed upon the rate bill and sent into conference. I am not sure that we would not impede rather than promote the enactment of the desired legislation.

I have not had the opportunity in the recent meetings of the Interstate Commerce Commission to participate in their deliberations, on account of the pressure of other committees of which I am a member which have been in session practically every day during the last week or ten days. Therefore, I have not been in a position to know exactly what the attitude of the Interstate Commerce Committee is; but I have received a general impression that within a few days the House bill will be presented to the Senate. It does not particularly matter in what form it is presented here; every question that is involved in the legislation will be brought to a test vote in the Senate when that bill is considered. If I thought there would be any delay in reporting or in considering that bill in the Senate, I would certainly be disposed to vote for this amendment.

My conviction is that the bill in a substantial form will be reported, and if any inward parts have been removed from it by the act of the committee, they can be restored on this floor, and undoubtedly will be. Therefore, considering in a general way the best method of expediting this legislation, I have reached the conclusion that it would be better on the whole not to attach these provisions to a bill where they do not strictly belong, but from which they may be detached under circumstances that we will not be entirely able to control.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER] to the amendment of the Senator from Virginia [Mr. DANIEL].

The amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Virginia [Mr. DANIEL].

The amendment was rejected.

Mr. McLAURIN. I offer the amendment which I send to the desk. I do not know exactly the proper place where it should be inserted, but I think it should be at the place where the amendment offered by the Senator from Virginia [Mr. DANIEL] would have come in.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add to section 7 the following:

In the trial of any case in a court of the United States to recover damages for personal injuries the court shall be governed, in determining liability or nonliability, by the laws of the State where such injuries were received.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Mississippi [Mr. McLAURIN].

The amendment was rejected.

The VICE-PRESIDENT. The Secretary will read the next section of the bill.

The Secretary read section 8 of the bill, as follows:

SEC. 8. That a new section be added to said act at the end thereof, to be numbered as section 24, as follows:

"SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of seven members with terms of seven years, and each shall receive $10,000 compensation annually. The qualifications of the Commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1911, one for a term expiring December 31, 1912. The terms of the present Commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present Commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional Commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Not more than four Commissioners shall be appointed from the same political party."

Mr. LODGE. I offer the amendment which I send to the desk as a substitute for section 8. I have modified it somewhat from the printed form.

Mr. CLAY. Will the Senator tell me on what page of the printed amendments his amendment can be found?

Mr. PROCTOR. On page 157 of the pamphlet amendments.

Mr. LODGE. Yes; on page 157.

The VICE-PRESIDENT. The amendment proposed by the Senator from Massachusetts is a substitute for section 8 of the bill. The amendment will be stated.

The SECRETARY. On page 25, line 6, after the words "Sec. 24," it is proposed to strike out the rest of the section and to insert:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission. Said Commission shall consist of nine members, one for and from each judicial circuit of the United States. Not more than five members of said Commission shall be of the same political party. At least three of said Commission shall be lawyers of good and regular standing at the bar. Three members of said Commission shall be appointed for three years, three shall be appointed for six years, and three for nine years, and all subsequent appointments made on the expiration of a term of service shall be for nine years. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office, and vacancies caused by death, removal, or resignation shall be filled by the President, by and with the advice and consent of the Senate, by appointments for the remainder of the unexpired terms. The members of the Interstate Commerce Commission shall receive $12,000 compensation annually, and the Chairman of the Commission, who shall be a lawyer, $12,500.

No person owning stock or bonds of any common carrier subject to the provisions of this act, or who is in any manner pecuniarily interested therein, shall enter upon the duties of such office or at any time hold the same. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. All laws and parts of laws conferring powers and imposing duties upon or otherwise relating to the heretofore-existing Interstate Commerce Commission shall continue in full force and effect and be applicable to the Interstate Commerce Commission established by this act, except as herein otherwise provided.

All the proceedings pending before the heretofore-existing Interstate Commerce Commission at the time this act shall take effect shall, without break or interruption, be deemed to be pending before the Commission established by this section, and shall continue on to conclusion before the new Commission.

Mr. HALE. I offer the amendment I send to the desk.

The VICE-PRESIDENT. The Senator from Maine proposes an amendment, which will be stated.

The SECRETARY. In line 6 of the amendment, on page 1, after the words "United States," it is proposed to insert "who shall have been for two years immediately preceding his appointment an actual resident in such circuit."

Mr. LODGE. I have no objection to the amendment. I will modify my amendment so as to accept it.

Mr. DANIEL. I ask that the amendment to the amendment may again be stated.

The VICE-PRESIDENT. The Senator from Massachusetts modifies his amendment in accordance with the suggestion of the Senator from Maine.

Mr. HALE. I do not wish to yield the floor, Mr. President.

The VICE-PRESIDENT. The Senator from Maine is entitled to the floor. The Secretary will state the modification.

The SECRETARY. On page 1 of the printed amendment of the Senator from Massachusetts, line 6, after the words "United States," insert "who shall have been for two years immediately preceding his appointment an actual resident in such circuit;" so that if amended it will read:

Said Commission shall consist of nine members, one for and from each judicial circuit of the United States, who shall have been for two years immediately preceding his appointment an actual resident in such circuit.

The VICE-PRESIDENT. The Chair understands the Senator from Massachusetts to accept the modification.

Mr. HALE. Mr. President, I wish to say a word. I look upon section 8 as one of the most important in the bill. In fact, I think when we reach it we are approaching what I should call the constructive part of the measure. The attention of the Senate has been largely directed to the other end—all these proceedings, and to the final tribunal that shall settle the decisions made by the initiating commission. We are substantially out of the woods with regards to that part of the measure—the final tribunal. But to me that is not so important as the Commission that is to initiate and consider all of the great matters raised by this bill—the Interstate Commerce Commission.

I want that Commission to be dignified by our action, to be made strong, to be one that will command the respect of the public, of the corporations, of the carriers, and of the courts. I agree fully with the Senator from Massachusetts [Mr. LODGE] that it should be made up of a member at least from each judicial circuit; that the salary should be so large that it will command the very best talent, and that when the Commission is organized it will set to work in a way to command the respect of everybody connected with the matter.

I do not mean to censure the present Commission; it has done the best it could; but it is not up to the magnitude of the task devolved upon the Commission. I would have every man selected from each circuit to be of the very first class; if a lawyer, the very best; if a business man, the very best; and would pay him accordingly, $10,000 or $12,000, if necessary. The consideration is a bagatelle compared with the result; and when you get a Commission of that kind, you have solved almost every question that will arise.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Illinois?

Mr. HALE. I hope the Senator will not interrupt me, because I have only a little time.

I could, without much imagination, picture a Commission of the kind that I am feebly trying to describe and trying to secure here—so strong, so complete in its power and in its action, that first the carriers, the railroads, would think twice before they attempted to disturb its action. Moreover, the courts would hesitate before interfering with the action of a great tribunal such as we ought not to adjourn without establishing.

I have been almost heretical upon some matters connected with this subject. I do not want, Mr. President, to see the court the absolute rate-fixing power. I do not think that is good legislation. I want a tribunal, the Interstate Commerce Commission, that is so great, and will be so conservative and yet so complete in its action, that it will be the rate-fixing power. I want a tribunal that will be acknowledged by everybody—the roads, the lawyers, the courts, the people—as competent to deal with these great subjects, and so competent that no one will lay rude hands upon its findings, unless under the greatest press of conditions and where it is impossible that there shall not be an appeal taken.

Now, to do that certain things are requisite. The Senator from Massachusetts has covered them in the thought he must have had which inspires his amendment. You can not get a great commission without paying them to correspond with the dignity and the work and the service. Twelve thousand dollars is very large in our scale, but, as I have said, and I do not wish to repeat, it is nothing commensurate with the importance of getting the best man. I would have him a resident, and my amendment provides that he shall have been for two years an actual resident of the circuit from which he is appointed. I want no importations of favorites, or whoever they may be, into one of these judicial circuits. I want the member of the circuit to be to the manner born and carrying the confidence of the circuit which he represents. I want no more such performances as this country witnessed immediately after reconstruction, when there were forced upon the South a pack of northern judges who never commanded confidence, but were the reproach of the era in which they lived, and who gradually disappeared, to be succeeded by natives, by residents, by citizens of the States or circuits or districts for which they were appointed. Hardly one of those appointments has survived. In rare cases the merit, the integrity, the ability of the incumbent may have carried him through to the present day. There may be one or two such instances, but in such instances they lacked the moral force that comes from being residents and citizens of the district or circuit for which they were appointed.

I think if I should go on and take more time I would only repeat. I hope we shall not leave this great subject until we have dealt with it in the right way and have provided this tribunal, which will be found to be all that it ought to be—the solvent in nine cases out of ten that arise.

Mr. BACON. As the Senator from Maine indicates that he does not desire to proceed further, I wish to ask him a question.

Mr. HALE. As I am substantially through, if the Senator from Georgia desires to ask me a question I will not take my seat.

Mr. BACON. I desire to ask the Senator upon what idea the author of this amendment, who seems to be in accord with the Senator from Maine, distributes these appointees by circuits? What is the rule in the Senator's mind which would indicate that that is a proper distribution? The Senator will bear in mind that there have been very great changes since the circuits were originally organized.

Mr. HALE. If we had time and could divide the country into nine circuits and determine what States should be included in each circuit, I have no doubt we could get a juster distribution by circuits than at present. But the apparent method was to accept the circuits as they are laid out. I appreciate the disparity of the circuits as to extent, as to territory, as to population.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Texas?

Mr. HALE. With pleasure.

Mr. BAILEY. Could not that be obviated by providing that they should be appointed from transportation districts? I did have an amendment here dividing the country into nine transportation districts, including in each the States by name. I divided them as nearly as possible on the basis of population and railroad mileage, and it seemed to me to make a very just and fair arrangement. Now, if we should strike out the expression "judicial circuits of the United States" and insert "transportation districts" and send the bill to conference in that shape, the conferees would be compelled to complete it by providing that "the United States, for the purposes of this act, is hereby divided into nine transportation districts, to be composed as follows:" First, the following States, and second, third, fourth, and on, and then provide the machinery for the appointment, and otherwise, just as it is in this. I believe an amendment of that kind would be free from the objection that lies against identifying the transportation districts with the present judicial circuits.

Mr. HALE. I agree with the Senator; it would be a better way. I can not speak for the Senator from Massachusetts, who has offered the original amendment, but we are trying to get good legislation, fair legislation. I had not thought of the plan that the Senator from Texas suggests, about dividing the country into transportation districts. It seems to me there is great force in it. But we ought to do that here and provide what they shall be, how the appointments shall be made, and the qualifications, and then leave with the conferees its adjustment to the bill. This is so important that I do not think——

Mr. SCOTT. Will the Senator allow me to ask him a question?

Mr. HALE. Yes.

Mr. SCOTT. Does not the Senator from Maine think that in providing for these Commissioners it would be well to provide that one or more of them should be men thoroughly familiar with traffic and railroad operation, so that we might have practical men on the Commission?

Mr. HALE. I think the amendment of the Senator from Massachusetts is so embracing that it covers it. That is a matter of detail.

The VICE-PRESIDENT. The Chair must inform the Senator from Maine that his time has expired.

Mr. HALE. I am very glad of it.

Mr. ELKINS. I have an amendment to offer to the amendment of the Senator from Massachusetts.

The VICE-PRESIDENT. The Senator from West Virginia proposes an amendment to the amendment.

Mr. BAILEY. I thought there was an amendment to the amendment pending.

Mr. BLACKBURN. It was accepted.

The VICE-PRESIDENT. The Senator from Massachusetts accepted the amendment proposed by the Senator from Maine.

Mr. BAILEY. If I had known that I would have offered the amendment I suggested.

Mr. ELKINS. I move to insert in line 10, page 2, after the word "dollars," the words:

> And the salary of the secretary of the Commission shall be $6,000 per annum; that of the assistant secretary, $4,000, and that of the chief clerk, $3,000.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from West Virginia to the amendment.

Mr. FORAKER. Before the amendment is voted on I wish to make some remarks applicable to this general proposition. I do not want to oppose specifically the amendment the Senator from West Virginia has offered, but I do want to oppose the proposition to increase the number of Interstate Commerce Commissioners. I call attention, in the first place, to Appendix M of the hearings before the Interstate Commerce Committee of the Senate, and I ask that it may be embodied in the RECORD, without reading, as a part of my remarks.

The VICE-PRESIDENT. Without objection, it is so ordered.

Appendix M is as follows:

APPENDIX M.—*Hearings before the Committee on Interstate Commerce, United States Senate, in special session, pursuant to Senate resolution No. 288, Fifty-eighth Congress, third session.*

TABLE FURNISHED BY THE INTERSTATE COMMERCE COMMISSION IN RESPONSE TO A LETTER OF SENATOR ELKINS, DATED JUNE 8, 1905, SHOWING THE FOLLOWING FACTS RELATIVE TO FORMAL COMPLAINTS BEFORE THE COMMISSION: (1) TITLE OF CASE, (2) DATE FILED, (3) DATE SUBMITTED, (4) DATE DECIDED, (5) COMPLIANCE OR NONCOMPLIANCE BY CARRIERS, AND (6) DATE SUIT WAS INSTITUTED IN CIRCUIT COURTS.

INTERSTATE COMMERCE COMMISSION,
Washington, November 21, 1905.

Hon. S. B. ELKINS,
Chairman Committee on Interstate Commerce,
United States Senate, Washington, D. C.

SIR: Complying with the request as set forth in your letter of June 8 for a statement showing, with reference to cases decided by the Commission—

1. Date of the application for relief.
2. Date of the argument after evidence has been taken.
3. Date of the decision of the Commission.
4. Whether the decision was obeyed by the carrier.
5. If not obeyed, whether a proceeding was instituted to enforce the decision; and if so, the date when such proceeding was instituted—

the Commission has had the information compiled in the form of a table, which is inclosed. The table shows the date when each complaint was filed; the date when each case was finally submitted upon hearing of testimony simply or upon argument or briefs; the date of the decision of the Commission; whether the decision was obeyed; and if not, when any proceeding to enforce the order was commenced in the circuit court.

Very respectfully,

MARTIN A. KNAPP,
Chairman.

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or noncompliance.	Date suit instituted in circuit court.	Remarks.
W. M. Holbrook et al. *v.* St. Paul, Minneapolis and Manitoba R. R.	Apr. 18, 1887	July 6, 1887	July 14, 1887	Complaint dismissed		
M. A. Fulton *v.* Chicago, St. Paul, Minneapolis and Omaha R. R.	Apr. 26, 1887	July 14, 1887	July 20, 1887	do		
Ralph W. Thacher *v.* Delaware and Hudson Canal Co. et al.	Apr. 23, 1887	July 21, 1887	July 25, 1887	do		
Nathaniel W. Howell *v.* New York, Lake Erie and Western R. R. et al.	do	May 13, 1888	Sept. 24, 1888	do		
Burton Stock Car Co. *v.* Chicago, Burlington and Quincy Rwy. et al.	May 6, 1887	June 23, 1887	July 25, 1887	No order issued		
F. D. Harding *v.* Chicago, St. Paul, Minneapolis and Omaha Rwy.	May 18, 1887	July 14, 1887	July 20, 1887	Complaint dismissed		
Associated Wholesale Grocers *v.* Missouri Pacific Rwy. Co.	May 19, 1887	July 22, 1887	July 25, 1887	do		
Traders and Travelers' Union *v.* Philadelphia and Reading R. R. Co. et al.	May 21, 1887	July 15, 1887	do	do		
Leverett Leonard *v.* Union Pacific R. R. Co.	do	Oct. 18, 1887	Oct. 18, 1887	do		
Chicago and Alton R. R. Co. *v.* Pennsylvania R. R. Co.	May 23, 1887	June 16, 1887	July 14, 1887	do		
Chicago and Alton R. R. Co. *v.* Pennsylvania Co.	do	do	do	do		
Chicago, Rock Island and Pacific Rwy. Co. *v.* New York Central and Hudson River R. R.	do	June 17, 1887	do	do		
Boston and Albany R. R. Co. *v.* Boston and Lowell R. R. Co. et. al.	May 24, 1887	Sept. 3, 1887	Sept. 20, 1887	Order complied with		
Do	do	do	do	do		
Providence Coal Co. *v.* Providence and Worcester R. R. Co.	May 25, 1887	June 19, 1887	July 23, 1887	do		
Michigan Central R. R. Co. *v.* Chicago and Grand Trunk R. R. Co.	do	June 15, 1887	July 25, 1887	do		
Louis Larrison *v.* Chicago and Grand Trunk R. R.	do	do	do	do		
Keith & Wilson *v.* Kentucky Central R. R. Co. et al.	May 26, 1887	July 20, 1887	Oct. 21, 1887	do		
E. B. Raymond *v.* Chicago, Milwaukee and St. Paul R. R. Co.	do	Sept. 13, 1887	Nov. 21, 1887	do		
William H. Councill *v.* Western and Atlantic R. R. Co.	May 21, 1887	Aug. 5, 1887	Dec. 3, 1887	Order not complied with		Complainant subsequently began suit for damages. The controversy was settled between the parties, but the Commission has not been notified how the compromise was effected.
George M. Jackson *v.* St. Louis, Arkansas and Texas Rwy. Co.	June 8, 1887	Oct. 12, 1887	Oct. 12, 1887	Complaint dismissed		
B. S. Crews et al. *v.* Richmond and Danville R. R. Co. et al.	do	Nov. 15, 1887	Feb. 15, 1888	do		
Boards of Trade Union of Farmington et al. *v.* Chicago, Milwaukee and St. Paul R. R. Co.	June 11, 1887	Sept. 14, 1887	Nov. 2, 1887	Order complied with		
W. U. Smith *v.* Northern Pacific R. R. Co.	June 13, 1887	Oct. 4, 1887	Nov. 1, 1887	do		
Milton Evans *v.* Oregon Rwy. and Navigation Co.	June 15, 1887	Oct. 12, 1887	Dec. 3, 1887	do		
William H. Reed *v.* Oregon Rwy. and Navigation Co.	June 21, 1887	do	do	do		
I. Friend & Son *v.* Southern Pacific Co. et al.	June 24, 1887	Mar. 22, 1888	Aug. 31, 1888	Complaint dismissed		
David F. Allen et al. *v.* Louisville, New Albany and Chicago Rwy. Co.	June 30, 1887	Sept. 20, 1887	Oct. 31, 1887	do		
Adolph Ottinger *v.* Southern Pacific Co.	July 5, 1887	July 23, 1887	July 23, 1887	do		
William H. Heard *v.* Georgia R. R. Co	July 6, 1887	Dec. 15, 1887	Feb. 15, 1888	Order not complied with	Nov., 1891	
W. O. Harwell et al. *v.* Columbus and Western R. R. Co. et al.	do	Oct. 19, 1887	Dec. 3, 1887	Order complied with		
Associated Wholesale Grocers *v.* Missouri Pacific Rwy.	July 7, 1887	July 22, 1887	July 25, 1887	Complaint dismissed		
George Rice *v.* Louisville and Nashville R. R. Co.	July 22, 1887	Jan. 18, 1888	Feb. 23, 1888	Order complied with		
George Rice *v.* St. Louis, Iron Mountain and Southern Rwy. Co.	do	do	do	do		
George Rice *v.* Mobile and Ohio R. R. Co	do	do	do	do		
George Rice *v.* Cincinnati, New Orleans and Texas Pacific Rwy.	do	do	do	do		
George Rice *v.* Cincinnati, New Orleans and Texas Pacific Rwy. et al.	do	do	do	do		
George Rice *v.* Mississippi and Tennessee R. R. Co.	do	do	do	do		
George Rice *v.* Newport News and Mississippi Valley Co. et al.	do	do	do	do		
Do	do	do	do	do		
George Rice *v.* Illinois Central R. R. Co	do	do	do	do		
Boston Chamber of Commerce *v.* Lake Shore and Michigan Southern Rwy. et al.	do	Nov. 17, 1887	Feb. 15, 1888	Complaint dismissed		
Boston Chamber of Commerce *v.* Lake Shore and Michigan Southern Rwy.	do	do	do	do		
Boston Chamber of Commerce *v.* New York Central and Hudson River R. R. Co.	do	do	do	do		
F. B. Thurber et al. *v.* New York Central and Hudson River R. R. et al.	Aug. 1, 1887	Feb. 12, 1889	Mar. 14, 1890	Order complied with		
Thomas L. Greene *v.* New York Central and Hudson River R. R. et al.	do	do	do	do		
Francis H. Leggett & Co. *v.* Baltimore and Ohio Railroad Co. et al.	do	do	do	do		
Vermont State Grange *v.* Boston and Lowell R. R. Co. et al.	Aug. 5, 1887	Sept. 3, 1887	Sept. 20, 1887	do		

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or noncompliance.	Date suit instituted in circuit court.	Remarks.
Business Men's Association of Minnesota *v.* Chicago and Northwestern Rwy. Co.	Sept. 3,1887	Mar. 19,1888	June 20,1888	Complaint dismissed		
Business Men's Association of Minnesota *v.* Chicago, St. Paul, Minneapolis and Omaha R. R. et al.	Sept. 5,1887	.....do	.....do	.....do		
Manufacturers and Jobbers' Union of Mankato *v.* Minneapolis and St. Louis Rwy. Co.	.....do	Dec. 17,1888	June 14,1890	No order issued		
James C. Savery & Co. *v.* New York Central and Hudson River R. R. et al.	.....do	July 20,1888	Nov. 9,1888	Complaint dismissed		
John D. Heck et al. *v.* East Tennessee, Virginia and Georgia Rwy. et al.	Sept. 8,1887	Dec. 9,1887	Feb. 15,1888	Order complied with		
Raymond Bros. & Co. *v.* Burlington and Missouri River R. R. Co. et al.	Sept. 22,1887	Mar. 22,1888	Aug. 31,1888	Complaint dismissed		
William C. Scofield et al. *v.* Lake Shore and Michigan Southern Rwy.	Sept. 27,1887	May 2,1888	July 19,1888	Order complied with		
Plummer, Perry & Co. *v.* Union Pacific Rwy. Co. et al.	Oct. 3,1887	Mar. 22,1888	Aug. 31,1888	Complaint dismissed		
John H. Martin and M. H. Martin *v.* Southern Pacific Co. et al.	Oct. 4,1887	Dec. 19,1887	May 17,1888	No order issued		
W. B. Farrar & Co. *v.* East Tennessee, Virginia and Georgia Rwy. Co. et al.	Oct. 12,1887	Jan. 11,1888	Feb. 15,1888	Order complied with		
James Pyle & Sons *v.* East Tennessee, Virginia and Georgia Rwy. Co.	Oct. 14,1887	Dec. 8,1887	.....do	.....do		
T. J. Reynolds *v.* Western New York and Pennsylvania Rwy. Co.	Oct. 17,1887	Dec. 7,1887	Jan. 13,1888	.....do		
Riddle, Dean & Co. *v.* Baltimore and Ohio R. R. Co.	Oct. 19,1887	Feb. 1,1888	Feb. 23,1888	Complaint dismissed		
Riddle, Dean & Co. *v.* Pittsburg and Lake Erie R. R. Co.	.....do	Dec. 8,1887	Jan. 17,1888	.....do		
Lincoln Board of Trade *v.* Burlington and Missouri River R. R. Co.	Nov. 11,1887	May 23,1888	Aug. 11,1888	.....do		
Lincoln Board of Trade *v.* Missouri Pacific Rwy. Co.	.....do	.....do	.....do	.....do		
New Orleans Cotton Exchange *v.* Cincinnati, New Orleans and Texas Pacific R. R.	.....do	Mar. 6,1888	Nov. 26,1888	Order complied with		
Euclid Martin et al. *v.* Chicago, Burlington and Quincy R. R. et al.	Nov. 16,1887	Apr. 10,1888	June 19,1888	Complaint dismissed		
Riddle, Dean & Co. *v.* New York, Lake Erie and Western R. R. et al.	Nov. 26,1887	Feb. 1,1888	Feb. 24,1888	No action by carriers necessary.		
John H. Nicolai *v.* Pennsylvania R. R. Co	Nov. 28,1887	Apr. 24,1888	July 23,1888	Order not complied with		Suits for damages decided adversely to complainants.
J. Parkhurst & Co. *v.* Pennsylvania R. R. Co	.....do	.....do	.....do	.....do		Do.
Delaware State Grange *v.* New York, Philadelphia and Norfolk R. R. Co.	Dec. 2,1887	May 4,1890	Apr. 13,1891	.....do	Aug.,1892	
Detroit Board of Trade *v.* Grand Trunk Rwy. Co. et al.	Dec. 11,1887	July 31,1888	Oct. 22,1888	Complaint dismissed		
In the Matter of the Express Business	Apr. 4,1887	Oct. 25,1887	Dec. 28,1887	No order issued		
Kentucky and Indiana Bridge Company *v.* Louisville and Nashville R. R. Co.	Feb. 10,1888	Mar. 29,1888	Aug. 2,1888	Order not complied with	Sept.,1888	
Rice, Robinson & Witherop *v.* Western New York and Pennsylvania Rwy. Co. et al.	Feb. 18,1888	Feb. 22,1890	Sept. 5,1890	Order complied with		
Chamber of Commerce of Milwaukee *v.* Flint and Pere Marquette R. R. Co. et al.	Feb. 21,1888	Dec. 5,1888	Feb. 19,1889	Complaint dismissed		
William P. Rend *v.* Chicago and Northwestern Rwy. Co.	Mar. 19,1888	Oct. 22,1888	Jan. 26,1889	.....do		
Michigan Congress Water Co. *v.* Chicago and Grand Trunk Rwy. Co.	Mar. 26,1888	Feb. 5,1889	Mar. 23,1889	.....do		
Worcester Excursion Car Co. *v.* Pennsylvania R. R. Co.	Apr. 3,1888	Oct. 15,1888	Apr. 23,1890	.....do		
New York Produce Exchange *v.* New York Central and Hudson River R. R. Co. et al.	Apr. 18,1888	Aug. 18,1888	June 19,1889	Order complied with		
Henry McMorran & Co. *v.* Chicago and Grand Trunk Rwy. Co. et al.	Apr. 21,1888	Apr. 15,1889	Sept. 25,1889	.....do		
T. M. C. Logan et al. *v.* Chicago and Northwestern Rwy. Co.	May 8,1888	July 26,1888	Mar. 22,1889	.....do		
Frank L. Hurlburt *v.* Pennsylvania R. R. Co	.....do	July 17,1888	July 20,1888	.....do		
Frank L. Hurlburt *v.* Lake Shore and Michigan Southern Rwy. Co.	.....do	.....do	.....do	.....do		
Spartanburg Board of Trade *v.* Richmond and Danville R. R. Co. et al.	May 9,1888	July 20,1888	Oct. 8,1888			Decision of Commission continued case indefinitely, unless further proof should be submitted by the parties.
C. H. Griffee *v.* Burlington and Missouri R. R. Co. in Nebraska.	May 10,1888	July 27,1888	.....do	Complaint dismissed		
New Jersey Fruit Exchange *v.* Central R. R. Co. of New Jersey et al.	May 17,1888	July 11,1888	July 23,1888	.....do		
Imperial Coal Co. et al *v.* Pittsburg and Lake Erie R. R. Co. et al.	May 28,1888	Jan. 11,1889	Mar. 23,1889	.....do		
James F. Slater *v.* Northern Pacific R. R. Co	June 6,1888	July 27,1888	Nov. 23,1888	.....do		
In re Chicago, St. Paul and Kansas City Rwy. Co.	.....do	Aug. 21,1888	Sept. 19,1888	Order complied with		
Little Rock and Memphis R. R. Co. *v.* East Tennessee, Virginia and Georgia R. R. Co. et al.	Aug. 29,1888	Jan. 14,1889	Mar. 25,1889	Complaint dismissed		
Hostetter & Co. *v.* Pennsylvania Co. et al	Sept. 12,1888	Feb. 11,1889	Feb. 23,1889	.....do		
Stone & Carten *v.* Detroit, Grand Haven and Milwaukee Rwy. Co.	Sept. 24,1888	Jan. 29,1889	Apr. 26,1890	Order not complied with.	Nov.,1891	
Coxe Brothers & Co. *v.* Lehigh Valley R. R. Co	Oct. 19,1888	Apr. 12,1889	Mar. 13,1891	.....do	May, 1891	
In re Tariffs and Classifications of Atlanta and West Point R. R. Co. et al.	Oct. 22,1888	Dec. 20,1888	Mar. 30,1889	Order complied with		
In re Tariffs of the Trans-Continental Lines	Sept. 1,1888	Oct. 24,1888	Oct. 24,1888	No order issued		
Independent Refiners' Association *v.* Western New York and Pennsylvania R. R. Co. et al.	Dec. 4,1888	Sept. 23,1891	Nov. 14,1892	Order not complied with	May, 1896	Delay to bring suit in court caused by time taken up in proving damage claims.
Do	.....do	Sept. 16,1891	.....do	.....do	.....do	Do.
Putnam P. Bishop *v.* Florida Rwy. and Navigation Co.	Dec. 17,1888	May 1,1889	May 1,1889	Complaint dismissed		
James A. Harris *v.* Florida Rwy. and Navigation Co. et al.	.....do	.....do	.....do	.....do		
L. Lippman & Co. *v.* Illinois Central R. R. Co.	Dec. 1,1888		Jan. 3,1889	No order		
John P. Squire & Co. *v.* Michigan Central R. R. Co. et al.	Jan. 19,1889	June 4,1890	Apr. 21,1891	Order complied with		
William L. Rawson *v.* Newport News and Mississippi Valley Co.	Jan. 22,1889	June 20,1889	Nov. 13,1889	Complaint dismissed		
In re Passenger Tariffs and Rate Wars		Dec. 11,1888	Jan. 25,1889	No order issued		
Independent Refiners' Association *v.* Pennsylvania Railroad Co. et al.	Jan. 30,1889	Sept. 16,1891	Nov. 14,1892	Order not complied with	May,1896	Do.
William H. Heard *v.* Georgia R. R. Co	Feb. 9,1889	Apr. 10,1889	May 8,1889	.....do	Nov.,1891	

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or noncompliance.	Date suit instituted in circuit court.	Remarks.
James & Abbott *v.* East Tennessee, Virginia and Georgia Rwy. Co.	Feb. 18, 1889	May 2, 1889	Sept. 25, 1889	Order complied with		
Board of Trade of Chicago *v.* Chicago and Alton R. R. Co. et al.	Feb. 27, 1889	Nov. 11, 1889	Oct. 16, 1890	do		
Abiel Leonard *v.* Chicago and Alton R. R. Co.	Mar. 14, 1889	Aug. 15, 1889	Sept. 25, 1889	No order issued		
Logan B. Chappelle *v.* Chicago and Alton R. R. Co.	do	do	do	do		
New Orleans Cotton Exchange *v.* Illinois Central R. R. Co.	Mar. 18, 1889	Nov. 12, 1889	Apr. 11, 1890	Order complied with		
In re Passenger Tariffs	do	Mar. 21, 1889	Mar. 27, 1889	No order issued		
New Orleans Cotton Exchange *v.* Louisville, New Orleans and Texas R. R. Co.	Mar. 26, 1889	July 3, 1889	Mar. 28, 1891	Order complied with		
George Rice *v.* Cincinnati, Washington and Baltimore R. R. Co. et al.	do	June 9, 1890	Apr. 9, 1892	Order partially complied with.		
Do	do	May 13, 1890	do	do		
In re Tariff of the Grand Trunk Rwy. of Canada	do	Apr. 15, 1889	Apr. 18, 1889	Order complied with		
Charles H. Brownell *v.* Columbus and Cincinnati Midland R. R. Co.	Mar. 29, 1889	Oct. 5, 1892	Apr. 1, 1893	Complaint dismissed		
Toledo Produce Exchange et al. *v.* Lake Shore and Michigan Southern Rwy. Co. et al.	Apr. 1, 1889	Sept. 30, 1889	Apr. 6, 1892	Order complied with		
Merchants' Union of Spokane Falls *v.* Northern Pacific R. R. Co.	Apr. 2, 1889	Sept. 7, 1892	Nov. 28, 1892	Order not complied with	—, 1894	Suit to enforce order instituted by complainants.
George Rice *v.* Louisville and Nashville R. R. Co.	Apr. 26, 1889	May 13, 1890	Apr. 9, 1892	Order partially complied with.		
New Orleans Cotton Exchange *v.* Cincinnati, New Orleans and Texas Pacific Rwy. Co. et al.	May 4, 1889	July 8, 1889	Apr. 11, 1890	Order complied with		
Maj. J. P. Sanger *v.* Southern Pacific Co. et al.	Apr. 27, 1889	May 31, 1889	June 24, 1889	do		
Hezel Milling Co. *v.* St. Louis, Alton and Terre Haute R. R. Co.	May 17, 1889	May 15, 1891	Dec. 15, 1891	do		
San Bernardino Board of Trade *v.* Atchison, Topeka and Santa Fe R. R. Co. et al.	May 21, 1889	Feb. 5, 1890	July 19, 1890	Order not complied with	Apr., 1891	
Frederick A. White *v.* Michigan Central R. R. Co. et al.	May 27, 1889	Sept. 30, 1889	Dec. 1, 1889	Complaint dismissed		
John Livingston *v.* New York, Lake Erie and Western R. R. Co. et al.	June 10, 1889	Dec. 20, 1889	Jan. 18, 1890	do		
Lehmann, Higginson & Co. *v.* Texas and Pacific Rwy. Co. et al.	June 17, 1889	Mar. 19, 1890	Nov. 30, 1891	Order partially complied with.		
Lehmann, Higginson & Co. *v.* Southern Pacific Rwy. Co. et al.	do	do	May 22, 1890	Complaint dismissed		
Lehmann, Higginson & Co. *v.* Southern Pacific R. R. Co. et al.	do	do	do	do		
Lehmann Higginson & Co. *v.* Central Pacific Rwy. Co. et al.	do	Mar. 3, 1890	do	do		
John Livingston *v.* Delaware, Lackawanna and Western R. R. Co. et al.	June 29, 1889	Oct. 9, 1889	Jan. 18, 1890	do		
Pennsylvania Co. *v.* Louisville, New Albany and Chicago Rwy. Co.	July 10, 1889	Sept. 17, 1889	Sept. 17, 1889	do		
Chicago, St. Louis and Pittsburg R. R. Co. *v.* Cleveland, Cincinnati, Chicago and St. Louis R. R. Co.	do	do	do	do		
Pittsburg, Cincinnati and St. Louis Rwy. Co. *v.* Baltimore and Ohio R. R. Co.	do	Jan. 13, 1890	Feb. 21, 1890	Order not complied with	May, 1890	
George Rice *v.* Atchison, Topeka and Santa Fe R. R. Co. et al.	July 22, 1889	Nov. 19, 1890	Apr. 9, 1892	Order partially complied with.		
Bennet D. Mattingly *v.* Pennsylvania Co	Aug. 1, 1889	Nov. 18, 1889	Apr. 25, 1890	Complaint dismissed		
George D. Sidman *v.* Piedmont Air Line R. R. Co.	Aug. 5, 1889	Feb. 10, 1890	Apr. 5, 1890	do		
Poughkeepsie Iron Co. *v.* New York Central and Hudson River R. R. Co. et al.	do	July 12, 1890	Oct. 20, 1890	do		
Chicago, Rock Island and Pacific Rwy. Co. *v.* Chicago and Alton R. R. Co.	Aug. 7, 1889	Oct. 5, 1889	Feb. 14, 1890	do		
D. S. Alford *v.* Chicago, Rock Island and Pacific Rwy. Co.	Aug. 9, 1889	Dec. 12, 1889	Apr. 9, 1890	do		
Harvey Bates et al. *v.* Pennsylvania R. R. Co. et al.	Aug. 29, 1889	Apr. 10, 1890	Nov. 22, 1890	Former order vacated; no other order issued.		
American Wire Nail Co. *v.* Cincinnati, New Orleans and Texas Pacific Rwy. Co. et al.	Aug. 31, 1889	Sept. 17, 1889	Sept. 18, 1889	Complaint dismissed		
Procter & Gamble *v.* Cincinnati, Hamilton and Dayton R. R. Co. et al.	Sept. 12, 1889	Feb. 18, 1890	July 17, 1890	Order complied with		
Procter & Gamble *v.* Cleveland, Cincinnati, Chicago and St. Louis Rwy. Co. et al.	do	do	do	do		
Procter & Gamble *v.* Cincinnati, Washington and Baltimore Rwy. Co. et al.	do	do	do	do		
John Livingston *v.* New York, Lake Erie and Western R. R. Co.	do	Dec. 19, 1889	Jan. 18, 1890	Complaint dismissed		
Hulbert H. Warner *v.* New York Central and Hudson River R. R. Co. et al.	Sept. 14, 1889	Feb. 19, 1890	May 21, 1890	Order complied with		
E. M. Raworth *v.* Northern Pacific R. R. Co. et al.	Sept. 25, 1889	Dec. 22, 1891	Apr. 13, 1892	Order not complied with	Aug., 1892	
Andrews Soap Company *v.* Pittsburg, Cincinnati and St. Louis Rwy. Co. et al.	Oct. 5, 1889	Mar. 5, 1890	May 31, 1890	Complaint dismissed		
W. S. King & Co. *v.* New York, New Haven and Hartford R. R. Co. et al.	Oct. 10, 1889	May 21, 1890	Oct. 30, 1890	do		
Harvard Co. *v.* Pennsylvania Co. et al	Oct. 12, 1889	Feb. 26, 1890	Oct. 23, 1890	Order complied with		
James & Mayer Buggy Co. *v.* Cincinnati, New Orleans and Texas Pacific Rwy. Co. et al.	Oct. 18, 1889	June 9, 1890	June 29, 1891	Order not complied with	Oct., 1891	
S. C. Capehart et al. *v.* Nashville, Chattanooga and St. Louis Rwy. Co et al.	Oct. 30, 1889	June 18, 1890	Nov. 3, 1890	Complaint dismissed		
New York Board of Trade and Transportation *v.* Pennsylvania R. R. Co. et al.	Dec. 3, 1889	Oct. 16, 1890	Jan. 29, 1891	Order not complied with	Jan., 1892	
William H. Harvey *v.* Louisville and Nashville R. R. Co.	Dec. 21, 1889	July 5, 1891	Feb. 12, 1892	Order complied with		
Edward Kemble *v.* Lake Shore and Michigan Southern Rwy. Co. et al.	Jan. 18, 1890	Apr. 28, 1891	Apr. 6, 1892	do		
P. H. Loud, jr., *v.* South Carolina Rwy. Co. et al.	Feb. 13, 1890	Apr. 26, 1892	Dec. 24, 1892	Complaint dismissed		
In re Investigation of Rates and Food Products from Western Points to the Seaboard.	Mar. 12, 1890		July 19, 1890	Order partially complied with.		
Kauffmann Milling Co. *v.* Missouri Pacific Rwy. Co. et al.	Mar. 28, 1890	Nov. 18, 1890	Nov. 30, 1890	Order complied with		
Chattanooga Board of Trade *v.* East Tennessee, Virginia and Georgia Rwy. Co. et al.	Apr. 9, 1890	Feb. 11, 1891	Dec. 30, 1892	Order not complied with	Apr., 1893	
Fruit and Produce Merchants of Boston *v.* New York and New England R. R. Co. et al.	May 17, 1890	Oct. 23, 1890	Mar. 19, 1891	Order partially complied with.		
Hamilton & Brown *v.* Chattanooga, Rome and Columbus R. R. Co. et al.	May 22, 1890	Jan. 16, 1891	Mar. 19, 1891	Order complied with		
John C. Haddock *v.* Delaware, Lackawanna and Western R. R. Co.	June 21, 1890	Nov. 13, 1890	Nov. 30, 1890	No order issued		
Jacob Shamberg *v.* Delaware, Lackawanna and Western R. R. Co. et al.	July 7, 1890	Jan. 30, 1891	Apr. 25, 1891	Order not complied with		Case covered by similar case in United States court.

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or non-compliance.	Date suit instituted in circuit court.	Remarks.
Eau Claire Board of Trade *v.* Chicago, Milwaukee and St. Paul Rwy. Co.	July 7, 1890	Nov. 19, 1891	June 17, 1892	Order partially complied with.	.....	
New York and Northern Rwy. Co. *v.* New York and New England R. R. Co. et al.	July 12, 1890	Dec. 15, 1890	May 6, 1891	Order not complied with...	——, 1891	Suit to enforce order instituted by complainants.
Blanton Duncan *v.* Atchison, Topeka and Santa Fe R. R. Co. et al.	Sept. 6, 1890	Aug. 24, 1892	Nov. 3, 1893	Order complied with.....	.....	
Blanton Duncan *v.* Southern Pacific Co. et al....	.....do.....	Sept. 26, 1892	.....do.....	.....do.....	.....	
Beaver & Co. *v.* Pittsburg, Cincinnati and St. Louis Rwy. Co. et al.	Oct. 18, 1890	Feb. 21, 1891	May 16, 1891	.....do.....	.....	
William H. Macloon *v.* Chicago and Northwestern Rwy. Co.	Dec. 1, 1890	Oct. 19, 1891	Jan. 12, 1892	Complaint dismissed.....	.....	
A. J. Gustin *v.* Burlington and Missouri River R. R. in Nebraska et al.	Dec. 13, 1890	June 3, 1897	Mar. 9, 1900	Order not complied with...	June, 1900	
Railroad Commission of Florida *v.* Savannah, Florida and Western Rwy. Co. et al.	Dec. 30, 1890	Aug. 27, 1891	Oct. 29, 1891	.....do.....	Dec., 1891	
Charles P. Perry *v.* Florida Central and Peninsular R. R. Co. et al	Jan. 5, 1891	Oct. 30, 1891	Jan. 28, 1892	Order partially complied with.	.....	
J. M. Rising et al. *v.* Savannah, Florida and Western Rwy. Co. et al.	Jan. 21, 1891	Sept. 28, 1891	.....do.....	.....do.....	.....	
Lincoln Creamery *v.* Union Pacific Rwy. Co.....	Feb. 14, 1891	June 16, 1891	Feb. 13, 1892	Complaint dismissed.....	.....	
C. O. Morrell *v.* Union Pacific Rwy. Co.....	Feb. 16, 1891	Oct. 19, 1891	Dec. 22, 1893	Order partially complied with.	.....	
A. S. Newland et al. *v.* Northern Pacific R. R. Co. et al.	Mar. 18, 1891	Oct. 5, 1891	Jan. 31, 1894	.....do.....	.....	
Murphy, Wasey & Co. *v.* Wabash R. R. et al.....	Mar. 27, 1891	July 16, 1891	Jan. 30, 1892	.....do.....	.....	
F. Schumacher Milling Co. *v.* Chicago, Rock Island and Pacific Rwy. Co.	Apr. 1, 1891	Jan. 26, 1892	Oct. 20, 1893	Complaint dismissed.....	.....	
Daniel Buchanan *v.* Northern Pacific R. R. Co....	Apr. 25, 1891	Oct. 5, 1891	Oct. 31, 1891	.....do.....	.....	
Michigan Box Co. *v.* Flint and Pere Marquette R. R. Co. et al,	June 1, 1891	May 20, 1893	July 24, 1895	No order issued.....	.....	
Anthony Salt Co. *v.* Missouri Pacific Rwy Co.....	May 29, 1891	Mar. 12, 1892	Apr. 23, 1892	Complaint dismissed.....	.....	
Anthony Salt Co. *v.* St. Louis and San Francisco Rwy. Co.	.....do.....	.....do.....	.....do.....	.....do.....	.....	
Samuel Matthews *v.* Union Pacific Rwy. Co. et al.	.....do.....	.....do.....	.....do.....	.....do.....	.....	
Samuel Matthews *v.* Atchison, Topeka and Santa Fe R. R. Co. et al.	.....do.....	.....do.....	.....do.....	.....do.....	.....	
Edward E. Barton *v.* Chicago, Rock Island and Pacific Rwy. Co.	.....do.....	.....do.....	.....do.....	.....do.....	.....	
In re alleged unlawful charges for the transportation of coal by the Louisville and Nashville R. R. Co.	July 16, 1891	Apr. 16, 1892	Nov. 17, 1892	Order not complied with...	Mar., 1893	
In re Carriage of Persons Free or at Reduced Rates by the Boston and Maine R. R. Co.	....do.....	Dec. 26, 1891	Dec. 29, 1891	Order complied with.....	.....	
Gerke Brewing Co. *v.* Louisville and Nashville R. R. Co. et al.	Aug. 1, 1891	May 28, 1892	Feb. 28, 1893	Order not complied with...	Mar., 1893	
Potter Manufacturing Co *v.* Chicago and Grand Trunk Rwy. Co. et al.	Oct. 17, 1891	Apr. 18, 1892	Dec. 9, 1892	Order complied with.....	.....	
Georgia Railroad Commission *v.* Clyde Steamship Co. et al.	Oct. 22, 1891	Oct. 18, 1892	Nov. 11, 1892	Order not complied with...	May, 1893	
Georgia Railroad Commission *v.* Ocean Steamship Co. et al.	.....do.....	July 1, 1892	.....do.....	.....do.....	.....do....	
Georgia Railroad Commission *v.* Cincinnati, New Orleans and Texas Pacific Rwy. Co. et al.	.....do.....	.....do.....	.....do.....	.....do.....	.....do....	
Georgia Railroad Commission *v.* Western Atlantic R. R. Co. et al.	.....do.....	Oct. 18, 1892	.....do.....	.....do.....	.....do....	
George Rice *v.* St. Louis Southwestern Rwy. Co. et al.	Nov. 5, 1891	Mar. 28, 1893	May 18, 1893	Complaint dismissed.....	.....	
George Rice *v.* Baltimore and Ohio Southwestern R. R. Co. et al.	.....do.....	.....do.....	.....do.....	.....do.....	.....	
Freight Bureau of the Cincinnati Chamber of Commerce *v.* Cincinnati, New Orleans and Texas Pacific Rwy. Co. et al.	Dec. 26, 1891	.....	May 29, 1894	Order not complied with...	Sept., 1894	
Chicago Freight Bureau *v.* Louisville, New Albany and Chicago Rwy. Co. et al.	.....do.....	.....	.....do.....	.....do.....	.....do....	
Georgia Railroad Commission *v.* South Carolina Rwy. Co. et al.	Jan. 20, 1892	Oct. 18, 1892	Nov. 11, 1892	Complaint dismissed.....	.....	
Georgia Railroad Commission *v.* Louisville and Nashville R. R. Co. et al.	.....do.....	.....do.....	.....do.....	.....do.....	.....	
Georgia Railroad Commission *v.* Clyde Steamship Co. et al.	.....do.....	.....do.....	.....do.....	Order not complied with...	May, 1893	
Tecumseh Celery Co. *v.* Cincinnati, Jackson and Mackinaw R. R. Co. et al.	Feb. 1, 1892	June 14, 1893	June 15, 1893	Order partially complied with.	.....	
Chamber of Commerce of Minneapolis *v.* Great Northern Rwy. Co. et al.	Feb. 3, 1892	Sept. 29, 1892	Jan. 3, 1893	Order not complied with...	July, 1893	
Phelps & Co. *v.* Texas and Pacific Rwy. Co	Mar. 2, 1892	Aug. 18, 1893	Oct. 16, 1893	No disobedience reported ..	.....	
James & Abbott *v.* Canadian and Pacific Rwy. Co. et al.	Mar. 21, 1892	Jan. 21, 1893	Mar. 11, 1893	Order complied with.....	.....	
E. J. Daniels *v.* Chicago, Rock Island and Pacific Rwy. Co. et al.	Apr. 28, 1892	Aug. 22, 1893	Nov. 16, 1895	.....do.....	.....	
E. J. Daniels *v.* Great Northern Rwy. Co. et al.....	.....do.....	.....do.....	.....do.....	.....do.....	.....	
Freight Bureau of the Cincinnati Chamber of Commerce *v.* Cincinnati, New Orleans and Texas Pacific Rwy. Co. et al.	June 23, 1892	Mar. 23, 1897	May 22, 1897	Complaint dismissed.....	.....	
Board of Trade of Troy, Ala., *v.* Alabama Midland Rwy. Co. et al.	June 29, 1892	May 1, 1893	Aug. 15, 1893	Order not complied with...	Jan., 1894	
Thomas V. Cator *v.* Southern Pacific Co. et al....	Oct. 3, 1892	Nov. 7, 1893	Nov. 10, 1893	Complaint dismissed.....	.....	
Cordele Machine Shop *v.* Louisville and Nashville R. R. Co. et al.	Oct. 4, 1892	Apr. 5, 1893	Oct. 19, 1895	Order partially complied with.	.....	
S. J. Hill & Bro. *v.* Nashville, Chattanooga and St. Louis Rwy. Co. et al.	Oct. 11, 1892	.....do.....	.....do.....	Order complied with.....	.....	
Southern Paint and Glass Co. *v.* Lake Erie and Western R. R. Co. et al.	Oct. 13, 1892	Apr. 6, 1893	Feb. 1, 1895	Complaint dismissed.....	.....	
Southern Paint and Glass Co. *v.* Baltimore and Ohio R. R. Co. et al.	Oct. 25, 1892	Apr. 13, 1893	.....do.....	.....do.....	.....	
George L. Castle *v.* Baltimore and Ohio R. R. Co.	Oct. 28, 892	Oct. 12, 1895	Nov. 29, 1899	Complaint dismissed.....	.....	
Edgar W. Emerson *v.* Chicago, Rock Island and Pacific Rwy. Co.	Oct. 31, 1892	Apr. 9, 1894	Apr. 1, 1895	.....do.....	.....	
Edgar W. Emerson *v.* Chicago and Northwestern Rwy. Co.	.....do.....	July 16, 1894	Feb. 1, 1895	.....do.....	.....	
H. W. Behlmer *v.* Memphis and Charleston R. R. Co. et al.	Dec. 29, 1892	June 27, 1893	June 27, 1894	Order not complied with...	——, 1894	Suit to enforce order instituted by complainant.
Alanson S. Page et al. *v.* Delaware, Lackawanna and Western R. R. Co. et al.	Mar. 3, 1893	Sept. 8, 1893	Mar. 23, 1894	.....do.....	June, 1894	Subsequently another order was issued, which was complied with.

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or non-compliance.	Date suit instituted in circuit court.	Remarks.
In re Alleged Unlawful Charges for the Transportation of Vegetables and Strawberries from Charleston and Neighboring Points to New York and Other Points.	Mar. 14, 1893	June 3, 1894	Apr. 6, 1895	Order not complied with...	Jan., 1896	
Rhode Island Egg and Butter Co. et al v. Lake Shore and Michigan Southern Rwy. Co. et al.	Aug. 11, 1893	May 11, 1894	May 26, 1894	Complaint dismissed.....	.....	
In re Cincinnati, Hamilton and Dayton R. R. Co..	Aug. 2, 1893	Aug. 15, 1893	Oct. 3, 1893	Order of relief under sec. 4 granted.	.....	
In re Rome, Watertown and Ogdensburg.....	Sept. 27, 1893	Oct. 3, 1893	.....do.....	.....do.....	.....	
W. H. Boyer & Co. v. Chesapeake, Ohio and Southwestern Rwy. Co. et al.	Nov. 15, 1893	Feb. 15, 1897	Feb. 27, 1897	Complaint dismissed.....	.....	
W. L. Fewell v. Richmond and Danville R. R. Co. et al.	Feb. 15, 1895	Aug. 20, 1894	Aug. 20, 1897	Order not complied with...	.....	
In re Alleged Unlawful Transportation Charges by the Illinois Central R. R. Co.	Mar. 27, 1894	Sept. 15, 1894	June 26, 1896	No order issued	.....	
New York, New Haven and Hartford R. R. Co. v. New York and New England R. R. Co.	May 10, 1894	Mar. 13, 1895	June 26, 1897	Order complied with.....	.....	
Milton Evans v. Union Pacific Rwy. Co. et al....	June 15, 1894	Dec. 28, 1895	Feb. 8, 1896	.....do.....	.....	
In re Tariffs and Classifications of the Pennsylvania R. R Co. et al.	June 23, 1894	July 6, 1894	Apr. 3, 1897	Proceeding discontinued...	.....	
Board of Trade of the City of Lynchburg v. Old Dominion Steamship Co. et al.	June 29, 1894	June 3, 1895	June 29, 1896	Order complied with.....	.....	Supplemental report to that made in the Lynchburg Board of Trade case June 29, 1896.
Board of Trade of the City of Lynchburg v. Merchants and Miners' Transportation Co. et al.	.....do.....	.....do.....	.....do.....	.....do.....	.....	
A. J. Gustin v. Atchison, Topeka and Santa Fe R. R. Co. et al.	Aug. 25, 1894	July 3, 1897	Aug. 7, 1899	Complaint dismissed.....	.....	
A. J. Gustin v. Illinois Central R. R. Co. et al	.....do.....	.....do.....	Oct. 19, 1897	.....do.....	.....	
H. D. May v. Oregon Rwy. and Navigation Co...	Sept. 4, 1894	Nov. 22, 1895	Feb. 8, 1896	Order complied with.....	.....	
Charles M. Willson v. Rock Creek Rwy. Co	Sept. 8, 1894	Mar. 15, 1895	Mar. 12, 1897	Complaint dismissed	.....	
Jerome Hill Cotton Co. v. Missouri, Kansas and Texas Rwy. Co.	Oct. 23, 1894	Apr. 20, 1895	May 20, 1896	Order partially complied with.	.....	
Chamber of Commerce of Milwaukee v. Chicago, Milwaukee and St. Paul Rwy. Co. et al.	Nov. 6, 1894	May 27, 1895	Jan. 19, 1898	.....do.....	.....	
Board of Railroad and Warehouse Commissioners of the State of Missouri v. Eureka Springs Rwy. Co.	Jan. 29, 1895	Apr. 19, 1895	Feb. 26, 1897	Order complied with.....	.....	
Wolf Bros. v. Allegheny Valley Rwy. Co. et al....	Feb. 2, 1895	Feb. 12, 1896	Jan. 28, 1897	Complaint dismissed.....	.....	
In re Fremont, Elkhorn and Missouri Valley R. R. Co. et al.	Feb. 11, 1895	Feb. 11, 1895	Feb. 11, 1895	Order of relief under sec. 4 granted.	.....	
Colorado Fuel and Iron Co. v. Southern Pacific Co. et al.	Feb. 18, 1895	Aug. 8, 1895	Nov. 25, 1895	Order not complied with...	Mar., 1896	
Phillips, Bailey & Co. v. Louisville and Nashville R. R. Co. et al.	Feb. 28, 1895	Sept. 18, 1897	Oct. 29, 1898	Order complied with.....	.....	
E. D. McClelen et al. v. Southern Rwy. Co. et al...	Mar. 7, 1895	Aug. 8, 1895	June 6, 1896	Order not complied with...	Nov., 1896	
Do	.....do.....	.....do.....	.....do.....	.....do.....	.....do....	
D. K. Spillers & Co. v. Louisville & Nashville R. R. Co.	Mar. 8, 1895	Apr. 26, 1897	Nov. 29, 1899	.....do.....	.....	
Commercial Club of Omaha v. Chicago and Northwestern Rwy. Co. et al.	Mar. 22, 1895	May 16, 1896	Nov. 18, 1897	Complaint dismissed.....	.....	
George J. Kindel v. Atchison, Topeka and Santa Fe R. R. Co. et al.	.....do.....	July 23, 1900	Dec. 27, 1900	Order partially complied with.	.....	
Commercial Club of Omaha v. Chicago, Rock Island and Pacific Rwy. Co. et al.	Mar. 25, 1895	May 16, 1896	Aug. 21, 1896	Order complied with.....	.....	
W. R. Rea v. Mobile and Ohio R. R. Co	Mar. 27, 1895	Oct. 4, 1895	Feb. 24, 1897	.....do.....	.....	
Johnston-Larimer Dry Goods Co. v. Atchison, Topeka and Santa Fe R. R. Co. et al.	Apr. 10, 1895	Jan. 4, 1896	May 12, 1896	Order partially complied with.	.....	
Listman Mill Co. v. Chicago, Milwaukee and St. Paul Rwy. Co.	May 4, 1895	June 25, 1896	Aug. 18, 1898	Complaint dismissed.....	.....	
Milk Producers Protective Association v. Delaware, Lackawanna and Western R. R. Co. et al.	June 18, 1895	Jan. 8, 1897	Mar. 13, 1897	Order complied with.....	.....	
In re Safety of Employees and Travelers upon Railroads Used in Interstate Commerce on Application of New York, Lake Erie and Western R. R. Co.	June 28, 1895	July 12, 1895	July 13, 1895	Time for placing grab irons and drawbars on cars extended.	.....	Petition of 9 other roads involved in this proceeding.
In re Rates Charged by Alabama Great Southern R. R. Co. et al.	Aug. 3, 1895	Apr. 14, 1896	Aug. 20, 1897	Order not complied with...	.....	
In re Alleged Violations of the Fourth Section by the Atchison, Topeka and Santa Fe R. R. Co. et al.	Oct. 22, 1895	Feb. 29, 1896	Mar. 1, 1897	No order issued	.....	
Fuller E. Callaway v. Louisville and Nashville R. R. Co. et al.	Oct. 25, 1895	Mar. 25, 1897	Dec. 31, 1897	Order not complied with...	July, 1898	
Charles G. Freeman v. Atchison, Topeka and Santa Fe R. R. Co. et al.	Nov. 2, 1895	Apr. 4, 1896	May 28, 1897	Complaint dismissed.....	.....	
J. W. Cary v. Eureka Springs Rwy. Co. et al	Nov. 18, 1895	Oct. 29, 1896	Aug. 21, 1897	Order complied with.....	.....	
Mount Vernon Milling Co. v. Chicago, Milwaukee and St. Paul Rwy. Co.	Dec. 4, 1895	July 23, 1896	May 28, 1897	Complaint dismissed.....	.....	
Board of Railroad Commissioners of Kansas v. Atchison, Topeka and Santa Fe Rwy. Co. et al.	Mar. 10, 1896	May 6, 1898	Nov. 1, 1899	Order complied with.....	.....	
Ridge Fruit and Melon Growers' Association v. Southern Rwy. Co. et al.	Apr. 4, 1896	July 3, 1896	May 19, 1898	Complaint dismissed.....	.....	
Board of Railroad Commissioners of South Carolina v. Florence Railroad Co. et al.	Apr. 11, 1896	.....do.....	.....do.....	.....do.....	.....	
G. P. Allen et al. v. Carolina Midland Rwy. Co. et al.	May 8, 1896	.....do.....	.....do.....	.....do.....	.....	
Warren-Ehret Co. v. Central R. R. of New Jersey et al.	May 21, 1896	June 19, 1897	Dec. 22, 1900	Order complied with.....	.....	
Suffern, Hunt & Co. v. Indiana, Decatur and Western Rwy. Co.	May 22, 1896	Nov. 30, 1896	July 1, 1897	.....do.....	.....	
Suffern, Hunt & Co. v. Indiana, Decatur and Western Rwy. Co. et. al.	June 13, 1896	.....do.....	.....do.....	.....do.....	.....	
Paine Brothers & Co. v. Lehigh Valley R. R. Co. et al.	June 22, 1896	Sept. 17, 1896	June 24, 1897	Complaint dismissed.....	.....	
In re Alleged Unlawful Rates and Practices in the Transportation of Grain and Grain Products by the Atchison, Topeka and Santa Fe Rwy. Co. et al.	July 7, 1896	Oct. 15, 1896	Jan. 26, 1897	Order not complied with...	.....	
Savannah Bureau of Freight and Transportation v. Louisville and Nashville R. R. Co. et al.	Aug. 1, 1896	July 19, 1897	Jan. 8, 1900	.....do.....	June, 1900	
Board of Railroad Commissioners of Kentucky v. Cincinnati, New Orleans and Texas Pacific Rwy. Co. et al.	Aug. 14, 1896	Apr. 27, 1897	Oct. 19, 1897	No order issued	.....	
Dallas Freight Bureau v. Texas and Pacific Rwy. Co. et al.	Aug. 17, 1896	Dec. 29, 1897	June 23, 1898	Complaint dismissed.....	.....	

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or noncompliance.	Date suit instituted in circuit court.	Remarks.
Dallas Freight Bureau *v.* Austin and Northwestern R. R. Co. et al.	Aug. 17,1896	Dec. 16,1897	Oct. 19,1901	Complaint dismissed		
Cattle Raisers' Association of Texas *v.* Fort Worth and Denver City Rwy. Co. et al.	Sept. 1,1896	Oct. 2,1897	Jan. 20,1898	Order not complied with	Mar.,1899	
Brewer & Hanleiter *v.* Louisville and Nashville R. R. Co. et al.	Sept. 3,1896	May 24,1897	June 29,1897	do	—, 1897	Suit to enforce order instituted by complainants.
New York Produce Exchange *v.* Baltimore and Ohio R. R. Co. et al.	Sept. 14,1896	Dec. 15,1897	Apr. 30,1898	Complaint dismissed		
Board of Trade of Hampton, Fla., *v.* Nashville, Chattanooga and St. Louis Rwy. Co. et al.	Sept. 16,1896	July 19,1897	Mar. 10,1900	Order not complied with	Nov.,1900	
Edward Kemble *v.* Boston and Albany R. R. Co. et al.	Oct. 17,1896	Mar. 24,1898	Mar. 7,1899	Complaint dismissed		
Savannah Bureau of Freight and Transportation *v.* Charleston and Savannah Rwy. Co. et al.	Nov. 12,1896	Aug. 12,1897	Dec. 31,1897	do		
Edwin E. Montell *v.* Baltimore and Ohio R. R. Co. et al.	do	Mar. 26,1897	do	do		
Savannah Bureau of Freight and Transportation *v.* Charleston and Savannah Rwy. Co. et al.	Dec. 14,1896	Apr. 7,1897	Mar. 24,1898	do		
Grain Shippers' Association of Northwest Iowa *v.* Illinois Central R. R. Co. et al.	Feb. 3,1897	Nov. 12,1898	June 22,1899	No order issued		
Holmes & Co. *v.* Southern Rwy. Co. et al	Feb. 24,1897	May 8,1899	Nov. 13,1900	Complaint dismissed		
Holmes & Co. *v* Southern Rwy. Co. et al	do	May 26,1899	do	do		
Chicago Fire Proof Covering Co. *v.* Chicago and Northwestern Rwy. Co. et al.	Mar. 9,1897	July 20,1897	Nov. 1,1899	Order not complied with	June,1900	
In re Alleged Unlawful Charges for the Transportation of Vegetables from Shipping Points in Florida to New York and other Eastern Cities.	do	Aug. 13,1897	Dec. 14,1900	No order issued		
In re Alleged Unlawful Rates and Practices in the Transportation of Cotton by the Kansas City, Memphis and Birmingham R. R. Co. et. al.	Mar. 13,1897	Oct. 2,1897	Mar. 27,1899	do		
American Warehousemen's Association *v.* Illinois Central R. R. Co. et al.	Apr. 27,1897	Nov. 20,1897	Feb. 3,1898	Order complied with		
Trades League of Philadelphia *v.* Philadelphia Wilmington and Baltimore R. R. Co. et. al.	May 7,1897	May 10,1898	Dec. 8,1899	Complaint dismissed		
Pennsylvania Millers' State Association *v.* Philadelphia and Reading Rwy. Co. et al.	June 29,1897	Apr. 1,1898	Oct. 8,1900	No order		
In re Alleged Violations of the Act to Regulate Commerce by the St. Louis and San Francisco Rwy. Co.	July 24,1897	Sept. 18,1897	Nov. 1,1899	Order not complied with		
Board of Trade of the City of Dawson *v.* Central of Georgia Rwy. Co. et al.	Aug. 12,1897	Feb. 21,1899	Mar. 27,1899	Order complied with		
In re Application of Certain Railroads for an Extension of Time for Equipping Freight cars with Automatic Couplers and Train Brakes under the Act Approved Mar. 2, 1893.	Sept. 30,1897	Dec. 23,1897	Dec. 23,1897	Order granting extension of time for complying with safety-appliance act.		Includes the applications of 304 railroads.
B. Brockway *v.* Ulster and Delaware R. R. Co. et al.	Oct. 22,1897	Mar. 16,1898	June 23,1898	Complaint dismissed		
In re Application of Atchison, Topeka and Santa Fe Rwy. Co. et al.	Feb. 23,1898	Feb. 24,1898	Feb. 24,1898	Relieving order granted under section 4.		
Palmer's Dock Hay and Produce Board of Trade *v.* Pennsylvania R. R. Co.	Mar. 16,1898	Apr. 20,1901	Apr. 26,1901	Complaint dismissed		
In re Alleged Disturbance in Passenger Rates by Canadian Pacific Rwy. Co.	July 14,1898	Aug. 4,1898	Aug. 31,1898	Refusal to rescind former relieving order.		
Wilmington Traffic Association *v.* Cincinnati, Portsmouth and Virginia R. R. Co. et al.	Nov. 5,1898	Oct. 25,1899	Dec. 17,1901	Order not complied with	Aug.,1902	
Thomas F. Sprigg et al, *v.* Baltimore and Ohio R. R. Co. et al.	Jan. 14,1899	July 14,1899	Mar. 2,1900	Complaint dismissed		
City of Danville et al. *v.* Southern Rwy. Co. et al.	Feb. 18,1899	June 28,1900	Nov. 17,1900	Order not complied with	Apr.,1901	
In re Export Rates from Points East and West of the Mississippi River by the Baltimore and Ohio R. R. Co. et al.	Feb. 27,1899	Apr. 7,1899	Apr. 12,1899	No order		
Hilton Lumber Co. *v.* Wilmington and Weldon R. R. Co. et al.	Mar. 10,1899	Aug. 17,1899	Apr. 10,1901	No order issued		
In re Relative Rates upon Export and Domestic Traffic in Grain and Grain Products and of the Publication of Tariffs Relating to such Traffic.	Apr. 13,1899	July 24,1899	Aug. 7,1899	Order partially complied with.		
Shippers' Union of Phoenix, Ariz., *v.* Atchison, Topeka and Santa Fe Rwy. Co. et al.	May 16,1899	Feb. 12,1902	June 4,1902	No order issued		
George Tileston Milling Co. *v.* Northern Pacific Rwy. Co.	June 16,1899	Oct. 6,1899	Nov. 29,1899	Order not complied with	Jan., 1900	
City of St. Cloud *v.* Northern Pacific Rwy. Co.	July 31,1899	Oct. 27,1899	do	do	do	
Business Men's League of St. Louis *v.* Atchison, Topeka and Santa Fe Rwy. Co. et al.	Aug. 14,1899	Feb. 4,1902	Nov. 17,1902	No order issued		
Charles H. Johnson *v.* Chicago, St. Paul, Minneapolis and Omaha Rwy. Co. et al.	Aug. 22,1899	Nov. 21,1900	May 7,1902	Order complied with		
James C. McGrew *v.* Missouri Pacific Rwy. Co	Sept. 25,1899	Jan. 21,1901	Feb. 8,1901	do		
In re Application of Certain Railroads for a further Extension of Time for Equipping Freight Cars with Automatic Couplers under the Act Approved Mar. 2, 1893.	Oct. 28,1899	Dec. 19,1899	Dec. 21,1899	Order granting extension of time for complying with safety-appliance act.		Includes the application of 181 roads.
A. W. Holdzkom *v.* Michigan Central R. R. Co. et al.	Jan. 22,1900	Mar. 8,1901	Apr. 13,1901	Complaint dismissed		
Spencer E. Carr *v.* Northern Pacific Rwy. Co	Feb. 23,1900	Dec. 13,1900	Apr. 3,1901	do		
Proctor & Gamble Company *v.* Cincinnati, Hamilton and Dayton Rwy. Co. et al.	Feb. 24,1900	Oct. 24,1901	Apr. 10,1903	Order not complied with	July, 1904	
Consolidated Forwarding Co. *v.* Southern Pacific Co. et al.	Mar. 3,1900	Nov. 20,1900	Apr. 19,1902	do	Aug.,1902	
Southern California Fruit Exchange *v.* Southern California Rwy. Co. et al.	do	do	do	do	do	
Mayor and City Council of Tifton *v.* Louisville and Nashville R. R. Co. et al.	May 17,1900	Mar. 6,1901	Mar. 27,1902	do	do	
Red Cloud Mining Co. *v.* Southern Pacific Co.	Nov. 27,1900	June 10,1901	Apr. 30,1902	Complaint dismissed		
National Wholesale Lumber Dealers' Association *v.* Norfolk and Western Rwy. Co. et al.	Jan. 15,1901	May 22,1901	Dec. 11,1901	Order complied with		
Pioneer Hat Works *v.* Cleveland, Cincinnati, Chicago and St. Louis Rwy. Co. et al.	Feb. 18,1901	July 5,1901	Nov. 27,1901	do		
S. J. Hawkins *v.* Lake Shore and Michigan Southern Rwy. Co.	Mar. 6,1901	Dec. 6,1901	Apr. 23,1902	do		
S. J. Hawkins *v.* Wheeling and Lake Erie R. R. Co.	do	Jan. 30,1902	do	do		
National Hay Association *v.* Lake Shore and Michigan Southern Rwy. Co. et al.	Aug. 6,1901	Feb. 17,1902	Oct. 16,1902	Order not complied with	Mar.,1903	
Charles M. Cist *v.* Michigan Central R. R. Co.	Oct. 28,1901	June 15,1903	Apr. 1,1904	Complaint dismissed		
G. C. Pratt Lumber Co. *v.* Chicago, Indianapolis and Louisville Rwy. Co.	Dec. 11,1901	Mar. 7,1903	Jan. 27,1904	do		
Ulrick & Williams *v.* Lake Shore and Michigan Southern Rwy. Co. et al.	Jan. 9,1902	Jan. 8,1903	May 14,1903	do		
Chamber of Commerce of Chattanooga *v.* Southern Rwy. Co. et al.	Feb. 14,1902	Nov. 12,1902	Mar. 12,1904	do		

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or noncompliance.	Date suit instituted in circuit court.	Remarks.
Railroad Commission of Kentucky *v.* Louisville and Nashville R. R. Co.	Feb. 26, 1902	May 6, 1902	Mar. 17, 1904	Complaint dismissed		
Diamond Mills *v.* Boston and Maine R. R.	Mar. 13, 1902	July 10, 1902	Nov. 17, 1902	Order complied with		
S. Marten *v.* Louisville and Nashville R. R. Co.	Mar. 17, 1902	Oct. 23, 1902	Nov. 21, 1903	do		
Chicago Live Stock Exchange *v.* Atchison, Topeka and Santa Fe Rwy. Co. et al.	Apr. 5, 1902	Dec. 21, 1903	Jan. 7, 1905	Order not complied with	Apr., 1905	
F. C. Sayles *v.* New York, New Haven and Hartford R. R. Co. et al.	Apr. 14, 1902	Feb. 24, 1903	Apr. 20, 1903	Complaint dismissed		
Aberdeen Group Commercial Association *v.* Mobile and Ohio R. R. Co.	Apr. 17, 1902	Jan. 16, 1903	June 24, 1904	Order not complied with	July, 1905	
In re Rates and Practices by the Mobile and Ohio R. R. Co. in the Transportation to Vicksburg, Miss., of Grain Shipped from or through St. Louis.	Apr. 18, 1902	May 17, 1902	Jan. 31, 1903	No ordered issued		
In re Transportation of Immigrants from New York and other Atlantic Ports to Western Destinations.	Apr. 21, 1902	May 10, 1902	Jan. 27, 1904	do		
Mayor and City Council of Wichita, Kans., *v.* Atchison, Topeka and Santa Fe Rwy. Co. et al.	May 1, 1902	May 21, 1903	Oct. 24, 1903	Order complied with		
Cincinnati Chamber of Commerce and Merchants Exchange *v.* Baltimore and Ohio Southwestern R. R. Co. et al.	do	Nov. 30, 1903	Oct. 4, 1904	Complaint dismissed		
Mayor and City Council of Wichita, Kans., *v.* Atchison, Topeka and Santa Fe Rwy. Co. et al.	May 20, 1902	May 21, 1903	Oct. 24, 1903	No order issued		
Do	do	do	June 18, 1903	do		
Mayor and City Council of Wichita, Kans., *v.* Chicago, Rock Island and Pacific Rwy. Co. et al.	do	do	Oct. 24, 1903	Order complied with		
John W. Blackman, jr., *v.* Southern Rwy. Co.	June 12, 1902	June 29, 1904	June 29, 1904	Complaint dismissed		
Mayor and City Council of Wichita, Kans., *v.* Missouri Pacific Rwy. Co. et al.	June 23, 1902	May 21, 1903	Jan. 27, 1904	No order issued		
Charlotte Shippers' Association *v.* Southern Rwy. Co. et el.	July 24, 1902	Mar. 23, 1903	June 22, 1905	Complaint dismissed		
Charlotte Shippers' Association *v.* Seabord Air Line Rwy. et al.	do	do	June 23, 1905	do		
John W. Blackman, jr., *v.* Columbia, Newberry and Laurens R. R. Co.	Aug. 4, 1902	June 29, 1904	June 29, 1904	Order complied with		
W. H. H. Macloon *v.* Boston and Maine R. R. Co. et al.	Oct. 1, 1902	Nov. 6, 1902	Dec. 2, 1903	Complaint dismissed		
Derr Manufacturing Co. *v.* Pennsylvania R. R. Co. et al.	Oct. 7, 1902	June 8, 1903	Dec. 18, 1903	do		
In re Proposed Advance in Freight Rates	Dec. 1, 1902	Mar. 20, 1903	Apr. 1, 1903	No order issued		
Samuel K. Behrend *v.* Washington Southern Rwy. Co. et al.	Jan. 30, 1903	Apr. 21, 1903	Dec. 2, 1903	Complaint dismissed		
S. S. Daish & Sons *v.* Cleveland, Akron and Columbus Rwy. Co. et al.	do	June 4, 1903	June 18, 1903	do		
Duluth Shingle Co. *v.* Duluth, South Shore and Atlantic Rwy. Co.	Feb. 5, 1903	June 22, 1903	Feb. 2, 1905	Order complied with		
Charles A. Thompson *v.* Pennsylvania R. R. Co.	Feb. 25, 1903	Feb. 14, 1905	Mar. 10, 1905	Complaint dismissed		
Buckeye Buggy Co. *v.* Cleveland, Cincinnati, Chicago and St. Louis Rwy. Co. et al.	Feb. 27, 1903	Nov. 7, 1903	Dec. 2, 1903	Order complied with		
Paxten Tie Co. *v.* Detroit Southern R. R. Co	do	Oct. 9, 1903	Jan. 7, 1905	Order not complied with		Commission awarded reparation, which can only be enforced in the proceeding instituted by complainants.
C. S. Bell Co. *v.* Baltimore and Ohio Southwestern R. R. Co. et al.	Mar. 9, 1903	Oct. 22, 1903	Dec. 2, 1903	Order complied with		
John H. Parks *v.* Cincinnati and Muskingum Valley R. R. Co.	do	Nov. 27, 1903	Jan. 30, 1904	Complaint dismissed		
In re Transportation of Salt from Points in Michigan to Missouri River Points and Intermediate Localities.	Mar. 10, 1903	Aug. 25, 1903	Mar. 12, 1904	do		
Glade Coal Co. *v.* Baltimore and Ohio R. R. Co.	Mar. 26, 1903	Dec. 18, 1903	Apr. 28, 1904	Order not complied with		Do.
Central Yellow Pine Association *v.* Vicksburg, Shreveport and Pacific R. R. Co.	Apr. 14, 1903	Feb. 17, 1904	Mar. 19, 1904	Complaint dismissed		
William Wrigley, jr., & Co. *v.* Cleveland, Cincinnati, Chicago and St. Louis Rwy. Co. et al.	Apr. 22, 1903	June 27, 1904	Jan. 5, 1905	do		
In re Allowances to Elevators by the Union Pacific R. R. Co.	May 7, 1903	Dec. 21, 1903	June 25, 1904	do		
Georgia Peach Growers' Association *v.* Atlantic Coast Line R. R. Co. et al.	June 6, 1903	Mar. ,1904	June 4, 1904	Order partially complied with.		
Gardner & Clark *v.* Southern Rwy. Co.	June 17, 1903	June 24, 1904	June 25, 1904	Order complied with		
H. H. Tift et al. *v.* Southern Rwy. Co. et al.	June 23, 1903	Mar. 26, 1904	Feb. 7, 1905	Order not complied with		Circuit court referred case to Commission for findings on June 28, 1905. Court granted injunction and upheld Commission's findings.
Edward G. Davies *v.* Pere Marquette R. R. Co	June 25, 1903	May 10, 1904	Jan. 5, 1905	Complaint dismissed		
Cannon Falls Farmers' Elevator Co. *v.* Chicago Great Western Rwy. Co. et al.	June 30, 1903	Jan. 6, 1905	Mar. 25, 1905	No order issued		
Central Yellow Pine Association *v.* Illinois Central R. R. Co. et al.	July 24, 1903	Apr. 8, 1904	Feb. 7, 1905	Order not complied with	June, 1905	
E. D. Hewins *v.* New York, New Haven and Hartford R. R. Co.	Aug. 4, 1903	Oct. 17, 1903	Apr. 11, 1904	Complaint dismissed		
Denison Light and Power Co. *v.* Missouri, Kansas and Texas Rwy. Co.	Aug. 10, 1903	Apr. 21, 1904	June 25, 1904	Order partially complied with.		
W. J. Koch & Co. *v.* Pittsburg, Cincinnati, Chicago and St. Louis Rwy. Co. et al.	Oct. 3, 1903	Feb. 21, 1905	Apr. 11, 1905	No order issued		
In re Transportation of Salt from Hutchinson, Kans.	Nov. 21, 1903	Jan. 11, 1904	Jan. 19, 1904	do		
C. M. Barrow *v.* Yazoo and Mississippi Valley R. R. Co. et al.	Nov. 28, 1903	May 14, 1904	June 25, 1904	do		
A. G. Swaffield *v.* Atlantic Coast Line R. R. Co. et al.	Dec. 4, 1903	June 1, 1904	June 24, 1904	Order complied with		
New Orleans Live Stock Exchange *v.* Texas and Pacific Rwy. Co.	do	May 28, 1904	June 25, 1904	do		
In re Publication and Filing of Tariffs on Export and Import traffic.	Dec. 1, 1903	Jan. 7, 1904	Feb. 5, 1904	No order issued		
Charles Roth *v.* Texas and Pacific Rwy. Co.	June 29, 1903		Nov. 21, 1903	do		
In re Division of Joint Rates and Other Allowances to Terminal Railroads.	Mar. 3, 1904	June 16, 1904	Nov. 3, 1904	do		
Capital City Gas Co. *v.* Central Vermont Rwy. Co. et al.	Mar. 17, 1904	Nov. 15, 1904	Mar. 10, 1905			
Mershon, Schuette, Parker and Company *v.* Central R. R. Co. of New Jersey et al.	Mar. 22, 1904	Dec. 8, 1904	Jan. 13, 1905			

Title of case.	Date filed.	Date submitted.	Date decided.	Compliance or noncompliance.	Date suit instituted in circuit court.	Remarks.
H. B. Pitts and Son *v.* Atchison, Topeka and Sante Fe Rwy. Co. et al.	Mar. 26, 1904	Feb. 22, 1905	Apr. 24, 1905	Order not complied with...	.....	Commission awarded reparation, which can only be enforced in the proceeding instituted by complainants.
In re Differential Freight Rates to and from North Atlantic Ports.	Apr. 11, 1904	Apr. 6, 1905	Apr. 27, 1905	No order issued	.....	
Gallogly & Firestine *v.* Cincinnati, Hamilton and Dayton Rwy. Co.	Apr. 18, 1904	Dec. 1, 1904	Apr. 24, 1905	.....do	.....	
In re charges for the Transportation and Refrigeration of Fruit Shipped from Points on the Pere Marquette and Michigan Central Railroads.	Apr. 26, 1904	July 19, 1905	June 22, 1905	.....do	.....	
St. Louis Hay and Grain Co. *v.* Mobile and Ohio R. R. Co.	June 8, 1904	May 13, 1905	May 15, 1905	.....	.....	
St. Louis Hay and Grain Co. *v.* Chicago, Burlington and Quincy R. R. Co. et al.	Oct. 19, 1904	May 13, 1905	May 15, 1905	Complaint dismissed	.....	
H. B. Pitts & Son *v.* St. Louis and San Francisco R. R. Co.	Oct. 28, 1904	Feb. 22, 1905	Apr. 24, 1905	Order not complied with...	.....	Do.
In re Alleged Unlawful Rates and Practices in the Transportation of Coal and Mine Supplies by the Atchison, Topeka and Santa Fe Rwy. Co.	Nov. 29, 1904	Dec. 29, 1904	Feb. 1, 1905	No order is used.....	.....	
Lehman-Higginson Grocer Co. et al. *v.* Atchison, Topeka and Santa Fe Rwy. Co. et al.	Dec. 22, 1904	Jan. 12, 1905	Jan. 17, 1905	Order complied with.....	.....	
William W. Wylie *v.* Northern Pacific Rwy. Co. et al.	Mar. 9, 1905	May 16, 1905	June 23, 1905	Order not complied with ...	.....	

Mr. FORAKER. This appendix shows, and I want the attention of Senators to this, that since the Interstate Commerce Commission was organized, in the eighteen years of its existence, counting from the beginning down to November, 1905, it disposed of 386 cases that were brought before it. Only 183 of these cases were disposed of in less than one year from the time when the complaints were respectively filed. The remaining 203 required the following time for their disposition. Now, I want to call attention to this, for I know it is something Senators are not aware of, and the explanation for it is as plain and simple as anything can be. Of the 203 cases they have disposed of last referred to, one of them required over nine years from the filing of the complaint; one of them more than seven years, two of them more than five years, six from four to five years, thirty-three from three to four years, sixty-one more than two years but less than three years, ninety-nine of them more than one year. Most of them almost two years.

Mr. President, the trouble has been the trouble that will attend the doing of this kind of work by any board or any commission. Five men sitting in judgment in these complicated and difficult cases, hearing witnesses, hearing arguments, traveling over the country, going here and there to get evidence, will necessarily take much more time than is ordinarily taken in a court of record. I think the members of the Interstate Commerce Commission have been splendid men as a rule. I think they have been able men. I think they have been faithful men. I think they have striven to do their duty, and that they have done their duty as efficiently as any such board could. But it is a weakness attending any such board that it requires time for it to hear litigated propositions, to weigh evidence, to reach conclusions, and to announce opinions, and it is no wonder to me that they have taken on an average years to dispose of business that has been brought before them, in ninety-nine cases more than a year, in no case less than a year where there has been controversy, and extending all the way in longer and longer periods from two years up to nine years to dispose of these cases.

Now, if you increase the number to nine commissioners, you will increase that very difficulty. I think a board of five commissioners would be more efficient than a board of nine commissioners. I do not know what you would do with nine commissioners. They would be in each other's way. You will increase the difficulty, in my judgment, without any compensating benefit. It is no more to me than it is to anybody else whether we have five commissioners or seven commissioners or nine commissioners. Five commissioners is a very proper number. I think it would be more efficient if there were only three. But we have had five. We are accustomed to that number. If you make it seven you will intesify this difficulty. If you make it nine you will accentuate it still more.

Now, Mr. President, another word about it. We are to have, according to the amendment that has been offered by the Senator from Massachusetts, not more than five of the nine from the same political party. If there is anything in connection with this whole legislation that I have less patience with than another it is this proposition that you are to take into consideration political affiliations in securing a body of nine men to administer the great and responsible business interests which we are about to intrust to their care.

What have five Democrats or five Republicans, as such, to do with the business of this country? I do not think we should trammel the President in that way in making these appointments. I think we should leave it to his own good judgment. Then we are to have not only not more than five men from the same party, but we are to have not more than three lawyers on this board. If there is a class in this country who have less capacity to make railroad rates and establish railroad regulations, they are the lawyers of the country. We want business experience, not legal ability.

Mr. LODGE. It says "at least three lawyers."

Mr. FORAKER. At least three of said commissioners shall be lawyers. That is worse than I thought it was. I thought the requirement was that not more than three of them should be lawyers. I do not think any of them should necessarily be lawyers. I think that matter should be left to the President to determine. I think it is of a great deal more importance to the business interests of this country that the President should find somebody who knows something about the railroad business to go on this Commission than somebody who knows only about the litigation of the railroads and the lawsuits of the business interests of the country.

Mr. HALE. Mr. President, the Senator is a very great lawyer——

Mr. FORAKER. I hope the Senator will not take my time with compliments. If he has a question to ask let him ask it. I have only ten minutes more.

Mr. HALE. Does not the Senator think that in that great bureau there ought to be at least three lawyers?

Mr. FORAKER. Probably there should be two or three lawyers on it, but I would leave it to the President to say how many lawyers he would put on it. I would let the President take the whole United States of America into consideration—lawyers, merchants, carriers, traffic men, and everybody else—and select the number to constitute the Commission as we say it shall be composed, whether the number be five or seven or nine.

I have another proposition. If we are going to indulge in the "square deal," let us look at the map for a minute. I do not know who prepared it, but if these Commissioners are to be distributed according to judicial circuits——

Mr. DILLINGHAM. Will the Senator allow me to interrupt him for just a moment? I brought that map into the Senate. It was furnished me by the secretary of the Interstate Commerce Commission at my request.

Mr. FORAKER. I did not know where it came from, but it presents just what I wanted to call attention to.

Mr. DILLINGHAM. Here is a statement of mileage in each of the circuits and the population.

Mr. FORAKER. If the Senator will allow me, I will beg the Senator to present it.

Mr. DILLINGHAM. I hand it to the Senator to use.

Mr. FORAKER. I thank the Senator, though I did not want to take anybody else's ammunition. I would be glad if he would use it.

Mr. President, I want Senators to look at these judicial circuits. One, two, three, and four are practically in New England.

Several SENATORS. Oh, no.

Mr. FORAKER. Well, I may be stretching that a little. You see they are practically in New England. New England and New York constitute three, I think.

Mr. KEAN. With New Jersey and Pennsylvania.

Mr. FORAKER. Here are three. Then Ohio, Michigan, and Kentucky.

Mr. TILLMAN. Mr. President——

Mr. FORAKER. I will send this to the desk and have it read. The Senator will excuse me for just a minute. There are three in what is called "New England." I expanded a little in New England.

Mr. HALE. Why not say Massachusetts?

Mr. FORAKER. We will include Pennsylvania and New York in it, but there they are all in the Atlantic seaboard States, practically all.

Mr. HOPKINS. Will the Senator allow me?

Mr. FORAKER. In a moment. Then come the sixth and seventh circuits—seven, six, three, two. If one comes from each of those districts, they would have control of the Commission. The whole South would have only two. The central circuit, No. 8, the largest circuit, both in point of area and in railroad mileage, covering the whole central part of the country, and the circuit having the greatest possibility of future development in both wealth and population for the future, would have only one.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. I yielded to the Senator from Illinois; but I will yield to the Senator from South Carolina.

Mr. TILLMAN. I wanted to suggest to the Senator from Ohio that he and I have had some little debate on this subject once before in the Senate, and realizing that this is a very important matter, and would necessarily be a prolific source of debate, I asked the Secretary of the Interstate Commerce Commission to prepare a similar map with the one I see the Senator has, and in order that Senators may have these maps as well as the figures accompanying them, giving the judicial circuits, the railway mileage in each, the population in each, the area in each, the form of complaints in the past five years——

Mr. FORAKER. The minutes are getting away.

Mr. TILLMAN. I was going to ask the Senator to let us adjourn this issue over and have the information printed to-night, so that every Senator in the morning can have all this data, because the Senator from Ohio can not make his point about New England having so much of this good thing unless other Senators realize——

Mr. FORAKER. I will agree to that if it is understood that I can have my other ten minutes in the morning. [Laughter.]

Mr. HOPKINS. Now, Mr. President, before the Senator from Ohio takes his seat——

Mr. TILLMAN. I should like to make a motion to have this document and the accompanying map printed to-night.

Mr. FORAKER. I yield for that purpose.

Mr. TILLMAN. I will send it to the desk.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from South Carolina? The Chair hears none, and it is so ordered.

Mr. HOPKINS. I desire to call the attention of the Senator from Ohio, before he takes his seat——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Illinois?

Mr. FORAKER. Certainly.

Mr. HOPKINS. To the fact that the judicial circuit where the Senator from Maine contends they should have a single member, the first circuit, is composed of the States of Maine, New Hampshire, Massachusetts, and Rhode Island, and in that circuit they have but 5,629 miles of railroad, whereas in the eighth circuit they have 66,029 miles. So that Maine and Massachusetts and that New England circuit having 5,000 miles of railroad, would get one of these commissioners as against a district that has 66,000 miles of railroad in it.

Mr. HALE. We do not insist on that. We are ready to accept the suggestion of the Senator from Texas and have transportation districts within the Union divided equally.

Mr. CULLOM. Will the Senator from Ohio allow me?

Mr. FORAKER. If I have time enough left I will ask to have incorporated in the RECORD this analysis, which I was reading, made by Mr. Walker D. Hines, of Louisville.

The VICE-PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

The Interstate Commerce Commission has furnished the Senate Committee on Interstate Commerce, under date of November 21, 1905, a statement showing the following facts relative to formal complaints before the Commission: (1) Title of case; (2) date filed; (3) date submitted; (4) date decided; (5) compliance or noncompliance by carriers; (6) date suit, if any, was instituted in circuit court. This has been published as Appendix M of the committee's hearings on "regulation of railway rates."

This statement covers a period of eighteen years and seven months and shows that during that time the Commission decided 386 formal complaints, or, on an average, a little less than 21 complaints per year.

Although it might naturally be assumed that the Commission, having to decide only twenty-one cases per year, could decide all of them promptly, yet we find from this statement that promptness has been by no means the rule.

Of the 386 cases included in the statement, only 183 were disposed of in less than one year from the respective dates the complaints were filed. The remaining 203 required much more time for their disposition, as follows:

Required over 9 years from filing of complaint	1
Required over 7 years from filing of complaint	1
Required over 5 years each from filing of complaint	2
Required from 4 to 5 years each from filing of complaint	6
Required from 3 to 4 years each from filing of complaint	33
Required from 2 to 3 years each from filing of complaint	61
Required from 1 to 2 years each from filing of complaint	99
Total	203

Of the 386 cases decided by the Commission, 72 were filed during the calendar year 1887, and it is noteworthy that 63 of these were decided in less than one year from the date of filing. On the other hand, of the 314 cases filed after the year 1887 only 120 were decided in less than one year from the date of filing the complaint. In other words, at the outset and before the Commission became overwhelmed with business it decided over 87 per cent of its cases within less than twelve months, but during the period from the second year of the Commission's existence to the present time it has decided only 38 per cent of its cases within twelve months from the time of filing.

The statement gives information only as to cases decided up to November 21, 1905, and not as to cases pending and not decided on that date. The Commission's annual reports show the number of formal complaints filed each year, and the statement now furnished shows which of those complaints have been decided. The following comparison shows the proportion of the complaints filed during each of the past three years which had been decided by the Commission up to November 21, 1905:

Year ending December 1—	Formal complaints filed.	Number of such complaints decided up to Nov. 1, 1905.
1903	81	28
1904	62	12
1905	65	2

Doubtless numerous formal complaints instituted in the years mentioned have been discontinued by the complainants, but the figures above given suggest that it is entirely probable that numerous cases one, two, or three years old, and perhaps older, are still before the Commission and undisposed of.

Therefore Appendix M does not give an entirely accurate idea as to delay on the part of the Commission in deciding cases under normal conditions, because it includes the large number of cases which were promptly decided at the outset before the Commission's office became congested with business and excludes such delayed cases as may have been pending before the Commission undecided on November 21, 1905. But, taking Appendix M as it stands, it is apparent that there have been serious delays on the part of the Commission.

Moreover, much of the delay in deciding these cases has occurred after all the evidence and arguments were in and the cases were submitted for decision. Appendix M discloses the following figures relative to the time required after submission for decision of the 203 cases which were not decided in less than a year after the filing of complaint:

Required over 4 years after submission	1
Required from 3 to 4 years each after submission	4
Required from 2 to 3 years each after submission	23
Required from 1 to 2 years each after submission	59
Required from 6 to 12 months each after submission	51
Were decided in less than 6 months	63
Cases date of submission not shown	2
Total	203

It will of course be understood that all of the 386 formal complaints disposed of by the Commission since its organization do not relate to rates. The information in that statement which is of especial interest at this time is that showing the length of time required to dispose of cases relating to rates wherein the Commission actually found occasion to condemn the rates of carriers.

On pages 840 and 841 of Volume II of the Hearings on the Regulation of Railway Rates before the Senate Committee on Interstate Commerce is a table furnished by the Interstate Commerce Commission, showing cases in which the Commission found rates complained of to be unreasonable and ordered them to be discontinued. The last decision included in this table is one of July 27, 1904. The table contains sixty-three cases. Appendix M shows the time required for the decision of these cases to have been as follows:

Required over 4 years from filing of complaint	1
Required from 3 to 4 years each from filing of complaint	12
Required from 2 to 3 years each from filing of complaint	13
Required from 1 to 2 years each from filing of complaint	18
Required less than 1 year	19
Total	53

Thus twenty-six cases, or more than 41 per cent of the cases in which the Commission found it necessary to condemn rates, required more than two years for a decision, *and the average time required for each of these twenty-six cases was slightly over three years.*

II.

The delay disclosed by this analysis of Appendix M can be fully accounted for by a reference to the numerous grave and arduous duties imposed upon the Interstate Commerce Commission. If the Commission had had nothing to do, or but little to do, outside of the decision of formal controversies, it could have rendered its decision with far greater promptness.

The Commission is charged with the duty of receiving, filing, and supervising all the interstate tariffs of rates issued by railroads in this country; with the duty of receiving statistical reports from carriers subject to the interstate-commerce act, and of obtaining from them any further necessary statistical information, which must all be analyzed and formulated into general statistical reports under the Commission's direction; with the duty of receiving and compiling monthly reports from all interstate railroads relative to collisions, derailments, and accidents to passengers or employees. These functions are very important, and necessitate more or less personal supervision and direction by the members of the Commission.

The safey-appliance acts vest in the Commission certain important discretionary powers involving, for their proper exercise, much care and labor on the part of the members of the Commission. The safety-appliance acts also require the Commission to detect and prosecute all violations thereof, and for that purpose the Commission maintains a force of special agents or detectives, whom it must direct and supervise.

One of the most important and successful functions of the Commission has been that of acting as an intermediary between shippers and carriers, and in that capacity adjusting complaints and removing abuses—or, in other words, avoiding controversies and litigation. The proper discharge of this function demands a very large part of the attention of all the members of the Commission; it entails upon them a very heavy correspondence with shippers and carriers, and compels them to put their time largely at the disposal of shippers and officers of carriers seeking interviews. Considering the extent of this country, its enormous railroad mileage, and the thousands of controversies which may arise between shippers and carriers in which the mediation of the Commission would be valuable, these functions of themselves might well be calculated to take up practically the entire time of any single tribunal.

One of the most important functions of the Commission is to maintain a vigilant supervision of the carriers throughout the country for the purpose of detecting, prosecuting, and preventing the giving of secret rebates. The work necessary in the discharge of these functions has taken much of the Commission's time, and still it is generally accepted as true that the Commission has not devoted anything like enough time to this important subject.

In some of the larger States the State commissions seem to be kept busy looking after corresponding matters within their respective jurisdictions; yet the Interstate Commerce Commission, with a jurisdiction a hundredfold more extensive and dealing with a bewildering variety and complexity of local conditions, has been expected in the past to perform similar work throughout the United States and to find time for the prompt performance of all of it. The expectation has been unreasonable, and, naturally, it has not been realized in practice. The Commission has not had the time to attend to all of its duties, has been compelled to neglect very largely one of its most important and difficult duties, to wit, the detection and prevention of secret rebates, and the above analysis of Appendix M shows how much it has been delayed in discharging the important function of passing upon formal controversies between shippers and carriers.

As far back as 1890 the Commission took occasion to say, in its fourth annual report:

"When the question arises, as it often must, why obedience to the law is not more completely secured, it is in part answered by the very magnitude of the country and of its enormous railway mileage, equal to many times that of any other country and considerably exceeding that of all Europe combined.

"The railway mileage of this country, in round numbers, is about 160,000 miles. The number of railway employees exceeds 700,000, and adding to these the number connected with railroad transportation in various capacities, such as officials of roads, officers and employees of associations, traffic solicitors, legal advisers, and others, the aggregate is not far from a million, or nearly one-twelfth of the adult male population of the country. The business done includes the carriage of 540,000,000 tons of freight and 472,000,000 passengers. The enormous extent of the subject-matters of regulation is shown by these statements. Any criticism of the efficiency of regulation would obviously be defective if it failed to take note of the vast number of persons and the extent of the business to be regulated."

The statements thus made by the Commission were based upon the statistics for the year ending June 30, 1889. Comparing these figures with the statistics for the year ending June 30, 1904, which are the latest available, we find that the railway mileage has increased to over 214,000 miles, the number of railway employees to 1,296,000, the number of passengers carried to 715,000,000, and the number of tons of freight carried to 1,300,000,000.

Doubtless most of the dissatisfaction with the present interstate commerce act which has been engendered in various quarters has been based upon an apparent inefficiency of the law which would have disappeared entirely if the Commission had had the time to perform the duties imposed upon it. These considerations suggest the query whether a division rather than a multiplication of the Commission's present duties is not the thing needed for satisfactory enforcement of the law.

III.

The President in his last annual message to Congress laid emphasis upon "*the need of providing for expeditious action by the Interstate Commerce Commission.*" Many of the pending bills seem to proceed upon the theory that the only thing needed in order to insure expeditious action by the Commission is to add to the Commission's duties and responsibilities.

For illustration, the Hepburn bill, without removing a single duty or function of the Commission, imposes upon it many other duties and functions. It provides that no advances or reductions shall be made in rates except after thirty days' public notice, unless the Commission, in its discretion and for good cause shown, allow changes upon less notice, either in particular instances or by general orders. It is well known that the legitimate necessities of commerce absolutely require many rates to be changed upon less than thirty days' notice, and that emergencies constantly arise which make it highly important that changes, and especially reductions, should be made on very short notice. The total number of imperative demands of this kind which will arise per month or per week will undoubtedly be very large where such an enormous and varied commerce and such a vast railroad mileage are involved. Whenever such a demand is presented to the Commission it will, under the Hepburn bill, become the duty of the Commission to take the necessary time to consider and act upon that demand; and every such demand will have to be given preference over all other matters, for a few days' delay will be equivalent to a denial. It is probable that this single provision will in itself be an immense embarrassment to the Commission in the discharge of its other functions.

The Hepburn bill also empowers and requires the Commission to establish through routes and joint rates, and where the carriers, parties thereto, can not agree, to prescribe the division of such rates and the terms and conditions under which such through routes shall be operated. This is an entirely new jurisdiction and transfers to the Commission the duty of making business arrangements among railroad companies where they can not agree among themselves. Whatever may be said of this plan on other accounts, it can not be denied that it will probably demand an important part of the Commission's time. The same observations apply with respect to the provision of the Hepburn bill authorizing the Commission to fix the reasonable compensation to be paid by a carrier to the owner of property for any service rendered or instrumentality furnished by such owner in connection with the transportation of his property.

Another important feature of the Hepburn bill is the authority given to the Commission to employ examiners for the purpose of inspecting all the accounts, records, and memoranda of carriers and to prescribe the form of all accounts, records, and memoranda which the carriers may keep. Such provision, duly safeguarded, is doubtless eminently proper for facilitating the discovery, punishment, and prevention of secret discriminations of every character; but it is obvious that the efficient performance of this function throughout the United States will require an immense amount of time and labor, not merely on the part of the examiners of the Commission, but on the part of the Commission itself. Such a grave and delicate duty can not properly be left to a lot of subordinates without constant supervision.

The Hepburn bill further imposes upon the Commission the paramount duty and responsibility of prescribing maximum rates for carriers throughout the United States whenever existing rates are complained of as unlawful. On every hand this is conceded to be a power of supreme delicacy and importance, requiring, for its discharge, undivided attention and ample time for complete investigation and deliberation.

Thus, in many directions, the Hepburn bill increases the duties, difficulties, and responsibilities of the Commission, and does not remove any obstacles which now stand in the way of the Commission's complete and prompt discharge of its duties. The plan to increase the membership of the Commission from five to seven will not afford relief. Primarily it simply means that a majority out of seven, instead of a majority out of five, must agree upon matters demanding action or decision upon the part of the Commission. Such increase in the membership of the Commission wholly fails to reach the inherent defect in the present system, which intrusts to a single tribunal so many different and difficult duties that it is utterly impossible to secure their prompt and adequate performance.

In these respects the Hepburn bill is typical of all the measures proposing to give the Commission the power to make or revise rates. All of them seem to lose sight of one of the principal objects of additional legislation, to wit, "the need of providing for expeditious action by the Interstate Commerce Commission." Appendix M shows how little expedition there has been on the part of the Commission in reaching a conclusion upon rate controversies before it. The present law, with its multifarious duties, explains why the results have not been expeditious. The Hepburn bill and similar measures propose to create more duties and difficulties, with the inevitable result that there would be even less expedition than has been realized under the present law. There would probably have to be even more neglect than in the past of the important function of stamping out rebates, and at the same time more delay in reaching conclusions upon rate controversies than Appendix M shows to have been habitual under the present law.

WALKER D. HINES.

LOUISVILLE, KY., *February 8, 1906.*

Mr. CULLOM. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Illinois?

Mr. FORAKER. I have only a minute.

Mr. CULLOM. Will the Senator yield to me for a moment?

Mr. FORAKER. Certainly.

Mr. CULLOM. I hold in my hand two different papers—one giving the States making the circuits, with the populations and the area, and also another which gives the mileage of the railroads. I ask to have these papers printed in the RECORD so that we may have a complete understanding of the whole situation.

The VICE-PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

The judicial districts of the United States are divided into nine circuits, as follows:

First.—Rhode Island, Massachusetts, New Hampshire, and Maine. Total area, 47,993; population, 4,339,956.

Second.—Vermont, Connecticut, and New York. Total area, 61,600; population, 8,520,955.

Third.—Pennsylvania, New Jersey, and Delaware. Total area, 54,470; population, 8,370,519.

Fourth.—Maryland, Virginia, West Virginia, North Carolina, and South Carolina. Total area, 153,380; population, 7,235,154.

Fifth.—Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. Total area, 518,810; population, 10,555,175.

Sixth.—Ohio, Michigan, Kentucky, and Tennessee. Total area, 179,940; population, 10,746,317.

Seventh.—Indiana, Illinois, and Wisconsin. Total area, 146,360; population, 9,407,054.

Eighth.—Nebraska, Minnesota, Iowa, Missouri, Colorado, North Dakota, South Dakota, Wyoming, Utah, Kansas, and Arkansas. Total area, 845,455; population, 12,567,967.

Ninth.—California, Oregon, Nevada, Washington, Montana, and Idaho. Total area, 656,952; population, 2,864,148.

Railroad mileage by judicial circuits, 1904.

First circuit.—Rhode Island, 209; Massachusetts, 2,110; New Hampshire, 1,191; Maine, 2,029. Total, 5,539.

Second circuit.—Vermont, 1,056; Connecticut, 1,020; New York, 8,167. Total, 10,243.

Third circuit.—Pennsylvania, 10,991; New Jersey, 2,266; Delaware, 334. Total, 13,591.

Fourth circuit.—Maryland, 1,340; Virginia, 3,284; West Virginia, 2,821; North Carolina, 3,914; South Carolina, 3,146. Total, 14,505.

Fifth circuit.—Georgia, 6,299; Florida, 3,586; Alabama, 4,591; Mississippi, 3,425; Louisiana, 3,593; Texas, 11,614. Total, 33,108.

Sixth circuit.—Ohio, 9,164; Michigan, 8,468; Kentucky, 3,262; Tennessee, 3,485. Total, 24,379.

Seventh circuit.—Indiana, 6,863; Illinois, 11,742; Wisconsin, 7,115. Total, 25,720.

Eighth circuit.—Nebraska, 5,778; Minnesota, 7,842; Iowa, 9,836; Missouri, 7,797; Kansas, 8,841; Arkansas, 3,947; Colorado, 4,990; North Dakota, 3,212; South Dakota, 3,169; Wyoming, 1,244; Utah, 1,640. Total, 58,296.

Ninth circuit.—California, 6,203; Oregon, 1,750; Nevada, 1,186; Idaho, 1,425; Washington, 3,232; Montana, 3,328. Total, 17,124.

It will be seen that the three New England, or eastern circuits, together have but an aggregate of 29,373 miles of railroad. These three circuits together have less mileage than the fifth circuit alone, and but about 5,000 miles more than the sixth circuit alone, and but 4,000 miles more than the seventh circuit alone; but a trifle more than one-half the mileage of the eighth circuit alone.

The total railroad mileage of the United States is 212,348, of which the three New England or eastern circuits have but 29,373 miles, or a little more than 13 per cent.

Mr. LODGE. I do not suppose that, from what the Senator from South Carolina has stated, there is any intention of concluding this amendment this evening.

Mr. TILLMAN. I do not see how we can.

Mr. LODGE. I think it would be much better if we should adjourn, but I should like, as I introduced the amendment and have said nothing about it so far, to say a single word.

I appreciated fully the disparity of the judicial circuits as a basis. What I desired to get at is a proper distribution of the membership of the Commission into different parts of the United States. I am ready to accept any proposition that will give that distribution. I think the suggestion of the Senator from Texas [Mr. BAILEY] is an excellent one, to make nine transportation districts. Therefore I do not think any great time need be wasted in showing how small New England is and how large the eighth circuit is. In those three circuits of New England, New York, and Pennsylvania, which are so small, there are 21,000,000 people, and I suppose that is the reason why there is some judicial business there.

But, Mr. President, that is not what I am seeking to attain. I want to get a commission that shall be worthy of the great business and responsibility we are going to impose upon them; the greatest responsibility that was ever imposed upon any administrative board in this country. We have not behind it all that the traditions and the history of the courts give to the courts. It is a creation of to-day for a specific work; and I want by length of tenure and by size of salary to give to it all the dignity and attraction it is possible.

I think also it is of the utmost importance that we should have a proper geographical distribution of the membership of the Commission. The Senator talks about the small circuits in the East, and at this moment, out of your five Commissioners, there are two out of one of those little circuits, the second. Fault is found that this is not a fair distribution, and at this moment you have two out of one of the smallest circuits. I want to see the membership properly distributed.

As to the political complexion, that is in the interstate law now, and was taken from it. I think it is a proper provision that the entire board should not at any time be given a political complexion, and that is precisely what we want to avoid.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Illinois?

Mr. LODGE. No, Mr. President; I have but little time.

The VICE-PRESIDENT. The Senator from Massachusetts declines to yield.

Mr. LODGE. I desire, therefore, to get this proper distribution, and I think the suggestion of the Senator from Texas is exactly the one to follow. Let us agree to nine transportation districts, and they can be framed in conference, or framed here.

Mr. HALE. Here.

Mr. LODGE. They can be framed here to-morrow. I have no doubt that the Senator from Texas, who has given this matter thought, could bring in the nine districts arranged. We have been furnished by the Interstate Commerce Commission the comparative mileage in the different districts, and I do not think it would be a difficult thing to establish nine equal transportation districts, as nearly equal as possible in point of population and mileage.

As to having the Commission composed of nine members, it seems to me that that is very important. That is the number of the Supreme Court. I do not think, in view of the business and the responsibility that will fall on the Commission, it makes it at all too numerous.

Those are my reasons, Mr. President, for presenting this amendment. We need not waste any time about the judicial circuits. I am quite willing, I am desirous, to see them go. I am conscious of the disparity which exists among those circuits; but I do believe, and I believe it is the opinion of the majority of the Senate to-day, that we can not spend too much time and attention in making the Commission what it ought to be. That is where all the work under this law starts. We have given all our time to the courts, which are to have the review or the appeal, but these are the men who are to do the work. I hope that to-morrow the Senate will give sufficient time to make the Commission worthy of this great task.

Mr. GALLINGER. Mr. President, as the members of the Senate get salaries less than one-half what is proposed to be given to the members of the Commission, I think we have earned our salaries to-day, and I move that the Senate proceed to the consideration of executive business.

Mr. TILLMAN. Before that question is put, I move that the bill as amended up to the present time be printed.

The motion was agreed to.

EXECUTIVE SESSION.

The VICE-PRESIDENT. The Senator from New Hampshire moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, May 15, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 14, 1906.

COLLECTOR OF CUSTOMS.

William Mahone, of Virginia, to be collector of customs for the district of Petersburg, in the State of Virginia. (Reappointment.)

PROMOTIONS IN THE NAVY.

Lieut. Henry C. Kuenzli to be a lieutenant-commander in the Navy from the 1st day of January, 1906, to fill a vacancy created in that grade by the act of Congress approved March 3, 1903.

Boatswain Rudolph C. Mehrtens to be a chief boatswain in the Navy from the 25th day of January, 1906, upon the completion of six years' service, in accordance with the provisions of an act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

André E. Lee, a citizen of California, to be an assistant surgeon in the Navy from the 9th day of May, 1906, to fill a vacancy existing in that grade on that date.

ASSISTANT COMMISSIONER OF THE GENERAL LAND OFFICE.

George F. Pollock, of North Lawrence, Ohio, to be Assistant Commissioner of the General Land Office, vice John H. Fimple, resigned.

REGISTERS OF LAND OFFICES.

Joseph H. Battenfield, of Arkansas, to be register of the land office at Dardanelle, Ark., his term having expired May 1. (Reappointment.)

Harry G. Friedheim, of Camden, Ark., to be register of the land office at Camden, Ark., vice Milton A. Elliott, term expired.

John I. Worthington, of Arkansas, to be register of the land office at Harrison, Ark., his term having expired May 1. (Reappointment.)

RECEIVERS OF PUBLIC MONEYS.

John E. Bush, of Arkansas, to be receiver of public moneys at Little Rock, Ark., his term having expired May 1. (Reappointment.)

John G. Chitwood, of Arkansas, to be receiver of public moneys at Dardanelle, Ark., his term having expired May 1. (Reappointment.)

William F. Reeves, of Marshall, Ark., to be receiver of public moneys at Harrison, Ark., vice Charles M. Greene, term expired.

UNITED STATES ATTORNEY.

George Randolph, of Tennessee, to be United States attorney for the western district of Tennessee. A reappointment, his term expiring on June 7, 1906.

UNITED STATES MARSHAL.

Andrew J. Houston, of Texas, to be United States marshal for the eastern district of Texas. A reappointment, his term expiring May 25, 1906.

PROMOTIONS IN THE ARMY—ARTILLERY CORPS.

To be captains.

First Lieut. Ernest A. Greenough, Artillery Corps, from March 16, 1906, vice Brooks, promoted.

First Lieut. Alexander Greig, jr., Artillery Corps, from March 26, 1906, vice Bartlett, promoted.

First Lieut. Solomon Avery, jr., Artillery Corps, from April 1, 1906, vice Bennett, promoted.

First Lieut. James A. Ruggles, Artillery Corps, from April 5, 1906, vice Martin, deceased.

First Lieut. Fred T. Austin, Artillery Corps, from April 14, 1906, vice Millar, promoted.

To be first lieutenants.

Second Lieut. William S. Bowen, Artillery Corps, from February 24, 1906, vice Hopkins, promoted.

Second Lieut. Norton E. Wood, Artillery Corps, from March 3, 1906, vice Tilton, promoted.

Second Lieut. Marion S. Battle, Artillery Corps, from March 3, 1906, vice Grant, promoted.

Second Lieut. Frank T. Thornton, Artillery Corps, from March 9, 1906, vice Waldron, promoted.

Second Lieut. Ernest S. Wheeler, Artillery Corps, from March 16, 1906, vice Greenough, promoted.

Second Lieut. Stanley S. Ross, Artillery Corps, from March 26, 1906, vice Greig, promoted.

Second Lieut. Graham Parker, Artillery Corps, from April 1, 1906, vice Avery, promoted.

Second Lieut. Albert S. Fuger, Artillery Corps, from April 5, 1906, vice Ruggles, promoted.

Second Lieut. Edward Gottlieb, Artillery Corps, from April 14, 1906, vice Austin, promoted.

POSTMASTERS.

ARKANSAS.

Charles R. French to be postmaster at Harrisburg, in the county of Poinsett and State of Arkansas. Office became Presidential April 1, 1906.

Nannie S. White to be postmaster at Ashdown, in the county of Little River and State of Arkansas. Office became Presidential April 1, 1906.

ARIZONA.

Eva M. Marshall to be postmaster at Flagstaff, in the county of Coconino and Territory of Arizona, in place of Thomas J. Coalter. Incumbent's commission expires June 30, 1906.

CALIFORNIA.

Thomas T. Dargie to be postmaster at Oakland, in the county of Alameda and State of California, in place of Thomas T. Dargie. Incumbent's commission expires June 17, 1906.

COLORADO.

Robert T. Bunney to be postmaster at Golden, in the county of Jefferson and State of Colorado, in place of B. P. Quaintance. Incumbent's commission expired January 21, 1906.

ILLINOIS.

Charles F. Best to be postmaster at Nokomis, in the county of Montgomery and State of Illinois, in place of Charles F. Best. Incumbent's commission expires June 25, 1906.

John A. Childs to be postmaster at Evanston, in the county of Cook and State of Illinois, in place of John A. Childs. Incumbent's commission expires June 10, 1906.

M. J. J. Stowe to be postmaster at Girard, in the county of Macoupin and State of Illinois, in place of Robert W. McKnight, resigned.

Roger Walwark to be postmaster at Ava, in the county of Jackson and State of Illinois, in place of Roger Walwark. Incumbent's commission expires June 10, 1906.

INDIANA.

Tristram C. Palmer to be postmaster at Montpelier, in the county of Blackford and State of Indiana, in place of Edmund A. Smith. Incumbent's commission expired December 12, 1905.

INDIAN TERRITORY.

Richard H. Jenness to be postmaster at Okmulgee, in district 9, Indian Territory, in place of Richard H. Jenness. Incumbent's commission expired May 2, 1906.

KANSAS.

Joseph A. Schmitt to be postmaster at Ellsworth, in the county of Ellsworth and State of Kansas, in place of Joseph A. Schmitt. Incumbent's commission expires June 19, 1906.

MICHIGAN.

Andrew Sutherland, 2d, to be postmaster at Oxford, in the county of Oakland and State of Michigan, in place of Andrew Sutherland, 2d. Incumbent's commission expired April 22, 1906.

MISSISSIPPI.

John P. Bennett to be postmaster at Yazoo City, in the county of Yazoo and State of Mississippi, in place of John P. Bennett. Incumbent's commission expires June 3, 1906.

Drewy W. Rhyne to be postmaster at Lexington, in the county of Holmes and State of Mississippi, in place of Drewy W. Rhyne. Incumbent's commission expires June 27, 1906.

Eugene E. Robertson to be postmaster at Collins, in the county of Covington and State of Mississippi, in place of Eugene E. Robertson. Incumbent's commission expires June 27, 1906.

James J. Scarborough to be postmaster at Poplarville, in the county of Pearl River and State of Mississippi, in place of James J. Scarborough. Incumbent's commission expires June 3, 1906.

Joshua Stevens to be postmaster at Macon, in the county of Noxubee and State of Mississippi, in place of Joshua Stevens. Incumbent's commission expires June 30, 1906.

NEBRASKA.

Jacob Fisher to be postmaster at Hastings, in the county of Adams and State of Nebraska, in place of Jacob Fisher. Incumbent's commission expired January 20, 1906.

NEW JERSEY.

Abram W. Boss to be postmaster at Flemington, in the county of Hunterdon and State of New Jersey, in place of Abram W. Boss. Incumbent's commission expires May 28, 1906.

Luther M. Whitaker to be postmaster at Westfield, in the county of Union and State of New Jersey, in place of Luther M. Whitaker. Incumbent's commission expires May 14, 1906.

NORTH CAROLINA.

Hugh Paul to be postmaster at Washington, in the county of Beaufort and State of North Carolina, in place of Thomas G. Stilley, removed.

NORTH DAKOTA.

Albert F. Hill to be postmaster at Cando, in the county of Towner and State of North Dakota, in place of Albert F. Hill. Incumbent's commission expires May 19, 1906.

OHIO.

Atwell E. Ferguson to be postmaster at Gibsonburg, in the county of Sandusky and State of Ohio, in place of Atwell E. Ferguson. Incumbent's commission expired May 7, 1906.

OKLAHOMA.

Jasper N. Perkins to be postmaster at Temple, in the county of Comanche and Territory of Oklahoma. Office became Presidential April 1, 1906.

F. Everett Purcell to be postmaster at Enid, in the county of Garfield and Territory of Oklahoma, in place of Vernon W. Whiting, resigned.

PENNSYLVANIA.

Elmer E. Fleming to be postmaster at Haverford, in the county of Montgomery and State of Pennsylvania, in place of Ralph N. Warner, jr. Incumbent's commission expires June 27, 1906.

Elmer E. McCracken to be postmaster at North Wales, in the county of Montgomery and State of Pennsylvania, in place of Irwin G. Lukens. Incumbent's commission expires May 23, 1906.

William McElhaney to be postmaster at Pencoyd, in the county of Montgomery and State of Pennsylvania, in place of Benjamin Jacobs. Incumbent's commission expires May 23, 1906.

TEXAS.

Gomer S. Williams to be postmaster at Cisco, in the county of Eastland and State of Texas, in place of Gomer S. Williams. Incumbent's commission expires June 11, 1906.

Henry Zweifel to be postmaster at Granbury, in the county of Hood and State of Texas, in place of Fritz Ahrens. Incumbent's commission expired April 18, 1906.

WASHINGTON.

Forest W. France to be postmaster at Buckley, in the county of Pierce and State of Washington, in place of Forest W. France. Incumbent's commission expired April 25, 1906.

Lewis E. Hardy to be postmaster at Kent, in the county of King and State of Washington, in place of Lewis E. Hardy. Incumbent's commission expires July 1, 1906.

WISCONSIN.

James H. Spencer to be postmaster at Necedah, in the county of Juneau and State of Wisconsin, in place of James H. Spencer. Incumbent's commission expires June 4, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 14, 1906.

CONSULS-GENERAL.

Richard M. Bartleman, of Massachusetts, now consul at Seville, to be consul-general at large of the United States, to take effect July 1, 1906.

Charles M. Dickinson, of New York, now consul-general at Constantinople, to be consul-general at large of the United States, to take effect July 1, 1906.

POSTMASTERS.

ILLINOIS.

James Bromilow to be postmaster at Chillicothe, in the county of Peoria and State of Illinois.

Samuel S. Dingel to be postmaster at Wilmette, in the county of Cook and State of Illinois.

J. P. Overholser to be postmaster at Sterling, in the county of Whiteside and State of Illinois.

Alexander B. Sproul to be postmaster at Sparta, in the county of Randolph and State of Illinois.

MISSOURI.

Frederick W. Deuser, to be postmaster at Clayton, in the county of St. Louis and State of Missouri.

NEW JERSEY.

Frederic B. Taylor to be postmaster at South Orange, in the county of Essex and State of New Jersey.

OREGON.

David L. Moomaw to be postmaster at Baker City, in the county of Baker and State of Oregon.

PENNSYLVANIA.

William H. Davis to be postmaster at Pittsburg, in the county of Allegheny and State of Pennsylvania.

Jesse N. Watson to be postmaster at Hatboro, in the county of Montgomery and State of Pennsylvania.

VIRGINIA.

Franklin Stearns to be postmaster at Glenallen, in the county of Henrico and State of Virginia.

HOUSE OF REPRESENTATIVES.

MONDAY, *May 14, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of Friday, May 11, was read.

Mr. PAYNE. Mr. Speaker, I move that the Journal be approved.

The SPEAKER. The question is on the motion of the gentleman from New York that the Journal be approved.

Mr. WILLIAMS. Mr. Speaker, let us have the yeas and nays.

The SPEAKER. The gentleman from Mississippi demands the yeas and nays. All those in favor of ordering the yeas and nays will rise. [After counting.] Thirty-one Members have arisen.

Mr. PAYNE. Mr. Speaker, I demand the other side.

The SPEAKER. Ninety-three gentlemen in the negative; and the yeas and nays are ordered.

The question was taken; and there were—yeas 199, nays 0, answered "present" 17, not voting 165, as follows:

YEAS—199.

Adams, Pa.	Candler	Finley	Houston
Adamson	Chaney	Fitzgerald	Howard
Aiken	Clark, Mo.	Fletcher	Howell, N. J.
Alexander	Clayton	Floyd	Howell, Utah
Andrus	Cockran	Foss	Hughes
Babcock	Cole	Foster, Ind.	Hull
Bartholdt	Cooper, Pa.	Foster, Vt.	Humphrey, Wash.
Bartlett	Cooper, Wis.	French	Humphreys, Miss.
Bates	Cousins	Fulkerson	Hunt
Beall, Tex.	Cromer	Gaines, Tenn.	Jones, Wash.
Bede	Crumpacker	Garner	Kahn
Bell, Ga.	Currier	Garrett	Kellher
Bishop	Cushman	Gillespie	Kennedy, Nebr.
Bonynge	Dale	Gillett, Cal.	Kline
Bowers	Dalzell	Gillett, Mass.	Knopf
Bowie	Darragh	Graff	Knowland
Brantley	Davis, W. Va.	Graham	Lacey
Brick	Dawes	Greene	Lawrence
Broocks, Tex.	Dawson	Gregg	Le Fevre
Brooks, Colo.	De Armond	Hamilton	Lester
Broussard	Deemer	Hardwick	Lewis
Brownlow	Dickson, Ill.	Haugen	Lindsay
Brundidge	Dixon, Ind.	Hay	Littauer
Burgess	Dixon, Mont.	Hedge	Littlefield
Burleson	Draper	Heflin	Livingston
Burnett	Dunwell	Henry, Tex.	Lloyd
Burton, Del.	Edwards	Hill, Conn.	Loud
Calderhead	Ellerbe	Hill, Miss.	Loudenslager
Campbell, Kans.	Esch	Hinshaw	McCarthy
McCleary, Minn.	Patterson, N. C.	Scott	Sullivan, Mass.
McKinlay, Cal.	Patterson, S. C.	Sibley	Sulloway
McLachlan	Payne	Sims	Talbott
Macon	Perkins	Slayden	Tawney
Marshall	Pollard	Slemp	Taylor, Ala.
Meyer	Powers	Small	Taylor, Ohio
Miller	Prince	Smith, Cal.	Thomas, N. C.
Mondell	Pujo	Smith, Iowa	Townsend
Moon, Pa.	Randell, Tex.	Smith, Md.	Volstead
Moon, Tenn.	Reeder	Smith, Samuel W.	Wallace
Morrell	Rhodes	Smith, Pa.	Wanger
Mouser	Rives	Smith, Tex.	Webb
Mudd	Rixey	Smyser	Weeks
Murdock	Roberts	Snapp	Williams
Murphy	Robinson, Ark.	Southwick	Wilson
Needham	Rodenberg	Sperry	Wood, Mo.
Norris	Rucker	Spight	Wood, N. J.
Olcott	Ruppert	Stafford	Woodyard
Page	Russell	Stephens, Tex.	Young
Parker	Ryan	Sterling	Zenor
Parsons	Samuel	Stevens, Minn.	

NAYS—0.

ANSWERED "PRESENT"—17.

Boutell	Haskins	Mann	Sherley
Chapman	Hoar	Minor	Wiley, Ala.
Davey, La.	Johnson	Otjen	
Fuller	Lee	Pou	
Goulden	McGavin	Robertson, La.	

NOT VOTING—165.

Acheson	Field	Kitchin, Wm. W.	Rhinock
Adams, Wis.	Flack	Klepper	Richardson, Ala.
Allen, Me.	Flood	Knapp	Richardson, Ky.
Allen, N. J.	Fordney	Lafean	Schneebell
Ames	Fowler	Lamar	Scroggy
Bankhead	Gaines, W. Va.	Lamb	Shackleford
Bannon	Garber	Landis, Chas. B.	Shartel
Barchfeld	Gardner, Mass.	Landis, Frederick	Sheppard
Beidler	Gardner, Mich.	Law	Sherman
Bennet, N. Y.	Gardner, N. J.	Legare	Smith, Ill.
Bennett, Ky.	Gilbert, Ind.	Lever	Smith, Ky.
Bingham	Gilbert, Ky.	Lilley, Conn.	Smith, Wm. Alden
Birdsall	Gill	Lilley, Pa.	Southall
Blackburn	Glass	Little	Southard
Bowersock	Goebel	Longworth	Sparkman
Bradley	Goldfogle	Lorimer	Stanley
Brown	Granger	Lovering	Steenerson
Buckman	Griggs	McCall	Sullivan, N. Y.
Burke, Pa.	Gronna	McCreary, Pa.	Sulzer
Burke, S. Dak.	Grosvenor	McDermott	Thomas, Ohio
Burleigh	Gudger	McKinley, Ill.	Tirrell
Burton, Ohio	Hale	McKinney	Towne
Butler, Pa.	Hayes	McLain	Trimble
Butler, Tenn.	Hearst	McMorran	Tyndall
Byrd	Henry, Conn.	McNary	Underwood
Calder	Hepburn	Madden	Van Duzer
Campbell, Ohio	Hermann	Mahon	Van Winkle
Capron	Higgins	Martin	Vreeland
Cassel	Hitt	Maynard	Wachter
Clark, Fla.	Hogg	Michalek	Wadsworth
Cocks	Holliday	Moore	Waldo
Conner	Hopkins	Nevin	Watkins
Curtis	Hubbard	Olmsted	Watson
Davidson	Huff	Overstreet	Webber
Davis, Minn.	James	Padgett	Weems
Denby	Jenkins	Palmer	Weisse
Dovener	Jones, Va.	Patterson, Tenn.	Welborn
Dresser	Keifer	Pearre	Wharton
Driscoll	Kennedy, Ohio	Rainey	Wiley, N. J.
Dwight	Ketcham	Ransdell, La.	
Ellis	Kinkaid	Reid	
Fassett	Kitchin, Claude	Reynolds	

So the motion to approve the Journal was agreed to.

The following pairs were announced:

For the session:

Mr. BRADLEY with Mr. GOULDEN.

Until May 24:

Mr. FULLER with Mr. RICHARDSON of Kentucky.

Until May 18:

Mr. CHAPMAN with Mr. HOPKINS.

Until further notice:

Mr. FULKERSON with Mr. CLAUDE KITCHIN.

Mr. GROSVENOR with Mr. CLARK of Missouri.

Mr. DAVIDSON with Mr. LEE.

Mr. LILLEY of Connecticut with Mr. REID.

Mr. MCCALL with Mr. ROBERTSON of Louisiana.

Mr. HITT with Mr. LEGARE.

Mr. BURKE of South Dakota with Mr. DAVEY of Louisiana.

Mr. SCHNEEBELI with Mr. PATTERSON of Tennessee.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. HASKINS with Mr. LEVER.

Mr. MCGAVIN with Mr. SMITH of Maryland.

Mr. DRISCOLL with Mr. RANSDELL of Louisiana.

Mr. OTJEN with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. WATSON with Mr. SHERLEY.

Mr. NEVIN with Mr. FIELD.

Mr. WELLBORN with Mr. GUDGER.

Mr. WM. ALDEN SMITH with Mr. SHEPPARD.

Mr. HOAR with Mr. HOUSTON.

Mr. LILLEY of Pennsylvania with Mr. GILBERT of Kentucky.

Mr. DOVENER with Mr. SPARKMAN.

For this day:
Mr. LONGWORTH with Mr. JONES of Virginia.
Mr. DENBY with Mr. MCDERMOTT.
Mr. KNAPP with Mr. LAMAR.
Mr. BINGHAM with Mr. HEARST.
Mr. SHERMAN with Mr. SULLIVAN of New York.
Mr. BOUTELL with Mr. GRIGGS.
Mr. BIRDSALL with Mr. STANLEY.
Mr. BENNET of New York with Mr. SOUTHALL.
Mr. BEIDLER with Mr. SHACKLEFORD.
Mr. BARCHFELD with Mr. RICHARDSON of Alabama.
Mr. WACHTER with Mr. RHINOCK.
Mr. PEARRE with Mr. RAINEY.
Mr. OVERSTREET with Mr. POU.
Mr. OLMSTED with Mr. MOORE.
Mr. MADDEN with Mr. MAYNARD.
Mr. MCKINLEY of Illinois with Mr. MCNARY.
Mr. MCCREARY of Pennsylvania with Mr. MCLAIN.
Mr. KETCHAM with Mr. LAMB.
Mr. KENNEDY of Ohio with Mr. WILLIAM W. KITCHIN.
Mr. KEIFER with Mr. JAMES.
Mr. CONNER with Mr. WEISSE.
Mr. CASSEL with Mr. WATKINS.
Mr. CURTIS with Mr. UNDERWOOD.
Mr. HUFF with Mr. GRANGER.
Mr. BURTON of Ohio with Mr. TRIMBLE.
Mr. BURLEIGH with Mr. TOWNE.
Mr. BOWERSOCK with Mr. SULZER.
Mr. HEPBURN with Mr. BANKHEAD.
Mr. DAVIS of Minnesota with Mr. BUTLER of Tennessee.
Mr. FASSETT with Mr. CLARK of Florida.
Mr. GARDNER of Michigan with Mr. FLOOD.
Mr. DWIGHT with Mr. GARBER.
Mr. GRONNA with Mr. GILL.
Mr. HALE with Mr. GLASS.
Mr. HENRY of Connecticut with Mr. BYRD.
Mr. HUBBARD with Mr. GOLDFOGLE.
On this vote:
Mr. ACHESON with Mr. VAN DUZER.
The result of the vote was announced as above recorded.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. ADAMS of Pennsylvania, from the Committee on Foreign Affairs, reported the bill (H. R. 19264) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1907; which was read a first and second time, referred to the Committee of the Whole House on the State of the union, and, with the accompanying report, ordered to be printed.

Mr. PAYNE. Mr. Speaker, I reserve all points of order.

NOTARIES PUBLIC IN THE DISTRICT OF COLUMBIA.

Mr. BABCOCK. Mr. Speaker, I call up the bill (H. R. 17133) to amend section 558 of the Code of Law for the District of Columbia, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That section 558 of the Code of Law for the District of Columbia, relating to notaries public, be amended by adding at the end of said section the following: "*Provided*, That the appointment of any person as such notary public, or the acceptance of his commission as such, or the performance of the duties thereunder, shall not disqualify or prevent such person from representing clients before any of the Departments of the United States Government in the District of Columbia or elsewhere, provided such person so appointed as a notary public who appears to practice or represent clients before any such Department is not otherwise engaged in Government employ, and shall be admitted by the heads of such Departments to practice therein in accordance with the rules and regulations prescribed for other persons or attorneys who are admitted to practice therein," so that said section shall read as follows:

"SEC. 588. NOTARIES.—The President shall also have power to appoint such number of notaries public, residents of said District, as, in his discretion, the business of the District may require: *Provided*, That the appointment of any person as such notary public, or the acceptance of his commission as such, or the performance of the duties thereunder, shall not disqualify or prevent such person from representing clients before any of the Departments of the United States Government in the District of Columbia or elsewhere, provided such person so appointed as a notary public who appears to practice or represent clients before any such Department is not otherwise engaged in Government employ, and shall be admitted by the heads of such Departments to practice therein in accordance with the rules and regulations prescribed for other persons or attorneys who are admitted to practice therein."

With the following amendments:

Page 2, line 3, strike out the comma after the word "therein" and insert a period.

Page 2, strike out, commencing with the word "so," in line 5, down to and including the word "therein," in line 20.

The SPEAKER. The question is on agreeing to the committee amendments.

The question was taken; and the amendments were agreed to.

Mr. WILLIAMS. Mr. Speaker——

The SPEAKER. Does the gentleman from Wisconsin yield to the gentleman from Mississippi?

Mr. BABCOCK. Yes.

Mr. WILLIAMS. Mr. Speaker, I want to offer a second amendment to the bill.

The SPEAKER. Does the gentleman from Wisconsin yield to the gentleman from Mississippi for the purpose of offering an amendment?

Mr. BABCOCK. Yes.

Mr. WILLIAMS. I move to strike out the language in lines 11 and 12, on page 1, and the language in lines 1 and 2, on page 2, beginning with the word "provided," on line 11 of the first page, and ending with and including the word "employ," in line 2 of the second page; and I wish to give the reason for that, Mr. Speaker. This bill prevents clerks in the Government employ from acting as notaries public in the class of business with which the bill deals.

Mr. BARTLETT. Mr. Speaker, will the gentleman permit an interruption?

The SPEAKER. Does the gentleman yield?

Mr. WILLIAMS. Yes.

Mr. BARTLETT. Mr. Speaker, I think the gentleman is mistaken about his view of the effect on this bill. The bill does not intend to nor does it prevent anybody from acting as a notary public. It simply proposes to amend the law which prevents notaries public from practicing law or representing their clients in the Court of Claims or before any of the Departments. The gentleman's purpose is commendable. I drew the bill myself, and there is not anything in the bill to prevent anyone in the Government employ from acting as a notary public in attesting papers or administering oaths and such notarial acts. As the law stands, or as it has been construed by the Secretary of the Interior and other heads of Departments, the fact that a person is simply a notary public and holding no other office prevents him from representing anyone before the Departments or the Court of Claims. Now, this does not change the law with reference to permitting persons in employ of the Government from attesting papers, taking affidavits, and doing other notarial acts, but it does not permit anyone engaged in the Government service to practice law. The purpose of this bill, and its sole purpose, was to permit members of the bar who are notaries public to represent their clients in the Court of Claims, for instance. As the law now stands, the Supreme Court having decided that a notary public in the District of Columbia was an officer of the Government, by reason of the fact that they were notaries public they were not permitted to practice in the Court of Claims. This bill in no way interferes with the right of an employee of the Government from attesting papers and taking affidavits, and the gentleman's amendment, if it should prevail, would take out a very efficacious part of the existing law.

Mr. WILLIAMS. Mr. Speaker, with the explanation of the gentleman from Georgia [Mr. BARTLETT] that this bill does not interfere with the rights of employees of the Government in the Departments to act as notaries public in the Department, I shall withdraw the amendment which I have offered.

The SPEAKER. The gentleman withdraws the amendment.

Mr. GAINES of Tennessee. Mr. Speaker——

The SPEAKER. Does the gentleman from Wisconsin yield to the gentleman from Tennessee?

Mr. BABCOCK. Yes.

Mr. GAINES of Tennessee. Mr. Speaker, I would like to ask the gentleman from Georgia [Mr. BARTLETT] if the law now permits an attorney to swear his client to a bill filed in the District?

Mr. BARTLETT. Mr. Speaker, the law of Georgia does not. I do not think the law of any well-regulated government would.

Mr. GAINES of Tennessee. Well, the courts have decided both ways. Does the law now permit a notary public in the employ of the Government to administer oaths to people who make claims against the Government?

Mr. BARTLETT. I suppose it could be done.

Mr. GAINES of Tennessee. The gentleman does not know whether the law prohibits that or not.

Mr. BARTLETT. The law prohibits any person in the employ of the Government, a Member of Congress, or any other official of the Government from practicing before the Departments or the Court of Claims or any of the Departments and there representing their clients. This bill simply proposes to permit members of the bar in the District who are commercial notaries public for the purpose of attesting papers and taking affidavits to practice before the Departments and there represent their clients.

In other words, it grows out of the fact that the Secretary of the Interior and other heads of Departments have decided—and I think, maybe, properly—that a notary public in the District of Columbia was an officer of the Government, and the

consequence has been notaries public in Maryland and Virginia who have their offices here as attorneys can practice, and these other gentlemen who reside in the District of Columbia do not and can not.

Mr. GAINES of Tennessee. Mr. Speaker—and I simply want to make this general observation, if the gentleman will indulge me for a moment, that I had occasion a number of years ago to be engaged in an attachment case. An issue arose in it based on this fact: An attorney had sworn his client to his client's bill—the attachment bill—and I found that the authorities throughout the States decided differently, some that such affidavit was not sufficient, etc., and that it was contrary to public policy to allow a lawyer to swear his client to his client's bill, and some held to the contrary. Now, I think it is equally reprehensible to allow a person in the employ of the Federal Government—I do not care whether he is in the Department or in Congress or anywhere else, except clerk of a court, perhaps—to swear people in making affidavits about claims against the Government.

Mr. TAYLOR of Ohio. Will the gentleman allow me?

Mr. GAINES of Tennessee. Yes.

Mr. TAYLOR of Ohio. I was about to say the regulations of the Departments prevent anybody appearing as attorney before the Departments from swearing their clients to the papers they present as proof.

Mr. GAINES of Tennessee. That is all right, and that ought to be the LAW. It ought not to be simply a REGULATION. A regulation is a rule; it is not the law. That rule ought to be enacted into a statute. Then I think we ought to go a step further. We ought to stop people who are in the employ of the Federal Government from swearing people to affidavits and other proofs in claims against the Government. Members of Congress are not allowed to appear in claims against the Government, and I am glad of it.

Mr. TAYLOR of Ohio. Neither are notaries public.

Mr. GAINES of Tennessee. A notary public in the employ of the Government should not be permitted to take affidavits in any matter that pertains to business with the Government.

Mr. TAYLOR of Ohio. Well, they do not.

Mr. GAINES of Tennessee. It is a quasi-judicial act, and many courts have decided that. They have first to decide that the party is not insane or drunk, etc., and so on, from his personal observation, and the notary public should be entirely disinterested and impartial as an individual as well as an officer.

Mr. BABCOCK. I ask for a vote, Mr. Speaker.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed.

REASSESSMENTS OF BENEFITS IN EXTENSION AND WIDENING OF SHERMAN AVENUE.

Mr. BABCOCK. Mr. Speaker, I ask consideration of the bill which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the same.

The Clerk read as follows:

A bill (H. R. 18666) to provide for the reassessment of benefits in the matter of the extension and widening of Sherman avenue, in the District of Columbia, and for other purposes.

Be it enacted, etc., That the supreme court of the District of Columbia, holding a United States district court, is hereby authorized to finally ratify and confirm the verdict, award, and assessment of the jury found and returned in cause No. 555 in said court, in the matter of the extension and widening of Sherman avenue from Florida avenue to Whitney avenue, in the District of Columbia, as to all of those pieces or parcels of land with respect to which no objection has been filed to said confirmation, and to condemn the land necessary for the said widening and extension of said Sherman avenue; and in case any assessment for benefits against any piece or parcel of land mentioned in said verdict has been or may be vacated by reason of objections filed thereto, or for any other reason, the Commissioners of the District of Columbia are hereby authorized and directed to make application to said court for a reassessment of such benefits under and in accordance with the terms and provisions of the act of Congress approved June 6, 1900, entitled "An act for the extension of Columbia road east of Thirteenth street, and for other purposes;" and said assessments for benefits shall have priority over all deeds of trust, mortgages, judgments, and other liens.

The bill was ordered to be engrossed and read the third time; was read the third time, and passed.

BILLS FROM COMMITTEE ON THE DISTRICT OF COLUMBIA.

Mr. BABCOCK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of bills on the Union Calendar reported from the District Committee.

The question was taken; and the Chair announced that the ayes seemed to have it.

Mr. CLARK of Missouri. Division, Mr. Speaker.

The House divided; and there were—ayes 141, noes 31.

Mr. CLARK of Missouri. No quorum, Mr. Speaker.

The SPEAKER (after counting). Two hundred and eleven Members are present—a quorum.

Mr. CLARK of Missouri. Tellers, Mr. Speaker.

The SPEAKER. Those in favor of ordering tellers will rise and stand until they are counted. [After counting.] Thirty-one gentlemen have arisen; not a sufficient number.

Mr. CLARK of Missouri. The other side.

The SPEAKER. There is no other side in tellers.

Mr. MUDD. Mr. Speaker, I desire to reserve points of order on all the bills in Committee of the Whole.

The SPEAKER. They are not appropriation bills, as the Chair understands.

Mr. MUDD. I understand some of them are. If it is not necessary I do not do so.

The SPEAKER. They are not general appropriation bills.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of bills on the Union Calendar reported from the Committee on the District of Columbia, Mr. LITTLEFIELD in the chair.

REGULATION OF SALARIES OF TEACHERS, SCHOOL OFFICERS, ETC.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 18442) to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia.

Mr. BABCOCK. Mr. Chairman, pending that matter I have a little bill of importance that is necessary to get over to the other end of the Capitol, and therefore desire to call up before we take up the unfinished business. It is the bill (H. R. 9748) to provide for the further purification of the water supply of the District of Columbia.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BABCOCK] asks for the present consideration of the bill H. R. 9748, which the Clerk will report.

The Clerk proceeded to read.

Mr. CLARK of Missouri. Regular order, Mr. Chairman.

Mr. BABCOCK. Mr. Chairman, I ask that the Clerk will omit the part stricken out of the bill.

Mr. SIMS. Is not this unfinished business?

The CHAIRMAN. The gentleman from Wisconsin [Mr. BABCOCK] asks unanimous consent that the amendment in the bill which he sent to the Clerk's desk may be read instead of the text of the bill.

Mr. SIMS. Is it a school bill or some other bill?

The CHAIRMAN. It is another bill.

Mr. CLARK of Missouri. Mr. Chairman, I object.

Mr. SIMS. I object, then.

Mr. FITZGERALD. Mr. Chairman, a parliamentary inquiry. Is not the order of business the unfinished business in the committee?

The CHAIRMAN. The Chair would advise the gentleman from New York that the question is on the amendment offered by the gentleman from Pennsylvania [Mr. WANGER], who moved to amend on line 1, page 6, by striking out "four" and inserting in lieu thereof the word "five," so that it will read "Librarian, board of education, class five," instead of "class four."

The question is on the amendment.

Mr. PAYNE. Mr. Chairman, I would like to have some explanation of the effect of this amendment. An amendment was adopted at the last session changing the salaries of manual-training teachers, and increasing very substantially, I understood afterwards, their salaries. Now, I would like to know, and I think the committee would like to know, just what effect this amendment will have.

Mr. MORRELL. In answer to the gentleman from New York [Mr. PAYNE], as far as the amendment proposed by the gentleman from Pennsylvania [Mr. WANGER] is concerned, it simply places the librarian of the board of education in class three instead of class four. In other words, the librarian will have a chance, after a certain length of service, of reaching a maximum salary of $1,100, instead of $900 as received at present.

Mr. PAYNE. How many of them are there?

Mr. MORRELL. One.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. BURLESON. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk proceeded to read the amendment.

Mr. MORRELL. Mr. Chairman, I would prefer if the gentleman would allow us to complete the paragraph before offering the amendment.

Mr. BURLESON. The paragraph has been read, and I am now trying to complete the paragraph.

Mr. MORRELL. I did not understand.

The CHAIRMAN. The gentleman from Pennsylvania suggests that the gentleman from Texas——

Mr. MORRELL. It was my idea that he withhold the amendment until we complete the other articles in the section.

The CHAIRMAN. This is the proper place for the amendment of the gentleman from Texas [Mr. BURLESON].

Mr. BURLESON. I felt quite sure it was, Mr. Chairman.

Mr. GAINES of Tennessee. We have not had the amendment yet. It has not been reported.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by substituting for lines 13, 14, and 15, on page 5, the following:

"Teachers of manual training, drawing, physical culture, music, domestic science, domestic art in the graded schools, classes 2 to 5; teachers of manual training, drawing, physical culture, music, domestic science, and domestic art in the high schools, classes 4 to 5."

Mr. BURLESON. Mr. Chairman, when this bill was under consideration on a former day an amendment was offered and adopted which, I feel quite sure, this committee did not understand. The amendment was offered and adopted placing all teachers of manual training, drawing, physical culture, and music in the graded schools in Group A, class 6, which would entitle them at once to an unjustifiable increase in salary, some of them receiving an increase of $500, just double what is now being received. Under the bill as it was presented to the House by the Committee on the District of Columbia these teachers, embraced within the class I have mentioned, were amply provided for, and in the aggregate would receive an increase during the first year of $1,575. Under the amendment as it was offered and adopted, the aggregate increase in the salaries of these teachers would be $13,925.

Mr. SIMS. The minimum.

Mr. BURLESON. Now, I have no desire or purpose to minimize the importance of the work done by those who teach manual training, drawing, music, and calisthenic exercises, but I do say that of all the persons connected with the public school system this class is the least deserving, and yet under the operations of this amendment, which was adopted as I have stated, the salaries of fifty-five persons are increased, an increase out of all proportion to the increases which are allowed teachers from the first to the eighth grade in the public schools.

Now, Mr. Chairman, I feel quite sure that the members of this committee did not understand the scope and effect of this amendment at the time that it was offered; if you had, I feel sure it would not have been adopted. I will repeat, in order that you may understand my meaning. That paragraph, as amended, places certain teachers, of music, drawing, physical culture, etc., in group A, class 6, in the schedule; which gives to said teachers, in the aggregate, for the first year, an increase in salary amounting to $13,925, as against $1,575, which would have been allowed as this bill was reported from the committee, after it had given it most careful consideration, as the membership of the Committee on the District of Columbia have repeatedly assured us. Let us see what the effect of this would be for the second year. The aggregate increase for the second year, provided for on the unamended bill, would be $1,275; as amended, the increase would be $5,500; and this difference would continue, subject to modifications caused by changes in the teaching corps. The amendment affects fifty-five teachers, whose salaries range now from $500 to $1,000. Think of it! The number of the teachers of calisthenics, manual training, music, who are now receiving $500 and $575 and $600, are increased at once under this amendment to $1,000 as the minimum that they are to receive, and this increase is to continue from year to year at the rate of $100 per annum, until a teacher of music and a teacher of calisthenics and a teacher of drawing, under this amended bill, is to receive $1,800 a year. One person affected by this amendment is a carpenter now engaged as a teacher of manual training in teaching a class of fifteen small boys in one of the graded schools, at a salary of about $600. His salary will be increased at once $400 per annum.

Mr. Chairman, it is monstrously unjust and unfair to grant such an increase, especially to the least deserving of those connected with our public schools. I do not know and I will not say what the purpose of the amendment was, but surely it did not receive that careful consideration and that conscientious consideration that should be given to every amendment offered upon this floor intended to effect a material change in this important measure.

Mr. PAYNE. Will the gentleman allow me a question?

Mr. BURLESON. Certainly; with pleasure.

Mr. PAYNE. There was no debate whatever on the amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BURLESON] has expired.

Mr. BURLESON. Mr. Chairman, I ask for one minute more.

The CHAIRMAN. The gentleman from Texas asks for one minute more. Is there objection?

There was no objection.

Mr. BURLESON. The gentleman from New York is correct; no debate was had upon the amendment. No explanation whatever was offered to this House, indicating the scope of same. All I now desire to do is to bring the attention of the gentlemen of this committee to the condition that will be brought about if this amendment as adopted is permitted to stand, and let each man by his vote on the substitute I have offered, which will tend to correct, say whether he is willing to ratify and approve what was accomplished thereby.

Mr. GAINES of Tennessee. I want to ask the gentleman before he leaves the floor why we raised these salaries at all?

Mr. BURLESON. Because the teachers in the public schools are not receiving proper compensation for their services at this time. I want the teachers of manual training, and I want the teachers of music, the teachers of drawing and physical culture all to receive a fair increase in their salaries, and I believe this bill as it was originally reported by the District Committee gave them a just and proper increase. But I do say that if the effect of this amendment is ratified by voting down the amendment I have offered, that it will be an unjust and a disproportionate increase of their salaries when compared with the salaries of other teachers engaged in the public schools.

Mr. GARDNER of Michigan. The gentleman from Texas was not speaking in my time, but I want to say, Mr. Chairman and gentlemen, that he was speaking my sentiments. It is a very dangerous thing for a Member to rise in his place and offer an amendment and have it put upon its passage changing impromptu without consideration of the committee, without careful consideration of the House, the grade of salaries for a whole class. Again, it is unjust, as has been stated, to a class of teachers, however worthy they are, to see inferior in rank and importance to other classes and other grades put over and above the more important, as this amendment does. Again, it works a great hardship and injustice to those who are entitled to more rather than less on account of this amendment. I hope the motion will prevail that we agree to reconsider and go back to and adopt the report offered by the committee, which we have the right to assume was carefully considered and represents the best judgment of the united committee, rather than the motion made and adopted on the floor of the House with little or no discussion.

Mr. GAINES of Tennessee. I move to strike out the last word. I want to ask the gentleman from Texas why these salaries are raised at all?

Mr. BURLESON. Well, Mr. Chairman, I am not possessed of the power of mind reading; I am not a clairvoyant. I do not know why a gentleman on the floor offered an amendment.

Mr. GAINES of Tennessee. I thought it was an amendment from the gentleman's committee.

Mr. BURLESON. The committee had made a just and proper provision for the salaries of these particular persons connected with the public schools, in my opinion.

Mr. GAINES of Tennessee. Do the authorities here have any trouble in getting all the teachers they want at the salaries they are now giving teachers?

Mr. BURLESON. Do you mean generally?

Mr. GAINES of Tennessee. Yes.

Mr. BURLESON. As a matter of fact, the District of Columbia has lost a number of the best teachers connected with the public school system in the last two or three years.

Mr. GAINES of Tennessee. Why?

Mr. BURLESON. That is the reason I am in favor of making a fair increase in the salaries. I am in favor of a fair increase in the salaries, but I am opposed to this disproportionate increase for those who teach sewing and calisthenics.

Mr. GAINES of Tennessee. Mr. Chairman, I have had some personal experience as to salaries to teachers in the country schools, but I do want to know why this horizontal increase in the salaries is given.

Mr. SIMS. Read the report of the committee and you will get a hundred pages of reasons.

Mr. GAINES of Tennessee. I did not know that, and I was asking the gentleman from Texas, and the gentleman from Tennessee could perhaps give us some information on the subject, but has not. Mr. Chairman, I have the RIGHT TO KNOW, and I want to know, WHY we are raising the salaries of the schoolteachers, or anybody else, in the District of Columbia. I am never going to vote in the dark if I can help it. I might add I would like to know why we sit here, like a lot of cowards, and

raise everybody else's salary and do not raise the salaries of Members of Congress—our successors, of course.

Mr. SIMS. Because we want to come back here.

Mr. GAINES of Tennessee. We raise every salary, it looks like, except Members of Congress. Yet we all know, and so do the people who have thought about it, that should be done—for our successors.

Mr. SIMS. Why do you not introduce a bill?

Mr. GAINES of Tennessee. Because I have not had the time to consider the details of such a bill. I have not been thinking of myself, but the people.

Mr. SIMS. We might get your time extended.

Mr. GAINES of Tennessee. I will vote for a proper bill. I mean I will vote for a bill to raise the salary of my successor, even if I was renominated the other day [laughter], and I am willing for the law to take effect four years hence—in the Sixty-first Congress. I have said publicly to my people I favored this increase, and you all know it should be done. We are a lot of moral cowards not to pass a law to raise these salaries and look after this question of mileage, that should be reformed, and bring that down to a common-sense basis. A whole lot of us get a whole lot more mileage than we ought to have, and others, perhaps, do not get enough. The law is a very old one. Conditions have changed. The law should meet the new conditions. Of course a lot of people are opposed to this until you explain to them. A lot of men were opposed to the passage of an amendment to the law against Members riding on railroad passes, and to the enforcement of the law of 1887 to have this evil broken up. On this abusive issuance of railroad passes I want to say——

Mr. BABCOCK. Will the gentleman permit a question?

Mr. GAINES of Tennessee. Yes.

Mr. BABCOCK. Will the gentleman kindly advise the House where these passes can be obtained at this time? [Laughter.]

Mr. GAINES of Tennessee. I do not know where they can be obtained, because I have never asked for any, and those I have received have been returned unless filed away with my letters.

Mr. BABCOCK. You made a statement that Members were riding on free passes.

Mr. GAINES of Tennessee. Many did, I know, but I do not know that any do so now. I do not know of anybody who knows, or is supposed to know, more about free passes than the gentleman from Wisconsin.

Mr. BABCOCK. I have no pass, and I pay for every mile that I ride. I should be glad if the gentleman would inform us, because if there is a place where we can get them I would like to have my colleagues know.

Mr. GAINES of Tennessee. I venture the assertion that every Member knows where he can get them, or where he did get them. I am glad to know that the railroads shut down on issuing passes to Tom, Dick, and Harry, because it is against the law—the commerce act of 1887—with certain exceptions, and we ought to enforce the law. I intend to try to do so as long as I can. I received a telegram the other day from a railroad man insisting on a change in the law, or proposed law, so as to allow members of families of railroad employees to ride on free passes.

I think that is a wise policy, Mr. Chairman, for the railroad company to pursue, as far as their employees are concerned. It is a wise, salutory policy for them to cultivate a friendly feeling with their employees.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GAINES of Tennessee. I move to strike out the last word. I want to explain myself.

The CHAIRMAN. The gentleman is already talking to a pro forma amendment.

Mr. GAINES of Tennessee. I then ask for two minutes more, Mr. Chairman.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that his time be extended two minutes. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. Mr. Chairman, I am satisfied that a large majority of Members of Congress agree with me on these propositions; they all know that I am right about it. And yet we are going along in this slipshod way, and it reflects on us as individuals and officials. A few days after this House voted on my antipass amendment to the Hepburn bill a great railroad lawyer introduced himself to me at the hotel, indorsed my antipass crusade, and told me that before he left home he had issued a free pass to every Federal judge in his State and all except one had retained them. One judge, whom I served with in Congress, sent his pass back. The railroad lawyer commended him. The railroad man also told me that he had sent a free pass to every member of the legislature and they had all kept them, and he had also sent one to his governor and to each Member of Congress from his State. I asked him why he disobeyed the law. "You know," said I, "that is contrary to the law in interstate transportation," and asked him why he did it. He said: "I know it's against the law, but we feel like we have to do this." I said: "You think you have to buy your peace and safety in that way?" And he said: "That is the way we feel about it."

Now, Mr. Chairman, that is a reflection and causes reflections to be cast upon the judiciary. It is a reflection upon Members of Congress and it is a reflection upon the governor of that great State and the legislature. That would be true even if this practice was not against the law, because it is otherwise wrong and causes increased fares to be charged to those who buy their tickets.

But I have unintentionally digressed from my subject. I want the teachers to have a good salary and I took the floor to ask why this horizontal rate was proposed and why it is being criticised.

Mr. BABCOCK. Mr. Chairman, I am very sorry that the gentleman from Tennessee fails to inform the House where transportation could be procured.

Mr. GAINES of Tennessee. It is in your pocket, like it is in mine. My money is all I use.

Mr. BABCOCK. I want to say to the gentleman that there is no transportation in my pocket. I always pay my fare on trains and in street cars.

Mr. GAINES of Tennessee. You pay on the street cars, of course, but have you always done that?

Mr. BABCOCK. Yes; always.

Mr. GAINES of Tennessee. Then we are on a parity. We pay our way, and yet neither of us is a saint. [Laughter.] I hope that the gentleman from Wisconsin will, when the time comes, vote to cut off this free-pass "abuse." There should be exemptions to certain classes of persons, but the law should be clear and rigorously enforced.

Mr. BABCOCK. I wish to say to the gentleman from Tennessee that in 1889 I offered a bill in the Wisconsin legislature to prohibit the issuing of free passes to anyone. The bill was defeated, but later the State was the first one, I think in the Union to cut off the free transportation.

Mr. GAINES of Tennessee. But do they enforce the law?

Mr. BABCOCK. Yes; they enforce the law.

Mr. GAINES of Tennessee. I am glad to hear that. Under the act of 1887 an investigation of a railroad was had by the Cooley Commission, which admitted it was guilty of issuing passes to "influential" and other people, and the Commission ordered it and all railroads engaged in interstate commerce to stop issuing passes, saying it was against the law, and yet they went right on disobeying the law.

Mr. BABCOCK. The gentleman will not find any railroad companies in Wisconsin issuing passes outside of their own employees.

Mr. GAINES of Tennessee. I rejoice to hear that.

Mr. BABCOCK. Now, Mr. Chairman, I do not think this amendment was understood. I was absent at the time it was adopted and I ask that it be read again for the information of the committee.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the amendment be again read. Without objection, the Clerk will again read it.

The Clerk again reported the amendment.

Mr. BABCOCK. I understand this amendment was adopted to this bill last District day, and that this is a reconsideration of that vote. Am I correct?

The CHAIRMAN. The Chair is not advised as to the exact situation.

Mr. BURLESON. The amendment is offered as a substitute.

Mr. BABCOCK. It is the same in effect. The gentleman offers it as a substitute for the amendment of two weeks ago.

The CHAIRMAN. The Chair understands that is the parliamentary situation—to strike out the three lines as amended and insert in lieu thereof the substitute proposed by the gentleman from Texas.

Mr. BABCOCK. The substitute, as I understand it, is the original provision that was stricken out as amended. Now, I would like to ask the gentleman from Texas a question which is not clearly understood by the House—that is, if he knows just the effect that this amendment would have as to the increase of the salary of the school-teachers—the fifty-five teachers?

Mr. BURLESON. Yes; it practically leaves the salaries just as the bill as reported did, but instead of being placed in classes 1 to 5, which would of course fix their salaries, they are placed in classes 2 to 5, which really gives them a little larger

increase; but I had to so frame my amendment for the purpose of making my motion in order.

Mr. BABCOCK. How much was the increase of this amendment?

Mr. BURLESON. The fifty-five?

Mr. BABCOCK. Yes; under the amendment as adopted how much did it increase the appropriation?

Mr. BURLESON. It increased the appropriation for the first year $13,925 and for the second year it increased it to $5,500, and the bill originally provided an increase of $1,275 for the second year and an increase of $1,575 for the first year.

Mr. BABCOCK. How much does the gentleman's amendment increase the original bill?

Mr. BURLESON. It increases it very little indeed, because the original bill provided that they should be within classes 1 to 5. The amendment took them out of those classes and put them arbitrarily in Group A of class 6. I now offer a substitute, by way of amendment, to put them in classes 2 to 5.

Mr. BABCOCK. As I understand that amendment, it simply changed the classification of the teachers, and by that it changed their salaries?

Mr. BURLESON. Certainly.

Mr. SIMS. The amendment that was adopted the other day struck out these very lines and put in others.

Mr. BURLESON. Oh, no. The amendment that was offered the other day simply inserted, after the word "music," as I recollect it, in line 14, page 5, the words "Group A, class 6," and thereby lifted the salaries of fifty-five teachers, some of whom were now receiving only $500, to $1,000.

The CHAIRMAN. The Chair will state that the RECORD shows that the bill as amended on the other day read as follows, after it was amended:

Teachers, manual training, drawing, physical culture, music, Group A, class 6, and teachers of domestic science, domestic art, in the graded schools, classes 1 to 5.

Mr. BURLESON. Yes; that is right.

Mr. SIMS. Very well; I misunderstood it. I thought that the amendment struck out some of the language.

Mr. McCLEARY of Minnesota. Mr. Chairman, I move to strike out the last word. The question of the gentleman from Tennessee [Mr. GAINES] as to why this bill provided increases of teachers' salaries is an entirely proper one.

I may say that for six years preceding this year sundry increases were made in the salaries of teachers in this District. Six years ago the salaries of teachers in the lower grades were very, very meager. If I remember right, they were for the first year about $300. The committee in charge of the appropriations for the District of Columbia gradually raised those salaries. The committee, however, was fully aware that it had not made harmonious change in those salaries; that it had only remedied a few obvious inequalities.

Last year an effort was made, led by my friend the gentleman from Vermont [Mr. FOSTER], to secure on the floor an increase of salaries for the teachers of the District. At that time I had charge of the District appropriation bill. I had had information from a large number of teachers that the schedule was not wisely planned, and it seemed best not to adopt it. Moreover, the District was carrying a large financial burden for finishing the filtration plant and other things of that kind, and it did not seem the time to make the increases.

But there was a sort of understanding that this year there would be a readjustment and increase of teachers' salaries. This year, with the filtration plant completed and the main sewerage system practically completed, there will be money in the treasury with which to make these proper increases, and for one I am very glad indeed to have them made.

I have looked over with some degree of care the schedule of the salaries to be paid. I was a teacher myself for twenty-one years. It is therefore one of the things that I might perhaps be expected to know a little something about. I think that the general schedule of salaries provided in the bill, while not of course ideal or perfect, is very reasonable and a proper one.

It strikes me that the amendment we adopted two weeks ago (the last District day) was a very unwise one. It made increases that were unjustified and unfair. It strikes me that the substitute offered by the gentleman from Texas [Mr. BURLESON] is much more equitable, and therefore I am in favor of it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and the amendment was agreed to.

Mr. CLARK of Missouri. Mr. Speaker, the business being transacted here is too important to be transacted without a quorum. I suggest there is no quorum present.

The CHAIRMAN. The gentleman from Missouri raises the point of no quorum. The Chair will count. [After counting.] One hundred Members present—a quorum.

Mr. BURLESON. Mr. Chairman, in order to thoroughly perfect the amendment I offered, I offer the following additional amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 6, lines 2, 3, and 4, strike out the words "including teachers of drawing, physical culture, music, domestic science, domestic art, and manual training."

Mr. MORRELL. Mr. Chairman, I would like to ask the gentleman from Texas his reasons for making this amendment.

Mr. BURLESON. In order to make the section conform to the amendment already adopted a moment ago.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and the amendment was agreed to.

Mr. FITZGERALD. Mr. Chairman, on page 6, line 7, I wish to offer an amendment in order to get an explanation, and that is to strike out the words "librarians and." I wish to make some inquiries in regard to that.

Mr. MORRELL. Mr. Chairman, in answer to the gentleman from New York, I will state that on the last District day a statement was made that the District of Columbia was the only place where school librarians were provided for. On looking over the report of the Commissioner of Education for 1902, I find that there are 5,726 librarians in the public schools of the United States, and that in these libraries there are 3,710,000 volumes. In this same report of the Commissioner of Education, volume 1, pages 771 to 1017, inclusive, will be found the names of hundreds of school librarians, tabulated, with their respective libraries.

Now, as far as New York is concerned, there are librarians in New York at the present time in the high schools.

Boys' high school, corner of Marcy and Putman avenues, has a high school library of 25,304 books, and the high school librarian is D. O'C. Walsh.

Girls' high school, Nostrand avenue, has a high school library of 5,093 books, and the high school librarian is M. Josephine Brink.

Normal school librarians: Eight schools in New York State have normal school librarians—Brockport, Cortland, New Paltz, New York City (2), Oswego, Plattsburg, Potsdam.

High school librarians: New York State, with Brooklyn, is equipped in the following towns with 118 high school librarians: Adams, Afton, Albany, Attica, Auburn, Babylon, Bainbridge, Bay Shore, Belmont, Bergen, Buffalo, Camden, Canajoharie, Carthage, Champlain, Chateaugay, Chittenango, Clarence, Clifton Springs, Clinton, Clyde, Cobleskill, Coldspring, Cooperstown, Copenhagen, Corinth, Cornwall on the Hudson, Coxsackie, Deposit, Dunkirk, East Aurora, East Bloomfield, East Syracuse, Ellington, Fayetteville, Flushing, Fonda, Forestville, Gilbertsville, Gloversville, Goshen, Granville, Great Neck, Greene, Hamburg, Hamilton, Holley, Hornellsville, Jamaica (2), Jamestown, Johnstown, Jordan, Keeseville, Lancaster, Lawrence, Long Island City, Lowville, Manlius, Margaretville, Medina, Mexico, Middleburg, Minerville, Morris, Mount Kisco, Mount Morris, Mount Vernon, Newark Valley, New Hartford, New York City (2), Oneida, Orchard Park, Palmyra, Parish, Patchogue, Perry, Phoenix, Plattsburg, Prattsburg, Richfield Springs, Rochester, Sandy Hill, Saranac Lake, Savannah, Schenectady, Scottsville, Sherburne, Sherman, Sidney, Silver Creek, South Glens Falls, Spring Valley, Stillwater, Syracuse, Tarrytown, Ticonderoga, Troy, Unadilla, Union Springs, Valatie, Victor, Warrensburg, Warsaw, Watervliet, Waverly, Webster, Weedsport, Westfield, Whitehall, Wilson, Windsor, Worcester, and Yonkers.

Elementary school librarians: New York State, outside of Brooklyn, is equipped with elementary librarians in the following cities: Albany, Alexander, Allegany, Ballston Spa, Batavia, Belleville, Binghamton, Brentwood, Cambridge, Ceylon, Chester, Cohoes, Corning, Cornwall on the Hudson, Cortland, Elmira, Fort Edward, Fredonia, Glens Falls, Gowanda, Hartwick, Holland, Homer, Hoosick Falls, Horseheads, Huntington, Islip, Limestone, Lyons, Malone, Mechanicsville, Middletown, Newark, New Brighton, New York City (4), and New York Mills.

Mr. FITZGERALD. Let me ask the gentleman a question. The boys' high school of Brooklyn has over 25,000 volumes.

Mr. MORRELL. Well, there are 25,000 books in the libraries here.

Mr. FITZGERALD. How many books are in the library connected with the board of education in the District?

Mr. MORRELL. You mean in the District of Columbia. I will give you that in a moment. They aggregate about 25,000

volumes altogether in the different libraries. In the Central High School there are approximately 5,000 volumes. In the Eastern High School there are about 5,000 books and pamphlets; in the Western High School there are 1,600; in the M Street High School there are 1,500. The library of the board of education consists of 10,000 volumes, and the Sumner School, the Richard Gillam, has a library that approximates 4,000 volumes.

Mr. FITZGERALD. The schools here in the District of Columbia?

Mr. MORRELL. Yes, sir.

Mr. FITZGERALD. The superintendent of education before the Committee on Appropriations made this statement. He was asked: "Do you mean to say you furnish a library for the teachers?"

Mr. STUART. A small pedagogical library. The annual investment for this out of the contingent fund would be about $150 for books and $50 for magazines, which of course is very small.

Mr. GILLETT. Where is that?

Mr. STUART. At the Franklin School. In fact, there are two—one at the Franklin and one at the Sumner for the colored school, which suggests, of course, this duplication of the two systems and duplication of expense.

The superintendent of education stated that there were these two small, insignificant libraries connected with the school system.

Mr. MORRELL. If the gentleman will allow an interruption, that probably refers to the graded schools. I have referred to the high schools only. I did not take into account the libraries belonging to the graded schools at all.

Mr. FITZGERALD. Does the gentleman state these libraries contain the number of volumes in the District that he has read?

Mr. MORRELL. This was furnished me by the superintendent of schools, Mr. A. T. Stuart. I received a letter from him a couple of days ago containing the figures I have quoted.

Mr. GOULDEN. Mr. Chairman, I want to say I believe the statement made by the gentleman from Pennsylvania is substantially correct, as I have investigated it. I want also to say that the girls' high school of Brooklyn contains only 5,093 volumes and is located on Nostrand avenue, that city.

Mr. FITZGERALD. I do not question the accuracy of the statement. I read from the statement of the superintendent of schools before the Committee on Appropriations. When asked whether there were libraries furnished to the teachers, he said there were merely these small pedagogical libraries, containing mostly, as I understand, books of reference, not books of general reading. There was an effort made by the Carnegie Library to establish branch libraries in some of the schools, but I do not know whether that has been done. The information I had led me to believe there were no libraries, otherwise than as I have stated, in the schools.

Mr. GOULDEN. I think that my colleague from New York will believe, if there are libraries containing the number of volumes as provided in the District schools and stated by the gentleman from Pennsylvania, that they should have a librarian. I believe it is really needed, and I know the gentleman from New York desires to have that done.

Mr. McCLEARY of Minnesota. Mr. Chairman, I move to strike out the last word for the purpose——

The CHAIRMAN. The gentleman can be heard in opposition to the amendment.

Mr. McCLEARY of Minnesota. I am in opposition to the amendment. The amendment, as I understand it, is to strike out the words "librarian and."

Mr. FITZGERALD. I will say to the gentleman from Minnesota, in view of the explanation given by the gentleman from Pennsylvania, I will withdraw my amendment with the permission of the committee.

The CHAIRMAN. The Chair does not hear the gentleman from New York.

Mr. FITZGERALD. I say in view of the explanation made by the gentleman from Pennsylvania I wish to withdraw the amendment.

The CHAIRMAN. The gentleman from New York asks unanimous consent to withdraw his amendment. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. McCLEARY of Minnesota. If I understand it now, Mr. Chairman, that restores the words "librarian and."

The CHAIRMAN. It leaves the bill precisely as it was read. The amendment was withdrawn.

Mr. McCLEARY of Minnesota. Pardon my dullness.

Mr. BABCOCK. The gentleman from New York [Mr. FITZGERALD] has withdrawn the amendment.

Mr. McCLEARY of Minnesota. So that the bill reads as it was originally printed?

The CHAIRMAN. Precisely.

Mr. CLARK of Missouri. Mr. Chairman, I want to ask the gentleman from Minnesota [Mr. McCLEARY] or the gentleman from Texas [Mr. BURLESON], one or the other—it does not make a bit of difference which—if there is not something unfair about these schedules as to grades 6 and 7. They do not seem to get any increase at all, or a very small one. I had an amendment prepared, but I can not find it, relating to this subject.

My understanding, to explain the question, is that promotion seems to be rapid from grade 1 up to grades 5 and 6, but as soon as you strike grades 6 and 7 there seems to be a stoppage of the increase of salary. And there ought to be some kind of a provision in here somewhere for increase based on longevity. The gentleman is more familar with the bill than I am, and I would like to ask him if it is not true that the teachers in grades 6 and 7 do not get any increase in salary in proportion to these other grades?

The CHAIRMAN. The Chair will state there is no proposition pending before the committee.

Mr. CLARK of Missouri. I move to strike out the last word of whatever is before the committee, so that I can get information from either one of these gentlemen.

Mr. BURLESON. Mr. Chairman, I will state to the gentleman from Missouri [Mr. CLARK] that I am not a member of the committee that prepared this bill, but as I understand it the provision that is made for the eighth grade teachers under the terms of this bill is very satisfactory to the eighth grade teachers.

Mr. CLARK of Missouri. Sixth and seventh grades.

Mr. BURLESON. And the same with reference to the sixth and seventh grades, too, as I understand it. The gentleman from Pennsylvania [Mr. MORRELL] has charge of the bill and can probably answer that much more satisfactorily.

Mr. MORRELL. I did not hear the question.

Mr. CLARK of Missouri. The question is this: Under the terms of this bill do the teachers of grades six and seven get any increase that is anything like in proportion to the increase that the others get?

Mr. MORRELL. Does the gentleman refer in that question to the increases contained in class 6?

Mr. CLARK of Missouri. I am not talking about classes, but am talking about grades.

Mr. MORRELL. They all receive an increase, as the gentleman will see if he reads a little further. In section 6 it shows exactly how the amount is increased. Each teacher to begin with receives an annual increase within his group or class, and must receive at least $25 the first year.

Mr. CLARK of Missouri. Is it not true that under the schedule here that a teacher that has only taught one or two years gets an increase greater than the teacher who has taught several years, if they happen to be in grades six or seven? Is that the place where the promotion seems to stop?

Mr. MORRELL. No, sir. In answer to the gentleman I may say that that was not the idea of the committee or is the operation of the schedules.

Mr. BURLESON. With the permission of the gentleman from Pennsylvania I think I can give him the information he asks. A sixth or seventh grade teacher is placed in class 4. If that teacher is engaged in the first year's service, he or she will receive $800, the second year $830, the third year $860, the fourth year $890, an increase each year of $30 per year until it reaches the maximum number of years provided for in this bill. It is substantially the same degree of increase that is given to the teachers in the other grades. For instance, in the eighth grade they start the teacher, if she is a first year's teacher—if it is her first year of service—at $950, the next year at $980, the third year of service $1,030, and the fourth of service $1,070, and so on. I think it is a very fair bill considering all of the circumstances under which it has been brought before the committee.

Mr. CLARK of Missouri. I want to ask the gentleman from Pennsylvania [Mr. MORRELL] another question. Is there any provision at all in this arrangement here for an increase of what they call "longevity pay?"

Mr. MORRELL. No, sir; there is not, except so far as Group B is concerned. Group B, in class 6—the teacher who demonstrates special excellence may be promoted into Group B, but there is no increase provided beyond the ten years on the basis of longevity.

Mr. CLARK of Missouri. That is up at the head of the column?

Mr. MORRELL. Under this bill they can receive an increase of salary only for ten years.

Mr. CLARK of Missouri. Now, as a matter of fact, promotions are rapid from grade 1 until you strike grade 6, and then

promotions are slower. It seems to be a sort of stopping place, and what the teachers want is some kind of provision for longevity pay. I do not believe a teacher necessarily becomes better, or that all of them become better, because of teaching for a long time; but if they are fit to teach in the beginning, they surely do become more efficient as the years go by.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. CLARK] has expired.

Mr. GILLETT of Massachusetts. Mr. Chairman, I would like to ask the gentleman from Pennsylvania a question, reverting to these librarians. I would like to know how many librarians there are in the schools?

Mr. MORRELL. At present there are seven librarians, but they are not known as librarians. They do clerical work, and some of them do teaching work. They are rated as teachers and come in under a salary class in the appropriation bill of so many teachers at so much per annum. I think the gentleman will remember that manner of division and appropriation in the appropriation bill.

Mr. GILLETT of Massachusetts. That is what I wish to find out. Those who are now appropriated for as teachers are rendering service as librarians?

Mr. MORRELL. Yes; in a certain few cases.

Mr. GILLETT of Massachusetts. And there are about seven of them?

Mr. MORRELL. About seven.

Mr. GILLETT of Massachusetts. And this bill means to leave those seven and does not create any new ones?

Mr. MORRELL. It does not create any new ones whatsoever.

The Clerk read as follows:

SEC. 5. That the board of education shall classify all academic and scientific subjects in the Central, Eastern, Western, and Business high schools, and the McKinley Manual Training School into eight departments, so that each department shall contain correlated subjects, and the same shall be done with respect to the M Street High School and the Armstrong Manual Training School.

Whenever a department includes two or more high schools then the teacher in charge of the department shall be designated "head of the department;" otherwise the teacher in charge of the department shall be designated "head teacher."

Mr. MORRELL. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 6, line 17, strike out all after the word "the," down to and including the word "school," in line 19, and insert instead the words "M Street High School and the Armstrong Manual Training School shall be similarly classified in the five departments, so that each department may contain correlated subjects.

Mr. MORRELL. I call for a vote, Mr. Chairman.

Mr. GOULDEN. Mr. Chairman, I would like to ask the reason for the proposed amendment.

Mr. MORRELL. In answer to the gentleman from New York, I will state that the reason for that was simply to equalize the colored and the white high schools. Of course the gentleman realizes there are only two colored high schools, whereas there are four white high schools.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 6. That the board of education shall arrange all teachers in the classes and groups in the above schedule, except as hereinafter specified.

For the year ending June 30, 1907, each head of department and teacher shall receive the salary in his class next above his present salary. If promoted to a higher class, he shall receive the salary in that class next above his present salary, and after June 30, 1907, if his work is satisfactory, he shall receive an annual increase within his class or group, as herein provided, without action of the board of education; but no teacher shall in any one year receive more than one promotion within his class or group: *Provided*, That if the salary in his class next above his present salary shall be less than $25 in excess of his present salary, he shall receive the next higher salary, so that no teacher shall receive for the first year an increase of less than $25.

A teacher shall not be promoted from one class to another, or from one group in class 6 to another, or from one grade of salary to another within Group B, except by the board of education, upon the recommendation of the supervisor of high schools; or, in the case of colored teachers, upon the recommendation of the colored assistant superintendent, or supervising principal having supervision of the teacher. Such recommendations shall in each case be made through and with the approval of the superintendent of schools.

Teachers shall be promoted for superior work from Group A to Group B as follows:

First. All high school teachers upon the recommendation of the supervisor of high schools in the case of white high schools, or upon the recommendation of the colored assistant superintendent in the case of colored high schools.

Second. Upon the recommendation of the director of manual training in the case of manual training schools.

Third. Upon the recommendation of the principal of the normal schools in the case of the normal schools.

Such recommendations shall in each case be made through and with the approval of the superintendent of schools.

No teacher, principal, or supervising principal shall be appointed to any position in the graded schools, high schools, manual training schools, or normal schools, or no director, assistant director, and teacher of special studies shall be appointed until they have passed an examination prescribed by the board. This provision shall not apply to teachers coming from the normal schools, or teachers being advanced from the different classes in the grade schools, or from one group to another in the high, normal, or manual training schools.

Every new teacher at the time of his appointment shall be assigned to a class or group by the board of education on the recommendation of the superintendent of schools, and shall receive for the first year the minimum pay of said class or group. The first year in Group A, class 6, shall be probationary.

For the purpose of this act a model teacher shall be held to be a teacher of the first or second grade, whose special aptitude for primary teaching makes it desirable to retain him in said grades with the pay of a higher grade.

Teachers of classes 1 and 2 shall receive an annual increase of salary of $25 for four years.

Teachers of class 3 shall receive an annual increase of salary of $25 for ten years.

Teachers of class 4 shall receive an annual increase of salary of $30 for ten years.

Teachers of class 5 shall receive an annual increase of salary of $40 for ten years.

Teachers in Group A of class 6, after the probationary year, shall receive an annual increase of salary of $100 for eight years; in Group B, of $100 for three years.

Mr. SAMUEL W. SMITH. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

In line 23, on page 8, after the word "schools," insert the following words: "*Provided*, That no teacher or officer in the service of the public schools of the District of Columbia at the time of the passage of this act shall be required to take any examination, either mental of physical, to be continued in the service;" thus making the paragraph read as follows:

"No teacher, principal, or supervising principal shall be appointed to any position in the graded schools, high schools, manual training schools, or normal schools, or no director, assistant director, or teacher of special studies shall be appointed until they have passed an examination prescribed by the board. This provision shall not apply to teachers coming from the normal schools, or teachers being advanced from the different classes in the grade schools, or from one group to another in the high, normal, or manual training schools: *Provided*, That no teacher or officer in the service of the public schools of the District of Columbia at the time of the passage of this act shall be required to take any examination, either mental or physical, to be continued in the service."

Mr. MORRELL. Mr. Chairman, on behalf of the committee I accept the amendment.

Mr. BURLESON. Mr. Chairman, I would like to ask the gentleman from Pennsylvania upon what authority he accepts the amendment just offered? If we have incompetent teachers in the public schools in this District, surely it ought to be the purpose of every gentleman here to have them weeded out; and while we are passing a bill providing for a reorganization of the public school system in this city, if I may so denominate it, and properly to increase the salaries of the teachers, why is it, if we now have any incompetent teachers, that we should not allow the school board to take advantage of the opportunity to drop them out of the public service.

I have heard, Mr. Chairman, and I invite the gentleman from Pennsylvania to answer, whether he thinks the rumors are without foundation, that there has been a persistent effort upon the part of some to fill the public schools of this town with teachers from their districts—appointees by pull—who are absolutely without qualifications to teach. And now, Mr. Chairman, is it possible that the taxpayers and inhabitants of this District, whose deep concern it is to improve the teaching force in their schools, when the effort is being made by us to reform this system of public education, are to again be made, or rather continue to be made, the victims of this, if I may so term it, species of political graft? I must confess I can not understand why the gentleman in charge of the bill will so readily accept the amendment if there is any foundation for these rumors. Surely this bill was prepared most carefully by the District Committee; and they ought not to object to letting it stand intact, as they have drawn and reported it.

Mr. Chairman, if there be truth in these rumors, then the gentleman ought to be the first one to rush to the rescue for the protection of the school system of this District and resist the amendment offered.

Mr. PAYNE. Will the gentleman allow me to ask him a question?

Mr. BURLESON. Certainly; I will with pleasure.

Mr. PAYNE. Is it not the law that all teachers appointed to the public schools in the city of Washington must have graduated from a normal school or passed an examination before they can get positions as teachers?

Mr. BURLESON. I am not prepared to answer the gentleman's question.

Mr. MORRELL. I should like to answer the gentleman's question.

Mr. BURLESON. I am not prepared to deny the first proposition in the question of the gentleman from New York, that

the law regulates the appointment of teachers in the District; but if what I have heard is true, I must emphatically deny the last part of his query. I understand that a mere stripling, who has never graduated from a normal school, who has never graduated even from the high school, because of some influence from some quarter has been elevated to a most important position in the public school system of this city. If it is true, it is a disgrace to this Congress that it should be permitted to continue any longer than we can correct it, and surely this amendment does not tend in that direction?

Mr. PAYNE. But they do pass examinations?

Mr. BURLESON. Not always, so I hear.

If these rumors are not true, surely the gentleman who has been so earnest in his efforts to perfect the bill ought to know it, and if they are true, then the evil ought to be thoroughly corrected before any such amendment as this offered by the gentleman from Michigan is adopted. If that amendment prevails, then of course the old practice will obtain and be given the sanction of legislative enactment.

Mr. MORRELL. Mr. Chairman, in answer to the gentleman from Texas, I may say that the committee framed that paragraph of the bill simply to prevent the abuse which he has outlined, and on which some information came to the committee room that it did exist. Now, the only effect of the amendment offered by the gentleman from Michigan is to provide that the teachers now in the service shall not be subject to an examination immediately on the passage of this bill. Of course the superintendent of schools and board of education are at liberty at any time to remove any teacher. And if the gentleman from Texas seems to think that the amendment offered by the gentleman from Michigan will in any way lessen the effect and force of the paragraph, why, I do not accept it, because it was the desire of the committee to protect as far as possible the school system, particularly in view of raising the salaries, because we know as soon as we put the salaries up to a high notch that at once teachers would flock here from other places instead of them being drawn away, as they have in the past, and that we would be perhaps loaded down with teachers of inferior ability. I therefore withdraw my consent to accepting the amendment.

Mr. BURLESON. I felt sure the gentleman from Pennsylvania had no purpose other than to promote the efficiency of the school system in this city. As I caught the reading of the amendment offered by the gentleman from Michigan, it was intended by law to continue in the service of the schools all teachers and officers now employed therein. I thought I was right in thus interpreting the amendment. If I am mistaken in his purpose I withdraw any statement made by me with reference thereto; but if I did catch his purpose it was to save all those now in the public school service from a test of their qualifications. That is what I thought it meant. If I am mistaken about it I withdraw my remarks and am glad to do so. But if I am not mistaken I believe the amendment ought to be voted down, and the gentleman from Pennsylvania is eminently wise in withdrawing his acceptance of same.

Mr. GOULDEN. Will the gentleman yield? I would like to ask the gentleman from Pennsylvania a question.

Mr. MORRELL. I will yield to the gentleman.

Mr. GOULDEN. I want to ask the gentleman whether he is to be understood as admitting the correctness of the statement made by the gentleman from Texas [Mr. BURLESON]?

Mr. MORRELL. I do not admit what I have no actual knowledge of. The same rumor reached me as reached the gentleman from Texas. But it was not the province of the committee to go into the question of whether the public school-teachers are competent or incompetent. The best proof of competency of the public school-teachers in the District of Columbia is the fact that within the last thirteen months over seventy of them have gone from Washington to accept a higher salary in other cities.

Mr. GOULDEN. I say, Mr. Chairman, that I dislike very much indeed to believe any portion of the statement made by the gentleman from Texas, based upon mere rumors.

Mr. BURLESON. Will the gentleman permit an interruption?

Mr. GOULDEN. I was one of these "meddling outsiders" who thought something in the way of change was needed in the school system of the District of Columbia, and therefore I introduced the bill; but I had no idea that any such rumors as that were afloat, and if they were I hoped for the good name of the members of the board of education, as well as for the good name of the city of Washington, that they were simply rumors and nothing else.

Mr. BURLESON. Will the gentleman permit an interruption?

Mr. GOULDEN. I will.

Mr. BURLESON. The gentleman says that he had no idea that any such rumors were afloat, and asks the gentleman from Pennsylvania if he is to be understood as admitting the correctness of my statement. I now ask the gentleman if he is prepared to deny it?

Mr. GOULDEN. I have heard some pretty severe strictures on the administration of the affairs of the public schools in the city of Washington, but I never heard anything quite so severe as that stated by the gentleman from Texas; but, as I understand it, he says they are only rumors.

Mr. BURLESON. Certainly, and I so stated; I do not vouch for the truthfulness of them, but if the gentleman wants to know whether I credit them or not, I will not hesitate to give him an expression on that point.

Mr. GOULDEN. I would like to have the gentleman state his views.

Mr. BURLESON. I believe that the rumors are true, and for that reason, and that reason alone, I oppose the amendment offered by the gentleman from Michigan.

Mr. GOULDEN. I think the gentleman is right in opposing the amendment. I do not think the amendment should be acted upon favorably. There ought to be some degree of merit in the promotions, and the amendment does not help matters. The paragraph as it stands is all right.

Mr. McCLEARY of Minnesota. Mr. Chairman, I would like to have the amendment read again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. McCLEARY of Minnesota. Mr. Chairman, if the gentlemen of this committee will recall their own experience as students they will remember with what nervousness they approached examinations. Teachers are only children grown tall. If there is anything more nerve wearing to a teacher than any other, it is to feel that at any day, or any hour, at the whim of some person, they may be subjected to an examination.

I would like to ask what better possible examination there is than is found in the daily service of the teacher. The purpose of an examination when a teacher comes to a school for the first time is to ascertain his probable qualifications. But that examination at best is a very unsatisfactory thing.

Mr. GOULDEN. Will the gentleman allow a question?

Mr. McCLEARY of Minnesota. Certainly.

Mr. GOULDEN. Does not the gentleman, from his long experience in the schools, consider that the daily work of the teachers is the best practical examination or test that can be applied?

Mr. McCLEARY of Minnesota. That is the point I am trying to make.

Mr. GOULDEN. We in New York make that the real test.

Mr. McCLEARY of Minnesota. That is the point I am making. The daily service of the teacher is the best test that can be had.

I have no interest in this matter except the good of the schools, and to save the nerve forces of the teachers, which, in the faithful discharge of their daily duties, have a sufficient drain. And I therefore suggest that the amendment offered by the gentleman from Michigan is emphatically right. The teachers were examined before they were admitted to the service. At any time, if their work is not satisfactory, they can be demoted or dismissed. That power is vested in those who control the schools.

Why hang over the head of these teachers the terror—for that is the only word to express it—of an examination that may take them out of the field of their usual subjects of consideration and unnerve them for weeks and months? I think the wise thing to do is to examine them rigidly in the first place and assume that that examination has been fairly conducted, then put them upon their merits as exhibited by their work, and let it rest there. Therefore it seems to me that the amendment offered by the gentleman from Michigan [Mr. SAMUEL W. SMITH] is right and should be adopted.

Just one word more. Let me suggest this, that the proposed examination would be conducted by the very same people who have to pass upon the merits of the teachers, so you are only substituting a nerve-wearing method of examination for a natural one.

Mr. BABCOCK. Mr. Chairman, I understand upon examination of this amendment that all there is to it is the proviso in the last four lines; that the other is simply a repetition of the paragraph in the bill. This proviso says that no teacher or officer in the service of the public schools of the District of Columbia at the time of the passage of this act shall be required to take any examination, either mental or physical, to

be continued in the service. That is all there is to the amendment.

Mr. McCLEARY of Minnesota. Certainly, and it seems to me that the amendment should be adopted.

Mr. BABCOCK. The other part is a repetition and that is the amendment.

Mr. McCLEARY of Minnesota. And that amendment I approve.

Mr. GREENE. Mr. Chairman, it seems to me that the amendment is right and proper. It simply provides so as to make it a little plainer than it is now that there shall be no new examination for teachers who are at present in the service. I think that is the custom in nearly all cities; it is the custom prevailing in nearly all of the public service, and I think it would be entirely wrong to subject all these teachers now in the schools to an examination. I do not think it would be expected anyway, but that makes the bill more clear. There is no harm in the amendment; it is a good amendment.

Mr. LITTAUER. Mr. Chairman, I would like to ask the gentleman a question. What means are now provided for getting rid of an incompetent teacher?

Mr. GREENE. The board can remove an incompetent teacher if they find the teacher to be incompetent, but there is need to provide in the bill that the teachers shall not be subject to an examination because of the passage of this bill. That is all there is to the amendment.

Mr. LITTAUER. What reason can be given for putting in this provision?

Mr. GREENE. It is simply to provide that the passage of this bill shall not be so construed as to compel teachers to subject themselves to a further examination.

Mr. LITTAUER. I can not see how the gentleman can take that inference from this provision. Here is a mandate that there shall be no examination. Why not leave it as it is now? What is the necessity for this provision?

Mr. GREENE. It is necessary to define it positively.

Mr. FITZGERALD. Under the law to-day has the board of education the right to compel a teacher to take an examination in order to determine whether that teacher is competent or not?

Mr. GREENE. I do not think it has at all.

Mr. FITZGERALD. Then I ask, under the present powers of the board, suppose some teacher is reported as inefficient; is there any power now vested in the board to compel the teacher to submit himself or herself to an examination?

Mr. GREENE. I think the board could determine whether the teacher is efficient or not.

Mr. MORRELL. Mr. Chairman, I think that this is an implied power that rests in the board and in the superintendent of schools. I am quite sure that the board would have the power as it is now constituted to order and authorize an examination of a teacher who in the estimation of the supervisors and the superintendent of schools was not up to the standard.

Mr. FITZGERALD. If this amendment is adopted that implied power in the board will be taken away so far as every teacher now in the schools is concerned, and will exist as to all future appointees in the school system. I call the attention of the gentleman to this fact, that so far as the pending bill is concerned there is no provision from which any authority can be spelled out for the board to even dismiss these teachers.

Mr. MORRELL. Mr. Chairman, I think the meaning of the amendment is that an examination shall not become necessary simply by operation of the passage of the bill, but it does not imply to my mind that an examination could not be ordered by the board of education in the case of an alleged incompetent teacher.

Mr. FITZGERALD. This amendment says specifically that none shall be required in order to continue in the service.

Mr. MORRELL. By operation of the bill?

Mr. GREENE. By operation of the passage of the bill.

Mr. FITZGERALD. But it does not say that. Let the gentleman put that in his amendment and it will do away with all objection, I think.

Mr. MORRELL. Mr. Chairman, then I would move to amend the amendment by inserting the words "by operation of the passage of this bill."

Mr. GREENE. Mr. Chairman, I want to say further that if any teacher should become incompetent, or if the teacher should become insane, or from any other reason unfit to remain as a teacher, the board would have ample authority to remove that teacher.

Mr. LITTAUER. Where is that provision giving the board that authority?

Mr. GREENE. In the rules and regulations and in common sense.

Mr. LITTAUER. Oh, but not in the bill.

Mr. GREENE. Not in the bill. It does not take anything out of the present law. The rules of the board and common sense will take care of all that.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BURLESON. I just want to propound a query to those gentlemen who say the teachers have been already examined—that they are already in the service of the public schools by virtue of examinations. If that is so, I want to know if the gentleman who offered this amendment will accept this amendment, which I now offer:

Provided, That this provision shall not apply to any teacher or officer who was not admitted into the service of the public schools in accordance with the requirements of law and the regulations of the board of education.

Will the gentleman accept that as an amendment to his amendment? If so, I will withdraw the objection I have urged against it. If he does not accept it, it certainly makes it plain to every man upon this floor who is not willfully blind that there are people connected with the public school system in this town who have been pushed in there by influence, and it is now proposed to keep them there, under this amendment, by virtue of legislative enactment.

Mr. MORRELL. I would suggest to the gentleman from Texas that the amendment be reported by the Clerk, so that the gentleman from Michigan may decide as to whether or not he will accept it.

Mr. SIMS. Before that is done I want to ask this question: The chairman of the committee announces that nearly all the proposed amendment is a lot of whereases. Now, I would like to know what is the real amendment and why we should discuss anything else?

The CHAIRMAN. The gentleman from Texas moves an amendment to the amendment, which the Clerk will report.

Mr. BURLESON. I fear the Clerk could not read it to save his immortal soul, so I will read it myself. I move to amend the amendment offered by the gentleman from Michigan by adding thereto the following words:

Provided, That this provision shall not apply to any teacher or officer who was not admitted into the service of the public schools in accordance with the requirements of law and the regulations of the board of education.

The CHAIRMAN. Will the gentleman be kind enough to send his amendment to the desk?

Mr. GARDNER of Michigan. I hope that that amendment will not prevail.

Mr. SIMS. Which amendment?

Mr. GARDNER of Michigan. The amendment which has just been offered by the gentleman from Texas ought not to prevail. I think we ought to be exceedingly careful here in throwing out reflections upon public school-teachers or the board of education which may arise from mere idle rumors in the community. This is an impeachment, first, to the teachers themselves, that they are not competent, and, second, that they have come in in an irregular way. The chairman of the committee says that the board of education, having charge of the schools, has the authority to dismiss an incompetent. I would go further than that. The board have not only the authority, but it is their *duty*, as soon as they find an incompetent teacher, not in the grades covered by the gentleman's amendment, but in any grade, to dismiss that teacher forthwith, whatever may be the influence back of him or her; and to say that the board of education is keeping a lot of incompetents or one incompetent because of somebody's influence here in the House or elsewhere is an impeachment of that board upon mere rumor, and the gentleman says it is a rumor and nothing more. He does an injustice to himself, to the teachers, to the board and the public school system of the city, and I hope that the amendment offered by the gentleman from Texas will be voted down and that of the gentleman from Michigan will prevail. You will not eliminate these teachers by saying that they are incompetent and the board holds them there. They will not be removed by an examination. As the gentleman from Minnesota well says, they are daily taking an examination which is the very best, in practical work—namely, by filling the place to which they are assigned acceptably. If so, that ought to settle the question. If they are not, the board is derelict in its duty now, and we have the right to assume would be derelict if they undertook to examine them in the face of present knowledge and practical experience.

Mr. SIMS. Mr. Chairman, I want to oppose the amendment offered by the gentleman from Michigan, but not upon the ground that there is any suspicion or rumor or anything of the sort, but I am afraid it will not act well provided there are teachers who have been simply put in by the power of the board to do so.

Mr. SAMUEL W. SMITH. May I ask the gentleman a question? On page 8, line 15 down to line 24, I think that was written in the bill to make it clear that teachers should not have to take an examination, and the only object of that proviso was to make it clearer.

Mr. SIMS. Now, this is the point——

Mr. SAMUEL W. SMITH. If you want these teachers——

Mr. SIMS. I believe that the gentleman from Michigan [Mr. SAMUEL W. SMITH] was not on the subcommittee?

Mr. SAMUEL W. SMITH. Oh, no.

Mr. SIMS. Neither was I; therefore I am not familiar with the language. But I understood the subcommittee that had charge of this bill has carefully weighed all of the language in the bill, and that it was a harmonious whole. Does the bill require those who are now employed to be examined?

Mr. MORRELL. In answer to the gentleman from Tennessee I will say that it does not in any way, shape, or form.

Mr. SIMS. Then why add this amendment?

Mr. SAMUEL W. SMITH. There are those who differed with the chairman of the committee as to the clearness of the language.

Mr. SIMS. If the bill does not require the teachers who are now employed to be examined hereafter, why would the board assume that they should be examined?

Mr. SAMUEL W. SMITH. It was the intention of the subcommittee to submit a report in which that was not required, and while we intended to do it it is claimed by some that the language from line 15, on page 8, down to line 23 does not make it as clear as a proviso of that kind would make it.

Mr. SIMS. As stated by the chairman of the subcommittee, who, as we know, has devoted many days and months to studying this bill, there is not a word in this bill that requires the teachers now employed to be examined, and here we are proposing to put in a long amendment providing that they shall not be examined. On its very face it carries some reason for suspicion.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. SIMS] has expired.

Mr. SIMS. I hope the amendment will be defeated, because I think it is superfluous and unnecessary.

Mr. PAYNE. I would like to ask the gentleman from Michigan [Mr. SAMUEL W. SMITH] a question. Are these teachers appointed annually or appointed once and then hold on until removed?

Mr. SAMUEL W. SMITH. I can not tell you.

Mr. MORRELL. That is the system. They are appointed and remain as long as they show their ability to teach and are satisfactory.

Mr. PAYNE. Then I do not see why the gentleman from Michigan [Mr. SAMUEL W. SMITH] offered this amendment.

Mr. SIMS. That is what I do not see.

Mr. PAYNE. The language is:

No teacher, principal, or supervising principal shall be appointed to any position in the graded schools, high schools, manual-training schools, or normal schools, or no director, assistant director, and teacher of special studies shall be appointed until they have passed an examination prescribed by the board.

These teachers do not have to be reappointed. They have already been appointed. It says further:

This provision shall not apply to teachers coming from the normal schools or teachers being advanced from the different classes in the grade schools, or from one group to another in the high, normal, or manual-training schools.

That seems to accomplish what the gentleman from Michigan has in mind.

Mr. MORRELL. I would like to ask the gentleman from New York [Mr. PAYNE] if he sees anything in that provision which he has just read that would imply that an examination would become necessary, or might be, on the passage of this bill?

Mr. PAYNE. No.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BURLESON] to the amendment offered by the gentleman from Michigan [Mr. SAMUEL W. SMITH].

Mr. McCLEARY of Minnesota. Mr. Chairman, I would like to ask the gentleman from Michigan whether, in his judgment, it would not be well to say, "by reason of this act." I made the remarks I did with the thought in mind that the amendment of the gentleman from Michigan [Mr. SAMUEL W. SMITH] was really a constructive amendment, so that in construing this act there should be no doubt the teachers would be free from this anxiety.

Mr. SAMUEL W. SMITH. That is all the object of the amendment.

Mr. MORRELL. I may say that I offer the following amendment; that, after the word "that," insert "by the operation of this act."

Mr. SAMUEL W. SMITH. I accept that amendment. I hope the amendment of the gentleman from Texas [Mr. BURLESON] will be voted down.

The CHAIRMAN. The Clerk will read the amendment offered by the gentleman from Pennsylvania [Mr. MORRELL].

The Clerk read as follows:

Insert, after the word "that," the words "by the operation of this act." So as to read: "That by the operation of this act no teacher or other officer in the service," etc.

Mr. McCLEARY of Minnesota. These words will be put later, namely: "No teacher, by the operation of this act." It is a matter of syntax.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BURLESON].

The question was taken; and the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MORRELL] to the amendment offered by the gentleman from Michigan [Mr. SAMUEL W. SMITH].

Mr. MORRELL. Mr. Chairman, I request that the Clerk read the amendment, together with the amendment offered by myself.

The CHAIRMAN. By unanimous consent, the Clerk will report the amendment offered by the gentleman from Michigan [Mr. SAMUEL W. SMITH] and the amendment offered by the gentleman from Pennsylvania [Mr. MORRELL].

The Clerk read the amendments.

Mr. McCLEARY of Minnesota. Mr. Chairman, that does not read as the gentleman from Pennsylvania intends it. The phrase "by the operation of this act" should come in later.

The CHAIRMAN. Where does the gentleman from Pennsylvania [Mr. MORRELL] desire his amendment to be inserted, namely, "by the operation of this act?"

Mr. MORRELL. I suggest that the Clerk read the amendment.

The Clerk read as follows:

That no teacher or officer in the service of the public schools of the District of Columbia at the time of the passage of this act shall, by the operation of this act, be required to take any examination, either mental or physical, to be continued in the service.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MORRELL].

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question is now on the amendment offered by the gentleman from Michigan [Mr. SAMUEL W. SMITH] as amended by the amendment offered by the gentleman from Pennsylvania [Mr. MORRELL].

The question was taken; and the amendment was agreed to.

Mr. BURLESON. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] offers an amendment, which the Clerk will read.

The Clerk read as follows:

Amend by adding, after the word "salary," line 6, page 7, the following:

And no teacher or principal shall in any event receive less than his or her present salary.

Mr. MORRELL. What is the amendment?

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. BURLESON. I do not think the gentleman from Pennsylvania will object to accepting that amendment.

Mr. MORRELL. No.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BURLESON].

Mr. McCLEARY of Minnesota. I would like to have the sentence read as it will appear in the law.

The Clerk read as follows:

For the year ending June 30, 1907, each head of department and teacher shall receive the salary in his class next above his present salary, and no teacher or principal shall in any event receive less than his or her present salary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BURLESON].

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 7. That principals of grade school buildings shall receive for services rendered as such, in addition to their grade salary, the yearly sum of $30 for each session room in the building.

The term "session room" shall be held to designate a class room in which the regular work of a class is carried on.

Principals of normal, high, and manual training schools shall receive a salary of $2,000 per annum, together with an annual increase of $100 for ten years. All principals shall be appointed at the minimum salary.

Mr. MORRELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Page 10, line 2, after the word "class," insert the words "of not less than twenty-five people."

The question was taken; and the amendment was agreed to.

Mr. BURLESON. Mr. Chairman, I offer the following amendment.

Mr. NORRIS. Mr. Chairman, before the amendment is reported, I would like to call the attention of the gentleman from Pennsylvania to the fact that the word "class" occurs twice in that line. The gentleman ought to designate which one he desires his amendment to come in after, because it makes no sense by coming after the word "class" the first time it occurs.

Mr. MORRELL. It comes after the word "class" the second time it appears.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that his amendment shall be understood as applying after the word "class" the second time it occurs in that line.

There was no objection.

The Clerk read as follows:

Page 10, line 6, strike out the word "ten" and insert the word "five;" so as to read "five years."

Mr. BURLESON. The object of this amendment is to prevent an increase of the salary beyond the period of five years' service. The minimum salary of the principals of the normal, high, and manual training schools is $2,000 per annum. The bill gives them each an increase of salary of $100 per year for ten years under its terms, or a maximum salary of $3,000. If the amendment I offer is adopted it will give only a maximum salary of $2,500. There is no person upon this floor more earnestly in favor of paying the teachers of the city of Washington a fair compensation for their services than I am, but I earnestly invite the attention of gentlemen of the District committee and the attention of gentlemen of the House to the fact that there are very few normal schools throughout this country that pay the principals thereof higher salaries than $2,500 per annum. In a few of the larger States—in Illinois, in New York——

Mr. GARDNER of Michigan. May I interrupt the gentleman?

Mr. BURLESON. Certainly.

Mr. GARDNER of Michigan. I want to say further that there are but very few colleges or universities in this country that pay a maximum salary of $2,500 after many years of service has demonstrated distinguished ability. There are very few.

Mr. BURLESON. I thank the gentleman for the suggestion. I am thoroughly familiar with the fact that that is the case. Permit me to direct attention to Johns Hopkins University, admittedly one of the greatest universities in our country; many of the ablest men connected with that institution as professors receive less than $3,000 per annum. As a matter of fact, if we under the provisions of this bill provide ultimately that the principals of the high schools and manual training school and the normal school shall receive $2,500 per annum, we will be making a generous provision for them, and I do not hesitate to say we would not take this action but for the fact that the Government bears half the burden. I submit the amendment to the committee for their determination.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MORRELL. Mr. Chairman, division!

The committee divided; and there were—ayes 39, noes 14.

Mr. CLARK of Missouri. No quorum, Mr. Chairman.

The CHAIRMAN. The gentleman from Missouri raises the point of no quorum. The Chair will count.

Mr. CLARK of Missouri. I withdraw that point.

The CHAIRMAN. The gentleman withdraws the point of no quorum. The ayes have it, and the amendment is carried.

The Clerk read as follows:

DIRECTORS.

SEC. 8. That the salary of the directors shall be as follows: Directors of drawing, physical culture, music, domestic science, domestic art, and kindergartens shall receive a salary of $1,500 per annum, with an annual increase of $50 per year for ten years; the assistant directors of drawing, physical culture, music, domestic science, domestic art, and kindergartens, in charge of colored schools, shall receive a salary of $1,300 per annum, with an annual increase of $50 per year for ten years; the director of primary instruction shall receive a salary of $1,600 per year, with an increase of $50 per year for ten years; the assistant director or primary instruction, in charge of colored schools, shall receive a salary of $1,400, with an increase of $50 per year for ten years. Directors and assistant directors shall be appointed at the minimum salary.

Mr. BURLESON. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Page 10, line 13, strike out the word "ten" and insert the word "five."

Mr. BURLESON. Mr. Chairman, this amendment relates to the salaries ultimately to be paid to the directors of drawing, physical culture, music, domestic science, domestic art—which means cooking and sewing—and kindergartens. Under the terms of this bill they are each to receive a salary of $1,500 per annum with an annual increase of $50 per annum for ten years—that is, as now provided by the bill. I move to strike out "ten" and insert "five," so as to fix the maximum salary this class of teachers is to receive at the expiration of five years. It does not reduce the salary provided in the bill to be paid the teacher when the bill is passed, but the effect of the amendment is that at the expiration of five years the increase is stopped. The director of sewing is now receiving very much less than the salary she is to receive the first year after the passage of this bill. Under this bill she would ultimately, after five years, receive a salary of $1,750. I assert without fear, absolutely without fear of contradiction upon the part of any man upon this floor, that in no State of this Union can there be found a director of domestic science, a director of domestic art, who is receiving any such compensation. I am in favor of giving these directors liberal compensation. I recognize the fact that they are rendering great service; but I do insist, Mr. Chairman, that occasionally, if only occasionally, we should keep in mind that our constituents at home are paying one-half of all that is going to the teachers and officers of this city, and that the helpless taxpayer, who can not even make his voice heard because he is disfranchised, the decitizenized taxpayer in the District of Columbia, must bear the other half of the burden. I appeal to the common sense of the membership of this House. I do not believe the gentleman from Pennsylvania himself will raise his voice in opposition to this amendment.

Mr. GARDNER of Michigan. Mr. Chairman, this amendment follows logically upon the other, otherwise you will be paying the directors of domestic science, cooking, sewing, manual training, a subordinate, as much as you are paying the principal. Under this amendment he or she will receive $1,750 as the maximum for that work, which I submit, as the gentleman from Texas has said, is a fairly remunerative salary for the kind of work done, and I hope the amendment will prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and the amendment was agreed to.

Mr. BURLESON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

In lines 18, 21, and 24 strike out the word "ten" and insert the word "five."

Mr. BURTON of Delaware. Mr. Chairman, I ask for the reading of the section as it would read if amended.

The Clerk read as follows:

SEC. 8. That the salary of the directors shall be as follows: Directors of drawing, physical culture, music, domestic science, domestic art, and kindergartens shall receive a salary of $1,500 per annum with an annual increase of $50 per year for five years; the assistant directors of drawing, physical culture, music, domestic science, domestic art, and kindergartens, in charge of colored schools, shall receive a salary of $1,300 per annum, with an annual increase of $50 per year for five years; the director of primary instruction shall receive a salary of $1,600 per year, with an increase of $50 per year for five years; the assistant director of primary instruction, in charge of colored schools, shall receive a salary of $1,400, with an increase of $50 per year for five years. Directors and assistant directors shall be appointed at the minimum salary.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas.

The question was taken; and the amendments were agreed to.

Mr. CLARK of Missouri. Mr. Chairman, I ask unanimous consent to go back to section 2 for the purpose of offering a small amendment.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to recur to section 2 for the purpose of offering a small amendment.

Mr. [illegible]MS. Reserving the right to object, I would like to ask what the amendment is?

Mr. CLARK of Missouri. To provide that when a teacher is on trial or under investigation that he or she shall have the right to attend it, accompanied by counsel and at least one friend.

Mr. CRUMPACKER. Mr. Chairman, I believe I will object to returning to that section.

Mr. CLARK of Missouri. Then I believe I will raise the point of no quorum.

The CHAIRMAN. The gentleman from Missouri raises the

point of no quorum. The Chair will count. [After counting.] More than 100 Members present. The Clerk will read.

Mr. MORRELL. Mr. Chairman, I desire to offer the following amendment.

The Clerk read as follows:

On page 11, line 4, after the word "dollars," insert the word "each." Also strike out the words, in line 4, "the superintendent of buildings and supplies, $3,600."

Mr. MORRELL. That office has been abolished.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The question was taken; and the amendment was agreed to.

Mr. BURLESON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 11, line 9, strike out the word "ten" and insert the word "five;" so that it will read: "with an increase of $100 per year for five years."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and the amendment was agreed to.

Mr. FITZGERALD. Mr. Chairman, I move to strike out lines 14 and 15.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 11 strike out lines 14 and 15.

Mr. FITZGERALD. I wish to call the attention of the committee to the fact that the bill provides that the supervisor of high schools shall for the first year receive $2,600, in these lines that I move to strike out. The bill in another section provides that the supervisors of high schools and other designated supervisors shall receive $2,200. There is an apparent contradiction in the provision giving them $2,200. Evidently this was inserted through an oversight.

Mr. MORRELL. Mr. Chairman, I accept the amendment offered by the gentleman from New York in view of the fact that the supervisor of the high school gets $1,800 now and will get $2,000 by the operation of the other provision.

The question was taken; and the amendment was agreed to.

Mr. CLARK of Missouri. Mr. Chairman, I offer the amendment which I send to the desk as an additional section to be inserted after section 9.

The Clerk read as follows:

When a teacher is on trial or being investigated he or she shall have the right to be attended by counsel and by at least one friend of his or her selection.

Mr. CLARK of Missouri. Mr. Chairman, the purpose of my amendment is so reasonable and just that it appears to be a waste of time to say anything about it. It is a constitutional right of every American citizen to appear in person when charged with misconduct and meet his accuser face to face, also to be represented by counsel. These are valuable rights, and the teachers of the District of Columbia should not be deprived of them. Especially is this true because the vast majority of teachers in this city are women. It is a delicate situation for a man to be tried for any sort of crime or misdemeanor, and even a man is liable to become embarrassed; but to take a woman who has not been in the habit of public appearances before this committee, put her on trial, and not allow her to have either counsel or any of her friends present makes a very aggravated and unjustifiable condition of affairs. My own opinion about it is that all of these investigations in which the characters and conduct of teachers are on trial should be conducted——

Mr. MORRELL. Mr. Chairman, will the gentleman allow an interruption?

Mr. CLARK of Missouri. Yes.

Mr. MORRELL. I would state to the gentleman that the committee is disposed to accept the amendment.

Mr. CLARK of Missouri. Well, I am very glad of that.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri.

Mr. CRUMPACKER. Mr. Chairman, I question the power of the Committee on the District of Columbia to accept an amendment.

The CHAIRMAN. The Chair did not propose to confer that authority upon that committee, and was just putting the question to the Committee of the Whole.

Mr. CRUMPACKER. Mr. Chairman, I want to explain why I objected to the committee recurring to section 2 for the purpose of enabling the gentleman from Missouri [Mr. CLARK] to offer this provision as an amendment to that section. I think there ought to be a vote in the House upon the amendment adopted by the committee two weeks ago to section 2, taking the power of appointing the school board away from the District Commissioners and vesting it in the supreme court of the District of Columbia, and I do not want that section complicated too much.

Mr. BABCOCK. Well, Mr. Chairman, I will say to the gentleman that there will be a separate vote demanded in the House on that proposition.

Mr. CRUMPACKER. I am very glad to know it. I understand that only two members of the supreme court of the District of Columbia even pretend to have been residents of the District at the time they were appointed, and I understand, further, that the members of that court go back to the States where they claim residence, one to the State of Vermont and one to the State of Ohio and one to some other State, at every annual election to vote. Now, I think the committee made a grievous mistake in making that radical change, and I think it is the overwhelming sentiment of the people of the District of Columbia, those who are the most deeply interested in the administration of the schools, that the selection of the school board should remain in the District Commissioners, where it logically and properly belongs.

Mr. CLARK of Missouri. Mr. Chairman, I would like to ask the gentleman a question. Is the gentleman in favor of my amendment or against it?

Mr. CRUMPACKER. Mr. Chairman, I think the gentleman's amendment ought not to be adopted.

Mr. CLARK of Missouri. Why?

Mr. CRUMPACKER. Because it seems to imply a public trial upon the investigation of the fitness of a teacher to remain in the public schools. I do not believe that is good policy. I do not believe the gentleman is conferring any valuable privilege upon the teachers of the schools to make public investigations respecting their fitness unless they see fit to make them. I have no special interest in the matter at all.

Mr. CLARK of Missouri. What does the gentleman think of a proposition of trying an ordinary citizen for a felony without the privilege of counsel?

Mr. CRUMPACKER. I would not consent to that for a moment.

Mr. CLARK of Missouri. No; because the gentleman is a lawyer; but what is the difference now as a matter of interest between being tried for a felony and being tried for something that will ruin your character as a teacher, the business that you are prepared for, for life?

Mr. CRUMPACKER. Because sometimes there may be some personal quality lacking in a teacher which makes him unsuccessful in a particular place or in a particular line that may be investigated and decided without reflecting upon him in any way.

Mr. CLARK of Missouri. Well, he has a right to be informed of it, then.

Mr. CRUMPACKER. And according to the gentleman's amendment the public will be informed of it, and he probably never could get employment in the profession of school-teaching afterwards.

Mr. CLARK of Missouri. Oh, I beg the gentleman's pardon, but he evidently misapprehends what the amendment is. The amendment is that when a particular teacher is put on trial or under investigation, he or she shall have the privilege of having counsel before this board of education and also the privilege of being accompanied by at least one friend selected by the teacher. It is not a public trial.

Mr. CRUMPACKER. Well, I never knew of an investigation where there were friends and counsel present that was not practically public.

Mr. CLARK of Missouri. Well, then, this ought to be public.

Mr. CRUMPACKER. It would be infinitely better if the gentleman would make public trials and provide that the teacher under investigation should be represented by counsel than to make them neither public nor private.

Mr. PAYNE. Mr. Chairman, I would like to have about half a minute on the gentleman's amendment. I am in favor of that part of the gentleman's amendment which provides that the teacher should be allowed to be present. I think that is all right. I once had the honor of serving as the chairman of the committee on grievance in a board of education, and there were two cases before our committee. In one of those cases the party accused was present, and in the other the party was represented by counsel. We got along very well with the first. We had no difficulty in dealing out even-handed justice. In the other, the attorney tried to make a hurrah case out of it in the newspapers, and of course it was exploited, and his remarks were exploited, and the whole thing was very detrimental to the public school and to the school-teachers, whom we held to be blameless in the matter. It was very detrimental because of the conduct of the pettifogger who appeared before us. It stirred up some elements in the city and in the schools, which

proved of great detriment to the schools for a long time. Now, I should favor the first part of the gentleman's amendment—that the teacher or whoever it was might be present; but I do not think they should be represented by counsel.

Mr. CLARK of Missouri. Mr. Chairman, I was starting to give what little I had to say about this when the gentleman from Pennsylvania offered to accept the amendment and the gentleman from Indiana objected to his accepting it. The situation about these investigations before the board of directors is this: As a general thing the witnesses for the prosecution fancy that they have some grievance somewhere. They are not to blame; they have a right to be heard. They go in and give their side of the story. Now, nearly any kind of a tale will sound all right and hang together until somebody attacks it by cross-examination, and then nine-tenths of them vanish into thin air; and notwithstanding all the talk about the waste of time of cross-examination there never has been any other method devised that is as good to ascertain the truth. The difficult art of cross-examination can be learned only by practice. For one of these female teachers or one of the male teachers—because they have had no experience of the kind—to undertake to cross-examine these witnesses, who are infuriated by what they think is some wrong to themselves or to their children, is almost preposterous. Of course occasionally you run across a school-teacher who can do that, but the vast majority of them have not been trained to do it, and as far as the pettifogging to which the gentleman from New York [Mr. PAYNE] refers is concerned, I suppose there are pettifoggers in Washington as well as elsewhere; but as a rule the teachers would employ reputable counsel to represent them and protect them, and I think it is equally necessary that these teachers be permitted to take at least one friend into these examinations to hold up their hands and give them countenance. It is in the interest of a fair deal. My amendment ought to be adopted, and I have no doubt that it will be adopted, for it is in harmony with our history and our court procedure.

Mr. MORRELL. Mr. Chairman, I call for a vote on the amendment.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Missouri.

The question was taken; and the amendment was agreed to.

Mr. BURLESON. A parliamentary inquiry, Mr. Chairman. I desire to know whether the words "six hundred" before the word "dollars," in line 4, were stricken out upon the motion of the gentleman from Pennsylvania?

The CHAIRMAN. The Chair advises the gentleman from Texas that they were not stricken out.

Mr. BURLESON. Then I offer the following amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

Mr. MORRELL. Mr. Chairman, has not that section been passed?

The CHAIRMAN. No; we are still on that section, or rather the committee has just adopted an independent section. If the gentleman raises the point of order, I suppose, strictly speaking, we have passed that section, although the amendment offered by the gentleman from Missouri was really in the nature of an amendment to the section.

Mr. PAYNE. We can only return by unanimous consent, and we have passed that section.

The CHAIRMAN. Does the gentleman from Pennsylvania raise that point of order?

Mr. MORRELL. I feel that the disposition of the committee is——

Mr. BURLESON. I will state to the gentleman from Pennsylvania that but for the fact of being engaged at the time I would have offered the amendment. I was laboring under the impression it had been offered and adopted.

Mr. MORRELL. In view of that, Mr. Chairman, of course I withdraw the point of order.

The CHAIRMAN. The Clerk will read the amendment offered by the gentleman from Texas.

The Clerk read as follows:

Page 11, line 4, strike out the words "six hundred."

Mr. BURLESON. Mr. Chairman, the purpose of that amendment is to reduce the salary of the assistant superintendents as proposed by this bill $600. As a matter of fact, if this bill should be adopted—I will ask the gentleman from Pennsylvania what are the salaries paid to assistant superintendents?

Mr. MORRELL. Two thousand five hundred dollars.

Mr. BURLESON. That is as I thought. As a matter of fact, if the amendment is adopted which I offer the assistant superintendents of the schools will then be granted an increase of salary of $500 per annum, and if the bill as reported by the committee is adopted and my amendment is voted down they will be granted an increase of $1,100 per annum. Mr. Chairman, I want to ask the attention of the committee to this fact, and but for the reason that I had so many other amendments to offer I would have opposed this paragraph of the bill upon the ground that the public schools of Washington are given too much supervision. We have a treble system of supervision in this city in our public schools as provided for in this bill.

We have a superintendent and assistant superintendents engaged in supervising the schools. We have in addition what is termed "the supervising principal," who is engaged in supervising the particular schools over which he is given jurisdiction. Then we have in addition to these two classes of supervisors, the principal of the school, who, of course, supervises that particular school. I challenge the record upon the proposition that in the best devised public school system of this country, which I believe is claimed to be in Massachusetts, they have no such superabundance of supervision as is provided for in this bill.

Mr. Chairman, consider this for an instant. I will not be radical about this proposition, though I believe we ought to absolutely strike out of this bill all provision for this second class of school supervisors; but I do ask the members of this committee to vote up this amendment offered by me and strike out a part of the salary provided for in this bill for these assistant superintendents. Three thousand dollars for an assistant superintendent of schools is what I propose to give them under the terms of this bill, an increase of their present salary of $500 per annum. Can any gentleman here say that it is not a fair and a just increase of compensation? As a matter of fact, Mr. Chairman—and I invite the gentlemen in charge of this bill to deny the proposition, if they can—this proposed increase of assistant superintendent's salary to $3,600 is out of all proportion to all other increases that are provided for in this bill. The salary ought to be cut down to $2,500, and except for my regard for the distinguished gentleman from Pennsylvania [Mr. MORRELL] who has this matter in charge, I would make the motion to cut it down to $2,500, the amount they are now receiving and which I think is adequate compensation.

Mr. MORRELL. I will say to the gentleman from Texas [Mr. BURLESON], concerning the system of the supervision of the public schools in the District of Columbia, that the supervision costs the District of Columbia less in proportion to the total amount appropriated for school purposes than it does some thirty-odd other cities in the Union—those of equal size and those of larger size. The actual cost of supervision in the District of Columbia amounts to the small percentage of 6½ per cent, which is not, I submit to the gentlemen of the committee, a large proportion of the amount of money appropriated.

Mr. GARDNER of Michigan. May I interrupt the gentleman for a question?

Mr. MORRELL. Certainly.

Mr. GARDNER of Michigan. I would like to ask the chairman of the committee whether or not, in his judgment, he does not think that an advance of $1,100 a year to a person filling a subordinate position is not a pretty steep sum?

Mr. MORRELL. If we are to proceed upon the principle that the House has adopted in regard to cutting down the items in connection with the other officers, I presume that it is but right to cut down this.

Mr. GARDNER of Michigan. We have already adopted that?

Mr. MORRELL. Yes.

Mr. GARDNER of Michigan. Would it not be better, then, to act in harmony with that action?

Mr. MORRELL. I was just simply trying to explain to the committee that perhaps it has been misled in regard to the expense of the supervision of the schools in the District, and I maintain again that 6½ per cent of the total amount appropriated to be spent for supervision is not a very expensive system of supervising the number of schools—the dual system that exists to-day in the District of Columbia.

The supervision of the District of Columbia schools is in the hands of the superintendent, two assistant superintendents, the supervising principals, two directors of high schools, one of whom has direction of all the manual training in the high and grade schools, and the directors of special instruction.

One assistant superintendent supplements and extends the work of the superintendent in the white schools by acting as his representative in any capacity assigned by him, the other assistant superintendent doing the same work in the colored schools. The work of the assistant superintendents is distinct from that of the supervising principals in that the supervision of the latter gathers local features and tendencies for the use of the superintendent, while the former, the assistant superintendents, exercise a general supervision of the various parts of the system in maintaining a legitimate unification of work. In

addition, the assistant superintendents have many special duties assigned them by the superintendent. This plan, carrying with it the office of assistant superintendents, conforms to that employed by all the business organizations, since these require a deputy or deputies to act upon all occasions in place of the superintendent or head.

The supervising principals are in reality district superintendents, who meet with the superintendent weekly and who carry out his policy. They are responsible for the educational development in their division schools and are in constant and close touch with the teachers who are intrusted with this development. The duties of the supervising principals and of principals of buildings, while supplementing, do not in any sense overlap each other. The principals of buildings, in addition to being teachers of eighth-grade classes, have charge of the administration of their buildings, their discipline and health, their records and reports, their morale in the neighborhood, and the like. The public school system of the District of Columbia could not be administered properly without its supervising principals, by whatever name called, and its principals of buildings, by whatever name called.

The directors of special instruction are responsible for the drawing, the music, the physical culture, the cooking, the sewing, and the carpentry in the public school service. (See Table A.) To these directors belong much of the credit for the high standard which our schools have attained in their special subjects. Our pupils are, under these heads, given much practical instruction, which becomes of inestimable value to them as the future citizens.

This plan of supervision, in successful operation in the public schools of the District of Columbia since 1870, has been more recently adopted by Baltimore, Philadelphia, Chicago, and other cities of prominence.

The cost of supervision in the District of Columbia is the lowest in a list of thirty-two of the largest cities in the United States. (See Table B.)

With all the supervision in the District of Columbia schools, the entire cost of their supervision is only 6.5 per cent of the cost of their maintenance. (See Table C.)

TABLE A.—*Number of teachers in special subjects.*

The apparently excessive number of teachers of special subjects in Washington is accounted for by these facts:

1. Every girl in the public schools from the third to the sixth grades, inclusive, is taught to sew. There are 12,000 such pupils. This requires teachers of sewing.

2. Every girl in the schools of the seventh and eighth grades is taught to cook. There are 4,500 such pupils. This requires teachers of cooking.

3. Every boy in grades 7 and 8 is taught manual training. There are 3,300 such pupils. This requires teachers of manual training.

4. Every pupil from the first to the eighth grade, inclusive, is taught drawing, music, and physical culture. In this work the grade teacher is, of course, the real teacher in giving said instruction, though the initial lessons in each subject are in some cases given by the special teacher.

In regard to the development of the manual-training idea the Appropriations Committees of the House and Senate have been fully aware, and have always made liberal provision for same.

TABLE B.—*Showing what percentage the cost of supervision is of the entire cost of maintenance of schools.*

[From report of committee of the National Educational Association on "Taxation as related to public education," 1905, p. 14.]

	Per cent.
Atlanta	16.5
Providence	15.2
Albany	14.4
St. Louis	12.5
Louisville	12.4
Paterson	12.2
Newark	12.1
Detroit	11.9
Grand Rapids	11.8
Cambridge	11.6
Milwaukee	11.5
Rochester	11.4
Syracuse	10.7
Columbus	10.7
Allegheny	10.4
San Francisco	10.3
Minneapolis	10.0
Chicago	9.8
Kansas City	9.7
Buffalo	9.6
Los Angeles	9.4
New Haven	9.2
Pittsburg	9.2
Denver	8.7
Boston	8.7
Cleveland	8.6
Omaha	8.5
Toledo	8.2
Philadelphia	7.7
Indianapolis	6.6
St. Joseph	6.5
Washington, D. C	6.5

The cost of supervision in Washington is lowest in a list of thirty-two of the largest cities in the United States.—The cost of supervision in Washington includes salaries of superintendent, assistant superintendents, director of high schools, director of manual training schools, supervising principals, and all directors or assistants.

The entire cost of maintenance in Washington for the year ing June 30, 1906, is	$1,450,834
Cost of supervision	$94,350
Per cent which cost of supervision is of cost of maintenance	6.5

TABLE C.—*Supervision.*

1 superintendent of schools		$4,000
2 assistant superintendents of schools		5,000
1 director of high schools		2,500
13 supervising principals and 1 director of manual training		28,000
1 director of drawing		1,400
1 assistant director of drawing		1,200
1 director of music		1,400
1 assistant director of music		1,000
1 director of physical culture		1,400
1 assistant director of physical culture		1,000
1 director of cooking		1,200
1 assistant director of cooking		1,000
1 director of sewing		1,200
1 assistant director of sewing		1,000
1 director of kindergartens		1,400
1 assistant director of kindergartens		1,000
1 director of primary instruction		1,500
1 assistant director of primary instruction		1,100
Total		56,300
2 principals of normal schools	$3,600	
5 principals of high schools	9,000	
2 principals of manual-training schools	3,600	
		16,200
Excess over grade salary now paid principals		10,400
Eighth grade principals' assistants		11,450
Grand total		94,350
Total cost of maintenance of schools		1,450,834
Per cent which cost of supervision is of cost of maintenance		6.5

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BURLESON].

The question was taken; and the amendment was agreed to.

Mr. HINSHAW. I move, in line 5, page 11, to strike out the words "six hundred."

Mr. BURLESON. I would say to the gentleman the entire line has gone out.

The CHAIRMAN. The gentleman from Nebraska [Mr. HINSHAW] withdraws the amendment. The Clerk will read.

The Clerk read as follows:

SEC. 9. That the pay of officers shall be as follows: The superintendent, $5,000; the assistant superintendents, $3,600; the superintendent of buildings and supplies, $3,600; supervisors of high schools, supervisors of manual training schools, and supervising principals, $2,200 per annum, with an increase of $100 per year for ten years.

Mr. McCLEARY of Minnesota. Mr. Chairman, I move to insert, after the word "superintendents," on line 4, page 11, the words "and principals of normal schools."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. McCLEARY].

Mr. MORRELL. I might suggest to the gentleman——

Mr. CRUMPACKER. Mr. Chairman, I raise the point of order on that.

Mr. MORRELL. Mr. Chairman, I trust the gentleman will reserve it for a moment until I can explain.

Mr. CRUMPACKER. Mr. Chairman, I reserve the point of order.

Mr. MORRELL. While I have an opportunity I will explain to the gentleman, the normal school principals have already been provided for on page 10, line 3.

Mr. McCLEARY of Minnesota. I understand that. That is precisely where I think the mistake was made.

Mr. PAYNE. Does the gentleman desire to give them two salaries now?

Mr. McCLEARY of Minnesota. I will amend to strike that out.

Mr. PAYNE. You can not go back to that now.

Mr. McCLEARY of Minnesota. I will ask consent to do it. I shall ask opportunity to present my case, and then it is for the committee to determine whether it is wise or unwise.

Mr. HINSHAW. Provision as in the bill gives these superintendents of normal schools $2,000 a year, and your amendment gives them $3,000?

Mr. McCLEARY of Minnesota. Yes, sir. The purpose of the amendment is this, namely, to place the superintendents of normal schools or principals of normal schools, whatever they are called, on a salary of $3,000 a year. Now, Mr. Chairman, the point is this, that the superintendent or principal or president, or whatever you call him, of the normal school ought to

have $3,000 a year. We pay $3,000 a year to the presidents of the normal schools in my State, they do it in Wisconsin, and they do it all through the Northwest. The normal schools are the schools where teachers are fitted for their work. It is the most important school in the city, and the man at the head ought to have $3,000 a year. That is the case; so make your point of order, if you want to.

Mr. CRUMPACKER. Mr. Chairman, the committee has already passed upon the question that the gentleman from Minnesota is raising now.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. CRUMPACKER. I insist on the point of order. It is not germane.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

OFFICE OF THE SECRETARY OF THE BOARD OF EDUCATION.

SEC. 10. That the salaries of the employees of the office of the secretary of the board of education shall be: Secretary, $2,000; statistician, $1,400; clerk, $1,200; stenographer, $900; messenger, $720.

Mr. MORRELL. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MORRELL] offers an amendment.

Mr. MORRELL. It is to strike out the entire section; and I make that amendment for the reason that that is already provided for in the appropriation bill which has passed the House, and therefore is unnecessary in this bill.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MORRELL] moves to amend by striking out the entire section.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 11. That the clerk, assistant to the superintendent of buildings and supplies, shall have a salary of $1,200 per annum; the salary of the inspector of janitors shall be $1,200 per annum, and the salary of the stenographer and typewriter shall be $900 per annum.

Mr. MORRELL. Mr. Chairman, I make the same motion in regard to section 11.

The CHAIRMAN. The gentleman from Pennsylvania moves to strike out section 11.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 12. That there shall be appointed by the board of education upon the recommendation of the superintendent of schools two school nurses, who shall be graduates of a recognized training school for nurses, one white and one colored, at a salary of $900 per annum each, one of whom shall be assigned to the white schools and one to the colored schools, whose qualifications for appointment and whose duties shall be designated by the board of education.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the section just read. It provides for the appointment of two trained nurses. There are already provided for the schools of the District of Columbia twelve medical inspectors, twelve physicians, who visit the schools, examine the pupils, record any case of sickness, and do everything that is necessary to prevent the breaking out of epidemics in the schools. These twelve medical inspectors were first authorized in 1904. Since that time, according to the statement of the superintendent of schools, there have been no epidemics in the schools. When it is considered that there are in the District of Columbia, if I recollect correctly, about 150 school buildings, that the children attending the schools are scattered over an immense territory, the members of the committee will realize how absolutely impracticable it would be for two trained nurses to render any effective service at all to the school system. Evidently the committee itself was not very much impressed with the necessity for these nurses, because this bill imposes upon the board of education the duty of outlining the duties to be performed by these nurses. Under all the circumstances, I submit, that there is hardly any excuse for the authorization and appointment of two nurses for the schools of the District.

Mr. MORRELL. Mr. Chairman, I ought to say that the committee considered the matter of the appointment of trained nurses, and a good deal of testimony was submitted to it showing that it tended to prevent the introduction of disease among the children, and it thereby resulted in a great deal of success in the city of New York.

On pages 34 and 35 of the report of the committee on H. R. 3395 you will read that the medical inspection, which has been in active operation since September, 1903, has been a great help to the schools as well as a protection to each child who attends the public schools in the District of Columbia. It is seldom that a new work of such magnitude, especially where so many and varied interests are to be subserved, is begun so harmoniously and with such good results. During the first year 10,262 children have been temporarily excluded from the public schools, 599 of whom were excluded on account of the child either having been exposed or actually infected with some contagious disease which would have endangered the health of the other scholars.

Visiting nurses in the public schools of New York City have proven to be of great assistance to the medical inspectors and have rendered efficient service to the community by seeing that a pupil who has been temporarily excluded from the schools by a medical inspector receives prompt and proper care, thus aiding materially the time in which the children are kept from school. It was also found that a number of parents were indifferent to the physical condition of their children unless actually sick in bed, and were not willing to prevent the spread of any minor contagious disease from which their children were afflicted. In these cases the visiting nurses would render efficient and valuable service.

By this simple method the children of the community lose the least amount of schooling, the medical inspector's work is made to produce the best results, and the community is protected from contagious diseases, not only by their detection, but by their isolation, with immediate and proper treatment.

As will be seen in page 405 of the hearings, this subject was thoroughly gone into by the subcommittee.

The member of the District Committee [Mr. OLCOTT] submitted a great many very powerful reasons why we should have this system in vogue here. I would be very glad if he would give the committee the benefit of his knowledge.

Mr. OLCOTT. Mr. Chairman, I hope the motion to strike out the provision for nurses, of my colleague from New York [Mr. FITZGERALD] will not prevail. I know that the appointment of trained nurses in New York City has been of great value. I appreciate perfectly that there are medical inspectors, but in these days of telephones it is an admirable thing to have nurses constantly within reach. In cases where disease breaks out among the children a trained nurse can be called for at the particular school where such trouble may happen. I think it will be found by the experience in the District of Columbia there will be ample work to be done by the two nurses, one for the colored schools and one for the white schools, and it will be an economy in the long run.

Mr. GOULDEN. Does my colleague from New York [Mr. OLCOTT] mean to tell the House, or rather the committee, that this is simply an experiment for the white and colored schools by providing for two nurses only?

Mr. OLCOTT. I do not think it is an experiment except in the District of Columbia. We have not had it here up to this time.

Mr. GOULDEN. Will the gentleman allow me, as an old school official of the city of New York, to say that they are actually needed in the physical well-being of the children and do a great deal of good; but two is entirely inadequate. As my friend from New York [Mr. FITZGERALD] says, it ought to be ten instead of two to do the work. They do work that the medical inspectors can not do; in fact, are not expected to do. They go to the families where it is claimed there are diseases of serious or a contagious character, and do splendid work. It has been found very satisfactory wherever tried. The principals of nearly all the schools in New York ask for the benefit and use of these nurses. They have given satisfaction, and the demand for them is growing. My colleague [Mr. OLCOTT] is right in his contention, but the number provided for in the bill is entirely inadequate.

Mr. OLCOTT. I only wish to say to the gentleman that I did not mean to say that it was experimental except in the city of Washington.

Mr. GARDNER of Michigan. Mr. Chairman, I hope the amendment offered by the gentleman from New York [Mr. FITZGERALD] will prevail, and that this provision will be stricken from the bill. The conditions are not all analogous between the city of Washington and the city of New York, with its congested population, with its people coming in large numbers from every quarter of the globe, with its infectious diseases brought from everywhere.

And again, sir, as the gentleman from New York [Mr. GOULDEN] intimated, it is simply an entering wedge. Only two this year, five next year, ten the year following, and so on, until every school will have a trained nurse. I think the physicians already employed and paid out of the public Treasury will give a careful supervision of the schools, sufficient to prevent the serious spread of contagious diseases, and it does not seem to me that we are called upon at this present time to add this additional expense.

Mr. FITZGERALD. I should like just a few moments. In the city of New York there is expended on the public schools in the neighborhood of $25,000,000 a year. This enormous expenditure is due to a considerable extent to the introduction

of a lot of useless and unnecessary fads in the schools. The schools in the District of Columbia cover an immense extent of territory. The schools are scattered; the school population is scattered. There are twelve doctors now, and if there be need for any more the number ought to be increased. If two nurses be appointed, whatever particular duties might be assigned to them, the two would be absolutely unable to perform any duties that would be of any special benefit. I hope that this motion will prevail, and that this beginning of a system of nurses will have its ending right here, and that the section will go out.

Mr. MORRELL. I call for a vote.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 13. That a commission, consisting of the superintendent of schools, the superintendent of buildings and supplies, and the Supervising Architect of the Treasury Department, is hereby created for the purpose of submitting to Congress at its session beginning December, 1906—

First. A general plan for the consolidation of the public schools in the District of Columbia, and the abandonment and sale of such school buildings and sites as may by them be deemed necessary and desirable for the best good of the public school service.

Second. A general plan for the character, size, and location of school buildings in accordance with which the educational and business interests of the public school system may be subserved.

Mr. MORRELL. I desire to offer an amendment.

The Clerk read as follows:

Page 12, line 13, strike out the words "superintendent of buildings and supplies" and insert the words "Engineer Commissioner."

The question was taken; and the amendment was agreed to.

Mr. MORRELL. A parliamentary inquiry. Can I offer an amendment at this time, or motion to strike out section 14?

The CHAIRMAN. That has not been read yet. After it is read the gentleman will be in order to move to strike it out.

Mr. MORRELL. I ask unanimous consent that section 14 be stricken out of the bill.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to make the motion. Is there objection? [After a pause.] The Chair hears none.

The question was taken on striking out section 14; and the motion was agreed to.

Mr. MORRELL. Mr. Chairman, I move that the sections may be renumbered, so that they will be consecutive.

The question was taken; and the motion was agreed to.

Mr. MORRELL. I move, Mr. Chairman, that the bill with amendments be laid aside to be reported to the House with a favorable recommendation.

The question was taken; and the motion was agreed to.

TEMPORARY MAINTENANCE OF LONG BRIDGE OVER THE POTOMAC RIVER.

Mr. BABCOCK. Mr. Chairman, I now ask for consideration of the bill (H. R. 14897) providing for the temporary maintenance of the Long Bridge over the Potomac River, and for other purposes.

The Clerk read the bill at length.

Mr. MUDD. Mr. Chairman, I raise a point of order on section 3.

The CHAIRMAN. The gentleman can raise the point of order when the bill is read by sections.

Mr. BABCOCK. Mr. Chairman, I ask unanimous consent that the bill be now read by sections.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the bill be read under the five-minute rule for amendment.

Mr. MUDD. Mr. Chairman, I ask unanimous consent that I be allowed to raise the point of order now, because if the Chair thinks it will lie I take it that there will be no debate on the bill at all.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent that he be allowed to raise the point of order as to section 3 at this time. Is there objection?

Mr. BABCOCK. Mr. Chairman, I object until I can make a statement.

Mr. MUDD. Well, I will reserve the point of order in order to allow the gentleman from Wisconsin to make a statement.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to make a statement pending the request of the gentleman from Maryland for unanimous consent to make the point of order at this time.

Mr. BABCOCK. Now, Mr. Chairman, this bill is brought to this House for the reason that the new bridge across the Potomac River that has just been completed is not yet in shape to stand heavy traffic. The bridge itself is 2,600 feet long. The approaches on this side of the river are 2,200 feet long.

Mr. WANGER. Is the gentleman referring to the new highway bridge?

Mr. BABCOCK. The new highway bridge across the Potomac River to take the place of the old Long Bridge. The approaches, built of earth, on this side of the bridge are 2,200 feet long; the approaches on the Virginia side are 1,200 feet long; making in approaches 3,600 feet, and in iron construction 2,600 feet. The gentlemen that are most interested, living in Virginia—that is, the brick interests—as well as the War Department and the Commissioners of the District of Columbia—have come before the committee, asking that Congress maintain the Long Bridge until they had time to properly prepare the approaches of the new bridge for heavy traffic. That must be done with granite blocks, as nothing will be strong enough to stand the traffic except granite blocks.

After a thorough examination and a report of this bill to this House and a rereference to the committee for further hearings, we find that gentlemen representing the brick interests in Virginia, or the greater part of them, concede all the committee suggests, and that is this: We find that some of the heaviest vehicles hauled over the roads and the asphalt pavements in the city are loaded with brick. One man states his concern hauls 50,000,000 brick here during a year. Wagons in general use have a 2-inch tire, and whenever that great load of brick, which weighs more than 3 tons, strikes a little abrasion or crack in the street it makes a larger one, and as you have all had an object lesson during the last two months with the holes on Pennsylvania avenue and Fifteenth street, where these loads go, that it has kept a large crew of men busy keeping the streets in repair.

Now, upon the new bridge the District receives from the street railway company crossing it a revenue of one-half a cent a passenger, or about $8,000 a year, for the use of the bridge. The Pennsylvania Railroad Company had a contract for the use and maintenance of the Long Bridge, which expired when they took possession of the new bridge erected by them solely for railway purposes, and when the District of Columbia government took possession of the new highway bridge. But the brick men, the War Department, and the Commissioners say that the approaches to the new bridge will not stand the traffic until there is a granite pavement there; that in two weeks the heavy traffic would tear them all to pieces, and they want Congress to provide for maintaining Long Bridge until next December, when the earth will have settled sufficiently to permit work of permanently paving the highway bridge approaches. Now, your committee provides in this bill $5,000 to pay the expenses of the operation of Long Bridge until next December.

I want to say here that the Pennsylvania Railroad Company is operating and keeping the Long Bridge open at my personal request pending the passage of this legislation.

Mr. GAINES of Tennessee. The gentleman says, Mr. Chairman, as the law is, as I understand him, that the people who haul brick have to pay so much to go over the bridge?

Mr. BABCOCK. No; the bridges are all free.

Mr. GAINES of Tennessee. The gentleman said something about half a cent.

Mr. BABCOCK. That is for the railroad that runs to Mount Vernon. That railroad company pays a half cent a passenger to the District for every passenger that crosses the bridge in its cars, which yields a revenue of about $8,000 per year. The contract with the Pennsylvania Railroad Company was completed when they vacated Long Bridge, but under the law they were obliged to take out Long Bridge, and they will be obliged under this bill to demolish it later. It has been a menace to navigation. It is not so now to navigation, but when there is ice in the river it causes floods and dams up the river, and many times the Appropriation Committee has had to appropriate from five to ten thousand dollars to break up the ice so that it could get through these low spans of the bridge and clear the channel.

Mr. WANGER. Whose duty is it to remove Long Bridge?

Mr. BABCOCK. The duty of the Pennsylvania Railroad Company.

Mr. WANGER. Will that duty continue?

Mr. BABCOCK. That duty continues. Now, the proposition contained in this bill is this: To provide sufficient money to pay for the operation of the Long Bridge until December; but incidentally the question of narrow tires in the District was brought up, and I requested that the mounted force, or rather the bicycle force, of the police department of the District of Columbia investigate the different streets and report to the committee why it was that the streets were constantly torn to pieces and these holes were being dug in them, causing the employment of a force of men practically all the time to keep them in repair. Those men reported that it was caused by the heavy loads and narrow tires, which destroyed the pavements. The first little hole you could hardly see, but that is the starting point. It is

like a little dent on the railroad track, where the locomotive runs over it, and it gets deeper and deeper every time it passes over. The Committee on Appropriations is furnishing thousands and thousands of dollars a year to keep up these beautiful asphalt streets, and we are permitting loads of 6 and 8 and 10 and 12 tons to run over these streets with 2 and 2½ inch tires, tearing them all to pieces. The committee comes in with a proposition that on all loads exceeding 4,500 pounds in weight the wagons must be provided with tires of not less than 4 inches in width. At first the question was brought up, and the suggestion was made that this would interfere with country traffic; that the farmers could not come and bring their cabbages and tomatoes and melons and all those nice things that come from Maryland and Virginia. I asked for a detail of the police force to investigate it, and stated that I had never, in my experience of a year that I had given to this subject, seen a heavy load with less than a 4-inch wagon tire. Members have seen these great loads of hay here, weighing 3 and 4 and 5 tons, with four and six horses. Now, not one of those wagons have less than 4-inch tires. Out here in Maryland they reduce the taxation on wagons as they increased the width of the tire for the benefit of the roads. The committee had a report from a sergeant of police concerning an examination made by him of forty-six loads of hay that came into the District weighing beyond this limit. Forty-five wagons had tires 4 inches in width, and one load had tires 3 inches in width. It was proven to the satisfaction of the committee that it did not affect the agricultural interests; it did not affect the farmer who brought his produce here into the city of Washington, and if you will stop to think for a moment, you can see how that is true.

You never saw a load of 4,500 pounds of cabbages, or anything of that kind. The usual truck load that comes in here weighs 500 or 600 or maybe 1,000 or, perhaps, even 2,000 pounds, and it comes right down to the question of the draymen and the transportation companies in the city of Washington and the people who haul brick. They are the ones who do the damage. Why, we were perfectly astonished to find that these companies here in the city of Washington came before the committee and opposed this proposition, and that they wanted to use 2½-inch tires, which was the standard, and we found out that on those 2½-inch tires they put a load sometimes of 12 and 15 tons, enough for a carload, with steel rails to run on, and then they expect Congress to appropriate the money to keep up an asphalt street to support such loads as that. The committee, in this bill, extends the time for Long Bridge, in order to accommodate our Virginia friends. We charge them no toll. The government of the District pays for the temporary maintenance of the bridge, but we do say to them: "Gentlemen, when you want to haul these heavy loads over our fine streets you must provide an adequate tire, which will not tear the streets all to pieces." This regulation is reasonable and proper, and it affects principally two transportation companies in the city of Washington. They come along with a great story of how much it is going to cost to provide 4-inch tires. To comply with this regulation does not require a new wheel or a new wagon, and it will not go into effect until the 1st of next January. All they have to do is to put on a new tire, and in some cases a new felly, because they are liable to split it in taking it off. It is a very small matter.

Mr. GAINES of Tennessee. And a tire will wear out in about eighteen or twenty months.

Mr. BABCOCK. And the testimony before the committee—I am glad the gentleman referred to it—was that the life of a tire was from twelve months to two years, owing to its use.

Mr. GAINES of Tennessee. And those with brakes will wear out before that.

Mr. BABCOCK. And those with brakes will wear out before that. Now, the simple question of this bill is, gentlemen, will you protect the streets; will you ask men hauling heavy loads, loads that weigh more than 4,500 pounds, because it does not affect the load weighing that amount or less, to aid in protecting the streets of Washington, and make it possible for us to have what we are all seeking to do, the finest streets in the world? That is all section 3 seeks to accomplish. [Applause.]

Mr. MUDD. Mr. Chairman——

Mr. GRIGGS. Mr. Chairman, I have no objection to the Chair passing on the point of order, providing it does not waive all rights——

Mr. MUDD. If I may be allowed, my reason for asking what I do at this point is this: I apprehend there is no objection to this bill as to any other section except section 3. Now, if the Chair should take it into his mind to rule this section out on my point of order, why the rest of the bill would go on smoothly with no opposition at all.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent that he may be allowed at this time to raise the point of order that he proposes to make against section 3. Is there objection?

Mr. MUDD. That is the broad-tire section.

Mr. GAINES of Tennessee. Reserving the right to object, I would like to have the section read.

Mr. MUDD. It is the wide-tire section.

Mr. RIXEY. I understand, Mr. Chairman, that this will not interfere with general debate.

The CHAIRMAN. Is there objection?

Mr. GAINES of Tennessee. Mr. Chairman, I reserve the right to object. I really do not know what it is.

The CHAIRMAN. The Chair will state, in answer to the inquiry of the gentleman from Virginia, that a ruling on the point of order either way would have no effect either upon general debate or the reading of the bill under the five-minute rule. All rights will be preserved.

Mr. RIXEY. I want to be heard in general debate.

Mr. MUDD. My point of order is this, that section 3 is not germane to the remainder of the bill.

Mr. GAINES of Tennessee. Is that the broad-tire part?

Mr. MUDD. Yes.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent to be allowed to make at this time a point of order against section 3. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. Now, the gentleman from Maryland makes the point of order that section 3 is not germane to the balance of the bill. Does the gentleman desire to be heard upon it?

Mr. MUDD. Yes; briefly. The bill, Mr. Chairman, by its title shows that it is a measure providing for the temporary maintenance of Long Bridge, over the Potomac River, and for other purposes. A reading of the bill will show that the main purpose of the bill, in consonance with its title, is to provide for a temporary maintenance of the bridge and providing that the railroad company shall have a little longer time for removing the bridge and for various matters relating to its maintenance in the meantime. There is nothing in the title——

The CHAIRMAN. The Chair has examined the bill.

Mr. MUDD (continuing). Even indicating that there is anything relating to streets. The report upon the bill states that the purpose of the proposed legislation is to provide for the temporary maintenance of the Long Bridge, across the Potomac River, until December 15, 1906. That is the avowed and only purpose of the bill. Now, section 3 provides as follows:

> That from and after the 1st day of January, 1907, every wagon or other vehicle of whatsoever kind or description weighing, when loaded, more than 4,500 pounds, used, operated, or propelled on, over, or across any of the streets, avenues, alleys, bridges, or roadways of the District of Columbia, shall have wheel tires not less than 4 inches broad.

Then there is a penal clause. Now, Mr. Chairman, under the bill, which shows in its title and in the report that its only purpose is to provide for the temporary maintenance of Long Bridge, over in the southwest portion of the city, leading from this city to Virginia, here is a provision under which you might regulate wagons running from Good Hope Hill over there across the Eastern Branch or over any or all the streets and avenues of the city.

If this third section had provided only for the regulation of the tires of wagons coming over that bridge, why I take it for granted it might be in order, but it regulates the tires of all wagons which are not referred to in the title whatever, over all the streets not only in the city, but in the District, and it has a penal section also, all of which I think are entirely out of any semblance of germaneness to the primary and principal purposes and objects of the bill.

The CHAIRMAN. The Chair is ready to rule.

Mr. GAINES of Tennessee. Mr. Chairman, I wish to say that one of the ways to preserve a bridge is to make wagons that go over it use broad tires. I have driven wagons over bridges and on roads, and I have helped to build bridges. I have observed that roads and bridges are cut up by narrow tires to an extent my friend from Maryland [Mr. MUDD] does not know anything about. A broad tire does not wear a dirt road, street, or bridge as much as a narrow tire. The broad tire is one of the things, I believe, that many sections of the country have adopted to save the highways.

The CHAIRMAN. The Chair is of the opinion, first, that this bill went to the Committee on the District of Columbia substantially as it now stands, and is reported from the District Committee in that manner, and the committee has no direct control over the bill in respect to its form on a question of order. The Chair is further of the opinion that the principle of germaneness relates to a proposition by which it is proposed to modify some pending original proposition, and the Chair is of

the opinion, whether it is cognate to the principal subject-matter of the bill or otherwise, that this section is a part of the original proposition, in effect is the original proposition, now pending before the committee, and therefore the point of germaneness does not lie to the section. And the Chair is advised that this opinion is in accordance with the universal construction of rules of the House, and therefore does not sustain the point of order.

Mr. RIXEY rose.

The CHAIRMAN. The gentleman from Virginia [Mr. RIXEY] is recognized.

Mr. RIXEY. Mr. Chairman, I desire to be heard in general debate on this bill. This third section of the bill will be new law if enacted, and it concerns not only the people in Maryland and in Virginia, but it concerns very large interests in the city of Washington and in the District of Columbia. It certainly seems to me that a provision of this kind, which concerns the business interests of this city and District, should at least have been referred by the District Committee to the District Commissioners for a recommendation. But the unusual course has been pursued in this case of not referring this proposed provision to the District Commissioners. The business interests of the city of Washington held a called meeting at which many of the representative business men were present. They insisted this provision would work great hardship upon them and they requested a hearing and that the matter might be referred to the District Commissioners.

The District Committee did have the bill recommitted and did give one hearing to the business interests here, and a partial hearing to the people of Virginia. But, as I am advised, they never referred this third section of the bill to the District Commissioners, and I am further advised, and I believe the statement is true, that the District Commissioners are opposed to the third section of the bill. It may be that that is the reason it was not referred to them. One of the newspapers in this city, in referring to the matter——

Mr. GILLETT of Massachusetts. Is the gentleman authorized to make that statement by the Commissioners, I will ask?

Mr. RIXEY. The statement had been made in the public papers that the District Commissioners were opposed to it.

Mr. GILLETT of Massachusetts. I asked the gentleman if he knows that.

Mr. RIXEY. I can not speak for the District Commissioners, but I state this as a fact, that it is the custom here, when bills are introduced affecting the business interests of the city of Washingon to refer the bills to the District Commissioners for a recommendation, and that course was not pursued in this case. The first part of this bill is the outgrowth of a bill introduced by myself in regard to the old Long Bridge. Two bills were introduced—one at the instance of the War Department—asking that the time for the completion of the new highway bridge might be extended for some time to enable the approaches to be completed. If the time for the completion of that bridge was to be extended, then it followed, as a matter of necessity, that the time for the demolition of the old Long Bridge had to be extended, because there would be no other way of crossing the river from that part of Virginia into the city. So I introduced a bill providing that the old Long Bridge should be continued in existence for the length of time that the completion of the new highway bridge should be extended. These bills went to the committee, and the committee referred them to the District Commissioners for recommendation. They recommended them both. They were also referred to the War Department, and the War Department recommended the passage of both of these bills. Subsequently Congress passed the resolution extending the time for the completion of the new highway bridge.

Thereupon the chairman of the District Committee, as he states, made an arrangement with the Pennsylvania road by which the old Long Bridge should continue to be operated, on an assurance on his part that Congress would provide compensation to the railroad for the expenses of maintaining and operating the draw to the old Long Bridge. So far as the bill carries out that understanding, Mr. Chairman, I think the bill ought to pass. I have no disposition to embarrass the gentleman from Wisconsin from making good his assurance to the railroad.

The first and second sections of this bill have been recommended by the District Commissioners, and I believe that they ought to be enacted into law. But the third section is the one to which I object; is the one which has not gone through the regular channels; is the one which is not recommended by the District Commissioners; is the one which is opposed, I believe, by the unanimous voice of the business people of this city, as I think I can show.

After this wide-tire provision was reported I wrote to the mayors of Richmond, Norfolk, Baltimore, and Philadelphia, asking what width of tire was required for wagons in their respective cities. I selected these cities because they were nearest to Washington.

The mayor of the city of Richmond replied as follows:

Three or four horse wagons or trucks must have tires not less than 2½ inches; wagons or trucks carrying a load exceeding 6,000 pounds shall have tires not less than 2½ inches.

Again:

In addition to the requirements above stated, we have a provision intended to encourage the use of wide tires, which provides that a wagon drawn by four horses shall pay a license tax of $20 unless the body of the vehicle be on elliptic springs or on wheels with tires not less than 4 inches wide, in which case the license tax is reduced to $17.50.

So in the city of Richmond the regulation width of tires carrying a load of 6,000 pounds is 2½ inches.

Mr. GAINES of Tennessee. Did the mayor of Richmond tell you anything about how a 2½-inch tire down there wears the street out?

Mr. RIXEY. I suppose it wears like any tire of that width. I suppose my friend knows something about that.

Mr. GAINES of Tennessee. Did he say anything about 4 inches wearing less?

Mr. RIXEY. Maybe one of 10 inches would wear less.

Mr. GAINES of Tennessee. It would.

Mr. RIXEY. Why do you not support that proposition?

The following is the reply from Norfolk:

OFFICE OF THE CITY TREASURER,
Norfolk, Va., March 7, 1906.

Hon. JOHN F. RIXEY,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to your letter of March 3, addressed to the mayor of this city and forwarded to me, I beg to say that one of the clauses in our charter reads as follows:

"Eleventh. To regulate and prescribe the breadth of tires upon the wheels of wagons, carts, and vehicles of heavy draft used upon the streets of said city: *Provided, however,* That this section shall not apply to vehicles coming into and not owned in said city."

The city, however, has no ordinance regulating this matter.

Yours, very truly,

T. E. STEED.

Baltimore city reported as follows:

MAYOR'S OFFICE,
Baltimore, Md., March 5, 1906.

JOHN F. RIXEY, Esq.,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to yours of the 3d instant, addressed to his honor the mayor, I beg to advise that the city of Baltimore has authority from the State legislature to regulate the width of tires on wagons, but from information received I find that no ordinance covering this subject has ever been passed.

The nearest approach to regulation in this respect is covered by our wagon licenses, for which charges are made according to the number of horses used.

Yours, very truly,

H. W. NICE,
Mayor's Secretary.

And the reply from Philadelphia was as follows:

OFFICE OF THE MAYOR
Philadelphia, March 7, 1906.

Hon. JOHN F. RIXEY,
House of Representatives, Washington, D. C.

MY DEAR SIR: I have your letter of the 3d, and in reply thereto would say that we have no ordinance here or regulation in regard to width of tires on wagons; we have never believed it necessary.

Yours, very truly,

JOHN WEAVER, *Mayor.*

Now, here are letters from four cities which are the nearest to Washington, and not in a single one of them is there any regulation in regard to the width of tires, such as is proposed for Washington.

If this innovation was contemplated for the city of Washington, why was it not referred to the District Commissioners for a recommendation and for their views?

Mr. GAINES of Tennessee. Will the gentleman tell the committee what sort of streets they have in Richmond?

Mr. RIXEY. They have pretty good streets in that city. Baltimore has many asphalt streets, and so has Philadelphia; I do not know how many. But I will say to the gentleman right here, and it will save the trouble of saying it at another time, if the pavements in the city of Washington will not bear the traffic that the streets of other cities bear, then some other system ought to be adopted.

Mr. WANGER. Will the gentleman permit me to interrupt him?

Mr. RIXEY. I will.

Mr. WANGER. In the State of Pennsylvania there is a law, a State law, providing for an abatement of taxes to the owners of vehicles that have broad tires.

Mr. RIXEY. Well, I expect that is true, and I would not object to a provision of that sort here.

Now, Mr. Chairman, as I said before, I do not believe the District Committee in this case represent the wishes of the business community.

Mr. BABCOCK. Will the gentleman permit a suggestion?

Mr. RIXEY. I yield to the gentleman.

Mr. BABCOCK. I want to call the attention of the House to the fact, in reference to the letters read by the gentleman, that they come from cities that are not provided with asphalt streets over their entire surface. The fact is that in Chicago and Baltimore and the other cities where the heavy traffic passes over them the pavements are of granite blocks. In Chicago they do not permit wagons to travel over the asphalt streets.

Mr. RIXEY. I do not yield to the gentleman for a speech. The gentleman would not permit me to interrupt him.

Mr. BABCOCK. I will retire.

Mr. RIXEY. Mr. Chairman, I have here the following account of a protest by the business people of Washington City against this provision. The account is taken from the Evening Star of March 9, 1906:

FOR 4-INCH TIRES—WIDTH PRESCRIBED IN BILL BEFORE HOUSE OF REPRESENTATIVES—BUSINESS MEN PROTEST—MEETING HELD AT BOARD OF TRADE ROOMS YESTERDAY AFTERNOON—MATTER UNDER DISCUSSION—APPEAL FORMULATED FOR PRESENTATION TO CONGRESS—COMMITTEE APPOINTED TO HAVE CHARGE.

A proposition embodied in a bill now before Congress requiring all vehicles in the District of Columbia weighing with their loads over 2 tons to have 4-inch tires has caused widespread opposition among business men who would be affected by such a law.

This bill is said to have resulted from a desire to protect the paving of the approach to the new Highway Bridge. The managers of brickyards in Virginia, whose product is hauled to this city, desired to have the old Long Bridge kept open for use another year, so that their business might not be interfered with.

The bill originated at the War Department, and its purpose is said to be to require the brickmakers in Virginia to equip their wagons with wide tires to protect the approach to the long new Highway Bridge, which is not yet firmly settled. But as it is embodied in the bill it applies to the entire city.

A call was sent out by business men for a meeting in the board of trade rooms yesterday afternoon at 4 o'clock, at which there were in attendance about sixty men prominently engaged in business here employing teams. Among those present at the meeting were the following: P. J. Brennan, of the Brennan Construction Company; Archibald Greenlees, J. M. Burrell, V. B. Johnson, H. P. Johnson, Frank Hume, John L. Newbold, E. S. Alvord, W. S. Knox, A. C. Moses, A. Carey, W. H. Baum, F. R. Riley, G. W. Cissel; G. W. Barnes, of Potomac Brick Company; Mr. Pimm, of Warren Brothers; S. D. Lincoln, W. J. Zeh, W. S. Hoge, F. P. May, L. E. Smoot, Chas. Jacobsen; Mr. Green, of Corby Brothers; A. B. Willis; R. F. Mentzel, of Pabst Brewing Company.

OFFICERS CHOSEN.

Mr. Archibald Greenlees was made chairman of the meeting, and Mr. Perry Johnson was selected as secretary. Mr. John L. Newbold was called upon to explain the purpose of the meetings, and told of the bill that provides for 4-inch tires which has been favorably acted upon by the House Committee on the District of Columbia, and according to the present plans of the committee will come before the House next Monday to be put upon its passage. He said such a law would practically require the changing of the wheels of all the two-horse teams in this city as well as many one-horse teams. Such a change would involve an expense of a million or more dollars, he said.

Mr. P. J. Brennan, president of the Brennan Construction Company, which has laid a large portion of the asphalt pavements in this city, stated that his company lays these pavements under contract, which makes them liable for the good condition of the pavements for five years, and they have to give bond that they will correct any defect in the pavements occurring in that time. But he would prefer having tires of diversified sizes rather than tires of 4 inches. He did not consider that a 2-inch tire would be any more harmful than a 4-inch tire. What the pavements really suffer from, he said, is the lack of travel. An asphalt pavement that is not sufficiently traveled, he said, will be in worse condition than one that is greatly traveled by teams carrying tires of different widths.

After further discussion, Mr. Arthur C. Moses moved the appointment of a committee of seven to present this matter to the Members of the House in order that the bill may be recommitted to the committee and sent to the Commissioners for a report in view of the evidence that could be offered to them. The following committee was appointed: Messrs. John L. Newbold, P. J. Brennan, A. C. Moses, W. S. Knox, E. S. Alvord, Perry Johnson, and J. M. Burrell. This committee will proceed to carry out its instructions at once.

APPEAL TO CONGRESS.

A paper was prepared and addressed to Chairman J. W. BABCOCK, of the House District Committee, which, after it had been agreed to, was placed in the hands of the committee for presentation. It is as follows:

"We appeal to you and to your committee that H. R. bill 14897 be recommitted to the District Committee with a view to striking out section 3. We are informed that the subject has not been referred to our District Commissioners, and that unofficially they are opposed to its provisions.

"We respectfully ask for a hearing before your committee before this bill is again reported to the House; for, should it become a law its enforcement will cause the greatest hardships.

"By expert testimony that we herewith briefly submit, in advance of the hearing asked for, we show that the enforcement of this measure will be more damaging to the asphalt streets of the city than beneficial. The paving companies now give a guaranty, which is made good by large deposits of money in the hands of the District Commissioners, to make good all defects in the concrete paving for a term of five years, and these companies further beg to state herewith the enforcement of this measure will necessitate their making bids that will cost the District a greater expenditure, in view of the law which compels them to guarantee the work for five years.

STANDARD WIDTH IN UNITED STATES.

"We are credibly informed that the standard width of tire for all two-horse vehicles throughout the United States is 2½ inches, and if the result of using such a tire is satisfactory to all commercial cities in the United States, where the percentage of hauling is far greater than in this community, then it seems to us conclusive evidence that there is no need for putting this hardship upon the citizens of Washington, when no benefit of any sort can be obtained.

"We beg to state that one of our committee manufactured a wagon with a carrying capacity of two tons, and put thereon a four-inch tire, and it required four horses to handle the wagon instead of two, and it became necessary to rebuild the wagon.

"We also beg to state that this matter has not been in any way referred to the business interests of Washington. The undersigned committee of seven men, appointed at a meeting of the board of trade, themselves own 793 wagons and 970 horses, and 75 per cent of the business interests of Washington were present at this meeting, held at 4 p. m., March 8, at the board of trade rooms, and voted solidly against this measure. We estimate that the enforcement of this measure will entail an outlay of over $2,000,000 without any benefit whatsoever to the people, but will be actual great damage to the streets.

OF FAR-REACHING EFFECT.

"This little and apparently inoffensive rider is far-reaching in evil results, and will completely stop the bringing of farm produce, hay, corn, etc., into the city markets. The poor and the rich are vitally interested. New wheels and tires of the requisite weight added to every horse wagon in the District would make a weight scarcely any one horse could continue to haul.

"Finally, we beg to state that by June 1 it would be a physical impossibility, with the facilities in this city, to secure new wheels for more than one-half of the vehicles affected by this measure, and even accomplishing this much would seriously cripple many of the large institutions."

The petition was signed by W. S. Knox, E. S. Alvord, John L. Newbold, Arthur C. Moses, O. H. P. Johnson, P. J. Brennan, L. E. Smoot, the Hoge & McDowell Company, the Anderson Dray and Storage Company, the G. W. Cissell Company, the J. Maury Dove Company, Charles King & Son, Chris. Heurich Brewing Company, F. P. May & Co., Frank Hume, National Capital Brewing Company, Thomas R. Riley, Pabst Brewing Company, Havenner Baking Company, Corby Baking Company, National Motor Company, American Ice Company, Home Ice Company, W. O. Anderson Express Company, Warren Brothers Company, James O. Caton & Sons, J. D. Robinson, V. Baldwin Johnson, Kreig Express Company, Charles Jacobsen, Anacostia Brick Company, W. J. Zeh Company, Merchants' Transfer and Storage Company, Johnson Brothers, George W. Knox Express Company, Brennan Construction Company, Littlefield, Alvord & Co., W. B. Moses' Sons.

Now, that states that the business interests of the city of Washington are unanimous in opposition to the requirement, and, so far as I am aware, there is not a single business man in Washington, not one, who favors this proposition.

I have here also a letter from the George W. Knox Express Company, as follows:

WASHINGTON, D. C., *April 21, 1906.*

Hon. J. S. RIXEY, M. C., *City.*

DEAR SIR: Replying to your favor of the 20th instant, would say that our regulation two-horse wagon weighs, empty, 3,500 pounds. This wagon, with the usual 2½-inch axle, we load with from 5,000 to 6,000 pounds, thus making a total weight of about 4½ tons. These wagons are the standard freight wagons in all cities which you have, no doubt, noted. It is the standard stock wagon of all large manufacturers of wagons. Should a disastrous fire overtake us (as it did a few years ago), it would be against the law for us to get standard wagons from other cities to carry on business until these extraordinary wagons could be built. The same could happen to the mail wagons or other necessary vehicles.

Also the following statement from them:

DEAR SIR: I would call your attention to H. R. bill No. 14897 (Report No. 1679), third section, which is a rider tacked on evidently for the purpose of making a solid road to the Highway Bridge and imposing almost impossible conditions on those doing business in this city, not alone the express companies, but the lumber, coal, brick, ice, wholesale grocers, and, in fact, every industry requiring heavy teaming. I have observed drays in the cities of St. Louis, Detroit, Cleveland, Cincinnati, Philadelphia, New York, Boston, Baltimore, and others, and in every instance the usual width of tire for two-horse wagons is 2½ inches. This width seems to be the standard for such vehicles hauling from 2 to 3 tons. In fact, the standard width of tire is 2½ inches for such vehicles made by the wheel manufacturers throughout the country.

To make such a radical change would require a much longer time than the provisions of this bill allow (June 1, 1906), to say nothing of the enormous expense entailed upon the owners of vehicles. If this width of tire is satisfactory in other cities, why should we be subjected to the provisions of this bill? It would also deny the farmers of the adjacent States the privilege of bringing their produce to this city.

As you well know, we have no voice in this matter, and are, therefore, subject to your sense of fairness and right. As far as taxpaying, nonvoting citizens, we must enter our earnest protest, and ask your support to defeat the measure. We were not even invited to express our views before either the Commissioners of the District of Columbia or the House Committee on the District of Columbia.

I am, with great respect,

Yours, respectfully, THE GEORGE W. KNOX EXPRESS CO.

They also sent me the price list showing what it would cost to put on 4-inch tires on the wagons they now have. For four wheels of 2½-inch tire the list price is $35, and for 4-inch tires the price is, per set, $53.

Littlefield, Alvord & Co. wrote me as follows:

WASHINGTON, D. C., *April 21, 1906.*

Hon. JOHN F. RIXEY,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to your favor of the 20th instant, we have to advise you that the weight of our two-horse express wagons, unloaded, is about 3,000 pounds and loaded about 8,000 pounds. The width of the tires on these wagons is 2½ inches.

Yours, very truly, LITTLEFIELD, ALVORD & CO.
E. S. ALVORD, *President.*

The chairman of the District Committee has repeated here a statement of a count made of some hay wagons, showing forty-

five out of forty-six with 4-inch tires. This statement was made at a hearing of some citizens of Alexandria, who subsequently sent me the following statement. I vouch for the standing and high character of all three of these gentlemen, A. D. Brockett, —— Patterson, and W. A. Smoot, jr. The statement speaks for itself and is as follows:

ALEXANDRIA, VA., *April 20, 1906.*

Hon. JOHN F. RIXEY,
United States House of Representatives,
Washington, D. C.

DEAR SIR: I inclose weights of the fourteen wagons, which we secured from the hay scales in Washington yesterday:

Loaded with hay, 6,930, 3,400, 4,265, 8,120, 7,570, 5,100, 5,350, 4,210, 4,775, 4,900, 3,645, 5,085, 11,900, and 8,200 pounds.

Empty wagons, 2,320, 1,325, 1,340, 2,800, 2,400, 1,780, 2,000, 1,935, 1,625, 1,520, 1,410, 1,965, 3,265, and 2,975 pounds.

Will also state that while there we saw only one wagon, and that weighed 5,640 pounds loaded, and 1,600 pounds light, and had a 3-inch tire.

It seems a little remarkable that we were able to find as many 3-inch tires in five minutes or less than the representative of the committee in several days, while he was looking up forty-five wagons.

We wish to say that although we realize that you will do all within your power to defeat this bill on the floor of the House, and that we have done everything that we possibly could to assist you in this respect, that we appreciate your most earnest and tireless efforts in our behalf, regardless of whether the bill is defeated or not.

Yours, very respectfully,

W. A. SMOOT, Jr.

At my instance a count was made on April 17 of wagons which came across the ferry to Washington from Alexandria. There were twenty-nine. Eleven had loads of over 4,000 pounds, and none of them had 4-inch tires. Smoot & Co., of Alexandria, also wrote me:

Hon. JOHN F. RIXEY, No. 2: You can well see the hardship this would work on all of the team owners in Virginia and Maryland as far as going into the District is concerned, and we believe that in looking into the matter you will find that it would have the same effect on District team owners coming out of the District. In other words, it seems to us that this would practically put a wall around the District.

We believe you will see the justice of our contention after considering this matter, and anything you may do in our behalf would be greatly appreciated.

Yours, very truly, SMOOT & CO.

Another unsolicited letter from a prominent citizen of Alexandria engaged in the wholesale lumber business in Washington is as follows:

WASHINGTON, D. C., *April 19, 1906.*

Hon. JOHN F. RIXEY, *Washington, D. C.*

DEAR SIR: I notice that the House of Representatives is about to consider the proposed law requiring all wagons that, including the load, may weigh 4,000 pounds shall be equipped with tires 4 inches in width.

I am in the lumber business in this city. If this law should be passed, it would work a direct hardship upon myself and my customers, without, as far as I can see, a compensating benefit to anyone. If not inconsistent with your convictions, I would ask you to oppose its enactment.

Yours, very respectfully, E. H. O'BRIEN,
Alexandria, Va.

The following letters also speak for themselves:

ALEXANDRIA, VA., *April 23, 1906.*

Hon. JOHN F. RIXEY.

DEAR SIR: I understand there is a bill before Congress to require all wagons coming into Washington that weigh, when loaded, more than 4,000 pounds to have 4-inch tires, or the parties owning same are liable to a fine or imprisonment.

I, as well as most all farmers, know that this bill if passed will cause much trouble and inconvenience, besides a useless expense.

Therefore please protest against this bill, and by so doing you will favor us greatly.

Very respectfully, BENJ. P. HUNTER.

ANACOSTIA, D. C., *April 19, 1906.*

Hon. JOHN F. RIXEY.

DEAR SIR: I, in behalf of myself and others, who have teams working on the streets of Washington, do ask you to help us in the fight against wide-tread tire wagons, as I have used them and they are very much against our work. In the first place, they are too heavy for working in mud, and they will turn over very easily on the dump. When we have to dump our dirt the tires are so wide that they will not hold, but slide on the bank.

If such should become a law, it will work a hardship on the poor man or woman who has teams trying to work for a living, for the price is so small for our teams. The price we get is $3.50 per day for double teams, and if we had the change to make it would be quite an expense, for the wheels would cost about $35 or $40 per set.

Hoping you will help us to win out, by so doing you will help the poor workingmen of Washington and vicinity who have teams.

Trusting that you will give this your prompt attention,

I am, respectfully,

W. F. WHALEY.

A letter from the Business Men's Association, of Washington, D. C., is as follows:

MARCH 9, 1906.

Hon. JOHN F. RIXEY,
House of Representatives, Washington, D. C.

DEAR SIR: At a largely attended meeting of the board of directors of the Business Men's Association, held March 8, House bill No. 14897 came up before the board and was thoroughly discussed; and on motion of Mr. W. S. Knox, duly seconded by Mr. P. Brennan, it was resolved that the association go on record as being unalterably opposed to the third section of said bill, it being agreed that the adoption of said section would work an unnecessary hardship and unwarranted expense to the owners and users of teams hauling 2 tons or more. It was further agreed that the association use its good offices and every honorable means to defeat said legislation in becoming a law.

Very truly, yours,

JAS F. OYSTER, *President.*
WM. F. GUDE, *Secretary.*

Mr. Chairman, it seems to be contended here by certain gentlemen, and taken for granted almost without argument, that the wide tire is necessarily much less injurious to the streets and ought to be adopted no matter what the wishes of the business people of the city may be. I have here a work on roads and pavements, by Baker, and I think it throws at least great doubt upon the wisdom of this provision. I will read two or three extracts:

Although there is not much difference between the tractive power of broad and narrow tires, the latter are much more destructive on any road, particularly on an earth one; but in deciding upon the proper width of tire there are other factors besides the road that must be considered. If wagons were employed only upon the public highway, it might be wise to use wide tires and sacrifice some tractive power for the benefit of the roads. Other things being equal, a wagon with broad tires is not so easily managed as one with narrow tires. To be equally easy to turn, the broad-tired wagon should have the narrower bed, or the longer front axle, or the smaller front wheel. In Europe it is customary to adopt the smaller front wheel, which is very destructive of the broken-stone roads so common in that country. Increasing the length of axle interferes with getting the wagon up to cribs, warehouses, etc., and increases the difficulty in going through gates, passing buildings, and the like, and hence it is not clear that laws should be passed regulating the width of tires, many claims to the contrary notwithstanding.

The best argument against the enactment of laws concerning broad tires is found in the fact that the numerous and long-enforced English statutes on this matter have of late years been abrogated, a century of experience having shown that they are difficult to administer and generally disadvantageous. The Massachusetts highway commission, after an elaborate discussion of the subject, says: "It is a matter of doubtful expediency to endeavor, in the present state of our highways, by general legislation, to control the width of tires or the diameter of wheels."

It is probably best to leave the matter to private individuals and the enterprise of manufacturers. The matter should at least be left to local authorities to pass regulations which shall be suited to their particular conditions. Several States and cities have laws regulating the width of tires, but it does not appear that broad tires are any more common there than in localities where no such laws exist.

Many European countries have laws regulating the width of tires. In England for one hundred years the law required 1 inch of tire for each 500 pounds of load, but all laws regulating the width of tires have been repealed.

Mr. Chairman, there is another provision in this bill which strikes me as being most extraordinary and harsh. I refer to the latter part of section 3. That section provides that there shall be 4-inch tires on all wagons weighing, when loaded, 4,500 pounds, with the further provision that any owner or driver or other person in control of such wagon or other vehicle so using, operating, or propelling the same who shall violate the provisions of said section, shall, on conviction thereof in the police court of the District of Columbia, be punished by a fine not exceeding $25, or by imprisonment for not more than sixty days, or both. This would be a harsh provision anywhere, but especially so here in the District of Columbia—a narrow strip of land between the States of Maryland and Virginia. The only way a wagon can go from the State of Virginia from a section of probably 50 miles on the other side of the Potomac, into Maryland, or from Maryland into Virginia, is to pass through and over this narrow strip of land of the District of Columbia. The owner of a wagon must stop and change his 2½-inch to 4-inch tires before he can cross or pass through Washington. No exception if his wagon and load together weigh 4,500 pounds. Failure to stop and provide himself with a new equipment makes him liable to be taken before the police court and fined $25 and perhaps, in addition, jailed for sixty days. I understand that in the city of Washington the fines all go for the support of the police department. The gentlemen on the Committee of the District of Columbia may know whether I am correct in this statement. If that is true, what chance would a countryman have of escaping these interested detectives? They might, perhaps, omit the imprisonment, but the fine, never.

Mr. CAMPBELL of Kansas. Mr. Chairman, may I ask the gentleman what occasion people from Virginia would have to drive through the District of Columbia to get into the State of Maryland?

Mr. RIXEY. Why, there is continual traffic over the bridges, I suppose.

Mr. CAMPBELL of Kansas. What occasion would anyone have with a load such as stated?

Mr. RIXEY. There is a good deal of traffic and traved between the States of Virginia and Maryland.

Mr. CAMPBELL of Kansas. I mean with a heavy load.

Mr. RIXEY. A good many loads go through here, just as they do from one county to another. There are bridges across the river here, and there is no impediment. You are now seeking to erect a barrier.

Mr. CAMPBELL of Kansas. I am asking for the occasion that would make it necessary for a man to drive through with that kind of a load.

Mr. RIXEY. There is considerable commerce between the State of Virginia and the State of Maryland.

Mr. CAMPBELL of Kansas. With what kind of a load?

Mr. RIXEY. Oh, I could not tell you what kind. There may be loads that are hauled by farmers from one section of the country to another section. The provision for fine and imprisonment is a harsh and unjust one, and even if the law were a proper one such a provision ought not to be permitted. I have challenged the chairman of the Committee on the District of Columbia, and I challenge the gentleman who sits in front of me, a member of the committee, the gentleman from Kansas [Mr. CAMPBELL], who, I believe, attends very regularly the meetings of the committee, to say whether he knows of any business interests in the city of Washington that favor this third section of the bill.

Mr. CAMPBELL of Kansas. My friend from Virginia, I think, attended one of the hearings that was given on section 3 of this bill.

Mr. RIXEY. I did.

Mr. CAMPBELL of Kansas. Does he not recall now that one after another business men in the District of Columbia came forward and supported section 3 of this bill?

Mr. RIXEY. Mr. Chairman, I attended one meeting of the District Committee on this subject. That was when the people from Alexandria came over, and the committee only gave a half an hour—from half past 10 o'clock to 11, I believe it was—and then closed the hearing. Not a single man spoke in favor of this wide-tire provision during the hearing given the people of Alexandria.

Mr. CAMPBELL of Kansas. I am unfortunate in not being able to remember names, but I remember distinctly of a number of men saying that they were in favor of it.

Mr. RIXEY. Business men?

Mr. CAMPBELL of Kansas. Business men.

Mr. RIXEY. Not while I was there.

Mr. CAMPBELL of Kansas. That may be.

Mr. RIXEY. Now, Mr. Chairman, the gentleman does not throw much light upon that. I have shown the resolution adopted by the business men's meeting in the city of Washington, where they unanimously condemned that third section. The committee has not referred the third section to the District Commissioners. The business men say that the District Commissioners are opposed to the third section. Who favors it? So far as I know, absolutely nobody favors this third section except the Committee on the District of Columbia.

I ask the gentleman who sits in front of me, and who has spoken so often about carrying out the wishes of the people, if he does not think the wishes of the people of the District of Columbia ought to be respected in a matter which so nearly concerns them? They help to support by their taxes the paving of the streets. They live here. They are in business. Ought they not to be consulted? They have nobody upon this floor to represent them. The District Commissioners are expected to some extent to represent their views, and yet the District Committee refuse their request to refer the bill to the District Commissioners for recommendation.

Mr. CAMPBELL of Kansas. I will ask my friend if the bill has not been before the Commissioners?

Mr. RIXEY. As I am informed, it never has.

Mr. CAMPBELL of Kansas. Was not the original resolution in which this provision was carried before the District Commissioners?

Mr. RIXEY. I understand it never was. The original resolutions—there were two of them, one introduced at the instance of the War Department, to extend the time for the completion of the Highway Bridge, the other introduced by myself to extend the time for the demolition of the old Long Bridge—were referred to the District Commissioners, but section 3 never, as I am informed.

Mr. CAMPBELL of Kansas. That was an amendment that was made by the committee, and my friend from Virginia well knows that when a bill is amended by a committee that it is not customary to refer it. If the District Commissioners are opposed to this bill I think I know them well enough to be able to state that they would make their protest against it if they were so opposed to it.

Mr. RIXEY. Well, I can imagine that the District Commissioners do not like to rush in on a matter as to which their views were not sought. I am informed by a statement in one of the papers here that former Commissioner Black reported against a similar provision. I wrote to the present Engineer Commissioner Biddle that I understood his predecessor, Colonel Black, had reported against it, and asked him to send me a copy of Colonel Black's report. This courteous request was discourteously treated and no reply made.

Mr. CAMPBELL of Kansas. Evidently he was not opposed to the bill.

Mr. RIXEY. I do not know his views, but he should have answered my letter at least. The business men at their meeting, a copy of whose resolution I have read, stated that they were informed that the District Commissioners were opposed to this bill.

Mr. CAMPBELL of Kansas. I will ask my friend if these business men were not each of them men who were directly affected by the terms and provisions of section 3 of this bill?

Mr. RIXEY. Why, certainly they were; why not?

Mr. CAMPBELL of Kansas. They were affected by the terms of the bill, and, therefore, were against it.

Mr. RIXEY. Most assuredly they were interested, and so state, as follows:

> We also beg to state that this matter has not been in any way referred to the business interests of Washington. The undersigned committee of seven men, appointed at a meeting of the board of trade, themselves own 793 wagons and 970 horses, and 75 per cent of the business interests of Washington were present at this meeting.

What class of people should be heard and their interests consulted and protected if not the people affected? If they had a representative upon this floor their voices would be heard and their interests considered. It is because they have no representative here; it is because the District Commissioners have not been consulted that the third section of this bill is brought in against their wishes.

Mr. GAINES of Tennessee. I would like to ask the gentleman a fair question. Is it not as much the duty of the Commissioners of the city of Washington to protest against bad legislation as to affirm good legislation?

Mr. RIXEY. I do not understand that the Commissioners volunteer in these matters.

Mr. GAINES of Tennessee. It is not their duty?

Mr. SIMS. It is their duty when the bills are referred to them by the committee.

Mr. RIXEY. Is it not the custom in the Committee on the District of Columbia on important bills to refer them to the District Commissioners for a recommendation?

Mr. SIMS. Concerning local city affairs; yes, sir. I was under the impression that the original bill had been, but it seems that it never was referred to them.

Mr. RIXEY. I think I have shown that the only people in favor of this provision, or rather the parties who have suggested it, are the members of the District Committee themselves. And how do they represent the wishes of the people of the District of Columbia? I say it is just such legislation as this that has built up public sentiment to the effect that the District of Columbia ought to be governed by its mayor and city council, or have a Representative and voice upon this floor. The condition is worse now than it was eight or ten years ago. I remember very well when the Member from the district now represented by me was always on the Committee on the District of Columbia, and, until a recent date, the State of Maryland had two Members on the District Committee, but the gentlemen [Mr. MUDD and Mr. PEARRE] have both been removed from the committee, and I have heard it was the policy of the Speaker of this House to appoint no man upon the District Committee whose district adjoins the District of Columbia. In this way the voice of the people of the District of Columbia can not be heard except by a reference of bills to the District Commissioners, and that course ought always to be pursued.

Now, let us see how it works. Who constitutes the District Committee of this House? I will only take two or three as representing the majority and minority. The first three Republican members of that committee are the gentleman from Wisconsin [Mr. BABCOCK], who is chairman; the next upon the committee is the gentleman from Michigan [Mr. SAMUEL W. SMITH], and the third upon the committee is the gentleman from Maine [Mr. ALLEN]. So far as the Republican members are concerned—that is, the ranking members—the Speaker has gone to the remote sections of the country to select them. How is it with the Democratic members? The first upon the committee is the gentleman from Tennessee [Mr. SIMS] and the second upon the committee is the gentleman from Louisiana [Mr. MEYER]. Are these gentlemen prepared to speak ex cathedra for the people of the city of Washington without consulting them? The people of Washington have no voice except through the District Commissioners. They were not given their representation in this case, and it was left to gentlemen who hail from remote sections of the United States to suggest a measure of this sort for the guidance of the people of the city of Washington.

Mr. Chairman, there seems to be but two requisites for membership upon the District Committee, as laid down and followed by the Speaker. The first is that the members must come from the remotest sections of the country, and secondly, they must absolutely know nothing about what the people of the city of Washington want. They must be ignorant of what they are to legislate upon, and then they must be so far away that their own constituents will not hold them responsible for what they do here. A grosser case of want of representation can not exist anywhere than prevails under the practice of the House here in regard to the District of Columbia.

I have never been an advocate for popular suffrage in the District of Columbia. I have always been willing that it should be governed in some other way; but it is just such legislation as this, and it is just such rules as are enforced in the making up of the committee, that satisfies me that a change should be made and the people of this city given at least a Delegate upon this floor.

If this was any other city in the United States, legislated for by the city council and by the mayor, the business people of the city would be consulted, and not for one moment would a law of this sort be placed upon the record of the city providing, as was said by the gentleman from Kansas [Mr. CAMPBELL], for an absolute disregard of every man who was interested in the proposed legislation. Who ought to be consulted in a matter of this sort if not the people who own the wagons, who own the horses, who contribute to the wealth of the community in the business in which they are engaged, who pay the taxes and have a right to the use of the streets?

Mr. Chairman, it is said that the use of 2½-inch tires cuts the streets of Washington. It was shown by the District Committee in one of the hearings in which there were three gentlemen from the city of Alexandria that there was not a 4-inch tire wagon in the city of Alexandria; and whilst many people are in the habit of speaking rather contemptuously of the streets of Alexandria, I say here that there are some streets there which might set an example for the people who build the pavements in the city of Washington. In that city there is not a 4-inch tire wagon, and one of the witnesses before the District Committee testified that he owned twenty-eight wagons. He is an expressman, and he gave an instance, I remember, showing the hardship of the proposed provision. He said, "I have an engagement to bring my wagons here to the city of Washington to-morrow over the ferry and move a citizen of the city of Washington to Lorton station, down in Virginia."

This hearing was granted when the roads were muddy. "If," said he, "this requirement was now law and I had to bring 4-inch tires here I could not move that man, because I could not get over the roads."

I do not see why we should put a wall around the District of Columbia. The city of Richmond does not have a requirement of this sort, the little city of Norfolk does not have it, the city of Baltimore does not have it, and the city of Philadelphia does not have it; and if the pavements in the city of Washington are not sufficient, then you could improve upon them by putting other pavements down. There may be and is great doubt as to whether these pavements are proper pavements or not. In the winter time, in the case of sleet or even ordinary rain, they are so slippery that horses can hardly stand. In the summer time you might as well be by the side of a barrel of tar on fire. They say it cuts the pavements. Why, sir——

Mr. PRINCE. What is there about 5,000 lame horses in the District of Columbia on account of these pavements?

Mr. RIXEY. I really do not know anything about the merits of that statement. I have heard that the lameness was caused to some extent by these asphalt pavements.

Mr. GAINES of Tennessee. They are generally these bobtailed ones, that have got tails about that long [indicating], that drive up and down Pennsylvania avenue.

Mr. RIXEY. I understood, on the contrary, that they are the long-tailed horses—the horses that draw the wagons and make commerce go. I understand these asphalt pavements are pleasant enough for the automobile and for the rubber-tired wagons and buggies and carriages. But if they do not bear the ordinary traffic which the city streets ought to bear, then we ought to have a different pavement here.

For some reason, I do not know why, this city seems to have adopted the asphalt in preference to all other kinds of pavements. Nobody challenges the propriety of having that kind of pavement. It is accepted as the Washington pavement. Yet even a lady's boot passing over these streets in summertime will leave its impress there. If you are going to prohibit everything from the streets that makes a mark upon the streets, that makes an indenture in the pavement, then you will have to keep off the streets not only the 45-hundredweight wagon, but you will have to keep off the street the horses and the men, and even the women.

Now, Mr. Chairman, I do not know that I care to consume any more time upon this proposition. I want to state that so far as I am advised this third section of the bill will work a hardship upon the people whom I especially represent and want to serve. It is also a hardship upon the business people of this city, whose interests are so contemptuously treated here, the statement being in substance that of course they are against it, but what right have they to complain?

It is shown here that there are many people across the river, especially in the city of Alexandria, who transact business in the city of Washington. Alexandria is the wholesale place for drugs and many groceries for the city of Washington. They are sent here in wagons. Much of the lumber comes here. Produce comes here. Nearly all the wagons weigh, when loaded, over 4,500 pounds. It would require all these people to put 4-inch tires upon their wagons, if they come here. It would act as a hardship upon other sections, and especially it would act as a hardship upon the people of the city of Washington who have protested.

It is up to this House to say whether, against the wishes of the people of Washington and of the District of Columbia, it will insist on forcing this legislation upon the city of Washington. It seems to me to be a great hardship to do so. This third section should be stricken out. So far as the first and second sections of the bill are concerned, I agree with the gentleman from Wisconsin that those sections ought to be adopted. He has given his pledge to the Pennsylvania Railroad that it should be paid for the cost of operating the Long Bridge until Congress could provide for it, and I am willing that that pledge shall be made good. Let the third section be struck out and the bill then passed.

The Clerk read as follows:

SEC. 2. That on and after Monday, the 12th day of February, 1906, and until the time fixed for the removal of said Long Bridge, the said bridge shall be under the control of the Commissioners of the District of Columbia, and shall be maintained and kept in repair by them out of appropriations to be provided by Congress for such purposes: *Provided, however,* That the said railroad company, or its successors, shall maintain said Long Bridge after Monday, the 12th day of February, 1906, until the appropriation to be made by Congress, as aforesaid, is available to the Commissioners of the District of Columbia: *And provided further,* That the said railroad company, or its successors, be reimbursed for its actual reasonable expenditures for the said maintenance of said Long Bridge, last above mentioned, until said appropriation for its maintenance by the said Commissioners becomes available; and for such purpose the sum of $5,000, or so much thereof as may be necessary, is hereby appropriated and payable from any money in the Treasury not otherwise appropriated, one-half chargeable against the revenues of the District of Columbia and one-half against the United States.

Mr. SIMS. Mr. Chairman, I move to amend section 2, line 25, page 2, by striking out the word "one-half;" and in line 1, page 3, strike out the words "and one-half against the;" and in line 2 strike out all of the line "United States."

The Clerk read as follows:

Page 2, line 25, strike out the word "one-half;" on page 3, lines 1 and 2, strike out the words "and one-half against the United States."

Mr. SIMS. I will state why I make this motion. The Long Bridge was maintained by the Pennsylvania Railroad and was no expense to the District of Columbia or to the Government of the United States. The Long Bridge was used by the Washington and Mount Vernon Electric Railway Company, and it paid a rental to the Pennsylvania Railroad Company. Now the new highway bridge has been constructed and the Pennsylvania Railroad Company is relieved from any maintenance of the new highway bridge. The Washington and Mount Vernon Electric Railway Company uses the new highway bridge and pays a certain sum for each passenger. The continuation of the Long Bridge for the purpose of permitting this work to be done ought not to be maintained, as I contend, at the expense of the Government of the United States for any part thereof, for this reason: The Washington and Mount Vernon Electric Railway Company pays its entire rental to the District of Columbia. In other words, the District of Columbia gets all the revenue of the new highway bridge that used to be paid by the Mount Vernon Railway to the Pennsylvania Railway for occupying and using the Long Bridge.

The maintenance of the new highway bridge is one-half paid by the District of Columbia and the other half by the United States. Therefore, as the District gets all the revenue from the new bridge, and then after the construction of the new bridge the use of the old bridge has been continued by this bill, therefore I think it equitable and just that the amount paid for the maintenance of the old bridge should be paid entirely out of the District revenues, because the District gets all the revenues of the new bridge. It is this matter of equity that caused me to make this motion. If the revenues of the

new bridge were divided equally, one-half going to the Treasury of the United States and the other going to the District, then it would be right for this Long Bridge to be maintained half and half; but inasmuch as all the revenues go to the District from the new bridge and one-half of the maintenance of the new bridge comes out of the United States, I think the expense of the Long Bridge being temporarily maintained for the benefit of the new bridge should be paid entirely by the District of Columbia.

Mr. BABCOCK. I hope the House will agree to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 3. That from and after the 1st day of January, 1907, every wagon or other vehicle of whatsoever kind or description weighing, when loaded, more than 2 tons, used, operated, or propelled on, over, or across any of the streets, avenues, alleys, bridges, or roadways of the District of Columbia, shall have wheel tires not less than 4 inches broad. Any owner or driver or other person in control of such wagon or other vehicle so using, operating, or propelling the same who shall violate the provisions of this section, shall, on conviction thereof in the police court of the District of Columbia, be punished by a fine not exceeding $25, or by imprisonment for not more than sixty days, or both.

The amendment recommended by the committee was read, as follows:

Line 6, strike out the words "two tons" and insert the words "four thousand five hundred pounds."

The question was taken; and the amendment was agreed to.

Mr. MUDD. I offer an amendment.

The Clerk read as follows:

Page 3, line 3, strike out the word "January" and insert in lieu thereof the word "July."

Mr. MUDD. Just a word, Mr. Chairman. I do not believe that this section ought to be adopted as a part of this bill, and yet I do not intend to take up but a very little time of the committee in protesting against it. I have had more requests to vote against this section than for any piece of legislation that has come to my attention during this session of Congress.

Mr. GAINES of Tennessee. By whom?

Mr. MUDD. Not excepting the rate bill, the Philippine tariff bill, or any other matter of national importance.

Mr. GAINES of Tennessee. Who requested it?

Mr. MUDD. The farmers of my district; and it seems to me the farmers of the gentleman's district and their Representative would feel a sort of sympathetic interest in the farming interest of my State. I thought we were together until this afternoon, when the gentleman has changed from the interest of the farmers and joined the broad-wheeled-wagon salesmen.

Mr. GAINES of Tennessee. I don't know but that I ought to come back and help you out. [Laughter.]

Mr. MUDD. I can not see any reason for legislation of this character unless it be in the interest of some wagon trust. [Laughter.] The chairman at the head of the committee has not enlightened the House as to why this section was put in. I am credibly informed that the District Commissioners have not asked it to be put in. I have heard nothing from any citizen of the District of Columbia in favor of this proposition; and Mr. Chairman, since I have been a Member of this House, and have been for several sessions, and by many people am now thought to be a member of the District of Columbia Committee, there are few things of interest in the District of Columbia that I am not asked to do something about or for on one side or the other.

I do not know the width of the wheels of all wagons in my district. I am not acquainted with all the wagons in my district, but I think I do know most of the owners and drivers of the wagons, and I am interested in them. I want to protect their interests. It is the period of the year, or the period of the year is approaching, in which I think every Representative of a farming community ought to see to it that his people and their interests are not trampled upon by any such drastic legislation as this. The spring crops are coming on, and the fall crops—and, it may be the fall fences—will soon need looking after. [Laughter.] The farmers need us now. We will need the farmers a little later on.

But there is another matter; there is another kind of wagon that I have in my mind's eye. I know a Congressman from Maryland who owns in his own right a band wagon, who carries the members of his band and their musical instruments and the driver, and sometimes himself, and I have seen that wagon with that aggregation of its human freight so heavily loaded [laughter]——

Mr. GRAHAM. The men or the wagon?

Mr. MUDD. I hope the gentleman will not press me too closely upon that point. I think, perhaps, that that particular vehicle, thus freighted and thus filled as I have described it, would sometimes exceed the limit of 4,500 pounds, for which this bill prescribes these wide-tire wheels.

They have political meetings at which that band wagon performs just across the line of this District, out here in Prince George County, Md.

I hope it shall not come to this, Mr. Chairman, that this Member of Congress with his band wagon can hold political meetings almost within sight of this Capitol, can come to the top of Good Hope Hill over yonder where he can look down at eventide upon this city, like unto Moses when he looked down from off the mountain to the Promised Land, and not be permitted to enter it, because of the narrow-minded, broad-wheeled legislation of this kind, which is aimed to strike down the interests and the liberties of the people of my district and the neighboring sister districts of the State of Virginia. [Laughter and applause.]

Now, then, Mr. Chairman, my amendment is for this purpose. If this foul blow is to fall upon my people and upon their brethren across the Potomac in Virginia, I want at least to ask this committee to join hands with me in postponing the advent of the evil day by incorporating in this provision the amendment which I have submitted, by which we shall forestall and forfend the coming of it, and our people shall be relieved of it until at least one year from next July, that they may adjust their situation and accommodate their necessities to the grinding and exacting conditions that an extortionate wagon trust is about to inflict upon them through the instrumentality of this committee. [Applause.]

Mr. GAINES of Tennessee. I would like to ask the gentleman if he will accept this amendment: "*Provided*, That this section shall not apply to the Mudd band wagon?"

Mr. MUDD. I should be inclined to accept that, but I am not sure that I ought to put down the name of the wagon in just that form in the record.

Mr. BABCOCK. Mr. Chairman, I hope the committee will agree to the amendment offered by the gentleman from Maryland. I think it is a wise and good one.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland.

The question was taken; and the amendment was agreed to.

Mr. RIXEY. Mr. Chairman, I propose at the proper time to strike out section 3, but as the first thing in order would be to perfect the section I offer the following amendment to come at the end of the section:

Provided, however, That this section shall not apply to vehicles other than those loaded with brick coming into the District of Columbia.

That leaves it to apply to brick wagons and does not apply to other wagons that come into the District of Columbia.

Mr. BABCOCK. Mr. Chairman, that would be clearly out of order; that is class legislation.

Mr. GAINES of Tennessee rose.

Mr. WILLIAMS. Mr. Chairman——

The CHAIRMAN. Is the gentleman from Tennessee a member of the District Committee?

Mr. GAINES of Tennessee. No, Mr. Chairman, but I have been alluded to several times in the cross fire that has been going on.

The CHAIRMAN. The Chair will recognize the gentleman from Tennessee.

Mr. GAINES of Tennessee. I want to say that I do not have any personal interest in this matter. I know my friend from Virginia [Mr. RIXEY] has sound judgment, and ordinarily I am willing to yield to his judgment about most anything and also to my friend from Maryland [Mr. MUDD]. But I want to call the attention of these gentlemen to the fact that the city of Washington, thank God, does not belong to Maryland or to Virginia or any one State. Congress is the city council to look after the interests of this city. It is the duty of each Member to do his part. It seems to me that the committee has been very considerate in this matter—this measure is not to take effect until next January. The Commissioners of the District of Columbia have not been reared in the country, as some of us have been. They may be good military men and good professional men, etc., but they may not know anything about broad and narrow tires. They are not men who have been down on the ground floor like many of us, who who know that a narrow tire does cut up the streets. I know that a broad tire does not to the same extent as a narrow one.

My friend from Virginia [Mr. RIXEY] alludes to what the mayor or somebody in Richmond says. Richmond has a heavy cobblestone pavement, so the gentleman from Virginia [Mr. LAMB], who comes from Richmond, informed me a moment ago. Of course a tire 2½ inches in width or only a half an inch in width, as narrow almost as a knife blade, would have very little effect on that heavy granite pavement.

The interested and selfish expressmen seem to have had a meeting of their own in the city of Washington, and petition Congress to protect *their* interests, when the great voice of the *people* is the other way, I infer, because, as I understand it, the Commissioners of the District represent, or should represent, the people, and the Commissioners have not protested, either as individuals or as Commissioners. So we must presume that they are representing the great body of the people in favoring this legislation. The law does not take effect at once. Our wagon tires wear out—unlike Members of Congress. They are serviceable. They do the people some good, and they do the farmer some good, and the result is that a wagon tire does wear out some time. I think the life of a wagon tire, as near as I can remember, is from twelve to eighteen months, particularly the tires on the hind wheels. We all know that the heavy wagon has on it usually what is known as a "slow lock," which rubs and rapidly wears the tire.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I ask unanimous consent to be permitted to proceed for one minute.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to proceed for one minute. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. Mr. Chairman, as I say, the time when this law will go into effect has been extended. In that length of time, some fourteen months, these tires will have almost worn away, and certainly those that have been already wearing, because we presume the tires now used have been used for some time. So it will be seen that by the time this becomes a law the wagons will, as a rule, need new tires. Much, if any, of the loss we hear about will be incidental or inevitable whether we enact this bill or not. We know that we ought to preserve the streets. No one disputes that these narrow tires do cut up the streets. We know that we step in holes in the streets, particularly at night, and that automobiles and carriages get into them day and night.

I have the greatest respect for my friend from Virginia [Mr. RIXEY], and he knows that I would favor him in a minute in a personal or purely local matter, but it is our duty to the American people to preserve this great city that belongs to the American people and to make the people surrounding the city of Washington, as well as those who live within its borders, even if it be express conpanies, deal fairly by the people and the whole nation. Hence my position here to-day in this matter.

The CHAIRMAN. The gentleman's time has again expired.

Mr. RIXEY. Mr. Chairman, I would like to have the time extended for one minute. I would like to ask the gentleman a question. The gentleman talked as though he owned the city of Washington.

Mr. GAINES of Tennessee. Oh, no. If I did I would divide with my friend from Virginia.

Mr. RIXEY. I was under the impression that the gentleman represented the city of Nashville.

Mr. GAINES of Tennessee. No; I do not. I represent five counties, one of which includes Nashville.

Mr. RIXEY. What is the regulation in Nashville?

Mr. GAINES of Tennessee. There is a regulation, I think, there requiring heavy wagons to have broad tires. Besides that we have cobblestone streets—the main streets—and some new kind of asphaltum in the residential localities.

Mr. RIXEY. Mr. Chairman, I move to strike out the last word. I have heard the gentleman from Tennessee [Mr. GAINES] talk on more than one occasion about the necessity and the propriety and the righteousness of giving the people of the District of Columbia some representation, some voice in the government.

Mr. GAINES of Tennessee. Indeed I am for that now.

Mr. RIXEY. Then how does the gentleman reconcile that with the fact that this section has not only not been referred to the District Commissioners, but the statement is made here that they are opposed to it, and the further fact that a meeting of the business men of the city of Washington, representing 75 per cent of all the business transacted in the city of Washington——

Mr. CAMPBELL of Kansas. In wagons.

Mr. RIXEY. Well, in wagons—business transacted with wagons, and in that way, the sentiment was unanimously against this bill.

Mr. GAINES of Tennessee. Without a single petition being filed, without a single man coming up here to protest against it, as I understand it. The body of the "people" has not petitioned against this, as I am informed.

Mr. RIXEY. I will say to the gentleman that the District Committee, in the first place, never gave anybody an opportunity. The people never heard of it until this bill was reported, and then they protested vigorously, and the bill was recommitted to the same committee and it was like trying a case before a judge who had not only made up his mind, but entered his decree, and only as a matter of courtesy agreed to allow the losing party to complain.

Mr. GAINES of Tennessee. I understand that the names you read here a while ago were "transfer men." There are other people who have rights besides them. I know my friend himself recognizes that.

Mr. RIXEY. Is there anybody in favor of it?

Mr. GAINES of Tennessee. I presume people are in favor of it or otherwise there would be protests here.

Mr. RIXEY. But, my friend, the parties who represent the people of the District of Columbia are the District Commissioners.

Mr. GAINES of Tennessee. Then why did they fail to protest?

Mr. RIXEY. It has been stated here that it is customary for the District Committee to refer to the District Commissioners. The gentleman from Tennessee, Judge SIMS, a member of the committee, stated the fact that it has been a uniform custom. That custom was not followed in this case; in fact, I am informed that this bill is opposed by the Commissioners and by the business interests of the city.

Mr. WILLIAMS. Mr. Chairman, I hope that section 3 will be stricken out of the bill. As the gentleman from Virginia says, it was not referred to the proper authorities of the District to be passed upon, and I will venture now to say that if a plebiscite of the people of Washington should be taken upon this question the proposition to require these 4-inch tires on wagons in the District, in accordance with the provisions of this bill, would be voted down by a vote of two to one. My friend from Tennessee seems to think that there has been no protest. A great many people in the District have been to me—and I think probably a great many of them have been to other Members of Congress—protesting, and they were not all transfer companies either; none of them who came to me were.

Among other gentlemen, I happen to recall Mr. McDowell, who has a flour mill down here, and he told me, among other things, this would cost them, and everybody else engaged in the business here, a very large amount of money. I do not know how much it would cost the people of the District altogether, but it looks to me like it is oppressive. If there were any need for it, if it did any good, it might be well. This is a dirt-road proposition, or a gravel-road proposition. When a heavily loaded wagon goes over a dirt road with these narrow tires it cuts into it, but I have never seen it affect stone pavements—good asphalt. For country roads it might be a good law; undoubtedly would be if the roads were of dirt.

Mr. BABCOCK. The gentleman has seen holes in the street.

Mr. WILLIAMS. Of course I have seen holes in the street, and I know holes do get in the street, but I have never seen anything like the ruts that are made by the tires of these vehicles when running on dirt roads, and I do not believe the gentleman can show me one in the entire city of Washington. Of course I have seen where the asphalt had broken, and of course that has to be repaired, and repairing is going on all the time.

Mr. CAMPBELL of Kansas. Now, just on that proposition. The committee gave a hearing, and members of the police force who had been giving attention to the matter told us the narrow-tired, heavily loaded wagons would cut down into the asphalt. Another wagon would come along and cut just a little deeper, and within three or four days there would be one of these holes that are so numerous on Pennsylvania avenue.

Mr. WILLIAMS. Three or four days?

Mr. CAMPBELL of Kansas. Yes.

Mr. WILLIAMS. Then we would not have had any asphalt pavement at all. They would have been destroyed faster than we could construct them.

Mr. CAMPBELL of Kansas. The asphalt pavement from the Peace Monument to the Treasury is full of holes to-day, and it is largely due, so the police say, to heavily loaded, narrow-tired wagons cutting the pavement.

Mr. WILLIAMS. Now, Mr. Chairman, from the standpoint of the Elysian fields of Kansas, this may be an awfully bad pavement from the Peace Monument down to the Treasury, but from my poor little standpoint of the pavements I have seen in the world it is a pretty good pavement, and we are all, I think, very proud of it.

Mr. CAMPBELL of Kansas. There are a good many holes in it, and it costs annually large sums of money to keep it in repair.

Mr. WILLIAMS. Yes; and I notice, by the way, they are not cut; not that sort of holes. They are round holes or square holes.

Mr. CAMPBELL of Kansas. What I wanted to impress on

the gentleman from Mississippi is that the policemen say these narrow tires first make a narrow cut, then another wagon cuts into the same place, and in that way the round and square holes are started.

Mr. WILLIAMS. I understand that, and then you said that another wagon came along, and then "in three or four days they cut through the asphalt."

Mr. CAMPBELL of Kansas. The holes that are constantly being made and repaired all along Pennsylvania avenue are made just as described by the police.

Mr. WILLIAMS. These witnesses went a little too far, because if it took two or three days only to cut through the asphalt we would not have any asphalt in the city at all, especially on Pennsylvania avenue. On the other pavements it is not required, even if required on the asphalt, and I do not think it is required there. But it is absolute oppression to the people who are engaged in business here. Washington is not much of a business city, it is true——

Mr. BABCOCK. Mr. Chairman, I would like to ask if there is anything pending?

Mr. WILLIAMS. But it is hard on the men with delivery wagons and all that, and a hardship on the country people who bring goods into town.

The CHAIRMAN. The time of the gentleman from Mississippi [Mr. WILLIAMS] has expired.

The question is on the amendment offered by the gentleman from Virginia [Mr. RIXEY], which the Clerk will report.

The Clerk again read the amendment.

The question was taken; and the Chair announced that the ayes seemed to have it.

Mr. BABCOCK. Division, Mr. Chairman.

The committee divided; and there were—ayes 40, noes 48.

So the amendment was rejected.

Mr. RIXEY. Mr. Chairman, I now move to strike out the third section.

The CHAIRMAN. The gentleman from Virginia moves to strike out the third section.

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. RIXEY. Division, Mr. Chairman.

The committee divided; and there were—ayes 36, noes 49.

Mr. WILLIAMS. No quorum present, Mr. Chairman.

The CHAIRMAN. The Chair will count. [After counting.] A quorum present.

Mr. WILLIAMS. Mr. Chairman, I call for tellers on the motion itself.

The motion was agreed to; and the Chair appointed Mr. BABCOCK and Mr. WILLIAMS as tellers.

The committee again divided; and there were—ayes 43, noes 64.

So the motion was rejected.

Mr. BABCOCK. Mr. Chairman, I move that this bill be laid aside with a favorable recommendation.

The question was taken; and the motion was agreed to.

Mr. BABCOCK. I move that the committee do now rise.

The motion was agreed to.

Thereupon the committee rose, and the Speaker having resumed the chair, Mr. LITTLEFIELD, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill (H. R. 18442) to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia, and the bill (H. R. 14897) providing for the temporary maintenance of the Long Bridge over the Potomac River, and for other purposes, and had directed him to report the same to the House with amendments and with a recommendation that the bills as amended do pass.

Mr. BABCOCK. Mr. Speaker, if it is the proper time, I ask the present consideration of the bill H. R. 18442.

The SPEAKER. Is a separate vote demanded on the amendment?

Mr. BABCOCK. Mr. Speaker, I demand a separate vote on the amendment. I do not know how it is numbered in the bill, but it is an amendment placing the appointment of the board of education with the supreme court instead of the Commissioners. I demand a separate vote on that.

Mr. FOSTER of Vermont. I move the previous question on that bill and the amendments thereto to its final passage.

The question was taken; and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The House divided; and there were—ayes 105, nays 5.

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. If the House were to adjourn now, would this particular matter come up to-morrow as unfinished business, or not until the next District day?

The SPEAKER. It would go over until next District day, as the Chair understands, unless the previous question is ordered.

Mr. BABCOCK. The previous question has been ordered, I understand, Mr. Speaker.

The SPEAKER. Is a separate vote demanded on any other amendment than the one indicated? If not, the vote will be taken on the other amendments in gross.

The question was taken; and the amendments were agreed to.

The SPEAKER. The Clerk will report the remaining amendment.

The Clerk read as follows:

After the word "members," in line 9, page 1, strike out everything down to the word "of," in line 4, page 2, and insert "all of whom shall have been for five years immediately preceding their appointment bona fide residents of the District of Columbia. The members of the board of education shall be appointed by the supreme court judges;" so that the passage will read as follows:

"SEC. 2. That the control of the public schools of the District of Columbia is hereby vested in a board of education to consist of nine members, all of whom shall have been for five years immediately preceding their appointment bona fide residents of the District of Columbia. The members of the board of education shall be appointed by the supreme court judges of the District of Columbia, for terms of three years each, except that the original appointments under this act shall be as follows."

And also in section 2, page 2, line 10, strike out the word "Commissioners" and insert "judges of the supreme court."

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. The previous question having been ordered, if the House were to adjourn now would this business come up to-morrow morning as unfinished business?

The SPEAKER. In the judgment of the Chair, yes.

Mr. WILLIAMS. Then I express the hope that the gentleman from Wisconsin may allow the House to adjourn now. It is 20 minutes after 5.

Mr. BABCOCK. I think it will take only about twenty minutes to dispose of this.

Mr. WILLIAMS. If you do that you will have to go into another bill, and it will take some more time. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Wiley W. Tipton against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the Secretary of State, transmitting a letter from the French ambassador making complaint as to the sale of certain documents at the port of Georgetown—to the Committee on the Library, and ordered to be printed.

A letter from the Secretary of the Interior, transmitting, with copies of letters from the Commissioner of the General Land Office, report as to contract for sale of certain lands in New Mexico between the officials of that Territory and W. H. ANDREWS—to the Committee on the Public Lands, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a favorable recommendation, a draft of a proposed law for the disposition of useless documents—to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Assistant Secretary of Commerce and Labor submitting an estimate of appropriation for submarine signals—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Attorney-General submitting a request for authority to transfer certain unexpended appropriations for fees of jurors—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, submitting an estimate of appropriation for construction of a revenue steamer for the removal of derelicts—to the Committee on Interstate and Foreign Commerce, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for repairs in Judiciary Park—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, recommending the construction of a new assay office in New York—to the Committee on Public Buildings and Grounds, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for relief of Warner, Barnes & Co. (Limited), of Manila, P. I.—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for certain claims for rent and damages in the Philippine Islands—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War, submitting an estimate of appropriation for replacement of signal stores of the Army destroyed at Seattle—to the Committee on Appropriations; and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior, submitting an estimate of appropriation for education in Alaska—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War, submitting an estimate of appropriation for construction and repair of hospitals at San Francisco—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War, submitting an estimate of appropriation for replacement of law library in the office of the judge-advocate, department of California, destroyed by the earthquake—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. BIRDSALL, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 134) establishing an additional recording district in Indian Territory, reported the same without amendment, accompanied by a report (No. 4206); which said bill and report were referred to the House Calendar.

Mr. CAMPBELL of Kansas, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 13193) to prohibit the killing of wild birds and other wild animals in the District of Columbia, reported the same with amendment, accompanied by a report (No. 4207); which said bill and report were referred to the House Calendar.

Mr. BIRDSALL, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 14173) to provide a temporary substitute for the United States district judge in the Territory of Hawaii, reported the same without amendment, accompanied by a report (No. 4208); which said bill and report were referred to the House Calendar.

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 16013) providing medals for certain persons, reported the same with amendment, accompanied by a report (No. 4209); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the House (H. R. 18498) for the purpose of carrying out the provisions of General Orders, No. 195, War Department, June 20, 1863, for the presentation of medals, reported the same without amendment, accompanied by a report (No. 4210); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6421) granting an increase of pension to Reuben Van Buskirk, reported the same with amendment, accompanied by a report (No. 4109); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15542) granting an increase of pension to Charles E. Tompkins, reported the same with amendment, accompanied by a report (No. 4110); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15105) granting an increase of pension to Jacob Sheil, reported the same with amendment, accompanied by a report (No. 4111); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13631) granting an increase of pension to James H. Morrill, reported the same with amendment, accompanied by a report (No. 4112); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13466) granting an increase of pension to A. N. Bradish, reported the same with amendment, accompanied by a report (No. 4113); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10808) granting an increase of pension to Michael Kearns, reported the same with amendment, accompanied by a report (No. 4114); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10902) granting an increase of pension to James Holderby, reported the same without amendment, accompanied by a report (No. 4115); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10604) granting an increase of pension to Martin L. Holcomb, reported the same with amendment, accompanied by a report (No. 4116); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12347) granting an increase of pension to Samuel Palmer, reported the same with amendment, accompanied by a report (No. 4117); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10474) granting an increase of pension to Lewis F. Davis, reported the same with amendment, accompanied by a report (No. 4118); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11655) granting a pension to Theodore Cole, reported the same with amendment, accompanied by a report (No. 4119); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 12183) granting a pension to Arnath J. Livingston, reported the same with amendment, accompanied by a report (No. 4120); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 11841) granting an increase of pension to I. A. McCulley, reported the same with amendment, accompanied by a report (No. 4121); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10965) granting an increase of pension to Mortimer F. Sperry, reported the same with amendment, accompanied by a report (No. 4122); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10998) granting a pension to Helen G. Powell, reported the same with amendment, accompanied by a report (No. 4123); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11811) granting an increase of pension to John Kamerer, reported the same without amendment, accompanied by a report (No. 4124); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10031) granting an increase of pension to Martin Haley, reported the same with amendment, accompanied by a report (No. 4125); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10224) granting an increase of pension to David Bussey, alias George Brown, reported the

same with amendment, accompanied by a report (No. 4126); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8660) granting a pension to William Mabery, reported the same with amendment, accompanied by a report (No. 4127); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7543) granting an increase of pension to Prior M. Pavy, reported the same with amendment, accompanied by a report (No. 4128); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7910) granting an increase of pension to Nicholas Karns, reported the same without amendment, accompanied by a report (No. 4129); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9159) granting an increase of pension to John S. McClary, reported the same with amendment, accompanied by a report (No. 4130); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18631) granting an increase of pension to Daniel Whalen, reported the same with amendment, accompanied by a report (No. 4131); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14323) granting an increase of pension to Thomas Thornton, reported the same without amendment, accompanied by a report (No. 4132); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6900) granting an increase of pension to John Rawling, reported the same without amendment, accompanied by a report (No. 4133); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6893) granting an increase of pension to Augusta Reichburg, reported the same with amendment, accompanied by a report (No. 4134); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6336) granting a pension to Elizabeth A. Ames, reported the same with amendment, accompanied by a report (No. 4135); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6181) granting an increase of pension to Fayette E. Ford, reported the same with amendment, accompanied by a report (No. 4136); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5567) granting an increase of pension to Sanford Weaver, reported the same with amendment, accompanied by a report (No. 4137); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5554) granting an increase of pension to James T. Sanderson, reported the same with amendment, accompanied by a report (No. 4138); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3724) granting an increase of pension to Samuel Likins, reported the same with amendment, accompanied by a report (No. 4139); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4647) granting an increase of pension to David C. Austin, reported the same without amendment, accompanied by a report (No. 4140); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4885) granting an increase of pension to James Hennon, reported the same with amendment, accompanied by a report (No. 4141); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3238) granting an increase of pension to Samuel Hartley, reported the same with amendment, accompanied by a report (No 4142); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2759) granting an increase of pension to Daniel Eaton, reported the same with amendment, accompanied by a report (No. 4143); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2714) granting an increase of pension to Charles A. Charles, reported the same with amendment, accompanied by a report (No. 4144); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1238) granting an increase of pension to Susan R. Stalcup, reported the same with amendment, accompanied by a report (No. 4145); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1507) granting an increase of pension to H. D. Jordan, reported the same with amendment, accompanied by a report (No. 4146); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 651) granting an increase of pension to Robert Brandau, reported the same with amendment, accompanied by a report (No. 4147); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1326) granting an increase of pension to Ora P. Howland, reported the same with amendment, accompanied by a report (No. 4148); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14554) granting an increase of pension to John Welch, reported the same without amendment, accompanied by a report (No. 4149); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7539) granting an increase of pension to David H. Hair, reported the same without amendment, accompanied by a report (No. 4150); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1206) granting a pension to Allen Crow, reported the same with amendment, accompanied by a report (No. 4151); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17393) granting an increase of pension to George S. Green, reported the same with amendment, accompanied by a report (No. 4152); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17332) granting an increase of pension to Joseph H. Truax, reported the same without amendment, accompanied by a report (No. 4153); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17705) granting an increase of pension to John A. Lovens, reported the same without amendment, accompanied by a report (No. 4154); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17673) granting an increase of pension to Jacob H. Heck, reported the same without amendment, accompanied by a report (No. 4155); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17901) granting an increase of pension to Douglas A. Hunt, reported the same with amendment, accompanied by a report (No. 4156); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18092) granting an increase of pension to Andrew M. Logan, reported the same with amendment, accompanied by a report (No. 4157); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18109) granting an increase of pension to Abraham E. Sheppard, reported the same with amendment, accompanied by a report (No. 4158); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 19025) granting an increase of pension to Milton McFarland, reported the same with amendment, accompanied by a report (No. 4159); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to

which was referred the bill of the House (H. R. 18888) granting an increase of pension to Samuel Lambert, reported the same with amendment, accompanied by a report (No. 4160); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18905) granting an increase of pension to Samuel H. Davis, reported the same with amendment, accompanied by a report (No. 4161); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18896) granting an increase of pension to Samuel Smith, reported the same with amendment, accompanied by a report (No. 4162); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18462) granting an increase of pension to Samuel Dailey, reported the same with amendment, accompanied by a report (No. 4163); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18983) granting an increase of pension to Nathan B. Prentice, reported the same with amendment, accompanied by a report (No. 4164); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18725) granting a pension to Nancy V. J. Ferrell, reported the same with amendment, accompanied by a report (No. 4165); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18624) granting an increase of pension to Robert Fulton, reported the same with amendment, accompanied by a report (No. 4166); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18813) granting an increase of pension to Sarah A. Dawson, reported the same without amendment, accompanied by a report (No. 4167); which said bill and report were referred to the Private Calendar.

Mr. CHAPMAN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18974) granting an increase of pension to Minna Hildebrand, reported the same with amendment, accompanied by a report (No. 4168); which said bill and report were referred to the Private Calendar.

Mr. DIXON of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18320) granting an increase of pension to Jonathan M. Hunter, reported the same with amendment, accompanied by a report (No. 4169); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18772) granting an increase of pension to Lorenzo G. Tomaselli, reported the same with amendment, accompanied by a report (No. 4170); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18609) granting an increase of pension to Henry Delong, reported the same with amendment, accompanied by a report (No. 4171); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18836) granting an increase of pension to John N. Burton, reported the same with amendment, accompanied by a report (No. 4172); which said bill and report were referred to the Private Calendar.

Mr. KELIHER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18784) granting an increase of pension to Patrick Fitzgerald, reported the same with amendment, accompanied by a report (No. 4173); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 19068) granting an increase of pension to William Adams, reported the same with amendment, accompanied by a report (No. 4174); which said bill and report were referred to the Private Calendar.

Mr. EDWARDS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16571) granting an increase of pension to May L. Overly, reported the same with amendment, accompanied by a report (No. 4175); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15676) granting an increase of pension to Samuel B. Smith, reported the same with amendment, accompanied by a report (No. 4176); which said bill and report were referred to the Private Calendar.

Mr. GRAHAM, from the Committee on Claims, to which was referred the bill of the House (H. R. 18020) for the relief of Snare & Triest, reported the same with amendment, accompanied by a report (No. 4177); which said bill and report were referred to the Private Calendar.

Mr. HOWELL of Utah, from the Committee on Claims, to which was referred the bill of the House (H. R. 9386) for the relief of Henry Hirschberg, reported the same without amendment, accompanied by a report (No. 4178); which said bill and report were referred to the Private Calendar.

Mr. WELBORN, from the Committee on Claims, to which was referred the bill of the House (H. R. 8670) for the relief of the Davison Chemical Company, of Baltimore, Md., reported the same without amendment, accompanied by a report (No. 4179); which said bill and report were referred to the Private Calendar.

Mr. CLAUDE KITCHIN, from the Committee on Claims, to which was referred the bill of the House (H. R. 6418) for the relief of T. B. Stackhouse, a deputy collector of internal revenue for the district of South Carolina during the fiscal year 1894 and 1895, reported the same with amendment, accompanied by a report (No. 4180); which said bill and report were referred to the Private Calendar.

Mr. HOWELL of Utah, from the Committee on Claims, to which was referred the bill of the House (H. R. 8727) for the relief of James W. Kenney and the Union Brewing Company, reported the same with amendment, accompanied by a report (No. 4181); which said bill and report were referred to the Private Calendar.

Mr. GRAHAM, from the Committee on Claims, to which was referred the bill of the House (H. R. 3577) for the relief of Barclay H. Warburton, reported the same without amendment, accompanied by a report (No. 4182); which said bill and report were referred to the Private Calendar.

Mr. McGAVIN, from the Committee on Claims, to which was referred the bill of the House (H. R. 10305) to provide for the repayment of certain customs dues, reported the same without amendment, accompanied by a report (No. 4183); which said bill and report were referred to the Private Calendar.

Mr. CLAUDE KITCHIN, from the Committee on Claims, to which was referred the bill of the House (H. R. 14464) for the relief of Wiley Corbett, reported the same with amendment, accompanied by a report (No. 4184); which said bill and report were referred to the Private Calendar.

Mr. MOUSER, from the Committee on Claims, to which was referred the bill of the House (H. R. 12881) to pay Thomas P. Morgan amount found due to him by Court of Claims, reported the same with amendment, accompanied by a report (No. 4185); which said bill and report were referred to the Private Calendar.

Mr. CLARK of Florida, from the Committee on Claims, to which was referred the bill of the Senate (S. 4860) for the relief of Peter Fairley, reported the same without amendment, accompanied by a report (No. 4186); which said bill and report were referred to the Private Calendar.

Mr. CLAUDE KITCHIN, from the Committee on Claims, to which was referred the bill of the House (H. R. 7746) for the relief of Columbia Hospital and Dr. A. E. Boozer, reported the same without amendment, accompanied by a report (No. 4187); which said bill and report were referred to the Private Calendar.

Mr. MILLER, from the Committee on Claims, to which was referred the bill of the House (H. R. 4629) for the relief of Willaim H. Gowdy, reported the same with amendment, accompanied by a report (No. 4188); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 1808) for the relief of J. J. L. Peel, reported the same without amendment, accompanied by a report (No. 4189); which said bill and report were referred to the Private Calendar.

Mr. WALDO, from the Committee on Claims, to which was referred the bill of the House (H. R. 17099) to authorize the refund of part of fines imposed on the vessels *Lotie R*, *Mathilda R*, and *Helen R*, reported the same without amendment, accompanied by a report (No. 4190); which said bill and report were referred to the Private Calendar.

Mr. BEALL of Texas, from the Committee on Claims, to which was referred the bill of the House (H. R. 4190) for the relief of the creditors of the Deposit Savings Association, of Mobile, Ala., reported the same without amendment, accompanied by a report (No. 4191); which said bill and report were referred to the Private Calendar.

Mr. TIRRELL, from the Committee on Claims, to which was referred the bill of the House (H. R. 4271) for the relief of Patrick J. Madden, reported the same without amendment, accompanied by a report (No. 4192); which said bill and report were referred to the Private Calendar.

Mr. RIVES, from the Committee on Claims, to which was referred the bill of the Senate (S. 4350) for the relief of Arthur A. Underwood, reported the same with amendment, accompanied by a report (No. 4193); which said bill and report were referred to the Private Calendar.

Mr. GARRETT, from the Committee on Claims, to which was referred the bill of the House (H. R. 9131) for the relief of the legal representatives of Charles D. Southerlin, reported the same without amendment, accompanied by a report (No. 4194); which said bill and report were referred to the Private Calendar.

Mr. CLAUDE KITCHIN, from the Committee on Claims, to which was referred the bill of the Senate (S. 4948) for the relief of W. A. McLean, reported the same without amendment, accompanied by a report (No. 4195); which said bill and report were referred to the Private Calendar.

Mr. MOUSER, from the Committee on Claims, to which was referred the bill of the House (H. R. 5195) for the relief of the Milburn Wagon Company, of Toledo, Ohio, reported the same with amendment, accompanied by a report (No. 4196); which said bill and report were referred to the Private Calendar.

Mr. CLARK of Florida, from the Committee on Claims, to which was referred the bill of the House (H. R. 4300) for the relief of A. J. Stinson, reported the same without amendment, accompanied by a report (No. 4197); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 4299) for the relief of John Stinson, reported the same without amendment, accompanied by a report (No. 4198); which said bill and report were referred to the Private Calendar.

Mr. BEALL of Texas, from the Committee on Claims, to which was referred the bill of the House (H. R. 16166) for the relief of A. J., C. C., and T. W. Hodges, reported the same with amendment, accompanied by a report (No. 4199); which said bill and report were referred to the Private Calendar.

Mr. TIRRELL, from the Committee on Claims, to which was referred the bill of the House (H. R. 1050) for the relief of Edwin S. Hall, reported the same without amendment, accompanied by a report (No. 4200); which said bill and report were referred to the Private Calendar.

Mr. HOWELL of Utah, from the Committee on Claims, to which was referred the bill of the Senate (S. 319) to reimburse Abram Johnson, formerly postmaster at Mount Pleasant, Utah, reported the same without amendment, accompanied by a report (No. 4201); which said bill and report were referred to the Private Calendar.

Mr. GARRETT, from the Committee on Claims, to which was referred the bill of the House (H. R. 9132) for the relief of the legal representatives of Benjamin F. Pettit, reported the same without amendment, accompanied by a report (No. 4202); which said bill and report were referred to the Private Calendar.

Mr. WALDO, from the Committee on Claims, to which was referred the bill of the Senate (S. 3581) providing for the payment to the New York Marine Repair Company, of Brooklyn, N. Y., of the cost of the repairs to the steamship *Lindesfarne*, necessitated by injuries received from being fouled by the U. S. Army transport *Crook* in May, 1900, reported the same without amendment, accompanied by a report (No. 4203); which said bill and report were referred to the Private Calendar.

Mr. RIVES, from the Committee on Claims, to which was referred the bill of the Senate (S. 3574) for the relief of John H. Potter, reported the same without amendment, accompanied by a report (No. 4205); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. HOLLIDAY, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 11089) to correct the military record of Charles H. Potter, reported the same adversely, accompanied by a report (No. 4211); which said bill and report were ordered laid on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 12751) to remove the charge of desertion standing against the military record of Bernhard Steuber, reported the same adversely, accompanied by a report (No. 4212); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. ADAMS of Pennsylvania, from the Committee on Foreign Affairs: A bill (H. R. 19264) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1907—to the Union Calendar.

By Mr. McCARTHY (by request): A bill (H. R. 19265) authorizing the Omaha tribe of Indians to submit claims to the Court of Claims—to the Committee on Indian Affairs.

By Mr. SAMUEL W. SMITH: A bill (H. R. 19266) to provide for the extension of Geneseo place and Summit place, District of Columbia—to the Committee on the District of Columbia.

By Mr. LACEY: A bill (H. R. 19267) to amend section 2381 of the Revised Statutes of the United States, disposal of lots in town sites—to the Committee on the Public Lands.

By Mr. McGUIRE: A bill (H. R. 19268) to amend section 653 of the Code of Law for the District of Columbia, relative to assessment life insurance companies and associations—to the Committee on the Judiciary.

By Mr. HEFLIN: A bill (H. R. 19269) providing that agents be sent into China and other eastern countries for the purpose of inquiring into our trade relations with these countries and urge the use of American cotton goods—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 19270) to prevent gambling in cotton futures—to the Committee on the Judiciary.

By Mr. GAINES of Tennessee: A resolution (H. Res. 520) instructing the Committee on the Post-Office and Post-Roads to report a bill to the House fixing the powers of the Postmaster-General in certain cases—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. AIKEN: A bill (H. R. 19271) granting an increase of pension to Joseph J. Branyan—to the Committee on Pensions.

By Mr. FREDERICK LANDIS: A bill (H. R. 19272) granting an increase of pension to Alice Morrill—to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 19273) for the relief of Jacob Karsch—to the Committee on War Claims.

By Mr. BONYNGE: A bill (H. R. 19274) granting an increase of pension to Warren W. Whipple—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 19275) for the relief of T. E. Boyt—to the Committee on Claims.

By Mr. FINLEY: A bill (H. R. 19276) granting an increase of pension to Ann Wylie Whitaker—to the Committee on Invalid Pensions.

By Mr. FLOYD: A bill (H. R. 19277) granting an increase of pension to Samuel J. Murphey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19278) granting an increase of pension to Matilda J. Stapleton—to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 19279) granting an increase of pension to Peter Cramer—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: A bill (H. R. 19280) granting an increase of pension to Peter J. Williamson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19281) granting an increase of pension to Mary J. Gillem—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19282) granting an increase of pension to S. G. McElroy—to the Committee on Pensions.

By Mr. GILLETT of Massachusetts: A bill (H. R. 19283) granting a pension to Catherine McLachlan—to the Committee on Invalid Pensions.

By Mr. GOULDEN: A bill (H. R. 19284) for the relief of James Behan—to the Committee on Naval Affairs.

By Mr. HAMILTON: A bill (H. R. 19285) granting a pension to John J. Goodmote—to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 19286) granting a pension to Albert Bement—to the Committee on Invalid Pensions.

By Mr. HINSHAW: A bill (H. R. 19287) granting an increase of pension to Josiah Sheppard—to the Committee on Invalid Pensions.

By Mr. HOLLIDAY: A bill (H. R. 19288) granting an increase of pension to David H. Bledsoe—to the Committee on Invalid Pensions.

By Mr. HOWELL of New Jersey: A bill (H. R. 19289) for the relief of Thomas McElroy—to the Committee on Naval Affairs.

By Mr. HULL: A bill (H. R. 19290) granting a pension to John C. Hall—to the Committee on Pensions.

By Mr. LACEY: A bill (H. R. 19291) granting an increase of

pension to Charles Bachman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19292) granting an increase of pension to Clarence L. Walker—to the Committee on Invalid Pensions.

By Mr. CHARLES B. LANDIS: A bill (H. R. 19293) granting an increase of pension to William Colvin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19294) granting an increase of pension to Francis M. Hatton—to the Committee on Invalid Pensions.

By Mr. McGAVIN: A bill (H. R. 19295) granting an increase of pension to Edward Mackin—to the Committee on Invalid Pensions.

By Mr. MARSHALL: A bill (H. R. 19296) granting an increase of pension to Assov Harelson—to the Committee on Invalid Pensions.

By Mr. SHARTEL: A bill (H. R. 19297) granting an increase of pension to Robert S. Hillhouse—to the Committee on War Claims.

By Mr. SLEMP: A bill (H. R. 19298) granting an increase of pension to Job B. Crabtree—to the Committee on Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 19299) granting an increase of pension to Mary Jane Willits—to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 19300) granting an increase of pension to P. Easley—to the Committee on Pensions.

By Mr. SULLOWAY: A bill (H. R. 19301) granting an increase of pension to Caroline L. Hodgdom—to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 19302) for the relief of Maj. Seymour Howell, United States Army, retired—to the Committee on War Claims.

By Mr. TYNDALL: A bill (H. R. 19303) granting an increase of pension to N. Smith Burgess—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19304) granting an increase of pension to Charles C. Mauch—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19305) granting an increase of pension to Almus Harrington—to the Committee on Invalid Pensions.

By Mr. VAN WINKLE: A bill (H. R. 19306) granting a pension to Emma Mapes—to the Committee on Invalid Pensions.

By Mr. SCOTT: A bill (H. R. 19307) granting an increase of pension to James Mason—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred, as follows:

A bill (H. R. 4967) granting an increase of pension to Joshua Holcomb—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 12128) granting an increase of pension to Dennis A. Litzinger—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 12809) granting an increase of pension to Michael J. Meehan—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15205) granting an increase of pension to Amanda C. Bayliss—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16358) granting an increase of pension to Martin V. B. Barron—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 19159) to permit the payment to T. J. Larkin, as administrator of the pension money due Eugene Finnegan—Committee on Invalid Pensions discharged, and referred to the Committee on Claims.

A bill (H. R. 19229) to correct the military record of James W. Pinkerson—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Assembly joint resolution No. 3, of New Jersey, for appointment of a special joint committee for improvement of inlets of the New Jersey coast—to the Committee on Rivers and Harbors.

Also, petition of C. W. Straughan, for investigation of certain alleged practices in the courts of the District of Columbia—to the Committee on the Judiciary.

Also, petition of the Scenic and Historic Preservation Society, for a monument to Maj. John W. Powell and his companions—to the Committee on the Library.

By Mr. BUCKMAN: Petition of citizens of Crow Wing County, Minn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DALE: Petitions of C. M. Potter, Walter A. Dickman and 19 other citizens, Washington Camp, No. 583, Patriotic Order Sons of America; A. H. Ace, and Washington Camp, No. 430, Patriotic Order Sons of America, all of Scranton, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Washington Camp, No. 430, and Camp No. 528, Patriotic Order Sons of America, of Scranton, Pa., favoring passage of the Howell naturalization bill—to the Committee on Immigration and Naturalization.

Also, resolution of Court Lily, No. 50, Foresters of America, of Carbondale, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, resolution of the executive committee of the National Business League of Chicago, Ill., against passage of bills S. 2829 and H. R. 4445, 328, and 9328, relating to depriving the courts of discretionary right to summarily issue injunctions with the delay of a notice and hearing, and bill H. R. 4445, limiting the meaning of the word "conspiracy"—to the Committee on the Judiciary.

Also, resolution of the Dunmore Board of Trade, of Dunmore, Pa., against the passage of the bill providing for the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of Dunmore Lodge of Machinists, of Dunmore, Pa., against incorporating in what is known as the "Hepburn rate bill" a clause prohibiting railroad companies from issuing passes to employees and families—to the Committee on Interstate and Foreign Commerce.

Also, petition of John J. Arden, publisher of Svoboda, Scranton, Pa., against the proposed amendment to section 14, chapter 180, act of Congress of March 3, 1879 (sec. 428, Postal Laws and Regulations), which will read as follows: "Subscriptions shall be deemed legitimate in all cases wherein the recipient of the publication or another than the recipient pays or in good faith agrees to pay for such publication for a definite period"—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Foote & Shear Company, of Scranton, Pa., against passage of any parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

Also, petition of Edwin A. Abbey and 65 other American artists, favoring a repeal of the duty on works of art—to the Committee on Ways and Means.

Also, petition of the Society for Political Study, of New York City, favoring bills S. 50 and 2962 and H. R. 4462, relating to child labor—to the Committee on the District of Columbia.

By Mr. EDWARDS: Petition of citizens of Middlesboro, Ky., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. ESCH: Petition of the State Council of Wisconsin, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Merlin Hull, for an amendment to the post-office regulation making legitimate all subscriptions paid for by others than recipients of papers—to the Committee on the Post-Office and Post-Roads.

By Mr. FINLEY: Paper to accompany bill for relief of Ann Wiley Whitaker—to the Committee on Pensions.

By Mr. FLETCHER: Petition of the Minnesota Historical Society, for preservation and restoration of the old frigate *Constitution*—to the Committee on Naval Affairs.

By Mr. FLOYD: Paper to accompany bill for relief of Paton Drewry—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Lafayette Cook—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of George Kidwell—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Elias Yarborough—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: Petition of the New England Hardware Dealers' Association, against the parcels-post system in the United States postal service—to the Committee on the Post-Office and Post-Roads.

By Mr. FULLER: Paper to accompany bill for relief of Peter Cramer—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of Peter J. Williams—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of heirs of Martha Bilbo and William N. Bilbo—to the Committee on War Claims.

Also, paper to accompany bill for relief of the Primitive Baptist Church, Robertson County, Tenn.—to the Committee on War Claims.

Also, paper to accompany bill for relief of Mrs. Nannie T. Johnson—to the Committee on Pensions.

Also, paper to accompany bill for relief of Mary J. Gillem—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of S. G. McElroy—to the Committee on Pensions.

By Mr. GILLETT of Massachusetts: Petition of the New England Hardware Dealers' Association, of Boston, against the proposed parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. GOULDEN: Petition of O. J. Stephens, for bill H. R. 7019, relative to forest reservations—to the Committee on Agriculture.

By Mr. GROSVENOR: Petition of citizens of New Jersey, favoring restriction of immigration, as per bills H. R. 15442 and 17941—to the Committee on Rules.

By Mr. HERMANN: Petition of citizens of Grants Pass, Oreg., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HOWELL of New Jersey: Petition of E. C. Hazard & Co., of Shrewsbury, N. J., against subsection 2 of section 7 of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. HOWELL of Utah: Petitions of John R. Barnes, president of the Kaysville Canning Company; the Star Canning Company, N. S. Parker, manager; A. L. Brewer for the Hooper Canning Company, the Willard Canning Company, the Uintah Canning Company, the N. Ogden Canning Company, the Chief Canning Company, and the Riverdale Canning Company; William Craid, president of the United States Steamship Company; William Van Alen, manager of the Wasatch Orchard Company and the Banner Canning Company, and J. Storey, secretary of the North Ogden Canning Company, against subsection 3 of section 7 of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON: Paper to accompany bill for relief of James A. McDavid—to the Committee on Pensions.

Also, paper to accompany bill for relief of Sarah Young—to the Committee on Pensions.

By Mr. KENNEDY of Nebraska: Petition of the Nebraska State Medical Association, against proposed amendments to the bill S. 88 (the pure-food bill)—to the Committee on Interstate and Foreign Commerce.

By Mr. LAMB: Petition of the Christian Monthly, of Richmond, Va., against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. MANN: Resolution of L. H. Drury Post, No. 467, Grand Army of the Republic, against bill H. R. 2171, relative to discrimination touching employees in the Federal service over 70 years old—to the Committee on Invalid Pensions.

Also, petition of the Building Contractors' Council of Chicago, against bill H. R. 18171, relative to injunctions and restraining orders and to limiting the meaning of "conspiracy" in certain cases—to the Committee on the Judiciary.

Also, resolution of the Chicago section of the Council of Jewish Women, against the Allen bill to protect the first day of the week as a day of rest in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MARTIN: Petition of citizens of Lead City, S. Dak., for investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of Joshua Halcom (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. PATTERSON of Tennessee: Petition of the Board of trade of Knoxville, Tenn., for forest reservations in the White Mountains and the Southern Appalachian Mountains—to the Committee on Agriculture.

Also, petition of A. D. Reynolds, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. POLLARD: Petition of the Nebraska State Medical Association, against the House amendment to Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. RYAN: Petition of the Chamber of Commerce of Buffalo, N. Y., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, paper to accompany bill for relief of William Penwell—to the Committee on Invalid Pensions.

By Mr. SCHNEEBELI: Petition of Florence Keen, for an investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of O. F. Blank, M. D., of Bethlehem, Pa., for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Wholesale Lumber Dealers' Association, for bill H. R. 5281 (the pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Washington Camp, No. 498, Patriotic Order Sons of America, of Pen Argyle, Pa., favoring restriction of Immigration—to the Committee on Immigration and Naturalization.

By Mr. SHARTEL: Paper to accompany bill for relief of Robert S. Hillhouse—to the Committee on Pensions.

By Mr. SAMUEL W. SMITH: Petition of citizens of Michigan, against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. STEVENS of Minnesota: Petition of L. Curtis Talmage, secretary of the Minnesota Congregational Club, for the Foster bill relative to certain modifications of the present Chinese-exclusion law—to the Committee on Foreign Affairs.

By Mr. STERLING: Paper to accompany bill for relief of Charles Martine—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Thomas Pinneo—to the Committee on Pensions.

SENATE.

TUESDAY, *May 15, 1906.*

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

PERSONAL EXPLANATION.

Mr. TILLMAN. Mr. President, I rise to a question of personal privilege. I will state as preliminary that I had expected and desired to do this yesterday, but in the hurry and rush and turmoil which preceded the adjournment I did not get an opportunity. I intended to do it as a matter of justice both to the Senator from Rhode Island [Mr. ALDRICH] and to myself, but the opportunity, as I said, did not occur, and I deem it necessary this morning.

In the Washington Post of yesterday will be found a reported interview with myself headed "Aldrich sought the credit." I merely desire to say, Mr. President, that it is not my habit to give out for publication private conversations with Senators, and while I talk more or less freely with the newspaper men and have no special complaint to make in this instance, there are in it errors of form and of statement—I mean as to words and facts—and I desire to say that I gave out no such interview as this purports to be.

Mr. ALDRICH. Mr. President, I am glad the Senator has made this disclaimer. I myself do not notice things of this sort, but I have never seen so many misstatements gathered in one small paragraph as there were in the statement to which the Senator has alluded.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 17133. An act to amend section 558 of the Code of Law for the District of Columbia; and

H. R. 18666. An act to provide for the reassessment of benefits in the matter of the extension and widening of Sherman avenue, in the District of Columbia, and for other purposes.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the memorial of E. Albertson, of Bridgeport, Ind., remonstrating against the enactment of legislation providing for the free distribution of seeds; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Delaware Council, No. 4, Junior Order United American Mechanics, of Muncie, Ind., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the Trades League of Philadelphia, Pa., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Council of Jewish Women, of Seattle, Wash., praying for an investigation into the indus-

trial condition of the women of the country; which was referred to the Committee on Education and Labor.

Mr. FRYE presented a petition of the Woman's Council of Portland, Me., praying that an appropriation be made for a scientific investigation into the industrial condition of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the New England Hardware Dealers' Association, praying for the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KEAN presented a petition of the Prohibition Organization of Camden County, N. J., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the congregation of the First Presbyterian Church of Roselle, N. J., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a memorial of the Woman's Home Missionary Society of the Sixth Methodist Episcopal Church of Bayonne, N. J., remonstrating against the enactment of legislation to transfer the education and care of the Indians and Eskimos of Alaska from the United States Bureau of Education to the governor of that Territory; which was referred to the Committee on Territories.

He also presented the petition of Mrs. J. M. Speers, of Montclair, N. J., and the petition of Elinor Clark, of Montclair, N. J., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which were referred to the Committee on Education and Labor.

Mr. PLATT presented petitions of sundry citizens of Albany and Alexandria Bay; of Local Union No. 155, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Poughkeepsie, all in the State of New York, and of the Trades League of Philadelphia, Pa., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a memorial of the Brotherhood of Locomotive Firemen of the Erie Railway system, of Buffalo, N. Y., remonstrating against the enactment of any legislation to restrict railway corporations from granting free transportation to their employees and families; which was ordered to lie on the table.

Mr. NELSON presented a petition of sundry citizens of Cottonwood County, Minn., and a petition of sundry citizens of Minnesota, praying for the enactment of legislation to remove duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. HOPKINS presented petitions of sundry citizens of Chicago, Rockford, and Washburn, all in the State of Illinois, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of sundry citizens of Chicago and Harvey, in the State of Illinois, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. BURKETT presented sundry affidavits in support of the bill (S. 5870) granting an increase of pension to Samuel H. Morrison; which were referred to the Committee on Pensions.

He also presented petitions of sundry citizens of Beatrice, Nebr.; of the Trades League of Philadelphia, Pa., and of sundry citizens of Orleans, Nebr., praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

Mr. KNOX presented memorials of the Rev. J. W. Wright, of Custer City; E. B. Hardenbergh, of Honesdale; Coryville Chemical Company, of Bradford; Max. Schoolar, of Smethport; Bovaird & Co., of Bradford; Clawson Chemical Company, of Ridgway; Marvindale Chemical Company, of Bradford; T. R. Clark, of Bradford; F. P. Schoonmaker, esq., of Bradford; P. M. Newman, of Wiliamsport; the Pentecost Lumber Company, of Carbondale; George W. Mitchell, of Smethport; C. T. Horton, of Williamsport; C. B. Farr, of Williamsport; Central Pennsylvania Lumber Company, of Williamsport; S. D. Weaver, of Smethport; Bradford and Western Pennsylvania Railroad Company, of Bradford; Lewis Run Manufacturing Company, of Bradford; R. J. Straight, of Bradford; D. W. Robertson, of Bradford; W. C. Calderwood, of Kane; Charles Hawn, of Instanter; Barclay Chemical Company, of Laquin; Keelor Chemical Company, of Wetmore; B. F. Cory, of Coryville; J. Kreinson & Bro., of Bradford; T. F. Connley, of Bradford; Trexler & Turrell Lumber Company, of Ricketts; Custer City Chemical Company, of Custer City; J. N. Anderson, esq., of Pittston; Kingsley Chemical Company, of Kingsley; Riefler & Sons, of Taners Falls; J. R. Willmot, of Hutchins; Luzerne Chemical Company, of Pittston; Forest Chemical Company, of Sheffield; Bryden & Miller, of Pittston; Gaffney Bros., of Olivedale; Homer Green, esq., of Honesdale; Russel Chemical Company, of Russell; Gray Chemical Company, of Port Allegany; C. V. Merrick, of Bradford; Herman H. North, esq., of Bradford; Lackawanna Chemical Company, of Straight; Straight Creek Chemical Company, of Straight; R. B. Stone, esq., of Bradford; A. W. Johnson, of Straight; Elisha K. Kane, of Kushequa; the Nordmont Chemical Company, of Pittston, all in the State of Pennsylvania, and of F. H. Tymeson, of Readburn; Keery Chemical Company, of Hazel; Frank W. Burnham, of Chiloway; W. E. Sprague, of Roscoe; Silas J. Beagle, of Walton; Dr. S. D. Maynard, of Roscoe; Thomas Keery, of Hancock, all in the State of New York, and of Dr. W. R. Tymeson, of Baltimore, Md., remonstrating against the enactment of legislation to remove the duty on alcohol; which were referred to the Committee on Finance.

He also presented petitions of Dauler, Close & Johns, of Pittsburg; John B. Stetson Company, of Philadelphia; Henry H. Roelofs & Co., of Philadelphia; the Otto Gas Engine Company, of Philadelphia; Holgate Brothers Company, of Kane; Bullock Swing and Chair Manufacturing Company, of Bellefonte; the Paxton & Comfort Company, of Philadelphia; sundry employees of the Paxton & Comfort Company, of Philadelphia; the S. P. Wetherill Company, of Philadelphia; Wells Whip Company, of Wellsville; Montgomery Brothers, of Philadelphia; the Chapman Decorative Company, of Philadelphia; prefessors, department of physics, University of Pennsylvania, of Philadelphia; Chandley Bros. & Co., of Beaver Falls; James Bellak's Sons, of Philadelphia; sundry citizens of Wiconisco; Charles W. McClelland, of Edinburg; T. I. Mairs, of State College; Howard B. Arrison, of Philadelphia; F. Millwood Justice, of Philadelphia; Charles B. Eckert, esq., of Beaver; Wm. C. Warren, of Germantown; Dr. R. P. McClellan, of Irwin; Wm. S. Worcester, of Pittsburg; James W. Cooper Company, of Philadelphia; John N. Prothero, of DuBois; Geo. D. Sprague, of Greensburg; E. M. Bair, of Greensburg; Grange No. 908, Patrons of Husbandry, of Evans City; Grange No. 1288, Patrons of Husbandry, of Coudersport; Grange No. 871, Patrons of Husbandry, of Conneautville; Grange No. 66, Patrons of Husbandry, of Drumore; Grange No. 997, Patrons of Husbandry, of Lundys Lane; Grange No. 912, Patrons of Husbandry, of Somers Lane; Local Union No. 236, Brotherhood of Painters, Decorators and Paper Hangers of America, of Franklin; Local Union No. 445, Brotherhood of Painters, Decorators and Paper Hangers of America, of Berwick, all in the State of Pennsylvania, and Society of Master House Painters and Decorators of Massachusetts; National Grange, Patrons of Husbandry, of Concord, Mass.; Drysalters' Club of New England, of Boston, Mass.; Gen. John A. Johnston, of Washington, D. C., praying for the enactment of legislation to remove the duty on alcohol used for industrial purposes; which were referred to the Committee on Finance.

Mr. PENROSE presented petitions of sundry citizens of Philadelphia; of Wyebrook Grange, No. 1306, Patrons of Husbandry, of Barneston; of Local Union No. 393, American Federation of Labor, of Allentown; of the Furniture Manufacturers' Association, of Philadelphia; of Central Grange, No. 1216, Patrons of Husbandry, of Sweden Valley; of Excelsior Grange, No. 1136, Patrons of Husbandry, of Little Marsh; of Mount Joy Grange, No. 584, Patrons of Husbandry, of Clearfield; of the Wrightstown Farmers' Club, of Pennsylvania; of Greenwood Grange, No. 706, Patrons of Husbandry, of Curry Run; of Woodcock Grange, No. 1034, Patrons of Husbandry, of Saegerstown, and of Local Grange No. 926, Patrons of Husbandry, of Skinners Eddy, all in the State of Pennsylvania, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of Fulton Grange, No. 66, of Drumore; of Columbus Grange, No. 875, of Pennsylvania; of Friendship Grange, No. 1018, of Uniondale; of Pleasant Grange, No. 1143, of Warren; of Summit Grange, No. 1155, of Lock Haven; of Local Grange No. 1242, of Hegins; of Local Grange No. 781, of Port Royal; of Sandy Lake Grange, No. 393, of Polk and West Nicholson, and of Local Grange No. 321, of Factoryville, Patrons of Husbandry, all in the State of Pennsylvania, praying for the passage of the so-called "pure-food bill;" which were ordered to lie on the table.

He also presented a petition of the Board of Trade of Harrisburg, Pa., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

He also presented petitions of the congregation of the Bridgewater Baptist Church, of Montrose; of the Woman's Christian Union of Brookville, and of the congregation of the Westminster Presbyterian Church, of West Chester, all in the State of Pennsylvania, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented petitions of the Woman's Suffrage Club of Montgomery County; of the Woman's Club of Media, and of the Woman's Club of Middletown, all in the State of Pennsylvania, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of Camp Walter E. Brown, No. 4, Army of the Philippines, of Pittsburg, Pa., and a petition of Camp Malate, Army of the Philippines, of Pittsburg, Pa., praying for the enactment of legislation providing special medals for officers and enlisted men who served after the terms of their legal enlistment in the Philippine insurrection; which were referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5783) granting a pension to Florence H. Godfrey; and

A bill (S. 586) granting an increase of pension to Corydon W. Sanborn.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom was referred the bill (H. R. 17890) granting an increase of pension to J. T. Bandy, reported it with amendments, and submitted a report thereon.

He also (for Mr. PATTERSON), from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12874) granting a pension to Sarah Ellen Dickens;

A bill (H. R. 16408) granting an increase of pension to William Hendricks;

A bill (H. R. 16994) granting an increase of pension to Harriet Payne;

A bill (H. R. 17229) granting an increase of pension to Derias Thomas Jean;

A bill (H. R. 17514) granting an increase of pension to Virginia C. Moore;

A bill (H. R. 17515) granting an increase of pension to John J. Elliott;

A bill (H. R. 17747) granting an increase of pension to Abraham I. Canary;

A bill (H. R. 17796) granting an increase of pension to Thomas C. Alexander;

A bill (H. R. 17892) granting an increase of pension to Abraham K. Smith;

A bill (H. R. 18067) granting an increase of pension to Joseph Guiott; and

A bill (H. R. 18465) granting an increase of pension to Abby B. Cloud.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 6034) granting an increase of pension to William A. Hopper; and

A bill (S. 3814) granting a pension to John Giffin.

Mr. OVERMAN, from the Committee on Pensions, to whom was referred the bill (S. 4585) granting an increase of pension to Mary A. Counts, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 16267) granting a pension to Catharine Piper;

A bill (H. R. 16471) granting an increase of pension to North Ann Dorman;

A bill (H. R. 16528) granting an increase of pension to Catharine Price;

A bill (H. R. 17557) granting an increase of pension to John W. Marshall;

A bill (H. R. 17782) granting an increase of pension to Aaron K. Clark;

A bill (H. R. 17855) granting an increase of pension to Harriett E. Miller;

A bill (H. R. 17951) granting an increase of pension to Elizabeth A. Hodges;

A bill (H. R. 17989) granting an increase of pension to Elizabeth Hodges;

A bill (H. R. 18143) granting an increase of pension to James F. Brown;

A bill (H. R. 18406) granting an increase of pension to Andrew Jackson; and

A bill (H. R. 18506) granting an increase of pension to Mahala Jones.

Mr. FULTON, from the Committee on Claims, to whom was referred the bill (S. 5675) for the relief of Maj. Seymour Howell, United States Army, retired, reported it without amendment, and submitted a report thereon.

Mr. BURKETT, from the Committee on Pensions, to whom was referred the bill (S. 5152) granting an increase of pension to Holoway W. Kinney, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5169) granting an increase of pension to James A. Price; and

A bill (S. 5902) granting an increase of pension to George W. Webster.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 11686) granting a pension to William C. Berghahn;

A bill (H. R. 16044) granting an increase of pension to John C. Lindsay;

A bill (H. R. 16253) granting an increase of pension to Margaret A. Hope;

A bill (H. R. 16810) granting an increase of pension to Henry C. Jackson;

A bill (H. R. 17209) granting an increase of pension to Alva D. Smith;

A bill (H. R. 17395) granting an increase of pension to Thaddeus C. S. Brown;

A bill (H. R. 17526) granting an increase of pension to Richard Dunlap;

A bill (H. R. 17584) granting an increase of pension to James White;

A bill (H. R. 17913) granting an increase of pension to Philo Green;

A bill (H. R. 17921) granting an increase of pension to James Reppeto;

A bill (H. R. 18019) granting an increase of pension to Milton A. Griffeth; and

A bill (H. R. 18056) granting an increase of pension to Moses Davis.

Mr. LA FOLLETTE, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17165) granting an increase of pension to Sophie Pohlers; and

A bill (H. R. 17650) granting an increase of pension to Hugh F. Ames.

BRIDGE ACROSS PEND D'OREILLE RIVER, WASHINGTON.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6128) to authorize the construction of a bridge across the Pend d'Oreille River, in Stevens County, Wash., by the Pend d'Oreille Development Company, to report it favorably without amendment, and I submit a report thereon. I ask for the immediate consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SCHOOLS IN ALASKA.

Mr. TELLER. I am directed by the Committee on Appropriations to report back favorably without amendment the concurrent resolution which I introduced yesterday, and I ask for its immediate consideration.

The concurrent resolution was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Interior is hereby authorized to use, at his discretion, for the native schools and reindeer enterprises in Alaska, the unexpended balance of "the license fund for schools outside of incorporated towns in Alaska," which was collected for schools in Alaska previous to January 27, 1905, the same being, after outstanding obligations are paid, $6,221.84, and is hereby appropriated for such purpose.

The VICE-PRESIDENT. The Chair will suggest to the Senator from Colorado, inasmuch as the resolution provides for the appropriation of money, whether it should not be a joint rather than a concurrent resolution.

Mr. TELLER. It should be a joint resolution. I forgot to make that change. The clerks at the desk can make it.

The VICE-PRESIDENT. The concurrent resolution will be changed to a joint resolution, and as so changed will be read.

The joint resolution (S. R. 59) relative to the appropriation for the native schools and reindeer enterprise in Alaska was read twice by its title.

The VICE-PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. TELLER. I beg leave to have inserted in the RECORD a very brief statement from the Bureau of Education, showing the necessity of the joint resolution, so that the House may have the benefit of it.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

The Bureau of Education has five schools in Alaska north of the Arctic Circle.

Four of the schools can be reached with fuel, books, and other supplies but once a year, when for a few weeks the ice opens and allows the approach of vessels. The vessel that carries these annual supplies and the mail usually sails from Seattle in May.

The fund provided by Congress for schools and reindeer in Alaska for the year ending June 30, 1906, will be exhausted when present liabilities are met. The appropriation for native schools and reindeer (sundry civil bill) for the year ending June 30, 1907, has not yet been made and probably will not be in time to supply the arctic schools this year.

If the supplies and fuel are not sent at once, it will create much suffering and probably close the schools for a year.

While the educational and reindeer appropriations for the year ending June 30, 1906, are exhausted, there is a small unexpended balance in the "license fund for schools outside of incorporated towns." After outstanding liabilities against this fund are paid there will remain an available balance of $6,221.84.

If Congress will authorize the Secretary of the Interior to transfer this unexpended available balance of this fund (now under his control) from the "license fund for schools outside of incorporated towns" to the funds for "education of natives" and "reindeer fund," it will relieve the present emergency and save four important Government schools from being closed for a year.

There are three white men at Barrow, being Mr. Spriggs, the missionary; Mr. Derby, Government school-teacher, and Mr. Brower, in charge of a shore whaling station.

Last fall a whaling vessel and the supply ship were wrecked in the ice near Barrow and three white families have had to care for the seventeen wrecked sailors until relief reaches them next August.

A letter written last January (1906), just received (May, 1906), states that at that time (January, 1906) they were nearly out of provisions.

Before the relief can reach them they will be in great straits and probably living on whale blubber.

The supply vessel is all ready to sail whenever Congress authorizes the transfer of the license fund to the education and reindeer funds, which will enable the Secretary of the Interior to send supplies to the starving employees of the Bureau of Education.

It is an emergency case and should be rushed through at once.

BILLS INTRODUCED.

Mr. CLAPP introduced a bill (S. 6166) for the relief of Edwin S. Hall; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. DRYDEN introduced a bill (S. 6167) to improve the channels along the New Jersey seacoast; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Commerce.

Mr. PERKINS introduced a bill (S. 6168) granting an increase of pension to Calvin Lambert; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ELKINS introduced a bill (S. 6169) to amend section 64 of the bankruptcy act; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 6170) granting an increase of pension to Jacob C. Shafer; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6171) granting an increase of pension to William P. Robbe (with an accompanying paper); and

A bill (S. 6172) granting a pension to James Phillips.

Mr. DANIEL introduced a bill (S. 6173) for the relief of Thomas B. Miller, legal heir of Milton R. Muzzy; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURKETT introduced a bill (S. 6174) for the relief of Eliza A. Polk; which was read twice by its title, and referred to the Committee on Claims.

AMENDMENT TO RAILROAD RATE BILL.

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MALLORY submitted an amendment proposing to appropriate $100,000 for preliminary work on a graving dock of concrete and granite at the Pensacola Navy-Yard, Fla., etc., intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. PENROSE submitted an amendment relative to the advancement on the retired list of the Navy of officers below the grade of rear-admiral, including those with the rank of commodore, etc., intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $1,000 for paving Kalorama avenue from Columbia road to Nineteenth street extended, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On May 14:

S. 3522. An act to amend an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905; and

S. 5943. An act to authorize the Minnesota, Dakota, and Pacific Railway Company to construct a bridge across the Missouri River.

THE PANAMA CANAL.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Interoceanic Canals, and ordered to be printed:

The Senate and House of Representatives:

I transmit herewith copies of correspondence between the Secretary of War and myself on the subject of the purchase of two steel dredges for the Panama Canal.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 15, 1906.*

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. The morning business is closed, and the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. HOPKINS. Mr. President, at the adjournment of the Senate last evening we were considering the amendment which had been proposed by the Senator from Massachusetts [Mr. LODGE] as amended by the Senator from Maine [Mr. HALE]. This amendment proposes to abolish the present Interstate Commerce Commission, to create a new body composed of nine men, to divide the United States into nine separate transportation or judicial districts, and to provide that each one of the Commission shall represent a district, and it then proposes to make the salary of the Commissioners $12,000 a year each.

My first objection, Mr. President, to the amendment as offered is that it abolishes the present efficient Interstate Commerce Commission. That Commission has had an experience that is valuable to the interests of the United States, and I fear that if this amendment should prevail the public would take it that the abolishment of that body of men is a rebuke to them for the efficient service they have rendered under the laws that exist and for the very able aid they have given to the House and the Senate in perfecting the bill which is now before us.

I am not personally acquainted, Mr. President, with all of the members of the Commission, but it was my good fortune for a time to serve in the House with Mr. Clements, of Georgia, who for many years has been an able, honest, and efficient member of the Commission. I do not know how the southern members may feel regarding the abolishment of the Commission

and the turning of this man out of office, but for one I would deprecate such action.

Another member of the Commission was at one time, and for a long period, an honored member of this body, Mr. Cockrell, of Missouri. His long and able service here has demonstrated his ability and his efficiency, and the work he has done there has demonstrated the wisdom of the President in selecting him for that great office. He is a member I would dislike very much to see turned out of office under the circumstances proposed by the amendment of the Senator from Massachusetts. The other members of the Commission who have served there have demonstrated their fitness and efficiency.

Then why should the Senator from Massachusetts seek to abolish that Commission and to turn these men out of office? If it is necessary to increase the number of the Commissioners, that could be done by an amendment. It seems to me Congress ought not to say to the country that these men, who year after year have made their recommendations in the interests of the people, and whose recommendations now are to be engrafted into a law, for that service to the Senate and to the House and the country they should be summarily turned out of office.

In the discussion of the question yesterday the Senator from Maine [Mr. HALE] used the expression I shall read. He said:

I would have him—

Speaking of the Commissioner—

a resident, and my amendment provides that he shall have been for two years an actual resident of the circuit from which he is appointed. I want no importations of favorites, or whoever they may be, into one of these judicial circuits. I want the member of the circuit to be to the manner born and carrying the confidence of the circuit which he represents.

Mr. President, either the Senator from Maine misconceives the entire policy of legislation regarding this subject or he seeks to change the entire policy of legislation relating to this great question. Heretofore in all of the legislation that we have had upon this subject we have had that body a national body. We have had it so organized that there has been no East and no West, no North and no South, but when the members of the Commission were selected and took their oath of office they represented equally all sections of our common country. I would deprecate stronger than any language that I can express here this morning to see this great policy that has prevailed and which has controlled the action of the Government of the United States for nearly twenty years changed by the amendment that is proposed by the two Senators from New England.

What will be the result, Mr. President, if the policy of the Senator from Maine should prevail upon a question of this kind? Instead of making the Commissioner a national character, instead of saying to him, "When you become a member of that great body you are to forget your sectionalism and become a national character," it would require of him that he is to represent one particular section and look after that in a guarded and careful manner over and above any other section of our common country.

Now, the second proposition would be that it would lead to bickerings and jealousy upon the Commission itself. You select, if you please, a man from the State of Georgia and say that he is to specially represent that section of the country, and he would forget the interests of Illinois or Wisconsin or Michigan; but if you select the same man as he has been selected for the Commission and say to him, "While you live in Georgia, you are a national character and you are supposed to look after the interests of Illinois or Wisconsin or Michigan as well as you do after the interests of Georgia," he would at once respond to a sentiment of that kind.

Mr. President, if this amendment should prevail, if these different districts should be formed and these men should be required to live for two years prior to their appointment, as proposed by the Senator from Maine, in the district, and then to represent that particular district, we can readily see that when they come to consider questions that involve the interests of the South or the West with the Middle West or the East these men would become partisans and would at once insist that their section should be taken care of regardless of the interest of any other section of our country.

It seems to me that no more pernicious amendment could be adopted than the one that is proposed by these Senators from New England. They are injecting sectionalism into this legislation, and they are making a sectional Commission out of a great body that should look to the interests of our entire country.

As a justification, Mr. President, for making these districts the Senator from Massachusetts likened them to the nine judicial circuits of the United States. He says that he would have them like the Supreme Court of the United States. There is no similarity between two such bodies. They represent different interests. There can be no likeness and no similarity depicted even by the ability or the ingenuity of the Senator from Massachusetts. The Supreme Court judges are not required to live in one particular district. The Senator from Massachusetts is mistaken if he believes——

Mr. LODGE. Of course I never made any such absurd statement as that.

Mr. HOPKINS. I am very glad to have the Senator disclaim it. I should like to have him go one step further and disclaim that there is any similarity between the proposed creation of a commission of this character and the Supreme Court of the United States.

Why did he refer to the nine circuits and about members living within the limits of the respective circuits if he did not attempt to convey to the Senate and to the country the idea that the composition of the Supreme Court of the United States is based upon such a principle?

To-day, Mr. President, three of those learned and distinguished men live in one of these judicial circuits, and if we are to believe rumor at all, when the next change comes in that great body, instead of taking a man from one of the circuits that is not represented, we shall have a justice taken from a circuit that now has three representatives upon that bench. And why is it? It is because when we come to select the men for these great offices we should look to the efficiency and ability rather than to any section from which they come.

So far as I am concerned, Mr. President, I care not from what section of our common country these Commissioners are selected. If the President of the United States believes, and the Senate concurs in that belief, that they all can be taken from the State of Massachusetts with better credit to the country than from any other section, I will approve it. If they can be taken from the State of New York under the same circumstances, my action would be the same. For one, after we have labored here months in the preparation of a bill of this character to give the people some relief for which there is a crying need, I do not want to destroy the efficiency of the bill by making the Commission a partisan commission, so that no harmonious work can be accomplished by them.

Again, Mr. President, I am opposed to the number that is proposed by the Senator from Massachusetts. For twenty years we have had a commission of five, and they have done their work well. The House has recommended a commission of seven. Speaking for myself, I would be unwilling to go beyond that number. I believe that the efficiency of this great Commission will not be improved by increasing the number. As an illustration, when the Canal Commission was formed there was a commission of seven provided for in the law. Experience has taught us and taught the Executive that it is too large a board, and recommendations have been made that instead of increasing the number it should be decreased.

What is true of that Commission is equally true of this one. When you get a commission of nine men, as proposed by the Senators from New England, you get a cumbrous body. You get a body that will be unable to agree upon the great transportation questions that will be presented to them. You will get men of such numbers and a body so cumbrous in character that the shippers will be unable to get the relief that Congress has proposed here shall be given.

If I were going to vote, and if my will were to prevail here, instead of adopting the seven that is proposed by the House I would cut the number down to the five we have under existing law, and I would permit the present Commission, who have labored so long and well in the interest of the people of the country to remain there until it is determined by experience that some one or more of those men could be improved upon by making a change. I do not believe we ought to make any change in the personnel of the present Commission.

Another thing, Mr. President, I do not approve of the sentiment that was advocated here by the Senator from Maine and the Senator from Massachusetts yesterday in increasing the salaries of these men. We can get able men for the salaries that are now paid, $7,500. We are running mad, Mr. President, on the increase of salaries of these various Federal officers. I believe that men who serve upon this board should have an ample salary, so as to properly pay them for the great services they render the country, but I deprecate the sentiment that would give them the salaries that are proposed in the amendment now before the Senate.

Mr. MARTIN. Mr. President, the amendment now under consideration, offered by the Senator from Massachusetts [Mr. LODGE], is modeled substantially on an amendment offered by me. The changes which have been made by the Senator from

Massachusetts, in my judgment, improve the amendment. I therefore will not present to the Senate for consideration the amendment which I submitted, but will very cordially unite with the Senator from Massachusetts in supporting the amendment offered by him.

The changes made by the Senator from Massachusetts are, I think, only three in number. One of them provides that there shall be at least three lawyers on the Commission. I do not think it is within the limits of reasonable doubt but that any commission organized of this character, composed of nine men, would contain at least three lawyers.

Another change made in the amendment of the Senator from Massachusetts increases the salary of the Commission. As the amendment was prepared by me the salary was fixed at $10,000. I incline to think that it will be wise to increase the salary to $12,000, because the duties and responsibilities of the Commission exceed any duties and responsibilities at any time heretofore imposed upon any commission under the Government. It is hard to estimate correctly the immense power which will be wielded by this Commission, the immense responsibility that will be imposed upon it, and the question of salary is a mere bagatelle, so we are sure to secure the very best talent, the very best learning, the very best effort that can be furnished in this country. So far as I am concerned, while I thought a salary of $10,000 a year adequate, I am very willing to see the members of the Commission paid $12,000 per annum.

The other change made in the amendment of the Senator from Massachusetts changed somewhat the terms of service, and I think that that change is a benefit to the bill. But, Mr. President, the essential feature of this provision is the abolition of the present Commission, the increase of its numbers, and the distribution of the Commissioners to the several parts of the country.

I differ from what the Senator from Illinois [Mr. HOPKINS] has stated. I think the Commission ought to be abolished. I do not mean to say that the present members ought not to be reappointed, but I say that the duties and responsibilities of the position have been changed, and the President ought now, in the creation of a commission, to meet these new and enlarged responsibilities, and he ought to have a wider field of selection than the five men now serving on the present Commission. The President no doubt will appoint a number of the present Commissioners. In my judgment, he ought to reappoint a number of them. But I do not think his power of selection ought to be limited to these five. He ought to be permitted to get the very best talent in the United States. It is no attempt to srike at the Commission. It is the purpose of the amendment to give the President a wider field of selection, in order that he may secure the very best talent, whether now on the Commission or off of it.

Again, Mr. President, as to the distribution of the Commissioners, the Senator from Illinois argues that it will make a sectional Commission. I differ with him. A Commissioner who is appointed on the body from the State of Texas will represent the United States just as much as will a Commissioner appointed from the New England States. That they shall be distributed uniformly throughout the country is essential in order that, knowing the diversified interests of the country, justice may be done to every section of the country. I consider that of vital importance.

I regard the amendment now being discussed before the Senate as the most important amendment which has been proposed, and in the amendment I consider that the most important feature is that feature which compels the distribution of the Commissioners to the several parts of the country.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Indiana?

Mr. MARTIN. Certainly.

Mr. BEVERIDGE. If the President is left free, does not the Senator from Virginia think he would take the whole country into consideration and every section thereof in appointing the Commissioners; and if that is true, why is it necessary for Congress to determine the limits within which he must appoint Commissioners?

Mr. MARTIN. Mr. President, on the present Commission I think the five members come from about one-sixth part of the territory of the United States. I do not want that to happen again. If I am not mistaken, two of them come from one State. I do not want to see that happen again. They may be and they are good men, but I am not one of those Senators who believe that you are bound to go to one section of the country to get good men. They may be excellent men, but just as good men can be found in other sections of the country.

Mr. HOPKINS. Will the Senator permit me?

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Illinois?

Mr. MARTIN. Certainly.

Mr. HOPKINS. I desire to say to the Senator from Virginia that he is mistaken. There are no two Commissioners who come from the same State. The Senator may have in mind the fact that one Commissioner is a resident of Vermont and another of the State of New York, who are in the same judicial circuit that was spoken of by the Senator from Massachusetts.

Mr. MARTIN. I stand corrected, Mr. President. I had in mind judicial circuits instead of States. It was my inaccuracy.

Mr. HOPKINS. I desire to say——

Mr. MARTIN. I do not want any two of them to come from the same judicial circuit any more than I want any two of them to come from the same State.

Mr. HOPKINS. I should like to ask the Senator from Virginia if he takes any exception to the ability or efficiency of either of those great men?

Mr. MARTIN. Mr. President, I am not going to bring this discussion down to the level of an individual. This is a great public question, and I am not going to vote one way or the other in order to preserve the tenure of office of any man. Let the President of the United States have the broadest field of selection, and put on him the responsibility of selecting good men, but require him to find, as he can easily find, good men from the several sections of the country, and not get all of the good men from any one section.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield further to the Senator from Indiana?

Mr. MARTIN. Certainly.

Mr. BEVERIDGE. Does the Senator know any reason why Congress should legislate men whom all agree to be good men out of office?

Mr. MARTIN. Mr. President, I know no reason why when we change the duties and responsibilities of the Commission the President ought not to be limited in their selection. No man has any right to an office. If the President thinks they are good men and able men and are deserving of reappointment he can reappoint them. We do not take from him the power to continue good men in office.

Mr. HOPKINS. That is the point right there. If this amendment——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Illinois?

Mr. MARTIN. Certainly.

Mr. HOPKINS. If the amendment of the Senator from Massachusetts should prevail, the President could not reappoint the two good men, because they live in the same circuit.

Mr. MARTIN. That is just why I am in favor of the amendment. It is to prevent him from doing that very thing. Equally good men can be found in other sections of the country.

Mr. HOPKINS. But the Senator has just said that he was willing that the President should appoint good men, regardless of where they came from, as I understood him.

Mr. MARTIN. The Senator misunderstood me very radically if he thought I wanted the President to appoint them regardless of where they came from, when I offered an amendment restricting him in that respect, and I have been trying to convince the Senate for the last five minutes that he ought to be restricted in that respect, because men as good as these can be found in other parts of the country. All the good men do not come from any one section, but you can find good men in every section of the country. I want to have the President limited in that respect and required to distribute these offices throughout the different sections of the country.

Mr. McCUMBER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from North Dakota?

Mr. MARTIN. For a question.

Mr. McCUMBER. It is a question. The Senator just now made the statement that he did not believe two men should be selected in one circuit. I wish to ask him if he has any objection to two men being selected from a circuit containing fourteen States and Territories, namely, Minnesota, Iowa, Missouri, Arkansas, Indian Territory, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Wyoming, Colorado, Utah, and New Mexico? Does the Senator think that any great wrong would come to the country from selecting two from all that vast section, in which there are 66,000 miles of railway and 13,000,000 inhabitants?

Mr. MARTIN. Mr. President, wrong might not be done in that particular instance, but it is necessary to district the country for the purpose of appointing the Commissioners, and while the amendment provided that the distribution should be

governed by the boundaries of the judicial circuits, that was done as a matter of convenience. The suggestion of the Senator from Texas that he would offer an amendment dividing the United States into transportation districts for the purpose of appointing these Commissioners is just as acceptable, and the Senator from Massachusetts indicated his purpose to accept that amendment.

I am not wedded to the particular division of the country here proposed. I would be very willing to see a new districting made if one can be made more fair and more just to all the different sections of the country. It was for convenience that I accepted the districting which exists in judicial circuits. I believe now it meets essentially the conditions we are trying to meet. I do not believe that any great injustice is done by taking the boundaries of the judicial circuits. It is true that we find two or three of them in the New England States, including New York and Pennsylvania, if you want to enlarge that description to include those States; but those populous States are entitled to great consideration, and I do not see that in taking the boundaries of the judicial circuits any great injustice is done to any section of the country. It is not an entirely perfect and equitable division; but it is so difficult to reach a division that is entirely equitable and satisfactory to everybody that I adopt this method of division.

Mr. BEVERIDGE. Will the Senator yield to me?

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Indiana?

Mr. MARTIN. For a question?

Mr. BEVERIDGE. Yes; for a question. I ask, if the Senator thinks it is good policy to legislate a commission out of office so that the President may have a free hand in reappointment in one instance, why does he not think it a good thing in other instances? If he thinks this Commission should be legislated out of office in order to give the President a free hand, why not legislate the Panama Canal Commission out of office, or why not legislate any other commission out of office in order to give the President a free hand? Why differentiate?

Mr. MARTIN. We have not time in fifteen minutes to discuss every sort of commission.

Mr. BEVERIDGE. I think it would take the Senator fifteen hours to give a good reason for that.

Mr. MARTIN. If I had a little over fifteen minutes I should be perfectly willing to discuss that with the Senator from Indiana. A very strong argument might be made why this should be done. The Panama Canal Commission has not proved such a great success as to compel us to adopt the same rules that we have provided in regard to its members; and I have no doubt before Congress adjourns there will be some regulation of that matter.

But I have not needed to go outside the abstract consideration of this question to satisfy my mind. I believe this distribution of these commissioners into districts is essential and important. I consider it the most important question that has been before the Senate for its consideration.

How much time have I remaining of my fifteen minutes, Mr. President?

The VICE-PRESIDENT. The Senator has two minutes remaining.

Mr. MARTIN. Well, Mr. President, I shall hardly be able to take up any other thought in relation to this matter in so brief a period as two minutes, and so I will rest what I have to say upon this point.

Mr. ELKINS. Mr. President, for a long time I favored the idea of taking the members of the Interstate Commerce Commission from the judicial circuits of the country. When the discussion of the rate question took place last winter, I believe something was said in the Senate about selecting members of the Commission from the judicial circuits while the hearings were going on last summer. I first favored the appointment of nine Commissioners, to be taken from the judicial circuits. I believe in the distribution of the Commission throughout the limits of the United States, if this can be done, but I hardly think that the division into circuits would meet that as well as the suggestion of the Senator from Texas [Mr. BAILEY], to make the appointments from transportation districts. In thinking over this matter, I have reached the conclusion that perhaps five members would be better than seven, and seven would be infinitely better than nine. I believe section 8 of the House bill on this subject is the best disposition of this question in all particulars, and I am willing to vote for it, with the addition of an amendment that the salary of the secretary of the Commission shall be increased in proportion to the increase of the salaries of the Commissioners. The salary of the Commissioners, under the House bill, is $10,000 a year. I believe each Commissioner has a messenger and a clerk, who accompany him. The Supreme Court judges receive $12,500 a year, the circuit judges only $7,000 a year, and the district judges only $6,000 a year. I can not believe that the rank of one of these Commissioners is greater or that the duties performed by him are more important, more exacting, and require more ability than the duties of a circuit judge. To give the Commissioners a larger salary seems to me, therefore, to be a discrimination against the circuit judges of the United States. In addition, the circuit judges have a wider and more extended jurisdiction, covering all kinds of complicated questions, and their pay is only $7,000 per annum.

I believe, too, that nine members of the Commission would be cumbrous, for the reason that the Commission is required to travel to all parts of the United States to look after the public interests, under the interstate-commerce laws. They can not always remain here in Washington. This is impossible. They will often have to go to Chicago, to Boston, to St. Louis; they will have to go to New York and other cities. Think of nine members of this Commission going from one State to another, with their clerks and messengers, if you please, attending to cases as they may arise.

It may be said that only four Commissioners ought to go and the others remain in Washington. Who is going to order the four to go and the others to remain? The members of the Commission are all of equal rank. There is a presiding officer, it is true, but the presiding officer can not designate members for a special service, three to go here or two to go there; he can not impose upon them any duty; he can not make any distinction. When the Commission moves, it must move as a body. When necessary, it must go to New York, for instance, and take testimony, unless there is an agreement otherwise, and when the Commission goes to a city rooms must be procured, places found, and the expenses will be materially increased.

I think, according to the suggestion of the Senator from Ohio [Mr. FORAKER] yesterday, that perhaps for efficient service five members would better answer, but I am willing to agree to the provision contained in the House bill in section 8.

Mr. President, I am opposed to legislating men out of office who have large experience and a record for faithfulness and ability. I do not believe there has ever been any charge of any kind brought against any one of these Commissioners in the public press or elsewhere. They have devoted themselves with a singleness of purpose to the discharge of the most difficult and intricate duties which have been laid upon them. They have had to tread new paths not marked out heretofore in our jurisprudence; they have been obliged to take up and consider laws which have not been interpreted by the courts of the United States; they have had to meet them and to consider all of the difficult questions presented to them, most of them judicial in their nature. I think they have done well. They have settled in all, I believe, about 3,000 cases, about which the public know nothing. They act often as a commission of arbitration and reconciliation, and in two or three thousand cases they have reconciled differences between railroads and shippers to the satisfaction of both which were of importance and about which the public knows nothing. These are cases which do not attract public attention.

Mr. President, I think it would not work well practically to discharge or put out of office men who have given ten, twelve, and, I think, some of them fourteen years' time to understand their duties, men who have acquired experience which it would take years for new men to acquire.

We had better, I think, go slowly in this matter of putting out of office public servants who have done well, who know now their duties and can discharge them better than new men can. It takes a long time to fully understand and appreciate these great questions. It has taken the Senate three months' discussion to reach a conclusion about amendments to the present laws. We should not dispense with or put aside experienced men in great offices like these held by the Commission.

I am perfectly willing that the salary shall be $10,000 a year if that will enable us to secure better men. I would go further, and say that I think this is making a discrimination, as I have said before, against the circuit judges of the United States; and that I am unwilling to do. I think we can get men of the highest character and of great ability to fill these offices at a salary of $10,000 a year; that is what the House has provided in the pending bill, and retain in the public service men of established character, of large ability, and of great experience. The President, from time to time, can add to the number of the Commission if the bill passes, two at once; and, as vacancies occur, he can fill them with untried and new men.

For these reasons, Mr. President, I have reached the conclu-

sion that we had better agree with the House provision in this regard, and not legislate the present Commission out of office.

Mr. BEVERIDGE. Mr. President, may I ask the Senator a question on this point?

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Indiana?

Mr. ELKINS. Certainly.

Mr. BEVERIDGE. Does not this point also strike the Senator: That whereas if we now have experienced men for a salary of $7,500, why pay $12,500 to men without experience?

Mr. ELKINS. That is true.

Mr. MORGAN. Mr. President, I agree with the part of the amendment of the Senator from Massachusetts [Mr. LODGE] that provides for nine Commissioners, one of whom shall be president of the Commission. I may agree with him in various other parts of his amendment, but not all of them, and perhaps particularly that part in regard to the lawyers. I do not think any lawyer has got any business on that Commission. If he had named four Commissioners, I would insist that two of them should be lawyers of this body, or should at least agree with the lawyers of this body in the majority in favor of injunction or of the minority against injunction, so that we might have that question fought out in the Commission as well as in the Senate of the United States. It seems to me one of the great leading propositions in regard to railroad rate regulation in this country.

But, Mr. President, the amendment proposed by the Senator from Massachusetts does not rest, in my judgment, upon a legitimate basis. The accidental arrangement or the convenient arrangement of the judicial circuits of the United States can have no reference in the world to commerce or trade or manufactures or transportation; and this bill has reference to all of these and to every interest of every person in the United States. The Commission that acts under this bill will be, and ought to be, if it is fairly constituted, a thoroughly representative body. It should represent all the industries of the United States that are transmitted in interstate commerce of every kind and character; it should represent all the producing sections and all the manufacturing sections of the United States, the mining sections, the grain-growing sections, the cotton-growing sections—it should represent all of these; but, above all, Mr. President, it ought to represent the maritime ports of the United States.

We have here a great center of production, in which is included every benefaction that Providence could bestow upon the human family, and in magnificent and unlimited abundance; and it is the transit of this production and overproduction of our country through the seaports to foreign countries from which we derive a large part, at least, of our actual national wealth.

There is a word that is of common use amongst gentlemen who descant upon railroad rates and the regulation of them that I have a very great dread about. It is the word "differentiation"—the differentiation in rates between the different ports of the States in this Union. The national railroad Commission have within their power the right to differentiate rates between the different ports of the United States. That is exactly in harmony with the bill; and, in fact, it has been frequently referred to here as one of the leading propositions in this measure. A railroad commission, with the power of differentiation between the sea on either side and between the Lakes on the north and the Gulf on the south in regard to the transmission of commerce created in the interior or elsewhere, is a very dangerous body of men, who possess powers of that sort, with no power given even to the courts to control their differentiation.

In order to provide against that more particularly, and in order to provide a system of representation throughout the United States of all of the great industries, and the small ones, too, in connection with interstate commerce, I think there ought to be some principles conserved, some ground of reason and logic connected with our geographical condition as well as our division into States and Territories, and so forth. I propose, Mr. President, an amendment which is based upon the proposition that every seaport in the United States, whether it is upon the lakes, upon the gulf, upon the Atlantic, or upon the Pacific, should have a representative on this board. I have divided the nine districts which I propose to create, so that six of them are maritime divisions and two of them are interior divisions, that relate to the great mass of the productions of the country. The distribution which I seek to make in this amendment is a fair and just one. It includes those States which are already prosperous, and already heavily settled, and those States which have a future that will equal, if it does not exceed, the population, progress, and wealth of the older States of the American Union. It is fair and just to all of them.

I will state that whatever disposition is made of this amendment to-day—I have not had an opportunity to offer it sooner, and to get it printed in the ordinary form—but whatever disposition is made of it to-day, unless it should be adopted, I will take occasion to call attention to it again in the Senate, after the bill goes into that body, so that Senators may have an opportunity of studying its merits. If it has not merits, I do not want it to be adopted; if it has merits, I think it is a matter that will concern every Senator on this floor.

I ask the Secretary to read the proposed amendment. Can I have it read without taking it out of my time, Mr. President?

The VICE-PRESIDENT. Without objection, the Secretary will read the amendment proposed by the Senator from Alabama.

The SECRETARY. On line 4 of Mr. LODGE'S amendment it is proposed to strike out all after the words "Interstate Commerce Commission," down to and including the word "circuit," in line 8, and to insert the following:

Nine commissioners shall be appointed by the President under the provisions of this act, by and with the consent of the Senate. They shall be natives and citizens of the United States and shall have resided for a period of not less than two years in the State from which they are appointed.

Six maritime districts and two interior districts are hereby constituted, from each of which one of said commissioners shall be appointed, but not more than one commissioner shall be appointed from the same State.

The eight districts shall comprise the following-named States:

The first district shall consist of the States east of the Mississippi River that border on the Great Lakes of the north or on the Dominion of Canada and shall include the State of Maine;

The second district shall include the States south of the State of Maine that border on the Atlantic Ocean to the southern boundary of Maryland;

The third district shall include the States that border on the Atlantic Ocean south of Maryland, except the State of Florida;

The fourth district shall include the States that border on the Gulf of Mexico, including Florida;

The fifth district shall include Oregon and California;

The sixth district shall include the States that border on the Pacific Ocean and on the British possessions as far to the east as Minnesota;

The seventh district shall include the interior States not included in the sixth district that are west of the Mississippi River; and

The eighth district shall include the interior States that are east of the Mississippi River and are not included in another district.

The President shall appoint, by and with the advice and consent of the Senate, a president of the said commission, who shall be chosen from any State in the American Union from which no other commissioner has been appointed. A vice-president shall be chosen by the commission to perform the duties of president in case of a vacancy in the office of president, or in case of his absence from the United States, or of his disability, until a successor is duly appointed and qualified.

Mr. MORGAN. Now, Mr. President, the Senate has got a view of the nine districts I propose in respect of the appointment of the Commission. Six of them are distributed around the seaboard of the United States, touching every point on it where a vessel from abroad can engage in commerce with our people. Two of them are interior districts from the States that are not included in the maritime districts, and the ninth district is the entire Union, from which the President of the United States appoints the president of the Commission. That is enough for me to say just now as to the geographical disposition of this subject.

I think all Senators will see that the plan I propose is just to every part of the Union and that it will prevent that calamity to which I look forward with greater apprehension than any other connected with the passage of this bill—this power that I have named of differentiation between the ports of the different States by a commission who shall be assembled from a certain part of the Union.

Take the great manufacturing centers, the great commercial centers, and the great cities that they represent and appoint your commission from the surrounding country and let them go to differentiation, and there will be complaint against this bill that will destroy it in the first session after it has been enacted; there will be practices that will be complained of, whether justly or not, in respect to differentiation by the Commissioners.

The Senator from Massachusetts has overcome that difficulty. As I say, he had it in his mind when he adopted the programme of judicial districts as the basis of his amendment. His amendment and mine are alike exactly, except in respect to the method of distribution of the districts for making the appointments.

I do not know, Mr. President, that it is worth while to attempt to argue a proposition which, when stated, carries a conclusive effect upon its face of justice and propriety and safety to all the different interests of the United States.

I lament the fact that I did not have the opportunity yesterday evening to have the amendment put in print so that I could have it considered by the Senate. The most that I can do now

is to submit it to the Senate and let the Senate pass upon it. If it is voted down, of course I will present it again in the Senate when the bill is open for consideration.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Alabama yield to the Senator from Maine?

Mr. MORGAN. For a question, yes.

Mr. HALE. I thought the Senator was through.

Mr. MORGAN. No.

Mr. HALE. I do not wish to interrupt the Senator.

Mr. MORGAN. Some apprehension is felt in this body, Mr. President, in regard to the political complexion of the members of this great Commission. It would never have occurred to me that it was proper or necessary to put any such qualification in the bill, but others seem to think differently, and, as we have done on many occasions here—I think with impropriety on every occasion—the political affiliations of the appointees under a measure are distributed between the two great leading parties of the United States.

This bill provides that not more than five of the nine Commissioners shall belong to one political party. It is almost impossible to look over the South and to state the character of the men in the South who are fit for such a position as this without discovering the fact that their politics would rule them out, perhaps, in a very large degree from participation in the work of this Commission. Of the four Democrats who are to be chosen, they would either all come from the South or at most we might get two of them. That suggests to me a difficulty in the execution of this law which may have a very ill effect upon its success as a great legislative measure. I can say this, Mr. President, that there are Democrats, and Democrats of ability, in the South who are so deodorized that the President perhaps would have no difficulty in finding some way of appointing them to office, and I am willing to put up with that class of Democrats rather than not to get the matter through. So that I will not object on that ground to this bill. I think it is really an improper provision, but I do not propose to criticise it or to object to it. Neither do I find any objection to any other of the provisions of the amendment of the Senator from Massachusetts. I have not introduced my amendment with a view of combating any other provisions in his amendment; I merely ask to strike out in line 4 of that amendment the words:

> Said Commission shall consist of nine members, one for and from each judicial circuit of the United States, who shall have been for two years immediately preceding his appointment an actual resident in such circuit.

I move to strike out those words and to insert my amendment in lieu of them. I also ask that my amendment be printed.

The VICE-PRESIDENT. The amendment of the Senator from Alabama will be printed, as requested.

Mr. McCUMBER. Mr. President, I wish to take this occasion to voice a sentiment against this attempt, surreptitious in its effect at least, to select a few of the Federal officers of a certain grade and to grant them excessive remuneration as compared with other Federal officers doing a like character of work.

I for one, Mr. President, am in favor of a readjustment of all the salaries of Federal officers, from top to bottom. The time has arrived when that ought to be done, but it ought to be done systematically, and with a view, as far as possible, of eliminating the inequalities in the pay of the several branches of the Federal service throughout the country.

What I do not like is the system that is growing here to create commissions; and every time we create a commission we give them a salary two or three times above that which is given to other officers of equal grade at least and who fill Federal places requiring at least equal intelligence, ability, and integrity. I would ask the Senator from Massachusetts [Mr. LODGE], who time and again upon this floor has declaimed in favor of the personnel of the circuit bench of the United States, who has spoken so highly of them and declared that they were the very best men in the country and could scarcely be improved upon, how it is that we can secure such men as they are for $7,000 per annum, and yet, at the same time, we can not secure proper men for positions on the commission proposed to be created without immediately providing salaries of twelve thousand and twelve thousand five hundred dollars per annum?

The Senator says he wants not only intellectual men, men of ability, but he wants to add a dignity to the Commission. Therefore, assuming that our circuit court judges are men of ordinary ability, and that six or seven thousand dollars is sufficient for them, the Senator then would pay seven thousand dollars for the service and six thousand or five thousand dollars for the dignity of the particular persons who are to be selected for these official positions.

Mr. President, I deny that we can not fill these offices without paying such excessive salaries. It has been declared over and over again that in order to properly conduct such a project as the Panama Canal it is necessary to get the very highest paid men, and then, instead of taking the average pay of men of that character throughout the United States, you select simply the salaries that are paid by a few of the great corporations which can afford to pay enormous salaries. We said we could not get the proper engineers at less than forty or fifty thousand dollars a year, and so we select engineers at the rate of twenty-five and thirty thousand dollars. We selected one engineer who went to work there and dug out a large portion for this canal, and we were paying him $30,000 or $25,000 a year for his services. Immediately another one of your $30,000 engineers came in and declared that not only had the dirt been removed where it was not necessary to remove it, but that the refuse was placed where it would have to be moved again. So we find this great disagreement among those $30,000 men, and I submit to the Senate we can get just as bad work as that done at a great deal less expense.

Mr. MORGAN. In justice to the engineers who have been alluded to, I desire to say that the Committee on Interoceanic Canals have gone into a full investigation, and that it is quite an incorrect statement to say that any earth has been dumped at any place on the canal where it will have to be removed.

Mr. McCUMBER. I simply have the testimony of one of the men on the Commission, which was taken here and read in the Senate, in which it was declared that the removal was from a place where it was unnecessary to remove it, and that it would have to be removed from the place where it had been dumped. I can not give the names at this time, but I believe Shonts was the one testifying, and he had reference to the work done by Wallace.

Mr. MORGAN. Will the Senator name that Commissioner?

Mr. McCUMBER. Wallace.

Mr. MORGAN. Wallace?

Mr. McCUMBER. Yes.

Mr. MORGAN. The Senator is entirely mistaken.

Mr. McCUMBER. I am not mistaken.

Mr. MORGAN. Wallace made no such statement.

Mr. McCUMBER. If I had the record, I could follow this up. I remember distinctly what I read.

Mr. MORGAN. You had better look it up in the record.

Mr. McCUMBER. I think there are other Senators who will concur with me in that proposition.

The intellectuality of one individual is not so much superior to the average that his services are worth five and ten times the amount of the average pay. We want on this Commission, first, good, honest men. We want conscientious men, and, then, above all, we want workers. I would care more for a man who could work sixteen hours a day and work hard than I would for the most brilliant one that could be selected in the United States. For after all it is labor that is going to count. It does not require such brilliancy as it does good, common sense and a conscientious spirit in doing the work. No man can go on this Commission and be prepared immediately to go on with the work. It will require a year or so of hard labor before he is able to do the work properly. I think no one will doubt that.

Mr. President, if we shall proceed on the basis of the proposition of the Senator from Massachusetts, that you are always going to secure greater intellectuality in proportion to the amount you pay, then we ought to pay fifty or a hundred thousand dollars. But what I submit is that we will get just as good men by paying a reasonable price. What is that price? The Government should never be penurious in the payment for services rendered the Government. It should always be liberal. It should pay an amount sufficient to enable the person who goes into its employment to support himself and family respectably in the place to which he is assigned. If it goes under that, it is penurious. If it goes above that, then it is doing injustice to all of the other Federal officers who are compelled to labor in similar positions for less compensation.

We have in this body an ex-Attorney-General, a man who perhaps, in his own home and in his own practice could earn fifty or a hundred or three hundred thousand dollars a year. I do not know what his income might be; but I know that we have as good lawyers in the Senate to-day as there are in the United States, and they are serving for a salary of $5,000 per annum. Many lawyers, when they left their own practice for Government employ, were satisfied to accept an amount not more than a quarter of what they might earn in their own private practice. There is honor in the position. There is a desire on the part of men to work in the public service, not only for the good that they can do to humanity, but also with the assurance that the little perplexities, the continual contest in-

cident to the struggle for existence in life are to a great extent laid aside, and the mind can be given directly to its work rather than to a great extent in securing remuneration for services performed. That is a reason itself. That is one reason why we get men who can earn $50,000 a year and place them on the Federal bench at $7,000 per annum.

It seems to me it is absolutely unjust, so long as we are paying to our Cabinet officers $8,000, to place the salary of one of these Commissioners at $12,000. Does it not require just as great ability to occupy the position of Secretary of State as it does to be upon this Commission? Are not the things to be considered by him as important to the country? Does it not require four times as much labor to fill the position of Secretary of the Interior, looking after not only the details, but generally after all matters of the interior interests throughout the United States, as it does to be a member of this Commission? And yet the Secretary of the Interior gets but $8,000.

Mr. President, I want to say that for one I will not vote to raise any salary above what is the usual amount paid by the Government of the United States for services of like character until we reach that point where we may have a readjustment and place them all exactly where they belong. I want to protest against this systematic attempt to select a few favored commissions and pay the commissioners salaries two or three times above what is paid for equal service throughout other sections of the country.

Mr. President, it seems to me upon the other proposition we could reach it by a simple amendment, that in selecting the Commissioners they should be appointed by the President so that all sections of the country, as nearly as possible, should be represented by the personnel of the Commission. The President would understand what that meant. He would be at liberty to make his selections where he thought best, and I am certain that so far as possible each great section of the United States would be properly represented. When the proper time comes I shall move, although the proposition may have but one vote in the Senate, that the salary of the Commissioners shall be just exactly what they have been serving for for the last ten or twelve years—$7,500.

Mr. McCREARY. Mr. President, I am not in favor of the amendment proposed by the Senator from Massachusetts [Mr. LODGE]. I do not think there is any necessity for increasing the number of Interstate Commerce Commissioners to nine. While we should have honest, able, and industrious Commissioners, the number should not be too great. According to my observation a large number of Commissioners generally do not work so well together as a smaller number. I am not in favor of increasing the salary of each Commissioner to $12,000 per annum, as proposed by the Senator from Massachusetts in his amendment. The work of the Commission will be increased in the future; the effect of the pending bill will be to give to the Commission more work and more responsibility than they have had heretofore, and I am in favor of increasing the salary; but I do not believe the salary should be increased to more than $10,000 per annum. We pay our heads of Departments only $8,000. We pay our judges of the Supreme Court $12,500. I see no reason why we should increase the salary of the Interstate Commerce Commissioners from $7,500, which I believe is the amount now allowed them per annum, to more than $10,000.

I am in favor, Mr. President, of that part of the amendment of the Senator from Massachusetts which preserves this, as it is now, as a nonpolitical Commission. The members of the Interstate Commerce Commission should be chosen from both parties. There should be nothing to indicate that it is a political Commission.

I am heartily in favor of the legislation to enlarge the powers of the Interstate Commerce Commission. We see what great questions the Interstate Commerce Commissioners will have to deal with when we remember that the Interstate Commerce Committee was engaged for nearly a year in taking evidence, and we have been debating questions relating to the regulation of railroad rates here for nearly four months.

We need good men for the position of Commissioners. They should be men who are honest, who are able, who are industrious, who are independent, who will do their duty no matter what obstacles are thrown in the way. I am in favor, after this bill is passed, of the President of the United States, by and with the advice and consent of the Senate, appointing a commission to take the place of the present Interstate Commerce Commission. I admire the present members of the Commission. I believe we have at the present time able men, good lawyers, honest men, men worthy of the positions they hold; and if the President of the United States regards them as in every respect suitable, they can be reappointed. There will be nothing in the bill to prevent their reappointment.

But I am not in favor of appointing nine. I am in favor of appointing seven, the number prescribed in the bill which passed the House. I think seven Commissioners are enough, and I think when they are allowed $10,000 per annum the salary is sufficient. I am not in favor of having only one Commissioner from the South, as we had for many years. I have heard in this debate that there are two from one United States judicial circuit. I am not in favor of appointing nine Commissioners from nine United States judicial circuits. I do not believe that is the proper way to select them. But I am in favor of the appointment of seven, and they should be as nearly as possible selected from the various geographical sections of our country.

A suggestion made yesterday by the Senator from Texas [Mr. BAILEY], that they be appointed after dividing the United States into seven transportation districts, is very good, and I hope that he has examined that question and will be able to present us seven transportation districts fairly and justly laid out and described.

Mr. President, I regard the section of the bill relating to the appointment of Commissioners as one of the most important sections of the bill. If we have a good law—and I believe we have improved the bill that came to us from the House, and I hope and believe when we get through we will have a good law, certainly a good law as a start; nothing is ever perfect in the beginning; I believe when we get through with it we will have passed a bill that will be a good start toward the accomplishment of what we desire—if we have a good law, unless we have the right kind of Commissioners to carry out the law we can not expect it to be a success.

I hope and believe the President of the United States, when he comes to select the seven, if that shall be the number, and I hope it will be, will give us able men, industrious men, brave men, honest men, and that they will discharge their duties fearlessly, and that the country will be pleased with the law they are executing.

Mr. PERKINS. Mr. President, the bill before us as it came from the House received the consideration of the Senate committee for some four or five months or longer, I think. At all events, five large volumes of testimony have been presented to us for our consideration, which none of us or very few of us have read or digested. That committee has not seen proper to report any amendment to this section of the bill.

Mr. LODGE. To what section of the bill, if the Senator will allow me, did the committee think it proper to make amendments?

Mr. PERKINS. I can not speak for the committee.

Mr. LODGE. The Senator knows very well that the committee reported no amendment to any section.

Mr. PERKINS. I merely speak of the bill as it is before us for consideration. The Senator from South Carolina [Mr. TILLMAN] has not been backward in presenting amendments.

Mr. LODGE. The Senator knows very well that the committee did not report amendments to any section.

Mr. PERKINS. Admitting that, experience has demonstrated that a committee of five has done very excellent work. A commission of seven, it seems to me, judging from my business experience in companies, would be quite ample to perform the duties devolved upon the Interstate Commerce Commission. The House has fixed the salary at $10,000 per annum, with all their traveling expenses, incidental expenses, and those of their secretaries, clerks, and messengers, who accompany them while the Commission is sitting to hear testimony in cities other than the capital. I am willing to accept their recommendation. If the Representatives think that the salary of the Commissioners should be twice that of a Member of the House of Representatives, that it should be $10,000 per annum, that it should be $3,000 more per annum than that of a circuit judge of the United States, well and good; I am willing to vote for the section of the bill as it is presented to us from the House, and as it comes to the Senate from the committee.

I want to say in passing, though, that I do not believe the payment of a $10,000 salary or a $20,000 salary will get us any more capable or any more honorable Commissioners than those we have at present, or those who will accept appointment under this bill. I have lived long enough to realize the fact that telltale money drawers and bell punches do not make honest men. There must be a higher motive actuating men in the performance of their duties than a physical monitor upon their actions. It must be their own conscience which prompts them to do that which they believe to be just and right. If we have the approval of our own conscience, there is nothing to reproach ourselves with even if we make mistakes in our official life.

The only defect in this section which I should like to see remedied is with respect to the distribution of the Commis-

sioners. Perhaps it can be remedied, in accordance with the suggestion of the Senator from North Dakota, by adding that all geographical sections of the country shall be represented in the selection of the seven Commissioners, or it may be done by dividing the country into seven transportation districts on an equitable mileage or population basis in those districts.

What I am particularly desirous of seeing done in this bill is that we in the West—and I define the West in this instance as the country west of the Missouri River—may have one member on the Interstate Commerce Commission. Since it was established in 1887 we have been struggling and striving by our recommendations and indorsements to secure the appointment of a Commissioner from west of the Missouri River. We come from the great Pacific coast, reaching from San Diego to Point Barrow, certainly from San Diego to Puget Sound, in which territory there are many thousands of miles of railroad. Conditions there are so different from what they are on the Atlantic coast, with mountains and low valleys, that it is necessary that a Commissioner should be familiar with the geographical conditions there existing.

We succeeded only a few weeks since in prevailing upon the appointing power to select a Commissioner from west of the Missouri River. The committee to which the nomination was referred believed the spirit, if not the letter, of the interstate-commerce act had been violated, and so the nomination has not been reported to the Senate, and we have no Commissioner. Therefore I want to see this bill so amended that the Western States of this country, certainly those west of the Missouri River, may have one member on the Interstate Commerce Commission. A friend informs me that ex-Senator Cockrell comes from west of the Missouri River because he comes from Missouri. Kansas City is in Missouri, although it is very near Kansas. No one has more admiration or respect for ex-Senator Cockrell than I have. I was associated with him for some ten or twelve years upon the Appropriations Committee of the Senate, and I never met a more high-minded or conscientious man in the performance of his duties. He came to California, or started there once. He says he will go some time, and when he does he will be a Commissioner for California. Indeed, I think California would recommend him as her Commissioner.

I believe the proviso in the original act that no more than three members of any political party shall be eligible to appointment on the Commission is a wise one. If the Commission is to consist of seven members, I believe the same proviso should prevail—that not more than four of those members should belong to the same political party. The same law prevails in the case of the United States appraisers.

Mr. HALE. Will the Senator allow me to ask him a question?

Mr. PERKINS. With pleasure.

Mr. HALE. Is not the present Commission made up of all lawyers?

Mr. PERKINS. Well, I know some lawyers who are very excellent gentlemen, and very able men, and very honest men.

Mr. HALE. So do I.

Mr. PERKINS. And I would be willing to leave my case to them—for instance, to the Senator from Maine.

Mr. HALE. I am not on the Commission.

Mr. PERKINS. No; the Senator would not accept the appointment.

Mr. HALE. There has been some talk about lawyers, and I want to bring out from the Senator the fact, as I understand it to be, that the present Commission is made up of all lawyers.

Mr. PERKINS. Judging from our experience in the Senate, it is difficult for lawyers to agree, for I do not think any half dozen of them have agreed on any proposition we have had pending before us here. I am frank to confess that if I were on the Commission I should like very much to have the counsel and advice of as good and as able a lawyer as my friend the Senator from Maine. But it does not necessarily follow that I would take it. But I like to hear what he has to say, for he always has something interesting to say. He reasons well, but, then, in many opinions of our judges the conclusions are quite different from the reasoning.

Mr. President, I think, with the Senator from Maine, that there should be some practical men upon the railroad Commission. I have in mind a gentleman whom I have known for over thirty years, who started as a clerk in a railroad office at seventy-five or a hundred dollars a month. To-day he is the leading railroad traffic manager in the United States. After thirty-odd years' experience he has acquired a knowledge of railroad traffic which makes him invaluable to the company employing him, and the salary he is paid is three times that which we propose to pay to these Commissioners. As I say, I think the suggestion of the Senator from Maine is excellent, that there should be some practical men upon the Commission. By that I mean men of experience in the transportation business. I myself followed it some thirty years, and I realize that I know very little about it. The magic of the different transportation tariffs would puzzle even the best player of chess that we have in this city or elsewhere. The different classifications of goods and the doubling of those rates and the different technical instructions that are given to the subordinate clerks to carry out would mystify almost anyone not familiar with the transportation business.

So I hope, Mr. President, that this section of the bill as it comes from the House will be, in the main, accepted and presented to us. With this increase of the number above seven, if we think we can get better service by paying $10,000 or $12,000 per annum, we should do it. An associate justice of the Supreme Court receives only $12,500 per annum. The Secretary of State, the Secretary of the Treasury, and all the other Cabinet officers receive only $8,000 per annum. A United States circuit judge receives $7,000 per annum, and a United States district judge $6,000 per annum. Yet no one of these gentlemen could seek the appointment, or would be eligible to it, without devoting many years to the study and the practice of the profession which they honor by being placed in a judicial position.

I want to reiterate, Mr. President, that I believe this section should stand, in the main, as it is. Let us amend it so that the President may feel that he is instructed by Congress to recognize the different geographical sections of our country in selecting the Commissioners for this great and important trust.

Mr. HALE. Mr. President, the Senator from Vermont [Mr. PROCTOR] asks me in that tempestuous way which characterizes him [laughter] whether I have not already spoken once upon this amendment.

The VICE-PRESIDENT. The record shows that the Senator from Maine spoke upon the amendment of the Senator from Massachusetts, but he has not spoken on the amendment proposed by the Senator from West Virginia to that amendment.

Mr. HALE. I knew that very well, Mr. President, else I should not have risen.

Against the Interstate Commerce Commission I have no prejudice, and its work I recognize, as it has been getting in its work overnight. Not long hereafter, some time during the day, the Senate will be met with the question whether it proposes to enlarge the scope of the Interstate Commerce Commission and make its constitution commensurate with its importance. I have only the expectation of making the Senate in anything that I say look at the real issue.

The amendment proposed by the Senator from Massachusetts as amended at my suggestion is not, as it has been attempted here, to make a New England or an eastern movement. If Senators do not see that, they do not see the real situation. New England and New York, which under any new arrangement or any recasting of transportation districts would come into one district, as they ought, have already two members of the Commission out of five, and neither Massachusetts nor Maine, nor New England generally speaking, is in any way dissatisfied with that apportionment, so far as numbers or persons go.

Nor is this a question of maintaining the discrepancy of judicial circuits, which is very patent indeed, and is only to be accounted for in the discrepancy between the different districts as to population, extent, and business, by the fact that when these circuits were created there was but little either of population or business beyond even the Mississippi River, not to say the Missouri. All that has changed.

Neither the Senator from Massachusetts, nor I, nor anyone who is in favor of recasting the districts for a moment want to adhere to the old judicial circuits. The moment the Senator from Texas arose in his place and suggested to me that a better way would be to provide for nine transportation districts, marking their great geographical outlines conforming to the population, business, and railroad employment, I stated frankly to him I had not thought of that, but believed it would be a good emergence; and the Senator from Massachusetts, who reported the original amendment, at once indicated not only his willingness, but his desire for it.

Now, when Senators come to that, they will be confronted with the issue raised here by the present Commission of leaving it undisturbed or of extending it so that it shall ramify in its personnel into every part of the country. Are Senators from these great outlying districts, which are not represented now, and which comprehend more than one-half of the population and business of the United States, content not to be represented on this Commission? Do Senators really believe what has been suggested by one or two Senators, that we could afford to leave

this entirely to the President and let him select if necessary all of the Commissioners from one State or three States? I do not believe when the Senate is confronted with that question it will agree to keep the present situation as it is, and oblige us to keep all of the present Commissioners, maintaining that organization with only a little addition. I do not believe the Senate is going to accept that proposition when the Senate understands all that is sought to be accomplished by this amendment. There will be an amendment offered that will cover the idea of a division into transportation districts. I do not think then the Senate will be prepared to say that it will go no further.

When these districts are created, as they ought to be, and when we provide such compensation as shall secure the strongest men upon the Commission, then in appointing them, if the President believes the members of the present Commission are the best men, he will appoint them, provided they have their residence in the transportation districts as laid out, if the appointment is subject to that limitation.

Now, Senators have got to decide. As I said, the Interstate Commerce Commission has got its work in. It may have a majority in this body. Let me tell Senators what will happen if the present Commission, without meaning to reflect upon them, is to be practically the entire part of this Commission. There will be the same feeling of uneasiness, the same disposition to appeal, the same disposition to carry cases forward, so that at last the court shall be the rate fixer. This feeling and disposition will not be ended, but will be increased; and the country will find the condition which exists now of dissatisfaction with the Commission increased, and the opportunities that are given in the present bill of allowing parties to get to the courts will be taken advantage of at once more than now.

On the other hand, as I tried to show and to explain yesterday, if you will let this be a great commission, representing every part of the country, with great, strong men upon it, you will have a commission from which there will be but few appeals; the courts will not be the rate-making power. But if you keep the Commission as it is, the Commission will not be the rate-making power; cases will go by appeal and will be presented under the statute, as we have framed it, to the courts, where they ought not to go. We ought to have so great a tribunal, Mr. President, that men will think twice, the companies will think twice, the lawyers will think twice, everybody will think, before undertaking to disturb the conclusions of this great Commission.

I protest against the attempt which has been made to show or to claim that this is an eastern project, a New England project, a Massachusetts project, a Maine project. It is precisely the reverse. I want to see this power distributed. I want to see transportation districts established as they will be if the Senate does not decide that the present Commission shall stand. I want to see transportation districts established commensurate in size with their importance, and men appointed commensurate in ability with the importance of their work; and then we will be rid of this question. But Senators have got to confront in their votes the question whether they will leave things as they are or will go into this other, not only extended, but, as I believe, better domain of legislation.

Mr. BLACKBURN. Mr. President, I appreciate as fully as anyone can, the value attaching to the extended debate which has been had upon this measure, nor am I lacking in a full measure of appreciation of the ability which has been displayed on all sides in the discussion of the new, novel legal questions that have been involved. But I feel warranted in saying that the amendment now pending, coming as it does from New England, from the Senator from Massachusetts, as amended by the Senator from Maine, in my judgment strikes the practical valuable features of this measure. I wish to take occasion now to express my appreciation of the fairness, the breadth of view, the utter lack of sectionality, that is embodied in the amendment now before the Senate. The Senator from Maine is fully justified in repudiating any suggestion of its being circumscribed by geographical consideration.

Upon the contrary, sir, the great sections of the West and the South are not fairly represented upon the Commission as it stands to-day, nor will they be fairly represented until some proposition such as the pending amendment shall be incorporated into the bill. I never have seen in my somewhat extended observance of legislation, a more unselfish, a broader, fairer, more admirable proposition than the one offered to the Senate by these two New England Senators now.

As to the increase of membership upon the Commission, I differ from the conclusion expressed by some here this morning. It seems to me that there is a pressing necessity for the increase in membership of the Commission. We know that to-day a part of the Commission are taking testimony in the western city of Chicago and have been for weeks. We know that this is continuously happening. We know that the Interstate Commerce Commission, during all the years of its existence, has been acting like a committee, through subcommittees, in different sections of our vast territory, and that there is not for any considerable length of time throughout the year more than a nucleus here at the capital of the five Commissioners. The subcommittees, just as the one employed to-day at Chicago, are scattered, taking testimony upon complaints filed in all the different States of this great Union.

I believe the Senator from Maine has contributed very largely by the suggestions he has submitted here as to the character of the Commission. I agree with him, further, in the conclusion that just as you shall select and constitute the Commission, you will decrease the present tendency to appeal from its findings. I believe with the Senator from Maine that if you will build up a commission of men whose capacity, whose character, whose ability inspire confidence and command the respect of the American people, you will see a rapid dwindling of the appeals from its findings to the courts of law. I believe that that is the best practical way to do away with the friction of which complaint is so generally and so justly made.

I do not think that you can go too far in stating the importance of furnishing to the country in this Commission, when it shall be constructed under the provisions of this act, a body of men in whom the public will repose as full a measure of confidence as they do in that of any judicial tribunal in this land. What boots it, then, to the carrier to appeal? Is he likely to prosecute that appeal when he knows he is going to a tribunal that is not possessed of any more ability, of any greater sense of fairness, of any more character than the one to whose findings he is objecting? The motive for an appeal is removed.

What we want, I take it, Mr. President, in the enactment of this measure is, if it be possible, to make such a law that in its operation and its application it will do away with the necessity of appeals altogether.

Mr. FOSTER. Mr. President, will the Senator allow me to ask him a question?

Mr. BLACKBURN. Certainly.

Mr. FOSTER. In what respect have the duties or labors of the Commission been so enlarged by the pending bill as to justify an increase of nearly double the membership?

Mr. BLACKBURN. I do not understand that the bill contemplates doubling the membership of the Commission.

Mr. FOSTER. The amendment proposes to increase the number from five to nine.

Mr. BLACKBURN. Upon the contrary, I think the answer to the question of the Senator from Louisiana is found in two directions. The bill confers in express terms upon the Commission the power to fix rates. That certainly is a power that has not been exercised by the Commission for the last eight years. That surely will increase the burden of labor that rests upon the Commission.

But that answer is not necessary, I apprehend, to justify the amendment proposed. It is found in the fact that the labors of the Commission must in the very nature of things keep pace with the development, the growth, and the expansion of business in this country.

I have not advocated the increase of salary to the extent proposed in this amendment, nor do I know that it is necessary. But upon that point, I will suggest that it is the easiest matter possible to draw contrasts such as the Senator from North Dakota [Mr. MCCUMBER] indulged in a little while ago when he spoke of the proposed salary as enlarged by the amendment being altogether out of proportion to that paid to Senators and Representatives in Congress and to Cabinet officers.

It is just as easy, Mr. President, for us to make these glaring contrasts apparent if we undertake to compare existing salaries, for surely there is no Senator who will claim that the salaries of the public officials to-day are based upon any consistent, logical, common-sense, or defensible theory. As long as the Clerk of the House and the Secretary of the Senate, or the Sergeant-at-Arms of either one, is paid more salary than a Senator or a Representative is it necessary to go further in order to sustain the assertion that there is no consistency, no logic, no defensibility in salaries existing now?

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kentucky yield to the Senator from New Hampshire?

Mr. BLACKBURN. Certainly.

Mr. GALLINGER. If the Senator will permit me, would not his suggestion warrant a suggestion on my part that a bill I introduced two years ago, and reintroduced at the present session, which is now pending before a committee of the Senate, proposing a reasonable increase in the salaries of mem-

bers of this body and the House of Representatives, ought to receive favorable consideration?

Mr. BLACKBURN. I answer very cheerfully and in the affirmative. I go further in that direction, Mr. President. I do not believe there is a man borne upon the pay rolls of the United States Government, whether he be Supreme Court justice or what not, saving and except the single representative of the executive branch of the Government, whose pay should be one penny more than the pay of a United States Senator or a Member of the House of Representatives. It is impossible, in my judgment, to conceive of a pay roll more inconsistent, more illogical, more indefensible, than the one we are carrying to-day.

The amendment pending here is equally acceptable to me, whether the salary stays at $7,500, $10,000, or $12,000, for I indorse, I repeat, the utterance of the Senator from Maine, delivered here yesterday, when I say that, in my judgment, the salary we are to pay to the men who are to constitute the Commission, if it shall be constructed as it ought to be, if it shall be builded out of the material it ought to be builded from, is a mere bagatelle in the consideration of this amendment.

I shall cheerfully vote for the amendment.

Mr. NEWLANDS. Mr. President, I have had some difficulty in reaching a conclusion regarding this matter. As to the question of salaries, I quite agree with the Senator from Massachusetts that the salaries should be increased, and if that issue alone were to be presented, I would vote in the affirmative.

As to the number of the Commission, my inclination has been rather to increase the number than to maintain its present status. But, upon reflection, I have come to the conclusion that the bill will simplify the duties of the Interstate Commerce Commission instead of enlarging them. Under present conditions the Interstate Commerce Commission is called upon to make the same inquiries that are instituted by this bill. The difficulty has been the lack of power in the Commission to enforce its orders. Under the pending bill the Commission has positive powers. It is no longer compelled to take the initiative against the carriers in the courts to enforce its orders. It will be on the defensive rather than on the offensive, as heretofore.

I think, therefore, that with the added powers the duties of that Commission can be performed with less waste of time than in the past.

A SMALL COMMISSION BETTER THAN A LARGE ONE.

So far as their deliberations are concerned, I am inclined to think that the smaller the Commission the better; that a commission of five sitting in deliberation upon a particular question involving matters of fact and of law can come to a conclusion more easily and more quickly than a commission of seven or a commission of nine.

But it is suggested that the Commissioners are engaged in taking testimony in different parts of the country. I believe it is the custom to assign to a particular Commissioner or a few Commissioners the duty of taking testimony with reference to a particular complaint. The result is that where sessions are held as a matter of convenience in different parts of the country the Commission is necessarily divided. I can conceive it quite possible that at least eight out of the nine commissioners might at any time be absent from Washington, each pursuing a separate inquiry in a different section of the country.

As a matter of convenience in taking testimony it is possible that the increase in the number of Commissioners may expedite the taking of testimony, but I apprehend that in each case the entire Commission sits in judgment; that the testimony is reported to the entire Commission, and so they sit in deliberation and judgment. I do not know whether existing legislation provides for taking testimony by any person other than a Commissioner, but it seems to me if it does not we might add legislation giving the Commissioners the power to appoint examiners or officers similar to masters in chancery to take testimony and to report it to the Commission. I believe only the very important cases should draw the members of this Commission from Washington, for the more important consideration is the deliberation and the conclusion of the whole Commission regarding a particular complaint.

So, accepting as I do the view that five Commissioners can deliberate more effectively regarding these matters than seven, I shall vote for five rather than for seven; I shall vote for seven rather than for nine; and I am sure that so far as taking testimony is concerned, if it is found that the labor of the Commission requires the services of more men than constitutes the present or the future Commission, legislation can be shaped which will give them the assistance that they desire in the power to employ examiners who will take the testimony.

With reference to the districts from which these Commissioners shall be appointed, I, of course, realize that they ought fairly to represent the entire country, and that the Executive, in selecting them, should have in view the entire country, so that each section will be fairly represented on that Commission in proportion to its population, its business, its traffic, or its railway mileage, and I assume that the President will always take these matters into consideration, just as he does in the appointment of the members of the Supreme Court. I do not believe there has ever been any complaint that the Supreme Court is not sufficiently national in character; that it does not sufficiently represent every part of the country; and yet the President is not compelled to appoint members of the Supreme Court from particular districts or from particular sections of the country. What I fear is that if we designate these districts, we then shall give these appointments the character of sectionalism; that if a man is appointed to this Commission from a particular district, embracing six or seven States, he will feel when he goes on that Commisssion that he represents those States and that the people of those States are in a measure his constituency. I am sure that is the feeling in Congress, and properly so. I am sure that every Member of the House of Representatives feels that he represents a particular district and a particular section, and that it is his duty to look out for that district and that section. So also in the Senate we represent our States.

THE COMMISSION SHOULD BE NATIONAL, NOT SECTIONAL, IN CHARACTER, AND FREE FROM POLITICAL PRESSURE.

I should deprecate that sentiment with reference to this Commission. I feel that every member of it should realize the national character of that body and that he represents the entire people and not any particular section of country or of the people. I fear that a Commissioner selected from a particular district would be likely to feel that he represented that particular district and that particular constituency and that it must be the especial object of his regard and solicitude, and I fear that the people of that district might also look upon it in the same way. They might feel that he was their special representative; that he was there for the purpose of looking out for their interests; that he was there to look out for the particular interests of the section or the district from which he was appointed, and that if he, having in view the national character of his position, should render decisions that were adverse to his particular section the people of the section or district which he represented would regard such decisions as opposed to their business interests and would express their dissatisfaction. I fear that when such Commissioner came up for reappointment there would be political action in that particular district; that there would be an effort made to prevent his reappointment, and that thus gradually we might introduce in this Commission the opinion that the Commissioner represented not the nation, but a section, and that a Commissioner best discharged his duty who looked out for the interests of the people whom he represented. So, Mr. President, I shall oppose any amendment which provides for these appointments from districts.

THE COURTS SHOULD NOT INFRINGE THE ADMINISTRATIVE POWERS OF THE COMMISSION.

My own judgment is that we had better leave this section just as it came from the House of Representatives, increasing the salary, if that should be the judgment of the Senate. I believe with the Senator from Maine [Mr. HALE] and the Senator from Massachusetts [Mr. LODGE] that this Commission should be made a tribunal of the highest character and dignity, the greatest administrative body of the country, and approaching in dignity and in character the Supreme Court of the United States. It is with that view that I have voted against any proposition which would seem to give the courts any control over the administrative functions of this tribunal. I have been solicitous that the administrative powers under the acts of Congress should be entirely separate from the judicial powers of the courts, and I was content to leave those judicial powers unimpaired, to be exercised by the courts according to their custom and according to known remedies, whether by preliminary or permanent injunction in the protection of property. Feeling that they had the jurisdiction, I have been desirous that they should define their own powers upon this matter, and I have felt satisfied that they would confine them in the future, as they have in the past, simply to the determination of the question as to whether the action of the Commission was such as to prevent the carriers from receiving a fair return upon their property. I think we have kept these powers measurably separate, although I am not altogether satisfied with the provision for court review that has been adopted. I am inclined to think, however, that under it the courts will assume no greater jurisdiction and no greater power than that which

they have hitherto exercised and that they will decline to assume administrative functions or to review purely administrative acts which are not destructive of property rights. I believe that if we can only now impress the country with the importance of this great tribunal, its dignity, and its character, the custom will grow of appointing to it men of the highest ability and integrity.

Mr. LODGE. Mr. President, I ask leave to withdraw the amendment which I offered, and to offer it as now modified. I move to strike out section 8 of the bill, and in lieu thereof to insert:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission.

I will explain the amendment, which is, as I have said, a substitute for section 8, being the first four lines of the amendment I have heretofore offered.

Mr. HALE. Mr. President——

Mr. LODGE. I yield to the Senator from Maine if he desires to speak.

Mr. HALE. I hope Senators will examine the amendment of the Senator from Massachusetts. I think it very important they should do so in order to get at the right result. If the amendment of the Senator from Massachusetts carries——

Mr. LODGE. That is, the amendment I have just now offered?

Mr. HALE. Yes; providing for a Commission of nine. If that amendment carries, then I shall move to insert, after the word "Commission," these words—and I ask Senators to listen to them to see if they do not help to maintain the proposition of the Commission. That amendment reads:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission.

If that amendment carries, I shall move to insert, after the word "Commission," the following words:

To be appointed one from each of nine transportation districts, to be established by the President, so as to fairly represent the interstate commerce of the different portions of the United States.

That, Mr. President, will establish the size of the Commission, the apportioning of it to transportation districts to be established by the President so as fairly to represent the interstate commerce of the different portions of the United States. I do not see in a practical way how we can do more than that now. We can not fix the boundaries of these different districts. I would be willing to leave that to the President, only keeping in mind, as he ought, the final result of having every portion of the United States, East and West, North and South, fairly represented in these districts.

Mr. CULLOM. What portion of the amendment does the Senator from Massachusetts wish to offer?

Mr. LODGE. I will state my purpose.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The proposed amendment of the Senator from Massachusetts [Mr. LODGE] will be stated.

Mr. LODGE. I propose to strike out all of section 8 and insert the first four lines of my amendment.

The PRESIDING OFFICER. The proposed amendment will be stated by the Secretary.

The SECRETARY. It is proposed to strike out all of section 8 and in lieu thereof to insert:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission.

Mr. HALE. Now, will the Secretary read what I shall offer if the amendment of the Senator from Massachusetts carries?

Mr. LODGE. I should like——

Mr. HALE. I do not wish to interfere with the Senator's amendment.

Mr. LODGE. The Senator does not offer that as an amendment to my amendment, but it is to be offered subsequently if my amendment carries.

The PRESIDING OFFICER. The Chair so understands.

Mr. TELLER. Mr. President——

Mr. LODGE. I have the floor.

Mr. TELLER. I understand the Senator has modified his amendment so as to leave out all except the first four lines.

Mr. LODGE. Yes. My purpose is this, and I might as well state it now and make it clear to the Senate: The question of how many Commissioners we shall have and the question of what salaries they shall receive are to me unessential. It seems to me it will shorten the debate and help us to complete the bill, which we are all most anxious to do, to decide, first, whether we are going to have a new and reorganized commission at all. If we decide that we shall have a new commission, then we can go on and perfect the proposed law, decide as to the number of members of the Commission, decide their tenure, and decide all the other qualifications. If we are not going to have a new commission, if we are going to leave it as it is, we had better determine that at once, and it will cut off a great deal of debate.

I am suggesting this because I have observed that the debate has run largely upon points which I do not regard as essential. The point that seems to me essential is to give the President the opportunity, when this new law shall be passed, to appoint a new commission, one representative of all the country, one consisting of the best men that he can possibly get. I do not want to compel him to keep the five men now there if he chooses to make substitutions. If he chooses to reappoint them, very well; but I do not think it is wise, in the presence of this great measure, to compel the appointment or the selection of any five men in the country.

I think with the new law there should go a new Commission. Let it be composed of seven members, if you please, as the House provided, with salaries of $10,000, or let it be nine, as I have suggested, and as I think is better, with salaries of $12,000. What I want to get at is to give the President the opportunity to appoint a new Commission. If he sees fit he can reappoint all the old members. There is nothing to prevent his doing so under my proposition; but if he should want to make changes, give him the opportunity.

Under this bill we are giving this Commission enormous powers. It is not a question of the amount of business they will have to do; it is the gigantic responsibilities that we are placing upon them; and I think we ought to try not only to get the best and ablest men, but I think they ought to be properly distributed in appointment through the country.

That is the reason, Mr. President, I want to bring the matter to an issue. If the Senate believe that we ought to try to get the strongest possible Commission, distributed fairly throughout the country, then they will vote for the amendment I propose now. If they do not feel so and defeat the amendment, then there is no use in wasting time over the discussion of transportation districts or judicial districts, or whether nine is a better number than seven, or $12,000 is a more suitable salary than $10,000. I think we can save time by going directly to the point as proposed by the amendment I now offer—Shall we make an attempt at all to reorganize and improve the Commission?

Mr. DICK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly, I yield to the Senator.

Mr. DICK. I want to ask the Senator from Massachusetts if he has objection to the further division of his amendment, so that we may vote on the two propositions—one that a new Commission may be appointed, and the other as to the number of members of that Commission?

Mr. LODGE. I divide it now, Mr. President. My sole proposition now is contained in the first four lines of the original amendment, as follows:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission.

It is one single proposition. It does not prevent the President from reappointing anybody. Every member of the present Commission can be reappointed, but it does prevent him from being compelled to appoint five men.

Mr. HALE. And when the Senator's proposition carries in the Senate, then the whole subject-matter is left to us as to whether the number of Commissioners shall be nine or seven, and whether there shall be transportation districts, according to my amendment, etc. But that is only possible if the Senate adopts the proposition of the Senator from Massachusetts, which provides for a new Commission.

The PRESIDING OFFICER. The Chair will take the liberty of suggesting to the Senator from Maine that as the proposition of the Senator from Massachusetts is to strike out and insert, if that should carry it would not be amendable as in Committee of the Whole.

Mr. LODGE. But the rest could be added as new matter at the end of the bill.

The PRESIDING OFFICER. At the end of the bill.

Mr. STONE. I desire to ask the Senator from Massachusetts whether he has any doubt as to the right of Congress to legislate the present Commissioners out of office? He does not propose to abolish the Commission, but simply to authorize the President of the United States to appoint a new board.

Mr. LODGE. I can not conceive that there is the slightest

doubt that we could abolish the Commission or authorize the President to appoint a new board or put other officers in their places, or anything else. The board is of our creation.

Mr. STONE. I presume he could do it, of course, but whether we can——

Mr. LODGE. He can not change the law.

Mr. STONE. He can not change the law?

Mr. LODGE. Certainly not.

Mr. STONE. It was suggested around me here that he could do so.

Mr. ALDRICH. He can discharge them for inefficiency.

Mr. STONE. Certainly, for cause.

Mr. LODGE. They are appointed for a definite tenure under the present law, and the President can not change the membership of the Commission except on the expiration of their terms.

Mr. STONE. The point I had in mind to inquire of the Senator was whether the mere authority of the President to appoint a new board of Commissioners would vacate the offices held by the present Commissioners?

Mr. LODGE. I think the language of my amendment is plain. It reads:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission.

Mr. TELLER. Is the Senator through?

Mr. LODGE. I yield the floor.

Mr. CLARK of Wyoming. I desire to ask the Senator from Massachusetts a question as to whether if the amendment which he now proposes be adopted, it is his purpose then to seek to further amend the bill in relation to the Commission, the number of Commissioners of which it shall be composed, their compensation, and their distribution?

Mr. LODGE. Certainly. If the amendment be adopted, those questions will then be for the Senate to determine.

Mr. CLARK of Wyoming. Then, the Senator would not be entirely accurate in his statement that the President could, if he so desired, reappoint all the members of the present Commission, because they could not be reappointed upon any basis of distribution which could possibly obtain, I think, in the bill. I can conceive no possible basis of distribution which would include all the present members of the Commission.

Mr. LODGE. I understand the Senator to mean, then, that there are two members of the present Commission from the second judicial circuit, who would clash with each other in appointment if there should be a distribution provided for in the bill.

Mr. CLARK of Wyoming. I think there must be——

Mr. LODGE. There is nobody else——

Mr. CLARK of Wyoming. I knew it must affect somebody by reason of the present location of some of the Commissioners, and if appointed under any equitable distribution, of course some of them would be affected.

Mr. LODGE. It would affect, of course, those appointments, but the amendment may be framed by the Senate so that the President can take them all from one State, if he is so minded.

Mr. CLARK of Wyoming. I should prefer that.

Mr. LODGE. That is a thing for the Senate to decide; but from where he shall take them, how many there shall be, what their salaries shall be, it is not worth while to spend time in discussing unless we are determined to make a change.

Mr. CLARK of Wyoming. But I thought it worth while, Mr. President, to call the Senator's attention to the fact that he was inaccurate in his statement, if he proposed to follow this amendment up with another providing for distribution, etc.

Mr. LODGE. I do not think I am inaccurate in my statement, Mr. President. The Senate may vote down the proposition of distributing these appointments. That is a different matter. Whether we reorganize the board or not, the Senate may decide that, because there happen to be now two Commissioners from one judicial circuit; therefore all this legislation should fall, and there should be nothing more done. But it is perfectly true that if we determine to make a new commission, that does not limit the President in any way. We may limit him afterwards by putting in a clause about distribution; but I do not think it is worth while to pass the day discussing other features of the measure when we can decide once for all whether we will deal with it. That is what I am trying to bring to a point before the Senate.

Mr. TELLER. Mr. President, I should like to have had the benefit of the remarks of the Senator from Massachusetts, but owing to the confusion in this section of the Chamber and the fact that the Senator turned his face away from us, I have been utterly at a loss to know what in the last few moments he has said.

The VICE-PRESIDENT. The Senate will be in order.

Mr. TELLER. Mr. President, as I understand the law, while the present Commissioners are appointed for a term, yet the President, in his judgment, whenever he thinks they are inefficient or are not properly discharging their duties, can remove them; in other words, he can make a vacancy. I much prefer that he should do that, and not we. It does not seem to me to be a wise thing for the legislative body to undertake to remove people from office.

Away back, a good many years ago, immediately after the civil war, we had some experience in that line; and in times of excitement and disagreement between the executive and the legislative branches of the Government there is very great danger of an abuse of this power. I am not in favor of asserting it, even if we have the right; but I doubt whether we have the right to do that. We can abolish this board, as we can abolish all other offices, except those created by the Constitution. This, however, is not a proposition to abolish the board, but merely to reorganize it with a new membership. That is what it practically amounts to. I do not think we ought to do that. I do not know many of the members of the Commission—in fact, I only know one, and that is the former Senator from Missouri, Mr. Cockrell. I think I have never seen any of the others; but I am under the impression that the business of the board has been very properly conducted. I do not feel inclined to join in any effort to discredit them, for whatever may be the motive that induces this proposition, it will discredit them. If they are properly there, properly serving, and the President so thinks, they ought to remain there, and we ought to increase the number if we think the Commission is too small.

On the question whether there shall be nine or seven or five Commissioners, I am myself inclined to accept the House provision for seven members as sufficient. However, I do not consider it very important whether the number be seven or nine. I shall be quite content with whatever the Senate does in that matter. I am inclined to think that five is rather a small board to do the work.

When you come to the question of the distribution of the Commissioners, I think there is not the danger suggested by the Senator from Nevada, that they would come to think in a short time that they were representing their immediate sections of the country; for, as suggested by the Senator from Wisconsin, if they should get that idea in their minds, it would be evidence that proper selections had not been made. Of course Representatives in Congress are elected to represent particular sections of the country and particular populations, and we are sent here to represent the States in which we live.

Mr. President, I do not think there is any necessity of distribution upon the principle of patronage. There is some advantage in having a distribution of these officers as there is as to all other officers. A man who lives in the eighth circuit, in which I live—the largest circuit of all—if appointed from that circuit would have more knowledge of the conditions there than a man appointed from the first or the second or the third or the fourth or the fifth circuit. And yet I think it is going to be exceedingly difficult to divide this country up into districts in such a way that there will not be a continual complaint about it. I think good administration on the part of the Executive, who has these officers to appoint, if there are nine of them, will distribute them with reference to the country, not, I repeat, because the country desires the patronage, but because a man coming from a certain section will have better knowledge of that particular section and the wants of the people in connection with their transportation than if he comes from another section of the country. I think myself that is an exceedingly difficult question to deal with on this bill, and I do not believe it will be dealt with very satisfactorily.

I do not like the proposition of the Senator from Massachusetts to legislate the present Commission out of office. I think we ought to determine the question whether the Commission shall consist of nine or seven or five members. The House bill provides for seven. If we say "nine," I have no doubt the House will agree to it; at least I should presume so. That is the first question, in my mind, to be settled. Then, shall extra members be added, or shall we leave the President to create an entirely new Commission, if he sees fit to do so, which he can do if we turn the present Commissioners out? He may put some of them back. He may think it is wise to do it, or he may think it is not; but we give him no power that he does not now possess if he sees fit to exercise it. I can not give my approval to the amendment.

Mr. NELSON. I move to lay on the table the amendment of the Senator from Massachusetts.

Mr. BACON. I hope the Senator will withhold his motion for a moment, as I desire to say something on the subject.

The VICE-PRESIDENT. Does the Senator from Minnesota withhold the motion?

Mr. NELSON. Yes; I do not want to cut off the Senator.

Mr. BACON. Mr. President, the original amendment offered by the Senator from Massachusetts [Mr. LODGE] was intended to be a complete substitute for section 8. In other words, it was complete in itself, and was intended to supplant in its entirety section 8. The amendment which he now offers, while he offers it as a substitute for section 8, is accompanied with a declaration that it is but the beginning, and that he proposes thereafter, with the aid of other Senators who agree with him, to build up upon that and reconstruct a section which shall be complete in itself to take the position of the existing eighth section.

Mr. President, if the present eighth section is substantially one that Senators favor, there is no reason to strike it out for the purpose of experimenting to see whether, in the process of evolution which the Senator contemplates, a superior section can be created. I think the eighth section, with one exception, is the one I would prefer. The one exception in which I do not agree with the eighth section is in the matter of salary. About that I shall probably have a word to say a little later.

But to come immediately to the direct proposition of the Senator from Massachusetts, it is embodied in the simple suggestion that we strike out the eighth section and provide for the creation of a new commission. That is the direct purpose of the present amendment—to abolish the present Commission and make provision for a new commission, the declaration being made at the same time that when that is done all the other features which are necessary for the completion of that section it is proposed thereafter to add by separate amendments.

Mr. President, why should we abolish the present Commission? If it is an incompetent one, if it is made up of incompetent men, then it should be abolished. If Senators are prepared to say upon the floor of the Senate that the members of that Commission are not men of the qualifications, either of mind or of character, properly to fit them for the discharge of the duties of the office, then, of course, an issue is made upon which we will pass when we come to vote upon the question whether or not the Commission shall be abolished. But no suggestion of that kind is made. No Senator here, so far as I have heard, has intimated that any one of these Commissioners is an improper man for the position. If not, why should he be removed? Can Senators shut their eyes to the fact that to remove these Commissioners must necessarily be a reflection upon them? Is it any reply to say that the President will reappoint them? Senators who have said that have said they thought a majority of them would be reappointed. If that is the case, why not let them remain as they are?

But the Senator from Massachusetts insists upon one proposition. I have endeavored to preserve in my mind his words. He says: "Why compel the President to keep these men?" Mr. President, the relation of the President of the United States to this Commission is a very different one from what I regard it if these officers remaining in position can be said to put upon the President of the United States the necessity of keeping them. Who put them in his keeping, except so far as it is his duty to see to the execution of the law? They are not his special officers. They are not even officers of the executive department. By what right does the Senator speak of it as a situation in which the President is compelled to keep certain men? They are officers of the United States under the present law, and those who will be in position under the law as we shall amend it will still be officers of the United States, not the officers of the President, and not even the officers of the department of which he is the chief. Unless some special reason can be shown why these are unworthy men, there is every reason why we should not remove them from office. It will necessarily be a reflection upon them. They have done their duty; they have been diligent and capable in office, and why should this stigma be put upon them; and if some are to be reappointed, still the greater stigma upon those who are not reappointed?

Mr. President, as to the eighth section, I am very much inclined to the opinion that five would be a proper number for the constitution of the Commission. But I am willing to concede seven, as provided in the bill of the House. I think beyond that it would be an unwieldy body. But I do not agree to the proposition that they should be paid either the amount named in the amendment which the Senator from Massachusetts has withdrawn or the amount proposed in this bill. It may not be that that is an excessive amount, but it is an amount out of proportion to the scale of salaries which we have, and I do not think that in the creation of an office or in the continuation of an office we should single out this particular department or that particular department for the purpose of raising salaries out of proportion to the general scale.

It seems to me to be a preposterous proposition that an officer created for the discharge of the duties specified in this bill should by the solemn enactment of Congress be adjudged to be entitled to a larger salary than the Vice-President of the United States; to be entitled to a larger salary than the head of any Department of the United States, from the Secretary of State down to the lowest in rank of heads of Departments, and twice as much as a Senator or a Representative in Congress.

I will not repeat what was so admirably said by the Senator from North Dakota [Mr. MCCUMBER]. I agree with him in every word he said. I never intend, so long as I am honored by a seat in this body, to vote hereafter for the increase of the salary of an officer which shall, in my opinion, be above the level of the general scale of the salaries which we have. Whenever the lawmaking power is ready to take up the question of salaries and recast them and put them all in proper relation and in proper proportion, I shall be ready to take hold of the subject. But I am utterly unwilling to fix a salary for a member of the Interstate Commerce Commission which shall be superior in amount to the salary paid the Vice-President of the United States, or to the head of any single Department.

I recognize the fact, of course, that there is much in the contention that these officers should be put in a position of dignity; and I want to call the attention of the Senate to one particular in which we can increase the dignity of these officers, and in which I think their dignity should be increased. Under the law as it now exists any Commissioner can be removed from office by the President of the United States for inefficiency, neglect of duty, or malfeasance in office, arbitrarily, without a trial. That is the law now, and it is a provision which we propose to leave in the bill, because there is nothing in the pending bill to repeal that part of the law. I think it should be repealed.

No man can hold an office of dignity such as the Senator from Maine properly insists this shall be an office of dignity, who can be dismissed by the President of the United States from office as he would dismiss his coachman.

Mr. BERRY. Will the Senator from Georgia permit me to ask him a question?

Mr. BACON. I will.

Mr. BERRY. Has not the Supreme Court decided that the tenure-of-office act was unconstitutional, and can not the President remove any officer, except a judge who holds his office for life?

Mr. BACON. I think not; not by any means.

Mr. BERRY. Does the Senator think there is any Government officer, except United States judges, whom he can not remove?

Mr. BACON. He certainly can not remove anyone in the legislative department.

Mr. BERRY. Nobody ever supposed he could.

Mr. BACON. I understand that; nor in the judicial department.

Mr. BERRY. But any executive officer appointed by him. Was it not decided when the tenure-of-office act was declared unconstitutional, and most of it, including that part of it, repealed?

Mr. BACON. Of course, with respect to an officer in the executive department, that is true, but this is not an Executive Department.

Mr. BERRY. But they are appointed by the President.

Mr. BACON. Yes; they are appointed by the President and confirmed by the Senate. It would be exactly as we ourselves may designate in this bill. In the absence of prohibition by Congress the President can remove an officer appointed by him under the law. But it is perfectly competent for Congress to prohibit such removal in any given case, and when so prohibited the President would have no power to remove the officer. If the Senator's contention were correct, it would be unnecessary that there should be this designation in the proposed law.

Mr. BERRY. I leave it to the Senator from Texas [Mr. BAILEY], who is a constitutional lawyer. Personally I do not think there is any question about it.

Mr. BACON. The Senator can argue that question. I do not object to his presenting his view upon it. I think it is perfectly competent for us to strike out this provision of the law. An officer of the United States is subject to removal by impeachment, under the Constitution of the United States, and to strike out the provision in the law does not in any manner affect that remedy provided for by the Constitution.

Mr. President, I do not desire to detain the Senate longer upon this subject. I wanted distinctly to state the proposition that I favor the eighth section of the bill, and for that reason I do not favor the substitute offered by the Senator from Massachusetts, which is simply a proposition now to provide

for the removal of the present Commission, with a promise that upon that being done there shall thereafter be built up piece by piece a section which, if approved by the Senate, shall take the place of section 8.

Mr. HALE. Mr. President, I simply now offer the amendment to the amendment proposed by the Senator from Massachusetts, and I do not propose to take any time. Let it be read, and then, if the Senator from Minnesota wishes to move to lay it on the table, he can do so.

Mr. BERRY. I want to say a few words before the motion to table is made.

Mr. HALE. Let the amendment be read.

The VICE-PRESIDENT. The Secretary will read the amendment proposed by the Senator from Maine to the amendment of the Senator from Massachusetts.

The SECRETARY. It is proposed to insert:

To be appointed one from each of nine transportation districts, to be established by the President so as fairly to represent the interstate commerce of the different portions of the United States.

Mr. HALE. Now let the Secretary read the whole proposition, with my amendment, so that the Senate may see what it means.

The SECRETARY. It is proposed to strike out all of section 8 and insert the following:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission, to be appointed one from each of nine transportation districts, to be established by the President so as fairly to represent the interstate commerce of the different portions of the United States.

Mr. HALE. It is suggested, although I think this is covered by the amendment——

Mr. GALLINGER. It is not——

Mr. HALE. That we put in the words "said Commission to consist of nine members."

Mr. LODGE. Before the words "to be appointed."

Mr. HALE. I do not think that is needed, but still it makes it certain.

The VICE-PRESIDENT. The modification will be stated.

The Secretary read as follows:

Said Commission to consist of nine members, to be appointed one from each of nine transportation districts.

Mr. HALE. I shall not take any more of the time of the Senate.

Mr. BERRY. Mr. President, I desire to say that I agree with the Senator from Georgia [Mr. BACON] that we ought not to pass a law directing the President to remove these Commissioners. It would be a reflection upon them, one which I think is not justified or warranted by anything in the history of the Commission. They are men of high character, and have discharged their duties faithfully and well. I am not willing to vote for the proposition which simply intends to give the President the power to appoint anew without his assuming any responsibility.

I agree with the Senator from Georgia also in regard to the question of salaries. I do not believe any such salary as ten or twelve thousand dollars a year should be given. I do not think it is necessary in order to get good men and men of high character. The Senator from Maine [Mr. HALE] said yesterday that if we made these salaries large it would insure the best talent and insure absolute integrity and honesty, or words to that effect, or would have that tendency. I think the recent developments in the insurance cases in New York show that the worst men were those who received the very largest salaries—those of a hundred thousand dollars—and that those large salaries did not secure honesty and efficiency. I therefore am not in favor of this large increase.

Now, in regard to the President's power to remove, while I do not pretend that I am equal to the Senator from Georgia as a constitutional lawyer, my understanding is that as to any executive office, where the appointee is appointed by the President under a law which authorizes him to make the appointment and the Senate to confirm him, the President can remove the occupant without giving any reason whatever, and that he exercises the power daily and weekly.

Mr. BACON. May I ask the Senator a question?

Mr. BERRY. Certainly.

Mr. BACON. The Senator will recognize the fact that we can pass a law by which we establish a commission to which there are delegated powers which would be solely legislative powers—that is, within the limits, of course, as to prescribing the way in which it should be done. I am not asking the Senator a question, because I do not propose to enter into a colloquy on the subject. But I will simply state to him that, while I may be in error, according to my opinion undoubtedly that would be a class of officers whom the President of the United States would not have the right to remove, and that the decision to which he refers has no application. But however that may be, Congress would have the power to prohibit the removal of such an officer. The decisions of the Supreme Court will be found to be to that effect.

Mr. BERRY. I am discussing the class of officers referred to here, whose offices are created by act of Congress, and who are appointed by the President by and with the advice and consent of the Senate. My statement a while ago was based upon my recollection of what was known as the "tenure-of-office act," passed a great many years ago. It gave rise to a great deal of controversy. It afterwards went to the courts, and if not wholly, at least a large part of it was declared to be unconstitutional. Subsequently, since I have been a member of the Senate, the remainder of the act was repealed, and since that it has always been held, as I understand, that the President when he appoints an officer, even by and with the advice and consent of the Senate—those offices which are already provided for by law and those which we provide for from time to time—can remove him at his will. Of course he can not remove a United States judge, who holds during life or good behavior.

Mr. BACON. What the Senator says is true of officers who are officers of the executive department unless Congress prohibits such removal.

Mr. BERRY. I will ask the Senator if it is not true as to an office created by act of Congress, which we authorize the President to fill by appointment by and with the advice and consent of the Senate—one of the Interstate Commerce Commissioners holding office to-day, if you please? I repeat that such is the practice, and it has been so since I have been in any way connected with the Government.

Mr. PROCTOR. Mr. President, I am glad the Senator from Maine [Mr. HALE] has offered the amendment he proposes to the amendment of the Senator from Massachusetts [Mr. LODGE]. It is proper that they should both be considered together. The effect of those amendments is to localize the Commission instead of leaving it general, as it is now. I think no one can charge that the present Commissioners have acted for local interests. They have been over the whole country and have acted entirely free from any local interest or favoritism.

The effect of this, of course, will be, if such districts are formed, to legislate one of the Commissioners out of office. So far as it affects an individual, it is of very little consequence, if it is wise legislation; but it seems to me it is not. This Commission, under the House provision, is to be increased. The men now on the Commission are thoroughly familiar with the business. Their influence and work will be very valuable to the new men coming on the Commission. The term of service of the present Commissioners is not long. I know, with reference to one of them, that his term will expire very soon. If a change is desired, it can readily be brought about by the President. In the long run, the distribution, I believe, will be fair. I think now perhaps it is not; but it has so come about.

Now, one other point. This measure has been before the Senate for a long time. Every possible proposition has been made. It seems near final action. It seems to me unwise to introduce radical changes. They have got to be agreed upon by another body. I for one am in favor of adhering to the House provision as nearly as possible, for the sake of bringing about in the shortest time an efficient measure of rate legislation.

Mr. TILLMAN. Mr. President, I feel that an apology is due the Senate for introducing into this interesting and instructive discussion an extraneous matter, but it appears that no opportune moment will come. I have already waited too long.

On Saturday last the Senate was startled and doubtless mortified to hear the statement of an honored ex-member of this body, on the authority of a telephonic message, denounced as being a deliberate and unqualified falsehood, and as I had the misfortune, I may term it, of bringing about the situation which caused this denunciation to be made, I feel under some obligations—very sacred obligations—to the man whose good name was thus attacked, and who is my trusted friend, and also an obligation to myself to sustain—although I do not know that is necessary—my own good faith in reading the statement I did, to give to the Senate, in order that it may go into the RECORD, the authoritative statement signed and sent to me by Mr. Chandler. I shall not give it all. I shall only give that part of it which relates to the particular subject I have just mentioned.

Memorandum made by William E. Chandler about the conferences of Attorney-General Moody and Mr. Chandler, representing President Roosevelt, with Senators TILLMAN and BAILEY concerning the railroad rate bill in 1906.

On Saturday afternoon, March 31, 1906, a friend of mine came into my office and told me of the White House conference of that day, in which an understanding as to a limited court review had been reached with Senator LONG and others, and he told me that the President wished

to get into communication with the Democrats and would shortly ask me to come and see him. While he was talking a messenger boy arrived with a letter to me from Mr. Loeb as follows:

THE WHITE HOUSE,
Washington, March 31, 1906.

MY DEAR SENATOR CHANDLER: The President requests me to say that he would be glad to have you come to the White House to see him at 8.30 o'clock to-night. Will you please let the bearer know whether you can come?

Very truly, yours,
WM. LOEB, Jr.,
Secretary to the President.

Hon. W. E. CHANDLER,
1421 I Street.

I told the messenger I would be there.

At the time and place appointed the President said to me that he wished through me to get into communication with Mr. TILLMAN, Mr. BAILEY, and other Democratic Senators. He stated his purpose slowly and carefully, and, in exact substance, his statement was this: That he had reached the conclusion that the best plan for railroad rate legislation was to expressly grant a court review, but to distinctly limit it to two points—first, an inquiry whether the Interstate Commerce Commission had exceeded its authority, and, second, an inquiry whether the constitutional rights of the carrier had been violated. He said that he had been much troubled by the advocacy of an unlimited court review by some of the lawyers of the Senate, naming Senators KNOX, SPOONER, and FORAKER, as trying to injure or defeat the bill by ingenious constitutional arguments, but that he had come to a complete disagreement with them. He made this point emphatic by repetition; said that he would go thus far and no further and that his decision would be unalterable. He said that he wished to ascertain whether there could be united action in the Senate among the friends of the bill, so that it could be surely passed without injurious amendments; and he named various Republican Senators who he thought were true friends of the bill, but said that it would take nearly all the Democrats to carry the limitation and defeat all obnoxious provisions.

After the President had made his statement I replied that I had reason to believe that most of the Democrats in the Senate would sustain his limitation of the courts' powers, but that I was sure that Mr. BAILEY and Mr. TILLMAN would insist upon coupling with the limitation some restriction upon the power of the courts to issue injunctions against the orders of the Commission. Before I had finished my statement on this point the President interrupted me, saying that I need not explain further, because he was warmly in favor of some such restriction.

I do not deem it necessary to read the rest of this letter at the present time. While I am dealing with this subject, I noted this morning, and Senators have read in the papers, a letter addressed to the senior Senator from Iowa [Mr. ALLISON] by the President, in which this subject is presented from his point of view. I had expected that possibly something would be said about the question of veracity between the President and Mr. Chandler. But if nothing is said I have nothing more to do with it other than to put the record before the country, or rather to put in enduring form Mr. Chandler's own statement to me.

I had also anticipated that possibly, as the future historian will have some trouble in digging out of newspapers the facts in the case, the Senator from Iowa [Mr. ALLISON], or some other friend of the President, would put into the RECORD the letter from the White House. But that has not been done, and I feel myself called upon to make some little comment on that letter.

There are only two points in the President's letter which I deem worthy of notice. His attempted explanation is ingenious, but not ingenuous. He a second time calls in question the integrity of purpose and utterance of Mr. Chandler by declaring "he was asked to see ex-Senator Chandler, as representing Mr. TILLMAN, who was in charge of the bill. He stated to me the views of Mr. TILLMAN with seeming authority." Mr. Chandler has declared most positively in a written statement that the President sent for him for the purpose of getting into communication with Senator BAILEY and myself, and he has produced the letter of Mr. Loeb to prove it. I have seen the original myself. I now and here, Mr. President, declare most emphatically that to no human being have I ever given authority or even expressed a wish to have any conference with Theodore Roosevelt in regard to the bill now under consideration. On the contrary, I have expressed the opinion in more than one published interview that he had nothing to do with it, and that it was the business of the Senate, and while I did at his request enter into negotiations with the Attorney-General it is well known to every Senator on this floor what my attitude and feelings have been, and it is most remarkable, while the President sent for Democrat after Democrat to confer with him about this measure, that he should undertake, under the circumstances, to assert that I sent an agent to him to begin negotiations. The statement is absurd on its face.

The other point to which I shall refer is the cavalier way in which Mr. Moody discusses the idea of the President not being "bound." While contradicting in no instance, however slight, my statement of what occurred, the Attorney-General seems to think that the code of honor among gentlemen is not binding upon the Executive and his Cabinet. The President asked him to see Mr. BAILEY and myself. We met by appointment made by ex-Senator Chandler and talked over the vital question. He wrote and sent to Mr. BAILEY his understanding of our views, and when we met subsequently we reached absolute agreement, both as to the form and the substance of a proposed amendment, to which he said the President would assent and help get votes for. Of course the President was not bound not to change, but he was bound under such circumstances to give notice, and this was not done. Even the Attorney-General himself was not notified.

The charge I made and still make is that the President is guilty of bad faith, and that the rate bill, which will be when enacted into law a much better and stronger measure than we had hoped to get, has been emasculated of one of its most valuable and essential features by the President's action.

I am ready, Mr. President, to leave the whole question to the thoughtful and honorable men of the country.

Mr. ALLISON. Mr. President, yesterday, in the evening, I received a letter from the President, addressed to me, and inclosed with it a letter to the President from the Attorney-General. I have been awaiting with some patience an opportunity to present this letter to the Senate and ask that it may be placed upon the records of the Senate as a part of the situation. I think it is due to the President that the record, so far as his statements are concerned, shall be made as permanent as the record just now made by the Senator from South Carolina. This letter, I think, is chiefly addressed to the subject-matter mentioned by the Senator from South Carolina. I ask that it may be read at the clerks' desk, and also the letter of the Attorney-General accompanying it.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

THE WHITE HOUSE,
Washington, May 14, 1906.

MY DEAR SENATOR: As Senator TILLMAN brought in your name in connection with mine in the statement he made concerning our relations to the rate bill last Saturday, it is, perhaps, due to you that I should write you on the matter. After the rate bill was reported from the committee, and after, by vote of the committee, Mr. TILLMAN had been put in charge of it, many Senators and many outsiders came to see me with reference to it. Among others I was asked to see ex-Senator Chandler, as representing Mr. TILLMAN, who was in charge of the bill. I stated in response that I was, of course, entirely willing to see Mr. TILLMAN personally, or to see Mr. Chandler or anyone else who could speak for him, and I accordingly directed my secretary to make an appointment for Mr. Chandler to see me. My understanding was that he was the representative of Mr. TILLMAN. In this first interview he stated to me the views of Mr. TILLMAN, with seeming authority. He called on me several times. During the same period I saw other gentlemen who professed to give the views of other Senators. In addition, I saw numerous Senators, both Republicans and Democrats, some of them once or twice, some of them many times. I also saw numerous outsiders, railroad men, shippers, newspaper men, and students of traffic regulation, including, especially, the Attorney-General and the members of the Interstate Commerce Commission, and on two occasions I saw groups of newspaper men in a mass. To all of these, Senators, representatives of Senators, and outsiders alike, I made the same statements; those that I made to Mr. Chandler being the same in substance that I made to you and to those of your colleagues of both political parties with whom I had any extended conferences on the subject. The letter of the Attorney-General, which I inclose, shows fully the facts as to the conferences which, at my instance, he held with Senators TILLMAN and BAILEY. Those conferences were precisely such as, at my instance, he held with many other Senators, to determine the phraseology and discuss the effect of amendments proposed by them.

To all whom I saw I stated that the Hepburn bill was in its essence entirely satisfactory to me. The Hepburn bill as it passed the House simply recognized the right of review by the courts—that is, the jurisdiction of the courts—but did not attempt to define it, thus leaving the courts to prescribe the limits of their own jurisdiction. This was in accordance with the ideas of the Attorney-General, his belief being that thereby we avoided all danger of the bill being declared unconstitutional because of the attempt to confer too much or too little jurisdiction on the courts.

I also repeatedly stated that while it was entirely satisfactory to me simply to leave the Hepburn bill in substance as it was—that is, with the recognition of the jurisdiction of the courts, but without any attempt to define that jurisdiction—yet that I was entirely willing that there should be a definition, provided that this definition did not seek to grant a broad review, but explicitly narrowed it to the two subjects which, as a matter of fact, I believed that the courts would alone consider in case there was no attempt to define the limits of their review; that is, would limit it to the question as to whether the Commission had acted ultra vires and as to whether any man's constitutional rights had been impaired. I stated that if the question of defining or limiting the review was brought up at all I personally felt that this was the way in which it should be limited or defined.

At different times at least a score of tentative amendments were either prepared by the Attorney-General at the request of Senators or submitted to me by Senators. As to many of those amendments—including, among others, the substance of the so-called Long, Overman, Bacon, and Spooner amendments—I stated that I should be entirely satisfied to have them in the bill; as to others, I suggested modifications which would make them satisfactory; as to none did I ever say, either to Mr. Chandler or to anyone else, that I should insist upon having them in the bill as a condition of my approving it. On the contrary, I was always most careful to state that I was not trying to dictate any particular programme of action. In no case, either in the case of Mr. Chandler or in the case of anyone else, was there the slightest opportunity for any honest misconception of my attitude or any belief that I had pledged myself specifically to one and only one amendment or set of amendments, or that I would not be satisfied with any amendment which preserved the essential feature of the Hepburn

bill as it came from the House. You will doubtless recall that in the course of the several visits that you personally made me we discussed a number of these proposed amendments, trying to find out for which one there could be obtained a sufficient body of assent to secure its passage and the passage of the rate bill.

To almost every amendment proposed by anyone I found that there were other excellent men who objected, or who at least wished to change it, and I finally became convinced that it was impossible for Senators with advantage to use me as the intermediary in coming to an agreement with their colleagues, especially when they only communicated with me through another intermediary, and I earnestly suggested to all to whom I spoke that they should communicate with you, whose purposes and mine were identical. About this time I was informed by various Democratic Senators that they could not come to an agreement upon any amendment, and that the best chance for success lay in passing the Hepburn bill substantially unchanged. I was informed, and believed, that this was Senator BAILEY'S view, and a number of the Republican Senators who favored the bill expressed the same opinion. Shortly after this you, in company with Senator CULLOM, called upon me with the amendment which is now commonly known as the "Allison amendment." I told you that while I should prefer the Long and Overman amendments, yet that your amendment was entirely satisfactory. Your amendment does not in the slightest degree weaken or injure the Hepburn bill. It merely expresses what the friends of the bill have always asserted was implied by the terms of the bill. I may add that my own opinion that your amendment in no way changed, whether by diminishing or enlarging, the scope of the court review as provided in the original Hepburn bill, is also the opinion of the Attorney-General, of Mr. Root, and of Mr. Taft. Their judgment is that the amendment merely avoids the criticism that the Hepburn bill would be constitutionally invalid in not expressly providing the court review which its supporters have always contended was plainly implied in the original language.

The original Hepburn bill stated that the venue for certain actions was in certain courts; the amendment states that these courts shall have jurisdiction to consider such actions. To my mind it seems difficult to assert that this works any change whatever in the principle of the bill.

Yours, sincerely,

THEODORE ROOSEVELT.

Hon. WILLIAM B. ALLISON,
United States Senate.

OFFICE OF THE ATTORNEY-GENERAL,
Washington, D. C., May 14, 1906.

MY DEAR MR. PRESIDENT: I send, at your request, an account of the conferences which I had by your direction with Senators TILLMAN and BAILEY upon the subject of the court-review feature of the pending rate legislation.

On April 14 you told me that Messrs. TILLMAN and BAILEY had communicated with you, through a third person, informing you that they were willing to support an amendment to the Hepburn bill which, while expressly conferring jurisdiction upon the courts to review the action of the Commission, should limit the review to the two questions of the authority of the Commission and the constitutionality of its action, and include a provision forbidding the issuance of interlocutory injunctions. You told me that they were not willing to confer directly with you, but would meet me. You asked me if I thought that Congress had the power to prohibit the issuance of interlocutory injunctions by courts inferior to the Supreme Court, and I told you that, having read part only of the debate upon that question, the subject being new to me, I had not formed a final opinion. You then asked me whether, if such a provision were declared unconstitutional, it would affect other provisions of the law. I told you that in my opinion it would not, as that provision would be easily separable from the remainder of the law. Recalling the advice which I had the honor to offer to you, that you should not at any stage become finally committed beyond recall to any form of language in any part of the bill and affirming your belief in the wisdom of that course, you then said that a provision limiting the court review to the authority of the Commission and the constitutionality of its acts, and a provision limiting the issuance of interlocutory injunctions as far as was constitutionally possible, would be acceptable to you, provided it was decided not to try to pass the Hepburn bill substantially unchanged, and you asked me to meet the gentlemen named in conference.

The conference was arranged by Mr. Chandler and occurred on April 15. It was full and free. It would be impossible to state all that was said in a conference of two hours, but I think no false color is given to the conference by the following statement:

I informed the gentlemen of my belief that you desired, if the scope of the court review were to be expressed in the law at all, that it should be limited to the two subjects hereinbefore named; that in such case the so-called Long amendment was acceptable to you; that you would be glad to see a rigid limitation on the issuance of interlocutory injunctions if such limitation were possible; and I stated further that I would not assume to agree to any form of language whatever for you, but would submit any proposed amendment to you for your consideration. I also stated my doubt whether, in any event, it would be possible to enact a provision entirely forbidding interlocutory injunctions. I found myself in entire accord with Senator BAILEY as to the rules of constitutional law applicable to the situation, with the exception of those relating to the power of Congress to forbid all interlocutory injunctions, upon which I did not offer any final opinion, only saying that Mr. BAILEY'S argument needed answer.

An attempt was then made to adopt phraseology which would effect the intention of the two Senators. I made some notes upon this branch of the subject, and at the close of the interview said to Senator BAILEY that I would put my understanding of their views upon the question of phraseology in writing, send it to him, and, if it met with his approval, submit it to you. This I did, and on the next day sent the annexed memorandum to Mr. BAILEY, inclosed in a letter which reads as follows:

April 16, 1906.

MY DEAR SENATOR: This rough draft is as I understood your suggestions of yesterday. I think it quite likely that this draft might be bettered, but I simply send it to see if I understood you.

Very truly, yours,

W. H. MOODY.

Hon. JOSEPH W. BAILEY, *United States Senate.*

The draft referred to is the one printed in last Saturday's RECORD.

The conference among the Democratic members of the Senate then occurred, the press reports of which indicated that there was not an entire agreement among them. Mr. TILLMAN, however, called to assure me that the prospects of an agreement among a large number of the Democratic Senators was good. I heard nothing further from Senator BAILEY until a later date.

I informed you of what occurred at the interview between the two Senators and me, and you told me that you had been informed from various Democratic sources that an agreement among the Democrats upon any amendment would be impossible.

The two Senators called upon me again on the 23d or 24th of April. There was some further talk about the form of the amendment. The suggestion was made that it might be possible, after voting upon the provision forbidding all interlocutory injunctions, to agree upon an amendment which should include the Long amendment and what has been known as the Overman amendment. I then said that, in my opinion, any amendment drawn by anyone representing the executive branch of the Government, even though it were inspired from heaven, would not be accepted without change by the Senate; that that attitude was natural and proper, and that if the exact language of an amendment which could be adopted should be agreed upon it ought to be drawn by the Senators themselves. I suggested Senator ALLISON as a proper person for further conference, and the matter, so far as I was concerned, ended there.

I remember hearing nothing more of it until I was just about taking the train for North Carolina on May 4, when I was informed by Mr. TILLMAN and Mr. Chandler that you had approved another amendment, known as the "Allison amendment."

There was nothing in the conversations between the Senators and me which in any way bound you to any particular amendment or in the slightest degree impaired your liberty at any time to acquiesce in any amendment which you should deem expedient and in the public interest.

Very respectfully,

WILLIAM H. MOODY,
Attorney-General.

Mr. NELSON. Mr. President, I move to lay the pending amendments on the table.

The VICE-PRESIDENT. The Senator from Minnesota moves to lay the pending amendments upon the table.

Mr. MALLORY. Mr. President, I should like to inquire whether the amendment proposed by the Senator from Maine to the amendment offered by the Senator from Massachusetts was accepted?

Mr. NELSON. My motion includes both.

Mr. LODGE. The motion includes both.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Minnesota to lay the pending amendments on the table.

The motion was agreed to.

Mr. ELKINS. I move to add, at the end of section 8, the following words:

And the salary of the secretary of the Commission shall be $6,000 per annum.

Mr. GALLINGER. Mr. President, I move to lay that amendment on the table.

The motion was agreed to.

Mr. GALLINGER. I propose two amendments to section 8. First, to strike out the word "ten," in line 9, and insert "eight;" so that the salaries will be $8,000 annually.

Mr. KEAN (to Mr. GALLINGER). Make it $7,500, the same as existing law.

Mr. GALLINGER. I will make it $7,500, retaining the amount at which it now stands.

The VICE-PRESIDENT. The Secretary will read the amendment.

The SECRETARY. On page 34 of the last reprint of the bill, in line 9, before the word "dollars," it is proposed to strike out "ten thousand" and insert "seven thousand five hundred."

Mr. ELKINS. I move to lay the amendment on the table.

The VICE-PRESIDENT. The question is on the motion of the Senator from West Virginia [Mr. ELKINS] to lay the amendment on the table.

Mr. CLAY. I desire to ask the Senator from New Hampshire [Mr. GALLINGER] if his amendment would leave the Commission consisting of seven, with a salary of $7,500 each, or a Commission of five?

Mr. GALLINGER. It would leave the Commission consisting of seven, unless it should be subsequently changed by amendment.

The VICE-PRESIDENT. The question is on the motion of the Senator from West Virginia [Mr. ELKINS] to lay the amendment on the table.

Mr. McCUMBER. I want to ask the Senator from West Virginia who made the motion if he will not withhold it until the Senator from New Hampshire [Mr. GALLINGER] can explain the amendment.

Mr. GALLINGER. I have no disposition to explain the amendment, Mr. President. It explains itself.

Mr. LODGE. I should like to have the amendment restated, Mr. President.

The VICE-PRESIDENT. The amendment will be again stated.

The SECRETARY. On page 34 of the last reprint of the bill, line 9, before the word "dollars," it is proposed to strike out "ten thousand" and to insert "seven thousand five hundred;" so that, if amended, the clause will read:

That the Interstate Commerce Commission is hereby enlarged so as to consist of seven members with terms of seven years, and each shall receive $7,500 compensation annually.

Mr. DANIEL. I rise to a parliamentary inquiry, Mr. President.

The VICE-PRESIDENT. The Senator from Virginia will kindly state his parliamentary inquiry.

Mr. DANIEL. Mr. President, I understand that the amendment offered by the Senator from Massachusetts [Mr. LODGE] was laid on the table; and I wish to know what has become of the amendment which he proposed as a substitute for section 8—whether or not it is now before the Senate?

Mr. GALLINGER. That amendment was withdrawn.

Mr. LODGE. I withdrew my amendment and substituted for it a provision which was laid on the table.

Mr. DANIEL. I beg leave to make another parliamentary inquiry. Is it the intention of the Senator to reoffer his amendment?

Mr. LODGE. No, Mr. President, I shall not again offer it. As it is perfectly evident the Senate is opposed to it, I shall not take any more time.

Mr. GALLINGER. I was about to suggest that the motion to lay on the table made by the Senator from West Virginia [Mr. ELKINS] is pending. I hope it will not be adopted.

Mr. DANIEL. I wish to make another inquiry while I am on my feet, Mr. President. The Senator from New Hampshire——

The VICE-PRESIDENT. Is there objection to the Senator from Virginia making his parliamentary inquiry? The Chair hears none.

Mr. DANIEL. The Senator from New Hampshire has offered an amendment, which has not been debated. The unanimous-consent agreement, as I understood it, was that each Senator should be privileged to speak fifteen minutes and that he could speak on any subject that was before the Senate. Now, this motion is offered to cut off all debate, and I should like to inquire if the unanimous-consent agreement can be considered as off if that amendment is adopted?

The VICE-PRESIDENT. The Chair has heretofore ruled upon that precise question. In the opinion of the Chair the Senate has heretofore put its interpretation upon the unanimous-consent agreement as it affects a motion to lay an amendment upon the table. The Chair is of the opinion that the motion of the Senator from West Virginia [Mr. ELKINS] to lay the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER] upon the table is in order. The question now is upon that motion.

The motion was not agreed to.

Mr. GALLINGER. The question now, as I understand, is on my amendment.

The VICE-PRESIDENT. The question now is on agreeing to the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER].

Mr. TELLER. Let the amendment be reported, Mr. President.

The VICE-PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. On page 34 of the last reprint of the bill, in line 9, before the word "dollars," it is proposed to strike out "ten thousand" and insert "seven thousand five hundred."

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER], which has just been stated.

The amendment was agreed to.

Mr. GALLINGER. I submit another amendment, Mr. President, which I send to the desk.

The VICE-PRESIDENT. The amendment of the Senator from New Hampshire will be stated.

The SECRETARY. On page 34, line 10, after the word "annually," it is proposed to insert:

The appointments shall be made as equitably as may be, so as to include the different sections of the country.

Mr. MALLORY. I suggest to the Senator from New Hampshire that the words "as equitably as may be" are not necessary in the amendment, and they should be stricken out.

Mr. GALLINGER. I will accept the amendment.

The VICE-PRESIDENT. The amendment as proposed to be modified by the Senator from New Hampshire [Mr. GALLINGER] at the suggestion of the Senator from Florida [Mr. MALLORY] will be stated.

The Secretary read the amendment proposed by Mr. GALLINGER as modified, as follows:

The appointments shall be made so as to include the different sections of the country.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER] as modified.

The amendment as modified was agreed to.

Mr. DANIEL. I move to strike out the word "seven," before the word "members," in line 8, page 34, and to insert "nine."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 34, line 8, section 8, before the word "members," it is proposed to strike out "seven" and to insert "nine."

Mr. STONE. Mr. President——

Mr. DANIEL. I have the floor, I believe.

The VICE-PRESIDENT. The Senator from Virginia is entitled to the floor.

Mr. DANIEL. Mr. President, I believe that nine members is the correct number for this Commission. There is a like number of members of the Supreme Court. The Supreme Court of the United States is constituted of nine judges, and I think the Interstate Commerce Commission should be composed of a like number.

It is somewhat more difficult to get an expert and well-trained mind for the Interstate Commerce Commission than it is to get a man who is competent to be a Supreme Court judge. There is not a community anywhere in the United States, which has twenty-five or thirty lawyers in it, which could not furnish an experienced, highly educated, and well-trained member of the bar, who, in character, dignity, and erudition, would be well qualified to occupy a seat upon the Supreme Bench of the United States. Men who are trained in practical affairs, who have those experiences in life and that grasp of mind to make efficient Interstate Commerce Commissioners, are rarer and of a more difficult character to find. The responsibilities are equally as numerous, and in many instances they are equally as great.

The Supreme Court has terms of session; it has vacations; its judges are concerned in but one branch of human knowledge—the study of the science of law—and while it is true, as Bacon says, that "the sparks of all the sciences may be found in the ashes of the law," the practical relations of life in great business affairs and those experiences which ought to be found in the character of an interstate-commerce commissioner are not of the kind that are connate to either the bench or the bar.

The Interstate Commerce Commission settles hundreds of cases which make but little appearance upon the surface. Their offices are somewhat like those of the Representative and the Senator. The time consumed upon the floor and in the conspicuous part of the public service is but a small part of the time which is occupied in severe and assiduous labor. From the rising of the sun to the going down thereof, day in and day out, week in and week out, month in and month out, members of the legislative bodies of the United States are continuously occupied in the business of their constitutents and in a multiplicity of affairs which give no sign whatsoever upon the surface of public events. It is even so, Mr. President, with the Interstate Commerce Commissioner, being in that respect different from the office of judge. People from all parts of the country consult with the Interstate Commerce Commissioners. The cases that are heard and decided are but a small percentage of those which have to be considered and advised about. The Senate could not, in my judgment, render to the shipping people and the business people of the United States a better service than by building up in every way that they may the dignity and the importance of the Interstate Commerce Commission, providing liberally for them, and making it a body to be looked up to, respected, and obeyed by those sanctions of character and environment which impress the people of the country with the bench.

Now, Mr. President, I have noted an undercurrent pervading the debate in this body. It has not been one of distinctive criticism, but it has rather been one of suggestive belittlement of the existing Interstate Commerce Commission. If anyone will read the opinions of the Interstate Commerce Commission, where they have taken up and treated many difficult and novel situations, he is bound to be impressed with the fact that the gentlemen who have been Commissioners have been most studious public servants and have been most intelligent in the discharge of their offices. They have had to decide questions which, in their nature, are just like those on which men have to vote in political matters, which elicit criticism here or there, and are displeasing to some and pleasing to others; but, in the main, Mr. President, they have left the impress of a high order of intellect and of most assiduous devotion to duty in the memorials of the service which they have rendered, contained in their reports and their opinions.

Before I take my seat I desire to ask leave to print with my remarks a list of the cases in which the Interstate Commerce Commission have been overruled, with a brief memorandum of the comments of the judges upon the new evidence which was put in the cases in which they were overruled.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Virginia? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

The Commission has been reversed in thirty-two cases (including one case partially reversed). In twenty-six of these cases the carriers took additional testimony in the circuit court. In a number of these twenty-six cases the additional testimony in court was very considerable in volume. In the case recently decided in the circuit court at Chicago, known as the "Live Stock and Live-Stock Products case," there were about 3,000 pages of additional testimony and 200 exhibits, in addition to the mass of testimony and exhibits before the Commission, which were also put in evidence before the court. The trial in court lasted thirty days. The estimated cost of printing the record in that case on appeal to the Supreme Court is $10,000.

COMMISSION CASES BEFORE THE COURTS WHEREIN EVIDENCE IN ADDITION TO THAT INTRODUCED BEFORE THE COMMISSION WAS CONSIDERED.

The facts bearing upon the controversy were gone into *more fully* than before the Commission. (K. and I. Br. Co. *v.* L. and N., 37 Fed. Rep., 567.)

The proof *before this court* established that said party rates of 2 cents per mile are reasonable and just. (I. C. C. *v.* B. and O., 43 Fed. Rep., 37.)

Much time was consumed in the taking of testimony on behalf of the respective parties. * * * It is the duty of the court to examine the *entire evidence* submitted, and base its judgment upon the case as *here* established. (I. C. C. *v.* A., T. and S. F., 50 Fed. Rep., 295.)

Nothing can be clearer than that the findings by the Commission are *not here* decisive of the questions of fact. (I. C. C. *v.* L. V., 49 Fed. Rep., 177.)

The case is now before us upon the pleadings, the report of the Commission, the evidence taken by the Commission, and *additional proofs taken by an examiner appointed by the court.* (I. C. C. *v.* L. V., 74 Fed. Rep., 784.)

We have only to add that the evidence *before us* is quite convincing. (Ibid.)

The evidence offered here on behalf of the railroads is, in the opinion of the court, sufficient to overcome any prima facie case that may have been made by the findings of the Commission. On the whole testimony, *as now before the court, it is not believed that the Commission would have found the rate in question to be unreasonable.* (I. C. C. *v.* C. N. O. and T. P., 56 Fed. Rep., 925.)

We think this is a proper occasion to express disapproval of such a method of procedure on the part of the railroad companies as should lead them *to withhold the larger part of their evidence from the Commission, and first adduce it in the circuit court.* (I. C. C. *v.* C. N. O. and T. P., 162 U. S., 184.)

The finding of fact by the Commission is adopted for the purpose of this opinion, *together with some further facts* not inconsistent therewith, proven by the testimony or of which judicial notice is taken. (I. C. C. *v.* D., G. H. and M., 57 Fed. Rep., 1005.) (Severens, dissenting opinion.)

We try the case in the courts de novo, on the facts *there* presented. (I. C. C. *v.* D., G. H. and M., 74 Fed Rep., 803.)

To this an answer was filed by the company, admitting the facts to be as found by the Commission, and alleged certain *additional* facts, *to support which testimony was adduced.* (I. C. C. *v.* D., G. H. and M., 167 U. S., 633.)

The facts sufficiently appeared in the report of the master who took *additional* testimony. (Fla. Fruit Exch. *v.* S. F. and W., 4 I. C. Rep., 400.)

The case was referred to a special master, whose findings *substantially* agreed with that of the Commission. (S. F. and W. *v.* Fla. Fruit Exch., 4 I. C. Rep., 589.)

No testimony was taken before the circuit court. The case was heard upon petition and answer. (I. C. C. *v.* Tex. and Pac., 57 Fed. Rep., 948.)

The cause was heard upon petition and answer and *sundry exhibits.* (Tex. and Pac. *v.* I. C. C., 162 U. S., 197.)

The case was conducted by the interested parties, and upon the *additional evidence taken in court* the petition was dismissed. (I. C. C. *v.* N. Y. P. and N., never reported; see App. D, Hearings before Senate Com., p. 16.)

It seems undesirable at this stage of the case to summarize generally the facts thus assumed to be true, as *subsequent evidence taken in this court may modify such assumptions.* The "assumptions" referred to were the findings of fact of the Commission. (N. Y. and N. *v.* N. Y. and N. E., 50 Fed. Rep., 867.)

The court, of course, may go fully into the proof on its own examination to determine whether it will approve the order, and may hear any *additional proof* adduced. (I. C. C. *v.* L. and N., 73 Fed. Rep., 409.)

The case made here *is not the case as it was made before the Commission.* New testimony has been taken. (I. C. C. *v.* Ala. Mid., 69 Fed. Rep., 227.)

Additional evidence may be put in by either party, and the duty of the court is to decide, as a court of equity, upon the *entire body* of evidence. (I. C. C. *v.* Ala. Mid., 168 U. S., 144.)

This court is not confined to a mere examination of the matter *as heard by the Commission.* It proceeds to hear the complaint de novo. (Shinkle, W. and K. Co. *v.* L. and N., 62 Fed. Rep., 690.)

The answers in this case are such as to warrant the taking of testimony by the defendants, and, if necessary, taking of further testimony on behalf of the Commission. (I. C. C. *v.* C. N. O. and T. P., 64 Fed. Rep., 981.)

By stipulation the testimony taken before the Commission was used at the hearing in the circuit court, and by consent certain documentary evidence (consisting of railway agreements, tariffs, reports, etc.) *was filed as additional evidence on behalf of the defendants.* (L. and N. R. Co. *v.* Behlmer, 175 Fed. Rep., 648.)

The testimony taken before the Commission was used on the hearing in this court, and additional testimony was taken by each of the parties after the cases got to this court. (I. C. C. *v.* Sou. Ry., 105 Fed. Rep., 703.)

Testimony and documentary evidence has been taken by said master, at the cities of Spokane, Seattle, and Tacoma, in the State of Washington, and in Portland, in the State of Oregon, and in San Francisco, Cal., and in St. Paul, Minn.; and said master has made a full and exhaustive report, setting forth the facts and his conclusions, *from the evidence taken,* and his opinion upon the questions of law involved in the controversy. (F. L. and T. Co. *v.* No. Pac., 83 Fed. Rep., 249.)

Each side *took further proof,* and the case was finally submitted to the court on the report and opinion of the Commission, and *further testimony taken in this court.* (I. C. C. *v.* E. T. V. and G., 85 Fed. Rep., 107.)

The court may direct further evidence to be taken; and, if it shall appear that the facts are otherwise than as reported, *the court would be governed by the facts as found by itself in forming its judgment.* (Ibid.)

In that court *additional* testimony was taken, but it was all merely cumulative of that which had been adduced before the Commission. (E. T. V. and G. *v.* I. C. C., 181 U. S., 1.)

After the case was at issue in this court evidence was taken both for the Commission and the railway companies. (I. C. C. *v.* W. and A., 88 Fed. Rep., 186.)

Before the circuit court the Commission contented itself with introducing in evidence certified copies of the proceedings had before it, *other than the evidence taken by the Commission.* * * * The evidence introduced on behalf of the railroad companies consisted only of the circulars and tariff sheets which had been issued and filed with the Commission. (I. C. C. *v.* C. B. and Q., 186 U. S., 320.)

The evidence, we think, supports these findings (of the Commission). (I. C. C. *v.* L. and N., 118 Fed. Rep., 613.)

This conclusion of the Commission seems to be warranted by the evidence before the Commission, and there is nothing in the *additional* evidence taken in the circuit court to justify finding a different result. (I. C. C. *v.* N. C. and St. L., 120 Fed. Rep., 934.)

In addition to the proof taken before the Commission, oral testimony was offered at the hearing. (I. C. C. *v.* L. S. and M. S., 134 Fed. Rep., 942.)

Mr. PETTUS. Mr. President, I desire to inquire whether it is in order to move an amendment to make the Commission nine when an amendment was adopted, on the motion of the Senator from New Hampshire [Mr. GALLINGER], that it should be seven?

The VICE-PRESIDENT. Seven is the number named in the bill, and the Senator from Virginia has moved to amend by striking out "seven" and inserting "nine."

Mr. DANIEL. That is right; inserting "nine."

Mr. KEAN. I move to amend the amendment by striking out "nine" and inserting "five," leaving the Commission to be constituted of exactly the same number as it is at the present time.

Mr. NELSON. I move to lay both of the amendments on the table.

The VICE-PRESIDENT. The question is on the motion of the Senator from Minnesota.

The motion was not agreed to.

Mr. KEAN. I ask for the yeas and nays, Mr. President.

Several SENATORS. Oh, no.

Mr. KEAN. I withdraw my amendment, so as to let the other amendment be voted on now.

Mr. FORAKER. What is the amendment on which we are to vote?

The VICE-PRESIDENT. The Secretary will state it.

The SECRETARY. On page 34, line 8, before the word "members," it is proposed to strike out "seven" and insert "nine;" so that the Commission shall consist of nine members.

The VICE-PRESIDENT. The Senator from New Jersey moves as an amendment——

Mr. KEAN. I withdraw that.

Mr. NELSON. I move to lay the amendment on the table.

Mr. DUBOIS. Mr. President, I renew the amendment.

The VICE-PRESIDENT. The Senator from Minnesota has moved to lay the amendment proposed by the Senator from Virginia [Mr. DANIEL] on the table.

Mr. LATIMER. I renew the amendment of the Senator from New Jersey [Mr. KEAN].

The VICE-PRESIDENT. That is not in order.

Mr. FORAKER. I move to amend the amendment.

The VICE-PRESIDENT. That is not in order, the Senator from New Jersey having withdrawn his amendment. The only question before the Senate is the motion to lay the amendment proposed by the Senator from Virginia upon the table. The Chair understood that demand was made for the yeas and nays.

Mr. ELKINS. No; not on that motion.

Mr. NELSON. Not on that, but on some other. The question is on the motion to lay the amendment of the Senator from Virginia on the table.

The VICE-PRESIDENT. So the Chair stated.

The motion to lay Mr. DANIEL'S amendment on the table was agreed to.

Mr. FORAKER. I move to strike out the word "seven" and insert the word "five;" so that the Commission shall consist of five members.

The VICE-PRESIDENT. The Secretary will state the proposed amendment.

The SECRETARY. On page 34, line 8, before the word "members," it is proposed to strike out "seven" and insert "five."

Mr. DICK. It will be necessary for the Senator to include an additional amendment by striking out the words "is hereby enlarged so as to" and to insert the word "shall," in order to make the amendment applicable.

Mr. FORAKER. Very well. I accept that.

The VICE-PRESIDENT. The Secretary will state the amend-

ment of the senior Senator from Ohio [Mr. FORAKER] as modified by the junior Senator from Ohio [Mr. DICK].

The SECRETARY. On page 34, line 8, before the word "consist," it is proposed to strike out "is hereby enlarged so as to;" and in the same line, before the word "members," to strike out "seven" and insert "five;" so that, if amended, it will read:

SEC. 24. That the Interstate Commerce Commission shall consist of five members with terms of seven years.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Ohio [Mr. FORAKER] as modified.

The amendment as modified was agreed to.

Mr. MALLORY. I call the attention of the Senator from Ohio to the necessity of amending the section lower down, where provision is made for the appointment of the additional members.

Mr. FORAKER. If the Senator from Florida will make the motion, I will yield to him to do so. I was going to call attention to the fact that the term of service would have to be changed. Under the bill the Commissioners are now, I believe, to be appointed for seven years. I have not a copy of the bill before me. If the Senator from Florida has the bill before him, I would be glad if he would move the amendment to which he refers.

Mr. MALLORY. It requires considerable time to make the changes, commencing in line 12.

Mr. CLARKE of Arkansas. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Arkansas?

Mr. FORAKER. Certainly.

Mr. CLARKE of Arkansas. The necessary amendment may be made by striking out entirely section 8. It will require no other amendment to make the bill conform in this particular to the present law than to strike the section out. The salary of the Commissioners has been fixed as it is now fixed by law, and the number of Commissioners has been made the same.

Mr. FORAKER. Will the Senator make that motion?

Mr. CLARKE of Arkansas. Very well. I move to strike out all of section 8.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to strike out all of section 8 of the bill.

The amendment was agreed to.

Mr. ALDRICH. Let the reading of the bill be continued.

The VICE-PRESIDENT. The Secretary will read the next section of the bill.

The Secretary read section 9, as follows:

SEC. 9. That all existing laws relating to the attendance of witnesses and the production of evidence and the compelling of testimony under the act to regulate commerce and all acts amendatory thereof shall apply to any and all proceedings and hearings under this act.

Mr. NEWLANDS. I have an amendment which I intended to propose for the addition to this bill of about twenty sections providing for the formation of national corporations for railroad and navigation lines. Since that amendment was proposed I have been authorized by the Interstate Commerce Committee to report a bill providing for a commission to inquire into the question of national incorporation and to report thereon. I have therefore, after consultation with the Senator from South Carolina [Mr. TILLMAN] and the Senator from Rhode Island [Mr. ALDRICH], subject to the approval of the Senate, concluded to ask simply that the amendment be printed in the RECORD, and with it certain extracts from the views which I presented upon the report of the rate-regulation bill to the Senate.

I hope that some such bill may finally be passed, which will enable the consolidation under national charter of great systems of transportation, which will embrace not only great transcontinental lines of railways, but also great steamship lines to foreign countries, thus promoting both interstate and foreign commerce.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Nevada for the printing in the RECORD of the matter named by him? The Chair hears none, and it is so ordered.

Mr. NEWLANDS. I also desire to have printed the extracts from the report which I made on the pending rate bill, and a copy of the bill providing for a commission to examine into the question of national incorporation to which I have referred.

The VICE-PRESIDENT. The Chair hears no objection, and it is so ordered.

The matter referred to is as follows:

[Railroad rate legislation. March 15, 1906. Ordered to be printed.]

Views of Mr. Newlands.

While I have joined in the report on House bill No. 12987, amendatory of the interstate-commerce act, and am in sympathy with its general purposes, and believe that it is well framed to cover its main purpose as to the regulation of rates, I think it should be classed with the incomplete and fragmentary legislation regarding interstate commerce in which Congress has thus far indulged.

I believe that this is the time for full and comprehensive legislation. I do not believe that our legislation will be as effective as it should be unless it adds to the pending measure provisions for the national incorporation of railways engaged in interstate commerce, guarding against overcapitalization, fixing with certainty the rule for the taxation of such railway property by the States, and prescribing a fixed limit for dividends.

Such legislation should not simply cover the interests of the shippers and the common carriers; it should embrace the interests of labor by providing for an insurance fund against accidents and old age and for conciliation of disputes between carriers and their employees. Such legislation should be simple, definite, certain, should cover every question relating to the regulation of interstate commerce, including the creation of the artificial beings called "corporations" that are to conduct it. It should frankly recognize the economic necessity of consolidation and combination and the essentially monopolistic character of the business, and regulate consolidation, combination, and monopoly, with a proper regard for the interests of the public served by it, the property rights of the capital employed in it, and the human rights of the labor employed by it.

RAILROAD GROWTH AND CONSOLIDATION.

The railroad mileage has increased from 23 miles in 1830 to 213,000 miles in 1905. This mileage is owned by over 2,000 railroad corporations, created by State laws. As the result of consolidation, combination, and recombination, the operation of these 2,000 railroads has been mainly unified under the control of less than ten systems, each organized under the laws of a single State, generally bearing the name of a single man, who is regarded as the dominant factor in its control.

The controllers of these systems resort for the machinery of combination to the States whose laws are most lax in proper restrictions regarding combination and overcapitalization.

CONTROL OF PRODUCTION.

In many cases the controlling corporation of a system, in addition to securing the control of a vast mileage through purchase or lease, also buys the stock of troublesome rivals, and thus gradually brings about a community of interests which results in the suppression of competition and the stability of rates. It also, in some cases, purchases the control of producing companies in coal and iron, and thus, in connection with other corporations bound to it by a community of interest, controls the production of coal and iron in such States as Pennsylvania and West Virginia.

In addition to this, the men who control the great industrial combinations have become the controlling spirits of the great railroad combinations, and thus monopoly in transportation and monopoly in production have become united in the realization of profit. The pending bill provides no remedy for this abuse.

CONTROL OF CAPITALIZATION.

As a rule in the formation of these great railroad combinations there is no public supervision or control over the amount of their capitalization, this being left entirely to the judgment of those interested. States which require the approval by a public tribunal of stock and bond issues made for consolidation and combination, such as Massachusetts and Texas, are avoided in the creation of such combinations. The States whose legislation is most lax in such matters are resorted to for corporate powers. The capitalization of all the railroads engaged in interstate commerce is about $13,000,000,000, about half in bonds and half in stock.

The bonds for the most part represent genuine investment; the stocks, it is claimed, have been largely watered.

The President in his message has called attention to the evils of overcapitalization in the following words:

"Of these abuses perhaps the chief, although by no means the only one, is overcapitalization—generally itself the result of dishonest promotion—because of the myriad evils it brings in its train; for such capitalization often means an inflation that invites business panic; it always conceals the true relation of the profit earned to the capital actually invested, and it creates a burden of interest payments which is a fertile cause of improper reduction in or limitation of wages; it damages the small investor, discourages thrift, and encourages gambling and speculation; while, perhaps, worst of all is the trickiness and dishonesty which it implies—for harm to morals is worse than any possible harm to material interests, and the debauchery of politics and business by great dishonest corporations is far worse than any actual material evil they do the public." * * *

CHANGES IN RAILROAD CONDITIONS SINCE 1887.

In the World's Work for October, 1905, appears an article by Professor Ripley, of Harvard University, entitled as above.

In this article Professor Ripley states that from 1889 to 1903 "while population and mileage increased one-third, the railroads in 1903 hauled the equivalent of two and a half times the total volume of freight traffic handled in 1889, the year of the earliest statistics." He adds:

"If the freight business of the United States increased five times as fast as population or mileage in fourteen years, the imagination runs riot concerning its probable magnitude fifty or one hundred years hence."

In this article also appears the following statistical statement:

"Gross revenues of American railroads in 1889 were about $1,000,000,000 and in 1903 they were about one billion nine hundred millions. The preliminary figures for 1904 show that they have practically doubled in the brief period of fifteen years.

"The net income available for dividends has grown even faster. The increase to 1903 was, roughly speaking, about 250 per cent, namely, from one hundred millions in 1889 to three hundred and fifty-seven millions in 1903. There is every probability that by 1905 the net revenue will be more than fourfold the figures in 1889."

GROWTH OF CONSOLIDATION.

Professor Ripley speaks of the enormous growth of consolidation since 1887, and calls attention to the fact that before 1890 a 5,000-mile railroad was about the maximum, and that the next decade, 1900, witnessed the growth of systems of about twice that size. He then adds:

"Since then, not simply consolidations, but recombinations of systems, each in itself the result of antecedent consolidations, have made their appearance. The Morgan, Vanderbilt, Pennsylvania, Harriman, and Gould properties during the last five years attained lengths of 15,000 to 20,000 miles, and shall anyone be rash enough to predict that the end is yet in sight?"

In addition to this form of consolidation, Professor Ripley says:

"Great systems are quietly assuming control of their lesser and parallel rivals through investment of surplus funds in their securities. In this way trunk-line territory has been practically closed to competition. The New York Central has secured the Lake Shore, and through it purchased a large interest in the Philadelphia and Reading Railway. At the same time the Pennsylvania Company, through the Baltimore and Ohio, purchased control of its former troublesome rivals in the South, the Chesapeake and Ohio and the Norfolk and Western. The Baltimore and Ohio is also used by the Pennsylvania as a catspaw to assist in pulling the Philadelphia and Reading out of the fire of competition. The last company, thus jointly controlled at arm's length by the two great trunk lines, becomes the principal factor in the great anthracite coal combination, which includes four or five other companies. With the Vanderbilt and Morgan control of the Delaware, Lackawanna and Western and the Lehigh Valley, it will be apparent how little room there is for competition in this territory. The only free lance in any sense is the Erie, and rumor has it that the New York Central, through the Lake Shore and the Pennsylvania, is buying into its control at the present time."

INTERCORPORATE OWNERSHIP.

Under this heading Professor Ripley speaks of another form of consolidation which is going on. In fourteen years, he says, outstanding stocks and bonds of railroads owned by the public increased only 25 per cent, while railroad ownership of such securities increased four times as fast, or 100 per cent.

"In other words," says Professor Ripley, "railroad investments in other railroads have been growing about four times as fast as ownership by the general public, until in 1903 about one-fourth of the outstanding issues of railway stocks and bonds were owned by these corporations themselves."

This tendency has been accelerating during the past few years. Professor Ripley cites as an illustration the case of the Union Pacific Railroad, whose holdings five years ago of miscellaneous securities were about $11,000,000.

"In its annual report for 1904 this item is represented by $211,800,000, mainly stocks of other roads, with a few bonds. Including its holdings through auxiliary companies its investments have grown in five years from $90,686,000 to $342,587,000."

Professor Ripley shows how suitable counterpoises of nonvoting stocks and bonds enable control of these parent companies to be held with comparative ease by a few men, and adds:

"This is our dilemma, then. Such an inverted financial pyramid, if it prove its worth, must unconscionably enrich the few who control it—the public danger of the overwealthy. If it threaten to prove top-heavy it can be upheld only through larger exactions from the shipping and consuming public—extortionate rates; while, if it topple over, vast losses must come to the innocent public which provided nine-tenths of the real capital investment—witness widespread bankruptcy."

* * * * * * *

IS CONSOLIDATION DESIRABLE AND LEGAL?

It may be safely stated that consolidation has for the most part resulted in greater economy and efficiency of operation, in better and quicker service, in a more equal service, and in stability of rates. As to whether it has worked a reduction of rates is disputed. The verdict of the people would probably be in favor of controlled consolidation and against uncontrolled consolidation. None of these consolidations have been tested in the courts except that accomplished through the agency of the Northern Securities Company. It was condemned and dissolved. It is probable that others are equally illegal, but there seems to be little disposition to attempt to break them up. Consolidation and merger of railroads engaged in interstate commerce constitute a part of the economic development of such commerce.

This measure provides no supervision or control over consolidation or merger.

CORPORATE ACTIVITY IN POLITICS.

The activity of these great railroad combinations in politics has been increasing ever since 1896. They are in politics because they feel that their property may be at any time the subject of attack either by legislatures or by administrative officers. Their vast property is between the upper and the nether millstone—the upper millstone of the rate-regulating power, the nether millstone of the taxing power. Between the two, save for the protection of the courts, they could be ground to destruction.

Participation in politics is stimulated by the uncertainty and insecurity of their situation. In the States, as a rule, they take part in the selection and election of officials whose duty is likely to trench in any degree upon the taxing and rate-regulating power. In addition to being subject to the control of Congress as to interstate rates they are subjected to the control of forty-five different State legislatures or commissions as to the rates of State commerce. They are also taxed under forty-five different systems embraced in the laws of as many States.

There is no certainty, no uniformity, no permanency. Thousands of local officials are engaged in making the valuations and fixing the tax rates. The railroads are therefore in politics, and as they do everything systematically their participation in politics means either organization of or identification with a machine in most of the States of the Union, and since, as a matter of business, they pursue the lines of least resistance, this often means alliance with corrupt elements of the communities in which they operate. Having been drawn into politics by the necessity for protection they are likely to become aggressive and dominant in political control. It is expensive business for the railroads and it is a grave menace to the institutions of the Republic.

UNDOUBTED POWERS OF THE NATIONAL GOVERNMENT.

No one can question the power of the National Government to create corporations for the purpose of carrying out the powers intrusted to it by the Constitution. Under the granted powers of the Constitution we have created national banks, we have acquired and are now completing the Panama Canal, and have acquired the stock of and are operating the Panama Railroad. Under these powers we have also incorporated several railroads, among others the Union Pacific, the Atlantic Pacific, and the Texas Pacific railroads, the two former constructed through Territories, the latter constructed from a point in Texas to a point in California, all done under the powers granted in the Constitution to provide for the national defense, to establish post-offices and post-roads, and to regulate commerce with foreign nations and among the States.

Economic efficiency requires that the same railroad should accommodate both State and interstate commerce. State commerce is subject to the regulation of the State, interstate commerce is subject to the regulation of the United States. There should be no difficulty concerning the harmonious cooperation of the greater and the lesser sovereignties under a national incorporation act.

When I first introduced a joint resolution for the creation of a commission to frame a national incorporation act for railroads, I presented the view that it was unnecessary to seek either the cooperation or the consent of the States; that the United States had the power to create corporations for the transportation of interstate traffic; that it had the power to exempt the instrumentalities it chose for this purpose from all States burthens, either as to taxation or as to regulation of rates, upon the theory that the States could not put burthens upon national instrumentalities which might destroy their efficiency. But upon reflection I am convinced that it is wiser to secure the cooperation of the two sovereignties. I would suggest, therefore, the following legislation:

WHAT NATIONAL INCORPORATION SHOULD INCLUDE.

It is clear to my mind that we should have a national law for the incorporation of railways engaged in interstate commerce; that no incorporation formed under it should be permitted to enter upon its work until its certificate of incorporation defining its purpose and powers should be submitted to and approved by the Interstate Commerce Commission; that such corporation should not be permitted to commence construction or to purchase or acquire existing railroads until its plans and estimates are approved by the Interstate Commerce Commission; that such corporation should not be permitted to issue its bonds or stock until the amount thereof and the consideration therefor are submitted to and approved by the Interstate Commerce Commission, after a public hearing; that all subsequent issues of stock and bonds should require a similar hearing and approval; that no existing railroad now owned by a corporation created by the laws of any State should be acquired or purchased without the consent of such State; that railroads so constructed and acquired by such national corporation should be subject to the reasonable police laws of the States in which they are operated; that the stock and bonds of such national corporations should be exempt from all taxation, but that the actual property and equipment of such corporations should be assessed by the States in which they are located at such percentage of its value as is customary and general, and should be taxed at the same rate as other property, or, better, that the State should levy a tax not exceeding 4 per cent upon such proportion of the gross receipts of the railroad as the mileage of such railroad within the State bears to the entire mileage operated; that nothing in the act should interfere with the power of the State to regulate the rates for the State traffic upon such railroad; that the Interstate Commerce Commission should make a valuation both of the road constructed and the road and equipment purchased or acquired and should make a record of the same, and that the issue of bonds and stock should equal such value and no more, and that all subsequent issues of stock and bonds should represent the actual value of property constructed or acquired.

APPROVAL OF STOCK AND BOND ISSUES.

A national incorporation act should limit stock and bond issues to the cash paid in, or to the value of the property acquired, and so strict should this provision be that no issue of stock or bonds should be permitted save with the approval of the Interstate Commerce Commission. There are two States in the Union to-day whose corporate legislation is of the highest character—the State of Massachusetts and the State of Texas. In both of these States the railroad commission must approve the issues of stocks and bonds, and in Texas no stock or bond issue is legal unless the approval is indorsed upon the stocks or bonds.

What we wish to do is to nationalize either the system of Texas or the system of Massachusetts, and to denationalize the system of New Jersey. It is possible that we may have to use powers both of persuasion and of coercion in bringing in existing corporations under a national charter. It may be that we will have to validate a large portion of the capitalization already created, but if we can save the country from the overcapitalization of the future, even though we validate a large part of the overcapitalization of the past, we will confer a lasting benefit upon the American people.

A FAIR RETURN.

The return which national corporations are to have upon their capital should be a fair rate of interest on a fair valuation, and in giving the franchises to collect tolls we should provide that it should be exercised in such a way as to guard the public interest and save the public from extortion. The Supreme Court has declared that the railroads are public highways; that the right to collect tolls can not be exercised without a grant from the sovereign; that the tolls must be reasonable, and that in a judicial inquiry the reasonableness of the toll must be determined by a consideration of the value of the property employed in the public use, the gross receipts, the operating expenses, the cost of maintenance, the taxes, the interest on debts, etc., and that rates should be so adjusted as to yield, after all reasonable allowances, a fair return upon such valuation.

The best way of maintaining for all time the valuation of these roads is to have the capital stock express the real capital employed, and not a fictitious capital, and then we will know upon what amount a fair return should be paid.

In Smyth *v.* Ames (169 U. S., 546) the Supreme Court says:

"We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under the particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth."

And yet although the Supreme Court has laid down the rule for the regulation of rates, as involving a fair return upon the value of the property affected, in the consideration of which certain factors are to be considered, such as the stock and bond issues, the actual cost, the actual cost of reproduction, etc., we in our legislation do not provide the factors by which the Interstate Commerce Commission can be guided. We should furnish them with the means of controlling the cap-

italization of these corporations, and if we do not enter upon a national incorporation of railways, we should at all events provide that the Interstate Commerce Commission should enter upon a valuation of the railroads, and to that valuation should be added from time to time the increases of bond and stock issues made by the corporation with the approval of the Commission.

* * * * * * *

TAXATION.

Then there is the question of a uniform system of taxation to be devised. Whenever the National Government creates a corporation for the carrying out of a great public purpose, and when the National Government uses the property of that corporation as an instrumentality for carrying out the powers conferred by the Constitution, it can, if it chooses, absolutely exempt such property from State burdens, for the power to tax involves the power to destroy. If it can do this it can certainly do what I contend for, namely, lay down the rule by which States shall tax the property of such corporations within their boundaries.

We all know the looseness of the State laws regarding the taxation of railroads. We know that the range of assessment is a wide one; that the lesser degree of assessment is simply a valuation of the tracks and of the right of way, and that the higher degree of assessment involves the combined value of the stock and bonds. In addition to this the stock and bonds themselves in the hands of the stockholders can be assessed in most of the States, and thus we have a double system of taxation. As long as the taxation of railroads is subject to the conflicting laws of forty-five different States is it to be wondered that railroads keep in politics? Can we throw $10,000,000,000 worth of property into the political arena, subject to public control, both as to rates and to taxes, and then ask the $10,000,000,000 to keep out of politics?

The United States Government should fix a rational and fair rule for the taxation of railroad properties which would leave nothing to discretion and which could be ascertained with mathematical certainty. Such a tax is a percentage tax upon gross receipts levied by the various States in proportion to mileage. It has the advantage of mathematical certainty and would relieve railroads of all necessity, so far as taxation is concerned, of interfering in politics.

Besides this, if the Interstate Commerce Commission is to fix the rates it is absolutely essential it should have all the factors for determining what is a fair return upon the capital invested, and one of those features is the allowance of the taxes; and if these taxes can be rudely disturbed from time to time by political action, involving violent readjustments, there can be no certainty either in the action which they take or in the rates for transportation which are the result of their action.

RAILROAD EMPLOYEES.

There are other provisions which a national incorporation act should contain. One is an insurance and pension fund for employees. One per cent of the gross receipts of all the railroads of the country, amounting at present to over $2,000,000,000 annually, would be $20,000,000 annually. This sum put into an insurance and pension fund, and invested under the direction of the Secretary of the Treasury, would yield ample returns for the relief of employees suffering from injury or old age. The charge should be frankly imposed on the public as one of the fixed charges of operation, and allowance should be made therefor in fixing rates.

The Interstate Commerce Commission should be made a board of conciliation as to all disputes between employees and the railroads. As it is, whenever there is a dispute between a railroad company and its employees, if they fail to agree, there is war—war which does not involve them only, but which involves the entire country, threatening an impairment and even destruction of the commerce between the States and between communities. Can it be said that it is wise to adhere to a system which threatens at any time to paralyze trade and to lock up the activities of the entire country? I would not provide compulsory arbitration, but I believe that the conciliation of the Interstate Commerce Commission would be as effective in such matters as has been the conciliation of the railroad commission of Massachusetts in disputes between railroads and shippers.

THE NATION SHOULD ACT.

These are the questions which come before us in the consideration of national incorporation. We are considering questions of the general welfare, of the national defense, of the national postal service, of the national commerce, and of foreign commerce—all of them intrusted by the Constitution to the representatives of the people of the United States in Congress assembled. We have not exerted these powers to the full. Is it time that in the interests of the entire country we should assume the functions plainly given to us by the Constitution and provide with deliberation and judgment for their full exercise?

GOVERNMENT OWNERSHIP.

It is plain that the people are restive under existing conditions. They realize that consolidation, capitalization, and return on capital are practically uncontrolled; that a few men in the great financial centers have almost absolute power in these matters; that our dual system of government tends to a confusion in control which practically exempts them from all control; that the complexity of the situation makes the railroad men the dominant power in politics; that the confusion of bond and stock issues, of stock watering, of leases, mergers, and combinations absolutely paralyzes the judgment of the average right-thinking man, and is a fruitful source of corruption and fraud, political and financial.

They realize that the men who are prominent in the great industrial corporations are getting control over the transportation of the country, and that the union of control of the finances, the production, and the transportation of the country in the hands of a few has already created a plutocracy unsurpassed in wealth and power in the world's history, and that if this continues we are upon the threshold of still greater concentration of wealth and power.

They will look for simplicity in whatever plan of relief is proposed, and unless we unify and simplify the control of transportation in a few thoroughly controlled great national corporations whose finances and operations can be easily understood and whose functions will be entirely taken out of politics, they will drift to national ownership as the easiest solution.

The argument is a simple and taking one. If outside of the United States three-fifths of the trackage of the world is in national ownership, why should not America own her railroads? If the universal tendency is to the ownership by nations, why should not we follow their example? If the nation can build the most gigantic public work of modern times, the Panama Canal, and if it can own and operate a from-ocean-to-ocean railroad at Panama, why can it not build and own and operate lines through the United States from ocean to ocean and from the Lakes to the Gulf? If Chicago can contemplate the ownership of interurban railroads costing hundreds of millions, can not the nation take in hand the ownership of interstate railroads costing billions? Such in brief is the argument in favor of national ownership. The method is not difficult.

It would be easy to authorize the Interstate Commerce Commission to institute suit to condemn the shares of stock in all the railroads in the country engaged in interstate commerce, leaving the bonds outstanding as a lien upon the property. Thus the interests of the stockholders would be purchased by the nation, and the Interstate Commerce Commission could step into the position of directors of the various companies with their present organizations of officials and employees and could gradually work out a method of national administration. The present bond issues amount to about $6,000,000,000, bearing interest at about 4½ per cent, for which Government bonds at 2½ or 3 per cent could be gradually substituted as the railroad bonds matured, thus accomplishing a saving of $90,000,000 to $120,000,000 annually. The capital stock, whose par value aggregates about $6,000,000,000, and whose market value aggregates a little less, could be condemned at approximately the market rates and paid for by the sale of 2½ or 3 per cent United States bonds.

As the present annual revenue of all the railroads is over $2,000,000,000, it would furnish a sufficient sum to pay all the fixed charges of the companies and the low rate of interest upon the Government bonds issued for the purchase of stock and produce a surplus which would make ample provision for betterments and extensions, and also provide a sinking fund which would extinguish the entire debt in fifty years. There can be no doubt about the legality of such a procedure. A similar bill was passed unanimously in the Senate at the last session, authorizing the condemnation of the stock of the Panama Railroad. By this method the Government would acquire without any revolutionary methods the control of all the railroads engaged in interstate commerce in the country, and, assuming that the administration was honest and efficient, the saving effected by the substitution of low-rate bonds for high-rate stock and the gradual retirement of existing bonds at much lower rates of interest would eventually pay for the roads.

Should the country determine to simply take hold of the railroad construction of the future, leaving the existing railroads in the hands of their present owners, the Government could easily build a railroad of 3,000 miles across the continent from Norfolk or Charleston to Los Angeles or San Diego, which would become the spinal column of a great governmental system. Government ownership presents no difficulties, either constitutional or practical, except possibly the difficulty of honest and efficient administration, and the country will certainly drift to it unless the existing abuses of uncontrolled monopoly, of overcapitalization, of accomplished union between the producing and transportation interests, of political control, and of unjust preferences and discriminations are done away with. Even assuming that the Government management may not be as economical, the time may yet come when the people will regard equality of service as of more importance than economy of service. Such, briefly, is the argument for national ownership.

But I believe the policy I am advocating would give the country all the benefits of government ownership with none of its dangers. It would abolish the evils which have arisen from unrestricted monopoly, automatically bring about a reduction in rates, put the railroads out of politics, close the door against the entrance of over a million men into the political patronage, and retain the management of the able men whose genius created our present efficient system of transportation out of the crude conditions which prevailed a generation ago.

FRANCIS G. NEWLANDS.

Amendment intended to be proposed by Mr. NEWLANDS to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, viz: Add the following sections:

FORMATION OF NATIONAL CORPORATIONS FOR RAILROAD AND NAVIGATION LINES.

SEC. 12. That any number of persons not less than fifteen may, under and subject to the requirements and conditions in this act provided, form a corporation for the purpose of constructing, equipping, maintaining, improving, and extending, and, as a common carrier, operating, a line or lines of railroad or navigation between points in different States of the United States, or between a State and a Territory, or in a Territory, or between a State and the District of Columbia, or between the United States and foreign countries, or for the purpose of acquiring by purchase or lease and operating any such line or lines of railroad or navigation already constructed or established, or for all of such purposes.

POWERS.

SEC. 13. That every corporation organized under this act shall have powers and be subject to restrictions as follows:

(a) To assume a corporate name and under such name to have corporate succession for a period stated in its certificate of incorporation, and if no other period be therein named, such succession shall be perpetual.

(b) To sue and be sued in its corporate name.

(c) To issue bonds and capital stock, as hereinafter provided.

(d) To adopt, use, and alter a corporate seal.

(e) To elect all necessary officers and appoint managers and agents, as hereinafter provided.

(f) To hold, purchase, convey, mortgage or lease such real or personal property as the lawful purposes of the corporation may require, including the right to acquire and hold the capital stock, or bonds, or both, of other railroad corporations and corporations properly subsidiary or incidental to the management and operation of the railroad business, including navigation lines, and to lease the property of such other corporations: *Provided*, That such right to acquire and hold capital stock of other railroad corporations and corporations so subsidiary thereto shall be exercised only by a national railway corporation which itself operates the railroad or navigation lines of which the stock is so acquired and held.

(g) To manage its business, make contracts, incur liabilities, and borrow money, subject to the requirements or provisions, or other conditions, in this act contained.

(h) To make by-laws not inconsistent with the laws applicable to such corporation, or the rules of the Interstate Commerce Commission.

CAPITALIZATION.

SEC. 14. That such corporation shall provide for and issue only such amount of bonds and stocks as may be necessary for such construction or purchase, or for the improvement or equipment of the railroad and navigation lines constructed, established, or acquired, together with the proper cost of organizing and promoting the company and the amount of capital reasonably required in addition for working capital. No bonds or stock shall be issued except for money paid or for property acquired at its actual cash value. The issuance of stock or bonds and the amount thereof shall in every case be subject to the approval of the Interstate Commerce Commission, which shall grant full public hearings in relation thereto, and of such hearings public notice shall be given by or under the direction of the Commission. The United States shall be represented at such hearing by the Attorney-General, or one of his assistants. The Commission shall certify in writing to the incorporators, or to the corporation its determination, and shall record the same in the records, and all bonds and stock not issued in compliance with such determination shall be void as against such corporation.

CERTIFICATE OF INCORPORATION.

SEC. 15. That the original incorporators shall sign and acknowledge a certificate setting forth the following facts:

(a) The name of the company, which shall contain the words "National Railway Company," and which shall not be the same as that of any other corporation organized under this act, or sufficiently similar thereto to cause confusion therewith.

(b) Nature of the business proposed to be engaged in.

(c) Duration or corporate existence.

(d) Principal place of business.

(e) Route of railway already built.

(f) Route of railway proposed to be built.

(g) The proposed amount of bonds and stock, which shall be determined as provided in section 3, and the respective amounts, conditions, and privileges of the separate classes of stock, if it is desired to have more than one class.

(h) The par value of the shares.

(i) The number of shares subscribed by each incorporator.

The said certificate, together with the engineer's report provided for under section 6 in cases where such report is required, shall be submitted to the Interstate Commerce Commission, which shall direct such amendments therein or additions thereto as may be deemed necessary, and shall, when such certificate is in conformity to law and in other respects is approved by the Commission, indorse the approval of the Commission thereon, and record the said certificate, with such indorsement, and the day and hour of the submission of the approved certificate, in proper books kept by the Commission for such purpose. The corporate existence shall commence with such day and hour, and such record and a duly certified copy thereof shall be prima facie evidence of such corporate existence.

FINDING OF PUBLIC NECESSITY.

SEC. 16. That in case such certificate shall provide for the construction or establishment of new lines of railroad or navigation, the Commission, as a condition precedent to such corporate existence, and before approving such certificate, shall determine, after public hearing, whether public convenience and necessity require the building of such new lines, said determination and the method of arriving thereat to be in accordance with rules established by said Commission. If such determination shall be to approve the construction aforesaid, it shall be recorded with said certificate of incorporation. If such certificate shall provide for the acquisition, by purchase, lease, or otherwise, of any line already constructed or in course of construction, it shall be lawful for the Commission, after hearing, to deny the filing of such certificate, if in its judgment, after public hearing, such acquisition would be detrimental to the public interest. But if the Commission shall approve such acquisition as in the public interest, its determination shall in like manner be recorded with said certificate of incorporation.

The construction, extension, or acquisition of additions to any line or lines of railroad or navigation, or the acquisition of any other lines or parts of lines or shares of stock in other companies as aforesaid, by any company incorporated under this act, is hereby prohibited unless and until such construction, extension, or acquisition shall receive the approval of the Commission as of public necessity or in the public interest upon application therefor duly filed and public hearing held, and any such approval shall be stated by the Commission in writing, with its reasons therefor, and recorded in its records.

ENGINEER'S REPORT.

SEC. 17. That no certificate of incorporation provided for in this act shall be filed or recorded unless the same is accompanied by the sworn report of one or more skillful engineers, showing the character, structure, grades, cost of duplication, cost of construction, and the manner of construction of the road or roads, line or lines, proposed to be built, established, or acquired, and containing statements in relation to such other matters as rules adopted by the Commission may require.

MEETING OF STOCKHOLDERS.

SEC. 18. That the Commission shall establish rules governing the first and other meetings of stockholders, notices thereof and quorums required thereat, the election of the board of directors, executive committee, president, and other officers of the company, and for the adoption of by-laws. Such rules shall provide for not less than five nor more than fifteen directors, an executive committee of the board of directors, with managing powers, the election of a president, vice-president, treasurer, secretary, and such other officers as the by-laws shall require. The by-laws of the company shall not be effective until approved by the Commission, as in accordance with its rules. The Commission shall have authority to amend such rules from time to time as may, in its judgment, be required. The by-laws of the company shall provide for the removal of directors by vote representing two-thirds of the stock issued and outstanding at any annual or special meeting. Stock held in the company's treasury shall not be voted at any meeting.

STOCKS AND BONDS.

SEC. 19. That in case the entire stock shall not have been subscribed for prior to the filing of the certificate of incorporation, the directors shall open books of subscription to such stock in such manner as may be provided for by the rules of the Interstate Commerce Commission. Before issuing the bonds of such corporation, the amount and time and term thereof and the rate of interest must be approved by said Commission. Before offering such bonds upon the general market they must be offered to the stockholders at not less than par, and thereafter such portion thereof as shall not be taken by the stockholders may be sold in the general market upon such notice as the Interstate Commerce Commission shall by rule prescribe.

CERTIFICATE OF ORGANIZATION.

SEC. 20. That when at least one-half of the capital stock shall have been subscribed for a majority of the directors shall make and swear to a certificate setting forth the following facts:

(a) Names and addresses of directors;

(b) Names and addresses of officers;

(c) Amount of capital stock subscribed for;

(d) Amount of capital stock paid for in other than cash, specifying separately and in detail the nature of such consideration and the total amount of stock separately allowed for other than cash;

(e) All delegated powers conferred by by-laws on others than the board of directors;

(f) A complete and true copy of the by-laws of the corporation. And it shall be the duty of the board of directors, within thirty days after the passage of any vote, amendment, altering, repealing, or adding to the by-laws of the corporation, to file with the Interstate Commerce Commission a complete and true copy of such vote, amendment, alteration, repeal, or addition;

(f) Such certificate shall be submitted to the Commission, and after having been amended under the direction of the Commission to conform to the requirements of this section, if such amendment be necessary, the approval of the Commission shall be indorsed thereon, and the certificate, with its indorsement, shall be recorded in full in a proper book kept by said Commission for such purposes, together with the day and hour of the submission of the approved certificate, and said corporation may begin business on and after such time.

CAPITAL STOCK.

SEC. 21. That the par value of each share of stock shall be $100. No stockholder shall be liable for the debts of the corporation beyond the amount of his subscription to the capital stock, except as expressly provided in this act. Each stockholder shall be entitled to a certificate of stock, which shall evidence the amount of stock held by him. The stock shall be personal property; shall be transferable only on the books of the company, in such form as the by-laws may prescribe; and shall be subject to a lien in favor of the corporation for all debts due to said corporation from the owner of said stock. The stock may be sold for unpaid subscriptions in such manner as may be prescribed by the rules of the Commission. Each share of stock shall entitle the holder of record to one vote, and in voting for directors any stockholder may cast his vote or any part thereof for one candidate, so as to exercise the privilege of a cumulative vote. Votes may be cast by proxies, and the form of such proxies and the list of stockholders entitled to vote shall be prepared as provided by by-laws in accordance with the rules of the Interstate Commerce Commission.

Stockholders, by two-thirds vote of each class of stock, may create different classes of stock, either in the original or in subsequent issues, if the Interstate Commerce Commission shall find that the creation of such classes of stock is proper and necessary for the purposes of the corporation; and such stockholders may, by such vote, determine the preference, conditions, and privileges attaching to such classes, respectively, provided that preferred stock so issued, and any stock so issued other than common stock, shall have no voting powers.

BONDS.

SEC. 22. That the corporation may, by a majority vote of its stockholders, issue bonds, notes, or other evidence of indebtedness, payable not less than a year from the date thereof; but the total of such obligations of the corporation shall be determined by the Interstate Commerce Commission,

MEETINGS, INCREASE OR DECREASE OF STOCK.

SEC. 23. That annual and special meetings of stockholders shall be held, notices thereof issued, and quorums required thereat, in such manner and form as provided by the by-laws, in accordance with the rules of the Interstate Commerce Commission. The stockholders shall have power to elect directors and by two-thirds vote to remove them; by majority vote to increase the issue of any class of stock, subject to the provisions of this act, and by such vote to decrease any class of stock, provided that no such decrease shall be valid as against creditors which shall render the corporation insolvent.

Stockholders may also by such vote of each class of stock make any alteration or amendment in the certificate of incorporation of the company not inconsistent with law which it would have been lawful to insert or omit or make in its original certificate of incorporation, such alteration or amendment to be subject to the approval of the Interstate Commerce Commission.

REGULATION BY INTERSTATE COMMERCE COMMISSION.

SEC. 24. That all corporations organized under this act shall be subject to the provisions of the act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof.

BOOKS AND RECORDS.

SEC. 25. That the treasurer shall keep proper books of account of all transactions of the corporation, and the secretary shall keep proper and full records of the transactions of all meetings of the stockholders, the board of directors, and the executive committee, and all of said books shall be open to the inspection of the Commission at any time, and also to the inspection of any stockholder at any reasonable time and place: *Provided*, That any court of competent jurisdiction shall, upon petition of the corporation, have power to enjoin the exercise of such right of inspection by a stockholder whenever it shall appear that the same is not bona fide, or is being used for the advantage of business competitors, or if for any other reason it shall appear that the exercise of said right is not in such case equitable or reasonable. It shall be the duty of the respective officers having charge of such books and records to permit upon demand, after ten days' previous notice, such inspection by a stockholder unless such right of inspection shall be enjoined as above provided.

REPORTS.

SEC. 26. That all corporations formed under this act shall make to the Interstate Commerce Commission such reports as are now by law required to be made to said Commission, and such further reports as the rules of said Commission shall from time to time require.

DISSOLUTION.

SEC. 27. That any such corporation may, after lawful private or public sale of the railway property and equipment, upon the vote of three-fourths of its capital stock, wind up and close its business and dissolve under such forms of procedure as to claims, distribution of assets, notice to creditors, publication of votes and certificates of dis-

solution, as may be prescribed by the rules of the Interstate Commerce Commission.

EMINENT DOMAIN.

SEC. 28. That any corporation organized under this act may acquire real estate necessary for the proper execution of its corporate purposes, including right of way, sidings, terminals, depots, water rights, gravel, and stone. In case the corporation and the owner of such real estate are unable to agree upon a price therefor and the same can not be acquired by agreement, the corporation may apply to any competent court in the State or Territory where such property is located for the appointment of appraisers, and upon reasonable notice the judge of said court shall appoint three appraisers, who shall be sworn, and shall view the premises and estimate all the damages that may arise to any person from the taking and occupation of such real estate for railroad purposes. The appraisers shall return an appraisal of such damages in writing, signed by them, to the clerk of said court, and when accepted by said judge and recorded by said clerk it shall have the effect of a judgment in favor of the persons respectively to whom damages may be appraised and in favor of said corporation by way of transfer of the title of said real estate to such corporation: *Provided*, That no title shall so pass nor shall such real estate be occupied for purposes of construction or operation until the damages appraised to any person interested shall have been paid, or shall have been deposited for his use with the clerk of such court. Forms of notice of acts done, and method of procedure under this section, may be prescribed by the rules of the Interstate Commerce Commission in accordance with the provisions of this section.

TAXATION.

SEC. 29. That railroads and navigation lines owned by corporations duly organized under this act are hereby declared to be instrumentalities for the regulation of interstate and foreign commerce. The franchises, stocks, bonds, fixed evidences of indebtedness, operations and traffic, and the corporation itself shall not be subject to taxation by any State or Territory, but the physical property of such corporation situate in a State or Territory, including its right of way, its real estate, stations, office buildings and equipment shall be subject to assessment at such average percentage of their actual value as shall be customary with reference to other property in such State or Territory, and to the customary tax on such assessment. In lieu of such tax any State or Territory may impose a tax not exceeding 4 per cent on such proportion of the gross receipts of such corporation as the number of miles of line in such State or Territory bear to the total miles of line operated by such corporation. In estimating the miles of line each mile of second track shall be regarded as equal to one-half mile of track, and each mile of third or fourth track shall be estimated as equal to one-third of each mile of main track. For the purposes of each State the Interstate Commerce Commission shall certify to the taxing authorities of each State or Territory the gross receipts for the preceding year, the total mileage as aforesaid, and the proportion of such total mileage operated in such State or Territory.

STATE POLICE AND STATE RATES.

SEC. 30. That nothing herein contained shall be construed as interfering with the police laws of any State regarding railroads incorporated under this act and operating in such States, nor shall anything herein contained be construed as affecting the right and power of each State to regulate purely State commerce on railroads organized under this act. But the Interstate Commerce Commission shall hold conferences from time to time with the regulating power of any State with a view to such harmonious adjustment and regulation of State commerce and interstate commerce as will protect the public against abuses or extortion, and the railroads against inadequate returns upon their investment, and as will promote the efficiency of such corporations as common carriers. With such end in view the said Commission shall call and hold at least once each year a conference with the railroad commissioners of the several States, and with such other State officers having any duty of supervision, taxation, or regulation of railroads within their respective States. Such conference shall be held in the District of Columbia, and the presiding officer at such conference shall be the chairman of the Interstate Commerce Commission, or some other member of said Commission designated by its chairman. The proceedings of such conference shall be printed and distributed by or under the direction of the Interstate Commerce Commission.

ACQUISITION OF STATE RAILROADS.

SEC. 31. That such corporation may, with the consent of any State, upon the approval of the Interstate Commerce Commission, acquire the railroad of any corporation now organized under the laws of such State, and may issue for the purchase thereof such amount of bonds and stock as may be authorized by said Commission, but such authorization shall only be made after a full public hearing, at which the Attorney-General shall appear, either personally or by one of his assistants, and no issue of bonds or stock therefor shall exceed the value of such road as ascertained by said Commission.

With the consent of the State under which any railroad corporation is or may be organized, merger between the corporation owning such road and a corporation organized under this act may be accomplished under this act; and bonds and stock may be issued by any corporation organized under this act for such purpose, provided such proposed merger is approved by the Interstate Commerce Commission, and the amount of the bonds issued, together with the rate of interest thereon, and of the stock issued in the accomplishment of such merger, are also approved by said Commission.

PENSIONS.

SEC. 32. That it shall be a condition of the grant and continuance of any franchise to do business under this act that the corporation holding such franchise shall set aside annually a percentage of the gross receipts of said corporation, not exceeding 1 per cent, to be held as a fund in the Treasury of the United States for the payment of pensions to the employees of such corporation who shall have been disqualified for active service either by injury in the service or by age. The conditions entitling employees to pensions, the amount and time of payment, the investment of the fund, the disbursing of the same, and the entire management thereof, shall be under rules and regulations to be made, and from time to time amended, by the Interstate Commerce Commission.

BOARD OF CONCILIATION.

SEC. 33. That the Interstate Commerce Commission is hereby empowered and directed to act as a board of conciliation between corporations organized under this act and their employees as to any dispute arising between such corporation and their employees in the matter of compensation, hours, and conditions of labor, the protection of life and limb of said employees, and such power shall be exercised by said Commission in accordance with the rules and regulations to be made, and from time to time altered by said Commission. All powers and duties now exercised by the Chairman of said Commission and the Commissioner of Labor under the act entitled "An act concerning carriers engaged in interstate commerce and their employees," approved June 1, 1898, are hereby transferred to, vested in, and required of the Interstate Commerce Commission.

PENALTIES.

SEC. 34. That any officer, director, or agent of such corporation who shall be engaged in promoting or opposing any legislation or governmental action, either Federal or State, shall from time to time make oaths to the Interstate Commerce Commission to a statement of his expenditures in that behalf. No corporation organized under this act shall make any expenditure whatever for the purpose of aiding or defeating any political party or candidate for office, and for every such offense such corporation shall be subject to a fine of ——— dollars.

Any officer, director, or agent of such corporation who shall willfully make, assist in making, cause or direct to be made any false statement, material misrepresentation, or false entry in any book, report, return, account, or certificate required by or under this act to be kept, shall be, upon conviction, subject to a fine of not more than ——— dollars, or to imprisonment for not more than one year, or both, and shall furthermore be liable in a civil action for damages caused to any creditor or stockholder thereby.

Any officer, director, or agent of such corporation who shall willfully refuse or neglect to perform any duty imposed upon him by this act, for which refusal or neglect a penalty is not herein otherwise expressly provided, shall be subject, upon conviction, to a fine of not more than $5,000 or to imprisonment for not more than one year, or both.

Any corporation organized under this act which shall fail to conform to and comply with any of the requirements, or observe any of the prohibitions, in this act contained, shall be subject, upon conviction, to a fine of not less than ——— dollars nor more than ——— dollars, and each day of the continuance of such failure shall be deemed a separate offense.

All fines collected under this act shall be paid into the pension fund herein provided.

JURISDICTION OF SUITS BY AND AGAINST RAILWAY COMPANIES.

SEC. 35. That any corporation organized under this act shall, for the purpose of all actions by or against it, real, personal, or mixed, and all suits in equity, be deemed a citizen of every State in which its lines are located, and in such cases circuit and district courts of the United States shall not have jurisdiction other than such as they would have in cases between individual citizens of the same State. The provisions of this section shall not be held to affect the jurisdiction of the courts of the United States in cases by the United States, or by direction of an officer therein, or cases for winding up the affairs of any such corporation.

Any case involving the recovery of fines or penalties under this act may be brought in the circuit court of the United States for any judicial district wherein the corporation has its principal office or through which the line or any part thereof may run. In every such case, for the purposes thereof, the jurisdiction of the court shall be coextensive with the territory of the United States, and its writs of subpœna, removal of persons, execution, and all other process, shall run throughout the United States. All existing laws pertaining to the taking and compelling of testimony in cases arising under the act to regulate commerce, or its amendments, shall apply in cases arising under this act.

APPOINTMENT OF RECEIVER AND ANNULMENT OF CHARTER.

SEC. 36. That in case the Interstate Commerce Commission shall have reason to believe that any corporation organized under this act has been guilty of the violation of any of its provisions, or of said act to regulate commerce and the acts amendatory thereof, said Commission may apply to any circuit court of the United States through whose jurisdiction any part of the railroad operated by said corporation shall run for the appointment of a receiver by said court for said corporation; and such circuit court shall have power to appoint such receiver in case said court shall find said corporation so guilty of a violation of this act, and shall make such orders and continue said receivership for such time as in the opinion of the court will best prevent the continuation of such violation; and any such circuit court shall have power upon application by the Interstate Commerce Commission to annul and revoke the charter of any corporation organized under this act for continued violation of the terms of said act.

RULES.

SEC. 37. That the Interstate Commerce Commission shall make and from time to time alter, amend, or repeal rules necessary for the complete enforcement of the provisions of this act.

AMENDMENT OR REPEAL.

SEC. 38. That this act and all franchises required under it shall be at all times subject to amendment, alteration, or repeal by act of Congress.

A bill (S. 4471) creating a commission to consider and recommend legislation relating to the incorporation of common carriers engaged in commerce between the States and foreign countries, and for preventing the overcapitalization of such corporations, and for promoting a uniform method of taxing the property and securities of such corporations, and for other purposes.

Be it enacted, etc., That a commission is hereby created to be composed as follows: Five members of the Senate of the United States and five members of the House of Representatives of the United States, to be appointed by the presiding officer of each House of Congress, respectively: *Provided*, That not more than three of said members of the Senate and not more than three of said members of the House of Representatives shall be members of the same party.

SEC. 2. That it shall be the duty of this commission to investigate and report to the Congress on or before the 1st day of its next session what legislation, if any, is desirable for the incorporation or consolidation of common carriers engaged in commerce between the States or with foreign nations, and also what legislation, if any, is desirable for the prevention of overcapitalization by such carriers, and what legislation, if any, is desirable for the purpose of securing a just and uniform method of taxing the property and securities of such common carriers by the various States, and what legislation, if any, is desirable for the purpose of insuring the employees of such carriers against the risks incident to their employment, and what legislation, if any,

is desirable for the purpose of securing the conciliation of disputes between such common carriers and their employees.

SEC. 3. That the commission shall give reasonable times for hearings, if deemed necessary, and if necessary it may appoint a subcommission or subcommissions of its own members to make any investigation in any part of the United States, and it shall be allowed actual necessary expenses for the same. It shall have the authority to send for the persons and papers and to administer oaths and affirmations. All necessary expenses, including clerks, stenographers, messengers, rent for place of meeting, and printing and stationery, shall be paid from any money in the Treasury not otherwise appropriated; however, not to exceed $5,000 for expenditure under this section, to be paid upon vouchers to be approved by the chairman of the commission.

SEC. 4. That any vacancies occurring in the commission, by reason of death, disability, or from other cause, shall be filled by appointment by the officer and in the same manner as was the member whose retirement from the commission creates the vacancy.

Mr. CARMACK. On what page of the bill are we now? I desire to offer an amendment.

The VICE-PRESIDENT. On page 31. Section 9 has been read and is open to amendment.

Mr. ALDRICH. I ask the Senator from Tennessee to allow the reading of the bill to be completed. Then his amendment will be in order.

Mr. CARMACK. Very well. I want to offer an amendment.

The VICE-PRESIDENT. The Secretary will continue the reading of the bill.

The Secretary resumed and concluded the reading of the bill, as follows:

SEC. 10. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, but the amendments herein provided for shall not affect causes now pending in courts of the United States, but such causes shall be prosecuted to a conclusion in the manner heretofore provided by law.

SEC. 11. That this act shall take effect and be in force from and after its passage.

The VICE-PRESIDENT. The reading of the bill has been completed. The bill is still before the Senate, as in Committee of the Whole, and open to amendment.

Mr. CARMACK. I offer the amendment which I send to the desk to come in after section 7. I call the attention of the Senator from Rhode Island [Mr. ALDRICH] to it.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After section 7 it is proposed to insert the following:

That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading therefor and shall be liable to the holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: *Provided*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

That the common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company through whose negligence the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required to pay to the owners of such property.

Mr. CARMACK. The numbering of the section will have to be changed.

Mr. TILLMAN. Mr. President, I will say that this is one of the amendments upon which the committee agreed, but which we never inserted in the bill for the simple reason that we never inserted any amendment in the bill. We got into a deadlock.

Mr. KEAN. This was an amendment agreed to by the committee.

Mr. TILLMAN. I know the committee agreed to it unanimously, and I hope it will go on the bill.

Mr. KEAN. I hope it will go on the bill.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Tennessee [Mr. CARMACK].

The amendment was agreed to.

The VICE-PRESIDENT. The bill is still before the Senate as in Committee of the Whole, and open to amendment.

Mr. PILES obtained the floor.

Mr. HOPKINS. I have a motion that I desire to make.

The VICE-PRESIDENT. Does the Senator from Washington yield to the Senator from Illinois?

Mr. PILES. Yes.

Mr. HOPKINS. I rose, Mr. President, to press the motion that I made to reconsider the first amendment that was adopted. Am I recognized for that purpose?

The VICE-PRESIDENT. The Chair understood the Senator from Washington to yield to the Senator from Illinois.

Mr. PILES. Yes.

Mr. HOPKINS. I will take my own time on that, but I want to be recognized for that purpose by the Chair.

The VICE-PRESIDENT. The Chair will recognize the Senator from Illinois later.

Mr. PILES. I desire to propose an amendment to section 1 of the reprint of the bill of the 14th instant. On page 4, line 24, after the word "commodity," I move to amend by inserting "other than timber and the manufactured products thereof."

Mr. ALDRICH. That amendment is not in order now.

The VICE-PRESIDENT. The Senator's amendment will be in order when the bill is in the Senate.

Mr. PILES. Very well.

Mr. HOPKINS obtained the floor.

Mr. FULTON. I ask the Senator from Illinois to yield to me for a moment.

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from Oregon?

Mr. HOPKINS. Yes.

Mr. FULTON. I ask the Senator from Washington if he will not reserve his amendment until the bill gets into the Senate?

Mr. PILES. I ask permission to reserve the amendment when the bill gets into the Senate.

The VICE-PRESIDENT. The request of the Senator from Washington will be noted.

Mr. HOPKINS. Mr. President, I should like to have the Secretary read the amendment which I have moved to reconsider.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. On page 1 of the bill, after the words "apply to," at the end of line 6, the following amendment was inserted:

Any corporation or any person or persons engaged in the transportation of oil or other commodity, except water and except natural or artificial gas by means of pipe lines or partly by pipe lines and partly by railroad or partly by pipe lines and partly by water, at any place within the jurisdiction or within the governmental authority of the United States, who shall be considered and held to be common carriers within the meaning and purpose of this act, and to.

Mr. HOPKINS. Senators will remember that when this amendment was first proposed by the Senator from Massachusetts [Mr. LODGE] it did not contain the words commencing with "governmental authority," on line 4 of page 2. That is an amendment to the amendment, which was proposed by the Senator from Alabama [Mr. MORGAN].

Mr. LODGE. I call the Senator's attention to the fact that the amendment of the Senator from Alabama begins with the words "at any place within the jurisdiction."

Mr. HOPKINS. Yes; that is right. So that that amendment not only makes common carriers of the pipe lines within the territorial jurisdiction of the United States, but carries it to the Philippines, to Porto Rico, to the Isthmus of Panama, and to the Hawaiian Islands.

Now, I think all will agree that many of the amendments which have been adopted to this bill are of a proper character and have improved the efficiency of the bill, if it shall be enacted into law. But this amendment, as it was amended on motion of the Senator from Alabama, illustrates how easy it is to go too far with amendments.

Prior to this bill being considered by the Senate, the Union Oil Company of California, an independent oil corporation of that State, had entered into negotiations with the Secretary of War, under the approval of the President of the United States, to lay an oil pipe line across the Isthmus. This company owns large oil-producing lands in the State of California. It is a competitor with the Standard Oil Company in that section of the country. But owing to the charges of transportation, it was utterly impossible for it to come in competition in the Middle West and in the Eastern and New England States with the Standard Oil Company and other companies of the East, so it entered into the negotiations to construct this pipe line across the Isthmus.

After that arrangement had been made with the President of the United States, it spent about $2,000,000 for tank vessels, so as to have a fleet of tank vessels to carry the crude product from the Pacific coast to the Isthmus, and another fleet from Colon to the Atlantic and southern ports of the United States. The adoption of this amendment makes this pipe line a common carrier, and as it was originally adopted it gives the Standard Oil Company the same right to use the pipe line across the Isthmus that the independent company of California will have.

This question of making the line across the Isthmus a common carrier was raised before the Secretary of War and a full conference was had upon the subject. It was pointed out at the time the negotiations were had that to make it a common carrier would destroy the influence of this company in competition with the Standard Oil Company along the Atlantic coast. Not only that, but this company agreed to pay $500 a month for the privilege of crossing the Isthmus, and if the Standard Oil Company should have the privilege that the Union Company

has of using the pipe line the independent company would not only be out the half million dollars which it cost it to establish the pipe line and the $2,000,000 to establish the tank fleet, but it would be out $500 a month which it has to pay to the Government. The Secretary of War is very anxious that this amendment shall be reconsidered and the provision making the pipe line a common carrier shall be eliminated from the amendment.

But these are not all of the misfortunes that have befallen this company since it entered into negotiations with the President. At the instance of the senior Senator from West Virginia [Mr. ELKINS], after the amendment was adopted making all pipe lines common carriers an amendment was adopted providing that in the near future no common carrier can carry coal or other natural products owned or in which it may be directly or indirectly interested except such as are necessary for the conduct of its own business. So if the amendments which have been adopted by the Senate stand and if such a construction is placed upon the amendment relating to coal and other natural products offered by the Senator from West Virginia by the courts as the Senate evidently intends the condition of this company would be this: At an expense of $2,000,000 it has established its tank fleets to ply from the Pacific coast to the Isthmus and from the Isthmus to the Atlantic coast and has paid $500,000 to establish the pipe line across the Isthmus, and under this amendment it is prohibited from conveying a barrel of oil either in its tank vessels or across the Isthmus and this great plant is placed at the disposal of the Standard Oil Company and other independent companies. In order to show the wishes of the Secretary of War upon the subject, I ask to have read a letter which he sent me the other day.

The VICE-PRESIDENT. The Secretary will read, if there is no objection.

The Secretary read as follows:

WAR DEPARTMENT,
Washington, May 10, 1906.

MY DEAR SENATOR: I sincerely hope that the provision which has been recently made an amendment to the rate bill requiring that any pipe line for the conveyance of oil from one side of the Isthmus of Panama to the other shall be a common carrier will not ultimately become part of the act. An examination of the evidence taken before the Interoceanic Canals Committee will show the facts with respect to the license already issued to the Union Oil Company, of California, for the construction of a pipe line (pp. 2573–2574, and Exhibit No. 27, pp. 2688–2703).

The facts are, the Union Oil Company is an independent oil company owning a very large tract of oil land in California from which it obtains a fine quality of crude oil. It is anxious to ship this oil from California to New York, by way of the Isthmus, on tank steamers on both oceans. It has made contracts for the tank steamers and is about to erect an oil refinery in New York to enable it to compete with the Standard Oil Company in the sale of oil in the East. Our engines upon the Isthmus are not now arranged for the consumption of oil, but Chief Engineer Stevens has reported to me that in the near future it will be profitable to make the change. He has also reported that there is room enough on the Isthmus for six or seven pipe lines. It is not intended to allow these pipe lines to cross the bridges or the trestles of the railroad company. I am informed that if oil can be furnished us at 90 cents a barrel this will be the equivalent of coal of varying steaming qualities at prices between $3.24 and $4 per ton. I have been glad to recommend to the President the granting to the Union Oil Company of a revocable license, which in terms is nonexclusive, at a compensation, to be paid to the Zone government, of $500 per month, to be used for school purposes, to erect and maintain a pipe line from one end of the Zone to the other, with a condition that whenever the Government wishes to call upon the company it must furnish crude oil at a maximum price of 90 cents a barrel. The Government, by virtue of this license, is under no obligation to take oil at all from the company and has full opportunity to invite competition from all other persons willing to deliver oil upon the Isthmus, whether they have a pipe line or not. The line can be removed by the Commission at any time. The Union Oil Company has a license of a similar character from the Panama Government, and it proposes to erect its tanks and pumps in Panama or Colon, within the jurisdiction of the Panama Government. Its pipes are now on the Isthmus, and, as already said, its contracts for tank steamers have already been let.

Two companies of California, associated with the Standard Oil Company, asked that the Union Oil Company be compelled to make its line a common carrier. I submitted this proposition to the Union Oil Company, and its reply was, first, that they would need the pipe for constant transportation of their own oil, and, second, that as under such a requirement different qualities of oil would have to be introduced into the pipe, the pipe would have to be cleaned after the use of one quality in order that the next kind of oil pumped might not be affected in value and quality. The letter on this subject may be seen in the evidence already referred to.

Upon the statement of the Union Oil Company, and for reasons I am about to give, I recommended to the President that the application to make the pipe of the Union Oil Company a common carrier be not granted. As an alternative, however, I notified the two companies associated with the Standard Oil Company that there was room for six or seven pipes upon the Isthmus, and that the President would grant to them a franchise of exactly the same character as that granted to the Union Oil Company, and I may add that I said to them verbally that if they could not get a satisfactory franchise from the Panama Government, they might place all their plant, including pumps and tank houses, in the Zone. I also said to them, with the permission of the President, that if they wished to make their pipe a common carrier they could have that privilege. In response to an inquiry made by Mr. Lindon W. Bates, on behalf of the Texas oil producers, I notified him that if the Texas oil producers, or any other persons, desired to construct a pipe across the Isthmus under the same terms as those given by the Union Oil Company, they might have such a revocable license.

What I am very anxious to secure is the construction of two or three pipe lines across the Isthmus, in order that we may have real competition in the furnishing of oil to aid us in our fuel needs on the Isthmus, and I wish in addition and incidentally to facilitate as far as possible the cheap transportation of crude oil from one side of the Isthmus to the other, whether from the Atlantic side to the Pacific or from the Pacific to the Atlantic.

I think that a mandatory provision requiring every pipe line to be a common carrier across the Isthmus will probably prevent the construction of any. Certainly it will prevent the construction of more than one, and I am quite sure that one, though declared to be a common carrier, will not secure the actual competition which two pipes would bring about. The wisdom of a provision of law declaring that a pipe line in this country shall be made a common carrier between States is wholly aside from the point, for it is not at all analogous to the one I am discussing. The pipe lines constructed in the States are pipe lines under permanent franchises, much more likely to invite investment of capital than a mere revocable license. The conditions on the Isthmus are, of course, entirely unsettled, and the operations with respect to the transportation of oil by pipe line and its use for consumption on the Isthmus, and for transportation in tank steamers to and from the Isthmus, are altogether experimental. It seems to me that temporarily at least the matter might be left to the Executive. If it becomes wise to require that these pipe lines be made common carriers in the future, the President may effect this result under the revocable license by withdrawing the license unless the change is made, or it may be done by act of Congress, but, with deference, I think it ought for the present to be left to the President's discretion to say when the occasion has arisen for the change.

Very sincerely, yours, WM. H. TAFT.

Hon. A. J. HOPKINS,
United States Senate.

Mr. MORGAN. Mr. President, I wish to inquire what is the precise motion of the Senator from Illinois?

The VICE-PRESIDENT. It is to reconsider the vote by which the Senate agreed to the first amendment in the bill, found at the foot of page 1 and the top of page 2.

Mr. MORGAN. That is the amendment of the Senator from Massachusetts [Mr. LODGE] putting all pipe lines in the United States upon the footing of common carriers.

I offered an amendment to that amendment that that law should apply to every part of the United States and to every country over which the United States has the exclusive right of jurisdiction and government. The Senator from Massachusetts accepted my amendment and it went in, of course, with his and was adopted by the Senate. I have no special interest at all in the amendment of the Senator from Massachusetts putting pipe lines on the footing of common carriers. I do not know whether the Senator wants to abandon his entire amendment. Does the Senator from Massachusetts adhere to his amendment?

Mr. LODGE. I have now no control over the words of this amendment.

Mr. FLINT (to Mr. MORGAN). The only purpose is to strike out your amendment.

Mr. LODGE. I have no disposition to abandon it. I certainly shall not abandon that clause without a struggle.

Mr. MORGAN. I want to know whether the amendment proposed by the Senator from Illinois is to strike out the words that I suggested to the Senator from Massachusetts and which he accepted as a part of his amendment?

Mr. HOPKINS. My motion is to reconsider the vote by which the amendment was adopted.

Mr. MORGAN. The entire amendment?

Mr. HOPKINS. The entire amendment. That brings the matter back before the committee.

Mr. MORGAN. Then I take it for granted the Senator from Illinois wants to reverse the action taken by the Senate in regard to making pipe lines common carriers and is opposed to the entire project. He does not want the Government of the United States to declare that pipe lines are common carriers and that they are subject to regulation as to rates by the Interstate Commerce Commission. Is that the situation? I do not know; I am not prepared to say that I have a firm conviction that the Senate has acted wisely or justly in requiring all pipe lines to become common carriers, even though they carry only their own products, which seems to be the effect of the amendment. I do not know that that is wise, but if the Senator from Illinois wishes to get rid of the entire amendment in that way I do not know that I have any objection to it.

Mr. HOPKINS. My purpose in moving a reconsideration of the vote and getting the amendment before the committee is to oppose the amendment the Senator from Alabama offered to the amendment of the Senator from Massachusetts.

Mr. MORGAN. I did not offer an amendment to the amendment of the Senator from Massachusetts. I asked him to accept the qualification in respect to the language; that is all.

Mr. HOPKINS. The language that the Senator had ingrafted on the amendment is the language I desire to have eliminated from it.

Mr. MORGAN. Then I understand the Senator from Illinois

to be trying to get rid of the effect of this legislation on the part of the Senate, and that he does so in favor of a special and particular transaction on the Isthmus. That is what I understand him to be trying to do. While we make all other pipe lines in the United States common carriers, there is one pet on the Isthmus which is not to be put on that footing. I have been nurturing that pet for a little while. It comes as near being a case of graft as any ever presented to this body, and at another time and on another bill that subject will be fully presented.

The record contains the evidence of the entire transaction, and it has an oily smell about it; I might even say a fishy smell. The President of the United States has no right under any law of Congress to grant to anybody a concession for a pipe line in the Canal Zone. If that sort of property, that sort of privilege, that sort of concession can be conferred at all under the Constitution of the United States, in favor of a particular individual, in such manner and on such terms as to exclude all other people, Congress alone can do it, which I deny; and the President of the United States has no power, under any act of Congress of which I am aware, at least, to make such a grant of a peculiar privilege in favor of one of his friends on the Isthmus.

I will content myself on this occasion by putting in the RECORD of the proceedings before the Senate the entire correspondence that took place between the President, by the Secretary of State, and the various applicants for privileges of that kind across the Isthmus. There were several of them. The privilege was granted to one, and the others were excluded, for the reason that the amount of money required to put up a plant for a pipe line is a pretty large one; and these other gentlemen, from Texas, and also on the other side of the continent, on the Pacific side, and ranging even up here into the Allegheny country, objected that anyone should be selected to enjoy this privilege under such terms and conditions as would exclude others.

The Government of Panama grants the privilege of putting up the pumping stations and the tanks within the cities of Colon and Panama. The Government of the United States can not control that. So the Union Oil Company, of California, has nothing to do but to get authority to lay a pipe line across the Isthmus, on the cross-ties of the railroad, and bring its oil across and shut out the balance of the world, because the cost of the privilges is very heavy, in the first place, and secondly, because the balance of the world has to get from Panama a privilege for its pumping stations. The Secretary of War says he is willing that the next people who come along shall put their pumping stations inside the Canal Zone. The Secretary of War has nothing to do with that business. It can not be done without an act of Congress. No such power as that is conferred upon the President. The President has no right to grant to a man the privilege to mine gold in the Canal Zone or to mine coal there, or to cut timber there, or to do anything else. His only duty there is to build the canal. No power of that sort has been conferred upon the President, and it is a sheer usurpation of power; that is all.

Mr. HOPKINS. Will the Senator permit me?

Mr. MORGAN. Wait a moment. This is one amongst a number of like transactions that will be brought in review before the Senate of the United States and will at last, I hope, convince the Senate that there is some necessity after all for exercising the powers of Congress in the Isthmus instead of leaving it to the unfettered will of the President of the United States.

Now, that is the question. It is a matter of no concern to me whether this amendment be put on the bill or not. If it is voted down, of course that does not preclude the Senate upon a proper bill connected with the Canal Zone from putting it on and having justice done to all the oil producers in the United States, in the Atlantic country and also in the Pacific country. There has been such anxiety, there has been so much writing done about this matter, there has been such a keen desire to prevent justice being done to all the people of the United States in this case that I can not help suspecting that there is something behind it that we do not know about. It is a very extraordinary transaction, and it seems you can not touch anything that has been done in that Isthmus in favor of any particular person or in favor of any particular clique of persons or in favor of the Panama people or in favor of the Panama Government without getting up a tremendous howl about it.

I am willing that this shall pass off for the present. I do not care whether it goes on the bill or not. I have no particular preference for the amendment offered by the Senator from Massachusetts, because I think in some cases it will perhaps operate to do wrong. But I want to put these papers in the RECORD; and I can say it to his credit that the first man on the Isthmus to raise any opposition to this was Mr. Shonts. Mr. Shonts has been overruled by the President and the Secretary of War. He has to go under. He did not want this thing attempted.

Mr. FLINT. I should like to ask the Senator whether he has made investigation to ascertain whether the Union Oil Company is not, as a matter of fact, an independent oil company, and whether those who are trying to stop the adoption of this amendment making the pipe line a common carrier are not the Standard Oil Company's representatives on the Pacific coast?

Mr. MORGAN. I never thought it worth while to go into any controversy between the Union Oil Company and the Standard Oil Company to find out what was just and proper to be done by the Government of the United States. You may say "Standard Oil Company" with a view of bringing odium upon a claim advanced by that company, but it does not affect me. The Union Oil Company is said to be an independent company. Independent of what and whom?

Mr. FLINT. Independent of the trust.

Mr. MORGAN. Of the trust? What trust?

Mr. FLINT. The oil trust on the Pacific coast.

Mr. MORGAN. On the Pacific coast? We are then trying to break up a trust over there. I do not know how far we will go. We are exploring a very wide and unexplored, almost unknowable, field. Men come to me and tell me there is a certain renowned individual in the diplomacy, in the finances, in the management of all this business, who is to be the chief beneficiary of this action. I will not call his name. It is not necessary to do it. I do not know whether that is true, but I intend to find out, if there is any power in the United States to force men to speak the truth—men who refuse on all occasions to talk when you put a question to them that is calculated to bring the truth out of them. I expect to prosecute that to a proper conclusion.

But I am not affected by the question whether this is in favor of the Standard Oil Company or the alleged trust on the Pacific coast. All I know about it is this: I have not yet heard that any of the Beaumont people in Texas, or any of the oil producers down South, have been combined into any trust whatever. They have protested against this. They are protesting now. They say to take the Canal Zone and make it the location of a peculiar, extraordinary, and exclusive privilege in favor of a particular company, because it calls itself "independent," on the other side of the continent, is rather treating them with injustice. The Beaumont people want justice here. The people of the United States want to grant them justice, and to grant everybody justice, and grant no special favors to certain favored individuals.

Mr. President, I will ask to have inserted in the RECORD the history of this matter as it has been developed on examinations by the Interoceanic Canals Committee, contained on pages 817 to 827 of the reported proceedings of the committee.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Alabama? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

HIGGINS OIL AND FUEL COMPANY,
Beaumont, Tex., July 15, 1905.

ISTHMIAN CANAL COMMISSION,
Mr. W. LEON PEPPERMAN,
Assistant Chief, Washington, D. C.

DEAR SIR: Referring to your letter of the 7th instant, with regard to the use of crude petroleum oil for fuel purposes in the construction of the canal across the Isthmus, will say that we shall be pleased to name you prices on this oil, for six months' or a year's supply f. o. b. ship, Sabine, Tex., where vessels drawing as much as 23 feet of water can load, but as we have not a boat large enough to send to Colon, and not knowing whether a foreign tank steamer would be allowed to deliver oil there or not (on which a much lower rate of freight could be secured), we would suggest that you arrange for the transportation yourself, and put up your own tank (which if any oil company did they would certainly take into consideration the cost of the same in naming you a price, and also a profit on the freight, while, on the other hand, if you made your own freight arrangements and built your own tank you would get it at exactly cost, and would also enable you to get better competitive prices for oil at this end of the line).

Trusting that we may hear from you whenever you are in the market, we are,

Yours, truly, HIGGINS OIL AND FUEL COMPANY,
By C. L. WALLIS, *General Manager.*

ISTHMIAN CANAL AFFAIRS,
OFFICE OF ADMINISTRATION, PANAMA CANAL BUILDING,
Washington, D. C., July 7, 1905.

SIR: By direction of the chairman of the Isthmian Canal Commission, I have the honor to acknowledge the receipt of your letter of June 19 to Mr. Wallace, stating that you wish to contract to furnish oil for use as fuel on the Isthmus of Panama.

In reply, you are respectfully informed that the Commission is now considering the question of the advisability of using oil for fuel on the Isthmus, and also of the construction of a pipe line. Several different

parties have made propositions to construct tanks or pipe lines and furnish oil, and they have been advised to visit the Isthmus in order to inform themselves as to the conditions there, preparatory to submitting their propositions in full.

Before any contract is made, however, proposals will be invited, and everyone interested will be given an opportunity to bid, should it be finally decided to use oil for the purpose stated.

Very respectfully,

W. LEON PEPPERMAN,
Assistant Chief.

C. L. WALLIS,
General Manager Higgins Oil and Fuel Co.,
Beaumont, Tex.

HIGGINS OIL AND FUEL COMPANY,
Beaumont, Tex., June 19, 1905.

Mr. WALLACE,
Chief Engineer Panama Canal Construction,
(Care of The Panama Canal Commission),
Washington, D. C.

DEAR SIR: We understand that you recently asked for bids on 50,000 tons of coal, and in this connection permit us to call your attention to the fact that this section of the country is producing crude petroleum oil at the rate of about 150,000 barrels per day, and which is used, nearly altogether, in Texas and Louisiana for fuel by the various railroad companies and by steamers and tugs plying along the coast, and also by the contractors who dig the canal and are raising the grade of the city of Galveston about 16 feet by means of dredges.

Our oil ranges in gravity from 17° to 24° Baume and it is reckoned that 3½ to 4 barrels of oil equals a ton of the best bituminous lump coal.

The market price of this oil f. o. b. ship, in bulk, at Port Arthur or Sabine, Tex., at the present time, is 50 to 55 cents per barrel of 42 gallons, for spot shipments. At present we are not in a position to name you a delivered price at Panama, as we do not own a steamer large enough to send that far away from here that would carry enough to justify going. However, there are plenty of foreign tank ships that we could get on a low charter if we could get the business. We were offered an American tank bottom at a charter of 35 cents per barrel from Port Arthur or Sabine to Panama, but she will not be available until about October 31. We have no doubt but what a foreign bottom could be secured at a much less price. It would cost, approximately, about $13,000 or $14,000 to put up a 55,000 barrel steel tank at Panama, if no piling foundation was required and the tank was set on the ground, as we put them up here. If we had a steady contract, or enough business to justify it, if the Government would not put up a tank at Panama, and we could secure a 5 or 10 acre site on deep water with free wharf and landing privileges, we might put up a tank there ourselves, if we got the Government contract, which we have here at Sabine, Tex., for their deep-water dredge boat.

There is a great saving in burning oil on railroad trains and on marine outfits, as you save a great deal in the cost of hauling, in the way of firemen and stokers, and you also gain about 20 per cent in boiler capacity, as the oil makes so much hotter and steadier fire, and when you are through with it you cut it off and there is no coal burning and going to waste for hours afterwards in your furnace.

You can, no doubt, get six and twelve months' contract for furnishing oil, but this, of course, would cost a little more than spot shipments for immediate delivery as named above.

If the above subject interests you, will be pleased to take the matter up further with you.

Yours, truly,

HIGGINS OIL AND FUEL CO.,
By C. L. WALLIS,
General Manager.

GULF REFINING COMPANY,
Pittsburg, Pa., June 9, 1905.

THEO. P. SHONTS, Esq.,
CHAS. A. MAGOON, Esq.,
J. F. WALLACE, Esq.,
Executive Committee Isthmian Canal Commission,
Washington, D. C.

GENTLEMEN: As the Government will undoubtedly be a large consumer of fuel for the operation of its railroad and steam dredges on the Isthmus of Panama and in the various power plants used in connection with the building of the Panama Canal, we wish to respectfully bring to your attention the subect of the use of Texas petroleum as fuel instead of coal.

The location of the Texas field and the large production of oil in that locality, amounting last year, in round numbers, to 26,000,000 barrels, makes it possible to compete successfully with coal as a fuel on the Isthmus, with an annual saving of many thousand dollars to the Government.

In order that you may readily understand that this company is entirely independent of the Standard Oil Company, or any combination to control the price of crude oil, I give you below a list of our officials and directors.

Officials of the J. M. Guffey Petroleum Company: J. M. Guffey, president; W. L. Mellon, vice-president; R. B. Mellon, treasurer; C. F. Farren, secretary.

Directors of the J. M. Guffey Petroleum Company: J. M. Guffey, capitalist, Pittsburg; J. H. Reed, chairman Carnegie Steel Company; Pierre Jay, vice-president Old Colony Trust Company, Boston, Mass.; R. H. Baker, general agent Equitable Life, Texas; R. A. Greer, attorney, Beaumont; D. M. Clemson, Carnegie Steel Company; W. W. Blackburn, treasurer Carnegie Steel Company; T. H. Given, president Farmers' Deposit National Bank, Pittsburg; Joshua Rhodes, capitalist, Pittsburg; W. L. Mellon, Mellon National Bank, Pittsburg; A. W. Mellon, Mellon National Bank, Pittsburg; R. B. Mellon, Mellon National Bank, Pittsburg; C. H. Markham, formerly general manager Southern Pacific Railway, now general manager Guffey company.

Officials of the Gulf Refining Company: J. M. Guffey, president; W. L. Mellon, vice-president; R. B. Mellon, treasurer; C. F. Farren, secretary.

Directors of the Gulf Refining Company: J. M. Guffey, capitalist, Pittsburg; J. H. Reed, chairman Carnegie Steel Company; D. M. Clemson, Carnegie Steel Company; T. H. Given, president Farmers' Deposit National Bank, Pittsburg; R. B. Mellon, Mellon National Bank, Pittsburg; W. L. Mellon, Mellon National Bank, Pittsburg; R. A. Greer, attorney, Beaumont, Tex.

Most of these gentlemen are well known in the financial world, and their connection with our enterprise is a sufficient guaranty of our ability to carry to a successful conclusion any contract that we may enter into.

This company, in connection with the J. M. Guffey Petroleum Company, is the most thoroughly equipped independent oil company in the world, they having a combined capital of $15,750,000. The Guffey company is the largest producing and pipe-line company in the Texas field, and the Gulf company owns and operates, at Port Arthur, Tex., the largest independent refinery in the world. In addition to this and our docking facilities we own and operate, exclusive of chartered vessels, a large fleet of tank steamers and barges, which I enumerate below, giving you the capacity, in barrels, of each vessel:

	Barrels.
Steamship *Larimer*	33,500
Steamship *Ligonier*	33,500
Steamship *J. M. Guffey*	25,000
Steamship *Cantania*	25,000
Steamship *Winnifred*	25,000
Barge *Conneaut*	17,000
Barge *Conemaugh*	17,000
Barge *Shenango*	25,000

In addition to having a large production of our own, we do a general pipe-line business in the State of Texas, purchasing oil from the many small producers.

We are carrying in storage to-day between six and seven million barrels of crude oil.

I simply mention the above facts concerning our companies so that you may readily see that you are asked to deal with a company that has ample facilities for carrying out a contract, no matter how large.

You are doubtless familiar with the fact that liquid fuel is being used largely at the present time by many industrial plants in the South and on the Atlantic seaboard, and by some of the southern and western railroads, notably the Southern Pacific, the Kansas City Southern, and the Atchison, Topeka and Santa Fe Railroad, as well as the British Admiralty.

While you are no doubt in position to get reliable statistics, which will enable you to make an accurate comparison with coal, I have taken the liberty of quoting from a lecture delivered before the Franklin Institute in Philadelphia by Dr. Charles B. Dudley, chemist of the Pennsylvania Railroad Company, in which he gives the following tables showing the relative value of oil and coal, based on exhaustive experiments made by the Pennsylvania Railroad Company under his direction:

Relative value of coal and oil, fuel account alone considered.

Oil per barrel:	Equal to coal per ton.
$0.20	$0.74
.30	1.12
.40	1.49
.50	1.86
.60	2.24
.70	2.61
.80	2.98
.90	3.35
1.00	3.73
1.10	4.10
1.20	4.47
1.30	4.85
1.40	5.22
1.50	5.59
1.60	5.97
1.70	6.34
1.80	6.71
1.90	7.08
2.00	7.45

Relative value of coal and oil, all ascertained economies considered.

Oil per barrel at—	Equal to coal per ton.
$0.20	$0.65
.30	.98
.40	1.30
.50	1.63
.60	1.96
.70	2.28
.80	2.61
.90	2.93
1.00	3.26
1.10	3.59
1.20	3.91
1.30	4.24
1.40	4.56
1.50	4.89
1.60	5.22
1.70	5.54
1.80	5.87
1.90	6.19
2.00	6.52

It will be observed that these figures are based on oil weighing 7.3 pounds to the gallon, whereas Texas oil weighs from 7.67 to 7.78 pounds to the gallon, and as the heat is directly in proportion to the weight of the combustible, it is plain that a comparison of Texas oil with coal will make a much more favorable showing for oil than the above figures.

I quote from Mr. Dudley further, as follows:

"As will be described in detail later, there are certain chances for economy in burning oil that do not occur with coal. Of these there have been pretty well worked out, as just stated, economy in handling fuel and ashes, and economy in repairs to locomotives. The amount of these has been obtained in dollars and cents, and is, perhaps, best expressed by saying that, taking all ascertained economies into account, *a pound of petroleum is as good as 2 pounds of coal.*"

The result of this and many other interesting experiments in this country and Europe has been compiled by the Baldwin Locomotive Works, of Philadelphia, in a little pamphlet on oil-burning locomotives entitled, "Record of Recent Construction, No. 37," copy of which I hand you herewith, trusting that it may be of interest to you in considering this subject.

You will note that Doctor Dudley recommends the use of reduced

oil in preference to crude oil. We are in position to supply you with either grade, and will make prices per gallon, per barrel, or per ton, as may be more convenient and satisfactory to your Commission.

While, as a rule, we are loath to enter into long-time contracts, owing to the rapid change in the oil market, we understand fully that a change from coal-burning to oil-burning apparatus would involve a considerable expense to the Government, and that you would not care to consider a short-term contract; hence we are willing to enter into a contract at a fixed price, for a reasonable number of years, entirely sufficient for the economies obtained to make the expense of the equipment insignificant.

If, after considering this matter carefully, your Commission is of the opinion that, owing to the conditions surrounding the use of this fuel—that is, the cost of installation, ownership of same, etc.—it is not practicable to advertise for bids and let the contract in the usual way, we are willing to submit a proposition to supply you at a price and for a term to be agreed upon between us, we undertaking to erect tankage, lay pipe lines for the discharge of cargo into tanks on property donated by the Government or purchased by us, agreeing at the end of the contract period to turn over the entire installation at cost, plus a reasonable interest on the investment for the term of the contract, either to the Government or to the successful bidder, should we lose the contract.

Or if your Commission prefer to erect and own your own tankage, lay pipe lines for unloading ships, etc., we are willing to enter into contract for a period agreed upon for the delivery of the oil into the Government tanks.

It is not for the purpose of securing any preference in the consideration of this subject that the above suggestions are made. All we ask is a "square deal," and are willing to consider the matter on any basis suggested by your honorable Commission, relying on our superior facilities and strong financial position, backed by 7,000,000 barrels of oil in storage, to secure the contract.

After you have considered the matter carefully, I shall be glad to have an expression from your honorable body as to whether either of the plans suggested appear feasible, and if not, an outline of any plan that would meet your views, together with a statement of the approximate annual consumption of oil, or, if you do not have this data, the approximate consumption of coal, in tons. We can then, if necessary, send our representative to Colon to look over the field and consult with your engineer relative to site for the erection of tankage and to work out necessary details to enable us to submit proposition.

For your information will say that our ships draw from 22½ to 23½ feet of water, and it would require this depth to discharge cargoes without the expense of lightering.

I shall be glad to take the matter up with you personally at any time, giving you any information that you may desire concerning our company or its operations.

Yours, very truly,

GULF REFINING COMPANY,
Per G. R. NUTTY, *General Sales Manager.*

THE TEXAS COMPANY, MARITIME BUILDING,
New York, May 23, 1905.

T. P. SHONTS, Esq.,
Chairman Isthmian Canal Commission,
Washington, D. C.

DEAR SIR: Agreeable to your suggestion to put in writing our application for permission to establish a fuel-oil station in the Canal Zone we beg to submit the following:

As to our responsibility.—The Texas Company and its affiliated interests have been and are to-day the largest producers and shippers of fuel oil in the Southwest.

We have handled during the last two years upward of 12,000,000 barrels of oil, making cargo shipments as well as supplying the commercial trade and every railroad in our territory.

As to our plant, facilities, and equipment, we beg to refer to all of these railroad fuel-oil users, and more especially to the Santa Fe and International and Great Northern, which last-mentioned two railroads have been and are still looking to us for their entire fuel-oil requirements.

We feel confident that we are in the best position to furnish your fuel-oil requirements on account of our special facilities, the stocks of oil we carry, and the additional available supplies of such in our territory. As a freighting proposition it seems to us we have also a considerable advantage over either coal or Pacific coast oil.

As to our integrity, commercial standing, and financial ability, we would name the National Park Bank, Mr. J. J. Mitchell, president Illinois Trust and Saving Bank, and Mr. J. W. Gates. Will be pleased to furnish other references, if desired.

Application for fuel-oil station.—We respectfully solicit a lease or allotment of sufficient land within the Canal Zone for the erection of a station for fuel, illuminating, and lubricating oils, together with docking privileges and necessary rights of way for pipe lines from dock to tanks, etc., upon such terms as you may prescribe.

Understanding that you will leave New York for Colon on June 14, we will have our Mr. Thompson there at the same time, that he may answer any question as to technical details or other matters upon which you may desire information on the ground. He would also be prepared to advise with your engineering department as to best available location for proposed station.

Distribution of oil by tank cars or pipe lines.—If it is the intention to make distribution of fuel oil over your railway in your own tank cars, then a switch or track facilities for a tank-loading rack would also be necessary.

If you decide to distribute the fuel oil by pipe line, we would be prepared, upon being made acquainted with the physical conditions applying, to lay such lines or to assist you with specifications for the necessary equipment, that you might install these yourselves. We are thoroughly familiar with this kind of work.

Upon your favorable consideration of our application we are ready to proceed at once with the erection of a fuel-oil station of not less than 75,000 barrels capacity, being quite willing to take our chances of securing a contract for part or all of your fuel-oil requirements when you are prepared to place the same.

At any time you may be ready to take up this question we shall be prepared, when furnished with details and specifications as to quantity, time, manner, and point of delivery, to name a price on a one, two, or three year contract.

Yours, very truly,

THE TEXAS COMPANY,
J. S. CULLINAN, *President.*

THE TEXAS COMPANY,
MARITIME BUILDING, 8 BRIDGE STREET,
New York, September 21, 1905.

T. P. SHONTS, Esq.,
Chairman Isthmian Canal Commission,
Washington, D. C.

DEAR SIR: In connection with the formal application for station site in the Canal Zone, which we are filing herewith, I beg to advise that if favored with a location it is our purpose to divert some of the tank steamers which we now employ in the trade between Port Arthur and New York and other eastern ports to the trade between Port Arthur and Panama. These steamers are suitable for towing barges, and thus might be made available to transport freight from the terminus of the Kansas City Southern Railway, which, as you no doubt are aware, extends from Port Arthur to Kansas City, Mo., through the leading rice, lumber, and petroleum districts of the Southwest.

I mention this, feeling that it might be of interest in connection with creating a new line of communication for supplies with Panama, a point that might be of interest to your Commission, particularly under the quarantine conditions now existing against other southern ports.

If we are given the privilege of a location for a station site and your Commission should later decide to accept oil as a fuel, either on the railway or in connection with the canal construction, we will be glad to make the facilities and experience of the Texas Company available to assist in the installation of such pipe lines, tankage, or equipment as might be needed in delivering the oil to the point where it was to be used as consumed.

We would like to call your attention particularly to the value of Texas oil for disinfecting. It has been extensively used this year throughout Texas and Louisiana with very satisfactory results.

While we understand that your Commission is not yet ready to consider the question of adopting the use of oil, and that it may be some time before you will be in a position to take up the question, you will appreciate that it will take some time to install the necessary tankage and equipment; and knowing the supplies of oil that are available, we feel sure that it will eventually be adopted and stand ready on our own account to provide the necessary transportation, tankage, and equipment, that we may be in a position to handle the business at such a time or in such amount as may be used.

Trusting our application may have early consideration, we beg to remain,

Yours, very truly,

THE TEXAS COMPANY,
J. S. CULLINAN, *President.*

THE TEXAS COMPANY,
MARITIME BUILDING, 8 BRIDGE STREET,
New York, September 21, 1905.

T. P. SHONTS, Esq.,
Chairman Isthmian Canal Commission,
Washington, D. C.

DEAR SIR: We herewith make formal application for sufficient surface use of property within the Canal Zone on which to install a fuel-oil storage station.

Our representative reports the location best adapted for this purpose to consist of about 12 acres of land adjoining the Panama Railroad, either on the east or west side of the railroad, at a point between Fox River and Monkey Hill, Mount Hope Station.

If the plans of your Commission will not permit of our securing the site designated above, we are desirous of obtaining a site at some other point accessible to the harbor and the railroad on which such a storage station may be located.

Trusting this application may receive your early and favorable consideration, we beg to remain,

Very respectfully, yours,

THE TEXAS COMPANY,
J. S. CULLINAN, *President.*

LINDON W. BATES, 74 BROADWAY,
New York, October 20, 1904.

Admiral WALKER,
Chairman Panama Commission, Washington, D. C.

DEAR SIR: We have the honor to request permission to install and operate an oil-fuel pipe line, with branches and accessories, between the Atlantic and Pacific terminals of the canal. The location and regulation of permanent and temporary pipe lines and of the storage and distributing tanks shall be that prescribed and approved by the Commission.

Respectfully,

LINDON W. BATES.

PROPOSED PIPE LINE FOR THE SUPPLY OF FUEL OIL ON THE ISTHMUS OF PANAMA.

This project consists in the installation of an oil pipe across the Isthmus of Panama, serving and connecting the cities of Colon and Panama, and located conveniently near the route of the new canal, with a single spur extending toward Alhajuela to the upper Chagres regulation works.

The objective of the installation is to supply crude oil for all forms of power, heating, and sanitary purposes required for the various operations in the canal construction and its attendant interests, and by the inhabitants of the cities of Panama and Colon, and the United States Zone. The convenience of such a line for sanitary purposes in eradicating the mosquito cheaply is manifest.

The plan comprehends a pipe line arranged so that the same may be tapped at places most convenient for the supply of fuel oil to consumers and to the work on the canal, and to suit whatever classification or division of work that may be followed. Large control and storage tanks near Colon or other suitable site, together with the necessary pumping plant and common to the most modern and improved oil pipe lines, will be installed.

Route.—The attached plan illustrates a route projected along or near the line of the existing Panama Railway. The section between Bohio and Culebra is purely tentative, since a definite location can not be fixed until after the line in plan and elevation for the new canal is permanently established, although it appears probably that the line parallel to the present railway will be practicable. A line may be selected farther from the railway than that indicated and distribution effected by stub lines.

Our carefully prepared diagram of flow shows the flow of oil at the different points on the line. The pipe line is calculated for delivering 100 per cent in excess of the quantities shown upon the diagram, and is dimensioned so that the sum of the static and friction

heads will not exceed 250 pounds per square inch. The pump capacity will be installed accordingly.

Installation.—The pipe line is to be buried or covered where practicable and where necessary. The pipes and valves and tanks are to be coated for durability, and all materials are to be of the best quality for purposes indicated. Tanks are to be properly insulated, eliminating all danger of fire.

Valve houses are proposed as delivery centers. These houses are to be large enough to permit the attendant to have a small sleeping and living compartment, so that the same may always be found on the place.

Two pumps are proposed—one as reserve to the other and so that a tank ship can be unloaded in case the latter is not provided with its own unloading pumps. Steam pumps are considered in the estimate, but oil-engine driven pumps can be substituted. The advantage in the latter case would be considerable, since good boiler feed water will not be easy to obtain, while the harbor water will be suitable for cooling the oil engines.

In operation the pumps will supply the tanks and line at 52 K, and the rest of the line will be supplied by gravity, or nearly so.

A telephone system is included for operation and control between pumping station and tanks at 52.5 K. Tanks at 24 K and 46 K will have to be controlled by the pressure gauges and floats, and, if advisable, automatic cut-off valves, in order to prevent excessive pressure.

Permit.—No exclusive permit to install and operate a pipe line is sought, but simply an opportunity to sell and conveniently deliver this commodity to purchasers, subject to suitable conditions and regulations, under which there is no interference with canal work.

Plans.—Detailed plans are ready for submission.

LINDON W. BATES,
74 Broadway, New York.

LINDON W. BATES, 74 BROADWAY,
New York, October 22, 1904.

PRESIDENT ISTHMIAN CANAL COMMISSION,
Washington, D. C.

DEAR SIR: I have the honor to inclose, for convenience of consideration, several copies of a brief digest of the oil pipe-line project contemplated under my application, for which careful studies, estimates, and arrangements have been made.

A competitive opportunity is sought on the Isthmus to store, sell, and conveniently deliver this commodity, subject to the following primary conditions:

First. That the installation and the business conducted shall not conflict with the interests of the United States.

Second. That the installation for which permission is granted shall be subject to inspection and approval by the Commission.

Third. That the permit does not give any property titles, and does not authorize any invasion of private property or rights.

Fourth. That the permit shall grant no rights precluding the installation of other pipe lines for a similar purpose.

Very truly, yours,

LINDON W. BATES.

(Inclosure.)

PAPERS CONCERNING WOMEN FROM MARTINIQUE.

[The following are the papers referred to on page 738 of the printed record:]

ISTHMIAN CANAL ZONE, EXECUTIVE OFFICE,
Ancon, January 19, 1906.

SIR: I have the honor to acknowledge the receipt of your direction of January 15, 1906, to secure "statement from clergymen * * * concerning women from Martinique."

Complying with said request, I transmit herewith affidavits of all the clergymen stationed in the Canal Zone or who engaged in religious work therein, with the exception of Rev. Mr. Wood and Rev. Percy King. Mr. Wood is in South America and Mr. King in Darien, hence the inability to secure statements from these gentlemen.

Respectfully submitted.

Yours, very truly, CHARLES E. MAGOON,
Governor.

The SECRETARY OF WAR,
Washington, D. C.

(Inclosures: Affidavits from the Reverends Wise, Hendrick, Loveridge, Eskins, and Jackson, and affidavit covering interview with Reverend Larridan.)

The VICE-PRESIDENT. The time of the Senator from Alabama has expired.

Mr. BEVERIDGE. Mr. President, while I thought and still think that this matter had better be considered in the Senate, where it is about to go, nevertheless, since the motion to reconsider has been made, I am heartily in favor of it, but for another reason and an additional reason to the one the Senator gave.

It will be remembered by Senators who were here that when the amendment was originally offered by the Senator from Massachusetts it covered the transportation not only of oil by pipe lines, but of gas also. By some process which I do not remember the word "gas" went out of the amendment. I suggested to the Senator from Massachusetts that there was no reason why gas should be excluded from transportation by pipe lines and oil alone included, to which the Senator agreed. Upon two separate motions made at different times the Senate voted upon that proposition and voted to include gas transported by pipe lines as well as oil transported by pipe lines, both having been decided by the courts to be interstate commerce.

At a later time in the day, in the midst of considerable confusion, a motion was made by some one, I do not now remember by whom, striking out the words "for municipal purposes." A large number of Senators here—I know a great many of them—under a misapprehension, voted for that motion. But by that misapprehension the amendment was made not to cover the transportation of natural gas by pipe lines, a thing which the Senate had overwhelmingly on two former motions included.

For this reason, Mr. President, in addition to the reason given by the Senator from Illinois, I shall heartily favor his motion to reconsider, although I thought the subject had better be taken up in the Senate; and I trust the motion will prevail.

I wish to say, in this connection, that the words "except water" were also included in the amendment, and I think the showing of the Senator from Montana [Mr. CARTER] and other Senators from that part of the country that this would interfere with the transportation of water for irrigation and power purposes was conclusive upon that subject. So I shall hope that when the amendment is reconsidered "water" will not be included in the motion of any Senator.

Mr. FORAKER. Mr. President, the remarks of the Senator from Indiana make me apprehensive that if the amendment is reconsidered we may have trouble about it. It was bad enough when we adopted it, at the time we did adopt it; but it became much worse when, later, in the consideration of the bill we provided that no common carrier should be allowed to transport any product that belonged to itself or in which it had any interest, direct or indirect.

Now, what is the condition? We are constructing at Cincinnati, as I informed the Senate when this matter was under consideration before, a pipe line to connect that city with the natural gas fields of West Virginia. It is a very expensive enterprise. It is estimated that it will cost about $5,000,000. We are building the pipe line large enough, according to the estimate of engineers who are thought to be competent, to transport enough natural gas to supply the municipality of Cincinnati and the people of Cincinnati, to supply the city not only for municipal purposes, for lighting the streets, but to supply the manufacturing establishments of the city with cheap fuel. But if we are now, when that pipe line is completed, not to be allowed to transport our own gas we might as well stop. The only purpose of it is to transport our own gas.

Mr. BEVERIDGE. May I ask the Senator from Ohio a question?

Mr. FORAKER. Certainly.

Mr. BEVERIDGE. Might not precisely the case which the Senator from Ohio is describing be also true with reference to the transportation of oil?

Mr. FORAKER. Certainly, it might be true.

Mr. BEVERIDGE. So the question recurs that I originally addressed, when this matter was up, to the Senator from Massachusetts, that if the transportation of oil in pipe lines be included, why ought not also gas to be included?

Mr. FORAKER. Mr. President, I am not concerned about oil, but I am about gas. What the Senator from Indiana suggests as to oil is equally true, no doubt. If an oil company has constructed a pipe line for its own use and benefit, and we now make it a common carrier, and then prohibit all common carriers to which this act applies from carrying their own products or any property that belongs to them, of course the pipe line company will have to go out of business so far as its own business is concerned. It can carry oil only for the public.

But going back to our own case, for I do not want to get away from it——

Mr. CLAY. Will the Senator let me ask him a question? I should like to ask the Senator if these pipe lines are used by any except by the companies owning them? They do not haul for the public at all? They simply use them for the purpose of hauling their own oil and gas to distribute to the public?

Mr. FORAKER. I think most of them do, from what I have been told. I have no personal knowledge about it.

Mr. CLAY. If they are prevented from hauling their own oil or gas, they would be prevented from doing any business at all, would they not?

Mr. FORAKER. It is absolute confiscation. That is what it is, and nothing else.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from New Hampshire?

Mr. FORAKER. Certainly.

Mr. GALLINGER. If the Senator will permit me, I wish to correct a statement made by the Senator from Indiana that this amendment was never adopted, but that in the confusion——

Mr. BEVERIDGE. No; the Senator must have misunderstood me. If I made any such statement as that, I hasten to correct it.

Mr. FORAKER. I hope the Senators will not take all my time.

Mr. GALLINGER. I will not.

Mr. BEVERIDGE. I thought the Senator rose in his own time to ask me a question. I did not make that statement, I will say to the Senator. If the Senator understood me to say that it was so adopted, I stated it inadvertently.

Mr. GALLINGER. Upon that statement I have nothing fur-

ther to say. The Senate did vote to insert "except water and except natural and artificial gas for municipal purposes," and subsequently the words "for municipal purposes" were stricken out.

Mr. FORAKER. My time is passing. I only want to be allowed to indicate the situation we will be in if we should reconsider and then strike out the exception as to natural or artificial gas. I do not know what the effect will be as to oil, for I do not know to what extent the pipes of the oil companies are used exclusively for their own business; but when it comes to natural gas I know what we are trying to do in that one instance. We are trying to put down a 16-inch pipe with a capacity that will supply Cincinnati. If when we get to the gas fields, having spent our $5,000,000, which we are having a great deal of trouble to raise, and which we could not raise at all if it were known that this provision would become a law, we shall be required to receive all the natural gas other people may see fit to bring to our pipe and transport it from the place in West Virginia where the gas is found down to Huntington, we will say, dump out a lot of it there for the accommodation of that city, and on to Maysville, and on to Portsmouth, and to other cities, supplying them, for that is what the business of a common carrier means, we would have to increase the capacity, perhaps put in another pipe and at another $5,000,000 expense, or if we did not have to do that, assuming that we would not be allowed to continue to transport our own property, we would have to quit absolutely.

Therefore, Mr. President, if we adopt the change such as the Senator from Indiana gives notice he will ask for, if we reconsider, then we will have to reconsider the amendment by which we have provided that no common carrier shall carry any product that belongs to it except only in so far as it may be necessary for its own use.

Mr. DICK. Mr. President, if the motion of the Senator from Illinois to reconsider carries, then the entire amendment is eliminated?

Mr. HOPKINS. No; it is then open to amendment.

Mr. DICK. I want to know the practical effect. What exception does the Senator expect to make in lieu of it in order that this company may operate across the Isthmus and yet leave other companies in operation under the effect of the law?

Mr. HOPKINS. I had in mind only to strike out all after the word "water" in line 3 of the amendment.

Mr. PERKINS. In line 3, after the word "water," to strike out the words "at any place within the jurisdiction or within the governmental authority of the United States." I understand the Senator from Alabama does not object.

The VICE-PRESIDENT. The question is on the motion to reconsider made by the Senator from Illinois [Mr. HOPKINS]. [Putting the question.] In the opinion of the Chair, the noes have it.

Mr. HOPKINS. I ask for the yeas and nays.

The yeas and nays were not ordered.

The VICE-PRESIDENT. The motion to reconsider is not agreed to.

Mr. BEVERIDGE. I reserve this amendment——

The VICE-PRESIDENT. It is not necessary to do so now. That can be done after the bill comes into the Senate.

Mr. BEVERIDGE. Before the bill gets into the Senate, I wish to give notice of my right to reserve for a separate vote this amendment or any part of it.

Mr. TILLMAN. I suggest to Senators who wish to put additional amendments in the bill or to change amendments already in it that we would facilitate business and get to a vote much sooner if we would pass the bill to the Senate, and then when the bill gets in the Senate let Senators suggest those things they want stricken out or those things they want added without trying to reconsider now. Here is an instance right here. There are Senators here who want to reconsider, one for one purpose and another for another, and they cut each other's throats. If Senators will just wait until we get the bill into the Senate, then all the amendments will stand on their own merits.

Mr. BEVERIDGE. Will the Senator yield just a moment? I stated to the Senator from Illinois and to the Senate when I was making a few remarks that I thought it much better to take this question up after the bill was reported to the Senate, and not in Committee of the Whole; but since the Senator from Illinois had moved to reconsider and that question was pending before the Senate I was in favor of that motion. I agree with the Senator that it is wise and proper to take it up in the Senate.

The VICE-PRESIDENT. The bill is in Committee of the Whole and open to amendment.

Mr. CULBERSON. I make a motion to reconsider an amendment adopted, on page 4, to which I think there is no opposition at all in the Senate.

Mr. TILLMAN. Will not the Senator apply the reasoning I just made to that amendment, the same as the one we have just refused to reconsider?

Mr. CULBERSON. There is absolutely no opposition to the motion to reconsider in this case, so far as I have heard.

Mr. TILLMAN. But there is trouble about fixing an amendment exactly to suit Senators.

Mr. CULBERSON. That will come up later.

Mr. TILLMAN. You want to reconsider it, and then——

Mr. CULBERSON. That is all.

Mr. TILLMAN. I want to get the bill out of the Committee of the Whole, and then we can discuss these little amendments in the Senate to-morrow.

Mr. CULBERSON. It will take but a moment. I have heard no opposition at all to a reconsideration of that amendment.

Mr. BEVERIDGE. I suggest to the Senator from Texas, if he will permit me, that he take this question up when the bill is reported to the Senate. The Senator from Illinois has just made a motion to reconsider an amendment, and the Senate did not sustain him.

Mr. CULBERSON. I insist upon my motion to reconsider, Mr. President.

The VICE-PRESIDENT. The Senator from Texas moves to reconsider the vote by which the amendment on page 4 was adopted, beginning on line 9 and ending in line 18. The question is on agreeing to the motion of the Senator from Texas to reconsider.

The motion to reconsider was agreed to.

Mr. CARTER. Mr. President——

Mr. CULBERSON. Without asking for its consideration now, I ask leave to perfect the amendment which is now pending to the bill by a substitute.

Mr. TILLMAN. And then let it be printed and go over?

Mr. CULBERSON. To be printed and go over.

Mr. BEVERIDGE. Let the amendment be read from the desk.

Mr. TILLMAN. I ask that the bill as now amended——

The VICE-PRESIDENT. The Senator will suspend until the Chair has made an order in reference to the amendment just proposed. The amendment proposed by the Senator from Texas to the amendment which has been reconsidered will be printed and lie on the table.

Mr. BEVERIDGE. Let it be read.

Mr. McLAURIN. I have an amendment to offer to the amendment, or rather a substitute for the amendment, that I shall offer and have printed also.

Mr. NELSON. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from Minnesota will kindly state his point of order.

Mr. NELSON. The motion to reconsider the amendment of the Senator from Texas has prevailed, and the question now is upon the amendment of the Senator from Texas, and he has got to make some disposition of it in Committee of the Whole or else it would be reported to the Senate.

The VICE-PRESIDENT. The Chair holds that the point of order is well taken.

Mr. BEVERIDGE. Let the amendment of the Senator from Texas be read.

The VICE-PRESIDENT. The request is that the proposed amendment of the Senator from Texas to the amendment be read. Is there objection? The Chair hears none, and the Secretary will read the amendment to the amendment.

The SECRETARY. In lieu of the amendment on page 4 of the bill insert the following:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passengers except to its officers, agents, and employees, and members of their immediate families, to its actual and bona fide attorneys, to ministers of religion and inmates of hospitals and eleemosynary and charitable institutions, and to indigent, destitute, and homeless persons. Any carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars: *Provided*, That this provision shall not be construed to prohibit the interchange of passes for officers, agents, and employees and members of their immediate families, nor to owners and caretakers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery, nor shall anything in this provision be deemed to prohibit any carrier from carrying passengers free on account of charity from and to places visited by general epidemic or pestilence or wholly or largely destroyed by fire, water, earthquakes, or other calamitous visitations with the object of providing succor, relief, and other assistance to the inhabitants. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, and any amendment thereof.

Mr. BACON. Mr. President——

Mr. BEVERIDGE. Is it in order to move an amendment to the amendment in the nature of a substitute?

The VICE-PRESIDENT. The Chair understands that the amendments are to be printed and lie on the table until to-morrow.

Mr. BEVERIDGE. But if in Committee of the Whole they are printed and lie on the table until to-morrow morning, it follows we can not proceed further with the consideration of the bill, which is ready to be reported to the Senate with this exception, is it not? I understand that with the single exception of this amendment the committee is now ready to report the bill to the Senate.

Mr. McLAURIN. If the Senator will allow me——

Mr. BEVERIDGE. I will in a moment, as soon as I complete my statement. If these amendments must be printed and lie on the table until to-morrow morning, it follows that the Committee of the Whole can do nothing further with the bill until to-morrow morning.

The VICE-PRESIDENT. The bill can not be reported to the Senate until the pending amendment is disposed of.

Mr. BEVERIDGE. Therefore the proposition stands that we must immediately dispose of the amendment proposed by the Senator from Texas or else we must pass over the consideration of the bill until to-morrow morning. That is the reason why I suggested to the Senator that we consider this amendment in the Senate. It simply blocks the wheels of legislation. Since we are considering the amendment of the Senator from Texas, I ask if an amendment to that amendment in the nature of a substitute is in order?

The VICE-PRESIDENT. It is not in order, under the rule.

Mr. BEVERIDGE. I should like to know why an amendment to the amendment is not in order.

Mr. BACON. Mr. President, I submit an amendment which I intend to propose when in order. I ask that it may be now read and ordered printed.

The VICE-PRESIDENT. The Secretary will read the amendment sent to the desk by the Senator from Georgia.

Mr. BEVERIDGE. Before it is read I wish to say to the Senator from Georgia, that with the permission of the Chair——

Mr. BACON. I hope the Senator will permit the amendment to be read.

Mr. BEVERIDGE. I will in just a moment.

Mr. BACON. I did not understand that I was offering the amendment in the Senator's time. The Chair recognized me.

The VICE-PRESIDENT. The Senator from Georgia is offering the amendment in his own right.

Mr. BEVERIDGE. I asked the Chair whether it would be in order to propose an amendment to the amendment at this time, and the Chair ruled it would not be in order.

The VICE-PRESIDENT. The Chair ruled that it would not be in order to offer a further amendment at the present time, as an amendment to the amendment is pending.

Mr. BEVERIDGE. I merely asked the question for information.

Mr. BACON. I offered the amendment in my own time, and I ask that it be read.

Mr. CULBERSON. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from Texas will state his point of order.

Mr. CULBERSON. My point of order is that the amendment which is printed on page 4 is not now the amendment pending; that a motion having been made to reconsider, and that motion having prevailed, I was entitled to substitute in lieu of that the amendment which was read at the desk, and that is the amendment which I understand to be pending now.

Mr. BACON. I simply ask that my amendment may be read for information at this time.

Mr. CULBERSON. I have no objection to that.

Mr. BACON. It will take but a minute to read it.

The VICE-PRESIDENT. The Chair will state to the Senator from Texas that the vote having been reconsidered, the amendment was brought before the Senate, and the question was on agreeing to that amendment. The amendment was open to amendment, and the Senator from Texas proposed a substitute, which is an amendment to the amendment.

Mr. CULBERSON. The Chair misunderstood me. The motion by which the amendment printed on page 4 was adopted having been carried, the amendment was under my control as the mover of it. I ask leave to substitute——

Mr. CLARK of Arkansas (to Mr. CULBERSON). Withdraw it.

Mr. CULBERSON. I withdraw it and substitute in lieu of it the amendment which was read at the desk. Consequently, the latter is the pending amendment and not the one that is printed, I submit to the Chair.

Mr. BEVERIDGE. Then, if that is the pending amendment, I offer the following amendment to the amendment.

The VICE-PRESIDENT. The vote having been reconsidered, the question was upon the amendment as printed in the text. To that the Senator from Texas offered an amendment as a substitute.

Mr. CULBERSON. I have withdrawn the printed amendment, and I ask——

The VICE-PRESIDENT. After the Senate voted upon the amendment it was not in the power of the Senator from Texas to withdraw it. It having been a subject upon which the Senate expressed its judgment, it was beyond the Senator's recall.

Mr. CULBERSON. Very well; but at the same time it ought to be borne in mind that the Senate reconsidered the vote by which it adopted the amendment.

Mr. LODGE. That did not place it in the Senator's control.

Mr. CULBERSON. I offer, then, this amendment as a substitute for what is printed on page 4, so as to conform to the ruling of the Chair.

Mr. BEVERIDGE. Now that the Senator——

The VICE-PRESIDENT. The Senator from Georgia was recognized. The Chair will recognize the Senator from Indiana after the proposed amendment of the Senator from Georgia is read.

Mr. FRYE. But has not the Senator from Texas the right to offer an amendment to that amendment?

The VICE-PRESIDENT. The Chair so stated.

Mr. FRYE. Then that is the whole amendment which is pending.

The VICE-PRESIDENT. The Senator from Texas offers his amendment to the amendment made as in Committee of the Whole and which was reconsidered. The question is on agreeing to the amendment proposed as a substitute by the Senator from Texas for the amendment made as in Committee of the Whole.

Mr. CARTER. Mr. President, I move that the Senate adjourn.

Mr. BACON. Mr. President, I have the floor.

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Montana?

Mr. BACON. I will not yield until after the amendment I offer has been read.

The VICE-PRESIDENT. The amendment sent to the desk by the Senator from Georgia will be read.

The SECRETARY. In lieu of the amendment on page 4 insert:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passage to any Senator of the United States or Representative in Congress, or to any justice or judge of the courts of the United States, or to any officer of either of the Executive Departments of the United States. Any such carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars.

Mr. BEVERIDGE. Mr. President, because it is perfectly clear that the consideration of the amendment at this time will merely lose an hour or an hour and a half when it may as well be taken up in the Senate for this purpose, I move that the amendment be laid upon the table so that we can take it up in the Senate.

The VICE-PRESIDENT. The Senator from Indiana moves that the amendment and the amendment proposed by the Senator from Texas to the amendment be laid on the table.

The motion was not agreed to.

Mr. TILLMAN. I ask that the bill be reprinted as amended.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. CARTER. I move that when the Senate adjourns to-day it be to meet at 11 o'clock to-morrow. ["No!" "No!"] I made the suggestion at the request of the Senator from Alabama [Mr. MORGAN].

Mr. MORGAN. I ask unanimous consent that I may state the reason for the request.

The VICE-PRESIDENT. The Senator from Alabama asks unanimous consent that he may state the reason for the motion just made by the Senator from Montana. Is there objection? The Chair hears none.

Mr. McLAURIN. I will ask the Senator——

The VICE-PRESIDENT. Does the Senator from Alabama yield to the Senator from Mississippi?

Mr. MORGAN. I can not yield.

On to-morrow the Committee on Interoceanic Canals have agreed to meet at 2 o'clock and come to a final conclusion of some kind in regard to the type of the canal. The meeting is one of very great importance to the members of the committee and to the country, and if we can get an hour's additional session

here in the morning we probably can get far enough along with the business to enable the committee to hold that very important meeting. I therefore request that when we adjourn we will adjourn until to-morrow at 11 o'clock.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Montana [Mr. CARTER].

Mr. SCOTT. What is the motion?

The VICE-PRESIDENT. The motion is that when the Senate adjourns to-day it be to meet to-morrow at 11 o'clock.

Mr. ELKINS. I move to amend by saying 10 o'clock.

Mr. CARTER. I withdraw the motion, in view of the manifest opposition to it, and move that the Senate do now adjourn.

Mr. McLAURIN. I hope the Senator from Montana will withhold the motion for a moment.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Montana that the Senate do now adjourn.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, May 16, 1906, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 15, 1906.*

The House met at 12 o'clock m., and was called to order by Mr. ALEXANDER MCDOWELL, its Clerk.

Mr. PAYNE. I move that Mr. DALZELL be elected Speaker pro tempore.

The motion was unanimously agreed to.

Mr. DALZELL assumed the chair as Speaker pro tempore.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

The SPEAKER entered the Hall and took the chair.

Mr. PAYNE. Mr. Speaker, I move that the Journal be approved.

Mr. WILLIAMS. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. A moment ago, during the temporary absence of the titular Speaker, the gentleman from Pennsylvania [Mr. DALZELL] was elected Speaker pro tempore. My inquiry is, whether he was elected for the day or for the period of the temporary absence of the Speaker.

The SPEAKER. Probably it will take both of us to run the House. [Laughter.]

Mr. WILLIAMS. Mr. Speaker, with that response, I will not drive the inquiry any further. I am inclined to think it will. [Renewed laughter.]

The motion was agreed to; and the Journal was approved.

SALARIES OF SCHOOL-TEACHERS, ETC., IN THE DISTRICT OF COLUMBIA.

The SPEAKER. A separate vote was reserved yesterday upon the proposition relating to the appointment of members of the board of education.

The Clerk will now report the amendment.

The Clerk read as follows:

After the word "members," in line 9, page 1, strike out everything down to the word "of," in line 4, page 2, and insert "all of whom shall have been for five years immediately preceding their appointment bona fide residents of the District of Columbia. The members of the board of education shall be appointed by the supreme court judges;" so that the passage will read as follows:

"SEC. 2. That the control of the public schools of the District of Columbia is hereby vested in a board of education to consist of nine members, all of whom shall have been for five years immediately preceding their appointment bona fide residents of the District of Columbia. The members of the board of education shall be appointed by the supreme court judges of the District of Columbia, for terms of three years each, except that the original appointments under this act shall be as follows."

Also, in section 2, page 2, line 10, strike out the word "Commissioners" and insert "judges of the supreme court."

Mr. SIMS. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SIMS. Can this amendment be divided and voted on separately?

The SPEAKER. The Chair will state a separate vote was reserved upon two amendments. The second amendment, of course, if the first should be agreed to, would necessarily have to go with the other.

Mr. SIMS. It is the first amendment on which I desire a division.

The SPEAKER. The Chair will state that the amendment as reported was an amendment striking out and inserting, which is not divisible.

Mr. SIMS. Then it can not be divided?

The SPEAKER. No; a simple motion to insert probably could be, but to strike out and insert is not divisible.

Mr. BABCOCK. Mr. Speaker, I want to say a few words in reference to this amendment.

The SPEAKER. The previous question has been ordered by unanimous consent.

Mr. BABCOCK. Well, I will say we might as well defeat the bill——

Mr. FOSTER of Vermont and others. Regular order!

The SPEAKER. The regular order is demanded. It seems to the Chair, unless objection is made, that the vote might well cover the two amendments, which embody one proposition. The Chair will call the attention of the gentleman from Mississippi to the fact that the amendment just read, striking out and inserting, provides for appointment of the school board by the Commissioners; prior to that, the next one is to fill the vacancies. It provides that the vacancies shall be filled by the supreme court. Of course if the first amendment is agreed to, logically the other would follow.

Mr. WILLIAMS. They are both parts of the same subject-matter.

The SPEAKER. Practically so. Without objection, the vote will be taken on both amendments. [After a pause.] The Chair hears none.

Mr. BABCOCK. I would ask the Speaker to state the effect of the amendment, or else I will ask unanimous consent to do so myself.

Mr. GILLETT of Massachusetts. Regular order!

The SPEAKER. The regular order has been demanded. The amendments have been read, and the question is on agreeing to the amendments.

The question was taken; and the Speaker announced that the ayes seemed to have it.

Mr. BABCOCK. Division, Mr. Speaker.

Mr. CRUMPACKER. I demand the yeas and nays on this proposition.

The yeas and nays were ordered.

Mr. McCLEARY of Minnesota. A parliamentary inquiry. A vote "yea" amounts to giving the appointment to the judges?

Mr. GILLETT of Massachusetts. Regular order!

Mr. McCLEARY of Minnesota. And a vote "nay" is against it?

The SPEAKER. The Chair so understands.

The question was taken; and there were—yeas 142, nays 67, answered "present" 18, not voting 155, as follows:

YEAS—142.

Aiken	Fitzgerald	Landis, Frederick	Rucker
Andrus	Fletcher	Law	Ruppert
Bankhead	Floyd	Lawrence	Russell
Beall, Tex.	Foster, Vt.	Le Fevre	Samuel
Bede	French	Lester	Scott
Beidler	Gaines, W. Va.	Lilley, Pa.	Sherley
Bell, Ga.	Garner	Lindsay	Sims
Bishop	Garrett	Little	Slayden
Bonynge	Gill	Lloyd	Small
Bowers	Gillespie	Loud	Smith, Pa.
Bowie	Gillett, Mass.	McCreary, Pa.	Smith, Tex.
Brantley	Glass	McKinley, Ill.	Snapp
Broocks, Tex.	Goulden	McKinney	Spight
Brooks, Colo.	Graff	McNary	Stafford
Buckman	Gregg	Macon	Stephens, Tex.
Burgess	Hale	Marshall	Sullivan, Mass.
Burleson	Hardwick	Meyer	Sulzer
Burnett	Hay	Miller	Taylor, Ala.
Butler, Pa.	Hedge	Mondell	Thomas, N. C.
Candler	Heflin	Moon, Tenn.	Thomas, Ohio
Capron	Henry, Tex.	Mudd	Towne
Clayton	Hill, Miss.	Murdock	Tyndall
Cocks	Hoar	Murphy	Underwood
Cole	Holliday	Needham	Volstead
Cromer	Houston	Page	Wallace
Dale	Howell, N. J.	Patterson, N. C.	Watkins
Davis, Minn.	Howell, Utah	Perkins	Webb
Davis, W. Va.	Humphrey, Wash.	Pollard	Weeks
Dawes	Hunt	Powers	Wiley, Ala.
Dawson	Jones, Va.	Prince	Williams
De Armond	Jones, Wash.	Pujo	Wood, Mo.
Denby	Keliher	Randell, Tex.	Wood, N. J.
Dickson, Ill.	Kitchin, Wm. W	Rhodes	Woodyard
Dixon, Ind.	Knopf	Rives	Zenor
Draper	Lafean	Rixey	
Dresser	Lamb	Robertson, La.	

NAYS—67.

Acheson	Chaney	Henry, Conn.	Payne
Adams, Pa.	Cooper, Wis.	Hughes	Pearre
Adams, Wis.	Cousins	Hull	Reeder
Alexander	Crumpacker	Knowland	Roberts
Allen, Me.	Curtis	Lacey	Slemp
Babcock	Dalzell	Longworth	Smith, Cal.
Barchfeld	Dixon, Mont.	Loudenslager	Smith, Samuel W.
Bates	Foss	McCleary, Minn.	Smyser
Brownlow	Foster, Ind.	McKinlay, Cal.	Southwick
Burke, Pa.	Gardner, Mich.	Minor	Sperry
Burton, Del.	Gardner, N. J.	Moon, Pa.	Sterling
Burton, Ohio.	Gilbert, Ind.	Morrell	Sulloway
Calder	Gillett, Cal.	Mouser	Tawney
Calderhead	Graham	Olcott	Taylor, Ohio
Campbell, Kans.	Greene	Olmsted	Vreeland
Campbell, Ohio	Hamilton	Parker	The Speaker
Cassel	Hayes	Parsons	

ANSWERED "PRESENT"—18.

Adamson	Currier	Howard	McGavin
Bartholdt	Deemer	Humphreys, Miss.	Patterson, S. C.
Boutell	Edwards	Johnson	Reid
Chapman	Fuller	Lee	
Clark, Mo.	Haskins	Littauer	

NOT VOTING—155.

Allen, N. J.	Fordney	Landis, Chas. B.	Schneebeli
Ames	Fowler	Legare	Scroggy
Bannon	Fulkerson	Lever	Shackleford
Bartlett	Gaines, Tenn.	Lewis	Shartel
Bennet, N. Y.	Garber	Lilley, Conn.	Sheppard
Bennett, Ky.	Gardner, Mass.	Littlefield	Sherman
Bingham	Gilbert, Ky.	Livingston	Sibley
Birdsall	Goebel	Lorimer	Smith, Ill.
Blackburn	Goldfogle	Lovering	Smith, Iowa.
Bowersock	Granger	McCall	Smith, Ky.
Bradley	Griggs	McCarthy	Smith, Md.
Brick	Gronna	McDermott	Smith, Wm. Alden
Broussard	Grosvenor	McLachlan	Southall
Brown	Gudger	McLain	Southard
Brundidge	Haugen	McMorran	Sparkman
Burke, S. Dak.	Hearst	Madden	Stanley
Burleigh	Hepburn	Mahon	Steenerson
Butler, Tenn.	Hermann	Mann	Stevens, Minn.
Byrd	Higgins	Martin	Sullivan, N. Y.
Clark, Fla.	Hill, Conn.	Maynard	Talbott
Cockran	Hinshaw	Michalek	Tirrell
Conner	Hitt	Moore	Townsend
Cooper, Pa.	Hogg	Nevin	Trimble
Cushman	Hopkins	Norris	Van Duzer
Darragh	Hubbard	Otjen	Van Winkle
Davey, La.	Huff	Overstreet	Wachter
Davidson	James	Padgett	Wadsworth
Dovener	Jenkins	Palmer	Waldo
Driscoll	Kahn	Patterson, Tenn.	Wanger
Dunwell	Keifer	Pou	Watson
Dwight	Kennedy, Nebr.	Rainey	Webber
Ellerbe	Kennedy, Ohio	Ransdell, La.	Weems
Ellis	Ketcham	Reynolds	Weisse
Esch	Kinkaid	Rhinock	Welborn
Fassett	Kitchin, Claude	Richardson, Ala.	Wharton
Field	Klepper	Richardson, Ky.	Wiley, N. J.
Finley	Kline	Robinson, Ark.	Wilson
Flack	Knapp	Rodenberg	Young
Flood	Lamar	Ryan	

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CANNON, and he voted "no," as above recorded.

So the amendments were agreed to.

The following pairs were announced.

For the session:

Mr. WANGER with Mr. ADAMSON.

Until May 24:

Mr. FULLER with Mr. RICHARDSON of Kentucky.

Until May 18:

Mr. CHAPMAN with Mr. HOPKINS.

Until further notice:

Mr. DAVIDSON with Mr. LEE.

Mr. SOUTHARD with Mr. PATTERSON of South Carolina.

Mr. WM. ALDEN SMITH with Mr. SHEPPARD.

Mr. WELBORN with Mr. GUDGER.

Mr. NEVIN with Mr. FIELD.

Mr. HASKINS with Mr. LEVER.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. SCHNEEBELI with Mr. PATTERSON of Tennessee.

Mr. BURKE of South Dakota with Mr. DAVEY of Louisiana.

Mr. HITT with Mr. LEGARE.

Mr. LILLEY of Connecticut with Mr. REID.

Mr. GROSVENOR with Mr. CLARK of Missouri.

Mr. FULKERSON with Mr. CLAUDE KITCHIN.

Mr. MCGAVIN with Mr. SMITH of Maryland.

Mr. DRISCOLL with Mr. RANSDELL of Louisiana.

Mr. OTJEN with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. DEEMER with Mr. KLINE.

Mr. MCCALL with Mr. BROUSSARD.

Mr. DOVENER with Mr. SPARKMAN.

For this day:

Mr. LITTAUER with Mr. COCKRAN.

Mr. KEIFER with Mr. JAMES.

Mr. CURRIER with Mr. BARTLETT.

Mr. DWIGHT with Mr. GARBER.

Mr. BINGHAM with Mr. HEARST.

Mr. BOUTELL with Mr. GRIGGS.

Mr. SHERMAN with Mr. SULLIVAN of New York.

Mr. KNAPP with Mr. LAMAR.

Mr. WADSWORTH with Mr. VAN DUZER.

Mr. TIRRELL with Mr. STANLEY.

Mr. WACHTER with Mr. WEISSE.

Mr. SIBLEY with Mr. ROBINSON of Arkansas.

Mr. SMITH of Iowa with Mr. TALBOTT.

Mr. KENNEDY of Ohio with Mr. RICHARDSON of Alabama.

Mr. MADDEN with Mr. SHACKLEFORD.

Mr. KETCHAM with Mr. RAINEY.

Mr. KAHN with Mr. RYAN.

Mr. OVERSTREET with Mr. POU.

Mr. HUFF with Mr. MOORE.

Mr. HUBBARD with Mr. MAYNARD.

Mr. HEPBURN with Mr. MCLAIN.

Mr. GRONNA with Mr. LEWIS.

Mr. FASSETT with Mr. GRANGER.

Mr. GOEBEL with Mr. GOLDFOGLE.

Mr. BURLEIGH with Mr. FINLEY.

Mr. DARRAGH with Mr. FLOOD.

Mr. BANNON with Mr. BRUNDIDGE.

Mr. BIRDSALL with Mr. BUTLER of Tennessee.

Mr. BOWERSOCK with Mr. BYRD.

Mr. BROWN with Mr. ELLERBE.

Mr. REYNOLDS with Mr. GILBERT of Kentucky.

Mr. LORIMER with Mr. HUMPHREYS of Mississippi.

Mr. WATSON with Mr. CLARK of Florida.

Mr. BARTHOLDT with Mr. LIVINGSTON.

Mr. CONNER with Mr. RHINOCK.

Mr. BENNET of New York with Mr. TRIMBLE.

Mr. BRADLEY with Mr. MCDERMOTT.

On this vote:

Mr. RODENBERG with Mr. GAINES of Tennessee.

The result of the vote was then announced as above recorded.

The bill was ordered to be engrossed and read a third time; and it was read the third time, and passed.

On motion of Mr. FOSTER of Vermont, a motion to reconsider the last vote was laid on the table.

FISHING IN ALASKAN WATERS.

The SPEAKER laid before the House the bill (S. 267) to prohibit aliens from fishing in the waters of Alaska, with certain House amendments disagreed to.

Mr. HAMILTON. Mr. Speaker, I move that the House insist on its amendments to the Senate bill, and agree to the conference asked for.

The SPEAKER. The question is on the motion of the gentleman from Michigan that the House do insist on its amendments and agree to the conference asked by the Senate.

The question was taken; and the motion was agreed to.

The SPEAKER appointed the following conferees on the part of the House: Mr. POWERS, Mr. HIGGINS, and Mr. STANLEY.

WITHDRAWAL OF PAPERS.

The SPEAKER laid before the House the request of Mr. HAYES to withdraw from the files of the House, without leaving copies, the papers in the case of Thomas Cox (H. R. 8895), Fifty-ninth Congress, no adverse report having been made thereon.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill, with Mr. CRUMPACKER in the chair.

The CHAIRMAN. When the committee rose on Friday last a paragraph had been passed, to a portion of which a point of order was pending. That will be taken up now for consideration and determination. Does the gentleman from Illinois [Mr. Foss] desire to discuss the point of order?

Mr. FOSS. Mr. Chairman, as I understand the point of order was made upon lines 8, 9, 10, 11, 12, and 13 of page 35. Mr. Chairman, I hold that the point of order is not well taken, that this provision is in order under Rule XXI, and I may say at the outset that it is a common provision adopted by Congress for all public works which are in process of construction and river and harbor work, and a similar provision was adopted for the rebuilding of the Naval Academy and also of the Military Academy at West Point, but points of order were not made upon those provisions at that time, and it is fair to presume that the House when it passed upon that had in mind that these provisions were nothing more or less than limitations upon the appropriation.

The gentleman from Alabama [Mr. UNDERWOOD] has raised the point that the deficiency act of last year contained a provision directly in point in the consideration of this point of order, and refers to section 3679. Mr. Chairman, I hold that this section does not apply, and a careful reading of it, I think, will show that fact:

No Department of the Government shall expend in any one fiscal year any sum in excess of appropriations made by Congress for that fiscal

year or involve the Government in any contract or obligation for the future payment of money in excess of such appropriations, unless such contract or obligation is authorized by law.

And it might go further and say, "Unless such contract or obligation is authorized by law in a regular appropriation bill;" and further:

All appropriations made for contingent expenses or for other general purposes, except appropriations made for the fulfillment of contract obligations expressly authorized by law or for objects acquired or authorized by law without reference to the amounts annually appropriated therefor, etc.

So that it will be seen the exception is made as to those things which are authorized by law presumably in the regular appropriation bills.

Mr. UNDERWOOD. Mr. Chairman, will the gentleman permit an interruption there?

Mr. FOSS. Yes.

Mr. UNDERWOOD. How does this Congress make law—on an appropriation bill or by separate acts?

Mr. FOSS. Why, the appropriation bill itself makes law.

Mr. UNDERWOOD. Is it not contrary to the rules of the House for a law to be made on an appropriation bill? Is it not expressly contrary to the rules of this House to make law on an appropriation bill?

Mr. FOSS. No; I do not understand so, if in order under the rules.

Mr. UNDERWOOD. As I understand it, it unquestionably is.

Mr. OLMSTED. Does the gentleman understand that when law has been made on an appropriation bill it is not law?

Mr. UNDERWOOD. Oh, no; not at all; but it is contrary to the rules to make law on an appropriation bill when the point of order is made against it.

Mr. TAWNEY. In that case the law is not made, for the provision goes out of the bill.

Mr. OLMSTED. Certainly; but when the point of order is not made, and it stays in the bill, and it is passed by both Houses and approved, it is the law.

Mr. UNDERWOOD. Undoubtedly; but the gentleman from Illinois [Mr. Foss] is arguing that this provision of the deficiency act contemplated that law should be made on appropriation bills—expressly what the rules of this House do not contemplate.

Mr. McCLEARY of Minnesota. I understood the gentleman from Illinois to say that the law had been made in an appropriation bill.

Mr. FOSS. The law, as far as the establishment of this training station is concerned, has already been made. That was made two years ago, and we hold that it is an object already authorized, already established, and that it is proper to authorize the Secretary of the Navy to make a contract to carry out the construction of it.

Mr. UNDERWOOD. The law that the gentleman from Illinois seeks to write on the statute books is not in reference to the station, but it is a law that will authorize the making of a contract that is not authorized now.

Mr. FOSS. Mr. Chairman, the intent and purpose of this act is simply to curtail the deficiency from appropriations made on the regular appropriation bills, and, in my judgment, it does not apply and can not be applied to the provision before the House.

Now, we come to the general proposition of whether it is in order to authorize the Secretary of the Navy to enter into a contract for a greater sum than the appropriation provided in the bill, and that is the real proposition before the committee. In 1883, when we started in to build a new navy, in the act of that year a point of order was raised by Mr. Blount, of Georgia, upon the paragraph for the increase of the Navy, and the point of order was made to the whole paragraph. That section provided for the construction of the steel cruiser of not less than 4,000 tons displacement now specially authorized by law, two steel cruisers of not more than 3,000 or less than 2,500 tons displacement each, and one dispatch boat, as recommended by the naval advisory board in its report of December 20, 1882; and this section further provides the limit of cost for those ships as found to be proper by this advisory board, and, furthermore, this provision contains an appropriation for $1,300,000 less than the total cost of the construction of those ships, so that the question is fairly presented here whether or not it is proper or in order to authorize a contract for a greater amount than the sum appropriated in the bill. Now, Mr. Chairman, this was at a time, as I stated, when we first started the construction of our new Navy and related to those ships, the *Atlanta*, the *Boston*, the *Chicago*, and *Dolphin*, sometimes called the A, B, C, and D of the new Navy. Mr. Blount raised the identical point which is raised here, and on the point of order he said:

I think we will save time by having the questions of order passed upon at the outset. I raise the question of order on the following language: "Two steel cruisers, of not more than 3,000 nor less than 2,500 tons displacement each, and one dispatch boat, as recommended by the naval advisory board in its report of December 20, 1882, $1,300,000." I make the point of order that there is no authority of law for the construction of those vessels, that this is a new item, and therefore is out of order in this bill; and further, under the law as it now stands the Secretary can not make a contract binding the Government beyond the appropriations made by law, and yet there is a proposition providing a portion of the sum and giving him authority to make a contract for more. The language is explicit.

So that this proposition was fairly brought to the attention of the Chair, and the Chair ruled, Mr. Page, of California, then being Chairman of the Committee of the Whole:

The Chair is of the opinion that the point of order is not well taken. The Chair thinks that under section 717 of the Revised Statutes this House may make appropriations or not, as it chooses, for the construction of new vessels of war. That is what this paragraph does, and it only limits the appropriation, as has always been the rule. It has always been held by former Chairmen that a bill making an appropriation for a specific purpose might limit the purpose.

And from that decision Mr. Blount took an appeal to the committee, and the committee sustained the opinion of the Chair.

Now, Mr. Chairman, from that time down, for twenty-two years, the precedents are all one way upon this question of whether you can authorize a battle ship, authorize the making of a contract for a battle ship, fix the limit of cost upon it, and yet not appropriate a single dollar. That has been decided time and time again. I can call special attention to two decisions, one by Mr. Butterworth, as Chairman of the Committee of the Whole in the first session of the Fifty-first Congress, on page 3221, volume 106, where he decides in substance the same question. I will not read that decision, but if the Chair desires to read the decision I would be pleased to have him. Then the same decision was made by Mr. SHERMAN in the second session of the Fifty-fifth Congress (p. 3458, vol. 172, CONGRESSIONAL RECORD), all sustaining the point that you can authorize a ship without appropriating a single dollar for it, authorize the making of a contract, and fixing thereon the limit of cost. So I say, Mr. Chairman, there is an unbroken line of decisions all to this one end. What is the proposition before us? A lesser proposition than the provisions which were decided by those decisions. Do we ask an authorization of a naval training station? No. Do we want an establishment for one? No. That has already been authorized and established by Congress. Not so in the case of a battle ship, not so in the case of new vessels, but here Congress has already established and already authorized this naval training station by the passage of a law two years ago, and this provision simply carries out the plain manifest intention of Congress to go on and construct that naval station.

Why, the gentleman from Alabama [Mr. UNDERWOOD] says it will be perfectly in order to appropriate $2,000,000 here to-day and build this naval training station, the full amount required for the construction of buildings. He says there will be no question about that; that that would be in order. He is right.

Mr. Chairman, I would like to ask the Chair whether it could be contended that we could appropriate $2,000,000 here for the construction of the buildings of this naval training station this year, and yet not be able under the rules of this House to do the lesser thing—to authorize the contract and only appropriate $750,000 toward it? Is the lesser greater than the whole? Now, Mr. Chairman, why should not this principle, which has been so clearly declared in favor of ships, apply to men? Admiral Farragut once said that the Navy consisted of ships and men. Can you hold that the principle authorizing Congress to construct a battle ship and fix a limit of cost without any appropriation and authorizing the President to enter into contract shall not apply also to the training of men to man that ship? Is not the principle one and identical and the same?

Now, Mr. Chairman, just a word in conclusion. There is no question as to the plain, clear intent of Congress to establish this naval training station. Are our rules made for the purpose of carrying out the clear, plain intent, purpose, and policy of Congress to do a thing, or through technical construction are they to be used to subvert that very purpose?

Mr. Chairman, I have presented what I considered to be the proper view with which to look at this provision.

Mr. UNDERWOOD. Mr. Chairman, if the Chair has come to a conclusion about this matter, I do not care to take up the time of the committee any further.

The CHAIRMAN. The Chair is ready to decide the question. The paragraph provides for the construction of buildings and other necessary improvements at the naval training station on the Great Lakes and carries an appropriation of $750,000, and, among other things, provides that, before any part of the sum is expended, complete plans are to be prepared and approved by the Secretary of the Navy covering the contemplated new

buildings at the naval training station, which shall involve a total expenditure of not more than $2,000,000.

No question is raised respecting the provisions in the paragraph so far as I have read, but the question of order is raised to the second proviso, which reads as follows:

That after the preparation and approval of the plans herein provided for the Secretary of the Navy is authorized to enter into contract or contracts for the buildings on plans as approved to an amount not to exceed $2,000,000, to be paid for as appropriations may from time to time be made by law.

The question raised by the point of order is whether it is in order on an appropriation bill of this character to authorize an executive officer of the Government to contract for a building or public improvement over and in excess of the amount of the appropriation. A general statute upon the subject, section 3733 of the Revised Statutes of 1878, provides:

No contract shall be entered into for the erection, repair, or furnishing of any public building or for any public improvement which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose.

Then section 5503 of the Revised Statutes provides that—

Every officer of the Government who knowingly contracts for the erection, repair, or furnishing of any public building or any public improvement, to pay a larger amount than the specific sum appropriated for such purpose shall be punished by an imprisonment of not less than six months nor more than two years, and shall pay a fine of $2,000.

Now, it is clear that in the absence of express legal authority the Secretary of the Navy would not have the right to contract for the erection of buildings mentioned in the paragraph above the specific amount appropriated. All contracts in excess of that sum would be void. The Chair is of the opinion that the provision in last year's deficiency act to which his attention has been called is not applicable. If the law as it now exists prohibits contracts for more than the amount appropriated, any provision that would confer that authority would of necessity change existing law.

The Chair is somewhat familiar with the decision cited by the gentleman from Illinois [Mr. Foss] respecting contracts for the construction of war vessels. Without passing upon that particular question, it may be suggested that the statutes that have been quoted do not mention and probably do not include war vessels. Those statutes apply to public buildings and improvement, and it is a matter of serious doubt, at least, whether war vessels come within the designation of public buildings and public improvements.

The rules of the House permit appropriations for objects already authorized by law. The naval training station on the Great Lakes may be assumed for the purposes of this decision to be authorized by law. But the rules provide that no provision changing existing law shall be in order in any general appropriation bill or any amendment thereto. The existing law unqualifiedly prohibits contracts for public buildings and improvements beyond the amount specifically appropriated. The proviso in question clearly changes existing law. It repeals pro tanto the two sections of the statute which the Chair has read to the committee. Whether the rule of the House respecting legislation in general appropriation bills will operate beneficially in this particular case or otherwise is a matter the Chair is not at liberty to consider. The law forbids the contracts sought to be provided for. No limitation contrary to existing law can be put upon an appropriation in a general appropriation bill. The point of order is sustained.

Mr. FOSS. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 35, after the word "dollars," in line 7, insert: "*And provided further*, That the Secretary of the Navy shall pay a fair and reasonable price for the plans herein provided for, and thereafter no money shall be expended or obligation incurred for architects, except that the Secretary of the Navy is hereby authorized to employ in his discretion a consulting architect, at a compensation not exceeding $5,000 per annum."

Mr. FOSS. Mr. Chairman, I would state that that provision is framed after the provision that was adopted here after some discussion upon the rebuilding of the Military Academy at West Point.

Mr. FITZGERALD. I wish to ask the gentleman from Illinois a question. I understand that an architect has already been employed and is now at work designing this improvement. Is not that a fact?

Mr. FOSS. An architect has been employed by the Secretary of the Navy—they have no architect in the Navy Department—to get up preliminary plans and sketches; but it is perfectly proper for this committee to make any provision it may see fit.

Mr. FITZGERALD. What I wish to know is under what terms this architect is employed. The criticism that was made in regard to the rebuilding of the Naval Academy was that the architect was paid 5 per cent of the amount authorized. And 5 per cent on $8,000,000 is $400,000. It was claimed that 5 per cent was the ordinary and regular architect's fees. What I wish to ascertain is whether the contract or arrangement already made contemplates the payment of 5 per cent of the cost of these improvements?

Mr. FOSS. I have not seen the contract, but I have been informed that the contract as made was for the usual architect's fee, and as soon as I learned of that I drafted this provision, because I think that, knowing the sentiments of Congress, it should be left on the same basis as in the case of the Military Academy.

Mr. FITZGERALD. As a matter of fact, under the present contract, this architect will receive $100,000.

Mr. FOSS. Under the present contract. Well, I do not know how far that contract extends, whether it extends simply to the preliminary plans or goes further, to the superintendency of the whole construction, or not; I have not seen it, but I presume it does. But if so, if the Secretary of the Navy makes such a contract, and if he had authority to make such a contract, it is perfectly in order for this House to pass this provision, which would allow him to purchase the plans and leave the superintendency as provided for in this bill.

Mr. FITZGERALD. I wish to offer an amendment, because if the Secretary has made an arrangement or contemplates an arrangement to pay 5 per cent, undoubtedly he would construe that as a reasonable fee to pay.

Mr. FOSS. I believe the architects usually separate, as I understand, this 5 per cent to include superintendency and inspection of the materials as well as the plans. They charge, I am told, 1 per cent for preliminary plans, sketch plans, and 1½ per cent for working plans, and 1 per cent for detailed plans, and superintendence about 1½ per cent. I think that is the usual way that this matter is divided up.

Mr. FITZGERALD. What I want to ascertain is this: How much can possibly be paid to these architects for the preparation of these plans if this particular amendment will be adopted, upon the theory that the cost of the building will be about $2,000,000?

Mr. FOSS. I do not know; it is left to the Secretary of the Navy to make the best terms he can, just the same as we did in the case of the Military Academy, leaving it to the Secretary of War to make the best terms he could; and not put in any limit of cost, because usually the rule is that where a limit is put in the officer takes that as a direction to pay the whole amount.

Mr. FITZGERALD. But unless Congress expresses its opinion in a definite manner that 5 per cent is more than should be paid, it is very likely that the Secretary of the Navy will say the usual fee of the architects or the reasonable fee, and the associations of architects throughout the country will unquestionably bring all the powers and influence they can to show that 5 per cent is a reasonable charge.

Mr. FOSS. I should hope the Secretary of the Navy would not be any more liberal than the Secretary of War was in paying for the plans of the Military Academy.

Mr. FITZGERALD. How much did the Secretary of War pay?

Mr. FOSS. I have been told. Perhaps the gentleman can inform me.

Mr. FITZGERALD. I do not know how much the Secretary of War paid.

Mr. FOSS. I am of the opinion the Secretary of War paid 3½ per cent.

Mr. FITZGERALD. Well, then, I will move to insert in that amendment, Mr. Chairman, before the last proviso, that in no event shall he pay to exceed 3½ per cent of the cost of the contemplated improvements.

The CHAIRMAN. The gentleman moves an amendment to the amendment, which the Clerk will report.

Mr. FITZGERALD. Before the proviso which authorizes the employment of a consulting architect at $5,000 a year.

Mr. SLAYDEN. Mr. Chairman, I will ask my friend from New York if he will yield to a suggestion? I do not want to take the gentleman from New York off his feet. I merely want to ask him if he does not believe that as the superintendent of the buildings at the Military Academy was specially provided for at an annual compensation of $5,000, 2½ per cent commission for merely drawing the plans would be sufficiently generous?

Mr. FITZGERALD. I will offer the amendment as 2½ per cent, and that will make, with the $2,000,000 contemplated and the $250,000 already provided, something like $61,000 for the mere preparation of the plans. I ask the Clerk if he can report the amendment in the form that it would be as amended?

Mr. FOSS. Does not the gentleman think that ought to be added to get an architect?

Mr. FITZGERALD. I do not know. I think the price heretofore paid is quite exorbitant. Many an architect will be willing to take 2½ per cent and have his name associated with a monumental improvement of the character proposed.

The CHAIRMAN. The gentleman from New York had better prepare his amendment. The Clerk seems to have some difficulty in incorporating it.

Mr. SLAYDEN. While the gentleman from New York is preparing his amendment, if I may be permitted, I want to suggest to my friend from Illinois, that for the mere preparation of the plans I think 2½ per cent is adequate compensation, if this bill carries, as it probably will carry, a stated compensation for superintendence during the period of construction. I think it very likely, and very properly so, too, that the man who drew the plans should be employed for that service; and as it would not probably take all of his time, he will still have an opportunity for outside business. I think the compensation which Congress fixes in these cases is usually a liberal one, and would adequately compensate the gentleman.

Mr. FOSS. I will say to the gentleman that I do not think we ought to limit the price; we ought to treat this matter the same as we treated the situation when it came up on the Military Academy bill. We ought to leave it to the Secretary of the Navy to make satisfactory terms. The subject of making plans is one about which there is much erroneous impression. I believe the architect is entitled to his fee the same as the lawyer, the laborer, the doctor, or anybody else. There are many gentlemen who think that the work of making plans is a very simple matter, but it is a very long proposition.

Mr. FITZGERALD. Let me ask the gentleman if Congress did not leave to the Secretary of the Navy discretion in this matter in connection with the Naval Academy, and did not the Secretary of the Navy pay $400,000 for plans and supervision, 5 per cent of $8,000,000?

Mr. FOSS. Congress made no provision whatever. I am trying to get around that proposition by offering the amendment.

Mr. FITZGERALD. I submit to the gentleman——

Mr. FOSS. Congress did not do anything in that case. Here we are trying to do something.

Mr. TAWNEY. Mr. Chairman, I ask that the amendment be reported before any action is taken.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois and then the amendment to the amendment offered by the gentleman from New York.

The Clerk read as follows:

Insert in line 7, after the word "dollars," "*And provided further*, That the Secretary of the Navy shall pay a fair and reasonable price for the plans herein provided for, and thereafter no money shall be expended or obligation incurred for architects, except that the Secretary of the Navy is hereby authorized to employ in his discretion a consulting architect at a compensation not to exceed $5,000 per annum.

The amendment to the amendment is as follows:

Insert after the words "provided for" the words "in no event to exceed 2½ per cent of the estimated cost for the improvement."

Mr. TAWNEY. Mr. Chairman, if the amendment offered by the gentleman from New York is not adopted, I take it from the reading of the original amendment as offered by the gentleman from Illinois that it would then be in the discretion of the Secretary of the Navy to allow for the preparation of plans all that he might see fit, including the superintending of construction, or for any other expenditure that might be necessary and incident to the preparation of the plans. I think there ought to be some limitation. If it is the purpose of the gentleman from Illinois to authorize the Secretary of the Navy to employ some one to prepare the plans, and that person shall be employed to superintend the construction, then the percentage specified in the amendment will be less than we have been in the habit of paying. The Treasury Department allows 5 per cent, but that includes not only the preparation of the plans, but the superintendency of the building as well.

Now, if it is the purpose of the gentleman from Illinois to authorize the Secretary of the Navy to employ some one to prepare the plans for these improvements and not go any further, then there ought to be a limit, or otherwise he will charge 5 per cent of the estimated cost of the building for the preparation of these plans, leaving the expense of the superintendency of construction to be met hereafter. I think, if that is the purpose of the gentleman from Illinois, the amendment of the gentleman from New York should be adopted.

Mr. FOSS. The purpose of the amendment is to shut out the question of superintending construction, and that will be done under a consulting architect at $5,000 a year. This is the identical provision that was adopted by the House on the Military Academy bill. There it was left to the Secretary of War to make the best terms for plans that he could, and then under this provision for a consulting architect at $5,000 the construction was superintended. I am informed that the architect received only 3½ per cent instead of 5 per cent for making the plans. Now, this provision contemplates the same thing.

Mr. TAWNEY. Does the gentleman say that under a similar provision on the Military Academy bill the architect received 3½ per cent for the preparation of plans, and that the superintendent of construction was the consulting architect, who received $5,000 a year?

Mr. FOSS. Yes; that is the provision which was adopted on the Military Academy bill.

Mr. TAWNEY. Yes; but what was done under that provision is what we are interested in. Now, did he receive 3½ per cent for the preparation of plans?

Mr. FOSS. Yes.

Mr. TAWNEY. And the consulting architect received $5,000 a year for superintending the construction?

Mr. FOSS. Yes.

Mr. TAWNEY. How long was he preparing the plans?

Mr. FOSS. I do not know; I presume for a considerable length of time.

Mr. BEALL of Texas. Mr. Chairman, I desire to ask the gentleman from Illinois [Mr. Foss], the chairman of the committee, a question.

The CHAIRMAN. Does the gentleman yield?

Mr. FOSS. Yes.

Mr. BEALL of Texas. I want to know what was the original appropriation for this naval station—how much money has been appropriated?

Mr. FOSS. Two hundred and fifty thousand dollars.

Mr. BEALL of Texas. And how much has been expended, approximately?

Mr. FITZGERALD. About $10,000, I think.

Mr. FOSS. Yes; to January 1, 1906.

Mr. BEALL of Texas. What was the estimated cost of this plant at the time it was undertaken by the Government?

Mr. FOSS. There was no estimated cost stated two years ago, but it was presumed that this naval station would cost about as much as the one at Newport, which, I may say, cost between one million and a half and $2,000,000, and with further improvements and remodeling which they expect to make, of $750,000, will cost in the neighborhood of two millions to two millions and a half of money.

Mr. BEALL of Texas. Is it not a fact, in the hearings before the gentleman's committee two years ago, it was stated that the cost would not exceed $750,000?

Mr. FOSS. Oh, no.

Mr. BEALL of Texas. I got that statement from a speech of the gentleman from Wisconsin [Mr. COOPER], delivered when this proposition was up in 1904. Mr. Chairman, I notice that there is a provision in this bill for the making of these plans for the construction of this plant. I understood the chairman of the committee to state a few moments ago that the Secretary of the Navy had already prepared and adopted some plans and specifications.

Mr. FOSS. Yes.

Mr. BEALL of Texas. I want to ask the gentleman under what authority the Secretary of the Navy did that?

Mr. FOSS. The appropriation of two years ago was for $250,000 for the establishment of a station. The Secretary of the Navy—at that time Mr. Morton—I presume felt that he had the authority to consult an architect to get out preliminary plans or sketches upon which he could base estimates, to be sent here to Congress, for the construction of that station.

Mr. BEALL of Texas. Well, if under that act he had the authority to do that much, why is there any necessity for this provision in the present bill? If he had authority to have prepared preliminary plans, would he not have authority to have the completed plans prepared?

Mr. FOSS. It is doubtful whether he would have such authority. I should think that the matter of the appropriation of $250,000 might cover the question.

Mr. BEALL of Texas. The gentleman thinks it might?

Mr. FOSS. Yes. I think there is a question of doubt as to whether he had authority to go any further than to get out preliminary plans, and yet I am not going to pass upon that question.

Mr. BEALL of Texas. Will the gentleman tell the House who was the architect employed by Mr. Morton?

Mr. FOSS. Mr. Jarvis Hunt, of Chicago.

Mr. BEALL of Texas. Does the gentleman know what compensation it was agreed that he should receive?

Mr. FOSS. The usual architect's fees, I am informed.

Mr. BEALL of Texas. Which, according to the discussion here, ranges from 3½ to 5 per cent. If it is 5 per cent, it would be $100,000.

Mr. FOSS. Including superintendence, it is 5 per cent.

Mr. BEALL of Texas. In getting these preliminary plans, did Mr. Morton invite proposals from any other architects? Did he submit it to competition in any way?

Mr. FOSS. Not that I am informed of.

Mr. BEALL of Texas. Does the gentleman know how he made the selection?

Mr. FOSS. No.

Mr. BEALL of Texas. Just arbitrarily selected somebody to make these plans?

Mr. FOSS. Yes; and he selected a good architect, too.

Mr. BEALL of Texas. I will ask the gentleman this further question, if he does not think it is time to apply another coat of whitewash to Mr. Morton?

Mr. FOSS. Well, that question is not involved here to-day.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word, for the purpose of asking a question. The total aggregate expenditure contemplated here under these plans is $2,000,000.

Mr. FOSS. For the construction of the building.

Mr. TAWNEY. Now, 3½ per cent is the amount which was allowed the architect who prepared the plans under the same amendment which the gentleman has offered—plans that were prepared for the Military Academy.

Mr. FOSS. Yes.

Mr. TAWNEY. If the amendment of the gentleman from New York [Mr. FITZGERALD] is agreed to, namely, limiting the amount that the Secretary can pay for these plans to 2½ per cent of the cost, that would be $50,000 merely for preparing the plans, and I want to ask the gentleman from Illinois if he does not think that is a sufficient sum for the service?

Mr. FOSS. I do not think you can get a first-class architect to do it in this country.

Mr. TAWNEY. But this 2½ per cent does not include the superintending the construction of the building.

Mr. FOSS. Of course it does not, but the architects themselves allow about 1½ per cent for superintendence. This question of plans, of getting out preliminary plans and sketches and getting out another set of plans for working plans and then detailed plans, running along for months and months, is not a small job, let me say to the gentleman.

Mr. TAWNEY. And let me say to the gentleman from Illinois that we are constructing a power plant here, or propose to construct one, under the authority heretofore given by Congress, and the Superintendent of the Capitol has submitted a proposal to various contractors for the construction of that plant, the cost of which will aggregate between a million and a million and a half of dollars. Plans and specifications for this plant have been prepared and submitted by all of the bidders, and I am told that the cost of the plans and specifications to each bidder was only about $7,000.

Mr. WILLIAMS. Mr. Chairman, I suggest that a conversation of this importance between the chairman of the Committee on Naval Affairs and the chairman of the Committee on Appropriations ought to be heard by a quorum of the Committee of the Whole.

The CHAIRMAN. Does the gentleman from Mississippi make that point?

Mr. WILLIAMS. I make the point that there is no quorum present; yes, sir.

Mr. TAWNEY. Will the gentleman from Mississippi defer the point of no quorum until the gentlemen of the House have returned from the restaurant, where they are now lunching?

Mr. WILLIAMS. Well, not being a plutocrat myself, I think we had better have them here.

The CHAIRMAN (after counting). A hundred Members are present—a quorum.

Mr. WILLIAMS. I want to congratulate you, Mr. Chairman, upon your arithmetical calculation.

Mr. FITZGERALD. I wish to call the attention of the committee to what is involved in this paragraph. The paragraph is so framed it does not put any limit upon the complete improvements of the naval training station; it only limits the amount to be expended for buildings there. As I understand the statement of the officer in charge of the new naval training station, it will take $1,500,000 to build the buildings in which 1,000 men may be trained, and it is the purpose eventually to provide a station up there for the training of 2,000 men.

Mr. FOSS. That is not the intention of the committee. The estimate is for 1,000 men.

Mr. FITZGERALD. Well, the statement was that they would necessarily have to put up an establishment to train 2,000 men. Now, those buildings alone which are affected by this amendment are to cost $2,000,000. It seems to me that some limitation should be placed upon the amount that is to be paid for the preparation of the plans, and, in my opinion, 2½ per cent of $2,000,000—$50,000—is sufficient. Any other Member of the House believing that a larger sum should be paid is at liberty to offer an amendment in conformity with his views.

Mr. FOSS. May I interrupt the gentleman?

Mr. FITZGERALD. Yes.

Mr. FOSS. I would say to the gentleman, do you not think it is fair to leave this matter entirely upon the basis of the Military Academy, and——

Mr. FITZGERALD. If the gentleman will permit me——

Mr. FOSS. I will accept your first amendment.

Mr. FITZGERALD. I have the law under which plans of the Military Academy were prepared, and I will say to the gentleman there is no such provision in here as is contained in this amendment. There is a limitation upon the amount to be paid after plans are prepared, but there was no attempt on the part of Congress to limit either to a reasonable sum or otherwise the amount to be paid for the preparation of plans. It is a notorious fact that great dissatisfaction was occasioned in Congress when it was ascertained that for the new buildings at the Naval Academy 5 per cent was paid upon the contemplated cost of $8,000,000. The limit since then has been raised to $11,000,000——

Mr. FOSS. Not $11,000,000; $10,000,000.

Mr. FITZGERALD. Well, $10,000,000 at least.

Mr. FOSS. It was done by Congress.

Mr. FITZGERALD. Of course it was done by Congress, but the limit has been raised from eight to ten million dollars. Nobody, as far as I know, in the House knows whether 5 per cent on the additional $2,000,000 has been paid to the architect.

Mr. PERKINS. Will the gentleman yield?

Mr. FITZGERALD. Certainly.

Mr. PERKINS. Was the price paid for preparation of plans only?

Mr. FITZGERALD. It included everything.

Mr. PERKINS. Plans and superintendence both?

Mr. FITZGERALD. It included everything; but here is a provision to make provision for the preparation of plans, and, in my judgment, there should be some reasonable limitation fixed upon the amount. I repeat, in my opinion 2½ per cent is a reasonable limitation. That is why I offered the amendment. If Members think a greater sum than that should be paid, they can offer an amendment. But I have no doubt that they will gladly accept the $50,000 for the preparation of these plans.

Mr. FOSS. Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FITZGERALD] to the amendment offered by the gentleman from Illinois [Mr. FOSS].

The question was taken; and the Chair announced that the noes seemed to have it.

Mr. FITZGERALD. Division, Mr. Speaker.

The House divided; and there were—ayes 14, noes 30.

So the amendment was rejected.

Mr. FITZGERALD. Mr. Chairman, I move to amend by inserting the same amendment, with 3 per cent instead of 2½ per cent.

Mr. FOSS. If the gentleman will insert 3½ per cent, the same as for the Military Academy, I will accept it.

Mr. FITZGERALD. If the gentleman can call my attention to any provision of law making it 3½ per cent for the Military Academy I will change the amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Amend the amendment by inserting, after the words "provided for," the following: "In no event to exceed 3 per cent of the estimated cost of the improvement."

Mr. SLAYDEN. Mr. Chairman, I move to strike out the last word. In voting for the original amendment offered by the gentleman from New York [Mr. FITZGERALD] I was not indulging in buncombe. I believe that amendment carried an adequate compensation for the making of these plans. Apparently the majority of the limited number of gentlemen present in this committee did not agree with that view. They voted down the 2½ per cent limitation. Now the amendment is renewed, changed only to the extent of fixing that compensation at 3 per cent. Very pertinently the gentleman from New York [Mr. FITZGERALD] has suggested that there is no evident authority in law for the payment of 3½ per cent at the Military Academy, but even, Mr. Chairman, if there were such a law exhibited here to-day, I

should still support the amendment for a 3 per cent limitation upon the fees in this case, because I do not believe that the interests of the Government were sufficiently safeguarded in the construction of the buildings at the Military Academy in the matter of limiting the fees paid for the plans.

In addition, Mr. Chairman, we will unquestionably have to pay for superintendence during the construction of these buildings, and it is notorious that the Government pays liberally for such services as that. And I believe that if the Members of this House will seriously consider that they are proposing to give a very large compensation for an amount of work which did not tax for any prolonged period the talents of the architect, they will support the amendment offered by the gentleman from New York. I believe it ought to prevail.

The CHAIRMAN. The question is on the amendment of the gentleman from New York [Mr. FITZGERALD] to the amendment offered by the gentleman from Illinois [Mr. FOSS].

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. FITZGERALD. Division, Mr. Chairman.

The House divided; and there were—ayes 14, noes 31.

So the amendment to the amendment was rejected.

Mr. BEALL of Texas. Mr. Chairman, I think on a question of the importance of this there ought to be a hundred Members present. I make the point of order that there is no quorum.

The CHAIRMAN. The gentleman from Texas raises the point of order that there is no quorum present. The Chair will count. [After counting.] There are 100 Members present, and the point of order is overruled.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I move to amend the amendment offered by the gentleman from Illinois [Mr. Foss] to include in the amendment 3½ per cent commission to the architect.

Mr. FOSS. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. BUTLER].

Mr. SLAYDEN. Mr. Chairman, is it in order to offer an amendment to the amendment offered by the gentleman from Pennsylvania?

The CHAIRMAN. It is not in order.

Mr. SLAYDEN. A substitute would be in order, would it not?

The CHAIRMAN. It might be.

Mr. SLAYDEN. I move to substitute 3½ per cent, to include charges for superintendent during the period of construction.

Mr. BUTLER. You can not get an architect to do that.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania.

The Clerk read as follows:

Amend the amendment by inserting after the words "provided for" the words "in no event to exceed 3½ per cent of the estimated cost of the improvement."

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. OLMSTED having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and joint resolution of the following titles:

On May 9, 1906:

H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter;

H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River at Lock 2, Alabama; and

H. R. 11796. An act for the diversion of water from the Sacramento River, in the State of California, for irrigation purposes.

On May 10, 1906:

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo.;

H. R. 8226. An act granting an increase of pension to Laura B. Ihrie;

H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;

H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;

H. R. 15397. An act granting an increase of pension to Edward Gillespie;

H. R. 15687. An act granting an increase of pension to William F. M. Rice;

H. R. 15907. An act granting an increase of pension to Lewis De Laittre; and

H. R. 16215. An act granting an increase of pension to Mary Dagenfield.

On May 11, 1906:

H. R. 15435. An act to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands to be used for flowage purposes.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The Clerk will read the amendment offered by the gentleman from Texas [Mr. SLAYDEN].

The Clerk read as follows:

Add to the amendment "to include superintendency of the construction of said building."

Mr. BUTLER of Pennsylvania. Mr. Chairman, what is the question now? What is the parliamentary status?

The CHAIRMAN. The Chair is trying to find out. The Chair begs to say to members of the committee that it is not the business of the reading clerks to write amendments, and they are sometimes announced in such indefinite terms that it is difficult for the Clerk to put them in form or to know where they belong.

The Chair holds that the amendment offered by the gentleman from Texas is not in order. It is too remote. It is an amendment to an amendment to an amendment. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. BUTLER].

The question was taken; and the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Foss] as amended.

The question was taken; and the amendment as amended was agreed to.

Mr. FOSS. Mr. Chairman, I gave notice the other day that I desired to strike out the words "and for other necessary improvements." It is a mistake to insert them on line 25, on page 34. We received this other provision from the Navy Department, and those words should be stricken out, so that every dollar of this appropriation shall go to the construction of buildings.

Mr. BUTLER of Pennsylvania. They were stricken out the other day.

Mr. FOSS. No; I gave notice that I would move to strike them out.

The CHAIRMAN. Will the gentleman send his amendment to the Clerk, so that the committee may know what it is?

Mr. FOSS. It is to strike out the words "and for other necessary improvements," on page 34, line 25. That provides that the money that is appropriated shall go to the construction of buildings.

The CHAIRMAN. The Clerk will read the amendment.

The Clerk read as follows:

In line 25, page 34, strike out the words "and for other necessary improvements."

Mr. FITZGERALD. Mr. Chairman, I wish to be recognized in opposition to the amendment. The estimates submitted by the Secretary of the Navy were in somewhat different language from this provision in the bill. It contains this language: "For necessary improvements," and in addition to that it had a provision, which I will offer in a moment, which provided that complete plans should be made not only for the buildings to be erected at this naval training station, but for all contemplated improvements to be made at the station. Members of the committee would be inclined to believe that the limit of cost of preparing this naval station is $2,000,000. As a matter of fact, if the provision be adopted in its present shape, the cost of this naval training station will be from $2,500,000 up. Already $250,000 has been made available for the improvement of the ground and for other improvements in connection with the station. I believe there should be some definite limit fixed upon the entire cost, and when the plans for this naval station are prepared, they should include plans for every improvement contemplated at the place. Now, whatever may be the estimate, the cost of improvements should be fixed in this bill, and then those in charge of the work should go ahead with the work, knowing how much they could expend on that particular work.

Mr. JOHNSON. Has the gentleman from his experience on the Naval Committee an idea as to what the proper amount of limit of appropriation should be?

Mr. FITZGERALD. I am not on the Naval Committee.

Mr. JOHNSON. I thought you were.

Mr. FITZGERALD. I have never been other than an "honorary" member. Why, I believe in the hearings before the committee it was stated that it would cost two or three hundred thousand dollars in addition to the $2,000,000. From the hearings it would appear that they had no definite information as to just how much it would cost to make the other improve-

ments. In this connection, I am inclined to think that it was the belief that this was a restriction of the cost of the buildings alone. Now, there should be some limitation upon the amount of money which will be eventually expended in putting this training station into proper shape. This ultimate cost should be fixed, and I hope the gentleman from Illinois, in his desire to make this a proper station, having due regard to economy, will accept an amendment that will include complete plans for all the improvements, and fix some definite limit upon the entire cost of the station.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

Mr. FOSS. Mr. Chairman, I will state this: That the Department in sending us these estimates, could only send the plans and estimates for the construction of the buildings; that while there were things which would necessarily follow, as for instance, the water supply, sidewalks, and the distribution of light, heat, and power, yet the estimates could not be determined wholly as to that until they had got the buildings located and under way. Here was a large tract of land without anything but trees and foliage on it. It is very different, for instance, from the rebuilding of the Naval Academy or the Military Academy, where the buildings were put largely on the old sites. But these other expenses which would come in, and which were comparatively small, can not be determined until later. And, as anyone knows, when they are building a house, they would first build the house and afterwards improve the grounds. All these would naturally come later. There were $250,000 appropriated for the purchase of land and the establishment of the station at the beginning, but which now is available, by reason of the donation of the land, for these incidental improvements. Now, these matters will always be under the control of Congress, anyway.

Mr. JOHNSON. How much land was donated by Chicago? All that will be needed?

Mr. FOSS. Yes; all that is needed. One hundred and seventy-two acres, worth $1,000 an acre, which was donated by the citizens of Chicago for this naval training station.

Mr. JOHNSON. Have you the preliminary plans that have been made, and can you give us any idea as to what this station will cost?

Mr. FOSS. Yes; there are these estimates. Now, the full estimates were $2,000,000 for the construction of the buildings and $528,000 for the incidental matters, such as sidewalks, drainage, steam distribution, electric distribution, fences, breakwater, rifle range, telephone system, etc.—$528,000 additional estimates, but some of these the committee say will not be necessary. I will say to the gentleman that I hope that this $250,000 already appropriated, which was rendered available by reason of the donation of the land, which would have had to be applied to the purchase of land, will take care of the greatest part of these things.

The whole spirit of the Navy Department and the committee is to hold this training station down in its cost to what is reasonable and economical. I call for a vote.

The question was taken; and the amendment was agreed to.

Mr. KELIHER. Mr. Chairman, I ask unanimous consent to extend remarks made by me on the naval bill.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to extend in the RECORD remarks made by him during the discussion of the naval bill. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, I offer the amendment which I send to the desk.

The Clerk read as follows:

On page 35, line 5, after the word "building," insert "and complete improvements and for each and every purpose connected therewith."

Mr. FITZGERALD. Mr. Chairman, in the estimate sent to Congress by the Secretary of the Navy that is practically the language that was used:

Naval training station, Great Lakes—buildings: Toward the construction of buildings, and for other necessary improvements at the naval training station, Great Lakes: *Provided*, That before any part of this sum is expended, complete plans shall be prepared and approved by the Secretary of the Navy covering all contemplated new buildings and improvements at the naval training station, Great Lakes, and for each and every purpose connected therewith.

Mr. FOSS. But the Secretary of the Navy did not fix any limit on the cost.

Mr. FITZGERALD. The question of limit is not involved in this amendment; but what is involved in this amendment is this: That before they commence to make the improvements they shall prepare complete plans for all of the contemplated improvements, and with the complete plans whatever the limit of cost may be it will be proper to fix it in this bill. Personally I believe the expenditure of $2,250,000 should give a very adequate naval training station for men who are to spend not more than four months in training at the station. If the gentleman from Illinois thinks it will cost more than $2,250,000, he can increase the limit of cost. This provision as it now stands is ingeniously drawn. It only limits the cost of the buildings, but does not require plans to be prepared for other improvements to be had in connection with the buildings. So that instead of a naval training station costing $2,000,000 it may cost $3,000,000 or $4,000,000 or whatever else it may be contemplated.

Mr. FOSS. Oh, no, no; that is ridiculous.

Mr. FITZGERALD. Let me call the gentleman's attention to the hearings before the Naval Committee. Captain Ross, who is in charge of this place, stated that it would cost $1,500,000 for the main building to train 1,000 men; but he said it would be necessary, in order to have a proper training station, to have facilities for training 2,000 men. If it cost $1,500,000 to train 1,000 men, it will cost $3,000,000 for buildings to train 2,000 men. In addition to that, fourteen single officers' quarters are required for one unit of 1,000 men, and these officers' quarters are to cost $12,000 apiece.

So, if there are to be 2,000 men, there must be twenty-eight single officers' quarters, each costing $12,000. So, I say, this is the time to fix the limit and to make the Secretary of the Navy have prepared complete plans so that Congress may know what it is about to do, and in authorizing some particular thing it may do so intelligently and not be told afterwards that the authorization was only to train 1,000 men, and it will thereafter be necessary to double the facilities at a cost of two or three million dollars additional. As this is the recommendation of the Secretary of the Navy himself after, I suppose, some consultation with the architect who is now at work, I suppose the gentleman from Illinois will have no objection to accepting such an amendment.

Mr. FOSS. I would say that this is not the recommendation of the Secretary of the Navy. The Secretary of the Navy did not fix any limit to the cost at $2,000,000.

Mr. FITZGERALD. I am not fixing the limit of cost in offering this amendment, but it is the recommendation of the Secretary of the Navy, and I read it from the estimates submitted by him.

Mr. FOSS. I understand that in the provision the gentleman offers it includes everything within the limit of the $2,000,000. Is not that true?

Mr. FITZGERALD. Not necessarily, because I have another amendment that I will offer.

Mr. FOSS. The Secretary of the Navy never made any such recommendation.

Mr. FITZGERALD. The Secretary of the Navy recommends the language that is used in my amendment; he recommends that it be enacted into law, and I read it from his recommendation in the Book of Estimates.

Mr. FOSS. Not if they were to limit the cost at $2,000,000.

Mr. FITZGERALD. I did not put that limit on it; the gentleman from Illinois put that limit on it.

Mr. FOSS. Mr. Chairman, we had a very full hearing on this whole matter. The Secretary of the Navy in the original estimates that came before the committee in regard to putting in a provision for plans for everything connected with the naval training station did not fix any limit of the cost. After our hearings, after discussion of the whole matter with the commandant of the training station and also with the Chief of the Bureau of Ordnance a provision was sent to me by the Navy Department with this proviso, word for word, which the committee inserted in the bill. I call for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 16, noes 34.

So the amendment was rejected.

The Clerk read as follows:

Naval magazine, Mare Island, California: One magazine building, 30 by 80 feet, $7,000; extension of building "A5" 50 feet, $3,100; extension of primer house 20 by 20 feet, $1,200; in all, $11,300.

Mr. ROBERTS. Mr. Chairman, I move to strike out the last word. That motion is made for the purpose of referring briefly to the statements made by the gentleman from Iowa [Mr. HEPBURN] when the naval bill was under discussion on Friday last. The gentleman from Iowa said:

The gentleman has omitted that other case, quite recent, when one of our larger and more valuable vessels was run into a dock in the harbor of New York. One would suppose these gentlemen would be familiar with such waters.

After citing this, among other instances of alleged neglect by commanders of our war ships, the gentleman from Iowa goes on to say:

Mr. Chairman, these are only a few that occur to me from my knowledge gained from the newspapers of these instances of inefficiency or

incapacity to handle these great vessels. We are spending millions of dollars to build up a great navy. I think it is the part of patriotism to do this, but there ought to be some guaranty, some assurance that when we secure such vessels they will not be recklessly destroyed by incompetency or inefficiency.

The members of the committee will see that the gentleman from Iowa [Mr. HEPBURN] indulged in a very severe stricture upon the captain of the vessel which run into the dock in New York Harbor. We all know the gentleman from Iowa to be a man of upright character, a man who would not knowingly criticize a person in or out of the Navy unless in his judgment that criticism was thoroughly merited, and from my knowledge of the gentleman I feel sure that when the facts of this particualr case are called to his attention he will be the first to acknowledge that he was in error in what he said with regard to this particular accident. This accident happened on June 29, 1897, under the following conditions:

The old battle ship *Maine* was proceeding down East River, between the navy-yard and Brooklyn Bridge, very carefully, when there happened a collision between an excursion steamer and a tug towing some barges immediately ahead of the *Maine*. Capt. Charles D. Sigsbee, now a rear-admiral of the United States Navy, was then in command of the *Maine* and on the bridge. Seeing this accident, the captain turned his vessel toward shore to avoid a collision, when another vessel, the *Colorado*, belonging to the Mallory Line, I think, came down the river in tow of a tug and filled in nearly all of the space between the piers and the two vessels in collision. The captain then undertook to go between these vessels and the pier, and just at that time an excursion steamer from New Jersey, carrying on board some 800 women and children, appeared from behind the *Colorado* in the narrow opening toward which the *Maine* was making. There was a crisis that no seamanship could have foreseen, and the problem for the captain of the *Maine* to consider was whether he would keep on his course, the excursion steamer being on the wrong side of the river, run into her, sink her, and possibly sacrifice hundreds of lives, or run his vessel into a pier; and on the moment, with rare judgment and discretion, the captain of the *Maine* chose the latter alternative, and ran the vessel into a pier. Mr. Chairman, a court of inquiry was held upon that accident. The papers of New York at the time rang with praises of the seamanship and the presence of mind displayed by Captain Sigsbee in avoiding an awful sacrifice of human life. The board of inquiry which sat upon the matter reported that the captain was entirely blameless. After the report had been made to the Navy Department by the board, Captain Sigsbee received a letter which I will take the liberty of reading. It is as follows:

NAVY DEPARTMENT,
Washington, August 4, 1897.

SIR: Following are extracts from the report of the board which investigated the circumstances connected with the collision between the U. S. S. *Maine*, under your command, and a car float and pier in the East River, New York, on the 29th ultimo:

"It appears to the board that the situation was forced upon the *Maine* by the collisions which occurred between other ships ahead of her and by the confusion resulting therefrom; and that the commanding officer of the *Maine*, having steered toward the New York side to avoid collision with those vessels, and there finding the *Isabella* crowded with people coming through the narrow gap which he intended to use, the second phase of the situation was also forced upon him, and there was left to him to choose between the collision with the *Isabella* or with the New York pier.

"The serious disaster which might have resulted from collision with the *Isabella* and the comparatively slight injury liable to occur from collision with the New York piers leaves no doubt in the minds of the board that the judgment of the commanding officer of the *Maine* was sound and correct, and that he probably avoided serious disaster and loss of life to the *Isabella* by taking the course he did.

"The testimony shows that good order and discipline prevailed and that all orders and signals were clearly understood and promptly obeyed."

The Department congratulates you upon the promptness and correctness with which you solved the problem as to which of the alternative courses you should pursue in the critical situation in which, without fault of your own, you found yourself upon the occasion referred to. The readiness with which you met the needs of the occasion shows that you possess those qualities which are called for in every great crisis. You have reflected credit upon yourself and upon the service to which you belong.

Very respectfully,
THEODORE ROOSEVELT,
Acting Secretary.

Capt. CHARLES D. SIGSBEE, U. S. Navy,
Commanding U. S. S. Maine,
North Atlantic Station.

I submit, Mr. Chairman, in the face of such a letter as that, of which any officer in any service might be proud, the criticisms of the gentleman from Iowa [Mr. HEPBURN] of this particular case are wholly unmerited, and I am sure he will be the first to admit it.

The Clerk read as follows:

Naval hospital, Norfolk, Va.: For the renovation of the present hospital buildings and the erection of new wards, $100,000.

Mr. FOSS. Mr. Chairman, after the word "wards," in line 26, page 38, I move to insert the words "the cost not to exceed $200,000." That should have gone in the bill originally. So that it will read, "and the erection of new wards, the cost not to exceed $200,000, $100,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 38, in line 26, after the word "wards," insert "the cost not to exceed $200,000."

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

Total public works under Navy Department, $5,023,550.

Mr. FOSS. Those two lines, 11 and 12, I move to strike out. They simply relate to the total and should not appear in the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out lines 11 and 12, page 39.

Mr. TAWNEY. I desire to ask the chairman of the committee to what extent this appropriation is increased over the current appropriation?

Mr. FOSS. For public works?

Mr. TAWNEY. Yes, sir.

Mr. FOSS. I think it is $800,000——

Mr. TAWNEY. My information is, the current appropriation is $20,000, and this is an increase of $137,000, and I would like to ask you why?

Mr. LOUDENSLAGER. You mean the Bureau of Medicine and Surgery?

Mr. TAWNEY. Yes. Total public works under the Bureau of Medicine and Surgery, $157,000, which I understand is an increase of $137,000.

Mr. FOSS. Yes.

Mr. TAWNEY. Are you erecting any new hospitals?

Mr. BUTLER of Pennsylvania. A hospital at Norfolk, Va.

Mr. FOSS. Not a new hospital, but a remodeling of an old one.

Mr. BUTLER of Pennsylvania. I did not mean to mislead the gentleman from Minnesota, but that is the renovation of an old hospital, making it practically a new hospital.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

Civil establishment, Bureau of Supplies and Accounts: Navy-yard, Portsmouth, N. H.: In general storehouses: Two bookkeepers, at $1,200 each; one assistant bookkeeper, at $720; one bill clerk, at $1,000; one assistant clerk, at $720; one shipping and receiving clerk, at $1,000; in all, $5,840.

Mr. PERKINS. Mr. Chairman, I move to strike out the last word. I wish the chairman of the committee would tell me, for my information, what changes are made in these changes in the rations? What is the object of all these sections? What modifications do they make in the system as it now exists?

Mr. FOSS. The new ration provided for differs from the present one in very few things. Fresh fish and fresh fruit are added, and also fresh instead of condensed milk. Otherwise, the ration is just the same.

Mr. PERKINS. The changes are very slight.

Mr. FOSS. Very slight.

Mr. PERKINS. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

In all, civil establishment, Bureau of Supplies and Accounts, $103,932.28; and no other fund appropriated by this act shall be used in payment for such service.

Mr. RIXEY. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the Committee on Naval Affairs if he would not accept a separate paragraph here turning into the Treasury the balance of the fund appropriated for the dry dock at Guantanamo? We have not carried an appropriation for two years now.

Mr. FOSS. I will say to the gentleman I am very sorry, but I do not feel I could accept the proposition, and we have passed that item anyway.

Mr. RIXEY. I propose to offer a separate amendment.

Mr. FOSS. Well, it would not be proper here. This relates to the civil establishment.

Mr. RIXEY. Well, I will withdraw the amendment for the present.

The Clerk read as follows:

BUREAU OF CONSTRUCTION AND REPAIR.

Construction and repair of vessels: For preservation and completion of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; steam steerers, pneumatic steerers, steam capstans, steam windlasses, and all other auxiliaries; labor in navy-yards and on foreign stations; purchase of machinery and tools for use in shops; carrying on work of experimental model tank; designing naval vessels; construction and repair of yard craft, lighters, and barges; wear, tear, and repair of vessels afloat; general care, increase, and protection of the Navy in the line of construction and repair; incidental expenses

for vessels and navy-yards, inspectors' offices, and bureau, such as advertising, foreign postage, telegrams, telephone service, photographing, books, professional magazines, plans, stationery, and instruments for drafting room, $7,600,000: *Provided*, That no part of this sum shall be applied to the repair of any wooden ship, when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 10 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material: *Provided, however*, That of the above sum $100,000, or such portion thereof as may be necessary, shall be used to repair, equip, and restore the frigate Constitution, as far as may be practicable, to her original condition, but not for active service: *And provided further*, That the sum of $300,000 from the unexpended balance under appropriations "Construction and repair of vessels" for the fiscal year ending June 30, 1904, is hereby reappropriated for "Construction and repair of vessels" for the fiscal year ending June 30, 1907.

Mr. TAWNEY. Mr. Chairman, I offer the following amendment to the paragraph just read.

The Clerk read as follows:

On page 50, in line 14, strike out all after the word "dollars," down to and including the word "material," in line 19, and insert in lieu thereof the following: "*Provided*, That no part of this sum shall be applied to the repair of any ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 5 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material unless estimates for such repairs shall have been submitted to and approved by Congress: *Provided further*, That nothing herein contained shall deprive the Secretary of the Navy of the authority to order repairs of ships damaged in foreign waters or on the high seas, so far as may be necessary to bring them home."

Mr. FOSS. Mr. Chairman, I ask unanimous consent that the paragraph and amendments thereon be passed without prejudice.

The CHAIRMAN. The gentleman from Illinois [Mr. Foss] asks unanimous consent that the paragraph just read and amendments pending thereto be passed without prejudice. Is there objection?

There was no objection.

The Clerk read as follows:

BUREAU OF STEAM ENGINEERING.

Steam machinery: For completion, repairing, and preservation of machinery and boilers of naval vessels, including cost of new boilers; distilling, refrigerating, and auxiliary machinery; preservation of and small repairs to machinery and boilers in vessels in ordinary, receiving, and training vessels; repair and care of machinery of yard tugs and launches; $3,500,000.

[Mr. RIXEY addressed the committee. See Appendix.]

The CHAIRMAN. The gentleman's time has expired.

Mr. RIXEY. I merely wanted to ask the chairman of the Committee on Naval Affairs if there was additional evidence on this point.

Mr. FOSS. There is, and it appears in hearing No. 113.

Mr. RIXEY. Will the chairman of the committee state what the hearing shows in that respect?

Mr. FOSS. We had before our committee, I will say, the Chief of the Bureau of Steam Engineering, and we went into a rather exhaustive hearing with regard to this whole matter. And while the chief did not present any itemized statement of all of this appropriation, yet in general terms he furnished a statement showing where the money went to, as appears on page 1049 of his hearing.

Mr. RIXEY. Mr. Chairman, I would like to have five minutes more.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that he may continue his remarks for five minutes. Is there objection?

There was no objection.

Mr. RIXEY. Mr. Chairman, I was very sure that I had heard no explanation by the bureau chiefs in regard to this item. Admiral Rae requested an increase from $2,500,000, carried in the last bill, to $3,500,000. I was one of the members of the committee who was opposed to granting this increase until we had an accounting of how the last appropriation had been spent, and, so far as I know, this information has not been furnished in the detail asked for. I will look at the statement referred to by the chairman, but I have seen no satisfactory explanation. Admiral Rae stated that it had to be furnished by the Paymaster-General, and when the Paymaster-General was called upon he said his accounts were not kept in such a way that he could show how the $2,500,000 had been spent.

Mr. FOSS. The Bureau of Supplies and Accounts sent the letter, which the gentleman will see on page 1046, containing a statement of expenditures under this appropriation.

Mr. RIXEY. Was that subsequent to the hearing?

Mr. FOSS. That was subsequent to the hearing.

Mr. RIXEY. If that is true, Mr. Chairman, I am satisfied. I do not think, however, that the letter and statement referred to gives the information asked for by the committee and not given in the correspondence read by me.

Mr. TAWNEY. Mr. Chairman, I have an amendment which I desire to offer to this provision which is identically in line with the amendment I offered a moment ago in respect to reconstruction, and both of them can be considered at the same time. I am in doubt as to whether it should be offered at the end of this paragraph or at the conclusion of the provisions in the bill in respect to repairs of machinery on the next page, which is page 55, where it reads:

In all, steam machinery, $5,505,000.

I will offer the amendment here at the end of the last line at the bottom of page 54.

Mr. FOSS. I ask that this paragraph and the amendments thereto be passed without prejudice.

Mr. TAWNEY. Mr. Chairman, I ask that the amendment be read and then considered and inserted at the proper place. My impression is that it ought to be inserted at the bottom of page 54, but I do not know whether it should be a limitation on the entire appropriation or only on a part of it.

Mr. CLARK of Missouri. May I ask why it is that the gentleman passes these sections over in this way?

Mr. TAWNEY. I will say to the gentleman from Missouri [Mr. CLARK] frankly that the effect of these amendments I have offered is to establish practically a new policy in respect to the reconstruction of the Navy.

At the present time we have a policy of reconstruction and a policy of original construction. The policy of original construction is under the control of Congress; the policy of reconstruction is absolutely within the discretion of the Secretary of the Navy, and under the title of repairs to vessels and repairs to machinery, and under the appropriations which are made for these two purposes, the Secretary of the Navy is to-day engaged in the reconstruction of vessels to an extent that involves the expenditure of as much as $800,000 on each vessel. This was never intended and should be stopped. It is for the purpose of limiting this discretion of the Secretary of the Navy that I offer both amendments, and the gentleman in charge of the bill has asked that both of them be passed for the present, so that the committee can proceed with the reading of the bill.

Mr. CLARK of Missouri. Is anybody trying to find out how many of these boats have been run aground?

Mr. TAWNEY. I do not know whether anybody is trying to do that or not, but I think the information Congress has at present is quite full and complete on that subject.

Mr. MUDD. Is there a request for unanimous consent to pass this now?

The CHAIRMAN. The first thing in order is for the Clerk to report the amendment offered by the gentleman from Minnesota.

The Clerk read as follows:

On page 54, after the word "dollars," in line 25, insert the following: "*Provided*, That no part of said sum shall be applied to the repair of engines, boilers, and machinery of ships where the estimated cost of such repairs shall exceed 5 per cent of the estimated cost of new engines and machinery of the same character and power unless estimates for such repairs shall have been submitted to and approved by Congress: *Provided further*, That nothing herein contained shall deprive the Secretary of the Navy of the authority to order repairs of the engine, boilers, and machinery of ships damaged in foreign waters or on the high seas so far as may be necessary to bring them home.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the paragraph just read, with the amendment, be passed without prejudice.

Mr. MUDD. Reserving the right to object, I do not know whether the paragraph is subject to the point of order, but I do not want the amendment to be considered as pending and as waiving the point of order. I reserve the point of order and reserve the right to object further.

The CHAIRMAN. Does the gentleman reserve the point of order against the amendment?

Mr. MUDD. I will not object if we can have the understanding that these two paragraphs be recurred to and disposed of before the increase of the Navy is considered.

The CHAIRMAN. Is the point of order reserved against the amendment or against the paragraph?

Mr. MUDD. Against the amendment. I do not know whether it will lie or not.

The CHAIRMAN. The point of order is reserved.

Mr. TAWNEY. The point of order is not reserved on the former amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota that the paragraph be passed without prejudice, with the point of order reserved thereto?

Mr. MUDD. I reserve the right to object, and will object if it is not disposed of before the increase of the Navy is taken up. I do not want to wait until we shall have finished everything else in the bill.

Mr. TAWNEY. That is entirely within the discretion of the committee. The gentleman in charge of the bill can call it up whenever he sees fit. He is the chairman of your own committee.

Mr. MUDD. With that understanding, I shall not object.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

One sword master, at $1,500; one assistant, at $1,200, and two assistants, at $1,000 each; one instructor in gymnastics, at $1,200; one assistant librarian, at $1,800; one assistant librarian, at $1,000; one secretary of the Naval Academy, at $1,800; two clerks to the superintendent, at $1,200 each; one clerk to the superintendent, at $1,000; one clerk to the commandant of midshipmen, at $1,200; one writer to the commandant of midshipmen, at $720; one clerk to the paymaster, at $1,200; one clerk to the paymaster, at $1,000; one dentist, at $1,600; one baker, at $600; one mechanic in department of physics, at $730; one mechanic in the department of ordnance, at $951.52; one cook, at $325.50; one messenger to the superintendent, at $600; one armorer, at $649.50; one chief gunner's mate, at $529.50; one quarter gunner, at $469.50; one coxswain, at $469.50; one seaman in the department of seamanship, at $397.50; one attendant in the department of navigation and one in the department of physics, at $300 each; sixteen attendants at recitation rooms, library, store, chapel, armory, gymnasium, and offices, at $300 each; one bandmaster, at $1,200; twenty-one first-class musicians, at $420 each; seven second-class musicians, at $360 each; services of organist at chapel, $300; one assistant instructor in gymnastics, $1,000; one clerk to the superintendent, $900; one assistant baker, $540; one mechanic in department of physics, $720; one cook, $600; two instructors in physical training, at $1,500 each; one clerk to the commandant of midshipmen, $1,000; one electrical machinist in department of physics, $1,000; two seamen in the department of seamanship, at $397.50 each; one chief cook, $1,200; two cooks, at $600 each, $1,200; one steward, $1,200; one assistant steward, $600; one head waiter, $720; two assistant head waiters, at $480 each, $960; two pantry men, at $420 each, $840; one assistant baker, $420; necessary waiters, at $16 per month each, $13,440; in all, $125,820.02.

Mr. TAWNEY. I offer the following amendment.

The Clerk read as follows:

On page 60, after line 24, insert:

"No person shall be admitted for instruction at the Naval Academy at Annapolis from any foreign country except upon authority of law hereafter enacted."

Mr. FOSS. Mr. Chairman, I accept that amendment.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

In all, Naval Academy, $388,663.08.

Mr. FITZGERALD. I offer the following amendment.

The Clerk read as follows:

On page 63, after line 7, add:

"*Provided*, That no part of the appropriations herein made for the support of the Naval Academy or for buildings and grounds of the Naval Academy shall be expended for compensation of clerks or clerical service of any nature except as herein provided for, unless the clerks and clerical service are specifically authorized and appropriations therefor specifically made."

Mr. FOSS. Mr. Chairman, I make the point of order upon that.

Mr. FITZGERALD. Well, I do not care to discuss it. It is merely a limitation of the appropriation.

Mr. FOSS. Reserving the point of order, I want an explanation of it.

Mr. FITZGERALD. I do not concede that it is subject to a point of order. It is a limitation upon this appropriation, and I do not care to discuss it.

Mr. FOSS. Then, I ask the Chair to decide the point of order.

Mr. MUDD. One word upon that, Mr. Chairman. In that connection I desire to read from the original act authorizing the construction of buildings and improvement of grounds at the Naval Academy. I heard the amendment so indistinctly I scarcely know just what is its purpose. But, as I understand it, no part of this appropriation shall be used for anything except just what, I will ask the gentleman?

Mr. FITZGERALD. Well, have the amendment read again.

Mr. MUDD. Will the Chair have the amendment reported again?

The amendment was again reported.

Mr. MUDD. Mr. Chairman, I want to be heard on that briefly. It is likely that the provision does no harm, but it isn't quite clear that it does not.

Mr. FITZGERALD. Is the gentleman talking on the point of order or on the amendment?

Mr. MUDD. On the point of order. You can not impose by a limitation anything that operates as a repeal of a permanent provision of law. Now, in that connection, I want to read what you might term to be the organic act providing for the buildings at the Naval Academy, which will be found in the act approved June 7, 1900, Fifty-sixth Congress. I will read it:

Buildings and grounds, Naval Academy: Toward the construction of buildings, and for other necessary improvements, at the Naval Academy, Annapolis, Md., $350,000: *Provided*, That before any part of this sum is expended, complete plans shall be prepared and approved by the Secretary of the Navy covering all contemplated new buildings and improvements at the Naval Academy and for each and every purpose connected therewith.

Now, in connection with some of these buildings it may be necessary to employ a slight clerical force; it may be necessary to employ an inspector, timekeeper, accountant, and others who may act as clerks, and they would properly come under the description involved in this language—"for each and every purpose connected herewith." This was the language of this provision provided in an amendment to an appropriation bill by the present Speaker of this House, who was then chairman of the Committee on Appropriations.

The money we are appropriating now in this bill for buildings and improvements at the academy is in pursuance of and subject to the provisions of that act that contemplates "each and every purpose connected therewith." It may be that serious harm might be done if we were not allowed to employ and pay inspectors, accountants, timekeepers, and others out of that fund, and if that was the effect of the amendment we would, under the guise of a limitation, repeal a permanent provision of law. The decisions are uniform to the effect that you can not under the form of a limitation repeal a permanent provision of law. That is why I insist on the point of order.

The CHAIRMAN. The Chair is of opinion that the amendment is clearly a limitation upon the appropriation contained in the paragraph to which it refers. It does not repeal any provision of law and does not purport to. It is within the power of the House to so amend appropriation bills as to limit appropriations to one particular line of objects and exclude another particular line of objects, even though they be authorized by law, and the Chair therefore overrules the point of order.

Mr. FITZGERALD. Mr. Chairman, the purpose of the amendment is to prevent the use of funds for the payment of clerks not contemplated in this appropriation act. I have no desire to accomplish what the gentleman from Maryland fears would be accomplished by this amendment, and I do not think it would be. I have information which I consider reliable that there is a clerk in the Naval Academy being paid out of the contingent fund, a clerk who was appointed as a laborer first, and then promoted to a clerkship, and his compensation paid out of this contingent fund for the Naval Academy. The desire of Congress has always been to prevent such practice. The Naval Committee has and does authorize all the clerical service that is required in the Naval Academy and for the civil establishment under the control of the Navy Department. Nobody should by subterfuge use funds appropriated for a certain specific purpose, for a purpose not authorized by Congress, and not in contemplation by the members of the committee or by Congress, when the appropriation is made. It is to stop that practice that I offer the amendment.

Mr. RIXEY. Does the gentleman's amendment apply to the contingent fund alone?

Mr. FITZGERALD. No; to all the appropriations. It exempts all appropriations that are specifically made and exempts clerks that are authorized; clerks necessary to the building no doubt would be construed as within the authority.

Mr. RIXEY. I will ask the gentleman if under the contingent Naval Academy fund he does not think the Superintendent would have the right to employ a clerical force, if he needed it?

Mr. FITZGERALD. I think not, except a clerical force for the board of visitors.

Mr. RIXEY. "Contingent, Navy." Does not that give broad discretion to the party at whose discretion the fund is placed?

Mr. FITZGERALD. It does not state that the contingent fund is for expenses alone. It enumerates with great particularity all things that would be included, and they could not spend the money except for purposes specifically mentioned.

Mr. RIXEY. It does particularize a great deal, but the paragraph does not limit it to the particular items.

Mr. FITZGERALD. I think the decisions of the Comptroller of the Treasury have been such that unless the particular expenditure has been mentioned in these itemized matters the expenditure could not be made.

Mr. RIXEY. My understanding of the funds carried under the head of "contingent" has been very different. Almost every bureau in the Navy Department has a large contingent fund at its disposal. My understanding was that he had absolute discretion over that and could expend it and did expend it as he chose. I tried on several occasions when the naval bill was up to reduce those amounts or to place the whole contingent fund under the authority of the Secretary of the Navy, but I was always unsuccessful in accomplishing that end. It does seem to me that when we place a fund under the head "contingent" it gives the superintendent or the bureau chief authority to spend that sum as he may think proper.

Mr. FITZGERALD. Mr. Chairman, I think not. In some places in this bill—I can not put my hand on them——

Mr. MUDD. Mr. Chairman, may I interrupt the gentleman a moment?

Mr. FITZGERALD. Yes.

Mr. MUDD. Does not the gentleman think if his amendment is agreed to it would prevent the payment out of the general fund of ten millions which we have provided for this work for necessary accountants, clerks, and others that may be needed in connection with it?

Mr. FITZGERALD. If the gentleman thinks that, I suggest the words "buildings and grounds at the Naval Academy" should be stricken from the amendment.

Mr. MUDD. You had better pay the money out of that fund than appropriate extra for it.

Mr. FITZGERALD. Let the gentleman move to strike out "buildings and grounds at Naval Academy," and I shall not object.

Mr. MUDD. Well, Mr. Chairman, I think we better vote on the amendment.

Mr. FITZGERALD. That would except that particular fund from the operation of this amendment. But I say I have information which is reliable that a clerk is being paid out of the contingent fund of the Naval Academy, and if the gentleman in charge of the bill desires that practice continued, he will oppose the amendment, but if he desires to have the civil establishment at the Naval Academy just what his committee authorizes it to be, he will be in favor of some such amendment as this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 21, noes 41.

So the amendment was rejected.

The Clerk read as follows:

Contingent, Marine Corps: For freight, tolls, cartage, advertising, washing of bed sacks, mattress covers, pillowcases, towels, and sheets, funeral expenses of marines, including the transportation of bodies from the place of demise to the homes of the deceased in the United States, stationery and other paper, telegraphing, rent of telephones, purchase and repair of typewriters, apprehension of stragglers and deserters, per diem of enlisted men employed on constant labor for a period of not less than ten days, employment of civilian labor, repair of gas and water fixtures, office and barracks furniture, camp and garrison equipage and implements, mess utensils for enlisted men, such as bowls, plates, spoons, knives and forks, tin cups, pans, pots, etc.; packing boxes, wrapping paper, oilcloth, crash, rope, twine, quarantine fees, camphor and carbolized paper, carpenters' tools, tools for police purposes, iron safes, purchase and repair of public wagons, purchase and repair of public harness, purchase of public horses, services of veterinary surgeons, and medicines for public horses; purchase and repair of hose, purchase and repair of fire extinguishers, purchase of fire hand grenades; purchase and repair of carts, wheelbarrows, and lawn mowers; purchase and repair of cooking stoves, ranges, stoves, and furnaces where there are no grates; purchase of ice, towels, soap, combs, and brushes for offices; postage stamps for foreign postage; purchase of books, newspapers, and periodicals; improving parade grounds, repair of pumps and wharves; laying drain, water, and gas pipes; water, introducing gas, and for gas, gas oil, and introduction and maintenance of electric lights; straw for bedding, mattresses, mattress covers, pillows, sheets; wire bunk bottoms for enlisted men at various posts; furniture for Government quarters and repair of same, and for all emergencies and extraordinary expenses arising at home and abroad, but impossible to anticipate or classify, $255,800.

Mr. MEYER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 71, line 14, after the word "dollars," insert as follows: "Erection of marine barracks and officers' quarters, $15,000, which sum shall be in addition to $15,000 appropriated for this object in the naval appropriation act approved March 3, 1901, and $6,500 provided in the naval appropriation act approved April 27, 1904, for the naval station at New Orleans, La., $15,000."

Mr. TAWNEY. Mr. Chairman, I reserve the point of order on that pending an explanation from the gentleman from Louisiana.

Mr. MEYER. Mr. Chairman, I hardly think that provision is subject to the point of order, as it is simply an addition for an establishment heretofore authorized in two appropriation acts. It provides that it shall be in addition to $15,000 appropriated for this object in the naval appropriation act approved March 3, 1901, and $6,500 provided in the naval appropriation act approved April 27, 1904, for the naval station at New Orleans, La.

Mr. LIVINGSTON. Has the gentleman these original appropriations? Was there a limit?

Mr. MEYER. It was specified.

Mr. LIVINGSTON. Take the 1901 appropriation; was it a limit?

Mr. MEYER. It was simply $15,000. It was supposed at that time that such sum would be adequate for the construction of those marine barracks.

Mr. LIVINGSTON. And it was a limit, was it not?

Mr. MEYER. Yes; undoubtedly. It developed subsequently, however, that it was inadequate, so that the $6,500 additional was appropriated in the naval appropriation act approved April 27, 1904.

Mr. LIVINGSTON. That was to complete it.

Mr. MEYER. Yes; it was supposed that would complete it, but it was ascertained, by reason of the increased cost of material, that that was inadequate; hence the Department could not make any contract, under the law, and now we want $15,000, making the total cost $36,500.

Mr. LIVINGSTON. But the gentleman does not say in his amendment that this shall be the final cost.

Mr. MEYER. I have no objection to having that stated.

Mr. TAWNEY. Mr. Chairman, I desire to ask the gentleman from Louisiana a question. This appropriation is in addition to previous appropriations made for the marine barracks at New Orleans?

Mr. MEYER. Yes.

Mr. TAWNEY. When was the construction of the barracks authorized?

Mr. MEYER. The first authorization was in the naval appropriation act of March 3, 1901.

Mr. TAWNEY. On the 3d of March, 1901, there was an appropriation for the construction of a naval barracks at New Orleans, and the amount appropriated was how much?

Mr. MEYER. Fifteen thousand dollars.

Mr. TAWNEY. Was that the limit of cost?

Mr. MEYER. There was no specification as to the maximum cost. We simply appropriated $15,000, and the inference was that that amount should be the limit, although it was not so specified.

Mr. TAWNEY. The gentleman is a member of the Committee on Naval Affairs?

Mr. MEYER. Yes.

Mr. TAWNEY. And I understand that since this first $15,000 was appropriated Congress has appropriated $6,500 more, making $21,500 total appropriation for the construction of these barracks.

Mr. MEYER. Yes.

Mr. TAWNEY. The gentleman is a member of the Committee on Naval Affairs, and I would like to ask the gentleman why it is, if this is necessary, the amount was not carried in the naval appropriation bill if it was reported from the committee to the House?

Mr. MEYER. It was not reported from the Naval Committee to the House. The Naval Committee, desiring to limit the aggregate amount of the bill, concluded not to recommend any of the buildings proposed for marine barracks at any place. Now, I was quite content with that, but it seems——

Mr. TAWNEY. The committee did not include this item because it did not want to increase the aggregate of appropriations carried in the bill?

Mr. MEYER. Yes.

Mr. TAWNEY. And left the gentleman to submit the question to the House of whether or not that aggregate should be increased?

Mr. MEYER. Permit me to explain.

Mr. TAWNEY. Is that a good reason why the House should increase the amount?

Mr. MEYER. Permit me to state that since that time an investigation has been made, and the Assistant Secretary of the Navy visited the New Orleans Naval Station. Upon his return he insisted that we should provide for these barracks by reason of the fact that the marines at that station are quartered in unsuitable farmhouses, the construction of these barracks not having been begun yet, and the quarters were insanitary and unwholesome.

Mr. TAWNEY. Do I understand the construction of the barracks has not yet begun?

Mr. MEYER. They are not yet begun.

Mr. TAWNEY. Although the first appropriation was made years ago?

Mr. MEYER. Yes, sir; because it was found—in fact, the quartermaster of the corps concluded that it was contrary to law, in his judgment, to make a contract for more than the amount specified in the appropriation. Another reason why the appropriation was not originally made larger was because of an error in the computation on the part of the officials of the Marine Corps. It was their desire to make the expenditure as moderate as possible.

Mr. TAWNEY. What assurance has the House that if this $15,000 is allowed that it will enable the Department to go on and construct barracks of sufficient capacity to accommodate the marines who are stationed there?

Mr. MEYER. Well, we have the positive statement as appears in the hearings of Colonel Denny, quartermaster of the Marine Corps, whom I questioned on the subject. He stated positively that this will be adequate.

Mr. TAWNEY. Was this estimated for by the Department?

Mr. MEYER. Yes, sir.

Mr. TAWNEY. Was it sent in the annual estimates or sent in the supplemental estimates?

Mr. MEYER. It was sent in in the regular annual estimates.

Mr. TAWNEY. Was it in the regular annual estimates?

Mr. MEYER. Yes, sir. Now, permit me for a moment to read the report of Colonel Lauchheimer, colonel, adjutant, and inspector of the Marine Corps, in which he says, dated April 16, 1906:

Before submitting the usual report of my recent inspection of the marine barracks, naval station, Algiers, La., I deem it my duty, owing to the urgency of the situation, to submit to you this special report, in which attention is invited to the condition of said barracks, which barracks, in the opinion of the undersigned, are in all respects uninhabitable and unsanitary.

2. The command is living in two farmhouses which were upon the reservation at the time of its purchase. These houses are very old, have no modern or sanitary arrangements, are in a dilapidated condition, and are in thoroughly bad repair and incapable of being placed in either a habitable or sanitary condition. They are in all respects improper for the housing of men, especially so in a climate such as that of Algiers.

Mr. TAWNEY. Are those two farmhouses situated on the Government reservation?

Mr. MEYER. Yes, sir; they are.

Mr. TAWNEY. Do you think it is a greater hardship to the marines to house them in farmhouses than for the farmers of this country to house themselves in farmhouses?

Mr. MEYER. By no means; but these farmhouses are in an insanitary condition. They are very old and dilapidated and are only occupied now as a temporary measure.

Mr. TAWNEY. I make the point of order that it is not in order. There seems to have been no authorization for the construction of barracks. An appropriation was made for the construction of barracks, $15,000, and then subsequently an appropriation of six thousand and some odd dollars in addition for that purpose, and now they come back here with the information that they erroneously estimated the cost of constructing the barracks and with no authorization for the construction of any barracks whatever; and until the Department can show the necessity first for the barracks there, and then submit an accurate estimate, I do not think Congress should be called upon to appropriate any more money for the purpose.

The CHAIRMAN. Does the gentleman think that has anything to do with the point of order? Is it not a public work or object already in progress?

Mr. TAWNEY. No; it is not already in progress. It has not proceeded to the extent of being in progress, because the Department has not had the money to commence it. It can not be in progress until they have commenced the construction or until it has been authorized. It has not been authorized.

Mr. MEYER. Mr. Chairman——

The CHAIRMAN. The Chair overrules the point of order.

Mr. TAWNEY. Mr. Chairman, I want to say, in opposition to the amendment, that if this is a meritorious proposition the appropriation would have been carried in this bill. We all know the gentleman from Louisiana [Mr. MEYER], and we know him to be one of the most estimable gentlemen in this House. I feel that when his colleagues on the Naval Committee refuse to insert an item of this kind in the bill which he himself has assisted in preparing it is absolutely impossible for the House to justify itself in incorporating a provision of that kind merely upon his recommendation.

Mr. FITZGERALD. Will the gentleman yield for a moment?

Mr. TAWNEY. I yield.

Mr. FITZGERALD. I desire to call his attention to the fact that there were estimates submitted for marine barracks at the different naval establishments throughout the country, aggregating $575,400; that the Naval Committee refused to insert any one of the recommendations in the bill, and the Department has estimated for every place it is possible to put a barracks. The gentleman can see this from the list of estimates, and I doubt very much whether this is anywhere near the most meritorious recommendation contained in these estimates.

Mr. MEYER. Well, Mr. Chairman——

Mr. TAWNEY. I submit, Mr. Chairman, that we have no evidence before the committee that would justify us in appropriating the additional $15,000 for this purpose, and, in my judgment, if the Committee on Naval Affairs was justified, with all the knowledge they had, with all the facts they had before them, in declining to incorporate this provision in the bill, it is a very good reason why the Committee of the Whole should not include it.

Mr. MEYER. Mr. Chairman, I concede that the Naval Committee is quite ready to yield at times to proper arguments of the "gentleman from Louisiana" and I was quite content, that this appropriation should be omitted at the time the naval bill was before us in committee inasmuch as other meritorious similar projects were excluded. But, sir, since that time the information received renders it, in my judgment, imperative that these barracks should be constructed. If not, according to the statement of the Assistant Secretary of the Navy, who made a personal inspection, the marines will have to be withdrawn from that station from want of proper accommodations. It seems impossible, in view of the insanitary condition, for them to remain there. I have no desire to press any appropriation on this committee, and do so only in instances when I know such to be justified and entirely proper.

Mr. TAWNEY. How many marines are stationed there?

Mr. MEYER. There are now about fifty.

Mr. TAWNEY. And it is proposed to erect a building costing $35,000 in which to house fifty marines?

Mr. MEYER. It is the purpose of the commandant of the Marine Corps to secure quarters for at least 200 men there. It affords a very good place for recuperation of marines who may return from service in Panama or the Philippines, and who may be suffering from the effects of those enervating climes, and, of course, for the healthy ones as well. The barren station at Guantanamo is now used mainly with this view, and I have it from the lips of men who have been there that they sicken from ennui and total absence of any means of amusement to vary the monotony.

Mr. TAWNEY. You say this is a good place for the marines to recuperate?

Mr. MEYER. It is a good place. The proximity of the city affords means for diversion and recreation so healthful to soldiers when not on duty.

Mr. TAWNEY. Is it especially healthy?

Mr. MEYER. It is especially healthy. I would say to the gentleman that last summer during the prevalence of the yellow fever in New Orleans there was not a single death or case of that disease amongst the marines there stationed. Now, Mr. Chairman, I would submit that if we have soldiers in the Army or in the Navy we should most certainly give them proper accommodations and proper quarters. If we can not afford to protect our defenders in that way, we ought to abolish our military establishments altogether and rely upon that policy of peace among the nations which has been so eloquently depicted in recent speeches on this floor—a vain reliance, I fear.

Mr. Chairman, that I may not appear as proposing this amendment without proper warrant, I beg to submit extracts from the hearings before the Naval Committee, pages 744–745:

The CHAIRMAN. "Erection of marine barracks and officers' quarters, $15,000, which sum shall be in addition to $15,000 appropriated for this object in the naval appropriation act approved March 3, 1901, and $6,500 provided in the naval appropriation act approved April 27, 1904, naval station, New Orleans, La., $15,000."

How many $15,000 have you got in there?

Mr. RIXEY. That makes $36,000, does it not?

Colonel DENNY. Thirty-six thousand five hundred dollars.

Mr. RIXEY. How many quarters does that give you?

Colonel DENNY. A barracks and one set of officers' quarters. They will be so constructed that they will be convenient for two—that is, probably a place for a man and his wife, and upstairs junior officers' quarters.

Mr. RIXEY. How many men have you got there?

General ELLIOTT. We are going to have more men as soon as we have a place to put them.

The CHAIRMAN. You do not need many men there, do you?

Colonel DENNY. That is on the way to the Panama Canal, where there ought to be accommodations for men and officers. They are living in two little huts now—old plantation houses.

The CHAIRMAN. They are the most delightful places in the world.

Colonel DENNY. No; they are not sanitary. The doctors have condemned them. They told us not to keep our men there.

The CHAIRMAN. I wish you would furnish a statement of the barracks we have built for the Marine Corps in the last few years.

Colonel DENNY. I can give you that now. Philadelphia, Annapolis, and Norfolk, in about thirty-eight years.

The CHAIRMAN. How much was Philadelphia?

Colonel DENNY. One hundred thousand dollars.

The CHAIRMAN. How much was the Naval Academy?

Colonel DENNY. One hundred and twenty-five thousand dollars, and three officers' quarters.

The CHAIRMAN. How much was Norfolk?

Colonel DENNY. One hundred thousand dollars. About $350,000 in about twenty years on new barracks and officers' quarters.

The CHAIRMAN. Of course your Marine Corps has been trebled during the last few years?

Colonel DENNY. That is why we are urging better accommodations, or at least more accommodations.

(Informal discussion followed.)

Colonel DENNY (continuing). The policy of the Marine Corps for twelve years certainly has been to ask Congress for not exceeding one barracks a year. We have got from Congress three barracks in twelve years.

Mr. MEYER. I notice the first appropriation for the marine barracks at New Orleans was made five years ago, in 1901?

Colonel DENNY. Yes.

Mr. MEYER. Why were not those barracks started? If I remember correctly it was contemplated then that the plan would be so drawn as to admit of an extension in case a larger number of men would be placed there?

Colonel DENNY. We did not have enough money. We could not build anything with that sum.

Mr. MEYER. But didn't we give you what you asked for?

General ELLIOTT. Yes; but we didn't ask for enough.
Mr. MEYER. And you got the second appropriation?
Colonel DENNY. Six thousand five hundred dollars.
Mr. MEYER. And that proved inadequate?
Colonel DENNY. Yes; we advertised again and received no bids whatever. The bidders of course knowing—or at least the contractors knowing—what the appropriation was, they concluded they could not possibly build the barracks, even the smallest frame structure that could be designed that would accommodate 100 men, for that money; and then the architect endeavored to get contractors in New Orleans by personally going to them and trying to get them interested, but they positively refused to have anything to do with it, and would not bid on the building, and the effect is that we have stood still. Now we are asking for an increase which we know will be sufficient to build a simple, substantial, small frame building to accommodate 100 men.
Mr. MEYER. You are satisfied that this additional appropriation will enable you to finish the building?
Colonel DENNY. Yes; I know it. We could do it by day labor if necessary.

The following extract from report of Brig. Gen. George F. Elliott, commanding, United States Marine Corps, summarizes the situation as to the New Orleans Station:

Under the acts of Congress approved March 3, 1901, and April 27, 1904, $15,000 and $6,500 were respectively appropriated for marine barracks and officers' quarters. Three unsuccessful efforts have been made to construct said barracks and quarters with the appropriation now available, and it is estimated that at least $15,000 additional will be required to construct a frame structure as modest in design as is consistent with strength for the comfort of the enlisted men. It is believed that with the additional $15,000 asked for a bid can be obtained to build said barracks and quarters, which are urgently needed, as the command is now temporarily in several old plantation buildings assigned by the Navy, which not only constantly require extensive repairs, but must soon be torn down to permit of the building programme of the Navy being carried out.

Mr. FITZGERALD. Mr. Chairman, I offer the following as a substitute.

The CHAIRMAN. The gentleman from New York offers a substitute for the amendment offered by the gentleman from Louisiana [Mr. MEYER], which the Clerk will read.

The Clerk read as follows:

Erection and equipment of laundry for enlisted men, marine barracks, navy-yard, New York, $6,000.

Mr. FITZGERALD. Mr. Chairman, I wish to call the attention of the committee to the fact that this is one of the recommendations made in the Book of Estimates, contained in this $575,400 worth of buildings asked by the Department from Congress.

Now, it seems to me that where there are ample accommodations for marines, and where the buildings are habitable and fit for the marines to occupy them, it is much more important, if anything is going to be done, to provide for the proper laundry accommodations rather than to provide buildings for the marines themselves.

Mr. FOSS. Mr. Chairman, did I understand the gentleman from New York offered an amendment?

Mr. FITZGERALD. I offered that as a substitute.

Mr. FOSS. I want to reserve a point of order on it.

Mr. FITZGERALD. The gentleman is too late, Mr. Chairman. I have been debating this amendment.

The CHAIRMAN. The amendment was read from the desk a little time ago, and debate had begun.

Mr. FITZGERALD. I do not see why the gentleman should object to providing a laundry there. In the vicinity of New York, where ships are coming in continually and where marines are laid up and ships laid up for repairs, it is necessary that the marines be encouraged in cleanly habits. This can be done at a saving of $9,000.

Mr. FOSS. May I interrupt the gentleman?

Mr. FITZGERALD. Yes.

Mr. FOSS. I did not catch the reading of it from the Clerk. I would like to ask him what his amendment is?

Mr. FITZGERALD. It is to provide for the erection and equipment of a laundry for enlisted men at the marine barracks at the navy-yard at New York.

Mr. FOSS. I was under the impression that it provided for the construction of barracks at New York. You say it is for a laundry?

Mr. FITZGERALD. It is for a laundry for these marines, and I call the attention of the committee to the fact that it is the fifth in the list of recommendations submitted by the Department, while the appropriation asked by the gentleman from Louisiana [Mr. MEYER] is the thirteenth. So that evidently a laundry for the marines at New York is considered much more necessary than the barracks at New Orleans. Now, if anything at all is to be appropriated under this heading out of these recommendations, I submit that at a place where they have several thousand marines continually that it would be much better to give them proper laundry facilities than it would be to erect a barracks where they may station marines if a ship ever happens to go there. I called the attention of the House the other day to the fact that they had employed at this place at New Orleans, during the year, an average of thirty-nine men, and it was my great misfortune that I was unable to point out to the committee how many of these men were employed as watchmen.

Now, under all the circumstances, I submit to the good sense of the committee that if any of these recommendations are to be allowed in this bill, that the amendment that I have submitted is entitled to more consideration than the amendment offered by the gentleman from Louisiana, so I hope that this committee, if it thinks it can afford to do anything more in this bill, will not fail to provide proper laundry accommodations for the great number of marines stationed in the vicinity of New York.

Mr. MEYER. May I ask the gentleman from New York whether or not his proposition is in the nature of a substitute?

Mr. FITZGERALD. Yes, sir.

Mr. MEYER. And not in the nature of a further amendment?

Mr. FITZGERALD. I imagine that perhaps the committee would only accept one amendment, and that mine was so much more meritorious and $9,000 less the committee will be more inclined to take that.

Mr. MEYER. I am inclined to believe, Mr. Chairman, that an appropriation for a laundry at the naval station at New York would be a proper one, and for my part I should not hesitate to vote for it. I took occasion the other day, referring to the gentleman's remarks, to explain to the committee why so few men have been employed at the New Orleans Naval Station during the past year. It is scarcely necessary to repeat this. It will be remedied in the near future upon completion of the buildings in course of construction and the installation of the necessary machinery for work.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York as a substitute for the amendment offered by the gentleman from Louisiana.

The question was taken; and the substitute was rejected.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Louisiana.

The question was taken; and the amendment was rejected.

The Clerk read as follows:

Total Marine Corps, $4,705,353.48.

Mr. FOSS. Mr. Chairman, I desire to offer an amendment changing the total. The total for the Marine Corps should be $4,705,283.48.

The CHAIRMAN. Without objection, the amendment will be agreed to.

There was no objection.

Mr. FOSS. Now, Mr. Chairman, I ask that we may go back to two amendments offered by the gentleman from Minnesota [Mr. TAWNEY], one relating to the Bureau of Construction and Repair and the other to the Bureau of Machinery and Steam Engineering. The amendments are the same in effect, and therefore can be discussed together; and I call for the reading of both the amendments for the information of the committee.

The CHAIRMAN. Without objection, the Clerk will report the first amendment.

The Clerk read as follows:

On page 50, in line 14, strike out all after the word "dollars" down to and including the word "material," in line 19, and insert in lieu thereof the following: "*Provided*, That no part of this sum shall be applied to the repair of any ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 10 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material unless estimates for such repairs shall have been submitted to and approved by Congress: *Provided further*, That nothing herein contained shall deprive the Secretary of the Navy of the authority to order repairs of ships damaged in foreign waters or on the high seas, so far as may be necessary to bring them home."

Mr. CALDER. I make the point of order against the amendment.

Mr. TAWNEY. I make the point of order that the point of order comes too late. The amendment has been offered and the proposition passed without prejudice.

The CHAIRMAN. In the opinion of the Chair, the point of order comes too late. The paragraph was read, the amendment was proposed, and unanimous consent was given to pass the paragraph without prejudice. The Chair thinks that such action has been taken by the committee as would make the point of order too late.

Mr. TAWNEY. Mr. Chairman, in order to explain the purpose of this amendment, I want to call attention to a provision of the bill now before the committee which has for its purpose the same object which the amendment I have offered is intended to accomplish:

Provided, That no part of this sum shall be applied to the repair of any wooden ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 10 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material.

Mr. Chairman, this bill carries appropriations for the repair

of naval vessels. All of them have been constructed of steel and iron, commonly known as "steel construction." The bill limits the expenditures for repairs on wooden ships, which we are no longer constructing, and places no limitation on the amount that may be expended for repairs of steel ships. Nobody believes for a moment that there is a wooden ship to be constructed under the authority of this act. Every man on this floor knows that we have not for many years constructed wooden vessels, and yet we have been carrying from year to year this provision limiting the amount that may be expended for the repairs of wooden ships.

Mr. Chairman, when the urgent deficiency bill was before the House at the beginning of this session we were asked to appropriate for a deficiency in the item of steam engineering and machinery of about $2,000,000. What was the reason for this deficiency? Because of the number of vessels which during this fiscal year had been ordered out of commission for "reconstruction," the cost of which in some cases amounted to as much as $750,000. This fact, Mr. Chairman, shows that the Department has without authority of Congress embarked upon the policy of reconstructing our Navy, which policy is to-day being carried on solely within the discretion of the Department and regardless of the amount appropriated for the repair of naval vessels. The amendment I have offered simply presents to the House the question, Shall the House control the reconstruction of the Navy as it controls the original construction, or shall we turn the Treasury of the United States over to the Navy Department with unlimited discretion as to the amount that shall be expended in the reconstruction of the Navy?

If it was important in the past to adopt a policy that would control the reconstruction of the Navy when naval vessels were constructed entirely of wood, how much greater is the necessity for this policy now when we are constructing steel vessels costing four and five million dollars. If in the judgment of Congress it was necessary to limit the amount to be expended in the repair of wooden ships, how much greater is the necessity for some limitation in the expenditure for this purpose when the cost of our present ships is ten times greater than the cost of wooden ships. Why, Mr. Chairman, the Secretary of the Navy is to-day spending in his discretion more out of these two appropriations, and without any accounting whatever to Congress, than Congress appropriated for the original construction of vessels in the Forty-seventh Congress.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. TAWNEY. I ask that my time be extended five minutes.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. TAWNEY. In the second session of the Forty-seventh Congress, which was in 1883, Congress authorized the construction of a naval vessel, the *Atlanta*, at a cost of $617,000. At the same session the *Boston* was authorized, at a cost of $619,000. In the same Congress the *Chicago* was authorized, at a cost of $889,000, and the *Dolphin*, at a cost of $315,000. That was the beginning of our modern Navy, and yet to-day the Secretary of the Navy is expending more money in the construction of naval vessels, the original construction of which was authorized subsequent to the Forty-seventh Congress, than Congress itself appropriated for the construction of the vessels that I have just named.

I appeal to this committee, as a matter of good business sense, whether we should allow this unlimited discretion in respect to the reconstruction of the Navy to continue, or whether we should not place a limitation upon the exercise of that discretion. If the reconstruction of naval vessels is necessary beyond this limit, the Secretary can come to Congress and submit his estimates and give Congress an opportunity to review the estimates thus submitted, and thus determine whether or not they are necessary or extravagant, or whether or not they should be allowed to the extent to which he recommends.

It is a mere business proposition. We are responsible to the people for the appropriation and expenditure of the public money, and when the proposition involves the expenditure of a million or eight hundred thousand dollars it is our duty to place such limitations upon the discretion of the officer authorized to make the expenditure as will insure its wise, honest, and economical expenditure.

Why, Mr. Chairman, suppose under an appropriation carried in the sundry civil bill for the repairs and maintenance of public buildings the Secretary of the Treasury should propose to dismantle a public building, rip out the inside, and reconstruct the building, at an expense of five or six hundred thousand dollars, without authority from Congress. I venture to say, if that were attempted, the Secretary of the Treasury would not only be criticised but some gentlemen now contending for unlimited discretion in the Secretary of the Navy in this matter would propose and urge the impeachment of the Secretary of the Treasury on the ground that he had diverted an appropriation and had violated his oath of office, and yet you propose to continue to allow the Secretary of the Navy to divert these appropriations. If you want to leave to his discretion the matter of reconstructing the Navy, why don't you say so, and make a specific appropriation for that purpose? In that case the country will know not alone what original construction and the repairs of the Navy are costing the people, but we will also know what additional cost is necessary on account of the reconstruction of the Navy. Don't try to conceal the cost of reconstruction by combining it with the ordinary repairs of wood vessels.

In my amendment I make an exception of repairs required on a vessel in a foreign port or in foreign waters; if such repairs exceed the limitation, then the Secretary of the Navy can, without limit, repair that vessel for the purpose of bringing her home to have permanent repairs made. So that it will not operate in any event to injure the service or to cripple the Navy in the least. The only effect would be that when the repairs estimated by the board exceed the limit the Secretary of the Navy will have to submit to Congress the estimates or the necessity for the overhaul or reconstruction of the vessel, and then Congress will have the opportunity to pass upon it as we to-day pass upon the question whether or not a new vessel shall be constructed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS. Mr. Chairman, I move to strike out the last word, and I do so for the purpose of asking the gentleman from Minnesota [Mr. TAWNEY] a question. I am prompted to ask this question by the remarks of several gentlemen about me. I would like to know if the amendment offered by the gentleman from Minnesota [Mr. TAWNEY] will in any way affect the provision for the repairs to the *Constitution*.

Mr. TAWNEY. Not at all.

Mr. ROBERTS. And it is not the intention of the gentleman from Minnesota to so affect that provision?

Mr. TAWNEY. No; I have no purpose of that kind whatever. I am in favor of that expenditure.

Mr. FITZGERALD. In fixing this limitation does not the gentleman think that as the matter has not been considered by the Naval Committee or the Department, at least the limitation should be the same as on the wooden vessels?

Mr. TAWNEY. The limitation is the same as on the wooden vessels. But I divide it and put 5 per cent in each Bureau—5 per cent under the Bureau of Construction and Repair and 5 per cent for machinery, making a total of 10 per cent. I do this because they are the only parts of the vessel that need repairs, except in case of accident to the hull. The hull and the armor of the vessel are never repaired, and the limitation is segregated, making it 5 per cent in one and 5 per cent in the other—a total of 10 per cent for repairs on such parts of the vessel that ordinarily need repairs.

Mr. FITZGERALD. Mr. Chairman, I call the gentleman's attention to the fact that frequently the hull is injured. When vessels have gone aground they have had to take out big sections of the bottom and straighten out the plates, and if the gentleman's amendment allows altogether 10 per cent, I think that would be equivalent to the old provision.

Mr. TAWNEY. That would be equivalent to the present limitation. There is no question about that, and, in fact, I make the limitation greater than in my judgment it ought to be, for the reason that the increased expense of the machinery in a vessel to-day, as compared to what it used to be, would justify a reduction in the limitation. Five per cent of the present cost of machinery in a vessel would build anew many parts of that machinery, and this appropriation is not contemplated to be expended for anything except ordinary repairs. It is not contemplated that this money should be expended for new construction. It is intended that it shall be expended for repairing, and that does not mean renewing. It means the ordinary repairs that are necessary in respect to machinery, and the term "repairs" should be given the ordinary construction, and should not be construed as being to mean to renew.

Mr. VREELAND. It does mean new machinery, does it not?

Mr. TAWNEY. It may mean replacing the new parts of machinery. It does not mean the purchase and installation of a new engine or a new dynamo. That would not be repairing; that would be renewing.

Mr. VREELAND. Why not, if the old one is worn out? Suppose the boilers of a ship are worn out?

Mr. TAWNEY. The boilers may need repairing; but if the

crown sheet of a boiler needs to be replaced, that is repairing the boiler, whereas if the boiler is worn out and you have to replace it with a new one, that is not repairing that boiler, but throwing the old one away and buying a new one. If a ship becomes so deteriorated as to require renewal, you do not repair it by renewing it or buying another ship. You throw it away and replace it by coming to Congress and getting authority for the construction of a new vessel.

Mr. FOSS. Mr. Chairman, I rise to oppose this amendment. If this committee were a board of naval experts, and knew enough about the subject of repairs of naval vessels to say when repairs should be made and when they should not be made, then I think this amendment would be a very sensible proposition; but unless we are going to constitute ourselves a board of naval experts to pass on the repairs of ships every year when they come up, and to hold up those repairs until the estimates are sent in to Congress, then I think we had better not adopt this proposition. There was, as the gentleman says, a limit placed upon the repairing of wooden ships back in 1883, and it was done for a definite purpose. At that time and before that time there had been an evolution—yes, a revolution—in the construction of ships from the old wooden ship to the steel ship, and that provision limiting the cost of repairs was put there by reason of this evolution of reconstruction of ships.

Mr. TAWNEY. Mr. Chairman, will the gentleman permit a question?

Mr. FOSS. Yes.

Mr. TAWNEY. Does the gentleman admit that that limitation was proper when it was first placed in the appropriation bill as a limitation upon the repairs of wooden ships?

Mr. FOSS. Yes; I think it was.

Mr. TAWNEY. Inasmuch as we are not constructing wooden ships any longer and we are to-day constructing steel vessels, why should there not be a like limitation upon the discretion of the Secretary of the Navy in respect to the repair of steel vessels?

Mr. FOSS. Well, let me read the gentleman what the constructor says.

Mr. TAWNEY. Well, but I am asking the gentleman the question as the chairman of the committee, and I think his judgment is just as good as that of the naval constructor. We have passed from the wooden ship to the steel ship. We have done away with the wooden ship in the Navy. We have already done away with them. Why do you carry a limitation upon the repair of wooden ships when there is not a scintilla of evidence here that you propose to construct a wooden ship and admit that the construction of wooden ships has ceased entirely?

Mr. FOSS. Well, they have practically ceased except as to——

Mr. ROBERTS. The gentleman will pardon me if I say we are now constructing wooden ships in the Navy and have increased the limit of cost of them in this very bill.

Mr. FOSS. You refer to the two training ships?

Mr. ROBERTS. Yes; they are wooden ships.

Mr. FOSS. I want to tell you frankly when we first considered this in the committee I was of the opinion that it might be proper to limit the cost, and after careful consideration of it I came to an entirely different conclusion. The chief constructor, Admiral Capps, speaking of the limitation to be placed upon these vessels, says:

> The desirability of such a limitation was fully recognized at the time of its first application, since the deterioration of the hulls of wooden vessels is far more serious than that of the hulls of steel vessels which have received suitable attention. In fact, prior to the enactment of the proviso above noted instances had arisen where a practically new vessel had been built under the guise of repairs. Such a contingency with respect to steel vessels is wholly impossible, since it is rare that any portion of the outer hull of steel vessels are renewed except as a result of damage due to stranding, collision, or other accident. Certain interior portions of the hull are subject to serious deterioration, notably the inner bottom under boilers and the lower plates of coal-bunker bulkheads. The care and attention bestowed upon naval vessels is such, however, that the major portion of the hull does not seriously deteriorate. It is, however, necessary to make changes in battery emplacements, arrangements of magazines, ammunition supply, and structural changes or repairs necessitated by the removal of boilers for repairs or renewal, renewal of wooden decks, overhauling or renewal of auxiliary machinery, etc.
>
> When a steel vessel of the Navy is surveyed for a general overhauling with a view to putting it in efficient condition for service, such changes as may be necessary to bring the vessel up to date, as far as practicable, from the military point of view, are undertaken along with the items of general repair necessitated by deterioration in service. It is possible under these conditions that the total cost of alterations, repairs, etc., may, in unusual cases, approach 25 or 30 per cent of the original cost of the vessel. But it should be borne in mind that the vessel when fully overhauled under such conditions is really a better vessel from a military point of view than when originally built, and it would hardly be justifiable to impose a limit on the cost of such repairs and alterations, which really improve the military efficiency of the vessel, unless such limitation was a very liberal percentage of the total first cost of the vessel.

Then I would state, Mr. Chairman, when the constructor came before the committee we asked him what vessels he proposed to repair during the present year and also the cost of those repairs upon each vessel, and it is here in the hearings of the committee.

Mr. LIVINGSTON. Is he bound to follow that suggestion before the committee? Is there anything to hold him down to it?

Mr. FOSS. Hold him down to what?

Mr. LIVINGSTON. To what he suggested what he would do.

Mr. FOSS. He is bound by the amount of appropriation, but that would not set a limit to repairs on each particular vessel.

Mr. LIVINGSTON. That is just the objection the chairman of the Appropriation Committee is urging, that you have got no limit on the repairs of vessels.

Mr. FOSS. But he is the proper man to say what should be the amount of repairs and what should not be. Is it the gentleman from Alabama or the gentleman from Minnesota? No; if we have not any confidence in our naval constructors and in our bureaus down here we had better disband, but the idea that Congress should pass upon the question of repairs as to whether a particular naval vessel ought to be overhauled or whether it ought not to be overhauled is a ridiculous proposition from beginning to end. Not only that, but it has the whole effect of holding up the work in our navy-yards until Congress can pass upon a particular proposition of repairs to this vessel or that.

Mr. TAWNEY. Will the gentleman permit me?

Mr. FOSS. Just one moment.

Mr. TAWNEY. You have just stated that the Navy Department has already advised the committee what repairs they intend to make on different ships this year and what those repairs would cost.

Mr. FOSS. Yes.

Mr. TAWNEY. Would it be any more difficult or embarrass the Department any more to require it to give that information in a detailed statement than to come before the committee voluntarily and give it? Would it embarrass or delay the work any more, if they can give that information now, for them to give detailed estimates next year in accordance with a provision of law?

Mr. FOSS. Yes; and your provision provides they shall not use any of this money for repairs on a ship where the cost is more than 5 per cent, and that is the trouble with the provision.

The gentleman speaks of overhauling. Yes; we do overhaul a naval vessel now and then a good deal as you overhaul a machine shop, for after all a naval vessel is nothing more than a great machine shop. Every ten or fifteen years you will find the machine plants are overhauled, modern machinery is put in, and that is what we do with our naval vessels sometimes. And, as Admiral Capps says, the cost of overhauling amounts to 25 per cent, but that only comes in about ten or a dozen years. The hull, that was first constructed, is just as good as it ever was. There is no limit of age to a hull. But as to the interior arrangement, as to the electrical apparatus, as to the ammunition hoist, as to guns and armaments, and all these things, improvement has been going on year after year, and so it becomes important to have an overhauling of the interior, just as you would overhaul the interior of a machine shop and put in new machines. And that, as I have said, comes only once in ten years. That is what the gentleman complains of.

Now, suppose we should insist in putting a limitation here upon these repairs or overhauling. What will be the result of it all? And after we had gotten all of the information here, what would we do? Should we say that the *Wyoming* shall not be repaired and that the *Minnesota* shall be repaired? Do we know anything about it? Are we experts in machinery? The gentleman from Minnesota [Mr. TAWNEY] may be, but are the rest of us experts in machinery, with sufficient knowledge to pass upon this question? Are we going to transform ourselves into a board of experts? We would turn back to the Department and say, "Go and do as you please. We have hired you to do this job; now, go ahead and do it." That would be the position of this House. Why, gentlemen, it is a ridiculous proposition, in my judgment.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FOSS. Mr. Chairman, just one moment more. The gentleman from Pennsylvania [Mr. BUTLER] in a moment will show you how carefully and how systematically this whole subject of repairs is gone into by the Department, and how it is passed upon by board after board, how it comes before each bureau chief, and how the Assistant Secretary of the Navy has to go and make a personal inspection of every vessel before repairs are made.

It seems to me, Mr. Chairman, that such a proposition here

would delay the repairs of our ships and do a great deal to decrease the efficiency of our Navy. To put the responsibility here upon Congress and say when repairs shall be made and when they shall not be made would have a tendency to destroy or to close up our work in the different navy-yards, because such work is dependent entirely upon repairs. And the whole proposition to limit the cost of repairs would be demoralizing to the whole efficiency of the naval service.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I believe that it would be better for Congress to keep its hands always upon the appropriations that it has to make. I have always advocated that appropriations should be made by item; that they should be carefully made, and should be so limited that those who may have the duty of spending them will not increase them, waste them, or divert them to other purposes.

I do not know, Mr. Chairman, what I would do if the advisability of repairing a ship were submitted to me by the authorities of the Navy Department. What would I know about it? I necessarily would have to take the advice of the officer. Suppose that he would estimate the repairs would cost 25 per cent. Say that the ship is worth, after we expend the 25 per cent in the repairs, as much as a new ship, how would I know whether she would be or not? I would have to be informed by him who had the information and in whom I had confidence.

Mr. Chairman, I ask the Clerk to read a statement which will show to the membership of the committee the care with which these estimates are made and the care observed by the officers of the Department before a ship can be repaired.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Brief statement of routine required by law or regulations for repairs of United States naval vessels in navy-yards.

When a ship is in commission the captain of the vessel is required to report to the Department when the condition of the ship under his command is such as to require repairs or alterations in one or more departments beyond the capacity of the enlisted force available, and such report must be submitted without delay when there is a probability that the vessel under his command is to be sent to a navy-yard. Such report much show, on one or more separate sheets for each bureau, the vessel from which it came and the bureau under whose cognizance the work falls, with the items of work classified under the following headings: (1) Immediate repairs necessary for cruising efficiency, for the prevention of deterioration, or for sanitary considerations; (2) further repairs which it is desirable to have made whenever the services of the ship can be spared for a sufficient length of time; (3) necessary alterations, and (4) alterations desirable but not necessary. In each case the reason for asking for the work must be stated. Such reports are forwarded through official channels to the Department, which decides upon the time when the vessel shall be sent to a navy-yard for examination and estimate of cost of the items in the report. The bureaus under whose cognizance the work falls are informed of the Department's decision as to the time when the vessel will be sent to the navy-yard for examination, and the bureaus issue the necessary instructions for the examination and report on the items in question by the heads of departments at the navy-yard.

Upon arrival of the ship at the navy-yard. the heads of the departments and their foremen make detailed examination of the vessel with reference to the items of work contained in the commanding officer's report and with reference to any further items which their examinations disclose to be necessary for putting the vessel in an efficient condition. Detailed estimates are made for each item, with plans, if necessary, and are embodied in reports by the heads of departments concerned, together with a statement of conditions and the recommendations of the heads of departments on each item.

These reports and estimates are forwarded to the Department through the commandant of the navy-yard, who makes such observations and recommendations as he deems proper. The reports are then referred by the Department to the respective bureaus for examination and comment, and after such examination and comment are usually referred to the Board on Construction for coordination and final recommendation to the Department. After such recommendation if any modifications in the work proposed are deemed necessary they are made, and if, as is usual, the expense on the hull and spars exceeds $3,000, and on the sails and rigging $1,000, surveys must be ordered at the navy-yard in accordance with sections 1538 and 1539 of the Revised Statutes. (It may be remarked that these limitations were originally made in 1861 and are still adhered to, though hardly suited to the conditions on modern vessels, which cost from five to ten times as much as those built at the date in which the act was passed.)

The survey is then held, each item proposed or modified is considered, the estimates previously prepared revised by the board of survey, and a detailed statement in the form of a survey is prepared for each yard department having work to do on the vessel. These surveys are returned to the Navy Department for further examination by the bureaus concerned and recommendations made to the Department as to the execution of each item of the survey.

When it is determined what items are to be executed, the commandant of the navy-yard is notified and authorized to direct the repairs to be proceeded with. If the repairs are at all extensive, it is usually necessary to procure greater or less quantities of material for such repairs, and, under the system of purchase prescribed by law, the procurement of such materials as may not be in stock usually requires from two to three months, unless the Department considers an emergency to exist which will permit the materials to be purchased without advertisement. The repairs are undertaken as fast as material is available, and if, after opening up of any work, it is found that further repairs not contemplated in the original survey must be made reports covering such additional work as may be then required are submitted to the Department through the commandant, and must be authorized by the Department and the bureaus concerned before such additional work can be undertaken.

W. L. CAPPS,
Chief Constructor, United States Navy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may have five minutes more.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that he may have five minutes more. Is there objection?

There was was no objection.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I want to repeat what I have already said. I would be in no dilemma if I had to decide between my own judgment and that of a man who was competent. I would decide with him. Therefore, while its purpose is right, this amendment offered by the gentleman from Minnesota [Mr. TAWNEY] having never been considered by the Committee on Naval Affairs, I should dislike very much to see it adopted. I am not sure whether 10 per cent—the figure named in the amendment—would be too high or whether it would be too low. I am not sure that only two bureaus would be interested in the repair of a ship. I have no knowledge upon the subject, and will confess my ignorance. I admit the fairness of the gentleman from Minnesota [Mr. TAWNEY], and I know he wants to do what is right, and is endeavoring in this attempt to do what he thinks is right. Indeed, I think it is right to put a proper restraint upon the Department of the Navy. What is the proper restraint? I suggest to him that we ought not to adopt the amendment at this time, but let the committee take it up and consider it with a view of passing upon it the next time the naval appropriation bill is considered.

Mr. WALDO. Mr. Chairman, I move to strike out the last word.

It seems, Mr. Chairman, that this amendment would have a very serious effect upon our Navy. It means that it is absolutely useless to give this appropriation, for the navy-yard has no power to use it. That will be the result. There is one battle ship lying now at one of the navy-yards, and there are four or five others that will need repairs much in excess of the amount mentioned in this amendment; and if this amendment is passed by the committee the appropriation will be useless, and these battle ships will have to lie in the yards for another year. Therefore I think that at this time the amendment ought not to pass. It is clearly subject to a point of order, I suppose, if the point of order had been made, and the gentleman ought not to press it at this time, because it is clearly new legislation of such a nature that it will upset all the affairs of the Navy. If there is anything of that kind to be passed, it ought to be passed in a bill, where people can know what is to be done and preparation can be made by the Navy Department to meet it.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I move to strike out the last word. I wish to ask the gentleman from Minnesota what is the effect of his amendment? I assume that there are sometimes actual necessities for making repairs costing more than 10 per cent of the original cost of the vessel. Now, assuming such an accident, and assuming that the repairs needed will equal 15 per cent of the cost of the vessel, under this amendment, what would the Navy Department be required to do?

Mr. TAWNEY. The Navy Department will be required to have the ship surveyed, report the repairs necessary to be made and an estimate of the cost of those repairs, and submit that to Congress for its approval, and then the Secretary can go on and make these repairs if Congress approves of the expenditure for that purpose.

Mr. SULLIVAN of Massachusetts. Now, then, assuming a state of affairs that would require the service of this injured vessel as speedily as possible, would not such a course of proceeding tend to keep the vessel out of service for a much longer time than if the Navy Department had authority to make a 15 per cent repair?

Mr. TAWNEY. Well, it might keep the vessel out of commission longer than if the Secretary had the authority and the money to proceed with the repairs at once, but it might not keep the vessel out of commission any longer than we could dispense with the services of the vessel, especially in a time of peace. I have no doubt, excepting in times of war, that we could wait, and the Navy Department could well wait, for six months or three months or nine months or a year for the repairs needed on a given vessel. In making such repairs it would have to wait until Congress made the appropriation. Therefore there would be no injury done to the service. It would simply be taking one vessel out of commission because of its being out of repair, or because of its being in need of recon-

struction, and putting one of the other and, possibly, newer vessels into commission that is now out of commission, because we have not the men to man her. The Secretary of the Navy, in a report to Congress at the beginning of this session, said that more than one-half of the tonnage of the Navy to-day is out of commission.

Mr. ROBERTS. Including the tinclads.

Mr. TAWNEY. He said that more than one-half of the tonnage of the Navy is out of commission to-day.

Mr. SULLIVAN of Massachusetts. Now, then, whatever our ideas may be as to a large or small Navy, I think we all must agree that the Navy should always be in a state of preparedness. Now, the gentleman's amendment would fit in nicely in time of peace, but in the case of a sudden conflict and the resulting necessity for war vessels, would it not be dangerous to have a vessel out of commission until the ponderous machinery of Congress could be exercised to make the necessary repairs where they are over 10 per cent of the cost of the vessel? Unless the chairman of the Committee on Appropriations can solve that problem for me, I shall be obliged to vote against his amendment.

Mr. TAWNEY. I will say to the gentleman that this is not a new policy. We have had a navy for a great many years. We have had wooden vessels which cost the Government of the United States $360,000, $434,000, and $480,000. But notwithstanding the fact that we have always maintained a navy of larger or smaller size, we have always likewise had a policy in the Navy which was to limit the reconstruction of the Navy and the discretion of the Secretary of the Navy in the matter of reconstructing it to 10 per cent of the cost of these vessels. In other words, take it in 1873 to 1876, we authorized the *Nipsic*, a wooden vessel, which cost $360,000. Another one, the *Essex*, cost $434,000, and another one, the *Enterprise*, cost $480,000. Now, the matter of making repairs for all these ships has been limited to-day to 10 per cent of the cost of these vessels. In other words, on a vessel costing $360,000, $36,000 of repairs can be made by the Department.

Mr. ROBERTS. At one time.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. SULLIVAN of Massachusetts. I ask for five minutes more.

There was no objection.

Mr. TAWNEY. And so on with the others. A vessel costing $434,661, the cost of the repairs of that vessel, within the discretion of the Secretary of the Navy was limited to $43,000, and the other to $48,000.

Mr. FITZGERALD. The gentleman is in error. In 1887, in the Forty-ninth Congress, second session, the provision on wooden vessels was 20 per cent, and it was not until steam vessels of the Navy were being built and it was deemed unwise to continue the wooden vessels in commission that a reduction to 10 per cent was made. It is made since 1887, and I will find the exact year.

Mr. TAWNEY. Made since 1887?

Mr. FITZGERALD. In the naval appropriation bill approved March 3, 1887, the provision is that—

> No part of said sum shall be applied to the repair of engines and machinery of wooden ships where the estimated cost of such repair shall exceed 20 per cent of the estimated cost of new engines and machinery of the same character and power, but nothing herein contained shall prevent the repair of machinery and boilers for wooden ships the hulls of which can be fully repaired for 20 per cent of the estimated cost of the ship of the same size and material.

Mr. TAWNEY. That has nothing to do with the policy; it only increases the extent of the discretion of the Secretary in the matter of making repairs. What I am contending for here is that there should be some limitation upon the discretion of the Navy Department in the matter of reconstructing the Navy that is to-day costing us more than $100,000,000 annually. I say that it is bad policy, that it is bad administration, to vest in the head of any one Department of this Government a discretionary power that would enable him, or authorize him, to expend a million or two million dollars without any report to Congress as to the necessity for the expenditure, or without any accounting to Congress as to how he has expended the money. If 5 per cent is too small a limitation, increase it to 10 per cent; make it the same as it is to-day on wooden vessels, and then you would have double the amount for making the repairs, as the limitation to-day is fixed upon existing appropriations.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I understood the gentleman to suggest that if, in the judgment of the committee, 5 per cent was too low, it should be increased to 10 per cent. Does not my friend think it would be better to consider this well before we change the figure from 5 to 10 per cent?

Mr. TAWNEY. I will say that I have considered the question of the limitation, and I believe that 5 per cent would enable the Secretary of the Navy to make all of the ordinary repairs that are reasonably necessary to any vessel in the Navy, but this limitation will not be sufficient to enable the Secretary of the Navy to do what he is doing to-day—making eight hundred thousand or a million dollars' worth of repairs on a vessel, and I do not think he should have that authority. It has not been the policy of Congress, Mr. Chairman, to vest that amount of discretion in any administrative officer. Take it in respect to the construction of public buildings or in the administration of public affairs, and it has never been the policy to vest in any one officer the discretionary power of repairing, or replacing that which was originally authorized by Congress, where it involved an expenditure of half that amount.

Mr. WALDO. I would like to ask the gentleman if it is not a fact that the only policy, in the line of which the gentleman speaks, that the Government has had in the limitation of cost of repairs has been in regard to wooden ships since we started to make the steel Navy, and that was to prevent the reconstruction of the old wooden ships, so as to make new ones at a time when the Government had decided that it would only have new steel ships?

Mr. TAWNEY. I do not know when the policy of limiting the Secretary of the Navy to the reconstruction of vessels began.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. TAWNEY. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Minnesota asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I would like to ask the gentleman from Minnesota a question.

Mr. TAWNEY. I will yield to the gentleman from Massachusetts.

Mr. SULLIVAN of Massachusetts. I would like to ask him whether, in view of the letter from the Naval Constructor to the effect that sometimes repairs are necessary that will call for 25 or 30 per cent of the original cost of the vessel, his limitation of 5 per cent of the hull and 5 per cent on the machinery is not too low?

Mr. TAWNEY. It may be.

Mr. SULLIVAN of Massachusetts. Then why not raise it?

Mr. TAWNEY. I have no objection to increasing it to 10 per cent.

Mr. SULLIVAN of Massachusetts. Ten per cent on each?

Mr. TAWNEY. Ten per cent in each case.

Mr. SULLIVAN of Massachusetts. Then I will vote with the gentleman if he will do that.

Mr. TAWNEY. Mr. Chairman, what I contend for is this: We are building up a tremendous navy. In 1910 it will be second to only one in the world, and it is costing the people of the United States a hundred million dollars annually to maintain it. Now, an institution like the Navy that has cost the Government of the United States hundreds of millions of dollars to construct, and that, too, in less than ten years from the date of original construction, will necessarily require reconstruction. I maintain that Congress should not longer delay in adopting the policy of putting some limitation upon the head of the Navy Department in the matter of the reconstruction of such a great institution as our present Navy, and as it will be in 1910 when the ships now authorized are completed. I am simply maintaining that it is bad policy. I admit that there may be occasion for the expenditure of more than 10 per cent or more than 20 per cent of the cost of the vessel, but that is an extraordinary repair, and when it becomes necessary to expend that amount of money I maintain that before the expenditure is made it should be passed upon by the Congress of the United States and not left to the discretion of any single administrative officer who is responsible to nobody for that expenditure and who is not required to report to anybody in regard to that expenditure or its details.

I maintain that it is bad policy, it is bad administration to allow the reconstruction of a navy such as we have to-day, to go on here without any limitation whatever, and if it was wise to adopt this policy in respect to wooden ships, it is of infinitely greater importance and it is far more necessary that we should adopt it in respect to the reconstruction of steel vessels, which we are to-day building at a cost of many million dollars in excess of the cost of wooden ships.

Mr. McNARY. Mr. Chairman, I would like to ask if the gentleman has not conveyed a wrong impression here, and from what I have heard from the Committee on Naval Affairs I think he has, that repairs to the extent of 20 per cent are extraordinary repairs. As I understand, if these steel vessels have been in commission for quite a while repairs to the extent of

20 per cent and 25 per cent and 33 per cent are not extraordinary at all, but are absolutely necessary, and I would like to have that point cleared up.

Mr. TAWNEY. Mr. Chairman, the chairman of the Committee on Naval Affairs himself stated, and the letter which he read corroborates the statement, that the life of the hull and the armor of a vessel are practically without limit. Neither the armor nor the hull of a vessel requires any repair, and there is no depreciation and no deterioration there, and yet the hull and the armor of a vessel are the principal items of the original cost of a vessel.

Now, eliminate that from the cost of the vessel and then limit the cost of repairing the machinery to 10 per cent and limit the cost of repairing the interior construction of the other parts of the vessel to 10 per cent, and you have provided amply for all ordinary repairs to any vessel that is afloat to-day. Gentlemen must bear in mind that this limitation does not apply to the entire cost of the vessel. This proposed limitation applies only to the part of the vessel that is to be repaired. In the one case it would eliminate the machinery and in the other case it would eliminate the interior construction as distinguished from the machinery. But, Mr. Chairman, I desire to submit this to the Members as fair-minded men: Here is a bill that carries $11,705,000 which can be expended within the discretion of one single administrative officer without any limitation—without the necessity for making any report or any accounting to Congress. We propose to allow him to go into the Treasury of the United States and take out over $11,000,000 for the repair of naval vessels without any investigation as to the necessity for the expenditure and without requiring him to render any account to Congress, from which he must get the appropriation, and I submit that it ought to be stopped; that there ought to be a limitation.

Mr. Chairman, I ask unanimous consent to amend the amendment I offered by increasing the amount from 5 to 10 per cent in each case.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to insert the word "ten" instead of the word "five" in the particulars he has suggested. Is there objection?

There was no objection.

Mr. McNARY. Mr. Chairman, I move to strike out the last word. I have listened very carefully to the argument of the gentleman from Minnesota [Mr. TAWNEY], the chairman of the Committee on Appropriations, and while we may sympathize with his main proposition and agree that there ought to be some limitation, it must be quite apparent to the other Members, as it is to me, that his limitation in the beginning, of 5 per cent was altogether too small, if a limitation was to be placed on the bill at all. I submit that he reasons from wrong premises when he takes the limitation on wooden vessels as a standard, because it is apparent to my mind that that limitation was placed there for the purpose of preventing the reconstruction of wooden vessels, practically putting them out of commission in order to make way for the new steel Navy. Now, while there may be reason behind the idea of having a limitation, it seems to me it ought not to come here or be sprung in the form of an amendment to this bill, but ought to be very carefully considered and the facts carefully gone into by the Naval Committee, in conference with the Navy Department officials, so that if a limitation is to be placed on it at all, it should be a fair, reasonable, and judicious limitation. I do not thnk we have quite reached that point yet. My mind is not clear on the subject that a limitation ought to be placed at 10 per cent on one form, such as machinery, and 10 per cent on another, such as the hull, as it seems to me that it might reasonably go to 25 per cent, and in some cases to 35 per cent total repairs. I would be quite willing to vote for some limitation of the power of the Secretary, but I am not willing to vote on a snap judgment, placing the limitation at some figure simply because the gentleman has in view the limitation on the wooden ships and has confounded the two. If this thing is to be done at all, it ought to be done after a careful consideration and report by the Naval Committee, and up to the time it has been so considered the House ought not to vote for any limitation at all.

Mr. RIXEY. Mr. Chairman, I would like to have the amendment now reported as it has been amended by the gentleman from Minnesota.

The CHAIRMAN. Without objection, the amendment will again be reported, as amended by the gentleman from Minnesota, through unanimous consent.

There was no objection, and the amendment as amended was reported by the Clerk.

Mr. WALDO. Mr. Chairman, I want to say just one word. It may be, as the gentleman from Minnesota said, bad policy to allow the Navy Department to have unlimited discretion, but it will be a much worse policy to now start on a new policy, in violation of Rule XXI of this House, and make a new rule for the Navy Department that will practically tie up a large portion of our Navy so it will be useless, for that is what will be the result.

Mr. TAWNEY. Mr. Chairman, I want to say just one word more. The gentleman from New York and the gentlemen who are contending against this amendment I realize are fearful that it may interfere with the employment of men in the several navy-yards which they represent on this floor, and that that is the principal reason that they are opposing this proposition; but I submit, Mr. Chairman, that there is not a single one of them who has given any reason why we should not apply the same policy in respect to the reconstruction of our steel vessels that has obtained for more than a quarter of a century in the reconstruction of the wooden ships. Now, we are going on at a tremendous rate with the expenditure of public money, and I candidly think that if gentlemen will not allow themselves to be influenced by those who are located in the vicinity of navy-yards and those who are afraid that this limitation may operate somewhat to check the power of the Navy Department, that we will as a matter of good administration and good policy place this 10 per cent limitation upon the discretion of the Secretary of the Navy in the expenditure of more than $11,000,000.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I move to strike out the last word. I wish to say in reply to the gentleman from Minnesota that neither of the gentlemen from Massachusetts who have opposed the limitation represent a navy-yard district, and——

Mr. TAWNEY. The gentleman from Massachusetts must know I did not refer to him, because he said if I would increase the limit to 10 per cent he would support the motion.

Mr. SULLIVAN of Massachusetts. I am inclined to do so. Nevertheless I am somewhat in doubt about it after listening to the argument of my colleague from Massachusetts against it, and it is quite possible I may oppose it yet. [Laughter.] It seems to me that it is quite possible that a Member of this House, even if he lives in a navy-yard district, may take a broad and philosophic view of the needs of the entire country. I do not intend to argue upon that point, because I think perhaps it will require more time to demonstrate that proposition to the gentleman from Minnesota than there is available to me now; but it struck me in the beginning that there is a marked difference between the need of repairing a public building, for example, and a battle ship. Personally I would like to see the size of the Navy reduced one-half, but I think all must agree that whatever the size of the Navy is, that Navy ought always to be in a state of preparedness. It is constructed for fighting, and unless it is in a condition to fight effectively, it is absolutely useless. Therefore, whenever repairs are necessary to a battle ship or any other vessel of the Navy, it is necessary that they be made promptly. I can conceive of no repairs that need to be made more promptly than the repairs to a fighting vessel. Now, it seems to me that the ordinary reason for placing a limitation upon the discretion of an executive officer of this Government does not apply so strongly in the case of repairs to naval vessels as it does to other cases.

If we reduce the discretion of the naval officer who has charge of these repairs and vest that discretion in Congress, it will transfer power to a body that is not informed—from the officer who is informed both as to the needs of the Navy generally and the necessity of the repairs in the particular instance. I do not think that is good policy. I think the other suggestion of the gentleman from Minnesota concerning the scrutiny of expenditures would be better, and that great care should be exercised in the selection of the naval officer who is to possess this large discretion. It seems to me a large discretion must be reposed in him, and it is for Congress to exercise supervisory power upon the manner in which he exercises that discretion. If the Committee on Naval Affairs does not scrutinize the expenditures made by the naval constructor each year, that committee is derelict in its duty. The committee knows whether it has been negligent or not in that matter. If it has been, it ought at once to begin to scrutinize those expenditures with extreme care.

I do not think that any officer of this Government ought to be permitted to expend $7,600,000 without being accountable to some one, and there is a provision in the law which requires an accounting. If that provision is not enforced, the way to remedy it is not, it seems to me, to take away the discretion of the officer, who has the necessary information at hand and is

presumably capable of exercising that discretion wisely, and invest that power in a committee of Congress or in Congress itself, which, from the very nature of its composition, is not fitted to deal with the highly technical subject of the extent of repairs necessary for vessels of the Navy.

Mr. TAWNEY. Will the gentleman permit a question?

Mr. SULLIVAN of Massachusetts. I will.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. SULLIVAN] on the pending amendment is exhausted.

Mr. McNARY. I move to strike out the last three words.

Mr. Chairman, I would not reply to the gentleman were it not for the fact that he has referred to the gentlemen from Massachusetts as representing navy-yard districts. If it were correct that we represented navy-yard districts, his remarks would have made a palpable hit; but neither my colleague nor myself represent a navy-yard district, but, on the contrary, I represent a district which is a shipbuilding district, and I can easily conceive if repairs were limited to 5 per cent, the money which would be saved, according to the gentleman's argument, on repairs, would not be turned back into the Treasury, but would be put into new ships, and therefore I may be arguing against the interests of my own district in that particular respect.

I do not believe that even if the limitation of 5 per cent advocated by the gentleman were adopted, there would be any decrease in the amount appropriated for the Navy Department, and the people would not be taxed 1 cent less than they are at the present time. I do think it is a fair statement, as made by my colleague from Massachusetts [Mr. SULLIVAN], that if repairs are to be made at all they should be sufficiently and properly and completely made, and under the jurisdiction of a proper officer. I maintain, which, I think, will be agreed to by every man in this body, that a committee of Congress, or a committee of any legislative body, is not a proper body to supervise repairs of naval work or any other work. The gentleman undoubtedly has a good point for the foundation of his argument, but he has not carefully considered this subject, and has not placed a fair and proper limitation upon the power of the Secretary of the Navy, and in view of that fact I am not willing to vote for his proposition.

For my own part I believe in building a good navy, one sufficient for our needs, not an extraordinarily large one, but if we are to have a navy at all we ought to have a good one, ready to do its duty at all times, and in good and complete repair. We ought to have our navy-yards so equipped that they are ready to make repairs, and have the proper kind of a mechanical force trained in all departments to make these repairs quickly, in order to keep our ships in proper condition to meet the enemy, if we are ever unfortunately called upon to do so.

I think the gentleman's amendment ought to be voted down. If he wants this matter to be limited, he ought to have introduced it in the way of which he is aware, and have it before the committee properly.

Mr. TAWNEY. If the gentleman will permit me, I will say that it is properly before the committee.

Mr. McNARY. It is properly before this Committee of the Whole House, but not the Naval Committee, where it ought to have been specially considered and reported upon.

Mr. TAWNEY. If the gentleman will pardon me, the chairman of the Committee on Naval Affairs said that it had been properly considered, and this word "wooden" had been stricken out, and on further consideration they had concluded to put it back again. [Cries of "Vote!"]

Mr. FOSS. Mr. Chairman, I do not want to delay the committee any longer in relation to this matter, but I do not want to have the impression go forth here that the Navy Department is very loose in the matter of repairs, and that repairs are not properly considered when the ship goes into the yards. Upon the arrival of a ship at the navy-yard the heads of the departments and every foreman make detailed examination of the vessel with reference to the items of the work and repairs; then detailed estimates are made on each item and are sent to the heads of the departments, and then they are referred to the board of construction, and after the board of construction passes upon it, a survey is ordered, and after the survey they come back to the Department and get the word to go ahead with the repairs. I do not want the impression to go out here to-day that the Navy Department does not exercise care and consideration in the matter of repairs.

Mr. TAWNEY. If the gentleman will pardon me just a moment, I am not contending that there is any carelessness in the matter of making repairs, nor is this limitation intended to restrict the Department in making ordinary repairs. What I am trying to do is to prevent the Department from diverting the appropriation made for repairs to the reconstruction of vessels.

Mr. FOSS. There is no diversion whatever of the appropriation, and never has been. It is simply a question of the amount of repairs.

Mr. CAMPBELL of Kansas. What I want to know is, are all repairs made in the Government navy-yards, or are there any repairs made under contract?

Mr. FOSS. A very few, sometimes in foreign waters, which are made by a private contractor.

Mr. CAMPBELL of Kansas. But when a vessel gets out of repair——

Mr. FOSS. Repairs, generally speaking, are made in our own navy-yards.

Mr. McNARY. I would like to ask the gentleman what would happen if we placed a limitation of this character——

Mr. FOSS. I have already answered that question, I will say. Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Minnesota [Mr. TAWNEY].

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. TAWNEY. Division, Mr. Chairman.

The committee divided; and there were—ayes 36, noes 55.

Mr. WILLIAMS. Mr. Chairman, reserving the palpable point of order, I would like to suggest to the gentleman that he move that the committee do now rise.

Mr. FOSS. We have just the same proposition made by the gentleman on another paragraph.

Mr. WILLIAMS. I reserve the point of order.

Mr. FOSS. I will ask the gentleman from Minnesota if he is willing to take the vote now?

Mr. TAWNEY. Mr. Chairman, I take it, from the vote just had, that it is the sentiment of the committee that the Secretary of the Navy should have unlimited discretion in the expenditure of this $11,000,000 for the repair of vessels, including the reconstruction of a navy that has cost several billion of dollars, and I will therefore withdraw the other amendment.

Mr. FOSS. Now I desire to call the attention of the committee to the fact.

Mr. WILLIAMS. I reserve the point of order.

The CHAIRMAN. The gentleman from Minnesota asks leave to withdraw the amendment to the other paragraph, and it will be so ordered unless there is objection.

Mr. FOSS. I desire to call the attention of the committee to the fact that we have reached the increase of the Navy. I know many Members are interested in this provision, and I will now move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the naval appropriation bill and had come to no resolution thereon.

STEEL DREDGES FOR THE PANAMA CANAL.

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed:

To the Senate and the House of Representatives:

I transmit herewith copies of correspondence between the Secretary of War and myself on the subject of the purchase of two steel dredges for the Panama Canal.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 15, 1906.*

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5668. An act granting an increase of pension to George P. Sealey;

S. 4488. An act granting an increase of pension to James F. Amis;

S. 5780. An act granting a pension to Lorenzo E. Johnson;

S. 394. An act granting an increase of pension to Amanda Lucas;

S. 442. An act granting an increase of pension to Francis Colton;

S. 522. An act granting an increase of pension to Emma Worrall;

S. 557. An act granting an increase of pension to Mariol Lasure;

S. 869. An act granting an increase of pension to Baltzar Mowan;

S. 993. An act granting an increase of pension to Samuel J. Langdon;

S. 678. An act granting an increase of pension to Albert Butler;
S. 1223. An act granting a pension to Mary E. Bronaugh;
S. 1508. An act granting an increase of pension to James A. Murch;
S. 4358. An act granting an increase of pension to Thomas McCormick;
S. 1513. An act granting an increase of pension to Harriette A. Rawles;
S. 4361. An act granting an increase of pension to John W. Daley;
S. 4239. An act granting an increase of pension to Job Rice;
S. 4401. An act granting an increase of pension to George W. Tomlinson;
S. 4457. An act granting an increase of pension to Louis A. Tyson;
S. 4460. An act granting an increase of pension to Ann J. Thompson;
S. 4525. An act granting an increase of pension to David Oglevie;
S. 4569. An act granting an increase of pension to Augustus A. Nevins;
S. 4692. An act granting an increase of pension to Adaline M. Thornton;
S. 5054. An act granting an increase of pension to George H. Woodward;
S. 4718. An act granting an increase of pension to George W. Gilson;
S. 4752. An act granting an increase of pension to Thomas J. Tidswell;
S. 4796. An act granting an increase of pension to Lorenda J. White;
S. 4983. An act granting an increase of pension to John M. Farquhar;
S. 5082. An act granting an increase of pension to David N. Winsell;
S. 5163. An act granting an increase of pension to John Marah;
S. 5247. An act granting an increase of pension to Jacob Wigal;
S. 5343. An act granting an increase of pension to Ernest H. Wardwell;
S. 5349. An act granting an increase of pension to William H. H. Robinson;
S. 5359. An act granting an increase of pension to William H. Ward;
S. 5379. An act granting an increase of pension to Otto A. Resum;
S. 5492. An act granting an increase of pension to Joseph F. Tebbetts;
S. 5504. An act granting an increase of pension to Joseph Dickson;
S. 5516. An act granting an increase of pension to Alfred M. Hamlen;
S. 5522. An act granting an increase of pension to Charles E. Sicho;
S. 5532. An act granting an increase of pension to Simon A. Snyder;
S. 5523. An act granting an increase of pension to Thomas J. Pickett;
S. 5571. An act granting an increase of pension to Betsey B. Whitmore;
S. 5579. An act granting an increase of pension to Henry T. Sisson;
S. 5603. An act granting a pension to Kate S. Hutchings;
S. 5631. An act granting an increase of pension to Isaac M. Howard;
S. 5640. An act granting an increase of pension to Clinton B. Wintersteen;
S. 5754. An act granting a pension to Hannah McCarty;
S. 5641. An act granting an increase of pension to John W. Fletcher;
S. 5671. An act granting an increase of pension to Richard L. Delong;
S. 5673. An act granting an increase of pension to Hilton Springsteed;
S. 5680. An act granting an increase of pension to Thomas J. Bower;
S. 5702. An act granting an increase of pension to Anna C. Bingham;
S. 5735. An act granting an increase of pension to Andrew D. Danley;
S. 5704. An act granting an increase of pension to Ruth P. Price;
S. 2467. An act granting an increase of pension to Martin Clark;
S. 1705. An act granting an increase of pension to Lewis S. George;
S. 2851. An act granting an increase of pension to George Chambers;
S. 2043. An act granting an increase of pension to Andrew H. Wolf;
S. 5736. An act granting an increase of pension to Mary Clark;
S. 2194. An act granting a pension to William H. Sweeney, jr.;
S. 2978. An act granting an increase of pension to Eli W. Knowles;
S. 3033. An act granting an increase of pension to Aaron F. Patton;
S. 3040. An act granting a pension to Mary C. Wilsey;
S. 3219. An act granting an increase of pension to Joseph M. Allison;
S. 3271. An act granting an increase of pension to Margarette E. Brown;
S. 3299. An act granting an increase of pension to Spencer C. Stillwell;
S. 3483. An act granting an increase of pension to William L. Sheaff;
S. 3738. An act granting an increase of pension to Lisania Judd;
S. 3485. An act granting an increase of pension to Mathias Hammes;
S. 3798. An act granting an increase of pension to Charles Faull;
S. 3797. An act granting an increase of pension to Ahimaaz E. Ward;
S. 4005. An act granting an increase of pension to Michael Quill;
S. 4048. An act granting an increase of pension to Henry S. Knecht;
S. 4177. An act granting an increase of pension to Harlan P. Cobb;
S. 4665. An act granting an increase of pension to Lewis Du Bois;
S. 5536. An act granting an increase of pension to William O. Clark;
S. 5539. An act granting an increase of pension to Hermann Muehlberg;
S. 4175. An act granting an increase of pension to John Caverly;
S. 5562. An act granting an increase of pension to John Hull;
S. 5659. An act granting an increase of pension to William I. Brewer; and
S. 5658. An act granting an increase of pension to Nancy Pruit.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind.;
H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvement at the expense of persons, companies, or corporations;
H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across Roanoke River at or near Weldon, N. C.;
H. R. 13946. An act for the relief of Charles L. Allen; and
H. R. 6101. An act for the relief of the estate of Charles M. Demarest, deceased.

WITHDRAWAL OF PAPERS FROM THE FILES.

The Clerk read as follows:

Mr. HAYES asks leave to withdraw from the files of the House, without leaving copies, the papers in the case of Thomas Cox (H. R. 8895, Fifty-ninth Congress), no adverse report having been made thereon.

Mr. HAYES. Mr. Speaker, I move that the request be granted.

The motion was agreed to.

COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.

Mr. BARTHOLDT. Mr. Speaker, I ask unanimous consent for the present consideration of this resolution.

Mr. WILLIAMS. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. I understand this is a request to do some printing and binding. Can not it be done by motion?

The SPEAKER. The Clerk will first report the resolution.

The Clerk read as follows:

Resolved, That the Committee on Public Buildings and Grounds be authorized to have such printing and binding done as may be required in the transaction of its business during the Fifty-ninth Congress.

The SPEAKER. The Chair is of opinion that it can not be done except by unanimous consent.

Mr. WILLIAMS. Will the gentleman yield to me for a moment?

Mr. BARTHOLDT. I will.

Mr. WILLIAMS. I will say that once before I have taken the position that mere clerical matters were not within the line of policy that I denounce. I shall not make objection in this case, regarding it as a matter of procedure only.

The SPEAKER. The Chair hears no objection.

The question was taken; and the resolution was agreed to.

Mr. FOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned.

Address delivered by Gen. Horace Porter, LL. D., at Annapolis, upon the occasion of the memorial ceremonies in honor of John Paul Jones, April 24, 1906.

[Printed in pursuance of Joint Resolution of Congress.]

This day America reclaims her illustrious dead. We gather here in the presence of the Chief Magistrate of the nation and of this vast concourse of representative citizens of the Old World and the New to pay our homage to the leading historic figure in the early annals of the American Navy, to testify that his name is not a dead memory, but a living reality, to quicken our sense of appreciation and to give assurance that the transfer of his remains to the land upon whose arms he shed so much luster is not lacking in distinction by reason of the long delay.

The history of John Paul Jones reads more like romance than reality. It is more like a fabled tale of ancient days than the story of an American sailor of only a century and a quarter ago. As light and shade produce the most attractive effects in a picture so the singular contrasts, the strange vicissitudes of his eventful life surround him with an interest that attaches to but few of the world's celebrities. His rise from the humble master's apprentice to the command of conquering squadrons; his transition from the low-born peasant boy to the favorite of imperial courts; crouching at times within the shadow of obscurity, at other times standing on the highest pinnacle of fame—these are some of the features of his marvelous career that appeal to the imagination, excite men's wonder, and fascinate the minds of all who make a study of his life.

The two distinct natures he possessed lend a peculiar interest to his personality. He displayed the fierce temerity of the ancient sea kings combined with the knightly courtesy of mediæval chivalry. At one time we find him aboard the *Bonhomme Richard*, the frail merchant ship he had hurriedly converted into a man-of-war, equipped with condemned guns, whose explosion early decimated his crew, attacking the *Serapis*, a superior British ship just off her own shores, his vessel soon a wreck and sinking, most of his guns disabled, half of his motley crew of Americans and French lying about him dead or dying, the scuppers running with human blood, his ship a charnel house, over 200 prisoners confined in the hold rushing up from their prison and attacking the remnant of his exhausted crew, his own consort even, with her treacherous captain, raking his vessel with her fire, flame and smoke issuing from the lower deck filled with splinters, the mad carnage raging till it seemed that hell itself had usurped the place of earth, the undaunted commander in the very thickest of the combat, hatless and begrimed with powder, the very incarnation of battle, preparing to lead a boarding party and try this one desperate chance of success, and when asked by his antagonist who saw his desperate condition, whether he had struck his flag replying, "I've just begun to fight!" Then, by the inspiration of his example, forging weaklings into giants, capturing his opponent, snatching victory from defeat and transferring his crew to his prize just in time to see his own ship sink beneath the waves with the flag still floating defiantly from the mast.

At another time we see him arrayed in the height of fashion, displaying an easy manner and marked elegance in the brilliant salons of the most polite courts of Europe, replying gracefully to the compliments of kings and princes in fluent English, French, and Spanish, showing that he could tread the polished floor of a royal palace as becomingly as the blood-stained deck of a man-of-war.

He was a many-sided man. On the water he was the wizard of the sea; on the land he showed himself an adept in the realms of diplomacy. While his exploits as a sailor eclipsed by their brilliancy his triumphs as a diplomat, he often proved himself a master both of the science of statecraft and the subtleties of diplomacy. He early urged upon the Government the policy of weakening the blockade so disastrous to the colonies, which were essentially commercial, by sending war ships into Great Britain's home waters, attacking her vast commerce on the sea, compelling her to keep fleets at home to protect it, raiding her coasts, and bringing to her people an awakening sense of the realities of war in order that they might tire of it. He aimed to save his prizes, so that he could exhibit captured British war ships in French ports, show the people the hopefulness of the cause of the colonies, stimulate the Government of that power, and encourage it to send armies and fleets to our relief.

His chief diplomatic triumph was when he took the captured *Serapis* and *Countess of Scarborough* into the principal harbor of Holland for the express purpose of raising irritating questions regarding the rights of belligerent vessels in neutral ports and embroiling England in a war with Holland. He undertook this mission of his own initiative and against the advice of such experienced diplomatists as De Vauguyon, the French ambassador to Holland, and Dumas, the eminent international lawyer, and by his tact, his ingenuity, and the signal ability of his correspondence he succeeded perfectly in his undertaking, and England soon had another foe arrayed against her. By a rare tact he escaped giving offense to Holland and at the same time avoided wounding the susceptibilities of France.

So much was our Government impressed by this and other exhibitions of his rare diplomatic skill that it intrusted him with the delicate and difficult mission of collecting international claims.

Washington said of him, in a letter addressed to Congressman Hewes:

Mr. Jones is clearly not only a master mariner within the scope of the art of navigation, but he also holds a strong and profound sense of the political and military weight of command at sea.

Jefferson, by direction of Washington, intrusted him with a diplomatic mission to Holland to see whether that State could be induced to join us in an expedition against the pirates of the Barbary coast, and made known that it was the President's desire to give him command of a squadron for such a purpose. But his death intervened before the necessary ships could be furnished.

Paul Jones had written in French an exceedingly able pamphlet entitled "Treatise on the Existing State of the French Navy," which produced a profound impression. Napoleon, when first consul, was so struck by it that he had it reprinted, and the title page bore the inscription "Written by the great American and Russian Admiral."

When Paul Jones took his prizes into the ports of Holland the English minister there distinguished himself by constantly alluding in official correspondence to the conqueror of the *Serapis* as "a certain Paul Jones, a pirate." Next to the Admiral's able and complete refutation of this unfounded characterization, made to the Dutch States-General and accepted by them, perhaps his best answer was the explanation he wittily gave some time afterwards in a conversation.

Having been alluded to as a pirate—

Said he—

I looked up the authoritative definitions of that epithet, and found among them "Pirate—one who is at war with mankind." I am holding a regular commission as a naval officer in an honorable service and making war only upon the armed enemies of my country. England is at war with America, France, Holland, and Spain, and engaged in provoking war in several colonies, and it seems to me that she is the pirate, not I.

When he landed a force in England and his sailors carried off a quantity of silver plate from Lord Selkirk's estate, Paul Jones purchased it from the crew, who then owned it and counted its value as prize money, paying for it over $700 out of his own pocket, a large sum in those days, and as soon as he could procure the means of communicating returned it and received a handsome acknowledgment from Lord Selkirk. Lord Dunmore, on the contrary, heading a party of British and Tories, completely ravaged the plantation on which Paul Jones had established himself in Virginia, burned to the ground his houses and mill, destroyed his wharf, killed his cattle, and carried off his able-bodied slaves of both sexes to be sold in Jamaica. If piracy there was, the record stamps not Paul Jones, but Lord Dunmore as the pirate.

One of the most conspicuous traits in the character of our illustrious sailor was his pronounced and enthusiastic loyalty to America. In a letter to Jefferson in 1788 he said:

I can never renounce the glorious title of a citizen of the United States.

At another time he wrote:

I do not wish to engage in privateering. My object is not that of private gain, but to serve the public in a way that may reflect credit on our infant Navy and give prestige to our country on the sea.

And yet this is the man whom calumny has called a privateersman.

At the outbreak of the Revolution, after he had presented to Congress, by request, his celebrated suggestions for the organization of an efficient navy—a plan as applicable fundamentally to the service to-day as then—he wrote:

As this is to be the foundation, or, I may say, the first keel timber of a new navy, which all patriots must hope shall become the foremost of the world * * *.

And, again:

If by exceedingly desperate fighting one of our ships shall conquer one of theirs of markedly superior force, we shall be hailed as the pioneers of a new power on the sea with untold prospects of development.

Prophetic words from the man who was destined to fight just such a battle.

Paul Jones never sailed in a man-of-war whose quarter-deck was worthy of being trodden by his feet. His battles were won not by his ships, but by his genius. Employing the feeble vessels given him or which he himself procured he sailed forth boldly to strike the enemies of his country's liberty wherever he could find them and paused not till he dipped the fringes of his banners in the home waters of the mistress of the seas. He captured some thirty vessels from the foremost of naval powers, made four bold descents upon the land, seized large quantities of arms and military stores, destroyed more than a million dollars' worth of property on the sea, and took hundreds of prisoners whose capture was used to force an exchange and release our men, who were being slowly tortured to death in the loathsome, pestilential prison hulks in Brooklyn. Congress afterwards thanked him by resolution for "his bold and successful enterprises to redeem from captivity the citizens of these States who had fallen under the power of the enemy."

He was the very personification of valor. He ranked courage as the manliest of human attributes. He loved brave men; he loathed cowards. He believed that there was scarcely a sin for which courage could not atone. He showed this trait in all the aphorisms he uttered, such as: "Boldness, not caution, wins;" "Men mean more than guns in the rating of ships;" "I am not calculating risks, but estimating the chances of success;" "The sources of success are quick resolve and swift stroke;" "Bravery is that cheerful kind of spirit that makes a man unable to believe that there is any such word as 'danger' in the dictionary, or, if so, not able to see why it should be there."

As long as manly courage is talked of or heroic deeds are honored there will remain green in the hearts of brave men the talismanic name of Paul Jones.

The admiral had that tenderness of heart which is usually coupled with true courage. While he could resort to stern measures in enforcing discipline and suppressing mutiny, he governed his crew more by attaching them to him by kind acts and just treatment than by administering corporal punishment. Referring to his command of the *Providence*, he wrote:

There was no cat-o'-nine tails aboard, because I threw the only one we had in the sea the first day out.

Again, he said:

I wish all my men to be contented and happy.

He was as generous as the sun itself. For a long time he bore all his personal expenses and abstained from presenting demands for pay to our poverty-stricken Government. When in foreign seas he found that the Government regulations did not authorize the pay the handbills of overzealous recruiting officers had promised to his sailors, he paid the difference out of his own pocket so that his gallant crew should not feel that they were victims of a deception.

For one who lived in an age of loose morals and spent his youthful years amidst the temptations which then beset a seafaring man in the merchant service, he was singularly free from every form of dissipation. He had no fondness for revelry, jolly coffee-house dinners, or drinking bouts, which formed the principal amusements in foreign ports. While others were carousing ashore he was studying in his cabin, perfecting himself in history and languages, pondering upon the maneuvering of ships and the grand strategy of naval warfare, and paving the way for his future victories, which were won first with the brain, then with the sword.

Among his closest friends and most ardent admirers were Washington, Jefferson, Franklin, Lafayette, Hamilton, Wayne, Livingston, the two Morrises, and other eminent Americans. Not bad companionship for a "pirate."

Notwithstanding the gravity of his nature, he at times displayed a wit that could cut the sting from the keenest criticism and gild disappointment with a pleasantry.

He fashioned epigrams in prose and poetry.

Mrs. Livingston, in speaking of him in her diary as a conversationalist, said:

He by turns delighted, amazed, and mystified us.

The Duchess de Chartres wrote:

Not Bayard or Charles le Téméraire could have laid his helmet at a lady's feet with such knightly dignity.

The Marquis de Vaudreuil, the French admiral with whom Paul Jones once made a voyage, said:

His talents are so wonderful and of such diversity that each day he brings forth some new proof of cleverness.

Franklin spoke of the "strange magnetism of his presence, the undescribable charm of his manner."

His criticisms and retorts were at times so caustic that they made him enemies. When Mr. Adams, at a reception in Philadelphia, attempted to relate an anecdote of Fontenelle in French, Paul Jones, upon being asked by some friends what he thought of Mr. Adams's French, replied, without reflecting that the remark might be repeated: "If the political sentiments of Mr. Adams were as English as his French, he would be easily the greatest Tory in the land." This came to the ears of Mr. Adams, and it was long before he forgave the Admiral for the criticism.

But his heart was not often attuned to mirth; its chords were frequently set to strains of sadness. For years he was engaged in a struggle against insubordination, treachery, jealousy, neglect at home, and abuse abroad. The people against whom he fought opened their floodgates of calumny. No misrepresentation of his acts was too gross, no distortion of history too monstrous. These well-concerted attacks of the pen were intended to set him before the Old World in an aspect that was a vicious caricature of his true nature, and they even gave so erroneous an impression of him in this country that it has required a century of time to correct it.

He was too actively engaged in making current history to devote much time to reading it, but he was once moved to write of his enemies:

One may often correctly gauge one's merits by the virulence of their abuse.

He had to learn that "reproach is a concomitant to greatness, as satire and invective were an essential part of a Roman triumph;" that in public life all hours wound, the last one kills. He lived to realize that success is like sunshine, it brings out the vipers, and that the laurel is a narcotic that prevents others from sleeping.

Worn out with the fatigues of arduous service, at the untimely age of 45, alone in a foreign land, he surrendered to death, the only foe to whom he ever lowered his colors. By some strange and unaccountable fatality he was covered immediately with the mantle of forgetfulness. In all the annals of history there is not another case in which death has caused the memory of so conspicuous a man to drop at once from the height of prominence to the depth of oblivion.

He had been counted as one of the rarest contributions to "earth's contingent of master spirits." He enjoyed the unique distinction of being the first to hoist the present form of our flag upon an American man-of-war, the first to receive a salute to it from a foreign power, the first to raise it upon a hostile war ship of superior strength captured in battle, and under his command that banner was never once dethroned from its proud supremacy. He is the only commander in history who ever landed an American force upon a European coast.

Congress complimented him by resolution, voted him a medal to commemorate his greatest victory, and awarded him the privilege of the floor of both Houses; he received a similar favor from the Constitutional Convention; the people of this and other lands organized public demonstrations in his honor, France knighted him, Louis XVI presented him with a gold-mounted sword, Denmark pensioned him, Catharine of Russia created him an admiral, conferred upon him imperial decorations, and loaded him with marks of distinction. If he had lived a little longer he would in all probability have been named admiral of France. The rugged sailor had compelled the recognition of genius; the Scottish peasant boy had broken down the barriers of caste.

In life he was perhaps the most conspicuous personage on two continents, and yet the moment he was placed beneath the ground some strange fate seemed to decree that he was to be snatched from history and relegated to fiction. No inscription was engraved upon his coffin, no statue was erected in his honor,

no ship was given his name, no public building was called after him. It required six years of research to find the apartment in which he had lived in Paris and held his brilliant salons, which were attended by the foremost celebrities of the period, and as long a time to discover his unmarked and forgotten grave.

When finally his exact place of burial had been definitely located by authentic documents and other positive evidence, the ground exhibited so repulsive an appearance that the aspect was painful beyond expression. There was presented the spectacle of a hero who had once been the idol of the American people lying for more than a century, like an obscure outcast, in an abandoned cemetery which had been covered later by a dump pile to a height of fifteen feet, where dogs and horses had been buried and the soil was soaked with polluted waters from undrained laundries. As busy feet tramped over the ground the spirit of the hero who lay beneath might well have been moved to cry, in the words of the motto on his first flag, not in defiance, but in supplication then, "Don't tread on me." No American citizen upon contemplating on the spot these painful circumstances could have shrunk from an attempt to secure for his remains a more deserving sepulture.

When the body was exhumed it was fortunately found perfectly preserved, with all the flesh intact, in consequence of having been buried in a leaden coffin filled with alcohol—the usual method of embalming in those days. There were only five leaden coffins in the entire cemetery, four of which were identified as those of strangers. While the features of the body in the fifth coffin were easily recognizable when compared with the accurate busts and medals of Paul Jones, while his initials were found upon the linen and the identity was convincing from the first, yet it was deemed prudent, on account of the importance of the subject, to submit the body to a thorough scientific examination by the most competent experts in the profession of anthropology, in order that the proofs might be authoritatively established and officially placed on record. The most eminent scientists of France, to whom we owe a lasting debt of gratitude, contributed their efforts to this task in the presence of the members of the American embassy and the consulate and the highest officials of the municipality of Paris.

The identification was rendered easy and was established with absolute certainty by reason of the authentic busts and medals obtainable for making the comparative measurements, the abundance of accurate information in existence descriptive of the dead, and the excellent state of preservation of the body, due to the alcohol, which enabled the scientists to perform an autopsy that verified in every particular the disease of which it was known the subject had died.

Twelve American or French persons took part in the identification, and after six days passed in the application of every conceivable test, their affirmative verdict was positive and unanimous and was formally certified to under the official seals of their respective departments, as may be seen from their reports filed with the Government, both in Washington and in Paris.

All that is mortal of the conqueror of the *Serapis* lies in yonder coffin. He bore the standard of his country for the first time to France; he returned with it draped upon his bier. That generous land, our traditional friend and former ally, now sends a squadron of her noble warships to unite in doing honor to the memory of an illustrious brother sailor.

When Congress adopted the present form of the American flag, it embodied in the same resolution the appointment of Capt. John Paul Jones to command the ship *Ranger*. When he received the news, history attributes to him this remark: "The flag and I are twins; born the same hour from the same womb of destiny, we can not be parted in life or in death." Alas! they were parted during a hundred and thirteen years, but, happily, they are now reunited.

It was deemed well to bring back his body, in the belief that it would bring back his memory. Time has shed a clearer light upon his acts; distance has brought him into the proper focus to be viewed. A tree is best measured when it is down. His honored remains will be laid to rest on this historic spot in a mausoleum befitting his fame, but his true sepulcher will be the hearts of his countrymen. Generations yet to come will pause to read the inscription on his tomb, and its mute eloquence will plead for equal sacrifice should war again threaten the nation's life.

He was a lesson to his contemporaries; he will ever be an inspiration to his successors; for example teaches more than precept and patterns are better followed than rules.

He was taken all too soon from the living here to join the other living, commonly called the dead. When he passed the portals of eternity, earth mourned one hero less. We shall not meet him till he stands forth to answer to his name at roll call, when the great of earth are summoned on the morning of the last great reveille. Till then, farewell, noblest of all spirits, bravest of all hearts. The simplicity of the rugged sailor was mingled with the heroic grandeur of your nature. Wherever blows fell thickest, your crest was in their midst. The story of your life rises to the sublimity of an epic. Untitled knight of the blue waters, "Wrathful Achilles of the Ocean," conqueror of the conquerors of the sea, the recollection of your deeds will never cease to thrill men with the splendor of events and inspire them with the majesty of achievement. You honored the generation in which you lived, and future ages will be illumined by the brightness of your glory.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a statement of rents collected from property in square No. 143, Washington, D. C.—to the Committee on Ways and Means, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a statement of rents received from property in square No. 324, Washington, D. C.—to the Committee on Ways and Means, and ordered to be printed.

A letter from Horace Porter, transmitting, in accordance with the request of Congress, a copy of his address at the ceremonies at Annapolis, Md., in memory of John Paul Jones—to the Committee on the Library, and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GARRETT, from the Committee on Claims, to which was referred the bill of the House (H. R. 3268) for the relief of Henry O. Bassett, heir of Henry Opeman Bassett, deceased, reported the same without amendment, accompanied by a report (No. 4213); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GILL: A bill (H. R. 19308) to authorize the circuit courts of appeals, or the senior judge thereof, to designate a district or circuit judge to try criminal cases in the district or circuit courts, and for other purposes—to the Committee on the Judiciary.

By Mr. ADAMS of Wisconsin (by request): A bill (H. R. 19309) authorizing and directing the Attorney-General of the United States to institute a suit or proceeding in the supreme court of the District of Columbia by application for a writ of quo warranto against the Washington Gaslight Company for the purpose of having determined and adjudged the legality of the act or acts of said company in issuing $2,600,000 of certificates of indebtedness of said company and delivering them to its stockholders as a gratuity—to the Committee on the Judiciary.

By Mr. LESTER: A bill (H. R. 19310) to provide for the erection of monuments, respectively, to Gens. Daniel Stewart and James Screven, two distinguished officers of the American Army—to the Committee on the Library.

By Mr. KENNEDY of Nebraska: A bill (H. R. 19311) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended by an act approved February 5, 1903—to the Committee on the Judiciary.

By Mr. HUGHES: A bill (H. R. 19312) to authorize the Mingo-Martin Coal Land Company to construct a bridge across Tug Fork of Sandy River at or near mouth of Wolf Creek—to the Committee on Interstate and Foreign Commerce.

By Mr. MEYER: A bill (H. R. 19313) to construct a road along the south bank of the Anacostia River—to the Committee on the District of Columbia.

By Mr. LEVER: A bill (H. R. 19314) to restore to certain citizens the proceeds arising from the sale of their lands under the several acts levying direct taxes, and for other purposes—to the Committee on War Claims.

By Mr. PATTERSON of South Carolina: A bill (H. R. 19315) providing for a survey of South Edisto River, in South Carolina—to the Committee on Rivers and Harbors.

By Mr. SMALL: A bill (H. R. 19316) appropriating the receipts from the sale and disposal of public lands in certain States to the construction of works for the drainage or reclamation of swamp and overflowed lands—to the Committee on the Public Lands.

By Mr. OTJEN: A joint resolution (H. J. Res. 155) directing the Secretary of War to make a survey or preliminary examination with a view to the reduction of wave action—to the Committee on Rivers and Harbors.

By Mr. SULLOWAY: A resolution (H. Res. 521) directing the purchase of copies of "Matthews' Legislative, Pension, and Postal Dockets for the use of Senators and Representatives in Congress"—to the Committee on Accounts.

By Mr. BOWERS: A memorial of the legislature of Mississippi, relative to Gulfport Harbor—to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAMSON: A bill (H. R. 19317) granting an increase of pension to Samantha B. Marshall—to the Committee on Pensions.

By Mr. AIKEN: A bill (H. R. 19318) granting an increase of pension to Mary E. Rivers—to the Committee on Pensions.

Also, a bill (H. R. 19319) granting an increase of pension to Elizabeth Spruell—to the Committee on Pensions.

Also, a bill (H. R. 19320) granting an increase of pension to Louise J. Pratt—to the Committee on Pensions.

Also, a bill (H. R. 19321) granting an increase of pension to Mary E. Turner—to the Committee on Pensions.

Also, a bill (H. R. 19322) granting an increase of pension to Mary Isabella Rykard—to the Committee on Pensions.

Also, a bill (H. R. 19323) granting an increase of pension to Orlando L. Levy—to the Committee on Pensions.

Also, a bill (H. R. 19324) granting an increase of pension to Susan M. Long—to the Committee on Pensions.

Also, a bill (H. R. 19325) granting an increase of pension to George Appel—to the Committee on Pensions.

Also, a bill (H. R. 19326) granting an increase of pension to Margaret R. Van Diver—to the Committee on Pensions.

By Mr. BARTLETT: A bill (H. R. 19327) for the relief of Edward Ousley—to the Committee on Military Affairs.

Also, a bill (H. R. 19328) for the relief of Orin J. Lucas—to the Committee on Military Affairs.

By Mr. BURTON of Delaware: A bill (H. R. 19329) granting an increase of pension to Elizabeth N. Dunn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19330) for the relief of Thomas Watson—to the Committee on Claims.

By Mr. BUTLER of Pennsylvania: A bill (H. R. 19331) granting an increase of pension to Neoline H. Ash—to the Committee on Pensions.

By Mr. CROMER: A bill (H. R. 19332) granting an increase of pension to Earl W. Soper—to the Committee on Invalid Pensions.

By Mr. CURTIS: A bill (H. R. 19333) granting an increase of pension to John W. Painter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19334) granting an increase of pension to Henry Husson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19335) granting an increase of pension to Mary J. King—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19336) granting an honorable discharge to James Carroll—to the Committee on Military Affairs.

By Mr. DRAPER: A bill (H. R. 19337) granting an increase of pension to Elizabeth C. Kennedy—to the Committee on Pensions.

By Mr. FOSTER of Indiana: A bill (H. R. 19338) granting an increase of pension to John S. Brayfield—to the Committee on Invalid Pensions.

By Mr. FULKERSON: A bill (H. R. 19339) granting a pension to Robert Wilson—to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 19340) granting a pension to Anna A. McKewen—to the Committee on Pensions.

Also, a bill (H. R. 19341) granting a pension to Elizabeth Walmsley—to the Committee on Pensions.

By Mr. HEPBURN: A bill (H. R. 19342) granting an increase of pension to Thomas J. Cooper—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 19343) for the relief of the legal representatives of the estate of James Maney, deceased—to the Committee on War Claims.

Also, a bill (H. R. 19344) for the relief of the legal representatives of the estate of James Money, deceased—to the Committee on War Claims.

By Mr. HUFF: A bill (H. R. 19345) granting an increase of pension to George M. Hobaugh—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19346) granting an increase of pension to Frank Brothers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19347) granting an increase of pension to David W. McClure—to the Committee on Invalid Pensions.

By Mr. KNOWLAND: A bill (H. R. 19348) for the relief of W. D. Farron—to the Committee on Claims.

By Mr. LACEY: A bill (H. R. 19349) granting an increase of pension to John M. Fales—to the Committee on Invalid Pensions.

By Mr. LEVER: A bill (H. R. 19350) granting an increase of pension to Benjamin F. Dawkins—to the Committee on Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 19351) granting a pension to William C. Mankin—to the Committee on Invalid Pensions.

By Mr. McKINNEY: A bill (H. R. 19352) granting a pension to Philip Killey—to the Committee on Invalid Pensions.

By Mr. MACON: A bill (H. R. 19353) for the relief of A. C. Mays, administrator of the estate of E. A. Mays, deceased—to the Committee on War Claims.

By Mr. MAHON: A bill (H. R. 19354) granting three months' pay proper to Henry C. Pearson—to the Committee on War Claims.

By Mr. MUDD: A bill (H. R. 19355) for the relief of Matilda Pearson, widow of William E. Pearson—to the Committee on Claims.

By Mr. PATTERSON of South Carolina: A bill (H. R. 19356) for the relief of the trustees of Steep Bottom Baptist Church—to the Committee on War Claims.

Also, a bill (H. R. 19357) granting an increase of pension to Anna Lamar Walker—to the Committee on Pensions.

By Mr. ROBINSON of Arkansas: A bill (H. R. 19358) for the relief of the heirs of the estate of Dr. W. D. Barnett, deceased, of Edinburg, Cleveland County, Ark.—to the Committee on War Claims.

By Mr. SCHNEEBELI: A bill (H. R. 19359) granting an increase of pension to Levi Brader—to the Committee on Invalid Pensions.

By Mr. SMITH of Texas (by request): A bill (H. R. 19360) granting a pension to J. M. Dragoo—to the Committee on Pensions.

Also (by request), a bill (H. R. 19361) granting a pension to B. C. Dragoo—to the Committee on Pensions.

Also (by request), a bill (H. R. 19362) granting a pension to Jack W. Long—to the Committee on Pensions.

Also, a bill (H. R. 19363) granting an increase of pension to Theodore Bland—to the Committee on Pensions.

By Mr. SULLIVAN of Massachusetts: A bill (H. R. 19364) granting an increase of pension to Anna Ring—to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 19365) granting an increase of pension to Joseph K. Bradfield—to the Committee on Invalid Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 19366) to reimburse John A. Norris for property destroyed during the civil war—to the Committee on War Claims.

By Mr. WOOD of Missouri: A bill (H. R. 19367) granting a pension to Thomas Corten—to the Committee on Invalid Pensions.

By Mr. ZENOR: A bill (H. R. 19368) for the relief of John H. Lagle—to the Committee on Military Affairs.

By Mr. WELBORN: A bill (H. R. 19369) granting an increase of pension to John F. G. Cliborne—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 19370) for the relief of Daniel Welch—to the Committee on Military Affairs.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred, as follows:

A bill (H. R. 19276) granting an increase of pension to Ann Wylie Whitaker—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18921) granting a pension to Mary Elizabeth

McCann—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15712) granting a pension to Amanda Ricks—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Division No. 1, Ancient Order of Hibernians, Blue Earth County, Minn., for statue to Commodore John Barry—to the Committee on the Library.

By Mr. AIKEN: Paper to accompany bill for relief of Joseph J. Brangan—to the Committee on Pensions.

Also, papers to accompany bills for relief of Margaret Van Diver, Mary E. Turner, Orlando L. Levy, George Oppel, Susan M. Lang, Mary Isabella Rykard, Mary E. Rivers, Elizabeth Spruell, and Louise J. Pratt—to the Committee on Pensions.

By Mr. BATES: Petition of K. C. Russell, of Takoma Park, D. C., against Sunday closing of the Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

Also, petition of Erie (Pa.) Typographical Union, No. 77, favoring the Chinese-exclusion bill—to the Committee on Foreign Affairs.

Also, petition of V. A. Burchard, secretary of the U. C. T., of Meadville, Pa., against bill H. R. 4549, consolidating third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of George Spitler, of Saegerstown, Pa., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petitions of F. W. Thornton, of Springsboro, Pa.; Fink & McLaughlin, of North East, Pa.; the Union City Canning Company, and W. L. Mitchell, of Union City, Pa., and the Sayer Company, of Meadville, Pa., against subsection 3 of section 7 of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Dawson Brothers, of Corry, Pa., for two classes of mail only—to the Committee on the Post-Office and Post-Roads.

Also, petition of Grange No. 131, of Mill Village, Pa., for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Hamilton Brothers, of North Girard, Pa., against subsection 3 of section 7 of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Humane Society, against bill H. R. 47, relative to transportation of live stock—to the Committee on Interstate and Foreign Commerce.

Also, petition of Edward C. Moon, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

Also, petition of F. W. Nick et al., of Erie, Pa., favoring the Mann bill (H. R. 8102)—to the Committee on Patents.

Also, petition of C. W. Everts, of Salamanca, N. Y., against the Culberson amendment to rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BROWN: Petition of C. O. Marsh, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of S. R. Adams, Henry E. Voigt, Herman Racthig, R. H. Johnson, C. O. Marsh, and J. E. Himley, all of Wisconsin, for amendment of section 14, chapter 180, of the Postal Laws and Regulations—to the Committee on the Post-Office and Post-Roads.

By Mr. BURNETT: Paper to accompany bill for relief of F. M. Bruce—to the Committee on Military Affairs.

By Mr. BUTLER of Pennsylvania: Petition of the Westminster Presbyterian Church of West Chester, Pa., for a constitutional amendment for the suppression of polygamy—to the Committee on the Judiciary.

Also, petition of C. P. Barnard, master of Grange No. 1263, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of J. F. Lantz, master of Grange No. 1306, of Pennsylvania, and Sellers Haffman, master of Grange No. 1231, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the General Federation of Women's Clubs, and the club of Media, Pa., for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. CROMER: Petition of Divisions 81 and 355, Amalgamated Association of Street and Electric Railway Employees of America, of the city of Eaton, Ind., and the Trades Assembly of Alexandria, Ind., for the present Chinese-exclusion act—to the Committee on Foreign Affairs.

Also, petition of Isaiah Dudleston et al., of Albany, Ind., against bill H. R. 48, relative to a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petitions of the Enterprise and the Witness, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of J. C. Peters and 41 other citizens, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Dr. J. M. Miller et al., of Adams County, Ind., and J. A. Sprague, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Local No. 32, American Federation of Musicians, for bill H. R. 8748, relative to relief of civilian musicians—to the Committee on Naval Affairs.

By Mr. DALZELL: Paper to accompany bill for relief of Mary Stone—to the Committee on Invalid Pensions.

By Mr. DUNWELL: Paper to accompany bill for relief of the State of Missouri (bill S. 567)—to the Committee on War Claims.

By Mr. FULLER: Petition of the Presbyterian Church of Sandwich, Ill., for an amendment to the Constitution prohibiting polygamy—to the Committee on the Judiciary.

By Mr. HAYES: Petition of citizens of California for bill H. R. 4549, for consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Carpenters' Union of San Jose, Cal., against proceedings in case of Moyer, Haywood, and Pettibone—to the Committee on the Judiciary.

Mr. HENRY of Connecticut: Petition of the president and faculty of Princeton University and citizens of Dublin, Conn., for bill H. R. 4547—to the Committee on the Post-Office and Post-Roads.

By Mr. HOAR: Petition of the Worcester Board of Trade, favoring consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. HOWELL of New Jersey: Paper to accompany bill for relief of Thomas McElroy—to the Committee on Naval Affairs.

By Mr. HUFF: Paper to accompany bills for relief of George M. Hobaugh and Frank Brothers—to the Committee on Invalid Pensions.

By Mr. KELIHER: Petition of the New England Hardware Dealers' Association executive committee, for the parcels-post system—to the Committee on the Post-Office and Post-Roads.

By Mr. LACEY: Petition of the First Presbyterian Church of Newton, Iowa, for a constitutional amendment for the suppression of polygamy—to the Committee on the Judiciary.

By Mr. LAFEAN: Petition of Washington Camp, No. 396, Patriotic Order Sons of America, of Hellam, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petitions of the D. E. Winebrenne Company, of Hanover, Pa.; G. W. Devilbiss, of Stewartstown, Pa.; the High Rock Canning Company; the Delta Packing Company, and Robert B. Hyson, of Bridgeton, Pa., for the elimination of subsection 3 of section 7 of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. LESTER: Petition of the Midway Society, of Liberty County, Ga., for a memorial to Gens. James Screven and Daniel Stewart—to the Committee on the Library.

By Mr. LINDSAY: Petition of the American Humane Association, against concessions made in bill H. R. 47, to the railroads and stock shippers of the country—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Religious Liberty Bureau, against the clause in the bill appropriating money for the Jamestown Exposition that provides for Sunday closing of same—to the Select Committee on Industrial Arts and Expositions.

By Mr. PATTERSON of South Carolina: Paper to accompany bill for relief of the trustees of Steep Bottom Church—to the Committee on War Claims.

Also, paper to accompany bill for relief of Ann Lamon Walker—to the Committee on Pensions.

By Mr. SMITH of Maryland: Paper to accompany bill for relief of Joseph Flewheart—to the Committee on War Claims.

Also, petition of Oscar Nichols, of Federalsburg; John M. Dulany, of Fruitland; Willard C. Todd, of Williston; the Hearn Company and W. G. Winterbottom & Co., of Cambridge, all in Maryland, for an amendment to the pure-food bill exempting canned goods from being stamped in terms of weight and measure—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of John H. Cox and John H. Ford (H. R. 16935)—to the Committee on Claims.

By Mr. SMITH of Texas: Papers to accompany bills for relief of Theodore Bland, J. M. Dragoo, B. C. Dragoo, and Jack W. Long—to the Committee on Pensions.

By Mr. THOMAS of North Carolina: Paper to accompany bill for relief of J. A. Norris—to the Committee on War Claims.

By Mr. THOMAS of Ohio: Petition of the Diamond Rubber Company, for two classes of mail matter only—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Civic Improvement Society of Burton, Ohio, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of G. H. St. John et al., of Warren, Ohio, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. VAN WINKLE: Paper to accompany bill for relief of Emma Mapes—to the Committee on Invalid Pensions.

By Mr. WANGER: Petition of 250 citizens of Norristown, Pa., against liquor selling in Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of 250 citizens of Norristown, Pa., for Sunday closing of the Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

By Mr. WOOD of Missouri: Petition of citizens of Missouri, for investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

SENATE.

WEDNESDAY, *May 16, 1906.*

Prayer by Rev. THOMAS VAN NESS, of Boston, Mass.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on the District of Columbia:

H. R. 17133. An act to amend section 558 of the Code of Law for the District of Columbia; and

H. R. 18666. An act to provide for the reassessment of benefits in the matter of the extension and widening of Sherman avenue, in the District of Columbia, and for other purposes.

JOHN PAUL JONES.

The VICE-PRESIDENT laid before the Senate a communication from Gen. Horace Porter, inclosing copy of his address at Annapolis, Md., April 24, 1906, upon the occasion of the ceremonies in memory of John Paul Jones; which, with the accompanying paper, was ordered to lie on the table.

ESTIMATES OF APPROPRIATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Director of the Mint recommending that the appropriation for wages of workmen at San Francisco, Cal., contained in the legislative, etc., appropriation bill for the fiscal year 1907, now pending, be amended and increased in amount from $150,000 to $175,000; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior recommending that the appropriation for contingent expenses, Territory of Alaska, contained in the legislative, etc., appropriation bill for the fiscal year 1907, now pending, be amended and increased in amount from $2,000 to $5,000; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House insists upon its amendment to the bill (S. 267) to prohibit aliens from fishing in the waters of Alaska, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. POWERS, Mr. HIGGINS, and Mr. STANLEY managers at the conference on the part of the House.

The message also announced that the House had passed the bill (H. R. 18442) to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

S. 394. An act granting an increase of pension to Amanda Lucas;

S. 442. An act granting an increase of pension to Francis Colton;

S. 522. An act granting an increase of pension to Emma Worrall;

S. 557. An act granting an increase of pension to Mariot Losure;

S. 678. An act granting an increase of pension to Albert Butler;

S. 869. An act granting an increase of pension to Baltzar Mowan;

S. 993. An act granting an increase of pension to Samuel J. Langdon;

S. 1223. An act granting a pension to Mary E. Bronaugh;

S. 1508. An act granting an increase of pension to James A. Murch;

S. 1513. An act granting an increase of pension to Harriett A. Rawles;

S. 1705. An act granting an increase of pension to Lewis S. George;

S. 2043. An act granting an increase of pension to Andrew H. Wolf;

S. 2194. An act granting a pension to William H. Sweency, jr.;

S. 2467. An act granting an increase of pension to Martin Clark;

S. 2851. An act granting an increase of pension to George Chambers;

S. 2978. An act granting an increase of pension to Eli W. Knowles;

S. 3033. An act granting an increase of pension to Aaron F. Patten;

S. 3040. An act granting a pension to Mary C. Wilsey;

S. 3219. An act granting an increase of pension to Joseph M. Allison;

S. 3271. An act granting an increase of pension to Margarette E. Brown;

S. 3299. An act granting an increase of pension to Spencer C. Stilwill;

S. 3483. An act granting an increase of pension to William L. Sheaff;

S. 3485. An act granting an increase of pension to Mathias Hammes;

S. 3738. An act granting an increase of pension to Lisania Judd;

S. 3797. An act granting an increase of pension to Ahimaaz E. Wood;

S. 3798. An act granting an increase of pension to Charles Farrel;

S. 4005. An act granting an increase of pension to Michael Quill;

S. 4048. An act granting an increase of pension to Henry S. Knecht;

S. 4175. An act granting an increase of pension to John Caverly;

S. 4177. An act granting an increase of pension to Harlan P. Cobb;

S. 4239. An act granting an increase of pension to Job Rice;

S. 4358. An act granting an increase of pension to Thomas McCormick;

S. 4361. An act granting an increase of pension to John W. Daley;

S. 4401. An act granting an increase of pension to George W. Tomlinson;

S. 4457. An act granting an increase of pension to Louis A. Tyson;

S. 4460. An act granting an increase of pension to Ann J. Thompson;

S. 4488. An act granting an increase of pension to James F. Amis;

S. 4525. An act granting an increase of pension to David Oglevie;

S. 4569. An act granting an increase of pension to Augustus A. Nevins;

S. 4665. An act granting an increase of pension to Lewis Du Bois;

S. 4692. An act granting an increase of pension to Adaline M. Thornton;
S. 4718. An act granting an increase of pension to George W. Gilson;
S. 4752. An act granting an increase of pension to Thomas J. Tidswell;
S. 4796. An act granting an increase of pension to Lorinda J. White;
S. 4983. An act granting an increase of pension to John M. Farquhar;
S. 5054. An act granting an increase of pension to George H. Woodard;
S. 5082. An act granting an increase of pension to David N. Winsell;
S. 5163. An act granting an increase of pension to John Marah;
S. 5247. An act granting an increase of pension to Jacob Wigal;
S. 5343. An act granting an increase of pension to Ernest H. Wardwell;
S. 5349. An act granting an increase of pension to William H. H. Robinson;
S. 5359. An act granting an increase of pension to William H. Ward;
S. 5379. An act granting an increase of pension to Otto A. Risum;
S. 5492. An act granting an increase of pension to Joseph F. Tebbetts;
S. 5504. An act granting an increase of pension to Joseph Dickson;
S. 5516. An act granting an increase of pension to Alfred M. Hamlen;
S. 5522. An act granting an increase of pension to Charles E. Sischo;
S. 5523. An act granting an increase of pension to Thomas J. Pickett;
S. 5532. An act granting an increase of pension to Simon A. Snyder;
S. 5539. An act granting an increase of pension to Hermann Muehlberg;
S. 5562. An act granting an increase of pension to John Hull;
S. 5571. An act granting an increase of pension to Betsey B. Whitmore;
S. 5579. An act granting an increase of pension to Henry T. Sisson;
S. 5603. An act granting a pension to Kate S. Hutchings;
S. 5631. An act granting an increase of pension to Isaac M. Howard;
S. 5640. An act granting an increase of pension to Clinton B. Wintersteen;
S. 5641. An act granting an increase of pension to John W. Fletcher;
S. 5658. An act granting an increase of pension to Nancy Pruit;
S. 5659. An act granting an increase of pension to William I. Brewer;
S. 5668. An act granting an increase of pension to George P. Sealey;
S. 5671. An act granting an increase of pension to Richard L. Delong;
S. 5673. An act granting an increase of pension to Hilton Springsteed;
S. 5680. An act granting an increase of pension to Thomas J. Bowser;
S. 5702. An act granting an increase of pension to Anna C. Bingham;
S. 5704. An act granting an increase of pension to Ruth P. Pierce;
S. 5735. An act granting an increase of pension to Andrew D. Danley;
S. 5736. An act granting an increase of pension to Mary Clark;
S. 5754. An act granting a pension to Hannah McCarty; and
S. 5780. An act granting a pension to Lorenzo E. Johnson.

PETITIONS AND MEMORIALS.

Mr. MARTIN presented a petition of Goodwill Council, No. 26, Junior Order of United American Mechanics, of Richmond, Va., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. KNOX presented the petition of the Board of Trade of Harrisburg, Pa., praying for the enactment of legislation to prevent the destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

He also presented petitions of the Smithfield Street Methodist Episcopal Church, of Pittsburg; the Woman's Home Missionary Society of the First Methodist Episcopal Church, of Crafton; of sundry citizens of Allegheny; the Woman's Home Missionary Society of the Oakland Methodist Episcopal Church, Oakland, Pittsburg, all in the State of Pennsylvania, praying that the direction of the schools of Alaska be left with the Bureau of Education; which were referred to the Committee on Territories.

He also presented petitions of Local Council No. 439, Junior Order United American Mechanics, of Etna; Council No. 567, Junior Order United American Mechanics, of Aliquippa; Council No. 520, Junior Order United American Mechanics, of Abington; Camp No. 359, Patriotic Order Sons of America, Tacony, of Philadelphia; John Steinbronn, of Philadelphia; James E. Patton, jr., of Pittsburg; George W. Arold, of Philadelphia; Moses Dietrich, of Tower City; William E. Franklin, of Sutersville; A. H. Leslie, of Hoboken, all in the State of Pennsylvania, and National Committee on Legislation, Patriotic Order Sons of America, Odenton, Md., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented the memorials of H. E. Gilpin, of Carbondale; H. P. Daugherty, of Mahoningtown, and I. M. Klump, of Greenville, all in the State of Pennsylvania, remonstrating against the adoption of the amendment to the railroad rate bill prohibiting the issuance of passes to railroad employees and members of their families; which were ordered to lie on the table.

He also presented petitions of the Mellon National Bank, of Pittsburg; the Chester Clearing House Association, of Chester; the Wilkes-Barre Clearing House Association, of Wilkes-Barre; C. L. Snowdon, of Brownsville, and of sundry citizens of Erie, all in the State of Pennsylvania, praying for the enactment of legislation providing that banks be allowed to loan 10 per cent of their capital and surplus; which were referred to the Committee on Finance.

He also presented petitions of the Woman's Christian Temperance Union of Collegeville, of sundry citizens of Pittsburg, Presbyterian Congregation of Freeport, S. P. Gaston, of Turbotville; Conowingo Woman's Christian Temperance Union, of Peters Creek; Henry Small, of York; W. D. Snyder, of Columbia; Alice K. McCombs, of Scottdale; Rev. Charles H. Rorer, of Columbia; H. E. Walton, of Berwick; C. V. Merrick, of Bradford; Young People's Society of Christian Endeavor of Pittsburg Conference, of Pittsburg; C. D. Antrim, of Philadelphia; Lucy A. Poole, of Scottdale; Dr. J. Frank Small, of York; the Woman's Christian Temperance Union of York; sundry citizens of Pittsburg; Charles W. Stevenson, of Columbia; Rev. J. H. Boyce, of Damascus; J. R. Watkins, of Cochranville; Southwest Philadelphia Woman's Christian Temperance Union of Philadelphia; Dr. Martha M. De Graw, of Scranton; Isaac Roberts, of Swarthmore; Theodore McAllister, of Gettysburg; Rev. J. C. Kelly, of Williamsburg; S. O. Hawking, of Richboro; Dr. E. E. Pownall, of Richboro; J. Bell Austin, of Philadelphia; M. E. Pappine, of New Wilmington; Rev. Alexander Henry, of Philadelphia; the Homewood Avenue Presbyterian Church, of Pittsburg; Shady Avenue Baptist Church, of Pittsburg; Charles Young, of Johnstown; Dr. B. T. Caldwell, of Johnstown; John D. Hicks, of Altoona; Rev. E. J. Bond, of Strasburg; sundry citizens of Colegrove, George R. Crosgrove, of Linwood, Woman's Christian Temperance Union of Linwood; N. A. Meck, of Strasburg; Arthur Shrigley, of Philadelphia; John M. Shrigley, of Williamson; John Coates, of Cochranville; Woman's Christian Temperance Union of Baxter; S. H. Mahan, of Rochester; Thomas Parks, of Rochester; A. J. Lloyd, of Rochester; Woman's Christian Temperance Union of Rochester, A. C. Schreiner, of Hydetown; Woman's Christian Temperance Union of Russellville, W. W. Mumford, of Starrucca; Woman's Christian Temperance Union of Lackawanna County, of Scranton; H. O. Garber, of Berwyn; Rev. John M. Jenkins, of Nottingham; the Woman's Home Missionary Society of Philadelphia Conference M. E. Church, of Philadelphia; S. G. McFarland, of Philadelphia; Rev. Arthur B. Herr, of Hallstead; the Woman's Christian Temperance Union of Carlisle; George A. Chapin, of Pittsburg; Woman's Christian Temperance Union of Pittsburg, Rev. Lawrence Keister, of Mount Pleasant; Woman's Christian Temperance Union of Allegheny County, of Allegheny; Allegheny County Woman's Suffrage Association, of Bellevue; S. B. Chase, esq., of Hallstead; H. M. Peoples, of Lock Haven; Mary L. Heiner, of Kittanning; Little Britain Woman's Christian Temperance Union, of Quarryville; Rebecca B. Chambers, of West Grove, all in the State of Pennsylvania, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented memorials of the Marvindale Chemical Company, of Bradford; Alton Chemical Company, of Bradford; National Chemical Company, of Bradford; Coryville Chemical Company, of Bradford; Lewis Run Manufacturing Company, of Bradford; Wyman Chemical Company, of Port Allegany; Standard Charcoal Company, of Bradford; Nusbaum Chemical Company, of Bradford; Bradford Chemical Company, of Bradford; Liberty Wood Product Company, of Portage Creek; Minard Run Chemical Company, of Bradford; Straight Creek Chemical Company, of Straight; Lackawanna Chemical Company, of Straight; Nansen Chemical Company, of Bradford; Barclay Chemical Company, of Laquin; R. J. & W. S. Gaffney, of Bradford; Elisha K. Kane, of Mount Jewett, and J. C. Greenwald, of Bradford, all in the State of Pennsylvania, remonstrating against the passage of the bill to remove the duty from alcohol; which were referred to the Committee on Finance.

He also presented petitions of S. R. Nissley, of Manheim; Charles Palmer, of Chester; sundry citizens of Troy; Grange No. 1177, Patrons of Husbandry, of Meadville; Grange No. 393, Patrons of Husbandry, of Polk; Grange No. 533, Patrons of Husbandry, of Clearfield; Grange No. 131, Patrons of Husbandry, of Mill Village; Grange No. 1199, Patrons of Husbandry, of Fleetville; Grange No. 1250, Patrons of Husbandry, of Jenningsville; A. H. Heilman & Co., of Williamsport; the Trades League of Philadelphia; Grange No. 1085, of Sadsburyville, all in the State of Pennsylvania, praying for the enactment of legislation to remove the duty on alcohol used for industrial purposes; which were referred to the Committee on Finance.

Mr. DRYDEN presented a petition of the Manufacturing Jewelers' Association of Newark, N. J., praying for the enactment of legislation to prohibit the importation, exportation, or carriage in interstate commerce of falsely or spuriously stamped articles of merchandise made of gold and silver or their alloys; which was ordered to lie on the table.

He also presented sundry petitions of citizens of Montclair, N. J., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which were referred to the Committee on Education and Labor.

He also presented petitions of the Prohibition Organization of Camden, of the Board of Trade of Elizabeth, and of the Board of Trade of Newark, all in the State of New Jersey, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. RAYNER presented a petition of Cambridge Grange, No. 209, Patrons of Husbandry, of Cambridge, Md., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

Mr. GALLINGER presented a petition of the Sorosis, the Women's Health Protective Association, and the Society of Political Study, of New York City, N. Y., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on Education and Labor.

He also presented a memorial of the Citizens' Northwest Suburban Association, of Washington, D. C., remonstrating against the enactment of legislation taking away from the Commissioners of the District of Columbia the control of the board of education and placing the appointment thereon in the judges of the supreme court of the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the petition of Charles F. Roberts, of Anacostia, D. C., praying that an appropriation be made for the approach of the new bridge across the Anacostia River, in the District of Columbia; which was referred to the Committee on Appropriations.

Mr. WETMORE presented a petition of Washington Council, No. 2, Junior Order of United American Mechanics, of Providence, R. I., praying for the enactment of legislation to restrict immigration with the educational test and property qualification; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. FULTON, from the Committee on Claims, to whom was referred the bill (S. 1430) for the relief of George Stoll and the heirs of Charles P. Regan, Marshall Turley, Edward Lannigan, James Manley, and John Hunter, reported it without amendment, and submitted a report thereon.

Mr. CARTER, from the Committee on Public Lands, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17114) to provide for the disposition under the public-land laws of the lands in the abandoned Fort Shaw Military Reservation, Mont.; and

A bill (S. 6165) granting to Beaver Lodge, Independent Order of Odd Fellows, of Ekalaka, Mont., certain land for public cemetery purposes.

Mr. McENERY, from the Committee on Public Lands, to whom was referred the bill (H. R. 16307) authorizing the Secretary of the Interior to have a survey made of unsurveyed public lands in the State of Louisiana, reported it without amendment, and submitted a report thereon.

Mr. HANSBROUGH, from the Committee on Public Lands, to whom was referred the bill (H. R. 17411) for the resurvey of certain townships in the State of Nebraska, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4400) to grant certain lands to the town of Fruita, Colo., reported it with amendments, and submitted a report thereon.

Mr. WARNER, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 10133) to provide for the annual pro rata distribution of the annuities of the Sac and Fox Indians of the Mississippi between the two branches of the tribe, and to adjust the existing claims between the two branches as to said annuities, reported it without amendment, and submitted a report thereon.

BILLS INTRODUCED.

Mr. KNOX introduced a bill (S. 6175) granting an increase of pension to Neoline H. Ash; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PETTUS introduced a bill (S. 6176) providing for pay of expenses of district judges; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MARTIN introduced a bill (S. 6177) granting an increase of pension to Louisa Anne Morton; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6178) for the relief of the trustees of Loudoun Street Presbyterian Church, of Winchester, Va.;

A bill (S. 6179) for the relief of the trustees of Mount Crawford, Va., Methodist Episcopal Church;

A bill (S. 6180) for the relief of the trustees of the Methodist Episcopal Church South, of Williamsburg, Va.;

A bill (S. 6181) for the relief of the heirs of Robert L. Martin; and

A bill (S. 6182) for the relief of the estate of H. F. Cocke, deceased (with an accompanying paper).

Mr. CULBERSON introduced a bill (S. 6183) for the relief of Zachariah Leatherman; which was read twice by its title, and referred to the Committee on Claims.

Mr. TELLER introduced a bill (S. 6184) granting an increase of pension to John Reed; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DILLINGHAM introduced a bill (S. 6185) for the relief of Frances A. Bliss; which was read twice by its title, and referred to the Committee on Claims.

Mr. DRYDEN introduced a bill (S. 6186) granting an increase of pension to James L. Estlow; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TILLMAN introduced a bill (S. 6187) granting an increase of pension to Martha Jane Bolt; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6188) granting an increase of pension to Sarah Young; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6189) granting a pension to Dora D. Walker; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURKETT (by request) introduced a bill (S. 6190) authorizing the Omaha tribe of Indians to submit claims to the Court of Claims; which was read twice by its title, and referred to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. KNOX submitted an amendment proposing to appropriate $861.11 to pay Clara A. Carter, widow of Martin J. Carter, late consul of the United States to Yarmouth, Nova Scotia, being the balance of one year's salary due him, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MARTIN submitted an amendment proposing to appropriate $15,000 for the completion of marine barracks on the Schmoele tract of land at the Norfolk Navy-Yard, Va., etc.,

intended to be proposed by him to the naval appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Naval Affairs.

Mr. TELLER submitted an amendment proposing to appropriate $13,663.51 to pay certain postmasters in Colorado for their services, etc., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PRACTICE OF OSTEOPATHY IN THE DISTRICT OF COLUMBIA.

Mr. FORAKER. I present a paper from the Osteopathic Association of the District of Columbia, relative to the practice of osteopathy in the District. I move that the paper be printed as a document.

The motion was agreed to.

WILLIAM WILSON.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying bill, referred to the Committee on Pensions.

To the Senate:

I return herewith, without approval, Senate bill No. 3454, entitled "An act granting an increase of pension to William Wilson," as the Secretary of the Interior informs me that the records of the Pension Bureau show that the beneficiary died on April 1, 1906, prior to the passage of the bill, which would therefore be inoperative should it become a law.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 16, 1906.*

HOUSE BILL REFERRED.

H. R. 18442. An act to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia, was read twice by its title, and referred to the Committee on the District of Columbia.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. The morning business is closed, and the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The VICE-PRESIDENT. The question is on the amendment in the nature of a substitute proposed by the Senator from Texas [Mr. CULBERSON] to the amendment made as in Committee of the Whole.

The SECRETARY. On page 4 of the bill, line 9, strike out the amendment beginning with that line and ending in line 18 and insert——

Mr. McCUMBER. I wish to know whether the amendment is open to an amendment?

The VICE-PRESIDENT. It is not, it being an amendment to an amendment. An amendment to it would be in the third degree.

Mr. McCUMBER. This is an amendment to the amendment?

The VICE-PRESIDENT. It is an amendment to the amendment.

Mr. SCOTT. Let it be read.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. On page 4 of the last reprint of the bill, beginning in line 9 and ending in line 18, in lieu of the matter there inserted, insert:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passengers except to its officers, agents, and employees and members of their immediate families, to its actual and bona fide attorneys, to ministers of religion, and inmates of hospitals and eleemosynary and charitable institutions, and to indigent, destitute, and homeless persons. Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars: *Provided,* That this provision shall not be construed to prohibit the interchange of passes for officers, agents, and employees and members of their immediate families, nor to owners and care takers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery, nor shall anything in this provision be deemed to prohibit any carrier from carrying passengers free on account of charity from and to places visited by general epidemic or pestilence or wholly or largely destroyed by fire, water, earthquakes, or other calamitous visitations, with the object of providing succor, relief, and other assistance to the inhabitants. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, and any amendment thereof.

Mr. SCOTT. I should like to ask the Senator from Texas if he regards that this amendment of his would provide for the return of postal clerks when they have finished their week's run? For instance, if they should be left in Cincinnati, and their homes are in Huntington, would it provide for their return to their homes or not? And would it provide for surgeons and physicians going to a wreck in case passengers and other people were hurt? Would the railroad be allowed to carry its surgeons and physicians to that wreck and return them to their homes? I think this is a very important amendment, and it should be properly considered before it is adopted. I should like to ask the Senator from Texas if he thinks his amendment covers those two points?

Mr. CULBERSON. Mr. President, in answer to the inquiry of the Senator from West Virginia, I will state that the amendment seeks to deal entirely and wholly with free passes, and it covers only the cases which are specifically mentioned.

So far as commutation tickets are concerned, so far as reduced rates are concerned, both for passengers and for freight, that is still covered by the provisions of section 22 of the original act, as amended finally February 8, 1895.

Mr. BEVERIDGE. Mr. President, I should like to ask the Senator from Texas whether he will not perfect his amendment by adding the words "and physicians and surgeons" after the word "attorneys," in line 6, so that his amendment may include the company's physicians as well as attorneys?

Mr. CULBERSON. I think probably it is already included in the word "employees."

Mr. BEVERIDGE. Of course it is not; but if the Senator does not care to accept that amendment I have no suggestion to make to the Senator in the way of perfecting the substitute.

Mr. McCUMBER. Mr. President, if the public ever had any reason to doubt that the Senate of the United States responded quickly to any wave of public sentiment, that doubt certainly would have been dispelled had the public been able to look upon this Chamber the other day after a few telegrams had come to individual Senators relative to the pending rate bill. On one day the Senate acted with great solemnity, with a desire to do equal and impartial justice, and with a determination that no preferences should be given to any person under the sun in the matter of railway transportation, and having sealed that by an almost unanimous vote of the Senate, the very next day, after a few telegrams came in, we found Senators literally tumbling over each other in order to get in the first amendment to undo what they had done the day previous.

Mr. President, that but demonstrates rather clearly some of the dangers I suggested in the very beginning of the discussion upon this railway rate business. In an address on March 27, referring to this very same subject, I stated:

Mr. President, there are about one and one-fourth million voters employed by the railroads of the United States. At present each one of this great army must deal separately with the organization that controls the particular railroad in which he is employed. Some of those railroads, which are operating upon their own systems, upon their own theories, contemplate improvements in one direction, some of them in another direction; and all these matters of expenses and improvements are considered in determining what they can pay their employees; but, now, when you substitute and project this political body into the management of the railways of the country, even to a slight degree, does anyone for a single moment believe that this immense political influence will not make itself felt, first, in demands before this Commission for higher wages; second, for shorter hours, and, third, for smaller train loads, etc.? If they appeal there in vain, does anybody for a single moment believe that they will not make stupendous power felt in the only body that is back of this great political power—the Congress of the United States?

Mr. President, I hardly thought that this prophecy would come true during the very discussion of the pending bill. It demonstrates very clearly the dangers I pointed out, that in taking one step we are irretrievably forced into another step further and further into the realm of paternalism, or Government ownership of the railways of the country.

Mr. President, I speak of this simply to indicate a danger that is certain to follow, unless we seek to do exact justice and nothing further. We either ought to limit transportation to the lines in which the company is using its own employees or we ought to leave it to a great extent to those companies themselves. What reason is there for us to say, as an exception to the rule, that any agent or employee of a company may secure transportation not only over the lines of the company in which he is operating, but he may secure that transportation for himself and also for any member of his family over any other line in the United States, and except him from the general rule? Can any Senator give a good, honest, just reason for making that exception?

Mr. President, I do agree with the principle that anyone in the employ of the railway company should have the right to take any member of his family to his place of business. His place of business is on the line of the railway where he is laboring. But, for instance, in the case of a teacher in our public schools, who has given ten month of strenuous labor to educate the children of this city, it would be a crime to allow that person to have free transportation 10 miles to any place where she might regain her health, and yet at the same time the road

will take free the aunt or cousin or sister of an employee of the railroad company.

We simply determine by law that they not only shall have the right to travel over the same line, but they may have transportation over any line in the United States, and I think some of the amendments would insure also free transportation to Europe, if they could. Now, it all hinges around this keen desire to make exceptions to the rule, and it seems to me it ought not to go any further than that rule requires.

There is another thing in this amendment; and I especially call the attention of the Senator from Texas, who introduced the amendment, to this matter. Mr. President, I want the attention of the Senator from Texas.

Mr. CULBERSON. I am listening.

Mr. McCUMBER. I will wait until the Senator gets through with his little conversation, because I wish to amend his amendment, or, rather, to make a suggestion and ask him if he will not accept it.

Mr. CULBERSON. Very well; I will listen to the suggestion.

Mr. McCUMBER. In the first instance, I wish to give a little condition which exists in my part of the country, which I gave the other day. It is almost impossible for the agriculturists in the Dakotas to secure a sufficient number of laborers during the harvest season. It would be impossible to secure a sufficient number unless the railways were allowed to give reduced fare to induce such laborers to go to the farmers' fields.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Texas?

Mr. McCUMBER. I certainly do.

Mr. CULBERSON. After the statement the Senator made to this effect the other day I called his attention, and I call attention again, to the fact that this amendment does not undertake to deal with reduced fares or commutation tickets, but it is confined exclusively to the question of free transportation.

Mr. McCUMBER. The bill as it now stands and as it will be amended by this amendment would prohibit even reduced fare for employees, and the proper place for an amendment of this kind is to the amendment which has been offered by the Senator from Texas. This being necessary, I shall not vote for the pending amendment unless it is understood that we can include these laborers to such an extent that we may secure the necessary labor in the fields of the Dakotas during the proper season of the year. I can not see that the Senator should have any serious objection to that amendment going in.

I wish to call the Senator's attention to another matter, which I consider a defect in the amendment which he has proposed. On page 1 it provides:

> That no carrier, etc., shall give, etc., transportation for passengers except to its officers, agents, and employees and members of their immediate families, to its actual and bona fide attorneys, to ministers of religion, and inmates of hospitals and eleemosynary and charitable institutions, and to indigent, destitute, and homeless persons.

It is probably true that hundreds of thousands of lives of sick persons are saved by reason of the charitable action of the railway companies in taking consumptives or other persons to a different section of the country, where by reason of their poverty they could not go except for this assistance of the railway companies.

The Senator's amendment allows them to take a person from one of these institutions—that is, granting free transportation to the inmates of these institutions. Will the Senator say that that would include free transportation to a crippled child whom somebody desired to send to one of these institutions? I do not think it would. On the contrary they could take them from some of these institutions, but could not send them to those institutions. I would suggest to the Senator to strike out after the word "religion," in line 6, down to "persons," in line 8, so that without mentioning those institutions it would read:

> Or to any destitute or indigent sick or injured or crippled or homeless persons.

That would give them the right to take them to a charitable or eleemosynary institution, and it would give them the right to take them from those institutions without particularly mentioning them. It seems to me, Mr. President, that that would be a proper amendment. If the Senator will not accept it, I would move——

Mr. CULBERSON. I suggest to the Senator that there is no reason why every sick person should be permitted to be carried free, and that the words "indigent, homeless, and destitute" would include the passage of persons sick and in a position demanding charity.

Mr. McCUMBER. The Senator undoubtedly did not understand my amendment. It reads:

> Or to any destitute or indigent sick or injured or crippled or homeless persons."

That is, they will have to be destitute or indigent sick or injured or crippled or homeless persons.

Mr. CULBERSON. Under the present amendment if indigent, whether sick or well, they may be carried, and consequently that includes the suggestion of the Senator.

Mr. McCUMBER. I did not understand the Senator.

Mr. CULBERSON. I say the amendment proposed includes indigent persons, whether they are sick or well.

Mr. McCUMBER. No; the Senator will observe the word "or" between "destitute and indigent" without the word "or" between the others. That shows that destitute and indigent are conditions that modify sick, injured, crippled, or homeless; that they must be both destitute and indigent in addition.

Mr. GALLINGER. Will the Senator allow me?

Mr. McCUMBER. Certainly.

Mr. GALLINGER. I want to ask the Senator from Texas——

The VICE-PRESIDENT. The Chair will state that the time of the Senator from North Dakota has expired.

Mr. BACON obtained the floor.

Mr. GALLINGER. Will the Senator from Georgia yield to me just one moment, simply for information?

Mr. BACON. Certainly.

Mr. GALLINGER. I wish to ask the Senator from Texas whether he holds that if the amendment is adopted section 22 of the existing law is repealed or not. That is all. I ask simply for information.

Mr. CULBERSON. It is repealed to that extent.

Mr. GALLINGER. It is to that extent?

Mr. CULBERSON. Yes, sir.

Mr. GALLINGER. The Senator repeats some of the phraseology of the existing law. I should hardly think that ought to be done.

Mr. BACON. Mr. President, I understand that the measure pending is a substitute offered by the Senator from Texas, and that as a substitute it is now open to amendment.

The VICE-PRESIDENT. The Chair is of opinion that it is not open to amendment.

Mr. BACON. If the Chair will permit me to make a suggestion, I understand that there is offered by the Senator from Texas a substitute for a provision in the pending bill. Am I correct?

The VICE-PRESIDENT. The provision in the bill is an amendment itself, and the amendment proposed by the Senator from Texas is an amendment to that amendment.

Mr. BACON. Will the Chair pardon an inquiry? The provision in the bill is not an amendment offered by anyone else. It is a provision of the bill, and this is a substitute for that provision, and under the well-recognized rule of parliamentary law——

Mr. TILLMAN. Mr. President, will the Senator allow me to make a parliamentary inquiry?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. BACON. Certainly, if it relates to this matter.

Mr. TILLMAN. It relates to this matter.

Mr. BACON. Very well.

Mr. TILLMAN. As I understand it, the Senate last night reconsidered the amendment that was incorporated in the bill at the instance of the Senator from Texas.

The VICE-PRESIDENT. That is correct.

Mr. TILLMAN. And that amendment is now pending?

The VICE-PRESIDENT. That is the pending amendment, and to that amendment another amendment has been proposed by the Senator from Texas.

Mr. TILLMAN. Therefore there are two amendments pending, and we are at the end of our row on amendments?

The VICE-PRESIDENT. The Chair is of that opinion.

Mr. GALLINGER. Mr. President, I rise to a question of order.

The VICE-PRESIDENT. The Senator from New Hampshire will state his question of order.

Mr. GALLINGER. I make the point of order that the provision now in the bill, being an amendment placed there in Committee of the Whole, is not amendable until the bill gets to the Senate.

The VICE-PRESIDENT. The Chair will state that the vote by which that amendment was placed in the bill has been reconsidered in the Committee of the Whole, and it leaves the amendment as though still pending.

Mr. GALLINGER. I beg pardon; I was not aware of the fact that it had been formally reconsidered.

Mr. BACON. If I understand the provision which is now pending, it is found on page 4 of the bill, beginning at line 9 and ending at line 18. Am I correct in that?

The VICE-PRESIDENT. That is correct.

Mr. BACON. Very well. The Senator from Texas offers a substitute for that provision, and those are the two measures now before the Senate. According to a well-established and recognized rule of parliamentary practice, where there are two independent propositions pending, one in the nature of a substitute for the other, it is within the province of the parliamentary body to amend each proposition, so that the Senate may choose between the two when thus perfected.

Otherwise, Mr. President, it will be seen that the Senate would be limited in its consideration to a choice between the two measures as they now are, without any opportunity on the part of the Senate to perfect them. If it is not in order to amend the proposition of the Senator from Texas, then it must be voted on in its entirety as it stands, which, I submit to the Chair, would be manifestly of great inconvenience if there were any such rule of parliamentary practice as that. To avoid that, to enable the body to perfect a measure, it is a well-recognized rule that where there are two pending propositions, one in the nature of a substitute for the other, the parliamentary body has the undoubted right to perfect each, so that the Senate may choose between the perfected measures and not be limited to a choice between two measures neither of which may have been put in the position that they desire.

Of course I yield with all deference, but there is no question in my mind that that is the parliamentary rule. It is the same subject of debate, the Chair will remember, that was brought to the attention of the Senate some weeks ago, when a similar question was before us.

The VICE-PRESIDENT. The Chair understands this is not a motion to strike out and insert. The Chair would further state that if the amendment proposed by the Senator from Texas to the amendment which appears in the bill is not satisfactory to the Senate it can vote it down, and the amendment pending would then be open to amendment.

Mr. BACON. The Chair, then, holds that the proposition of the Senator from Texas must either be voted upon affirmatively or negatively and that it can not be amended?

The VICE-PRESIDENT. The Chair holds that to be the case.

Mr. BEVERIDGE. Mr. President, I should like again to call the particular attention of the Senator from Texas to the suggestion that he insert, after the word "attorneys," the words "and physicians and surgeons."

Mr. BACON. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from Georgia will state his point of order.

Mr. BACON. It is not a point of order; but, with the permission of the Senator from Indiana, I would suggest that the Chair has just ruled that there can be no amendment——

Mr. BEVERIDGE. Mr. President, I am not proposing an amendment.

Mr. BACON. I beg pardon.

Mr. BEVERIDGE. I am asking the Senator from Texas, and in my own time, whether he will not consent to perfect his amendment by the insertion of the words "and physicians and surgeons." I hope to be able to vote for the Senator's amendment if he will permit us to do so, and whether he will or not——

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Texas?

Mr. BEVERIDGE. I yield to the Senator.

Mr. CULBERSON. As I stated to the Senator from Indiana a moment ago, I think, under the term "employees," physicians are included, but while I am of that opinion I have no objection to the insertion of the words "surgeons or physicians of the company" to make it certain.

Mr. BEVERIDGE. Then let that amendment to the amendment be made.

The VICE-PRESIDENT. Does the Senator from Texas modify his proposed amendment to the amendment?

Mr. CULBERSON. I will change it to add, after "attorneys," the words "and physicians and surgeons."

The VICE-PRESIDENT. The Secretary will state the proposed modification.

The SECRETARY. After the word "attorneys" insert "and physicians and surgeons."

Mr. BEVERIDGE. Now, Mr. President, I wish to ask the Senator from Texas whether he will not also accept the two obviously needed amendments suggested by the Senator from North Dakota [Mr. MCCUMBER]?

Mr. CULBERSON. I think the amendment covers the suggestion of the Senator from North Dakota, and I decline to accept it.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Montana?

Mr. BEVERIDGE. I yield.

Mr. CARTER. I desire to make an independent suggestion. I thought the Senator from Indiana had concluded.

Mr. BEVERIDGE. Mr. President, I very much, indeed, desire to vote for the amendment of the Senator from Texas, but I am convinced that the amendments suggested by the Senator from North Dakota are both wise and necessary, and, further, that they are not covered by the provisions of the amendment.

I call the attention of the Senator from Texas to the fact that probably it would not be unbecoming to be a little more generous to the suggestions of Senators. This original amendment was drafted by me before or at the same time the Senator from Texas drafted it, and I offered it to the Senate before the Senator from Texas offered it. But the President of the Senate called attention to the fact that the Senator from Texas had asked to be recognized for that purpose, and so I immediately withdrew my substitute, not having any pride of opinion about it, not caring for credit for it, in order that the Senator from Texas might move his amendment, which was accordingly done.

Thereupon it became clear to several Senators that the amendment was defective in the exact particulars the Senator has since perfected his amendment. I suggested certain words to be used instead of the phraseology employed, but the Senator did not see fit to accept them. On two or three occasions Senators have suggested, solely for the purpose of perfecting the amendment, and for no other reason, amendments which no Senator has been able to oppose on the ground of reason or fact. The Senator has accepted the suggestion to insert the words "and physicians and surgeons," but the amendments that were suggested by the Senator from North Dakota, which are merely in the nature of perfecting the amendment of the Senator from Texas, and which can certainly do no harm, and which, while we are on the subject, we ought to dispose of, instead of taking them up independently in the Senate and discussing this whole subject over again, are not considered as necessary by the Senator from Texas.

I sincerely trust that he will enable all of us who desire heartily to vote for his amendment to do so, by accepting the amendments which were offered by the Senator from North Dakota, and which all Senators admit could not injure his amendment and which will certainly perfect it.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Virginia?

Mr. BEVERIDGE. Yes.

Mr. DANIEL. I am in sympathy with the object of the Senator from Indiana, to express clearly in the bill what he desires to express respecting the surgeons, and I suggest that there are two ways in which we may get this subject unincumbered of its present awkward parliamentary position.

First, the Senator from Texas offered an amendment, which was adopted, and it has been reconsidered. The Senate evidently does not intend to adopt that amendment. It might, therefore, give him unanimous consent to withdraw it and let the present amendment offered in the bill be considered, instead of as an amendment to an amendment. Or the Senator from Texas might withdraw his amendment and let all amendments be withdrawn and vote down the Culberson amendment as an original proposition.

I suggest that if the Senator from Texas will ask that his original and reconsidered amendment may, by unanimous consent, be withdrawn, it will disencumber us of this awkward situation, in which we may be compelled to vote for a matter before it is perfected.

Mr. BEVERIDGE. That is precisely the situation.

Mr. BACON. Mr. President, as it is not in order for me to offer an amendment at this time, I desire, in a word, to state why I do not favor the amendment of the Senator from Texas and to suggest that the proposition which I have offered is the proper one for the Senate to favor.

The numerous suggestions made by Senators of independent cases where the application of the rule proposed by the amendment of the Senator from Texas will result in hardship indicates the very great difficulty of laying down a general rule where all cases of hardship will be relieved simply in the way of exceptions. For that reason, it seems to me it is very much wiser to designate the particular persons to whom passes shall not be issued rather than to make a general prohibition and then endeavor to specify who shall be the excepted classes.

I therefore want to have read for information, as I can not offer it, the proposition which I will ask the Senate to pass upon. I ask that the Secretary will read to the Senate the amendment

which will be proposed by me in case the amendment offered by the Senator from Texas should not be adopted. I ask the attention of Senators to the reading of the amendment.

The VICE-PRESIDENT. In the absence of objection, the Secretary will read, as requested.

Mr. BACON. Before the reading, I desire to again state to the Senate, if I can get its attention, that the theory of this amendment is to designate the parties to whom the issuance of passes shall be prohibited, rather than to proceed upon the other plan of making a general prohibition, and then endeavoring to cure the trouble by exceptions. Now, I ask that the amendment may be read.

The VICE-PRESIDENT. The Secretary will read the amendment intended to be proposed by the Senator from Georgia.

The SECRETARY. In lieu of the amendment of Mr. CULBERSON it is proposed to insert the following:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation or passage to any Senator of the United States or Representative in Congress, or to any justice or judge of the courts of the United States, or to any officer of either of the Executive Departments of the United States. Any such carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

Mr. CLAY. Mr. President, I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Georgia will state his parliamentary inquiry.

Mr. CLAY. I understood the Chair to rule that the amendment which was adopted by the Senate and reconsidered was still pending, that amendment being the amendment proposed by the Senator from Texas [Mr. CULBERSON]. That amendment being still pending before the Senate, the Senator from Texas offers a substitute for it, and the only question which Senators can vote upon is either the adoption or the rejection of that amendment. I desire to ask the Chair this question: If that amendment should be adopted in lieu of the original amendment, would it be still subject to amendment?

The VICE-PRESIDENT. It would not at the present stage of the bill.

Mr. CLAY. If the present situation continues, then Senators are compelled to vote for that amendment or no amendment on this subject?

The VICE-PRESIDENT. The Chair so holds at this stage of the bill.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. CLAY. Certainly.

Mr. NELSON. That amendment would be subject to amendment after the bill gets out of the Committee of the Whole. We could then amend the amendment which had been heretofore adopted in the Committee of the Whole.

Mr. CLAY. Mr. President, just a few words further. There are two other amendments yet pending in the Senate. Neither of them can be acted upon at this time. I am anxious to vote for a prohibition of passes to executive, legislative, and judicial officers, but what Congress has to do with preventing railroads from giving passes to private citizens who hold no relation to the Government I am unable to understand. I can understand why a judge ought not to ride on a free pass; I can understand why a Member of Congress ought not to ride on a pass; I can understand why judicial officers ought to be deprived of that privilege, both from a Federal and a State standpoint; but when it comes to a private citizen, who holds no office, it presents an entirely different question. For that reason I prefer either the amendment offered by my colleague [Mr. BACON] or the amendment offered by the Senator from Mississippi [Mr. MCLAURIN].

Mr. MALLORY. Mr. President, I should like to inquire of the Senator from Georgia how he differentiates the giving of a free transportation to an individual for himself over a railroad from the giving of reduced rates to an individual for his freight? If one is wrong, if the railroad does wrong in discriminating between individuals in granting reduced freight rates, how does the Senator reconcile himself to saying that the giving of a reduced rate for the transportation of a passenger is not also in violation of the law?

A railroad corporation is created for the benefit of the public, and it has no right to discriminate in favor of one person, whether he be a public officer or a private individual, as against another. I should like to hear from the Senator in reference to such a discrimination.

Mr. CLAY. The Government official and the private citizen sustain different relations to the public. Members of Congress are called upon to legislate for the American people and to pass upon questions as between the railroads and the people. The same may be said in regard to Federal judges. They are called upon to pass upon judicial questions between the railroads and the people. The same may also be said to some extent in regard to executive officers.

Mr. MALLORY. Mr. President, I will not pursue the discussion. I simply say that I must be very obtuse not to be able to see the distinction, which is present to the mind of the Senator from Georgia [Mr. CLAY]. The public carrier, the railroad corporation, created primarily and essentially for the public benefit, has no right, under our theory at least, to discriminate in favor of one individual as against another. There is no distinction that I can see, and I do not think there is any distinction which can be pointed out between a discrimination in a freight rate and a discrimination in a passenger rate. In the case of a free pass, it is an absolute gift; an absolute denial to one individual of a privilege which is granted by the public carrier to another individual. In the case of a discrimination in matters of freight, it is generally only in a minor degree, where one individual is charged less than another, and not a free pass for his freight over the railroad. So, Mr. President, I do not see why——

Mr. CLAY. I will ask the Senator why make any distinction, then? Why not provide that passes shall not be given to anyone, either to a private citizen or to the public official? If you are going to provide exact equality, then, why give a pass to anyone? I prefer an amendment which makes it unlawful for the carrier to give any pass or free ticket to any officer of the United States, including executive, legislative, and judicial officers. Such an amendment clearly embraces Members of Congress. The private citizen who holds no office stands in a different light; so does the employee.

Mr. MALLORY. I concede that the carrier has a right to give a pass to its own employees. I think that is necessarily a concomitant of the condition of the public carrier. He is obliged to allow his employees to go from point to point, and I see no objection to giving passes to the employees of the railroads; but beyond that I do say the issuance of passes ought not to be allowed.

I do not know that I entirely indorse the substitute as offered by the Senator from Texas [Mr. CULBERSON], but the amendment he has offered I should vote for largely in preference to such an amendment as that proposed by the Senator from Georgia [Mr. BACON].

Mr. CARTER. Mr. President, I desire to call the attention of the Senator from Texas to his proposed amendment. The proviso beginning in line 1, page 2, permits "the interchange of passes for officers, agents," etc., and likewise "to owners and care takers of live stock."

The amendment, in so far as the phraseology is concerned relating to the owners and care takers of stock, is, I think, very satisfactorily framed; but this courtesy or right should not be confined to the matter of interchange of passes. I think the railroads should be permitted to issue free transportation direct to the care taker or the person in charge of the stock. I apprehend that under the proviso the privilege would be confined to a mere interchange of passes; and to the end that this difficulty may be eliminated, I suggest to the Senator the propriety of accepting an amendment by inserting after the word "the," where it first appears in line 2, on page 2, the words "issue or;" so that the proviso would read:

That this provision shall not be construed to prohibit the issue or interchange of passes, etc.

Mr. BEVERIDGE. May I ask the Senator a question before he takes his seat?

Mr. CARTER. Certainly.

Mr. BEVERIDGE. The Senator from Montana, in calling particular attention to this language, raises an issue as to which I should like to ask the Senator. I had not observed it before. The amendment provides for the interchange of passes; and undoubtedly the object to be accomplished is that passes shall be issued to these employees and to also provide for their transportation over other lines.

Mr. CARTER. That is true.

Mr. BEVERIDGE. But I am asking the Senator whether or not the language here used would not permit the interchange of a pass held by an employee to another employee?

Mr. CARTER. I presume that even if the language were susceptible of that construction, in administration it would not be permitted.

Mr. BEVERIDGE. I will ask the Senator if he does not think that it is certainly susceptible of that construction?

Mr. CARTER. While that is possible, it is scarcely probable that it would be tolerated by the railroads, I imagine.

Mr. CULBERSON. Mr. President, in reference to the suggestion of the Senator from Montana [Mr. CARTER], I will state

that by transposition the paragraph beginning on line 3, page 2, reading "to owners and care takers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery," having been placed after the words with reference to the interchange of passes by an inadvertence in writing it out, or stenographically, it is, I think, susceptible to the objection suggested by the Senator from Montana. I have no objection, Mr. President, to inserting the words suggested by the Senator from Montana "issue or," after the word "the," at the beginning of line 2, on page 2, so that the amendment will speak the purpose of the drafter.

Mr. President, I want to say in reference to this matter——

Mr. FORAKER. Will the Senator allow me to ask him at that point whether he has modified his amendment in any other respect? I was for a time out of the Chamber, and I understand that there have been some other modifications.

Mr. CULBERSON. At the suggestion of the Senator from Indiana [Mr. BEVERIDGE] the words "physicians and surgeons" were added after the word "attorneys."

Mr. President, I desire to say that I have no special desire to introduce or to pass any particular amendment on the subject of free passes. I have said once or twice in the Senate that my purpose in introducing the amendment several days ago was to avoid a very disagreeable and a very vexatious subject in the Southern States. That was my particular object, though incidentally I am opposed to the issuance of passes, and would, if I could, make it as general as it is possible to do under the circumstances. With that view and in that spirit, Mr. President, I have consented to the modification of my amendment, wherever the suggestions of Senators have met my approval, and without reference to whom or by whom such suggestions were made.

The Senator from Indiana [Mr. BEVERIDGE] a few moments ago, as I understand—though I did not hear him—suggested or intimated a lack of courtesy on my part to him with reference to certain amendments which he had suggested, notwithstanding the fact that I had already accepted a suggestion made by himself with respect to the insertion of the words "physicians and surgeons" of railway companies. I do not understand what the Senator meant by that language if he uttered it, although, as I say, I did not hear it.

Mr. BEVERIDGE. Does the Senator wish me to make a statement here?

Mr. CULBERSON. I wish to know what the Senator meant.

Mr. BEVERIDGE. Very well. Mr. President, I simply said that I thought, in view of the history of this particular amendment, the Senator could afford to be a little more generous than he had been up to that particular moment in listening to the suggestions of other Senators, which suggestions were made solely for the purpose of perfecting his amendment. I called attention to two or three instances where suggestions had been made and which, without much consideration, had been summarily rejected by the Senator from Texas. I said, in view of the history of this whole proceeding, when Senators were merely intending to aid the Senator, as we are all attempting to aid each other, I thought he might be a little more receptive.

The VICE-PRESIDENT. The Chair will state that this discussion is out of order, as each of the Senators have heretofore spoken.

Mr. CULBERSON. Then if I may not refer further to this matter, I will rise for another purpose. Appreciating the suggestions made in several parts of the Chamber with reference to the attitude in which Senators may be themselves placed by a vote on this matter, although I do not yet understand logically the so-called "parliamentary situation," I ask unanimous consent to withdraw the amendment which is printed in italics on page 4 of the bill, and to offer in lieu of it the printed amendment proposed by myself, which is on the desks of Senators this morning; so that the amendment which is now pending may be amendable by the Senate, if it sees proper.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Texas?

Mr. BEVERIDGE. Before the Senator takes his seat, I want to ask him a question merely for the purpose of expediting this matter. Does the Senator in making this request for unanimous consent to substitute another amendment for the one pending include in the substitute amendment the words "physicians and surgeons" which the Senator included in his amendment a moment ago?

Mr. CULBERSON. Certainly.

Mr. BEVERIDGE. Very well.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Texas? The Chair hears no objection.

Mr. DANIEL. This is disposed of, is it?

Mr. BAILEY. Mr. President, I rise to a question of personal privilege.

The VICE-PRESIDENT. The Senator from Texas rises to a question of personal privilege. The Senator will state it.

Mr. BAILEY. Mr. President, I send to the Secretary's desk——

Mr. DANIEL. Had I been recognized?

The VICE-PRESIDENT. The Senator had been recognized, but the Senator from Texas rose to a question of personal privilege.

Mr. DANIEL. Of course I yield to the Senator.

Mr. BAILEY. I ask the Secretary to read from the Chicago Tribune of May 15 the matter between the pen marks in the article which I send to the desk, beginning at the lower part of the first column.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

[From the Chicago Tribune, Tuesday, May 15, 1906.]

BAILEY A STUMBLING BLOCK.

It is a fact, however, and there is documentary proof of this which has not yet been produced, but which is none the less in existence, as I know, that Senator TILLMAN could not control his own party, because he could not control the real party leader in the Senate, JOE BAILEY, of Texas. It was Senator BAILEY who stood in the way of an agreement, and Senator TILLMAN was suspicious of him and said so in so many words to former Senator Chandler. It was Mr. Chandler who brought to the White House the statement that Senator BAILEY had devised his extraordinary amendment prohibiting the lower courts of the United States exercising the right to issue interlocutory orders for the sole purpose of defeating the railroad bill. It was Mr. Chandler who vouched for the statement that Senator TILLMAN was suspicious of Senator BAILEY, that he believed Senator BAILEY was treacherous and did not want a rate bill passed at all, or, if passed, hoped to have inserted in it some amendment which would be fatal to its constitutionality and which would destroy its effectiveness.

The story was told as coming from Senator TILLMAN that Senator BAILEY was not honestly in favor of the rate bill, and that he would have opposed it openly if he were not afraid it would cost him his seat in the Senate, as the Texas people are not fond of statesmen who defend railroads or any other of the octopus class.

HAVE CHANDLER IN WRITING.

I think I am safe in saying that former Senator Chandler wrote to a distinguished member of the Administration that he and Senator TILLMAN were both suspicious of Senator BAILEY and that this letter undoubtedly was shown to President Roosevelt himself. In personal conversations the word was carried from the TILLMAN camp that Senator BAILEY was suspected of holding secret conferences with Mr. ALDRICH himself, and by skillful support of his anti-injunction amendment Senator BAILEY intentionally had split up the Democratic caucus and had managed things so that Mr. TILLMAN could not deliver anything like the unanimous Democratic vote for anything at all, no matter whether approved by the Administration or not.

That Senator BAILEY was under suspicion by Senator TILLMAN and other prominent Democrats is positively known. That there was ground to believe that he or other Democrats were in conference with Senator ALDRICH almost all the time, and that they were being tempted to unite with the ALDRICH crowd to "down the President" is susceptible of proof, if the distinguished people interested shall see fit to produce the documents.

Mr. BAILEY. Mr. President, I had taken no part in the question of veracity which had been raised by the President between him and ex-Senator Chandler; I had not even given any public expression of my opinion as to the question of good faith which the Senator from South Carolina [Mr. TILLMAN] raised with the President, because personally I knew nothing about either transaction. I had never conferred with the President directly, nor had I conferred with him through ex-Senator Chandler. It was, therefore, a matter of great surprise this morning when a Senator called my attention to the communication in the Chicago Tribune of yesterday.

That communication, it is understood, was sent by a correspondent who is close to the White House, and who is presumed to speak with some degree of authority concerning matters there. I do not know this to be true, and therefore decline to charge that it is true. But, sir, I denounce that statement as an unqualified, a deliberate, and a malicious lie; I denounce that correspondent as an unqualified, deliberate, and malicious liar; I denounce the man who furnished him the information on which it was based or who inspired its publication as an unqualified, deliberate, and a malicious liar, whoever he may be, and however high the office which he holds.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Texas [Mr. CULBERSON].

Mr. DANIEL and Mr. McCUMBER addressed the Chair.

The VICE-PRESIDENT. The Senator from Virginia is entitled to the floor.

Mr. TILLMAN. I rise to a question of personal privilege.

The VICE-PRESIDENT. The Senator from South Carolina will state it.

Mr. TILLMAN. My name having been mentioned in the article which has been read as the one who had conveyed to Mr. Chandler the information that I suspected the good faith

of the Senator from Texas [Mr. BAILEY], I feel called upon to say something. I have read the whole of that article, and I am sorry that the Senator from Texas did not allow it all to go in, because while it is not——

Mr. BAILEY. I want to say that I did not feel at liberty to have any part of it printed except that which related to me.

Mr. TILLMAN. Then, perhaps, Mr. President, the Senate would like to hear it all now, and I ask that it be all read, so that my own comments on it may be better understood.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from South Carolina? The Chair hears none, and the Secretary will read as requested.

Mr. GALLINGER. Let the Secretary read the portion which has not been read.

The Secretary read as follows:

BAILEY A TRAITOR ON THE RATE BILL—CHARGED BY CHANDLER THAT TEXAN SOUGHT ALLIANCE WITH ALDRICH TO BLOCK TILLMAN'S EFFORTS—ROOSEVELT QUICK TO ACT—PRESIDENT'S PROMPT WORK IN EMERGENCY UNITES REPUBLICANS AND DEPRIVES DEMOCRATS OF CREDIT.

[By Raymond.]

WASHINGTON, D. C., *May 14, 1906.*

Behind the letter of President Roosevelt to Senator Allison and the report of Attorney-General Moody to the President, made public to-night, and also back of the sensational statements of Senators BAILEY and TILLMAN in the Senate on Saturday, is still another story which I am now permitted to make public for the first time.

President Roosevelt did conduct negotiations with the Democrats through Senator TILLMAN. As he himself said, the conferences did not originate with him, but the suggestion came from Senator TILLMAN himself through former Senator William E. Chandler, a Republican, but a strong personal friend of Senator TILLMAN.

Mr. TILLMAN and Mr. Chandler have visited each other during vacation times, and in spite of the difference in their politics have been extremely close friends since they first became acquainted. They used to fight in the Senate just for the fun of the thing and then go out to lunch together. Mr. TILLMAN visited Mr. Chandler at his New Hampshire home, and the visit was returned.

TILLMAN'S LOVE FOR CHANDLER.

When Mr. Chandler was beaten for reelection through the influence of the Boston and Maine Railroad, which he had persistently fought, Senator TILLMAN was one of those who helped the New Hampshire Senator secure the soft job he now holds at the head of the Spanish Claims Commission. This curious tribunal possesses a large patronage, pays large salaries, does no work, and is in itself the ideal Government sinecure, the like of which does not really exist in Washington.

Senator TILLMAN was not on good terms with President Roosevelt. A dinner invitation to the White House had been withdrawn and a public snub administered by the President because of his unseemly conduct on the floor of the Senate which resulted in his suspension.

Senator TILLMAN, by force of circumstances, had been made the leader of the Democrats, and also to a certain extent the representative of the Administration element in the Senate on which the President could depend. It was quite natural, therefore, for the South Carolina Senator to talk over the situation with his boon companion and constant chum, Mr. Chandler. It was Mr. Chandler who went first to the White House, and not the White House which went to Mr. Chandler.

This part of the story is not new, although it is revived by the President's statement and the report of Attorney-General Moody. It is necessary to repeat it, however, because it explains the circumstances which followed, which the President thus far has kindly suppressed, doubtless out of regard both for Mr. Chandler and Senator TILLMAN, who have been honestly in favor of rate regulation.

TILLMAN'S POLITICAL ENDS.

There was a twofold reason apparently which influenced Mr. TILLMAN to open negotiations with the President. By the action of Senator ALDRICH and the Republican majority on the committee Senator TILLMAN was put in charge of the bill. He would be sure to make a sorry figure of it unless he had some assurance of support by the Administration Republicans. Senator TILLMAN is a violent man in his language, but he has honest convictions. He believed in rate regulation and wanted to see it put on the statute books. He was entirely in sympathy with the President on the matter of principle, and owing to the honesty of his purpose he was willing to forget the old snub and send Mr. Chandler to the White House to see if some sort of a thoroughfare could not be devised on which both the President and the Democrats could travel, leaving ALDRICH and his crowd out in the cold.

There was one natural political trick to be turned, which was to secure before the country the credit of passing the rate bill. Senator TILLMAN was smart enough to see that if Senator ALDRICH could command the larger portion of the Republican vote, and if the Administration should openly have to depend upon the solid Democratic vote, the Democrats would be the gainers. For political reasons, therefore, as well as from his honest devotion to principle and his personal desire to steer the bill successfully through the Senate, Mr. TILLMAN was more than ready to negotiate with the President, and while he would not go to the White House he was willing to go and did go repeatedly to see the Attorney-General, who was the President's personal representative.

DEMOCRATS BADLY SPLIT.

This brings the situation down to about the time of the Democratic caucus, when there was developed such a great split in that party as to make the President and those nearest him extremely doubtful whether the Democrats could deliver solid support even if the Administration should agree upon a compromise amendment satisfactory to them. President Roosevelt, as Senator TILLMAN'S own negotiations show, and as the report of Attorney-General Moody proves conclusively, was entirely willing to work in harmony with anyone who would aid in the passage of a satisfactory rate bill.

The measure had been passed through the House unanimously and with the total obliteration of political lines. It was not a party measure in any sense of the word. It had been reported out to the Senate against the vote of a majority of the Republican members of the Committee on Interstate Commerce, and it was actually dependent upon the initiative, day by day, of a Democrat as the floor leader. It was entirely proper, therefore, that the President should confer with Senator TILLMAN, and if that had been all there was to the affair the two men would still be in entire harmony.

[At this point in the article appears the matter heretofore read at the request of Mr. BAILEY.]

The Secretary resumed the reading of the article, as follows:

NEW TASK FOR ROOSEVELT.

It was, therefore, when it was discovered that the Democrats were hopelessly split up, and when it was found that Senator TILLMAN himself was openly out of touch with and suspicious of Senator BAILEY, the acknowledged leader of the minority in the Senate, that it became necessary for the Administration to make a final effort to get the Republicans together on some sort of a rate bill which would be satisfactory to the country. To have notified Senators TILLMAN and BAILEY would have defeated this purpose entirely. Senator ALDRICH and his associates could not get at Senator TILLMAN, and Senator BAILEY could not help them openly. They were ready, therefore, to compromise, and, after all, the most they wanted was "to save their face."

It was a complicated situation, as anyone readily can see, and it is remarkable, to say the least, that it was solved so quickly. Just how it was done is told in a paragraph in Attorney-General Moody's report, in which he says, after detailing the conferences with Senator TILLMAN just after the Democratic caucus:

"I then said that in my opinion any amendment drawn by anyone representing the executive branch of the Government, even though it were inspired from heaven, would not be accepted without change by the Senate; that that attitude was natural and proper, and that if the exact language of an amendment which could be adopted should be agreed upon it ought to be drawn by the Senators themselves. I suggested Senator ALLISON as a proper person for further conferences, and the matter, so far as I was concerned, ended there."

ALLISON AMENDMENT COMES IN.

As the President said, the now celebrated Allison amendment was brought to him by Senators ALLISON and CULLOM. It had been circulated in the Senate for some little time, and had been talked over before it was shown to the President at all. He accepted it almost as soon as it was brought to him, on his own motion, and possibly without as much consideration as might have been desired.

The remarkable thing is that the President did not consult Attorney-General Moody at all before agreeing to the Allison amendment. That compromise was not submitted to Mr. Moody in any way, and he never saw it until he read it in the newspapers after the President had given it his public approval. Attorney-General Moody was ignored in the matter, but he had, in effect, advised that he should be ignored when he suggested that the compromise should come from the Senate and not from the Administration. Mr. Moody—

[At this point the article sent to the desk ends.]

Mr. TILLMAN. Mr. President, the points to which I wish to address myself in this remarkable article are only two. Coleridge tells us:

> In Cologne, a town of monks and bones
> And pavements fanged with murderous stones,
> I counted two-and-seventy stenches,
> All well defined, and several stinks.

This correspondent is undoubtedly a muck rake. Into what house the handle goes or what hand holds that handle I shall not say. But in the brief time I have had to examine the article I counted eight distinct and absolute falsehoods in regard to myself. But the one more particularly necessary to mention is that I ever lost faith in the integrity and honor and fair dealing and purpose of the Senator from Texas [Mr. BAILEY]. There never has been the slightest disagreement between us from the beginning of the railroad rate debate in the Senate, and I have never at any time or anywhere indicated a suspicion. I have said that there were suggestions by the Senator from Rhode Island [Mr. ALDRICH] to the Senator from Texas [Mr. BAILEY], and to myself also, urging an agreement between the Democrats and his friends on the other side, which we declined to consider. But there has never been the slightest suspicion on my part of the good faith of the Senator from Texas in this business. Therefore this story, which is concocted now and is being sent abroad by the cuckoos and hirelings of the Republican machine to endeavor to muddy the waters and becloud the situation, is only indicative of the desperate straits to which some people have brought themselves.

The observation of the Attorney-General that he felt that nothing that might be drawn in the way of an amendment would ever be accepted by the Senate unless a Senator drew it is an adroit effort to give color to the President's retreat behind the Allison amendment as embodying his wishes and his purpose, notwithstanding the repeated declarations in his message and in his conversation with Senators and in his conversation with newspaper men that he would never consent to any such proposal.

I do not care to pursue the question further. The country is fully acquainted with the situation. But, as I am on my feet and the Senate is undoubtedly tired of this controversy, I desire to put in one more exhibit, so that the RECORD shall be full when future historians come to sift the question who did the lying in this important transaction—they may have all the evidence that I have. I therefore send to the desk and ask to have read a personal letter addressed to me by the Hon. William E. Chandler, of this date.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

WASHINGTON, D. C., *May 16, 1906.*

MY DEAR MR. TILLMAN: As the telephonic denial by President Roosevelt sent to the Senate through Senator LODGE remains in the CONGRESSIONAL RECORD of May 12, it seems to me that I should take some notice of it, which I do by now reaffirming the essential truth of the statement I made to you and which you repeated in the Senate. Much as I regret that the hasty action of Senator LODGE and the President has forced an issue between the President and myself, the extreme language he used makes such an issue unavoidable, and I can not shrink from or evade it, although I can not use toward the Chief Executive of the nation language like his own. Upon our respective statements I submit the controversy, with confidence to the judgment of those who know me.

For those who do not know me there is fortunately circumstantial evidence of a high order which shows that the President could not have omitted to make in substance the statement which he denies. Nor could he have then made the whole statement which he now substitutes. His impulsiveness has led him into serious error upon a point of no importance in itself, but only as affecting his attack upon me. I give to you a further statement as follows:

Prior to March 31 I had not seen the President for a long time. I did not go to the White House as a representative of Senator TILLMAN, but solely because the President summoned me there by the letter from Mr. Loeb, and I waited for him to express his object. It was unmistakably stated to be communication with Mr. TILLMAN, who had the rate bill in charge, and other Democrats of the Senate, for the purpose of securing the adoption in the railroad rate bill of a court-review clause limiting the inquiry to the question whether the Commission had exceeded its authority or had violated the constitutional rights of the carrier. I knew and he knew that it was impossible for him to open conferences with Mr. TILLMAN, unless he was fully satisfied that the President had absolutely given up all intention of coming to an agreement with the Senators who had been making the contest for an unlimited court review, and, in stating his object, he said that he had parted from them finally, naming Senators KNOX, FORAKER, and SPOONER as the Senators who had made the arguments in the Senate to sustain that view, and he used, as nearly as I can recollect, the language given in my statement repeated by Mr. TILLMAN. The conversation included the understanding which he had that day reached with Senators LONG and ALLISON, the fact that not over one-third the Republican Senators could be relied on to vote for the limited court review, and that it was vital that the support of nearly all the Democrats should be obtained.

When an hour later I visited Mr. TILLMAN and told him my mission from the President, I found him distrustful and suspicious. He questioned me closely as to what the President had said, and I related to him as accurately as I could the statement made by the President to me, and I convinced him that the President had ceased to hope for compromise with the Senators named and the other advocates of an unlimited court review. When satisfied that this was the case, he readily consented to cooperate with the President, and said that he would see Senator BAILEY and report to me the result, which he did, saying there would be perfect accord upon the limitation of the right of review if carried forward in connection with a limitation of the right to issue ex parte injunctions.

The conferences thus begun were, on the 15th, at my suggestion, transferred to Attorney-General Moody, and at once resulted in an understanding that the effort should be made to limit the right of court review, as stated in the Long amendment and in the paper drawn up on April 16 by Mr. Moody and later perfected by Messrs. Moody, TILLMAN and BAILEY. Was it not natural and essential that the President should have satisfied me that he had finally separated upon the question of the court review from the Senators who were the principal opponents of any limitation of that review, which they believed would be unconstitutional, and that I should have repeated his statements to Mr. TILLMAN? Is it possible that I went directly that night to Senator TILLMAN at the Colonial Hotel and poured into his ears a deliberate and unqualified falsehood?

Consider next the statement which the President says he thinks he made instead of the one narrated by me. Senator FORAKER, he says, was not mentioned. I am quite sure he is mistaken. Senators KNOX and SPOONER, he says, were mentioned, but that all that was said about them was, as to Senator KNOX, that the President did not agree with a portion of his proposed amendment, but that he thought he had made a strong argument for asserting affirmatively the jurisdiction or authority of the court, and as to Senator SPOONER, that his name was only mentioned by him to express a cordial approval of Senator SPOONER'S amendment.

This Spooner amendment was not offered in the Senate until May 10, but I learn that it had been in existence and shown to the President—whether as early as March 31 does not appear. But this is certain, that if the President had on that night told me that he cordially approved of it, and I had so reported to Mr. TILLMAN, there would have ensued no conferences looking to cooperation; therefore, the President, as to that amendment, had in mind a conversation at some other time or with some other person.

It should also be borne in mind that the report I made to Mr. TILLMAN of the President's conversation is comparatively harmless and inoffensive. Here it is:

"He said that he had been much troubled by the advocacy of an unlimited court review by some of the lawyers of the Senate, naming Senators KNOX, SPOONER, and FORAKER as trying to injure or defeat the bill by ingenious constitutional arguments, but that he had come to a complete disagreement with them."

What is there in the above words that is untrue or should give grave offense to the Senators named? They were the great constitutional lawyers of the Senate making ingenious arguments against any limitation of court review, and they were troublesome and likely to be troublesome in any attempt to carry the Long-Moody limitation through the Senate by the votes of 25 or more Democrats and 20 or less Republican Senators. What harm was there in the President's saying that he had come to a final disagreement with them on the day when he had held a White House conference with a view to uniting Democratic and Republican forces in carrying a limitation of court review then and there agreed upon? He could say it in or out of their presence without giving offense to them. Nor was it a very strong expression to say that they were trying to injure or defeat the bill by ingenious constitutional arguments. It did not mean that they were trying to defeat the bill if it could be amended to meet their views. Mr. KNOX had declared it to be unconstitutional unless amended, and that was the general position of the opponents of limited court review which led the President on that day to conclude it would be best to expressly grant the jurisdiction to review, but to rigidly limit it to the two objects named. The only harm that I can see that has come in the whole business was the abandonment of any attempt to carry that limitation of the review without any previous notice to Senators TILLMAN and BAILEY.

On the whole, perhaps I ought to consider myself fortunate. If the old imperialist days had been fully revived at the White House, one whom I considered the best of friends—Senator LODGE—upon demand would have cut off my head and taken it to President Roosevelt on a charger, and I should have spoken no more. Now, at least, I have left to me the power of speech. But I shall never use it again as a missionary from President Roosevelt to the Democratic party.

Sincerely, yours,

WM. E. CHANDLER.

Mr. BAILEY. Mr. President, since I had the article from the Chicago Tribune of yesterday read from the clerk's desk my attention has been called to substantially the same kind of a slander in the New York Tribune of to-day. I suppose it was deemed proper to send it to Chicago a day in advance, so that the calumnies would reach Washington on the same day. I will say, and I say it upon the statement of more than one reputable newspaper correspondent in the gallery—and, as a rule, they are as honorable as are the Senators on this floor—that the two chief cuckoos among the correspondents are those of the Chicago Tribune and the New York Tribune. Therefore it seems to me conclusive that this slander proceeded from the White House. I hope, for the honor of my country, that it did not proceed from the President himself. But if he be a man of a high sense of honor he will see to it that Senators are not slandered by his subordinates.

The miserable wretch who communicated to these newspapers and who sought through them to communicate to the country this slander upon me, in order that the public may discuss it rather than the other issues which have been raised—if the President is fit for his high office—will pay for it with his position; and if the man who did it holds his place, evidently he did it with the approval of his chief.

Mr. NELSON. What is the question pending before the Senate?

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Texas [Mr. CULBERSON]. The Senator from Virginia [Mr. DANIEL] obtained the floor before the Senator from Texas [Mr. BAILEY] rose to a question of personal privilege.

Mr. DANIEL. After the words "except to its," in line 4, page 1, of the Culberson amendment, I move to insert the following words:

Actual and bona fide officers, directors, attorneys.

If those words are there inserted, a consequential amendment will be necessary in lines 5 and 6, to strike out the words "to its actual and bona fide attorneys." The effect of this amendment is simply to treat the attorneys of a railroad company like their other agents and employees, and to permit the company to accord to them and to their immediate families free passes in identically the same manner that they will be permitted to accord them to their other agents and employees.

I thought at the time the original Culberson amendment was adopted that it was erroneous in qualifying the term "attorneys" with the word "exclusive," first, because the word "exclusive" would require an interpretation about which there might be difference of opinion, and, second, because it was in itself without a sufficient substantial basis. Like others who had similar views, I sustained the Culberson amendment, informing its author of my objection, and relying on the assured opportunity later to seek the change now asked.

In the great cities of the country—Baltimore, Philadelphia, and New York, for instance—the attorneys of great corporations are somewhat like the attorney-general of a State or of the country. They are so occupied in their offices that they have neither the opportunity nor the motive to desire private employment. But in the towns and villages of my own State, and south of us, west of us, and in many of the towns and villages of the more populous States, the attorney of a railroad company has to associate with railroad employments a general practice, and it would be unwise to say that the railroad company could not grant to him a free pass because, in order to eke out his salary and to make a respectable living, he is taking cases in the courts for the people.

I hope that this amendment will be satisfactory, and will say, as other Senators have already said, that I am in receipt of a voluminous correspondence, by letter and telegram, on this subject and its connate topics of free passes to be accorded to employees. I will not read any of these communications, but they come from all directions. They are accredited by the most respectable names. They represent interests which ought to be regarded, for what is asked is right in itself.

In restraining railroad companies from the general system of free passes to men in the public service and others there is no rationale in requiring them not to use their own property in ways that enable them to get better service and perhaps a moderated or cheaper service from the attorneys and agents whom they employ.

Mr. President, especially is this applicable to the families of railroad employees. There are in the State of Virginia, which is doubtless like other States in this respect, railroad shops at various points to which workingmen are called from time to time. Very often, too, other artisans have to move from one city to another. If the railroad company were to pay their expenses it would be proper, but as they can accord them free transportation it is proper. Sometimes the family is living in one city and the artisan in another. It tends to the respectability and to the decency of life and to all good ends of society to facilitate these communications between the artisan and his household.

I do not think, sir, that we should be prudish in dealing with this subject. There are substantial equities and sound public policies and many individual accommodations about it which commend themselves, in my humble opinion, to reasonable and just minds.

Mr. TILLMAN. I should like to know the parliamentary status, Mr. President.

The VICE-PRESIDENT. Did the Senator from Virginia propose an amendment?

Mr. DANIEL. The clerks took down the amendment.

The VICE-PRESIDENT. The Secretary will state the amendment which the Senator from Virginia proposes to the amendment of the Senator from Texas.

Mr. DANIEL. Strike out the word "officers" in the fourth line and insert "actual and bona fide officers, directors, attorneys."

The SECRETARY. Before the word "officers" insert the words "actual and bona fide."

Mr. DANIEL. That is correct.

The SECRETARY. After the word "officers" insert the words "directors, attorneys."

Mr. DANIEL. That is correct.

Mr. TILLMAN. Let the Secretary again read it.

The VICE-PRESIDENT. The Secretary will again read the amendment to the amendment.

The SECRETARY. Before the word "officers," in line 4 of the amendment, insert the words "actual and bona fide," and after the word "officers" insert the words "directors, attorneys;" so that it will read:

Actual and bona fide officers, directors, attorneys, agents, and employees, and members of their immediate families.

And after "families" strike out "to its actual and bona fide attorneys" and insert in lieu "and physicians and surgeons."

Mr. HANSBROUGH. I suppose it will be in order now to dispose of the amendment offered by the Senator from Virginia?

The VICE-PRESIDENT. That is first in order.

Mr. HANSBROUGH. And then another amendment will be in order?

The VICE-PRESIDENT. It will.

Mr. NELSON. I should like to hear the amendment read as it will read when amended.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. As amended the amendment would read:

That no carrier engaged in interstate commerce shall hereafter, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers except to its actual and bona fide officers, directors, attorneys, agents, and employees and members of their immediate families and physicians and surgeons, to ministers of religion, and inmates of hospitals and eleemosynary and charitable institutions, and to indigent and destitute persons, etc.

Mr. TILLMAN. Mr. President, I hope the amendment will not be adopted. It is too broad, and practically covers almost everything and everybody that can be drummed up. For instance, the word "agents" would embrace a lobbyist, while if you would put the word "station" in front of it to describe it you could then limit it to those who are employed by the railroad to look after its business at the depot. The word "officers" is broad enough, and I do not see any use in the world to put "bona fide" there any more than I do to put the words "bona fide" in the amendment before "attorneys." The Senate has already adopted once in regard to attorneys the words "exclusively employed," so as to limit the issuance of passes to the regular attorneys, those who are employed and who do no other work except for the railroad. One of the curses of this free-pass system is that it is taken advantage of, and every lawyer anywhere within the purview of the railroad business or in its territory who is willing to accept a pass, if you will give him one, that allows him to go where he chooses and when he pleases, and when he may have no other connection with the road than to act as its intermediary in the town in which he lives, or to become a lobbyist, if necessary, at the State capital when the legislature meets, may come under this provision.

Therefore I hope if the Senate is going to do anything really honest in this business, and not a mere pretense, it will adopt an amendment which will limit the attorneys to those exclusively in the employ of the railroad, as we have already done once, and will put the word "station" before the word "agents," so as to keep out the designation, in writing, of Mr. John Smith as the agent of the Pennsylvania Railway, for instance, and let him go anywhere he pleases or wherever he is sent to do the dirty work of the road. We want to give the railroad men actually in the employ of the road every convenience and facility for going about the country that they may need or require, and their families also, but we ought not to make this provision so broad that it will actually be a laughingstock and a farce in the eyes of the country.

Then if we will incorporate a provision which was offered the other day by the Senator from North Dakota [Mr. McCUMBER] making it a penalty or a crime or a misdemeanor—I do not know what was the exact word—"unlawful," I believe—for any officer of the United States to accept these passes we will have gone as far as legislation can go to stop this abuse.

Mr. DANIEL. That is already in the amendment.

Mr. TILLMAN. When did it get there?

Mr. DANIEL. "Any carrier violating this provision shall be deemed guilty of a misdemeanor."

Mr. TILLMAN. I am not talking about the carrier. We do not want to punish the poor carrier. We want to punish the man who goes to the carrier and gets a pass and rides on the pass when it is sent to him.

Mr. DANIEL. We want to put that in.

Mr. TILLMAN. I hope it will be put in.

We are already tangled up here, and I hope the Senator from Virginia will withdraw the amendment and let the Senator from Texas accept an amendment and then try to get through with this matter and go on. We have got to vote down something in order to vote in anything, and I ask that the amendment of the Senator from Virginia be laid on the table.

Mr. DANIEL. I think that is a very unjust way——

Mr. TILLMAN. Or let us vote on it, then.

Mr. DANIEL. I do not intend that you shall misrepresent it in my opinion and sit still.

Mr. TILLMAN. The Senator has already spoken and can not speak any more.

Mr. DANIEL. I can not allow a passionate denunciation of it to be made without making a reply to it. The Senator always wants people to sit down when he wants to make a speech.

Mr. TILLMAN. I will retain the floor and will retain my temper, which the Senator from Virginia seems not to be able to do just now.

Mr. DANIEL. I do not wish to be treated in this rough fashion by you or anybody else.

Mr. TILLMAN. I beg the Senator's pardon, if I have done anything that really needs it. I am not conscious of any purpose of that sort.

Mr. DANIEL. Your manner is very rough and insulting to gentlemen debating an amendment with you.

Mr. TILLMAN. As I said, it was not my purpose. I know I am a rude man, but it was unintentional. I will retain the floor so that the Senator may speak, because he can not speak otherwise, under the rules.

Mr. DANIEL. I wish to make a brief answer to the extravagant statement of the Senator from South Carolina. He says my insertion of the word "attorneys" here makes this a laughingstock.

Mr. TILLMAN. The word "attorneys" was already in.

Mr. DANIEL. I know the word "attorneys" was already in, but I transpose it so as to include their families, and I consider that the attorneys of this country are just as reputable a class of men as other railroad employees. It is so in my State. The Senator can speak for his own.

Mr. TILLMAN. I have not said anything against attorneys.

Mr. DANIEL. You say it will make a laughingstock to permit their families to accept free tickets. I do not think so, and consider it an absurd notion.

Mr. TILLMAN. If you put it so that it will apply to attorneys who are engaged exclusively in the employ of the road by actual employment and no others, I will agree to it. But if you are going to make it apply to every lawyer in the State of Virginia, or any other State, who is given a pass and is entitled to

travel free on the road and get no other compensation for his work or pretense of work except his pass, I object to it.

Mr. DANIEL. Is the Senator objecting to putting in there "bona fide attorneys?"

Mr. TILLMAN. Bona fide means nothing.

Mr. DANIEL. I think it does mean something. That is just the difference between the Senator and myself. It does not mean a disguise, but a thing done specifically for an honest reason. That is what it means in my comprehension, whatever the Senator may conceive about it.

Mr. TILLMAN. I know a little Latin, and I know it means in good faith.

Mr. DANIEL. That is what it means.

Mr. TILLMAN. An attorney who is employed by the railroad in good faith will act in perfect good faith, but when the railroad company says I will give you a pass for what you do, and with no other compensation involved except a pass, he is not an attorney bona fide.

Mr. DANIEL. Mr. President, I wish to explain what was my motive in offering the amendment. At the court-houses and in the small towns where railroads have to have attorneys those attorneys can not afford to abandon their other practice. Where a railroad employs an attorney, I think it generally tries to get about the best man that it can. That has been my observation in my own part of the country, but these gentlemen can not get large pay, because the railroad practice is not large enough. They are obliged to pursue their profession in the courts.

Mr. TILLMAN. Will the Senator allow me to ask him a question?

Mr. DANIEL. Certainly.

Mr. TILLMAN. Can not the railroad pay in money whenever a lawyer is needed at a given place, and then when the lawyer wants to ride around can he not pay for his transportation the same as anybody else?

Mr. DANIEL. Of course he can.

Mr. TILLMAN. Then why give him a pass?

Mr. DANIEL. Because the pass will be regarded as part of the compensation, and it is cheaper to both parties. That is the reason. Why do you not say the same about the other railroad men?

Mr. TILLMAN. The other railroad men are running the railroad and this man is running something else.

Mr. DANIEL. The other man very often represents the railroad in the business of the carrier, going to and fro from station to station. I do not consider that every lawyer railroad attorney of this kind, whether exclusively in its service or not, is a suspicious character.

Mr. TILLMAN. I did not say so.

Mr. DANIEL. I know you did not. I think there is no reason for making so much to do about a small thing. It is an accommodation to them, and it is one where there is no public policy to be subserved in attempting to sit upon them and discriminate between them and other railroad employees.

I consider the legal profession an honorable and a noble one, and the men who follow it just as honest in the mass as any other large body of men, and I do not like to see it discriminated against. It is not just. Most of the young lawyers in our State are young gentlemen who have been educated at schools and colleges. Many of them have had to borrow money to get an education. If one of them is selected as the attorney of a railroad in a small town, I do not see that he or his family should be specially pointed at by Congress and told, "You shall not have a free pass on this railroad, but the detectives and all the other agents of the railroad, and their families, may have free passes."

I am simply speaking against a piece of invidiousness. It is not called for nor demanded by any sound and reasonable public policy. There are some people who raise a great hue and cry by denouncing lawyers and politicians. There are honest lawyers and honest politicians; and the mass of both are honest, according to my best judgment and experience in life, although sorry characters are found in all callings, trades, and professions. I do not like to see the profession of the bar invidiously characterized and discriminated against.

Mr. FORAKER. May I ask the Senator from Virginia what——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. TILLMAN. With pleasure.

Mr. FORAKER. The inquiry I make is as to the modification of the amendment by the Senator from Virginia.

Mr. DANIEL. It is a very slight modification, and one that only affects partially the attorneys, and permits their families to be treated as the families of others in the service of the railroad company.

Mr. FORAKER. I understand they are already in the bill.

Mr. DANIEL. The term "attorney" is already in the bill; and while the officers, agents, and employees of a railroad company, other than attorneys, are permitted to have the courtesy of a railroad pass from the company, the attorney's family is excluded.

Mr. FORAKER. I understand that.

Mr. DANIEL. That is all.

Mr. FORAKER. But I want to know in what way the Senator seeks to accomplish his purpose by inserting the word "attorneys" at some point.

Mr. DANIEL. To strike out the words in the fifth line "to its actual and bona fide attorneys," those words being already in the amendment, and insert after the words "except to its," in line 4, the words "actual and bona fide officers, directors, attorneys," so as to read:

Actual and bona fide officers, directors, attorneys, agents, and employees and members of their immediate families.

Then, after that comes the other changes. This is an amendment which I offered to the Culberson amendment. I will send that amendment to the Senator, that he may read it.

Mr. TILLMAN. The Senator from Virginia wishes to put in the word "directors" there, as though a director was not an officer of the road, and I see no use for it in the world. The Senate has already, in two instances, I think, certainly in one, incorporated in this free-pass paragraph the words "exclusively in its employ" after the word "attorney." As I said, I can not offer the changes which I suggest as a substitute for the proposed change of the Senator from Virginia. I wanted to put in, after the word "officers," the word "station," so that it will read, "its officers and station agents;" and then after the word "attorneys," in line 5, put in the words "exclusively in its employ" and strike out "its actual and bona fide."

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. TILLMAN. Certainly.

Mr. CULBERSON. I call the attention of the Senator from South Carolina to the fact that the term "station agent" would prevent the companies from granting passes to their traveling agents and other passenger agents——

Mr. TILLMAN. They are officers.

Mr. CULBERSON. Freight agents and claim agents, and a good many others.

Mr. TILLMAN. I said a while ago that the word "agent" embraces all creation, because all you have got to do is to write and say "I hereby appoint John Smith agent of the Southern Railway," for instance, and he will become eligible to a pass under this amendment, but you can not hedge them off everywhere, and I shall cease trying. I am endeavoring to stop this granting of passes to attorneys who may be appointed bona fide, and who will take nothing else as their compensation except the riding on a road free and giving their families passes.

Mr. MALLORY. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Florida?

Mr. TILLMAN. I do.

Mr. MALLORY. I suggest it will meet the Senator's suggestion if he strikes out the word "agent" entirely. An employee is an agent really, and the term "employee" is broad enough.

Mr. TILLMAN. "Employee" is broad enough. It is so broad it would almost cover John Smith being appointed to do something.

Mr. MALLORY. If you say "station agent," you are going to make it entirely too limited, but strike out "agent" entirely——

Mr. TILLMAN. Can we agree to strike out "agent" then, and leave "employee," so that it reads "officers and employees?"

Mr. CULBERSON. The amendment of the Senator from Virginia is pending.

Mr. TILLMAN. I was trying to get an agreement with the Senator from Virginia so that something would be done in order to expedite the business and get an end some time to agree upon something that we would agree on, and go along with the bill.

Mr. FRYE. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Maine?

Mr. TILLMAN. I yield the floor entirely.

Mr. FRYE. I do not wish the Senator to yield it. I think the Senator from South Carolina is generally right and has lots of common sense, but I think he is entirely mistaken when he wishes to add there the words "exclusively employed." The attorneys who are exclusively employed by railroad corporations receive enormous salaries and can afford to pay their fare without the slightest pecuniary loss, and they have no necessity to travel on the road.

The local attorneys are the attorneys who are compelled to travel over the road to do the business of the road. It is when a disaster occurs that immediately the local attorneys nearest the place of the disaster are ordered to go and examine into the matter, to examine witnesses, and all that sort of thing. They are the men who are really compelled to travel on the road, while the exclusively employed are not compelled to travel on the road at all.

Mr. TILLMAN. Would it not be an easy matter for such an attorney as that to keep his accounts? Let him, in his contract with the railroad, have it understood, "I will buy my transportation the same as any other man whenever I am on your busines, but when I go to settle I will just send you in the memorandum showing how much I paid." He could get the money back every month if he would ask the railroad every month. It is the promiscuous and general use of passes by lawyers who do not do anything else that I am trying to stop.

Mr. FRYE. I never heard of a local attorney yet who was employed as an attorney simply for a pass. I never heard of such a thing in New England. I do not know how it is elsewhere.

Mr. TILLMAN. Your lawyers are richer than some of ours.

Mr. TELLER. Mr. President, the act of 1887 contained a prohibition against the issue of passes. That is, I understand, still the law. It is true it has been a dead letter. I never have known a railroad company that entirely refrained from issuing passes. Yet the law is sufficiently explicit, I believe, if it was enforced.

There is some complaint about railroads issuing passes, and the principal complaint is that they issue passes to men in public life, to members of the National Legislature and of State legislatures, to judges, and officials who have to do with the administration of State affairs. I think if we will adopt the amendment offered by the senior Senator from Georgia [Mr. BACON], which I understand is not before the Senate just yet——

Mr. BACON. No; I propose to offer it as soon as the present amendment is disposed of.

Mr. TELLER. The Senator from Georgia has given notice of it. I want to read it:

That no carrier engaged in interstate commerce shall hereafter, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation or passage to any Senator of the United States or Representative in Congress or to any justice or judge of the courts of the United States or to any officer of either of the Executive Departments of the United States. Any such carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

Mr. President, that is a good amendment, provided you follow it with a penalty that any man who accepts or receives from the railroad a pass shall also be guilty of a misdemeanor and shall be fined.

Mr. HANSBROUGH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from North Dakota?

Mr. TELLER. Certainly.

Mr. HANSBROUGH. I desire to say to the Senator from Colorado that when this debate was opened on the question of free passes I introduced such an amendment as the Senator has in his mind, and it was voted down. I intend, however, at the proper time to offer an amendment to the amendment of the Senator from Texas so that a penalty may be imposed upon such person accepting free transportation.

Mr. TELLER. That is the only way you will prohibit the use of passes, if it is desirable to prohibit them. I do not myself believe that the evil is as great as is complained of, but I am quite willing to adopt such a provision, because I have believed that the act of 1887 prohibited Senators and Members from receiving passes from railroads; and that certainly is the law, although there is no penalty attached, of course, for so doing.

I do not believe it is worth while for us to waste time here to determine whether a railroad company shall give to one of its employees a pass, or whether the company will transport the employee's wife or son or daughter if they see fit; nor do I believe it is necessary to say they shall not give a free pass to anybody unless a pauper or an invalid, or unless an earthquake or something of that kind has happened. I think you can best deal with this subject simply by saying that men in public life shall not accept these favors from the railroads, and stop right there. I do not know by what authority you propose to say that a railroad company shall not give to an officer of another railroad company free transportation, which has been the custom and usage ever since railroads were built in this country.

Mr. President, I do not think this will be any more effective than the law now on the statute books—not a particle. You have here in some way to make your law effective, either by the prosecution of the railroad companies when they violate it, or by imposing a penalty upon parties who receive passes and assist the railroads in this violation. We have wasted a good deal of time over it; and when you get through with a specific declaration such as is made by the Senator from Texas you will find that there are some cases that are just as desirable where passes should be issued, whether it is a matter of charity or whatever it may be.

It does seem to me rather a small business for us to meet a complaint which is very general, that we are the people who ought not to have passes, when we do not include ourselves in that category specifically and directly say it, so that the people may know we are prohibited actually from receiving passes.

Now, Mr. President, I want to say a word about these lawyers. I know something upon that question. I have never heard of anyone in my part of the country who had agreed to act for a railroad company for the sake of a pass, or any lawyer that the railroad company would for a moment have in their employment on such terms. You propose to use the word "exclusively." I know a case where a gentleman in the practice of the law had an annual salary of $10,000 from the railroad company and did perhaps $40,000 of railroad business outside, so that his income ran up to at least $50,000 for many years. He would not have accepted that position, of course, if he had been exclusively confined to the business of the company. He was at the same time the director of a railroad, the president of a railroad, and the general counsel for that section of the country. It was one of the transcontinental roads.

I think it is a mistake to suppose that the railroad companies are employing young men in this way and just simply paying them by giving them passes and by nothing else. They may pay them, say, $2,500 or $1,500 or $2,000. I speak with some knowledge, for I have myself employed such men, but I never did employ any attorney on behalf of any railroad I was connected with for a pass. I think the Senator from Maine [Mr. FRYE] is right when he says that that is not the method.

I should like to see some efficient provision here. I do not believe it is necessary to specify just what the railroad company shall do and shall not do to the extent that is done in all these amendments, unless it is the amendment of the Senator from Georgia.

Mr. PILES. Mr. President, if it were not for the fact that the railroad men of my State have asked me to oppose this amendment I would not take up the time of the Senate now, after this question has been worn out, to say even a word with respect to it. I have received, in common with other Senators, numerous telegrams on this subject. This morning I received the following telegram:

EVERETT, WASH., *May 15, 1906.*

Hon. S. H. PILES,
United States Senate, Washington, D. C.:

All railroad men in State of Washington wish you to oppose antipass amendment railway rate bill.

GEO. DOLPH,
Secretary Division 456, O. R. C.

I take it, therefore, that those who are engaged in operating the railroads in that State oppose this amendment absolutely. I have understood that there are a number of railroad men who are not engaged in the railroad service who will be affected by this proposed law. There are men, I understand, who represent the Order of Railway Conductors and the Order of Railway Trainmen, who travel all over the country in the interest of their order and in the betterment, as they take it, of the railway service of the country. Those men not being in the employ of the railroad companies would not, of course, under this bill be entitled to the free transportation which they have enjoyed for a great many years, and which they think they are entitled to receive, as their work is in aid of and in betterment of the railway service of the country.

So far as I am personally concerned, Mr. President, I am one of those who believe that the public official should not ride upon free transportation; but that is a matter solely for every man to determine for himself. If the people whom he represents are opposed to his riding upon free transportation, I think he should bow to the will of the people of his State; but, on the other hand, I can see no harm that can result from these railroad men, who travel over the country and who are not in the employ of the railway companies, receiving free transportation.

I can readily understand how no great harm could be done to the public by a young man turning his face westward to carve out a fortune in that great country for himself receiving, at the hand of some officer of the railroad company who is a friend of his, free transportation to the West, or of a young man or an old man, so far as that is concerned. who may have been unfortunate receiving free transportation from the West to his old home in the East.

These are questions, it seems to me, Mr. President, which are already regulated by law. If this bill shall be enacted into law, it will, in my judgment, vest in the Interstate Commerce Commission the power to regulate any abuses that may arise by reason of railway companies issuing free transportation. Section 4 of this bill provides:

That section 15 of said act be amended so as to read as follows:
"SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed.

Therefore, Mr. President, if the Interstate Commerce Commission shall find under this proposed law that the railway companies of the country are abusing this pass privilege or extending it beyond their officers, agents, and employees and their families and those who are justly entitled to receive this transportation, it will be within the power of that Commission, if it proposes to perform its duty, to compel the railway company to desist from the practice which it has been in the habit of employing in the promiscuous issuance of passes. It seems to me, therefore, sir, that this bill as it now stands, if it be enacted into law and shall be honestly enforced, will give to the railroad commission of this country the power to see that the people of this country are not injured by the free and indiscriminate issuance of free transportation by the railroad companies of the country.

Mr. President, I do not like to read in any law that the railroad people of this country may have the right to issue transportation to the poor and unfortunate. I take it for granted, Mr. President, that humanity would dictate to the railroads of this country, and should dictate to this Senate, the right of any man or of any set of men or of any transportation company to give the poor and the unfortunate free transportation to any section of this country. I do not think it is becoming in this legislative body to hold that class of people up to public contempt or public ridicule, as the case may be, in a law of this character.

I have confidence in the courts of my country; I have confidence in the Commission which the President will appoint to enforce and carry out the provisions of this law, and, Mr. President, if section 4 is honestly complied with the free transportation of this country will be relegated to the past so far as it has been abused, and no man who occupies a position as a public official will have a pass if the railroad commission shall say that the issuance of such passes is a practice which the railroad company should not indulge in.

The VICE-PRESIDENT. The question is on agreeing to——

Mr. McLAURIN. Mr. President——

Mr. FRYE. Can we not have a vote, Mr. President?

Mr. McLAURIN. Not yet, Mr. President.

The VICE-PRESIDENT. The Senator from Mississippi.

Mr. McLAURIN. Mr. President, it were well for the Senate to keep in mind the extent of the power of Congress to remedy this evil, if it be an evil. I do not believe, and I do not think it is the opinion of any other Senator here, that it is within the power of Congress to prohibit the use of free transportation within the confines of any State in the Union. Congress can only regulate interstate transportation of passengers or freight.

Again, I do not believe it is within the power of Congress to prescribe the contracts that may be made by a railroad with its employees, so that if an attorney of a railroad sees proper to make a contract with the railroad company, and the railroad company agrees to such a contract, it can be provided as one of the terms of his compensation that there shall be free transportation over that railroad, at least, given to the attorney for himself and for his family. So it is with other employees of the railroad company.

The evil which has been suggested by the Senator from South Carolina [Mr. TILLMAN] can not be avoided or remedied by any enactment of Congress, because if the railroad company sees proper, within any State in the Union, to issue its pass, good only in the State, Congress has no power to prevent travel within a State on free passes.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from South Carolina [Mr. TILLMAN]?

Mr. McLAURIN. Certainly.

Mr. TILLMAN. The Senator from South Carolina is perfectly well aware of the legal question which the Senator from Mississippi raises; and the amendment of the Senator from Texas [Mr. CULBERSON], as printed, only applies to passes issued in interstate commerce.

Mr. McLAURIN. I understand that; but the Senator from South Carolina made the objection that the railroad company would issue passes to its attorneys and that those attorneys would go about over the State doing the work—I believe he used the words "dirty work," though I am not sure of that—of the railroad company. That can not be prohibited by any legislation of Congress. The only thing that Congress can do, the only power of Congress, is to prevent the railroad company granting permission to a man to ride on its road free from one State or Territory to another State or Territory. It can not say whether they shall issue free passes or not. It can only make it a penal offense to transport passengers from one State or Territory to another State or Territory.

I have prepared an amendment, which has been printed and, I presume, is on the desks of Senators, which I intended to offer yesterday evening; and I think that amendment is as far as we should go. When the time comes that I can offer it—if such a time shall come—as a substitute for the amendment offered by the Senator from Texas, I shall offer it as such substitute. I think in a few words it covers the entire case. It reads:

That no free interstate pass shall be issued by any interstate common carrier of passengers to any officer of the United States, including executive, legislative, and judicial officers.

When you begin to select those who should be exempted from the operations of a provision prohibiting the granting of free passes or free transportation it is a difficult matter to say who should be exempted from its operation.

It seems to me that all of the evil of the free-pass system can be remedied by preventng officers of the legislative, executive, or judicial departments from riding on free passes. Then, if the railway companies see proper to issue free passes to other people, I do not think they will issue them in sufficient abundance to affect materially or appreciably the transportation of passengers throughout the United States.

Mr. CLARK of Wyoming. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from Wyoming?

Mr. McLAURIN. With pleasure.

Mr. CLARK of Wyoming. I have the Senator's amendment before me, and I ask him if he thinks that it would prevent the issuance of passes to Members of Congress?

Mr. McLAURIN. Surely it would, because it expressly states "including executive, legislative, and judicial officers," and Members of Congress are legislative officers of the United States.

Mr. CLARK of Wyoming. But if the Senator will recall, they have been decided not to be officers of the United States.

Mr. McLAURIN. I do not recall anything of that kind. If that has been decided, it has not come to my reading.

Mr. CLARK of Wyoming. It has been so decided. I wish to call the attention of the Senator to the fact that, in order to make his amendment effective, I think he should include the words "Members of the Congress of the United States."

Mr. McLAURIN. I am willing to do that, if such a decision has been made; but will the Senator from Wyoming refer me to a decision which has been made by the Supreme Court of the United States that Senators and Representatives are not officers of the United States?

Mr. CLARK of Wyoming. I can not refer the Senator from Mississippi at the moment to the particular decision; but it has been so decided.

Mr. BACON. If the Senator will permit me, I will state that not only has it been so decided by the courts, but it has been solemnly decided by the Senate when articles of impeachment were presented against a Senator, and the Senate decided that he was not amenable to the process of impeachment because he was not an officer of the United States.

Mr. McLAURIN. In the case of a Senator it is provided that he may be removed by a two-thirds vote of the Senate—may be

expelled. There is an express provision in the Constitution for that.

Mr. BACON. That is not the point at all, if the Senator will pardon me. The question raised is whether or not a Senator is an officer of the United States. I am calling the attention of the Senator from Mississippi to the fact that, aside from the decision of the courts, the Senate itself has decided in the case of Blount, who was impeached while he was a United States Senator, that he was not impeachable because he was not an officer of the United States.

Mr. McLAURIN. Impeached for what?

Mr. BACON. For the offenses charged—disloyalty and things of that kind. The point in controversy does not relate at all to the question of whether he was punishable by expulsion. I am simply calling the attention of the Senator to the fact that an officer of the United States only is impeachable, and that the Senate of the United States decided that Blount could not be impeached because, however guilty he might have been of the charges, he was not an officer of the United States.

Mr. McLAURIN. There being an express provision, Mr. President, for the Senate dealing with a Senator by expulsion, which requires exactly the same number of votes as it does to impeach an officer, it is very natural that that process should be used in order to get rid of a United States Senator. I do not see that any decision on that subject could be anything further than obiter dictum if the Senate were to decide in a case of impeachment that he was not impeachable because he was a Senator; but will the Senator now refer me to any decision of the Supreme Court of the United States holding that a Senator or Representative is not an officer of the United States?

Mr. BACON. I have not the memorandum here, but I do not think there is any possible doubt about the legal proposition.

Mr. McLAURIN. I must say, if there is such a decision as that, it has never come within my observation.

Mr. CLARK of Wyoming. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from Wyoming?

Mr. McLAURIN. With pleasure.

Mr. CLARK of Wyoming. I did not interrupt the Senator with a view of entering into a discussion, but only to call his attention to what I understand the fact to be—that the courts have decided, not only once but often, that members of the Senate are not officers of the United States. The last time the question rose was in this Chamber at this very session, when, in a bill coming over from the House, it was provided that if certain information were given out and acted upon by officers of the United States they should be subject to a penalty. The Judiciary Committees of the two branches of Congress finding, upon investigation, that that would not reach some officers whom it was intended to reach, to wit, Members of Congress, inserted a provision applying that law to Members of Congress. They did so, after a thorough investigation of the matter, and finding the decision to be, as has been correctly stated by the Senator from Georgia [Mr. BACON], that Senators were not officers of the United States.

Mr. McLAURIN. Mr. President, I can understand how committees of the Senate and committees of the House, and how Congress, out of an abundance of caution, should put in certain words lest they might not embrace all that it was intended and desired by Congress to embrace.

Mr. CLARK of Wyoming. The Senator misunderstands me. I simply say that the committees inserted that provision after they had found from the decisions of the courts that Members of Congress were not officers of the United States.

Mr. McLAURIN. Will the Senator from Wyoming call my attention to the decision of the Supreme Court of the United States, because there is a great deal of diversity of opinion between the decisions of different courts, and I should like to have the decision of the Supreme Court of the United States, for I must admit that up to this time I have never yet seen one, and I have never yet had one referred to me.

Mr. CLARK of Wyoming. I will be pleased to furnish one to the Senator. Of course, I can not do it by citation at the present moment.

Mr. McLAURIN. I will state to the Senator from Wyoming, if he desires to make it beyond question, beyond peradventure, that I have no objection to the insertion of the words which he would suggest. What are those words?

Mr. CLARK of Wyoming. I will say to the Senator that I have no suggestion to make as to what he shall do with his amendment. I only made the suggestion out of deference to himself, because I am opposed to all legislation upon this bill of this character. I have no suggestion to make.

Mr. McLAURIN. Surely, if the Senator from Wyoming is opposed to it, he would like to take the least dose of it possible.

Mr. CLARK of Wyoming. Not at all; but if the Senator wants to make the legislation effective, I would be glad to have him make it effective in those quarters where there is the most complaint, and not have an amendment agreed to that would not reach the very people whom he seeks to reach.

Mr. McLAURIN. I surely understand when you speak of "legislative officers" that Senators and Representatives are legislative officers, and I surely desire—and the desire is shown by that—to reach Senators and Representatives, and preclude them from traveling on free passes. Congress is the Congress of the United States, and I can not understand how its members, if officers at all, are not officers of the United States. If officers, they are legislative officers, and surely they are not legislative officers of any State. They can not legislate for any State. They must legislate for the United States.

Mr. CLAY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. McLAURIN. Certainly.

Mr. CLAY. If the Senator will turn to his own amendment—there are only three lines of it—it reads:

That no free interstate pass shall be issued by any interstate common carrier of passengers to any officer of the United States, including executive, legislative, and judicial officers.

If he will add after the word "officers," the words "and members of Congress," that will cover it.

Mr. McLAURIN. I am willing to do that.

Mr. CULBERSON. I rise to a point of order, and that is that the pending amendment is the amendment offered by the Senator from Virginia.

The VICE-PRESIDENT. The Senator from Texas is correct, and the Chair was about to call the attention of Senators to that fact.

Mr. McLAURIN. That is all true. That is the amendment to which I addressed myself, but I had the right surely to explain my reasons for objecting to it, and to state that I have an amendment, which I think is a better one, which I read to the Senate. I do not think that I was out of order.

Mr. CULBERSON. Mr. President, what I meant by the point of order was to call attention to the fact that the amendment in the nature of a substitute offered by the Senator from Mississippi could not be amended now, as suggested by the Senator from Georgia [Mr. CLAY].

Mr. McLAURIN. I have not offered it. We were just discussing how I would offer it.

Mr. CULBERSON. I understand that; but the Senator from Georgia was suggesting that the Senator's substitute might be amended. I did not know but that in the confusion here it would be believed that the amendment of the Senator from Virginia has been disposed of.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Virginia [Mr. DANIEL] to the amendment of the Senator from Texas [Mr. CULBERSON].

The amendment to the amendment was rejected.

Mr. BACON. I move to amend the amendment offered by the Senator from Texas by striking out all after the word "passengers," at the end of the third line, and inserting in lieu thereof the words which I now send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 1 of Mr. CULBERSON'S printed amendment, after the word "passengers," at the end of line 3, it is proposed to strike out the remainder of the amendment and insert:

to any Senator of the United States or Representative in Congress, or to any justice or judge of the courts of the United States, or to any officer of either of the Executive Departments of the United States. Any such carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

Mr. BACON. I ask now, Mr. President, that the amendment of the Senator from Texas may be read in full, as it will read if the amendment I have just proposed to it be adopted.

Mr. HANSBROUGH. Mr. President——

Mr. BACON. Let the amendment be read.

Mr. GALLINGER. Let it be read.

Mr. HANSBROUGH. I have been waiting here about two hours to get my little amendment in one way or another. Of course, I am not impatient about it at all, but I am taken off my feet almost every time I rise.

The VICE-PRESIDENT. The Chair knew of the Senator's desire and looked in his direction, but the Senator from Georgia [Mr. BACON] rose first.

Mr. HANSBROUGH. I appreciate the courtesy of the Chair thoroughly, but I want to suggest——

Mr. BACON. I am perfectly willing that the Senator should offer his amendment as soon as the amendment of the Senator from Texas, as it is proposed to be amended, is read.

Mr. HANSBROUGH. I have heard that amendment read six or seven times.

Mr. BACON. No; it has not been read as it will be if it is amended.

Mr. HANSBROUGH. I know what it is. I simply want to offer a suggestion to the Senator from Georgia, if he will allow me to do so, and that is that he modify his amendment by extending the penalty imposed upon the carrier to the person accepting a pass.

Mr. BACON. I will do so, Mr. President, if the Senator will offer it at the proper time, and that is not until after the amendment of the Senator from Texas as it is proposed to be amended is read.

Mr. HANSBROUGH. The Senator from Georgia can accept it now, if there is no objection.

Mr. TILLMAN. I rise to a question of order.

The VICE-PRESIDENT. The Senator from South Carolina will state his question of order.

Mr. TILLMAN. While I am on the floor, I want to make an appeal to Senators to do something in the way of voting. We are now at a deadlock, because, under the rules, we can not offer substitutes for an amendment to an amendment, and we can not amend an amendment to an amendment. We have got to that stage that if we only vote down something we can then vote in something. I beg Senators, in the interest of progress and to get to a final determination of this question, that we take some action. We have talked and talked, and there are three Senators on their feet now trying to get in and they can not. Why not let us do something?

The VICE-PRESIDENT. The Secretary will read the amendment of the Senator from Texas [Mr. CULBERSON] as it would stand by the addition of the amendment of the Senator from Georgia.

The Secretary read as follows:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passengers to any Senator of the United States or Representative in Congress, or to any justice or judge of the courts of the United States, or to any officer of either of the Executive Departments of the United States. Any such carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

Mr. BACON. I will accept the amendment of the Senator from North Dakota, if he can make it fit in there.

Mr. HANSBROUGH. I offer it not as an amendment, but as a modification.

Mr. BACON. No; I will not accept that.

Mr. HANSBROUGH. If it is in order to offer an amendment, I offer it in the following language—perhaps it will be accepted——

Mr. BACON. It is not in order as an amendment, Mr. President.

Mr. HANSBROUGH. I will offer it as follows:

And any person specified in this provision who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty and fine.

Mr. BACON. I am perfectly willing to accept that, and will do so as an addition.

Mr. GALLINGER. Yes; as an addition.

Mr. BACON. Not as a modification; as an addition.

Mr. HANSBROUGH. As an addition.

The VICE-PRESIDENT. The Secretary will state the amendment.

Mr. McLAURIN. Will the Senator allow me to ask him a question?

Mr. BACON. Let the amendment be read first.

Mr. GALLINGER. Let the amendment be read as modified.

The VICE-PRESIDENT. The Secretary will state the proposed amendment.

The SECRETARY. At the end of the amendment it is proposed to add the following:

And any person specified in this provision who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty and fine.

Mr. BACON. I accept that as a part of my amendment, Mr. President.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Georgia [Mr. BACON], as modified, to the amendment of the Senator from Texas [Mr. CULBERSON]. [Putting the question.] In the opinion of the Chair the "ayes" prevail, and the amendment, as modified, to the amendment is agreed to. The question now is on the amendment——

Mr. BACON. I did not hear what the Chair ruled.

The VICE-PRESIDENT. The Chair ruled that the amendment of the Senator from Georgia, as modified, to the amendment of the Senator from Texas, was agreed to.

Mr. CULBERSON. Let us have the yeas and nays on the amendment of the Senator from Georgia, Mr. President.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Texas as it has been amended.

Mr. CULBERSON. What I desire is the yeas and nays on the adoption of the amendment of the Senator from Georgia to my amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the senior Senator from Iowa [Mr. ALLISON].

The roll call having been concluded, the result was announced—yeas 33, nays 42, as follows:

YEAS—33.

Bacon	Dillingham	Hansbrough	Perkins
Berry	Dolliver	Hopkins	Piles
Burrows	Dryden	Kittredge	Rayner
Carmack	Elkins	Lodge	Smoot
Carter	Flint	McCreary	Teller
Clark, Mont.	Fulton	McCumber	Warner
Clay	Gallinger	Martin	
Crane	Gamble	Nixon	
Cullom	Gearin	Penrose	

NAYS—42.

Alger	Clarke, Ark.	La Follette	Platt
Allee	Culberson	Latimer	Scott
Ankeny	Daniel	Long	Simmons
Bailey	Dick	McEnery	Spooner
Beveridge	Foraker	McLaurin	Stone
Blackburn	Foster	Mallory	Sutherland
Brandegee	Frazier	Millard	Taliaferro
Burkett	Frye	Nelson	Tillman
Burnham	Hemenway	Newlands	Wetmore
Clapp	Kean	Overman	
Clark, Wyo.	Knox	Pettus	

NOT VOTING—14.

Aldrich	Depew	Heyburn	Proctor
Allison	Dubois	Money	Warren
Bulkeley	Gorman	Morgan	
Burton	Hale	Patterson	

So Mr. BACON's amendment to the amendment of Mr. CULBERSON was rejected.

Mr. McCUMBER. As I understand, the substitute of the Senator from Texas is now subject to amendment?

The VICE-PRESIDENT. It is.

Mr. McCUMBER. I offer an amendment. I move to add, after the word "inhabitants," in line 12, page 2 of the amendment, the following:

Provided further, That nothing herein contained shall prevent such carrier from giving free or reduced transportation to laborers transported to any place for the purpose of supplying any demand for labor at such place.

The VICE-PRESIDENT. The Senator from North Dakota proposes an amendment, which will be stated by the Secretary.

The SECRETARY. On page 2 of the printed amendment, after the word "inhabitants," in line 12, it is proposed to insert:

Provided further, That nothing herein contained shall prevent such carrier from giving free or reduced transportation to laborers transported to any place for the purpose of supplying any demand for labor at such place.

Mr. McCUMBER. Does the Senator from Texas object to having those words inserted?

Mr. CULBERSON. I have no objection to that particular amendment. It may be incorporated in the amendment.

The VICE-PRESIDENT. The Senator from Texas accepts the amendment.

Mr. GALLINGER. I move, after the word "persons," in line 8, to insert what I send to the desk.

The VICE-PRESIDENT. The Senator from New Hampshire proposes an amendment, which will be stated.

The SECRETARY. On page 1 of the printed amendment, after the word "persons," in line 8, it is proposed to insert:

Or destitute and homeless persons transported by charitable societies or hospitals, and the necessary agents employed in such transportation; and to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said Homes.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read.

The amendment was agreed to.

Mr. McLAURIN. As a substitute for the amendment of the Senator from Texas, I offer the amendment I send to the desk.

The VICE-PRESIDENT. The Senator from Mississippi proposes an amendment, which will be stated.

The SECRETARY. In lieu of the matter proposed to be inserted, it is proposed to insert the following:

That no free interstate pass shall be issued by any interstate common carrier of passengers to any officer of the United States, including executive, legislative, and judicial officers, and Senators and Representatives in Congress.

The substitute was rejected.

Mr. BACON. I move to amend the amendment read, after the word "soldiers," by the insertion of the words "including Confederate soldiers." There are a great many of them who are very much in need of the privilege.

Mr. McLAURIN. If the Senator from Georgia will accept it, I would suggest that he put it "ex-Confederate soldiers."

Mr. BACON. There are at present no Confederate soldiers. They are all ex-Confederate soldiers.

Mr. McLAURIN. That is exactly what I know, and the purpose is to make sure of it. I think the Senator had better put it "ex-Confederate soldiers."

Mr. BACON. I have no objection. I modify my amendment to that extent.

The VICE-PRESIDENT. The amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. After the word "soldiers," in line 7, it is proposed to insert "ex-Confederate soldiers."

The VICE-PRESIDENT. Without objection, agreed to.

Mr. BACON. Is the word "including" there? I am asking for information.

The VICE-PRESIDENT. The Secretary will read.

The Secretary read as follows:

And to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, ex-Confederate Soldiers, and Soldiers' and Sailors' Orphan Homes."

Mr. SPOONER. I will ask the Senator from Georgia, would that bear the construction, if adopted, that all Members of the House of Representatives and Senators who are ex-Confederate soldiers may have passes?

Mr. BACON. I think not; but if so, there are so very few of us left that it would not make any difference.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Texas as amended.

Mr. LODGE. I should like to have the provision about soldiers read again.

The VICE-PRESIDENT. It will be read again by the Secretary.

The SECRETARY. After the word "soldiers," in line 7, it is proposed to insert "ex-Confederate soldiers;" so that if amended it will read:

Or destitute and homeless persons transported by charitable societies or hospitals, and the necessary agents employed in such transportation; and to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, ex-Confederate soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes.

Mr. LODGE. As the amendment now stands it limits free or reduced passage to volunteer soldiers in National Homes, whereas it includes all ex-Confederate soldiers. It ought to include all soldiers, and not be confined to those who are going to or from Homes, Confederate or National. I think the law had better stand as it is.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Texas as amended.

Mr. MALLORY. I have an amendment I should like to offer. After the word "attorneys," in line 6, page 1, I move to insert "and their immediate families."

The VICE-PRESIDENT. The Senator from Florida proposes an amendment, which will be stated.

The SECRETARY. On page 1, line 6, after the word "attorneys," it is proposed to insert "and their immediate families."

The VICE-PRESIDENT. Is there objection? The Chair hears none.

Mr. GALLINGER. I move to lay on the table the amendment of the Senator from Texas as amended.

Mr. SPOONER. Let it be reported. I have some curiosity to hear it read.

The VICE-PRESIDENT. The Secretary will read as requested by the Senator from Wisconsin.

The Secretary read as follows:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passengers except to its officers, agents, and employees and members of their immediate families, to its actual and bona fide attorneys and physicians and surgeons, to ministers of religion, and inmates of hospitals and eleemosynary and charitable institutions, and to indigent, destitute, and homeless persons, or destitute and homeless persons transported by charitable societies or hospitals, and the necessary agents employed in such transportation; and to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, ex-Confederate soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes. Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000: *Provided*, That this provision shall not be construed to prohibit the issue or interchange of passes for officers, agents, and employees and members of their immediate families, nor to owners and care takers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery, nor shall anything in this provision be deemed to prohibit any carrier from carrying passengers free on account of charity from and to places visited by general epidemic or pestilence or wholly or largely destroyed by fire, water, earthquakes, or other calamitous visitations with the object of providing succor, relief, and other assistance to the inhabitants: *Provided further*, That nothing herein contained shall prevent such carrier from giving free or reduced transportation to laborers transported to any place for the purpose of supplying any demand for labor at such place. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, and any amendment thereof.

Mr. MALLORY. I call the attention of the Chair to the fact that the Secretary omitted to read the last amendment adopted, namely, the one I suggested, in line 6, after the word "attorneys," to insert "and their immediate families." It was adopted, and it ought to have been read by the Secretary.

The VICE-PRESIDENT. The record of the Secretary does not show that it was adopted.

Mr. MALLORY. I beg the Chair's pardon. I think the Senate will recognize the fact that it was adopted.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After the word "attorneys," in line 6, it is proposed to insert "and their immediate families."

The VICE-PRESIDENT. The amendment to the amendment will be regarded as agreed to, in the absence of objection.

Mr. GALLINGER. It was agreed to.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the Senator from Texas as amended.

Mr. GALLINGER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. OVERMAN. I understand the question is on agreeing to the motion to lay on the table.

The VICE-PRESIDENT. It is.

The Secretary proceeded to call the roll.

Mr. BLACKBURN (when the name of Mr. MORGAN was called). The senior Senator from Alabama [Mr. MORGAN] is paired with the senior Senator from Iowa [Mr. ALLISON].

The roll call was concluded.

Mr. CLARK of Wyoming. I desire to announce the unavoidable absence of my colleague [Mr. WARREN], and to state that he is paired with the Senator from Mississippi [Mr. MONEY].

The result was announced—yeas 23, nays 49, as follows:

YEAS—23.

Alger	Clark, Wyo.	Gallinger	Platt
Allee	Crane	Kean	Scott
Ankeny	Cullom	Kittredge	Smoot
Beveridge	Dick	Lodge	Spooner
Burnham	Dillingham	Millard	Sutherland
Carter	Dryden	Nelson	

NAYS—49.

Bacon	Daniel	La Follette	Pettus
Bailey	Dolliver	Latimer	Piles
Berry	Elkins	Long	Rayner
Blackburn	Flint	McCreary	Simmons
Brandegee	Foraker	McCumber	Stone
Burkett	Foster	McEnery	Taliaferro
Burrows	Frazier	Mallory	Teller
Carmack	Frye	Martin	Tillman
Clapp	Fulton	Newlands	Warner
Clark, Mont.	Gamble	Nixon	Wetmore
Clarke, Ark.	Hansbrough	Overman	
Clay	Hopkins	Penrose	
Culberson	Knox	Perkins	

NOT VOTING—17.

Aldrich	Dubois	Heyburn	Proctor
Allison	Gearin	McLaurin	Warren
Bulkeley	Gorman	Money	
Burton	Hale	Morgan	
Depew	Hemenway	Patterson	

So the Senate refused to lay on the table Mr. CULBERSON'S amendment as amended.

Mr. SCOTT. After the amendment offered by the Senator from Florida [Mr. MALLORY], which was adopted, I move to insert what I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After the words "and their immediate families" insert "and female nurses who served during the civil war."

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. BEVERIDGE. If it is now in order, I wish to offer an amendment by way of a substitute for the entire amendment as amended.

The VICE-PRESIDENT. The Senator from Indiana proposes an amendment in the nature of a substitute, which will be stated by the Secretary.

The SECRETARY. In lieu of the matter intended to be proposed, insert the following:

That no carrier of interstate commerce shall hereafter directly or indirectly issue or by any device give free transportation except to the officers, agents, and employees, and members of their immediate families, actual and bona fide attorneys and physicians and surgeons of the carrier issuing the same, to ministers of religion and inmates of hospitals and eleemosynary and charitable institutions, and indigent persons: *Provided*, That said carrier of interstate commerce may, by arrangement with other carriers of interstate commerce, provide for free transportation of its officers, agents, attorneys, bona fide employees, physicians and surgeons and their families over the lines of such other carriers in connection with said free transportation over the lines of the carrier providing said free transportation. Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than $100 or more than $2,000.

Mr. BEVERIDGE. Mr. President, I desire to say only one word in explanation of the amendment which I have offered by way of a substitute. It is an even briefer form of the original substitute of the Senator from Texas, with the addition of interchangeable transportation for employees, officers, agents, attorneys, physicians, and surgeons. The reason for offering the amendment must be clear to the entire Senate. The amendment originally offered by the Senator from Texas has become so involved with numerous exceptions that the Senate can hardly understand what is excepted and what is not. I think it must be clear to the entire Senate that the original amendment offered by the Senator from Texas, and of which this is practically a copy with the addition of the interchangeable feature, will more completely meet the situation.

Mr. LODGE. Mr. President, the Senate has voted down the amendment of the Senator from Georgia [Mr. BACON] which involved depriving ourselves and other political officeholders, executive and judicial, of the right to receive passes from railroads. It then refused to lay upon the table a proposition which is so grotesque, as it has been amended, that it can not be read through without laughter, and which so extends the field of exceptions that practically passes may be issued to anybody who wants them. The amendment of the Senator from Indiana is an improvement on what we now have before us, but it seems to me the greatest improvement would be to leave the law as it is. The law now prohibits, under the head of discriminations, the issuance of passes, and it excepts certain classes from that provision. They are reasonable exceptions which meet everybody's view and permit the railroads to give passes to their employees and their families.

It seems to me it would be just as well to leave the present tested law as to adopt such an amendment as that now pending before us, where the exceptions have been heaped up until it has become perfectly valueless, it appears to me, for the purpose which it is proposed to fulfill.

Mr. HANSBROUGH. I suppose an amendment is not in order to the substitute.

The VICE-PRESIDENT. An amendment to the amendment proposed by the Senator from Indiana is not in order.

Mr. HANSBROUGH. I simply give notice that when the bill reaches the Senate I shall propose an amendment.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Indiana [Mr. BEVERIDGE] to the amendment proposed by the Senator from Texas as modified.

The amendment to the amendment was rejected.

Mr. FULTON. I ask if it would be in order to submit again the amendment that was offered by the Senator from Mississippi [Mr. MCLAURIN]? The amendment has been changed since that amendment was offered and rejected. I do not know whether it would now be in order. If it be in order and the Senator from Mississippi himself will not offer, I will offer it.

Mr. MCLAURIN. I was not paying attention, and I did not hear what the Senator from Oregon said.

Mr. FULTON. The Senator from Mississippi a few moments ago offered an amendment proposing to provide—

That no free interstate pass shall be issued by any interstate common carrier of passengers to any officer of the United States, including executive, legislative, and judicial officers.

If it is in order, I should like to offer that amendment at this time or to have the Senator offer it.

Mr. MCLAURIN. It is a good amendment. I have no objection to the Senator from Oregon offering it.

The VICE-PRESIDENT. Is it exactly the same amendment as the one submitted by the Senator from Mississippi or is it a new proposition?

Mr. FULTON. It is exactly the same. I will change it, however, so that it will not be exactly the same.

The VICE-PRESIDENT. It would then be in order.

Mr. GALLINGER. There seems to be one omission in the amendment as it now stands, and I move the following——

The VICE-PRESIDENT. Will the Senator from New Hampshire withhold his amendment until the Secretary states the amendment of the Senator from Oregon to the amendment?

Mr. GALLINGER. Certainly.

Mr. MCLAURIN. Will the Senator from Oregon allow me to ask him if he offers it as a substitute?

Mr. FULTON. I offer it as a substitute.

The VICE-PRESIDENT. The amendment proposed by the Senator from New Hampshire will be in order before the substitute proposed by the Senator from Oregon.

Mr. GALLINGER. I move the following amendment for the purpose of perfecting the amendment of the Senator from Texas.

The VICE-PRESIDENT. The Senator from New Hampshire proposes an amendment to the amendment, which will be read.

The SECRETARY. After the words "and their immediate families" insert the words "and their sisters, their cousins, and aunts." [Laughter.]

Mr. CULBERSON. In view of the fact that the Senator from New Hampshire, so far as I have seen, has opposed any proposition to prohibit the issuance of passes, it is not surprising that this motion to amend should now be made. I call his attention, however, to the fact that he will not probably reduce this subject entirely to ridicule.

I move to lay that amendment on the table, if it should be necessary, offensive as it is.

Mr. GALLINGER. That is in order.

The VICE-PRESIDENT. The Senator from Texas moves to lay on the table the amendment to the amendment just read.

Mr. GALLINGER. I withdraw the amendment.

The VICE-PRESIDENT. The Senator from New Hampshire withdraws the amendment to the amendment.

Mr. GALLINGER. Now, I wish to be heard on the amendment as it stands.

Mr. FULTON. I rise to a point of order, or at least an inquiry.

The VICE-PRESIDENT. The Senator from Oregon will kindly state his inquiry.

Mr. FULTON. The amendment I offered has not yet been stated. I have offered it as a substitute and I should like to have it stated.

The VICE-PRESIDENT. The Secretary will state the amendment proposed as a substitute by the Senator from Oregon.

The SECRETARY. In lieu of the amendment intended to be proposed, insert:

That no free interstate pass shall be issued by any interstate-common carrier of passengers to any officer of the United States, including Members of Congress.

Mr. GALLINGER. Mr. President, if anything could possibly be devised in the way of human language that would make an amendment more grotesque and absurd than the amendment which is now under consideration, I certainly am incapable of framing it. I have believed all along that it was not necessary to meddle with this matter, and in that regard I differ with my friend the Senator from Texas, and with all due deference to the Senator, I suggest to him that I shall entertain my opinion with quite as much independence as he entertains his.

The existing law is very liberal on this subject, Mr. President. It denies free passes to the bulk of our people, but gives them to certain excepted classes that are, I think, very proper, as a rule. There are some exceptions I never have seen much sense in. I have never quite understood why we should except, for instance, ministers of the Gospel any more than we should except teachers. I have never known why we should give free passes to a preacher who is getting a salary of $10,000 and deny it to a person who is teaching our children and getting a salary of $900 a year. But I have no disposition to raise that question, except to say that, to my mind, it is an exception which might well be omitted from the bill.

Now, Mr. President, we are posing before the country as opposed to the issuing of free passes. I venture to say that the exceptions which are in this bill will grant free passes to from 5,000,000 to 8,000,000 people in the United States. As an illustration, the telegrams that came from Chicago stated that there were 125,000 railway employees in the State of Illinois. If that be so, there are somewhere between one and two million employees in the country; and I believe that estimate is correct. We now have extended the privilege to their families, and then we have (and I will not repeat them) extended this privilege to innumerable classes, some of them perhaps deserving, some of them perhaps not so deserving. So if we adopt this amendment—and I confess I am surprised that the Senate should seriously think of doing so—if we put this amendment on the bill, we will have placed, in my judgment, in the bill exceptions that will give the railroads the privilege of issuing to at least

one-eighth of the people of the United States free transportation, and I do not know but perhaps to one-half of the people. I am not quite sure as to that.

Mr. President, I do not think we ought to do that. I think the exceptions which are contained in section 22 of the act to regulate commerce as amended March 2, 1889, and February 8, 1895, are sufficiently inclusive, and that there is no particular reason why we should seek to go beyond that point.

Several SENATORS. Read it.

Mr. GALLINGER. I will read it:

That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of soldiers' and sailors' orphan homes, including those about to enter and those returning home after discharge.

I think that is a very liberal exception made to the general rule that free passes should not be given to citizens of the United States. I am quite willing to have it specifically stated that they shall not be given to officers of the Government in any department of the Government, and I voted for an amendment which was offered covering that point. But in this bill, which is a dignified measure, which deals with a great subject, which has engaged the attention and the ability in its consideration of the ablest minds in this country and body, I do not think we ought to put as grotesque and absurd an amendment as is now before the Senate.

Mr. President, with those observations I am content to let the matter go as it will. Apparently the Senate is in favor of the amendment, and of course I could only register my vote in favor of laying it on the table. Having failed to accomplish that result, I have no criticism to make of any Senator, nor do I think any Senator has any right to make any criticism upon my attitude on this subject.

Mr. FULTON. Mr. President, I think it is the sense of the Senate that free transportation should be prohibited to officers of the United States and to Members of Congress. That far it seems to me the Congress should go. I think the various amendments in the way of exceptions that have been offered indicate that further than that the Congress ought not to go. At least there are so many exceptions which occur to every person's mind as proper that we had better simply prohibit the granting of passes to officials and stop at that, and leave it to the railroads to determine how far beyond that they will exercise the matter of granting free passes.

Mr. LODGE. Will the Senator from Oregon allow me?

Mr. FULTON. Certainly.

Mr. LODGE. We have just voted down that specific proposition.

Mr. FULTON. I have reoffered it in somewhat different language.

Mr. LODGE. The Senate voted down the proposition of the Senator from Georgia, which would deprive Members of Congress and other officers of the Government of the privilege of passes.

Mr. FULTON. That is true.

Mr. LODGE. I do not know whether it is in order to renew it. I have not examined the form of the amendment.

Mr. FULTON. I made inquiry, and I changed it so that it is substantially different, or at least the language is different. But I make this further suggestion: It is offered as a substitute to a measure that has been changed very considerably since we last voted on this proposition, which, I think, also changes the parliamentary situation. I ask for a yea-and-nay vote on the substitute I have offered.

Mr. CULBERSON. Mr. President, it is hardly necessary for me to say to Senators that the amendment in its present form is not of my choice or of my seeking. Part of its grotesqueness, to which allusion has been made, is due to the fact that the Senate, on the motion of Senators unfriendly to this character of legislation, added amendments to it.

The suggestion of the Senator from New Hampshire [Mr. GALLINGER] that this subject is sufficiently dealt with by section 2 of the act of 1887 and as subsequently amended is sufficiently answered by stating that that section contains no penalty whatever, and that is one reason why the law has not been executed.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from New Hampshire?

Mr. CULBERSON. Certainly.

Mr. GALLINGER. Of course it will be an easy matter, the Senator will agree, to attach a penalty to that law.

Mr. CULBERSON. While I do not approve and voted against the adoption of some of the amendments which have been put to this antipass amendment, I still think, Mr. President, that it is better than no law at all and probably better than the act of 1887.

Now, so far as the substitute offered by the Senator from Oregon is concerned, I suggest that the Senate and the House of Representatives ought not to feel called upon to say that the officials of those two Houses and of the Federal Government are the only ones who ought to be dealt with in this proposition and the ones who ought to be singled out in this legislation. In other words, Mr. President, it would be a strange anomaly for the Congress of the United States to declare that members of that body and other officials of the Federal Government were the only ones who could be affected by the issuance of passes and against whom this legislation should be directed.

Mr. President, if any other Senator desires to discuss this substitute, I will not make the motion, but unless some one does I will move to lay the substitute of the Senator from Oregon on the table.

Mr. SPOONER. If the Senator will allow me a moment, I call his attention to what seems to impart into this provision a penalty:

The provisions of section 10 of this act shall apply to any violation of the requirements of this proviso.

And section 10 as amended by the act of March 2, 1889, as I read it, makes any violation of the act a misdemeanor, and a penalty attaches.

Mr. CULBERSON. I do not think that covers the question to which I refer—that is to say, a specific penalty for the issuance of free transportation. Unless some Senator desires to speak on this question, I move——

Mr. FULTON. Will the Senator allow me a suggestion before he makes that motion?

Mr. CULBERSON. Certainly.

Mr. FULTON. I ask leave to change the substitute I have offered. It reads:

Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than $100 nor more than $2,000.

I wish to make this change:

That any person accepting any such pass or transportation——

Mr. CULBERSON. The Senator has a right, I understand, to perfect the substitute.

The VICE-PRESIDENT. The Senator from Oregon can perfect his substitute.

Mr. HALE. Mr. President, I should like to have the amendment read. I was called from the Chamber, and I have not heard it.

The VICE-PRESIDENT. The amendment in the nature of a substitute proposed by the Senator from Oregon?

Mr. HALE. I desire to have the entire amendment read.

Mr. TILLMAN. Will the Senator allow me to make a suggestion to himself, as well as to other Senators?

Mr. HALE. Certainly.

Mr. TILLMAN. We have had an amendment prepared here, an amendment, and an amendment, and an amendment, until it is a laughingstock, and the Senate itself could not hold its sides; it took five minutes to read it. I want to suggest to Senators that there will be a conference committee on this bill; that the Senate never will be able to get anything in this Chamber that will satisfy all of us, but there must be some squeezing out of all these absurd propositions. I do hope we can go along and do something and get to a vote on the main proposition, and get the bill into the Senate.

Mr. HALE. What the Senator says leads me still more to desire to hear the amendment read.

The VICE-PRESIDENT. The Senator from Maine requests that the amendment shall be again stated by the Secretary. The Secretary will read.

Mr. FULTON. I ask leave to modify the substitute that I have offered, so that it will read as follows:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation or passage to any Senator of the United States or Representative in Congress, or to any justice or judge of the courts of the United States, or to any officer of either of the Executive Departments of the United States. Any carrier or person given or accepting any such free transportation in violation of this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars.

Mr. CULBERSON. I move to lay the substitute on the table.

The VICE-PRESIDENT. The Senator from Maine requests the restatement of the amendment.

Mr. CULBERSON. Very well.

The VICE-PRESIDENT. The Secretary will read the original amendment.

The SECRETARY. On page 4, after line 9, insert as a substitute the following:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passengers except to its officers, agents, and employees and members of their immediate families, to its actual and bona fide attorneys and their immediate families, and female nurses who served during the civil war, and physicians and surgeons, to ministers of religion, and inmates of hospitals and eleemosynary and charitable institutions, and to indigent, destitute, and homeless persons, transported by charitable societies or hospitals, and the necessary agents employed in such transportation; and to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, ex-Confederate Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge under arrangements with the boards of managers of said homes. Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars: *Provided*, That this provision shall not be construed to prohibit the issue or interchange of passes for officers, agents, and employees and members of their immediate families, nor to owners and care takers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery, nor shall anything in this provision be deemed to prohibit any carrier from carrying passengers free on account of charity from and to places visited by general epidemic or pestilence or wholly or largely destroyed by fire, water, earthquakes, or other calamitous visitations with the object of providing succor, relief, and other assistance to the inhabitants: *Provided further*, That nothing herein contained shall prevent such carrier from giving free or reduced transportation to laborers transported to any place for the purpose of supplying any demand for labor at such place. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, and any amendment thereof.

Mr. HALE. Mr. President, I have been called out of the Chamber. Who is the father of that provision?

Mr. SPOONER. It has a good many fathers.

Mr. TILLMAN. It had about sixteen paternities.

Mr. OVERMAN. Mr. President, I rise to a question of order.

The VICE-PRESIDENT. The Senator from North Carolina will state his question of order.

Mr. OVERMAN. The Senator from Texas made a motion to lay the amendment of the Senator from Oregon on the table.

Mr. TILLMAN. There has been no motion made, I understand.

The VICE-PRESIDENT. The Senator from Texas made a motion to that effect, which was withheld in order that the amendment might be again reported at the request of the Senator from Maine.

Mr. HALE. Is it the motion of the Senator from Texas to lay on the table the remarkable proposition I have just heard read?

Mr. CULBERSON. The motion of the Senator from Texas is to lay on the table the substitute offered by the Senator from Oregon [Mr. FULTON].

Mr. HALE. As an amendment to the amendment just read?

Mr. CULBERSON. As a substitute for it.

The VICE-PRESIDENT. To this amendment the Senator from Oregon proposes an amendment in the nature of a substitute.

Mr. GALLINGER. Let it be read.

Mr. HALE. As a substitute for the amendment just read?

The VICE-PRESIDENT. As a substitute for the amendment just read.

Mr. HALE. Now let us hear the substitute of the Senator from Oregon.

The VICE-PRESIDENT. The Secretary will read the substitute of the Senator from Oregon.

The Secretary read as follows:

That no carrier engaged in interstate commerce shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation or passage to any Senator of the United States or Representative in Congress, or to any justice or judge of the courts of the United States, or to any officer of either of the Executive Departments of the United States. Any carrier or person giving or accepting such free transportation violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars.

The VICE-PRESIDENT. The Senator from Texas moves to lay upon the table the substitute just read.

The motion to lay on the table was rejected.

Mr. SPOONER. Mr. President, I offer an amendment to the amendment of the Senator from Texas, to come in after the word "soldiers" where it first occurs.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. After the words "disabled volunteer soldiers" insert "ex-Union soldiers and sailors."

Mr. LODGE. The motion, as I understood it, of the Senator from Texas was to lay upon the table the substitute offered by the Senator from Oregon.

The VICE-PRESIDENT. That was the motion.

Mr. LODGE. And the Chair declared that motion lost?

The VICE-PRESIDENT. The Chair so ruled.

Mr. LODGE. Therefore the substitute is now pending in the nature of an amendment to this amendment.

The VICE-PRESIDENT. That is correct. The Senator from Wisconsin has a right to perfect the amendment of the Senator from Texas.

Mr. LODGE. Excuse me; I thought his amendment was proposed to the substitute.

The VICE-PRESIDENT. The Senator from Wisconsin proposes an amendment, which will be stated.

The SECRETARY. After the words "disabled volunteer soldiers" insert the words "ex-Union soldiers and sailors."

The amendment to the amendment was agreed to.

The VICE-PRESIDENT. The question now recurs on the amendment in the nature of a substitute offered by the Senator from Oregon [Mr. FULTON].

Mr. BEVERIDGE. Mr. President, while the amendment proposed by the Senator from Texas [Mr. CULBERSON] has been loaded down by a large number of modifications, and while it is, therefore, through no fault of the Senator from Texas, not in as good condition as when he originally offered it, I think it is much better than the proposition of the Senator from Oregon [Mr. FULTON]. The proposition of the Senator from Oregon merely segregates Senators and Representatives in Congress from the whole body of the people, and provides that these specified officials, and no others, shall not receive free transportation——

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Indiana yield to the Senator from Oregon?

Mr. BEVERIDGE. I do.

Mr. FULTON. My amendment not only prohibits free transportation to Members of Congress, but to all officials of the Government.

Mr. BEVERIDGE. Yes, sir; but that is just as open to the same objection which I propose now to point out. I intend to vote against the substitute proposed by the Senator from Oregon, not because, Mr. President, I am not in favor of prohibiting transportation companies from furnishing free transportation to the officials named, but because they ought also to be prevented from furnishing free transportation to others than the officials named.

The pass evil is a real evil; but it is a broad evil, and no doubt the injury worked through it is as great or greater in other directions than it is here. I speak freely upon this subject, and shall vote freely upon this subject, because I have never yet, while I have been in public life, taken or used a pass of any kind on any railroad, or any frank of any telegraph company. I shall speak and vote freely against this amendment because I have paid cash for railroad tickets whenever I have traveled and for telegrams whenever I have used the wire unofficially.

And speaking thus freely, Mr. President, I can see no reason why Senators and Representatives in Congress and other officials of the United States Government should alone, out of the whole body of our people, be segregated and subjected to this provision. If the granting of passes is an evil, it is an evil which affects others as well as us; and, as a Senator near me says, "we are no better or no worse in this regard than others."

Therefore, Mr. President, not only should this evil be stopped with reference to people in public life, but it should be stopped with reference to people out of public life. It is not the business of the railroads to furnish free transportation, except in the few well-defined cases which were named in the amendment offered by the Senator from Texas. I can find, Mr. President, no reason in good policy for the adoption, but a great many objections, which can not be too forcibly stated, the statement of which, however, is not necessary in detail, to the substitute offered by the Senator from Oregon.

Mr. President, all over the country this evil has been going on, and, now, to say that a few men shall be subjected to this provision and that other men shall not be, is a proposition, Mr. President, not supported, so far as I have yet heard, by one single reason or by one single fact. For that reason, Mr. President, I shall feel perfectly free in voting against the substitute of the Senator from Oregon, which does not reach the evil in its widespread meaning.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Oregon [Mr. FULTON] to the amendment.

Mr. FULTON. On that I ask the yeas and nays, Mr. President.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. MALLORY (when his name was called). I have a general pair with the senior Senator from Vermont [Mr. PROCTOR], who has been called away and is not able to be present to-day. He left to me a discretion in the matter of voting on these amendments; and on this amendment I will take the liberty of voting. I vote "nay."

Mr. FRYE (when Mr. MORGAN'S name was called). The Senator from Alabama [Mr. MORGAN] is paired with the senior Senator from Iowa [Mr. ALLISON].

The roll call was concluded.

Mr. MCLAURIN. My colleague [Mr. MONEY] has a general pair with the senior Senator from Wyoming [Mr. CLARK]. I make this announcement of his pair for the entire day.

The result was announced—yeas 22, nays 48, as follows:

YEAS—22.

Bacon	Gallinger	Hopkins	Piles
Brandegee	Gamble	Knox	Teller
Bulkeley	Gearin	Lodge	Tillman
Clay	Hale	Long	Warner
Flint	Hansbrough	McLaurin	
Fulton	Hemenway	Perkins	

NAYS—48.

Alger	Clark, Mont.	Frye	Newlands
Allee	Clark, Wyo.	Kean	Nixon
Ankeny	Clarke, Ark.	Kittredge	Overman
Bailey	Culberson	La Follette	Pettus
Beveridge	Cullom	Latimer	Platt
Blackburn	Dick	McCreary	Scott
Burkett	Dillingham	McCumber	Simmons
Burnham	Dolliver	McEnery	Spooner
Burrows	Dryden	Mallory	Stone
Carmack	Foraker	Martin	Sutherland
Carter	Foster	Millard	Taliaferro
Clapp	Frazier	Nelson	Wetmore

NOT VOTING—19.

Aldrich	Daniel	Heyburn	Proctor
Allison	Depew	Money	Rayner
Berry	Dubois	Morgan	Smoot
Burton	Elkins	Patterson	Warren
Crane	Gorman	Penrose	

So Mr. FULTON'S amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Texas [Mr. CULBERSON] as amended.

Mr. GALLINGER. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. MALLORY (when his name was called). As I have already stated, I have a general pair with the Senator from Vermont [Mr. PROCTOR]; but as he would vote "yea" on this question if present, I am at liberty to vote, and I vote "yea."

The roll call having been concluded, the result was announced—yeas 60, nays 16, as follows:

YEAS—60.

Bacon	Culberson	Hansbrough	Newlands
Bailey	Cullom	Hemenway	Nixon
Berry	Daniel	Hopkins	Overman
Beveridge	Dillingam	Kittredge	Perkins
Blackburn	Dolliver	Knox	Pettus
Brandegee	Dryden	La Follette	Platt
Burkett	Elkins	Latimer	Rayner
Burnham	Flint	Long	Scott
Burrows	Foraker	McCreary	Simmons
Carmack	Foster	McCumber	Spooner
Carter	Frazier	McEnery	Stone
Clapp	Frye	Mallory	Taliaferro
Clark, Mont.	Fulton	Martin	Teller
Clarke, Ark.	Gamble	Millard	Tillman
Clay	Gearin	Nelson	Warner

NAYS—16.

Alger	Clark, Wyo.	Hale	Piles
Allee	Crane	Kean	Smoot
Ankeny	Dick	Lodge	Sutherland
Bulkeley	Gallinger	McLaurin	Wetmore

NOT VOTING—13.

Aldrich	Dubois	Morgan	Warren
Allison	Gorman	Patterson	
Burton	Heyburn	Penrose	
Depew	Money	Proctor	

So Mr. CULBERSON'S amendment as amended was agreed to.

The VICE-PRESIDENT. The bill is still in Committee of the Whole and open to amendment. If no amendment be proposed, the bill will be reported to the Senate. The Senate, as in Committee of the Whole, has had under consideration an act to amend an act entitled "An act to regulate commerce"——

Mr. MCLAURIN. Mr. President, I have an amendment that I desire to offer.

Mr. LODGE. We have not reached that stage yet, have we, Mr. President?

The VICE-PRESIDENT. Does the Senator offer his amendment in the Senate or as in Committee of the Whole?

Mr. MCLAURIN. In Committee of the Whole.

The VICE-PRESIDENT. The bill, then, will be regarded as still in Committee of the Whole. The amendment of the Senator from Mississippi will be stated.

The SECRETARY. At the end of the bill it is proposed to add a new section, to be known as section 10, as follows:

SEC. 10. That it shall be unlawful for any common carrier of interstate commerce to charge or collect any greater compensation for the transportation of the same kind and quantity of freight or property a part than the whole of the distance in the same direction between any two given points on the line of such transportation, but this shall not be construed as authorizing any common carrier to charge and collect as great compensation for the shorter as for the longer distance. Any person from whom a collection unlawful under this section is, directly or indirectly, made may, in any State or United States court having jurisdiction of the amount, subject-matter, and person of the defendant, recover double the excess, together with all costs of collection, including reasonable attorney's fees and costs of travel.

Mr. MCLAURIN. I did desire to make some remarks on this amendment, but the Senate seems to be impatient to get the bill out of Committee of the Whole into the Senate, and I shall content myself with what I have said on it in the speech that I delivered here on the 9th of last month and with a vote on it by the Senate.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Mississippi.

Mr. DANIEL. Mr. President, I should like to have that amendment again read.

The VICE-PRESIDENT. The amendment will be again stated.

The Secretary again read the amendment of Mr. MCLAURIN.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Mississippi.

Mr. DANIEL. I wish to offer a substitute for that amendment.

The VICE-PRESIDENT. The Senator from Virginia proposes a substitute for the amendment of the Senator from Mississippi, which will be stated.

The SECRETARY. In lieu of the amendment proposed by Mr. MCLAURIN, insert the following at the end of the bill as a new section:

SEC. —. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act: *Provided also,* That no discrimination shall be made by allowance of a lesser charge for a longer than a shorter haul in favor of any points of localities where natural conditions and advantages are substantially similar.

Mr. DANIEL. Mr. President, I wish to offer a substitute for that amendment.

The VICE-PRESIDENT. The Senator from Virginia proposes a substitute for the amendment of the Senator from Mississippi, which will be stated.

The SECRETARY. In lieu of the amendment proposed by Mr. MCLAURIN, insert the following at the end of the bill as a new section:

SEC. —. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act: *Provided also,* That no discrimination shall be made by allowance of a lesser charge for a longer than a shorter haul in favor of any points as against any other points or localities or where natural conditions and advantages are substantially similar.

Mr. DANIEL. Mr. President, this is a great topic. It is brought up both in the amendment offered by the Senator from Mississippi [Mr. MCLAURIN] and in the substitute which I have offered. I will state that all but the last proviso in the substitute I have offered is now in section 4 of the original interstate-commerce law. It introduces the topic of the longer and shorter hauls. I have reflected upon that subject a good deal, and enough to have reached the conclusion that it would be impracticable for Congress to formulate any abstract prop-

osition which could fittingly cover all cases. Distance is not a thing of such even quality that travel and traffic over all distances can be sold at the same rate per yard. Distance differs in value as much as cloth of various textures and fineness of fabric and manufacture differs in value. Some distances cost much more to traverse than other distances, just as some cloth costs much more than other cloth. A mile through a tunnel and a mile on a plain are of very different cost in travel. A yard of calico and a yard of silk are different things. So there are particular natural advantages and arbitrary conditions in seaports that introduce peculiar and varying circumstances that affect freights. But there are some cases in which such great discriminations are made in charging less for the longer haul than for the shorter haul that some legislation on this subject is needed. They are discriminations uncontrolled by the considerations I have mentioned. Those who study rate questions should ponder the equities of the postage stamp—common charge for all distances. They should also ponder Æsop's fable of the body and its members. The thoughts inspired by both contemplations may prepare the mind to consider the irregularities and difficulties which pervade this subject; but they should not paralyze efforts for betterment.

DIFFERENTIAL TO SEAPORTS DISTINGUISHED FROM THE DISCRIMINATION AGAINST DANVILLE.

About 175 miles south of here is the city of Lynchburg, where I reside. Sixty miles farther south is the city of Danville, near the North Carolina line, and it is a fine town of good people, with numerous and flourishing industries. In a number of cases the charge for freight to my own town, coming from the South and the Southwest, is less than it is to the town of Danville, 60 miles south of it, and in other directions are like discriminations.

Let me read an extract from a letter from a distinguished and able citizen of Danville. It will be seen that he appreciates the fact that with respect to the seaports of the country no ironclad rule can be laid down, and that he distinguishes such cases as are contemplated by the proviso which I have offered from those in which differentials to seaports have been recognized and approved. His language is as follows:

There are a number of very strong reasons why the railroads should be permitted to charge under the long and short haul section of the act of 1887, less for the long than the short haul to such places as Boston, New York, Philadelphia, Baltimore, Norfolk, and, in fact, all seaboard cities, and cities on great navigable rivers and lakes, because they have superior natural conditions and advantages, which the railroads do not make. By such a preference commodities of all sort not only find a ready market, but from those points exportations are made to foreign countries, and the mass of our producers would be benefited by the discrimination; that is, not the kind of discrimination that hurts, unless the railroad gives to one of such places undue preference over another similarly situated.

The great wrong in discrimination consists in permitting the carriers to select in the interior of the country localities between *which there is no difference in natural advantages and conditions* and discriminating against one and in favor of the other. It is not right to deprive any locality of its natural advantages and conditions, nor is it right that carriers should be permitted to *make* conditions against a locality and then plead that the conditions there are not similar to what they are at some favored place where the carriers also made the conditions. There are hundreds of localities all over the country having similar natural conditions that suffer from discrimination. Danville, for example, has natural advantages and conditions equal to Roanoke or Lynchburg, and yet both of the latter receive freights under the long haul of an average of 40 per cent cheaper than Danville, and Roanoke has the preference without any competing railroad. Danville at two different times had the competing lines, and the Southern removed the competition, thereby *making the conditions* which, it pleaded before the Interstate Commerce Commission, Danville should have before the place was entitled to as good rates as Lynchburg.

There can be no justification for this wrong. People have invested their earnings and devoted years of toil in a city in a faith that its natural advantages and conditions would preserve the one and reward the other. That city has incurred a heavy public debt, about one-third of it to build this destroyer, and while the people strive to pay this obligation their business vanishes, their property depreciates, and the remorseless beneficiary looks on with unconcern at the ruin that has been wrought. I can assure you that, with the exception of several favored patrons of the Southern Railway Company who get reduced rates—for instance, the big cotton mill here and one other man—there has been little prosperity in Danville for the last fifteen years.

THE INJUSTICE OF RATES TOO LOW TO ONE PLACE IN PROPORTION TO RATES TO OTHER PLACES.

Mr. President, a few words about the low rates. We have made no provision in this bill about rates that are too low. That great topic is not treated in this legislation; and it has been contended upon this floor that a railroad company has the right to make its rates as low as it pleases. I take issue upon that contention. As an ordinary rule, no man needs any inhibition against selling his property too low. The stimulus of self-interest will prompt him to get all he can for it. So in general as to corporations; but sometimes men have sinister purposes, as well as good ones, on selling property below cost. In the case of transportation corporations, they often have the inducement to make rates too low in order to destroy competitive lines and then to put up their rates as high as they please afterwards. Competition has been called, and may continue to be, "the life of trade." But there is such a thing as meretricious and illegal competition just as much as there is just and commendable competition. The most numerous of all cases that require the correcting hand of even-handed justice are those in which railroad companies have discriminated against small communities and small houses by granting a disproportionate lower rate to their competitors and rivals. I will read on this subject just a few lines in the case of The Interstate Commerce Commission *v.* The Cincinnati and New Orleans Railroad, in 167 United States Reports. Judge Brewer says in that case:

It will be perceived that nowhere in the act is there any suggestion of a maximum or minimum rate. The first section declares that the rates shall be reasonable and just and prohibits every unreasonable and unjust charge. Now, the rate may be unreasonable because it is too low as well as because it is too high. In the former case it is unreasonable and unjust to the stockholder and in the latter case to the shipper.

I assert, further, making an affirmation which is much broader than the statement of the court in this case, that a rate may be too low and illegal against the whole general public and against the people at large.

If a railroad can get cost for its rate, it has no right to sell it below cost. If it can get a reasonable profit on its rate, it has no right to sell it below that reasonable profit, for the broad and general reason that every corporation and especially every public-service corporation is a general public trustee, and that it must be just in all of its charges, just to each individual, just to each locality, just to its stockholders, just to the public; and it is not just when it builds up one rival, if he is one man, against another, or if it seeks to build up one place as against another by giving it the favored condition of lower charges for similar but lesser service. It is not right, as I see it, that Danville shall be discriminated against and made to suffer a burden not imposed on other cities, with respect to which it has substantially similar natural conditions and advantages.

THE DISTINCTIVE COMPLAINT OF DANVILLE AS JUDICIALLY CONSIDERED.

We may perceive wrongs, and find it very difficult to lay down a rule which will correct those wrongs, without bringing on equal or greater injury in other directions. Therefore it does not seem to me to be practicable, or at least my own mind has not been able to prescribe any general and clear rule that would apply to all cases. But I conceive that the proviso which I have appended to the fourth section of the original interstate-commerce act, and which appears with it in the substitute which I have offered, may reach at least some of the cases, including the discrimination against the city of Danville.

Now I will give more specifically the complaint of Danville. In 117 Federal Reporter, page 741, is reported the case of the Interstate Commerce Commission *v.* Southern Railroad Company, in the circuit court of the western district of Virginia, before Judge McDowell, the district judge; and in 122 Federal Reporter, page 800, the same case appears as presented to the circuit court of appeals for the fourth circuit, where the decision below was confirmed.

The syllabus of the decision in the appeal is that—

Where the rates charged by a railroad to a particular point are not unreasonable in themselves, the fact that lower rates are charged for a longer haul to other points does not create an unjust discrimination against such point, in violation of the interstate-commerce law, where such lower rates are due to active legitimate competition.

Circuit Judges Goff and Purnell sat on the case, as did also District Judge Boyd, who gave the opinion. In the course of it he thus stated the complaint of Danville:

The grounds upon which the complaint is based are substantially that the through rates from the West via Lynchburg to Danville are greater than the rate to Lynchburg, and that the rate to Richmond via Lynchburg is less than that to Danville, although the latter place is nearer to the shipping point than Richmond. The principal grievance complained of against the railroad is the rate charged by the Southern Railway for freight between Lynchburg and Danville. Lynchburg and Richmond are both reached by three railway systems, viz, the Southern, the Norfolk and Western, and the Chesapeake and Ohio railways. Prior to 1886 there were four independent railroads operated to Danville, but in that year three of them passed under the control of the Richmond and Danville Railroad Company. In 1894 the last-named railroad company was succeeded by the Southern Railway Company, which acquired control of all of the property of the Richmond and Danville Company, and in 1899 the Southern purchased the Atlantic and Danville, which was the remaining railroad running into Danville. On account of the several lines reaching Richmond and Lynchburg, and from the fact that these lines, by reason of their location, do business as carriers from the same points in the West, there is active competition both at Lynchburg and Richmond, which has produced exceedingly low freight rates.

Judge Boyd then said:

From the testimony it appears that the Chesapeake and Ohio Railroad, which competes with the trunk lines, and which complies with the interstate-commerce act by charging no more for the short than the long haul, is primarily responsible for these rates. The rates

given Danville are very much higher than those given Lynchburg and Richmond. From the record we gather the following instances, which will show the difference in the rates charged on 100 pounds of freight from the points named to Lynchburg, to Richmond, and to Danville:

Rates in cents per hundred pounds to Lynchburg and Danville.

	Class 1.	Class 2.	Class 3.
Boston to Lynchburg	54	47	28
Boston to Danville	71	63	52
New York to Lynchburg	54	47	38
New York to Danville	66	58	47
Baltimore to Lynchburg	49	42	33
Baltimore to Danville	60	52	41
Chicago to Danville	108	90	70
Chicago to Lynchburg	72	62	47

	Sugar.	Molasses.	Coffee.	Rice.
New Orleans to Lynchburg	32	26	40	32
New Orleans to Danville	43	37	51	42

Tobacco rates to Louisville.

	Cents.
From Richmond	24
From Lynchburg	24
From Danville	40

The Southern Railway does not share in the competitive through rate from the West to Lynchburg, Richmond, and Norfolk charged by the other railways named, and the water competition from New Orleans is shown by the evidence to have direct effect upon the rates to Norfolk and Richmond. It is the settled law that a railroad company is not bound to carry beyond its own lines, and there are numerous decisions at circuit that there is nothing in the interstate-commerce act to compel connecting railroads to form through rates or to join in making through rates.

In the case of East Tennessee, Virginia and Georgia Railroad Company *v.* Interstate Commerce Commission (181 U. S., 1; 21 Sup. Ct., 516; 45 L. ed., 719) it is held that "The only principle by which it is possible to enforce the whole statute is the construction adopted by the previous opinions of this court—that is, that competition which is real and substantial and exercises a potential influence on rates to a particular point, brings into play the dissimilarity of circumstances and conditions provided by the statute, and justifies the lesser charge to the more distant and competitive point than the nearer and noncompetitive place, and that this right is not destroyed by the mere fact that incidentally the lesser charge to the competitive point may seemingly give a preference to that point, and the greater rate to the noncompetitive point may apparently engender a discrimination against it. We say seemingly on the one hand and apparently on the other, because in the supposed cases the preference is not 'undue' or the discrimination 'unjust.' This is clearly so when it is considered that the lesser charge upon which both the assumption of preference and discrimination is predicated is sanctioned by the statute, which causes the competition to rise to the right to make such lesser charge."

JUSTICE REQUIRES THE SENSE OF PROPORTION.

I shall not now criticise the opinions of the courts from which I have quoted further than to say that it is difficult for me to avoid doubt as to the soundness of the conclusions reached. Those conclusions are based on the existing statute of Congress, but nevertheless it does not seem to me that sufficient stress is laid upon the true principle that rates must be just and that due proportion in charges is justice, except in those cases where imperious conditions impose the necessity of irregularities that would otherwise be intolerable. The mere stimulus of competition is not in itself sufficient to justify the discrimination against an intermediate community by rates so high as to effect an embargo or punishment upon it, while reaching forth to share the trade of another as against a rival.

Neither Lynchburg nor any town seeks to injure Danville, and it is not for anybody to object to reasonable charges to either Lynchburg or Danville or any other place. Danville does not seek to injure or disparage Lynchburg and would be well content to live and let live. But nobody would be injured by justice to Danville, and everybody should desire it. If the company can make money by its Lynchburg rates, it would make more money by the same rates to Danville, for they would be realized at less cost, i. e., the cost of 60 miles of carriage. It would also make money by a lesser charge to Danville by just so much as the amount of the cost of travel 60 miles farther on to Lynchburg.

These being the facts the rates to Danville at the existing high figures—higher than to more distant places—are not just. They show a lack of the sense of proportion, which is essential to justice.

OTHER DISCRIMINATIONS AGAINST DANVILLE.

In the fourth volume of the Report of Hearings before the Interstate Commerce Committee of this body will be found statements of the people and representatives of Danville which I would bring to your attention if I could fittingly do so; but time is too short. I commend to perusal the statement of Hon. Eugene Withers on page 3438, volume 4, of the Hearings; the memorial of the city of Danville to the general assembly of Virginia on page 3444; the resolutions of a mass meeting of the people of Danville, page 3440; the letter of E. P. Bacon, esq., page 2962, and the petition of the city of Danville to the Congress on page 1816 of volume 3 of the Hearings, which was presented by Judge A. M. Aiken.

My colleague [Mr. MARTIN], who shares in the deep interest I feel in this matter, has just handed me a schedule of freight rates on carloads of starch in cents per hundredweight from Chicago, Ill., to thirty different cities and towns of Virginia, and I here insert it:

Freight rates on starch, car loads, in cents per 100 pounds, from Chicago, Ill., to stations in Virginia—Effective September 1, 1905.

Alexandria	14.5
Basic	14.5
Buchanan	14.5
Buena Vista	14.5
Burkeville	14.5
Charlottesville	14.5
Danville	25.5
Doswell	14.5
Fredericksburg	14.5
Fries	19.5
Glasgow	14.5
Gordonsville	14.5
Hampton	14.5
Kilby	14.5
Lexington	14.5
Lynchburg	14.5
Newport News	14.5
Norfolk	14.5
Orange	14.5
Petersburg	14.5
Phœbus	14.5
Portsmouth	14.5
Richmond	14.5
Roanoke	14.5
Smithfield	14.5
Staunton	14.5
Suffolk	14.5
Wakefield	14.5
Waverly	14.5
Waynesboro	14.5

It will be observed at a glance that the charge with respect to twenty-nine of these Virginia places is 14½ cents per hundredweight, and that Danville is specially victimized by a charge of 25.5 cents. A number of these places are nearer Chicago than Danville, but quite a number of them—Alexandria, Doswell, Fredericksburg, Hampton, Newport News, Norfolk, Petersburg, Phœbus, Portsmouth, Richmond, Suffolk, Wakefield, and Waverly, for instance—are farther distant from Chicago than Danville is. Nevertheless Danville is charged 11 cents more per hundredweight on starch than any one of these more distant points. That city is the sole mark of the discrimination. Is it a wonder that its citizens complain? Is it right that their city be thus burdened and partially treated? I protest that it is wrong and vicious.

Other cases of discrimination in Virginia have been brought to my attention. I am advised by a Lynchburg manufacturer that the rates on his products from Lynchburg to Washington, D. C., are larger than to Boston, Mass. A farmer in Fauquier County lays before me cases in which charges on goods arriving and produce outgoing are discriminatory against his neighbors. Another informs me that the charges from Caroline County., Va., to Newport News are heavier than the charges from Minnesota to the same port on corn. Time forbids the lengthy discussion of this subject now. It is certain that it needs greater attention and consideration than it has received, and that evils exist that will continually demand correction.

I respectfully suggest that we should incorporate in this bill the proviso to existing law that "no discrimination shall be made by allowance of a lesser charge for a longer than a shorter haul in favor of any points or localities as against other points and localities where conditions and advantages are substantially similar." This ought to compel the allowance to Danville of at least the same rates that are accorded to competitive points at a greater distance than Danville from the initial point of shipment. It is to be hoped that even a closer approximate than this to exact justice may be made. The situation here at this time does not encourage the desire for a speedy remedy; but the railroad administration should itself make a more equitable schedule. Surely a claim so just as that of Danville can not be perpetually ignored.

Mr. McLAURIN. Mr. President, I did not intend to say anything, but expected to permit the amendment to go to a vote. But since the substitute is offered I will say a few words.

There was an impression prevailing throughout the country in 1904, when the President sent to Congress his message, in which he recommended general rate legislation, that we were going to have then real, sure-enough rate legislation. The people all over the country were calling upon their Senators and Representatives to support this policy of the President, a policy which had existed long before the present occupant of

the White House held the office which now devolves upon him. I must admit that I had some doubts about the probability, if not about the possibility, of getting any real substantial legislation that would benefit the people who are entitled to benefit under such legislation as is proposed. But when I began to see a division in the ranks of the Republicans in the Senate, I did have some considerable hope that they were in earnest about it, and that the President was in earnest about this legislation, and, with the Democracy of the Senate following out the doctrine of its party on this question, that we would get some legislation which would benefit the shippers of the country.

I know, and every other Senator here knows, that the shippers' bill affects pretty well every citizen in the entire country. If it is for the shipment of flour, every man who uses flour that is shipped must contribute to the payment of the shipper's bill. And so it is with every other class of freight that is shipped.

But it did not take long for me to discover that the President and his party were more interested in getting some advantage to themselves out of this agitation than they were in getting a benefit to the shippers of the country by means of substantial rate legislation.

I notice considerable discussion about a broad court review and a limited court review, and I have heard Senators contend that there is no substantial difference between a narrow court review and a broad court review; that there is no appreciable difference. But the President did not so understand. He stated in his letter which was read in the Senate yesterday:

> I also repeatedly stated that while it was entirely satisfactory to me simply to leave the Hepburn bill in substance as it was—that is, with the recognition of the jurisdiction of the courts, but without any attempt to define that jurisdiction—yet that I was entirely willing that there should be a definition, provided that this definition did not seek to grant a broad review, but explicitly narrowed it to the two subjects which, as a matter of fact, I believed that the courts would alone consider in case there was no attempt to define the limits of their review; that is, would limit it to the question as to whether the Commission had acted ultra vires and as to whether any man's constitutional rights had been impaired.

The President not only there says that there is a difference between the broad court review and the limited court review, but he says that he was in favor of the limited court review. However, he has now stated that he is in favor of the Allison amendment. In a telegram that he sent on May 6—this month—to W. F. Hill and members of the legislative committee of the Pennsylvania State Grange, Harrisburg, Pa., he said:

> Telegram received. I am happy to tell you that not only am I standing on my original position as regards rate legislation, but it seems likely that Congress will take this position, too.
>
> The Hepburn bill meets my views, as I have from the beginning stated. The Allison amendment is only declaratory of what the Hepburn bill must mean, supposing it to be constitutional, and no genuine friend of the bill can object to it without stultifying himself.
>
> In addition, I should be glad to get certain amendments, such as those commonly known as the Long and Overman amendments, but they are not vital, and even without them the Hepburn bill, with the Allison amendment, contains practically exactly what I have both originally and always since asked for, and if enacted into law it will represent the longest step ever yet taken in the direction of solving the railway rate problem.
>
> THEODORE ROOSEVELT.

Now mark you, Mr. President, "the Allison amendment is only declaratory of what the Hepburn bill must mean." Let us see what the Allison amendment is. I read from page 25 of the bill as printed on the 14th of May:

> The venue of suits brought in any of the circuit courts of the United States against the Commission to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office, and may be brought at any time after such order is promulgated. And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office; and if the carrier has its principal operating office in the District of Columbia, then the venue shall be in the district where said carrier has its principal office, and jurisdiction to hear and determine such suits is hereby vested in such courts.

Now, jurisdiction to hear and determine what suits? Jurisdiction to hear and determine "suits brought in any of the circuit courts of the United States against the Commission to enjoin, set aside, annul, or suspend any order or requirement of the Commission." Could it be made any broader? Any "suits." Jurisdiction is there vested in the circuit courts of the United States to hear and determine any suit that may be brought against the Commission to enjoin, set aside, annul, or suspend any order or requirement of the Commission. It is impossible for anybody to reconcile that with a narrow court review. If the President meant what he said when he sent the letter to the Senate to be read yesterday, that he was originally in favor of a narrow court review, limiting the court to the questions whether the Commission had acted ultra vires and whether the Commission had violated any constitutional right of anybody—if that was his original intention, when he agreed to the Allison amendment he abandoned it. So there can be but one conclusion; that is, that the President, for some purpose or other, surrendered his contention and went over to those who are fighting against railroad rate legislation.

I do not know why the President surrendered thus; I do not know the motives which prompted him; but there was one Senator, the Senator from Montana [Mr. CARTER], who stated that there is always some basic principle that will ultimately get the Republican party together. He did not state what that basic principle is, but if my observations since I have observed the workings of the Republican party are worth anything in making up a judgment, that basic principle is the "cohesive power of public plunder." Why did the President surrender? That he surrendered there can be no question. Hereafter it will be known as "Roosevelt's surrender," and if it shall ever be set to music it can be sung to the air of Bonaparte's Retreat. It may have been necessary or it may have been more in accord with the views of the President to get the Republican party together and to make this a Republican rate bill than to make it a bill that would benefit the entire shippers of the country. It seems to have been more the intention to secure advantage to himself and to the Republican party as a party than a benefit to the shippers of the country.

There is one thing about the President. The Senator from Texas [Mr. BAILEY] the other day said he was a fighter, but that he surrendered in his political contests. There is one thing the Senator might have added to that, which is that when the President surrenders he does not quit fighting. He goes over on the opposite side, swears allegiance to the enemy, and fights those who were his former allies. The President started out as if to be an ally on rate legislation of the Democratic Senators and the Democratic Representatives in Congress and to bring his Republican contingent with him, but after a while when it became necessary for him to surrender to those who were his antagonists in this fight, he did not only surrender and quit fighting the common foe, but he went over to the cohorts of discrimination and extortion and commenced to fight those who were formerly, and by his invitation, his allies.

If we are to have any legislation that will really benefit the shippers of the country, let us adopt the amendment offered by myself instead of the substitute offered by the Senator from Virginia. Had the amendment offered by the junior Senator from Texas [Mr. BAILEY] to limit the power of the courts in the granting of injunctions and to prohibit their granting preliminary injunctions been adopted, there would have been some chance for the order of the Commission to go into effect; and wherever that Commission would make an order, it would at least give some temporary relief to the shippers. But instead of that, the Republican contingent of the President have joined with those who were fighting him in the beginning and have voted down that amendment. So that——

The VICE-PRESIDENT. The time of the Senator from Mississippi has expired. The question is on agreeing to the amendment proposed by the Senator from Virginia [Mr. DANIEL].

The amendment was rejected.

The VICE-PRESIDENT. The question recurs on agreeing to the amendment proposed by the Senator from Mississippi [Mr. MCLAURIN].

The amendment was rejected.

Mr. MCLAURIN. I have another amendment that I want to offer. Before it is read, I wish to say that the Republican Senate seems to me disposed to vote down every amendment, and I suppose it would vote down the Lord's Prayer if it were germane and offered as an amendment. I offer the amendment that I send to the desk, and I will say just a few words on it.

The VICE-PRESIDENT. The Secretary will state the amendment proposed by the Senator from Mississippi.

The SECRETARY. It is proposed to add at the end of the bill the following:

> It shall be unlawful for any common carrier engaged in interstate commerce to operate as such interstate common carrier for compensation any steam-propelled vehicle of transportation of passengers or freight between sunrise and sunset on the Sabbath day.

Mr. MCLAURIN. Mr. President, I was just about to say a moment ago that if the amendment offered by the Senator from Texas [Mr. BAILEY] had been adopted, there could have been some relief given to the shippers; but as it is, it will be no trouble for the carrier who is displeased at all with the order of the Commission to go into court and secure the issuance of a preliminary injunction and keep that injunction in operation for at least a couple of years; and by that time will come the expiration of the time for which the order was made, and no benefit will accrue at all. I am going to discuss the amend-

ment but a little. I should like to have the Chair hear what I am about to read. I simply want to state that while this is not the Lord's Prayer—offered as an amendment to the pending bill, because that would not be exactly germane—it is a part of the Ten Commandments, and it is germane to this bill. I want to read verses 8, 9, 10, and 11 of the twentieth chapter of Exodus, so that when a Senator, if there is any Senator here who has not read this, comes to vote on this amendment, if he votes against it, he may know that he is voting against one of the Ten Commandments, and one that is also germane to this bill:

Remember the Sabbath day, to keep it holy.
Six days shalt thou labor, and do all thy work:
But the seventh day is the Sabbath of the Lord thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates:
For in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the Lord blessed the Sabbath day and hallowed it.

Mr. RAYNER. I suggest that that applies only to persons. It does not apply to corporations.

Mr. McLAURIN. If any corporation can run its trains on the Sabbath day without the agency of any person, it may be permitted to run them. But if it requires the services of any person—manservant or maidservant—to run them, then this commandment applies to such corporation.

Mr. CLARK of Wyoming. Mr. President——

The VICE-PRESIDENT. Does the Senator from Mississippi yield to the Senator from Wyoming?

Mr. McLAURIN. Certainly.

Mr. CLARK of Wyoming. I ask to what the amendment is directed. Is it directed to the bill or does the Senator propose it as an amendment to the Commandments?

Mr. McLAURIN. I can understand how a man who has not read the Bible would not know, but one who is familiar with the Bible knows that what I have read is itself one of the Commandments.

Mr. CLARK of Wyoming. Mr. President——

Mr. McLAURIN. But I will say to the Senator——

Mr. CLARK of Wyoming. The reason why I ask is because of the fact that a part of the Commandments is read from the other side of the Chamber.

Mr. McLAURIN. I did not catch the last that the Senator said. It seems not to be understood on the other side, and if that side is to get any of the benefits of the Scriptures at all it must be read from this.

Mr. DANIEL. Will the Senator let me ask him a question?

Mr. McLAURIN. Certainly.

Mr. DANIEL. Do you propose to stop telegraphic messages and mails on Sunday, too?

Mr. McLAURIN. I would stop the whole business and let everybody rest. I would let the telegraph operators and the railroad employees—the men who run trains on Sunday and never get a Sunday and never know what a Sunday is—rest. I would stop all those trains. I would allow the train crews and laborers a rest of one day in seven, as commanded by the Almighty. That is what the Almighty, through Moses, commanded, and I would give Moses a fair chance in this. [Laughter.]

Mr. DANIEL. Would the Senator also stop the street car lines?

Mr. McLAURIN. We could not stop the street car lines, because they do not do interstate business.

Mr. DANIEL. But in the District of Columbia they are under the control of Congress.

Mr. McLAURIN. The question of the Senator is academic. The amendment applies only to steam-propelled vehicles.

Mr. DANIEL. I suppose the Senator would stop hotels.

Mr. McLAURIN. The amendment does not apply to hotels.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Mississippi.

The amendment was rejected.

The VICE-PRESIDENT. The bill is in Committee of the Whole and open to amendment. If no further amendment be proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The VICE-PRESIDENT. The Senate, as in Committee of the Whole, has made sundry amendments to the bill. The question is on concurring in the amendments made as in Committee of the Whole. If any——

Mr. LODGE. I think the amendments had better be considered separately and in order.

Mr. GALLINGER. That is right.

Mr. LODGE. I object to concurring in any of the amendments in gross.

The VICE-PRESIDENT. The Senator from Massachusetts objects to concurring in the amendments in gross. The first amendment made, as in Committee of the Whole, will be read.

The SECRETARY. On page 1, line 6, after the words "applied to," insert:

Any corporation or any person or persons engaged in the transportation of oil or other commodity, except water and except natural or artificial gas by means of pipe lines or partly by pipe lines and partly by railroad or partly by pipe lines and partly by water, at any place within the jurisdiction or within the governmental authority of the United States, who shall be considered and held to be common carriers within the meaning and purpose of this act, and to.

Mr. HOPKINS. I move to amend the amendment by striking out all of line 3 after the word "water" and all of line 4.

The VICE-PRESIDENT. The Secretary will state the amendment.

The SECRETARY. After the word "water," in line 3, strike out the following words:

At any place within the jurisdiction or within the governmental authority of the United States.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read to the amendment made as in Committee of the Whole. [Putting the question.] In the opinion of the Chair, the noes have it.

Mr. HOPKINS. Mr. President, I ask for a division on the amendment to the amendment. It seems to me if the Senate understands the character of this amendment it certainly will be adopted.

The VICE-PRESIDENT. The Senator from Illinois demands a division.

Mr. HOPKINS. Mr. President, I desire just a few words further upon this question. This is the amendment that was adopted which makes a common carrier of the pipe line that the Administration has permitted the Union Oil Company, of California, to construct across the Isthmus. It is a revocable license, and the Administration proposes to grant the license to every oil company in the United States that desires to cross there. But if my amendment is voted down, the result will be that the company, which has expended nearly $3,000,000 in tank vessels and in the construction of its pipe line across the Isthmus, will be prohibited in the near future from transporting a barrel of oil of its own product from one section of the country to the other through its pipe line.

In other words, we have, by an amendment, provided that natural products, including oil, can not be transported by the common carrier that owns the product. So if this exception is not made, as I said, the amount of money which has been expended on the authority of a contract with the Government of the United States will be entirely lost to the company.

In addition to that, it is of great importance to the Government that a pipe line, and several of them, if possible, should be constructed across the Isthmus in order to get the oil there for fuel purposes. As conditions now are, a corner could be made at any time on coal or oil or any other product. The chief engineer reports that the engines which are used on the Isthmus railroad can be transformed for a few hundred dollars each for the use of crude oil to operate the engines, and that a great saving can be had to the Government in the matter of fuel.

I seems to me, Mr. President, without taking any time of the Senate, that the amendment I have offered here should prevail. I am sure there is no Senator here who would desire to nullify the contract that was made by the Administration or who would desire to embarrass the Administration in procuring the fuel for use on the Isthmus.

Mr. MORGAN. Mr. President, I do not know how many more times this subject is to come up. I do not feel under any obligation to defend the amendment made as in Committee of the Whole more than rests upon every Senator upon this floor. Here is a proposition to make pipe lines common carriers. The Senate seems to be satisfied with it and has twice voted for that proposition. The Senator from Illinois desires to make a certain exception, that is to say, in favor of a pipe line which has been granted by the President of the United States to a certain party in the Isthmus of Panama. Now, I am opposed to granting any special exceptions in favor of any person by a law of the Congress of the United States.

Mr. HOPKINS. Mr. President——

Mr. MORGAN. Do not interrupt me, please.

Mr. HOPKINS. All right.

Mr. MORGAN. I am opposed to any law of a general nature being passed by this body in favor of a particular individual. I do not consider that that is good legislation, and I know it is not good Democratic legislation. "Exclusive privileges to none" is the old creed, and that is what I am standing on.

The Senator insists that it will be an exclusive privilege

granted to the Union Oil Works, on the other side of the continent. The Union Oil Works, against the objection of Mr. Shonts and against various other objections, have managed in some way or other to get a contract signed by the President of the United States that they shall have the privilege of laying their pipe lines across the Isthmus. They have also a contract with the Government of Panama at Colon and at the city of Panama to put up pumping works, which are expensive works. The Senator says they have also spent a very large amount of money in rigging up boats and tanks to haul their oil down to the Isthmus.

After this contract was made by the President of the United States granting this peculiar and special and unauthorized and incomprehensible concession, the other oil companies in the United States, especially in Texas, claimed the privilege of carrying their oil to the Pacific Ocean in competition with this company. "No," said the company, "you can not do it; it is our property and this was done for the purpose of transporting our oil to the Atlantic, but the oil coming from the Atlantic shall not go to the Pacific."

That struck me as being a very one-sided sort of a partiality, and as absolutely unjustified by any fact that came within the knowledge of the Committee on Interoceanic Canals, who investigated this subject very fully and have put all the facts in the RECORD. They are in the RECORD of yesterday. I offered them again on yesterday.

If Congress had been called upon to make a contract of that sort, giving to the Union Oil Company the special privilege of carrying oil across the Isthmus, Congress would have said to the company: "You must also carry oil for other companies the other way. Let the Atlantic supply the Pacific as well as the Pacific supply the Atlantic, and let competition be fair." That is what Congress would have said. But that provision was omitted in this contract, and when these other companies came up and claimed the right to carry their oil across these pipe lines, paying the freight, paying for the privilege, this company said: "No; we will not grant it to you at all;" and when they went to the Secretary of War, who had written a letter which was read here yesterday to try to impress the necessity upon the Senate of standing by the Administration, and when the question was put to the Secretary of War that he should say that these men should have the privilege of transporting oil from the Atlantic to the Pacific side, he said: "I will not grant it."

Now, that is the object of the amendment proposed, and it is a very unworthy one. There is no question about it at all. I do not care whom it favors and I do not care whom it opposes, it is a very unjust provision. The Senator from Illinois is here defending it day after day, pressing it, and he comes now with a demand upon the Republican party of the United States to stand by the Administration on this question.

Mr. President, I want to see what the Administration has been doing about it. The President of the United States, contrary to the objections that I have stated here, all of which are printed in the RECORD now, and contrary to Mr. Shonts's objection, has granted this peculiar and special privilege. What right had the President of the United States to do it? What law of Congress has ever authorized him to dispose of a piece of property of the United States exclusively to any individual, or to any individual without reference to the exclusive privilege? How can he sell or grant? You say here it is a consideration to furnish some money to educate the children down there. How can he for a consideration, under any power that Congress has lodged in him, sell a right to establish a pipe line across that Isthmus? If he has a right to sell that, he has a right to sell the railway, he has a right to sell any mining privilege that may be asked there for gold, and many of them have been asked, and for coal and other privileges, such as making gardens and cutting timber for commerce, and the like of that. Various demands have been made upon this supposed power of the President of the United States, this Spanish power of granting concessions. The President of the United States is put in the attitude here of a Spanish sovereign, the owner of everything in that Zone, with the right to make concessions. That is all the right he has got and all he pretends to have. It was attempted to be defended before the Committee on Interoceanic Canals that the old Spanish law was in existence there and authorized it to be done.

Mr. President, if there is any one thing removed out of that Zone that I am more gratified at than all the balance, it is the Spanish power of granting concessions. It has not been devolved upon the President of the United States. He has not got it, and all of this fuss that is being made over this little amendment is for the sake of compelling Congress to justify that unlawful act of the President of the United States. That is all of it.

Now, I do not want to say anything more about it. I am not able to speak longer.

Mr. HOPKINS. Mr. President, I desire to make a few remarks in response to the suggestions made by the Senator from Alabama.

Mr. MORGAN. I call the Senator to order. He has had his day in court, and so have I.

Mr. HOPKINS. Mr. President, I deem it necessary to correct some of the statements made by the Senator from Alabama.

Mr. MORGAN. The Senator from Illinois has no right to the floor. He can not speak twice on the same amendment.

The VICE-PRESIDENT. The Chair is inclined to the opinion that the limitation of the unanimous-consent agreement is operative in the Senate as it was in Committee of the Whole, and that the Senator would be restricted.

Mr. HOPKINS. If that is correct, I will not take the time of the Senate, although the Senator from Alabama has misrepresented the facts entirely.

Mr. BEVERIDGE. Has not the Chair——

The VICE-PRESIDENT. The Chair understands that the amendment of the Senator from Illinois is the pending amendment.

Mr. GALLINGER. Question!

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Illinois.

Mr. SPOONER. Mr. President, I know nothing whatever about this matter, except what is contained in the letter which was read yesterday to the Senate from the Secretary of War. I think it received very little attention from the Senate. If there is any mystery about it, it is something that is not apparent at all on the face of the papers.

The Secretary of War has charge, under the President, of the construction of the canal on the Isthmus. I think he is one of the most devoted public servants this country has or ever has had. He states to me that he regards it as of the utmost importance to the Government that this license and other licenses of the same sort should be granted. In the first place, the Government needs the oil for fuel for the locomotives. This is a revocable license. He can make none which is not revocable. He has made a contract with this company and is willing to make a contract on the same terms with a Texas company and other companies, five or six of them. He says in his letter that the Chief Engineer informs him—

> that if oil can be furnished us at 90 cents a barrel this will be the equivalent of coal of varying steaming qualities at prices between $3.24 and $4 per ton.

That is a very important matter. He has required these people as a part of the contract, I understand, to agree to furnish the Government crude oil fit for fuel purposes in the management of the railway and such other purposes as may be demanded in the construction of the canal, at not exceeding 90 cents a barrel.

Mr. MORGAN. That is the market price.

Mr. SPOONER. I do not know whether that is the market price or not, but, Mr. President, if they can secure oil at 90 cents a barrel to take the place of coal at $3.24 and $4 a ton, it would seem to be in the interest of the Government to have it done.

If it were proposed here to give exclusive franchises to one concern, there would be objection to it; but as the Secretary of War states, and no one can gainsay, I take it, his statement, they offer the same permission precisely to anybody representing the Texas oil field, or to anybody representing other California companies.

Mr. MORGAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Alabama?

Mr. SPOONER. I yield.

Mr. MORGAN. I call the Senator's attention to the fact that the pumping stations and the pumping privileges are granted by the State of Panama, and this pipe line is a connection between those stations. The President of the United States can not grant, of his own right, pumping stations within the Zone.

Mr. SPOONER. Very well; if the company has secured from the Government of Panama, the owner, pumping stations which may be utilized in connection with this pipe line, which the Government of the United States may grant across the Zone, what objection is there to it?

Mr. MORGAN. Provided you will put them on the footing of all other pipe lines in the United States as common carriers, and let them pay the freight. They offer to pay the freight.

Mr. SPOONER. But the situation in Panama is not the situ-

ation in the United States. We are building there a tremendous public work thousands of miles away from the United States.

Mr. MORGAN. Will the Senator allow me to ask him a question?

Mr. SPOONER. Certainly.

Mr. MORGAN. Suppose the Beaumont Company wants to send oil across the Isthmus of Panama to the city of Panama, ought they not to be allowed to do so on paying the freight for it fixed by the railroad commission?

Mr. SPOONER. The Beaumont Company will be entitled to receive from the Department precisely the same privileges, if it be a franchise. The Secretary of War says in this letter:

Such company——

Mr. HOPKINS. The Secretary, if the Senator will allow me, has stated to that company, and to all companies, that they can have the same privileges that are granted to this company.

Mr. MORGAN. They can never get them. Everybody knows they will never get any privileges.

Mr. SPOONER. Why not?

Mr. MORGAN. Because they would be in competition with this pet. That is the reason.

Mr. SPOONER. If it is a pet, if there is anything back of it which is not apparent on the face of the letter of the Secretary of War, that is another thing.

Mr. MORGAN. I will say to the Senator from Wisconsin that, whatever action may be taken here upon this subject to-day, it is not going to escape further attention, because the Committee on Interoceanic Canals is going to take up this very question and consider it upon the facts. We will report it, and the Senate can then pass upon that proposition as an independent one, if it votes down this one.

Mr. SPOONER. I hope the committee will report upon it. If there is anything about this transaction or any other down there which will not bear the light of day, I hope it will be brought out into the open.

Mr. MORGAN. We will be glad to do it, and we will, if I can have my health.

Mr. SPOONER. I will aid the Senator to the extent of my power, if it comes into the Senate, to do that. But there is no good reason given here why it should be made a common carrier, it seems to me, when this franchise is thrown open to one, two, three, four, five, or six, if they desire to avail themselves of it:

Two companies of California, associated with the Standard Oil Company, asked that the Union Oil Company be compelled to make its line a common carrier. I submitted this proposition to the Union Oil Company, and its reply was, first, that they would need the pipe for constant transportation of their own oil, and, second, that as under such a requirement different qualities of oil would have to be introduced into the pipe, the pipe would have to be cleaned after the use of one quality in order that the next kind of oil pumped might not be affected in value and quality. The letter on this subject may be seen in the evidence already referred to.

When the Secretary of War, in whom we all have confidence, states so explicitly and so fully to the Senate that this is in the interest of the Government, that there is nothing exclusive about it, I think the Senate, in view of the necessity for it, ought not to be reluctant to leave the matter where it is desired it should be left. The Secretary says that if it is made a common carrier the effect of it will be to defeat any pipe line across the Isthmus.

I think there is authority, Mr. President, from two sources. First, I think anything that will facilitate the construction of the canal on that Zone the President is authorized to do under the canal act. Second, there is the act approved July 28, 1892, which provides—

That authority be, and is hereby, given to the Secretary of War, when in his discretion it will be for the public good, to lease, for a period not exceeding five years and revocable at any time, such property of the United States under his control as may not for the time be required for public use and for the leasing of which there is no authority under existing law, and such leases shall be reported annually to Congress: *Provided*, That nothing in this act contained shall be held to apply to mineral or phosphate lands.

I know nothing, as I said before, about this matter except what is apparent in the papers, and the papers certainly make a case which ought to lead the Senate to pay heed to the suggestion of the Secretary of War.

Mr. CLARK of Wyoming. Mr. President, I should like to ask the Senator from Illinois [Mr. HOPKINS] a question as to the practical effect of the words. As the bill now stands, I understand that the Union Oil Company, which has built or is building this pipe line, if the wording shall remain as it is, will be absolutely precluded from shipping its own oil through the pipe line. Is that a correct understanding?

Mr. HOPKINS. That is correct.

Mr. CLARK of Wyoming. And it will be compelled to take the oil of any other company for transportation?

Mr. HOPKINS. That is right.

Mr. TALIAFERRO. May I ask the Senator from Illinois a question?

The VICE-PRESIDENT. The Senator from Florida desires to ask the Senator from Illinois a question.

Mr. HOPKINS. Certainly.

Mr. TALIAFERRO. I would ask the Senator from Illinois what different position this pipe line company on the Isthmus occupies from pipe line companies in this country?

Mr. HOPKINS. In what respect does the Senator mean?

Mr. TALIAFERRO. I mean in respect to the application of this law. If this law should apply to pipe lines in this country, why should it not apply to a pipe line across the Isthmus?

Mr. HOPKINS. For the reason explained in the letter of the Secretary of War, which I had read yesterday at the Secretary's desk, and that is that the conditions upon the Isthmus are peculiar. They are not such as we have in the States. There is no competition there whatever, and there will be no competition. The Government, without this line, will be in a position where combinations can be made on coal and other products which will be used upon the Isthmus, and be compelled to pay the highest prices; but if this pipe line is permitted to be constructed without interference, as proposed by the Secretary of War, the company agrees that the maximum price of oil shall be not to exceed 90 cents for a barrel of 42 gallons. Then that puts them into competition with coal companies and other companies that may desire to construct their pipe line across the Isthmus.

The Senator from Florida, if he has read the letter which Seretary Taft sent to me, will remember the fact that the Secretary says that it is the purpose of the Government to induce other oil companies to construct pipe lines across the Isthmus so as to get an active competition; but if the amendment which I am seeking to have eliminated from this bill be adopted, it will destroy that entirely.

Mr. TALIAFERRO. Mr. President, I heard the testimony of Secretary Taft on this subject, and his position was accurately stated by the Senator from Wisconsin [Mr. SPOONER]. Secretary Taft stated that other pipe line companies had been offered the privilege of constructing lines across the Isthmus under revocable licenses, but that this company was the only one thus far which had availed itself of that privilege; but I have never understood that that privilege was accorded in connection with the construction work of the canal. There is nothing to show to the Senate that a gallon of oil has ever been used for fuel in the work of construction on the canal, and there is nothing here to show that a gallon of oil will ever be used in the work of construction on the canal.

Mr. HOPKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Florida yield to the Senator from Illinois?

Mr. TALIAFERRO. I yield.

Mr. HOPKINS. I will ask the Senator from Florida if he has read Exhibit 27, attached to the testimony of the Secretary of War when he was before the Interoceanic Canal Committee?

Mr. TALIAFERRO. I do not recall having read the exhibits, but I recall the Secretary's testimony very clearly.

Mr. HOPKINS. I will say to the Senator that in his testimony the Secretary of War did not go into that matter fully, because he submitted all the correspondence that he had had with this company and with Mr. Shonts and others, which fully supports every statement made by the Secretary in his letter, which was read from the Secretary's desk yesterday. It is the purpose to be in a position to change the engines, so that they may be enabled to use crude oil there instead of coal.

Mr. TALIAFERRO. Mr. President, I have no interest at all in this matter, except that I do not want to see the Senate misled about it. There has been a strong contention here that the pipe lines existing in this country should be brought under this act as common carriers; and I fail to understand, if that policy is adopted, why it should not apply, and why it does not apply with equal force to our possessions down in the Canal Zone. If the Standard Oil Company, with its pipe lines through the country, producing its own oil and marketing its own oil, can do business under the provisions of this act, the Independent Oil Company, which has this concession from the Government to construct a pipe line across the Isthmus, ought to be able to do its business. When the bill in its present form brings the pipe lines of this country under the operation of this act, I can see no reason why the pipe lines within the jurisdictional territory of this country should not likewise be brought within the limitations of the act.

I concede all that the Senator from Wisconsin has said about the Secretary of War. He is a faithful public servant, in my judgment, and an excellent gentleman; but even if he should

come here and ask a concession in favor of one company over other companies I should not be willing to accord it.

Mr. HOPKINS. Will the Senator from Florida allow me?

Mr. TALIAFERRO. Certainly.

Mr. HOPKINS. Does not the Senator know that the Secretary of War expressly disclaims giving any preference to this company over any other company?

Mr. TALIAFERRO. I have already stated that the Secretary said that practically anybody could get a concession across the Isthmus if he wanted it, but nobody else has got it; and when the owners of one pipe line are the producers and marketers of what they transport in their pipe line across the Isthmus I shall insist that that pipe line across the Isthmus shall be brought under the terms of the act.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Illinois [Mr. HOPKINS] to the amendment made as in Committee of the Whole. [Putting the question.] By the sound the noes seem to have it.

Mr. HOPKINS. I ask for a division.

Mr. GALLINGER. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. MALLORY (when his name was called). I again announce my pair with the senior Senator from Vermont [Mr. PROCTOR]. I understand if the senior Senator from Vermont were present he would vote "yea" on this amendment. I therefore withhold my vote, as I should vote "nay" if he were present.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON], and therefore withhold my vote.

The roll call having been concluded, the result was announced—yeas 43, nays 25, as follows:

YEAS—43.

Alger	Dick	Hansbrough	Penrose
Allee	Dillingham	Hemenway	Perkins
Beveridge	Dolliver	Hopkins	Piles
Brandegee	Dryden	Knox	Scott
Bulkeley	Elkins	La Follette	Spooner
Burkett	Flint	Lodge	Stone
Burnham	Foraker	Long	Sutherland
Clapp	Foster	McCumber	Teller
Clark, Wyo.	Frye	Millard	Warner
Crane	Fulton	Nelson	Wetmore
Cullom	Gamble	Nixon	

NAYS—25.

Ankeny	Clay	Kittredge	Pettus
Bacon	Culberson	Latimer	Simmons
Bailey	Daniel	McCreary	Taliaferro
Berry	Frazier	McEnery	Tillman
Blackburn	Gallinger	McLaurin	
Carmack	Gearin	Martin	
Clarke, Ark.	Kean	Overman	

NOT VOTING—21.

Aldrich	Depew	Money	Rayner
Allison	Dubois	Morgan	Smoot
Burrows	Gorman	Newlands	Warren
Burton	Hale	Patterson	
Carter	Heyburn	Platt	
Clark, Mont.	Mallory	Proctor	

So Mr. HOPKINS's amendment to the amendment made as in Committee of the Whole was agreed to.

Mr. TILLMAN. Mr. President, several Senators have requested me to consent to an adjournment in order that the bill as reported to the Senate may be printed, so that Senators may have a better opportunity to examine it and prepare any amendments which they may want to offer to-morrow. While I am perfectly willing and am anxious to do so——

Mr. BEVERIDGE. I think we can dispose of some additional amendments now.

Mr. TILLMAN. I move that when the Senate adjourns to-day it be to meet at 11 o'clock to-morrow morning.

The motion was agreed to.

Mr. TILLMAN. While I am on my feet, I will ask that the bill be reprinted to-night, showing all the amendments that have been agreed to.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. BEVERIDGE. Mr. President, in view of the request of the Senator from South Carolina [Mr. TILLMAN] I shall not now offer the amendment I intended to present, but will let the bill be reprinted as suggested.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 5 o'clock and 28 minutes p. m.) the Senate adjourned until to-morrow, Thursday, May 17, 1906, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate May 16, 1906.

DISTRICT JUDGE.

Bernard S. Rodey, of New Mexico, to be United States district judge for the district of Porto Rico, vice Charles F. McKenna, who has resigned to take effect at the close of June 14, 1906.

DISTRICT ATTORNEYS.

Potter Charles Sullivan, of Washington, to be United States attorney for the western district of Washington, in the place of Jesse A. Frye, whose term expires May 18, 1906.

James K. Barnes, of Arkansas, to be United States attorney for the western district of Arkansas. A reappointment, his term having expired May 10, 1906.

REGISTERS OF LAND OFFICES.

Fred W. Stocking, of Washington, to be register of the land office at Olympia, Wash., his term having expired May 8. (Reappointment.)

John W. Dudley, of Alaska, whose term will expire June 1, to be register of the land office at Juneau, Alaska. (Reappointment.)

RECEIVERS OF PUBLIC MONEYS.

William E. Wallace, of Glenwood Springs, Colo., to be receiver of public moneys at Glenwood Springs, Colo., vice James W. Ross, term expired.

Patrick M. Mullen, of Alaska, whose term will expire June 1, to be receiver of public moneys at Juneau, Alaska. (Reappointment.)

PROMOTIONS IN THE NAVY.

Capt. Morris R. S. Mackenzie to be a rear-admiral in the Navy from the 13th day of May, 1906, vice Rear-Admiral George A. Converse, retired.

Lieut. Commander Frank W. Bartlett to be a commander in the Navy from the 13th day of May, 1906, vice Commander Nathan Sargent, promoted.

Lieut. Adelbert Althouse to be a lieutenant-commander in the Navy from the 13th day of May, 1906, vice Lieut. Commander Frank W. Bartlett, promoted.

Lieut. Richard H. Leigh to be a lieutenant-commander in the Navy from the 13th day of April, 1906, vice Lieut. Commander John H. L. Holcombe, promoted.

POSTMASTERS.

ARIZONA.

D. L. Robinson to be postmaster in Jerome, in the county of Yavapai and Territory of Arizona, in place of Thomas E. Campbell. Incumbent's commission expires May 19, 1906.

ILLINOIS.

Arthur F. Duckett to be postmaster at Forrest, in the county of Livingston and State of Illinois, in place of Lucian Bullard. Incumbent's commission expired March 14, 1906.

John A. Walter to be postmaster at Lockport, in the county of Will and State of Illinois, in place of John A. Walter. Incumbent's commission expired February 10, 1906.

INDIANA.

Marion F. Evans to be postmaster at Marion, in the county of Grant and State of Indiana, in place of Evan H. Ferree. Incumbent's commission expired March 15, 1906.

INDIAN TERRITORY.

Hanson P. Warfield to be postmaster at Tishomingo, in district 22, Indian Territory, in place of John A. Porter, removed.

IOWA.

Albert H. Brooks to be postmaster at Hawkeye, in the county of Fayette and State of Iowa, in place of Jacob E. Palmer, resigned.

KANSAS.

Zenas R. Detwiler to be postmaster at Wamego, in the county of Pottawatomie and State of Kansas, in place of Zenas R. Detwiler. Incumbent's commission expired April 25, 1906.

George Manville to be postmaster at Wathena, in the county of Doniphan and State of Kansas, in place of George Manville. Incumbent's commission expired May 8, 1906.

LOUISIANA.

Robert E. Rosenburger to be postmaster at Garyville, in the parish of St. John the Baptist and State of Louisiana. Office became Presidential April 1, 1906.

MICHIGAN.

Horace G. Prettyman to be postmaster at Ann Arbor, in the county of Washtenaw and State of Michigan, in place of George H. Pond. Incumbent's commission expires June 28, 1906.

MISSOURI.

Harvey B. Garver to be postmaster at Fulton, in the county of Callaway and State of Missouri, in place of William W. Arnold. Incumbent's commission expired May 8, 1906.

NEW HAMPSHIRE.

John B. Cooper to be postmaster at Newport, in the county of Sullivan and State of New Hampshire, in place of Elisha H. Carr. Incumbent's commission expires June 5, 1906.

John A. Spalding to be postmaster at Nashua, in the county of Hillsboro and State of New Hampshire, in place of John A. Spalding. Incumbent's commission expires June 25, 1906.

NEW JERSEY.

James P. Van Schoick to be postmaster at Manasquan, in the county of Monmouth and State of New Jersey, in place of James E. Cook, removed.

NEW YORK.

Alton C. Bates to be postmaster at Springville, in the county of Erie and State of New York, in place of Alonzo E. Hadley, deceased.

Albert E. Bonesteel to be postmaster at Troy, in the county of Rensselaer and State of New York, in place of Joseph A. Leggett. Incumbent's commission expires June 10, 1906.

John P. Herrick to be postmaster at Bolivar, in the county of Allegany and State of New York, in place of John P. Herrick. Incumbent's commission expires May 27, 1906.

NORTH CAROLINA.

Thomas F. Seehorn to be postmaster at Lenoir, in the county of Caldwell and State of North Carolina, in place of Thomas F. Seehorn. Incumbent's commission expired March 1, 1906.

PORTO RICO.

Robert A. Miller to be postmaster at Ponce, in the county of Ponce, Porto Rico, in place of Robert A. Miller. Incumbent's commission expired March 2, 1905.

TENNESSEE.

Reuben Hurtt to be postmaster at Harriman, in the county of Roane and State of Tennessee, in place of Isaac A. Hill. Incumbent's commission expires June 9, 1906.

TEXAS.

Theodore Ray to be postmaster at Midland, in the county of Midland and State of Texas, in place of Theodore Ray. Incumbent's commission expired February 17, 1906.

VIRGINIA.

John M. Sloan to be postmaster at Chase City, in the county of Mecklenburg and State of Virginia, in place of John M. Sloan. Incumbent's commission expires June 24, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 16, 1906.

ASSISTANT COMMISSIONER OF GENERAL LAND OFFICE.

George F. Pollock, of North Lawrence, Ohio, to be Assistant Commissioner of the General Land Office.

REGISTER OF THE TREASURY.

William T. Vernon, of Kansas, to be Register of the Treasury.

PROMOTIONS IN THE ARMY.

Infantry Arm.

Lieut. Col. James E. Macklin, Third Infantry, to be colonel from May 8, 1906.

Maj. Lea Febiger, detailed inspector-general, to be lieutenant-colonel of infantry from May 8, 1906.

Corps of Engineers.

Lieut. Col. James B. Quinn, Corps of Engineers, to be colonel from May 5, 1906.

Maj. George McC. Derby, Corps of Engineers, to be lieutenant-colonel from May 5, 1906.

Capt. Clement A. F. Flagler, Corps of Engineers, to be major from May 5, 1906.

First Lieut. Gustave R. Lukesh, Corps of Engineers, to be captain from May 5, 1906.

Second Lieut. Robert P. Howell, jr., Corps of Engineers, to be first lieutenant from May 5, 1906.

POSTMASTERS.

INDIAN TERRITORY.

William H. Hilton to be postmaster at Durant, in district 25, Indian Territory.

IOWA.

Hans Keiser to be postmaster at Elgin, in the county of Fayette and State of Iowa.

KANSAS.

William E. Menoher to be postmaster at Lincoln, in the county of Lincoln and State of Kansas.

NEW HAMPSHIRE.

John A. Spalding to be postmaster at Nashua, in the State of New Hampshire.

NEW YORK.

Reuben F. Hoff to be postmaster at Union Springs, in the county of Cayuga and State of New York.

J. Fenton Olive to be postmaster at Cuba, in the county of Allegany and State of New York.

David O. Williams to be postmaster at Mount Vernon, in the county of Westchester and State of New York.

OHIO.

James D. Carpenter to be postmaster at Lodi, in the county of Medina and State of Ohio.

Eliza B. Lockwood to be postmaster at Bedford, in the county of Cuyahoga and State of Ohio.

James H. Rabbitts to be postmaster at Springfield, in the county of Clark and State of Ohio.

TEXAS.

George W. Hill to be postmaster at Saratoga, in the county of Hardin and State of Texas.

William M. Nagle to be postmaster at Denison, in the county of Grayson and State of Texas.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May 16, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read.

Mr. PAYNE. Mr. Speaker, I move that the Journal be approved.

The motion was agreed to.

WITHDRAWAL OF PAPERS.

Mr. JOHNSON asked leave to withdraw from the files of the House, without leaving copies, papers in the case of Sarah Young, H. R. 19098, first session, Fifty-ninth Congress, no adverse report having been made thereon.

The SPEAKER. Is there objection?

Mr. WILLIAMS. I object.

Mr. JOHNSON. I move, Mr. Speaker, that the request be granted.

The motion was agreed to.

The SPEAKER. The Chair directs the Clerk to read section 7, Rule XIV.

The Clerk read as follows:

While the Speaker is putting a question or addressing the House no Member shall walk out of or across the Hall, nor, when a Member is speaking, pass between him and the Chair; and during the session of the House no Member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots, or smoke upon the floor of the House; and the Sergeant-at-Arms and Doorkeeper are charged with the strict enforcement of this clause. Neither shall any person be allowed to smoke upon the floor of the House at any time.

The SPEAKER. The Clerk has instructed the Sergeant-at-Arms and Doorkeeper to see that the rule is enforced.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The question was taken; and on a division (demanded by Mr. WILLIAMS) there were—ayes 115, noes 12.

Mr. WILLIAMS. No quorum, Mr. Speaker.

The SPEAKER. The Chair will count. [After counting.] Two hundred and twelve Members present—a quorum. The ayes have it, and the gentleman from Indiana [Mr. CRUMPACKER] will take the chair.

The Clerk read as follows:

One first-class battle ship, carrying as heavy armor and as powerful armament as any known vessel of its class, to have the highest practicable speed and greatest practicable radius of action, and to cost, exclusive of armament and armor, not exceeding $6,000,000: *Provided*, That before approving any plans or specifications for the construction of such battle ship the Secretary of the Navy shall afford, by advertisement or otherwise, in his discretion, a reasonable opportunity to any competent constructor who may desire so to do, to submit plans and specifications for his consideration, for which said plans, should the same be used by the Department and be not submitted by or on behalf of a successful bidder for the contract, such compensation shall be paid as the Secretary of the Navy shall deem just and equitable out of the amount herein appropriated under the head "Contingent, Navy."

Mr. BURTON of Ohio. Mr. Chairman, I move to strike out the paragraph beginning on line 25, page 71, and ending with line 14, on page 72.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Beginning on line 25, page 71, strike out line 25 and all of lines 1 to 14, inclusive, on page 72.

Mr. JOHNSON. Mr. Chairman, I ask unanimous consent that the amendment be again reported, as there was so much confusion in the House we could not hear it.

The CHAIRMAN. Without objection, the Clerk will again read the amendment.

The Clerk again read the amendment.

Mr. FOSS. Mr. Chairman, I would like to suggest to the gentleman from Ohio that we agree upon a time for debate for and against this amendment, and I would suggest that we have forty minutes on each side.

Mr. BURTON of Ohio. As far as I am concerned, I shall not require any considerable amount of time, but there are other Members who desire to speak.

Mr. BARTHOLDT. Mr. Chairman, I have an amendment to the same section, and I would like to ask whether the forty minutes would include my amendment?

Mr. TAWNEY. Oh, no; the time suggested is for this amendment alone.

Mr. SLAYDEN. I would like to ask the chairman of the committee to be a little more generous; I would like to have ten or twelve minutes myself.

Mr. SULZER. I suggest to the gentleman from Illinois that he make it one hour on each side.

Mr. FOSS. I suggest that there are other propositions in this bill that immediately follow which I think will consume the rest of the day.

Mr. SLAYDEN. But this is the most important proposition in the bill.

Mr. FOSS. We are only seeking to limit the time upon this amendment. Of course there will be other amendments offered to this paragraph.

Mr. SLAYDEN. This, I will say, is the most important amendment, and I think that we ought to have an hour on each side.

Mr. RIXEY. I think the debate on this amendment will do away with other amendments to the same paragraph.

Mr. FOSS. Mr. Chairman, in view of the fact that the sentiment here seems to be that we have debate of an hour on each side, I will modify the request and ask that debate be allowed on each side, one hour to be controlled by the gentleman from Ohio [Mr. BURTON] and the other hour to be controlled by myself.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that debate upon the pending paragraph be continued for one hour on a side, two hours in the aggregate, one half to be controlled by the gentleman from Illinois [Mr. Foss] and the other half to be controlled by the gentleman from Ohio [Mr. BURTON].

Mr. WILLIAM W. KITCHIN. Mr. Chairman, I understood the request was on the pending amendment.

The CHAIRMAN. The Chair understood it to be on the paragraph.

Mr. FOSS. Mr. Chairman, I understand it to be on this amendment offered by the gentleman from Ohio.

The CHAIRMAN. The request will be modified accordingly. Is there objection?

Mr. HEPBURN. Mr. Chairman, before I consent to that, I would like to know from the gentleman who has charge of this bill how much more time will probably be consumed.

Mr. FOSS. Well, following this, Mr. Chairman, is the provision with reference to torpedo-boat destroyers and also submarine boats. It is quite likely that that would take an hour or perhaps longer, and then in connection with this paragraph of the increase of the Navy comes the provisions increasing the limit of cost on colliers and training ships and on the battle ship *Connecticut*, and I should say that that is likely to take an hour. Then comes the armor-plate proposition, and it was in view of this fact that I desire to limit this debate at the start to forty minutes on a side, if I could, in order to get through to-day.

Mr. HEPBURN. Mr. Chairman, we have an excellent rule for limiting debate on this question. We have had general debate, and the gentlemen who seem to be most anxious for the extension of this time have each of them had an hour or more in the discussion of this subject. I desire to remind the gentlemen that there are a number of important bills waiting the removal of this one from the consideration of the House, and up to this time I have not noticed that the gentleman from Illinois [Mr. Foss], who has charge of this bill, has sought in any way to limit or terminate this interminable debate. I therefore object.

The CHAIRMAN. The gentleman from Iowa objects. The gentleman from Ohio is recognized.

Mr. BURTON of Ohio. Mr. Chairman, in support of the motion to strike out the provision for this battle ship, I desire to present in the first instance several practical considerations. The first one is this, that we have now a programme for the construction of battle ships which will not be completed before the 1st day of January, 1910, so that already provision has been made for the construction of battle ships for nearly four years to come; and, as was conceded in the general discussion, the average delay on ships of this class is at least two years, and it will therefore be January 1, 1912, before the battle ships now provided for, all but two of which are under construction, will be completed. No man can tell what changes there will be in naval architecture during that time. Even more important, no one can tell what changes there will be in the relations of nations of the earth in the settlements of disputes in that time. If the cause of arbitration, if the making of arbitration treaties, continues at the same pace as from the beginning of the century, we may indulge the hope that by January 1, 1912, there will be a general agreement on the part of the strongest nations to suspend further increase of their navies and armies. The next point to which I wish to call attention is the fact that we are making provision for a battle ship the plan of construction of which, the efficiency of which, I may say the success of which, is altogether uncertain and problematical. Skillful naval architects have said that a boat of this size would merely afford a greater amount of surface to shoot at, and that it would be of no substantial advantage over the smaller boats now under construction and in use. Another practical point to which I call attention is this, that in our programme for construction we are altogether outstripping the provision for manning the boats. According to the report that is filed here, the Navy lacks 5,500 men. What is the sensible course to pursue under the circumstances? Is it to go on and on increasing the number of battle ships, or is it to stop a while and get sailors, gunners, and mechanics to man them? Nothing could be more expressive on this subject than the message of President Roosevelt as presented to us last December. He said:

> Modern war ships are most formidable mechanisms when well handled, but they are utterly useless when not well handled; and they can not be handled at all without long and careful training.

Again he says:

> To put a new and untrained crew upon the most powerful battle ship and send it out to meet a formidable enemy is not only to invite but to insure disaster and disgrace. To improvise crews at the outbreak of a war, so far as the serious fighting craft are concerned, is absolutely hopeless. If the officers and men are not thoroughly skilled in, and have not been thoroughly trained to, their duties, it would be far better to keep the ships in port during hostilities than to send them against a formidable opponent, for the result could only be that they would be either sunk or captured.

Whether it is because the genius of our people is not such that young men desire to enlist in the Navy, or what it may be, we are very much short of men, but here, with this unequal pace, we are maintaining construction altogether out of proportion with the essential service of manning the boats. I desire to call attention to the report of the Committee on Naval Affairs upon the tonnage of war ships, the construction of which is under way. I will concede that in some small degree that is explained by the slower construction in this country, but it appears by the programme here filed with the report, that on November 1, 1905, there was building of tonnage for war ships in Great Britain, 234,660 tons; of France, 181,000 tons, and Germany, 121,000 tons, and in the United States, 313,000 tons.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. BURTON of Ohio. I ask unanimous consent for one minute.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to continue for one minute? Is there objection? [After a pause.] The Chair hears none.

Mr. BURTON of Ohio. Thus it appears that there is already under construction in this country—and there are two battle ships not yet contracted for—nearly 80,000 tons more than in Great Britain, and 10,000 tons more than in Germany and in France combined. Is it not time, gentlemen of the committee, to call a halt in this ambitious naval programme of construction? [Applause.]

Mr. VREELAND. I desire to ask the gentleman a question, if he will yield.

Mr. BURTON of Ohio. My time has expired.

Mr. VREELAND. I ask that the time of the gentleman from Ohio be extended for one minute.

The CHAIRMAN. The Chair will recognize the gentleman from New York.

Mr. VREELAND. I rose for the purpose of asking a question of the gentleman from Ohio.

The CHAIRMAN. The gentleman can ask it in his own time.

Mr. BURTON of Ohio. It is immaterial to me.

Mr. VREELAND. I want to ask the gentleman from Ohio if he thinks he was entirely fair to use the old figures of the

amount of construction in the United States as compared with Great Britain or France or Germany, when he knows that we have now ships not yet launched authorized six years ago; when he knows that any one of the three nations, counting the vessels that they have finished in this time as well as what has been authorized in this time, in the case of Great Britain will show three times the amount that they have now building compared with the United States?

Mr. BURTON of Ohio. If the gentleman had done me the honor to listen to what I said, the gentleman would have heard me say it was to be conceded that the ships in those countries were constructed more rapidly than in ours; but I want to say to him further, in answer, that this slowness in our programme is the very strongest argument why we should not authorize this battle ship, because no one can tell what changes in naval architecture will occur between now and the time the battle ships we provide for are finished.

Mr. VREELAND. Is not the fact we are building so slowly rather a reason why we should at least keep authorizing one ship to be built each year?

Mr. BURTON of Ohio. By no means. When the construction of that boat will not commence for five or six or seven years after the date when we authorize it? Let us wait until we are near the time for beginning, and then we can settle the question wisely.

Mr. VREELAND. The gentleman knows the plans for building the great ship we authorize this year must be commenced at once, and that it may be a year and a half before the Navy Department is prepared to contract for building that ship.

Mr. BURTON of Ohio. It seems to me that in prompt and efficient methods of administration there would not be so great a delay, but even if that is the case, there is ample time after this session or after this Congress to decide that question in time to commence when the present programme for battle ships is completed.

Mr. VREELAND. We are not obliged to wait and start this ship until the others are completed. We have plenty of yards where work can be commenced.

Mr. BURTON of Ohio. Ah, as the gentleman and members of his committee have been stating to us, there was to be an abatement of the naval programme. If they intend to double by building this ship cotemporaneously with the others, I think the committee should know it. If we intend to carry on the construction of this boat cotemporaneously with the building of the other battle ships, that, of course, is an argument why you are not expecting to abate your naval programme, but to increase it.

Mr. VREELAND. I desire only to say in reply to the gentleman from Ohio that the building operations authorized this year, as he must know if he has given it attention, at the end of twenty years will leave the American Navy less strong than it is to-day. That is the programme, and it is a programme of moderation. It does not contemplate an increase in the Navy, but contemplates the building of such ships as will keep it up to its present strength only.

Mr. WILLIAMS. Mr. Chairman, I believe it is in order to consider, first, amendments to perfect the bill or perfect the clause before amendments to strike out. With that idea in view, I wish to offer an amendment, which I shall read:

Insert, after the word "Navy," in line 14, page 72, the following: "*Provided further*, That whereas the British sea monster which we are imitating has been named the Dreadnaught—an archaic name—this man-of-war is hereby named the Skeered o' Nothin' as an expression of our true American spirit: *Provided further*, That it is hereby made the duty of the first captain who shall command her to challenge, in the nation's name, the so-called 'Dreadnaught' to a duel à l'outrance, to take place upon the sea somewhere in sight of Long Island, and that upon the occasion of the combat the President and his Cabinet, except, of course, the Secretary of Agriculture, who is ex officio a noncombatant, being all of them fond of a strenuous life, shall be entertained on the quarter-deck as guests of the ship and of the nation."

My object in offering this amendment, Mr. Chairman, is——

Mr. OLMSTED. Mr. Chairman, I make a point of order.

Mr. WILLIAMS (continuing). To emphasize to all the world our courage and our new national spirit——

The CHAIRMAN. The gentleman from Pennsylvania makes the point of order against the amendment.

Mr. WILLIAMS. A point of order? Upon what ground? It is perfectly germane. It does not change existing law. It is not new legislation. The amendment is a mere expression of the true American spirit as we have lately discovered it. Now, to go on from point to point conquering the world as a true imperial power we ought to serve notice upon the nations of the world that we are not only ready to meet them, our Navy with their navy, but our big sea monster against their big sea monster. We have the men prepared to man her, we have the officers prepared to command her, and we have the Chief of the nation and the Cabinet ready and anxious to be on the quarter-deck while the fun is going on. [Laughter and applause.]

Mr. OLMSTED. Mr. Chairman, I make the point of order the gentleman from Mississippi [Mr. WILLIAMS] is not discussing the question.

The CHAIRMAN. The gentleman from Pennsylvania makes the point of order that the gentleman from Mississippi is not discussing the question.

Mr. WILLIAMS. I am discussing the amendment itself.

The CHAIRMAN. The question before the committee is the question of order. The Chair is prepared to rule.

Mr. WILLIAMS. Upon what ground does the gentleman base his point of order?

Mr. OLMSTED. Mr. Chairman, the amendment offered by the gentleman from Mississippi is a plain violation of the rule of this House. There is an act of Congress providing how vessels shall be named. The whole amendment is in the form of legislation and in plain violation of the rule and requires no discussion.

Mr. WILLIAMS. Mr. Chairman, this is rather a critical and acute sort of stage of naval procedure at which we have arrived. We are starting now on a new line of departure, to which the old law does not apply, as I think the Chair will readily see.

The CHAIRMAN. There is no provision of law to meet these new and acute exigencies that the gentleman speaks about. The amendment is clearly out of order. The Chair sustains the point of order.

Mr. WILLIAMS. Such is my respect for the bona fides and good faith of the Chairman that I will not appeal from the decision of the Chair. But, it seems to me, this amendment ought to be considered. [Applause.]

Mr. FOSS. Mr. Chairman, I just want to correct, at this stage of the debate, one impression which the gentleman from Ohio [Mr. BURTON] has evidently made to this House.

Without debating the question at this time, I wish to state that the impression which the gentleman has given the committee is one as to present construction. I submit that it is hardly fair, as the gentleman from New York [Mr. VREELAND] has stated, to take the amount of tonnage which we are building at the present time and compare it with what England is building at the present time, or France or Germany, in a single year. The only fair statement to make is to take it for a number of years. For instance, take it for five years upon the amount of tonnage authorized by the different nations. Now, during the last five years England has authorized 663,990 tons of ships; the United States, 339,648.

That is all I desire to state at this time.

Mr. BURTON of Ohio. May I ask the gentleman to state what the authorization is in France and Germany, if he has that information at hand?

Mr. FOSS. Germany, 284,589; France, 230,868; Japan, 206,593—during the last five years.

Mr. TAWNEY. Mr. Chairman——

The CHAIRMAN. Debate on the amendment is exhausted.

Mr. TAWNEY. Mr. Chairman, in speaking in favor of the amendment offered by the gentleman from Ohio [Mr. BURTON] striking from this bill the provision authorizing a $10,000,000 battle ship, I do so not because I am opposed to building and maintaining a navy of sufficient size to meet all the necessities of the Government under any and all conditions, nor because I believe we have reached the era of universal peace. I do so, Mr. Chairman, because I am not in sympathy with the policy just announced by the chairman of the Committee on Naval Affairs or the policy advocated by the Administration. Under their policy the size of our Navy is to be determined relatively by the size of the navies of other countries regardless of our own necessity. I do not believe that the American Congress is justified in proceeding upon the theory that, because other countries have authorized so much naval construction this year or last year, we should authorize a like amount. The policy implies a total disregard of necessity or expense and that, like children competing for the most glittering and expensive toys, we must compete with the nations of the world in the construction of the largest and most expensive battle ships in order to satisfy our national pride—vanity. [Applause.]

Mr. FOSS. May I interrupt the gentleman?

Mr. TAWNEY. I have only a few minutes.

Mr. FOSS. The question of comparison was brought up by the gentleman from Ohio [Mr. BURTON] and not by "the gentleman from Illinois."

Mr. TAWNEY. The gentleman from Illinois gave that as one of the reasons, and so did the gentleman from New York [Mr. VREELAND], for the necessity for this battle ship of unprecedented size. Neither of them, however, mentioned the fact that only recently England condemned seventy of her naval vessels

and sent them to the scrap pile; nor did they mention the extent to which this competition with the principal nations of the world is to be extended. We have under construction to-day thirty-eight vessels of all classes, with a displacement of 384,780 tons. We have constructed, all told, 270 vessels, with a displacement of 711,262 tons. In other words, we have to-day in course of construction more than 50 per cent of the total tonnage of our present Navy. These thirty-eight vessels will not all be completed until 1910, and possibly not until 1912. Before that, the plan of naval construction, judging by the past, will have so changed that the plan of this battle ship will be comparatively obsolete, and, like the vessels of the English navy, will be on the way to the scrap pile.

Mr. Chairman, I insist that because of the large number of vessels now under construction, with an aggregate tonnage of more than half of our present Navy, there is no necessity for Congress at this session to authorize the construction of a naval vessel which it is popularly claimed will cost $10,000,000, or twice the cost of any battle ship we now have or that we have heretofore authorized. [Applause.]

THE COST OF MAINTENANCE.

But, Mr. Chairman, will the people be as unmindful of or as indifferent to the cost of maintaining the Navy when the vessels now authorized are completed and in commission as they are to-day? Do they now know, do the Members of this House know, what it will cost every year to maintain our Navy when in 1910 all the vessels now authorized are completed? Based on the present cost, the estimated cost will then be not less than $76,091,000 annually. This is merely for maintaining the Navy; it does not include construction or reconstruction. Think of it, Mr. Chairman. That amount is almost as great as the total expenditure of the Government this fiscal year for all governmental purposes outside of the expenditures on account of previous wars and the cost of preparing for wars we anticipate.

The total cost of maintaining a first-class battle ship is, in round numbers, including everything, almost a million dollars annually. We are also told that the life of a battle ship is not to exceed sixteen years. In view of these facts, Mr. Chairman, I respectfully submit that if it is not advisable to halt in our ambitious naval policy, it would at least be wise to mark time for a year or two, or until we can ascertain with some certainty the extent to which we are creating permanent burdens that must be met by taxes collected from the people. [Applause.]

The following statement will show in detail the cost of maintaining our Navy:

Vessels of all types in process of construction		38
Displacement of same	tons	384,780
Vessels in navy June 30, 1905		270
Displacement of same	tons	711,262
Present estimated cost of maintenance		$60,000,000
Estimated cost of maintenance when vessels in process of construction are completed		$76,591,000

Statement showing cost of maintenance of a vessel of each type during the fiscal year 1905.

First-class battle ship	$634,255.54
Second-class battle ship	468,729.31
Armored cruiser	489,206.27
Protected cruiser	395,624.97
Monitor	209,273.56
Gunboat (1,710 tons)	175,429.43
Gunboat (1,177 tons)	133,314.46
Gunboat (1,000 tons)	117,860.89
Torpedo-boat destroyer	81,674.90
Torpedo boat (estimated)	34,000.00
Submarine torpedo boat	29,879.36

THE EXPENSE OF THE NAVY COMPARED WITH THE COST OF THE PANAMA CANAL.

But, Mr. Chairman, I want to call attention, by comparison, to the rate at which we are annually, in consequence of our ambitious naval policy, expending money. We talk about the Panama Canal being the greatest undertaking any nation on earth has ever attempted. We speak of the cost of that great project almost in a whisper for fear that we may create an impression throughout the world that its enormous cost may impair our national credit or ultimately bankrupt the nation; and yet it may be of interest to Members of this House and to the people of the country to know that the Fifty-seventh and Fifty-eighth Congresses appropriated more than twice as much money for the Navy as it will cost to build the Panama Canal, according to the highest estimate that has yet been submitted. Let me give the exact figures.

Appropriations for the Navy, Fifty-seventh and Fifty-eighth Congresses.

Fifty-seventh Congress, first session:	
Regular appropriation bill	$78,101,791.00
Deficiency appropriations	6,280,760.80
Total	84,382,551.80
Fifty-seventh Congress, second session:	
Regular appropriation bill	$81,876,791.43
Deficiency appropriations	2,795,257.30
Total	84,672,048.73
Total, Fifty-seventh Congress	169,054,600.53
Fifty-eighth Congress, second session:	
Regular appropriation bill	97,505,140.94
Deficiency appropriations	6,127,974.46
Total	103,633,115.40
Fifty-eighth Congress, third session:	
Regular appropriation bill	100,336,679.94
Deficiency appropriations	15,084,317.81
Total	115,420,997.75
Total, Fifty-eighth Congress	219,054,113.15
Total regular appropriations and deficiencies, Fifty-seventh and Fifty-eighth Congresses	388,108,713.68

From these figures we see how insignificant is the cost of the Panama Canal when compared with the cost of our Navy, for which, in the Fifty-seventh and Fifty-eighth Congresses, we appropriated $388,108,713.68. These two Congresses appropriated, therefore, twice as much money for the Navy as the highest estimated cost of the Panama Canal.

Mr. COUSINS. Will the gentleman allow me to ask him a question?

Mr. TAWNEY. I have not the time to yield.

Mr. COUSINS. I was only going to ask the gentleman a question. How much did they appropriate for the Army during the same time?

Mr. TAWNEY. I am about to give the total cost for both establishments.

Mr. Chairman, we have had wars in the past and we are to-day appropriating money in consequence of that fact. I trust, sir, the Members of this House will carefully note the amount we are expending this fiscal year to meet the cost of wars in the past and the amount we are spending this year in anticipation of war. The total amount we are expending on account of previous wars is $175,957,638, and in anticipation of war $199,702,081.44. This includes both the naval and military establishments. The total, therefore, expended this fiscal year for previous wars and wars for which we are now preparing is $375,659,719. Our total revenues for this fiscal year, excluding postal receipts, will not exceed $589,093,000.

What, then, does this expenditure mean to the people? It means, Mr. Chairman, that we are expending this year for war and in preparation for war 63¾ per cent of the total revenue of the Government outside of postal revenues. It means an expenditure this year on account of war $28,000,000 greater than our total revenue only nine years ago. In other words, 63¾ per cent of our entire revenue, exclusive of postal receipts, will be paid this fiscal year on account of our military and naval establishments maintained in anticipation of war and for objects the result of wars in which we have heretofore engaged.

Mr. VREELAND. Will the gentleman yield for a question?

Mr. TAWNEY. I have no time.

Mr. VREELAND. The figures you have just given to the committee——

Mr. TAWNEY. I think it would be of interest to the committee to have an itemized statement of these general facts, and I think also that it would be of interest to the country.

Mr. VREELAND. I desire to ask the gentleman if the figures he has just given include pensions?

Mr. TAWNEY. With the permission of the committee, I will give the several items which go to make up this startling total.

The CHAIRMAN. The gentleman will suspend until order is secured.

Mr. TAWNEY. If the committee will extend my time five minutes, I will give all the details.

The CHAIRMAN. The committee will be in order.

Mr. VREELAND. I ask unanimous consent that the time of the gentleman be extended five minutes when his time has expired.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. TAWNEY. Now I will answer the gentleman from New York by giving the detailed statement.

Mr. VREELAND. Now, I want to ask the gentleman if the figures he has given to the committee include pensions? And I will ask him further if he does not consider that the pensions this nation has paid is on account of lack of preparedness for war?

Mr. TAWNEY. I do not. For the information of the House and the country, let me read the statement I have referred to.

Appropriations for fiscal year 1906 on account of wars.

Pension appropriation	$138,250,000.00
Board of Pension Appeals	64,500.00
Pension Office, salaries	1,937,210.00
Pension Office, special examiners, salaries and per diem	512,500.00
Pension Office, salaries, deficiency	2,650.00
Deficiency, Army and Navy pensions	4,500,000.00
Artificial limbs	425,000.00
Soldiers' Homes (including State Homes)	4,988,259.00
Deficiencies, Soldiers' Homes	173,609.03
Back pay and bounty	200,000.00
Arrears of pay, etc., war with Spain	100,000.00
National cemeteries	303,810.00
Interest on the public debt	24,500,000.00
Total	175,957,638.02

Appropriations, 1906, in preparation for war.

Army appropriation act	$70,396,631.64
Deficiencies, military establishment	935,609.16
Deficiencies, War Department (specific)	581.05
War Department, salaries	1,799,356.00
Naval appropriation act	100,336,679.94
Deficiencies, Naval Establishment	14,962,466.77
Navy Department, salaries	739,660.00
Fortifications appropriation act	6,747,893.00
Military Academy act	673,713.38
Arming and equipping the organized militia	1,000,000.00
Military posts	1,200,000.00
Military parks and other miscellaneous objects under War Department	578,480.50
Armories and arsenals	331,000.00
Total	199,702,081.44
Total appropriations for 1906 on account of and in preparation for war	375,659,719.46

But let me give you a few more facts in the hope that I may induce this House to at least mark time for a year in the further accomplishment of our present ambitious naval policy. A comparison of the total expenditures this year on account of war and anticipated war shows that they are in excess of the total annual receipts of the Government each year from 1880 to and including 1897.

The statement is as follows:

Estimated receipts for 1906	$589,093,000
Percentage of appropriations and expenditures for the fiscal year 1906 on account of and in preparation for war	63⅔

Total appropriations for 1906 on account of and in preparation for war exceeded receipts of the Government, as follows:

1880	$42,133,108.48
1881	14,877,426.89
1884	27,139,849.54
1885	51,969,013.08
1886	39,219,992.40
1887	4,256,441.80
1892	20,721,935.22
1894	77,937,700.21
1895	62,269,644.35
1896	48,683,519.08
1897	27,938,014.30

In other words, Mr. Chairman, I repeat that we are this year expending on account of war and in preparation for war almost $28,000,000 more than the revenues of the Government amounted to only nine years ago, or in the fiscal year 1897, just before the Spanish-American war.

Mr. LOUDENSLAGER. Does the gentleman consider the care of cemeteries a proper charge in anticipation of war? [Laughter].

Mr. TAWNEY. I did not include the care of cemeteries in the amount appropriated in anticipation of war. I said national cemeteries cost $303,000—that is, on account of war, and the item is stated under that head.

Now, Mr. Chairman, my purpose in calling attention to these facts and these expenditures during the current fiscal year is in the hope that I may arrest the attention of the House and of the people to the fact that if we are to give the interior of our country the appropriations that are demanded, that are required, that are necessary for river and harbor improvement, for Government buildings, and for other governmental purposes, it will be absolutely necessary for Congress very soon to do one of two things: Either commence curtailing expenditures in preparation for war or increase the taxes of the people for the purpose of meeting those expenses and the current expenses of the Government. [Applause.]

I maintain that we can very safely dispense with the authority for the construction of this battle ship at this session of Congress at least. We have thirty-eight vessels that are to-day in course of construction and will not be completed until 1910. Congress will be in session every year, and if the necessity arises no question will be made in favor of authorizing another battle ship, or two more if necessity requires it. But at this time, in view of the enormous expenditure of the Government on account of wars past and anticipated, I submit in all fairness and in the interest of the people that we ought to postpone authorizing this battle ship for at least a year, and thus delay carrying out this ambitious naval policy, which has been carried on during the last nine years far in excess of what was ever expected or contemplated when that policy was adopted in 1883. [Applause.]

Mr. WILLIAM W. KITCHIN. Mr. Chairman, when the war with Spain began we had 55,000 tons of battle ships. When the battle ships now authorized are completed we will have 350,000 tons of battle ships. In other words, we have already authorized more than six times as many tons of battle ships as we had during the Spanish war.

Another thing. When the Spanish war began we had authorized 200,000 tons of all classes of war ships under the new naval policy. To-day we have authorized more than three and one-half times that. We have authorized now 730,000 tons of war ships. The amount of tonnage of battle ships already authorized and in course of construction is nearly twice that of the completed battle ships. The table attached to the report of the chairman of the committee on this bill says that there are 196,000 tons of battle ships in the course of construction, and to that amount must be added the ships that were authorized during the last session of Congress, 16,000 tons each, which are not yet in the course of construction. If you add those ships you will find that it will increase the tonnage considerably. Of all classes of war vessels we have unfinished ships to the amount of 345,000 tons, including those authorized last year.

So, Mr. Chairman, it seems to me that the remarks by the chairman of the Committee on Appropriations and by the chairman of the Committee on Rivers and Harbors are especially appropriate at this time. We have, in my judgment, authorized the most effective navy in the world except one, England alone surpassing us. Our meats and our wheat and corn fields and the Dominion of Canada are perpetual guaranties of peace with England. For our purposes, in my judgment, the American Navy is more effective than the navy of France is for her purposes. France is surrounded by nations that have animosities against the French people. The European nations stand with imaginary lines only between them. There are more opportunities for war between European nations with each other than between us and any other country or all other countries.

Mr. LITTLEFIELD. Mr. Chairman, I would like to ask the gentleman a question. I rather infer from the tenor of the gentleman's remarks that he thinks it is desirable that we should have a navy as efficient as that of any large nation in the world.

Mr. WILLIAM W. KITCHIN. We ought to have a navy sufficient for our purposes. We ought to have a navy sufficient to meet any other country, and I think we have a navy sufficient to meet any navy with which a possible conflict can be expected.

Mr. LITTLEFIELD. Should not the units be fairly comparable with other units of large nations?

Mr. WILLIAM W. KITCHIN. I will inform the gentleman now that we have a greater navy in tonnage than any other nation in the world except England and France, and, if you will eliminate from the French navy those vessels laid down prior to 1890, we have a greater tonnage than France.

Mr. LITTLEFIELD. Then, as I understand the gentleman, the total that the committee gives in its report, so far as France is concerned, should be minimized to the extent that the gentleman suggests.

Mr. WILLIAM W. KITCHIN. There are deductions that should be made from it, in order to compare ships of what we call "the new Navy," or the up-to-date ships of efficiency.

Mr. LITTLEFIELD. In order to make it an effective and efficient navy.

Mr. WILLIAM W. KITCHIN. But I wish to call the attention of the gentleman to the fact that the President of the United States, in his last annual message, said that we had a sufficient number of units in our Navy to-day.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIAM W. KITCHIN. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. WILLIAM W. KITCHIN. Mr. Chairman, the President takes the position that we have already a sufficient number of units. Why should we proceed to build other units when we have one-half of our authorized units still unfinished and incomplete?

Mr. LITTLEFIELD. I suppose the gentleman will agree to

this, that it is not altogether a question of units so much as it is the efficiency of the unit.

Mr. WILLIAM W. KITCHIN. That is right.

Mr. LITTLEFIELD. If it be true, and that I am not entirely advised about, that two or three or four of the great leading nations of the world have battle ships that are vastly superior to ours, in order to make our Navy equally efficient and effective, isn't it really necessary to have at least one that will compare with the ships of that character, I would ask the gentleman?

Mr. WILLIAM W. KITCHIN. Mr. Chairman, the same argument would require the gentleman from Maine [Mr. LITTLEFIELD] to advocate a complete revolution of our Navy and the building of every one of our ships upon the greatest scale. Why have only one mammoth battle ship? It can not cover all the waters of the sea. Suppose we come in conflict with another nation, this particular ship can be in but one place at a time. I desire to say there is very grave difference of opinion among naval experts as to what is the best type of battle ship.

Mr. LITTLEFIELD. That raises another question.

Mr. WILLIAM W. KITCHIN. Yes; a question that I will perhaps raise later by an amendment.

Mr. WILLIAMS. Mr. Chairman, if the gentleman will pardon me, is it not true, doesn't he think it is true, that one ship, say, of 20,000 tons is not equal in fighting capacity to two ships of 10,000 tons each, for the reason that the one ship is not divisible? It is the old lesson of the Spanish Armada and Drake's ships, is it not?

Mr. WILLIAM W. KITCHIN. I will state in reply to the gentleman from Mississippi, that here are two things to be considered. In an actual battle there is an opinion that one immense battle ship of 20,000 tons would be as effective and perhaps more effective than two of the smaller ships whose tonnage together would amount to that. Then there is this other idea, that while the one ship of 20,000 tons can be put at only one place at a time, the two ships, together amounting to 20,000 tons, could be at two different places at the same time. Mr. Chairman, I take it there is not a man in this House who does not desire when a ship is constructed that it shall be of the very best type and of the greatest effectiveness for all practical naval purposes. There are many things to be considered in determining upon the type of battle ship. We must necessarily to a great extent yield to the opinions of naval experts, but as has been asked, why should we deem it so very important to authorize an immense ship now, the exact character of which no man knows? The gentlemen who appeared before our committee have no well-defined plans in their own minds, as I recall it, of the kind of ship that they desire. This great battle ship of the English navy, the *Dreadnaught*, recently launched, and the two great ships of the Japan navy, the *Satsuma* and the other, whose name I do not now recall, are of immense tonnage, about 19,000 tons each, but exactly how the *Dreadnaught* is constructed, the location of her turrets, the location of her guns, the details of construction, we do not know. Indeed we do not know that these great tonnage ships are the formidable instruments of war that they are reputed to be. Let us see how that great ship *Dreadnaught* behaves herself when in service before we authorize the Navy Department to build some ship of equal tonnage to imitate her when we know so little about the detailed parts that will determine her efficiency as a machine of war. I would be very glad to see the Navy Department instructed to prepare the plans of what, in its opinion, is the best type of modern battle ship and submit those plans to Congress at the next session. I have prepared an amendment looking to that end, which I shall later submit if the motion of the gentleman from Ohio [Mr. BURTON] shall be defeated, which, however, I hope will not be the result. I am in favor of striking out this provision, but in case we fail in that, then I believe it will be the part of wisdom to call upon the Navy Department to make a thorough investigation as to all the characteristics and necessities of modern battle ships, considering all the disputed points and to then report to Congress at its next session the best type of battle ship. We can then adopt such type, and authorize the construction of one, or as many as we see fit. [Applause.]

Mr. HULL. Mr. Chairman, it seems to me that the figures of the gentleman from Minnesota should not be sent to the country without some explanation. If I understand him correctly, he made a charge that this nation has gone to the limit of the greatest extravagance, beyond the limit of prudence, in providing for its defensive branches of the service. In his figures he includes——

Mr. TAWNEY. If the gentleman will pardon me——

Mr. HULL. I have only five minutes.

Mr. TAWNEY. Inasmuch as you are imputing to me something I did not say I want to correct it. I did not say it had gone to the limit of the greatest extravagance.

Mr. HULL. When it goes to 63½ per cent of the entire revenues for the defensive branches of the service then I am correct in my statement.

Mr. TAWNEY. That is your conclusion; that is not mine.

Mr. HULL. The gentleman includes in those figures about a hundred and forty millions for pensions. He includes in those figures several million dollars for the maintenance of the National Homes and national cemeteries. I want to submit to this House and the country that there is no other nation on earth that pays more in pensions for a war that has passed more than forty years than the combined expenses of the army and navy except the United States of America. It is not a question of defense in paying these large sums; it is a question of gratitude of the people of the United States to the men who made it possible for us to have a great, united, free, and prosperous country, and it is not fair to charge them up to current cost of national defense. [Applause.] Take the naval appropriation this year, with its $100,000,000; take the Army appropriation for this year, with $70,000,000, and we are paying more of what the gentleman from Minnesota calls war expenses for our pensions, our national cemeteries, and our National Homes than the combined appropriations for this year for the defense of the country. I want to say to you gentlemen who are opposed to this ship one other thing. In my judgment this great, strong, rich, prosperous country, with over 4,000 miles of seacoast, with our possessions in the West Indies and on the China Sea and in the Pacific Ocean, that one battle ship a year is an exceedingly moderate programme. We do not propose to build it now, and we will never propose to build it the same year that we pass its authorization. It is extending over a period of years. These gentlemen seem to believe that France and Germany and the other nations will stop building ships because they have not authorized as far ahead as we. That will not be true. By the time their programme now authorized by law is carried out they will have gone on beyond what they are to-day, and if this great people that I hope in the near future will dominate the seas, if it is to maintain its prestige, if it is to maintain its greatness, it can not afford at this time to stop and say we have called a halt in upbuilding the new navy of the United States. Mr. Chairman, I represent in part a State in the heart of the country. No invasion can come to us from any foreign foe; but I represent a people who believe that this Government is strong enough and great enough and patriotic enough to go on with the work in the moderate way proposed of building up the American Navy so that every nation on earth may know that we will maintain our prestige at home and abroad. [Applause.]

Mr. RIXEY. Mr. Chairman, I favor the amendment offered by the gentleman from Ohio. He has possibly an additional reason for opposing a ship which, when built, may not be able to use our harbors. He is chairman of the Committee on Rivers and Harbors, and perhaps fears that this great ship of 20,000 or more tons will have the experience that three or four of our present 16,000-ton battle ships have recently had in the harbors of New York and Norfolk. The battle ships *Kentucky*, *Kearsarge*, and *Rhode Island* have all been aground recently. If sufficient depth of water is not found in the harbors of New York and Norfolk, it can not be found on the Atlantic coast.

Mr. LITTLEFIELD. You do not understand the chairman of that committee expends all of this money in deepening harbors?

Mr. RIXEY. No; but he is to some extent responsible for their deepening.

Mr. BURTON of Ohio. I desire to assure the gentleman that my views on this subject are entirely uninfluenced by anything I have to do with rivers and harbors.

Mr. RIXEY. Now, Mr. Chairman, as I understand the provision for this battle ship, it is not a business proposition. Heretofore the naval bills have provided for ships and limited them in size and cost, the provision being for so many thousand tons' displacement. The provision in this bill is without limit, the requirement being—

> One first-class battle ship, carrying as heavy armor and as powerful armament as any known vessel of its class.

England is building an 18,500-ton ship. It is stated that Japan is building one which will be of twenty or twenty-two thousand tons. According to this bill the battle ship is to be as great as the greatest.

Mr. LITTLEFIELD. May I ask the gentleman a question?

Mr. RIXEY. Yes.

Mr. LITTLEFIELD. If the indefiniteness of the provision is the criticism, does the gentleman propose to limit it by an

amendment, or does he oppose it on that ground and then declare it should limit it?

Mr. RIXEY. One objection to the provision is that there is no limit of size placed on this vessel.

Mr. LITTLEFIELD. What should be the limit of size?

Mr. RIXEY. I think I can show the gentleman before I get through, if the ship is to be authorized at all at this time, that it is the opinion of the Secretary of the Navy and the opinion of the Bureau of Construction and Repair that the ship ought not to exceed 16,000 tons.

In reply to an inquiry as to what the cost of this ship would be, I received the following letter from the Bureau of Ordnance, Navy Department:

NAVY DEPARTMENT,
BUREAU OF ORDNANCE,
Washington, D. C., March 30, 1906.

MY DEAR MR. RIXEY: Replying to your letter of March 29, I have to say that the following are the estimates of the cost of a battle ship approximately 20,000 tons, said battle ship to carry twelve 12-inch guns and twenty-six 3-inch guns:

Hull and machinery	$6,000,000
Armament	2,600,000
Armor	2,050,000
Total	10,650,000

* * * * * * *

Yours, sincerely,

N. E. MASON.

Hon. JOHN F. RIXEY, M. C.,
House of Reprcsentatives, Washington, D. C.

Mr. Chairman, no recommendation came to the Naval Committee for a battle ship of this kind. The Secretary of the Navy in his report expressly recommended only 16,000 tons. The Chief of the Bureau of Construction and Repair, the Bureau which is most intimately concerned in the building of the ship, recommended only 16,000 tons, and stated there was not sufficient depth of water in some of the harbors, and gave other reasons. There was no evidence before the Naval Committee for a provision of this kind.

The following from The Scientific American of April 21, 1906, seems to be well considered.

UNIFORMITY IN BATTLE SHIPS.

It has long been recognized by naval men that a fleet which is made up of heterogeneous types of ships—that is, of ships of different size, speed, armament, and protection—is at a great disadvantage from a tactical point of view when it encounters a fleet of the same total displacement whose ships are arranged in groups of identical vessels. Recent naval operations have emphasized very strongly the truth of this principle, and the best organized navies of to-day are building their ships in groups or classes of four, six, or eight. Ships of such a group have the great advantage that their speed, their coal endurance, and their turning diameter are identical, and that in the various evolutions the vessels will, in their new positions, find themselves at all times grouped symmetrically.

It is earnestly desired by our Navy Department that when new ships are authorized they shall conform to some existing design until they have been brought up to the proper number of units to form a class, say, of half a dozen; and they are naturally opposed to the construction of any new type of vessel which is not likely to be repeated sufficiently often to form a new group.

The decision of the House Committee on Naval Affairs to recommend an appropriation for the construction of a battle ship which in size and power will surpass any ship at present under construction has naturally appealed to the nonprofessional world, or rather to that section of it which believes that there is a certain national prestige conveyed by the possession of a "world beater;" but our naval constructors, who have learned to subordinate sentiment to reason and cold facts, look very unfavorably on the proposition. They are well aware that, although we are perfectly well able to build a 20,000-ton ship of 20 knots speed, such a vessel would be in a class all by itself, and when maneuvering in the company of smaller, slower, and less powerful ships would have to accommodate herself to their limitations, and therefore would be unable to realize in action her full efficiency. The plans proposed for our latest ships, the *Michigan* and *South Carolina*, will give us a magnificent ship, of which we ought to build at least half a dozen before launching out into new types.

Although our earlier battle ships differ widely in type, our later ships resolve themselves into classes, each composed of about five or six units. Thus, the three ships of the *Maine* type and the three of the *Illinois* type give us a class of six approximately similar ships. In the *Virginia* class we have five ships absolutely identical; in the *Louisiana*, *Vermont*, and *New Hampshire* classes we have six practically identical battle ships, in which the *Mississippi* and *Idaho*, were it not for their low speed, might possibly be included, bringing the number up to eight; while in the *South Carolina* and *Michigan*, our latest designs, we have a class which, as we have said, should be extended until it includes five or six identical vessels. By the time Congress has made sufficient appropriation for this purpose, the Navy Department will have formulated its ideas as to the best type of vessel to build, if we decide to construct ships of 18,000 to 20,000 tons displacement.

But it will be an unhappy day for the Navy Department if the Bureau of Construction is to be controlled by any popular "whip creation" theories of war-ship construction.

Mr. DAWSON. Will the gentleman allow me to ask a question?

Mr. RIXEY. I will.

Mr. DAWSON. Has he not overlooked the statement of the Secretary of the Navy before our committee, in which he said:

I would prefer to see two 16,000-ton battle ships built rather than one larger one. If we have to come down to one battle ship, then I recommend that it shall be the largest and strongest battle ship that is yet known to be afloat.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. RIXEY. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to continue his remarks for five minutes. Is there objection?

There was no objection.

Mr. RIXEY. I will read from the report of the Secretary of the Navy. Referring to the Japanese-Russian war, he said:

As a matter of fact, no battle ship of as much as 16,000 tons displacement was used by either belligerent, and while, on the one hand, at least one great power has determined upon the construction of an 18,000-ton battle ship, and others are reported to have in contemplation vessels of from 20,000 to 22,000 tons, on the other, some authorities think these leviathans will prove less formidable and more vulnerable than battle ships of 16,000 tons, such as our contemplated *South Carolina* and *Michigan*.

The Department has been caused serious concern by the conflicting advice on the last-mentioned question, tendered it by its authorized expert advisers. The general board recommended some time since that the two last-mentioned vessels be increased in displacement from 16,000 to 18,000 tons. The board on construction dissents from this recommendation. The general board has further recommended the authorization of three battle ships, to cost approximately $8,250,000 each, and to be of such tonnage as will suffice to secure an armament that the two last-mentioned vessels be increased in displacement from this recommendation likewise, and advises instead three battle ships at an estimated cost of $7,500,000 each, with an anticipated armament of eight 12-inch guns and substantially the same tonnage as is contemplated for the *South Carolina* and *Michigan*.

After very carefully weighing these divergent views, I feel that it is not as yet sufficiently clear that the larger and more costly battle ships would have such increased efficiency in battle as to justify the certain addition to the public burdens involved in accepting the views of the general board.

Then on page 21 he says:

The same reasons which lead me to think it inexpedient to enlarge the dimensions of the *South Carolina* and *Michigan* lead me to advise that the battle ships to be authorized be of the type recommended by the board on construction. Should professional opinion become substantially unanimous in advocating larger vessels before the construction of these ships is actually commenced, their plans can be, of course, remodeled.

Mr. LITTLEFIELD. May I make an inquiry?

Mr. RIXEY. You may.

Mr. LITTLEFIELD. Does the gentleman from Virginia controvert the fact stated by the gentleman from Iowa [Mr. DAWSON] that, notwithstanding the report of the Secretary of the Navy, he stated before the committee on his examination what has been quoted by the gentleman from Iowa [Mr. DAWSON]?

Mr. RIXEY. I do not know that it was so stated by the Secretary of the Navy before the committee; it may have been.

Mr. LITTLEFIELD. It comes a long way from sustaining your assertion.

Mr. RIXEY. I think it does sustain every assertion. The recommendation of the Secretary, after reviewing the whole subject, after stating that there were two opinions—one in favor of the larger ship and the other in favor of the 16,000-ton ship—was that he favored and recommended the 16,000-ton ships.

Mr. DAWSON. What report was that which the gentleman was reading from?

Mr. RIXEY. The report of the Secretary of the Navy.

Mr. DAWSON. As submitted to Congress last December?

Mr. RIXEY. Yes.

Mr. DAWSON. May I call the attention of the gentleman to the fact that the statement which I read was made by the Secretary of the Navy before the House Naval Committee on March 22, 1906, several months after this report was written?

Mr. RIXEY. I understand; but let me ask the gentleman if the Secretary did not, in the same hearing before the Naval Committee, adhere to his recommendation in the report?

Mr. DAWSON. He recommended two battle ships.

Mr. RIXEY. And only 16,000 tons.

Mr. DAWSON. But if he could not get the two, then he recommended the provision which I formerly read.

Mr. RIXEY. And of only 16,000 tons.

Mr. LITTLEFIELD. The gentleman does not want to be understood as saying that the Secretary confined himself in case of one battle ship to one of 16,000 tons?

Mr. RIXEY. No; I do not.

Mr. LITTLEFIELD. I thought your statement would bear that construction.

Mr. RIXEY. But the Secretary was very emphatic before the committee, as he was in his report, that he favored and recommended the programme of the Bureau of Construction and Repair, which was for the 16,000-ton ships.

Let us consider, Mr. Chairman, in the first place, the necessity for this battle ship costing nearly $11,000,000. The Secretary of the Navy, in his report, on page 23, says, as I understand it, there is no necessity for enlarging the Navy at this time.

Mr. LITTLEFIELD. Notwithstanding the fact that he had recommended two additional battle ships?

Mr. RIXEY. I will read you what he states. He says:

If circumstances remain as they now are I see no reason to suppose that the number of ships in our Navy need increase; on the contrary, it is reasonable to anticipate that their number will be reduced, and even reduced materially, within the next five years.

Mr. LITTLEFIELD. As I understand it, notwithstanding that statement in the same report he recommends and insists on two new battle ships of 16,000 tons. Is that what the gentleman means?

Mr. RIXEY. He recommends the two battle ships in the same report.

Mr. LITTLEFIELD. What statement does the gentleman think he ought to take?

Mr. RIXEY. I shall take the one that there is at this time no necessity for an increase.

Mr. DAWSON. Will the gentleman just as lief read the statement in the report of the Secretary of the Navy, contained in the last paragraph, on page 23?

Mr. RIXEY. I am going to read that now—the last portion of that same paragraph. I have not time to read it all.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAWSON. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Iowa [Mr. DAWSON] asks unanimous consent that the gentleman from Virginia may have five minutes more in which to continue his remarks. Is there objection?

There was no objection.

Mr. RIXEY. In the same paragraph is the statement:

In other words, the aggregate of our battle ships, armored cruisers, and coast-defense vessels built, building, or authorized would seem, according to present indications, sufficient to provide for any contingencies within the limits of probability.

I suppose that is what my friend refers to.

Mr. DAWSON. No; the sentence I referred to is the one which just follows.

Mr. RIXEY. In the next paragraph?

Mr. DAWSON. The next two sentences.

Mr. LITTLEFIELD. The gentleman did not have time to read them.

Mr. RIXEY. He says in his opinion practically what the President stated in his message. He says the number of units was sufficient at present for the Navy.

Mr. DAWSON. Does he not say in the next sentence that it should not be understood?

Mr. LITTLEFIELD. Misunderstood.

Mr. DAWSON (reading):

This statement, however, must not be misunderstood. It does not at all mean that we should give up building new ships; on the contrary, the necessity for vessels of an improved type to take the place of those now recognized as obsolete, or evidently destined to become such, has grown plain and urgent.

Mr. RIXEY. I understand. We have got to replace these ships as they become obsolete. Nobody questions that. The question is about adding new ships to increase the Navy. There are no battle ships of the United States Navy that are obsolete. Not one. There is one now in the second class of battle ships, but even that is in use.

Mr. LITTLEFIELD. I am assuming that the Secretary of the Navy is an intelligent man and familiar with the Department under his charge, and that he estimates that in order to maintain the existing efficiency of the units, by reason of the fact that vessels are growing obsolete; that vessels must now be authorized in order to maintain practically the existing units in the Navy; and his advice is to have two battle ships of 16,000 tons each, or, in default of two, one, the largest that floats. Now, the committee have recommended one instead of two. Am I correct?

Mr. RIXEY. Yes.

Mr. LITTLEFIELD. Then in order to maintain the existing efficiency of the Navy and its units intact, in the opinion of the Secretary they have got to have built this large battle ship. Is not that correct, from his standpoint?

Mr. RIXEY. I do not know that that is his opinion. If it is, I do not think it well founded.

Mr. LITTLEFIELD. Is not that a fair statement?

Mr. RIXEY. Possibly, of his opinion, but not of the necessity. He recommended two battle ships, and he placed it on the ground, largely, that a number of the monitors were old and ought to be replaced with battle ships.

Now, Mr. Chairman, as I said a moment ago, there is no contention but what battle ships and armored cruisers and other ships of war, as they become obsolete, must be replaced. We have built and are building twenty-eight battle ships, and we have built and are building twelve armored cruisers. These twenty-eight battle ships and twelve armored cruisers make forty of the largest war ships. The life of a battle ship is, according to naval experts, about twenty years. Therefore these ships have to be replaced every twenty years. With forty ships, that is an average of two ships a year; and as soon as they become obsolete we have, therefore, got to continue our building programme at the rate of two great war ships each year.

Mr. LITTLEFIELD. How long has the programme been going on?

Mr. RIXEY. In the neighborhood of twenty years.

Mr. LITTLEFIELD. Then from your argument we ought to have two battle ships in this bill now.

Mr. RIXEY. No, because the present ships are not obsolete. New ships can certainly wait until we pay for what we have contracted for and are now building. We still owe about $50,000,000 on ships already authorized.

The President in his annual message to Congress in December, 1905, stated:

It does not seem to me necessary, however, that the Navy should—at least in the immediate future—be increased beyond the present number of units.

The Secretary of the Navy in his report also stated, "If circumstances remain as they now are, I see no reason to suppose that the number of ships in our Navy need increase. On the contrary, it is reasonable to anticipate that their number will be reduced, and even reduced materially, within the next five years." This is rather more than I have ever contended for. Let us omit the building programme for two years, pay off what we now owe on ships, and then go on and proceed to replace the ships as they become obsolete.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. LITTLEFIELD. I ask that the gentleman may have five minutes longer.

Mr. RIXEY. I will only take about two minutes.

Mr. LITTLEFIELD. The gentleman has been interrupted a good deal.

The CHAIRMAN. The gentleman from Maine asks unanimous consent that the time of the gentleman from Virginia be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. RIXEY. Mr. Chairman, in addition to this the statement has been made, and is not questioned, that we are now building more battle ships than Great Britain, and, while the navy of France is placed in the table here as being superior to that of the United States, the fact remains that we have more tonnage in battle ships than she has. The statement was made before the Naval Committee that in time of war the strength of the nation was really measured by battle ships and not by smaller craft.

Mr. LITTLEFIELD. Is it not true that the Secretary of the Navy and the President of the United States, when they make their estimates on the present size of the Navy, estimate the vessels under construction as a part of the units, and that they recommend their programme upon the basis of these vessels when they are completed?

Mr. RIXEY. Yes.

Mr. LITTLEFIELD. If that is true, and we have been building ships for twenty years, and vessels have been going out of commission, by reason of becoming obsolete, two every year, is it not true that we have to have two vessels every year to maintain the existing number of units?

Mr. RIXEY. I have just stated that we will have to provide two ships a year, and will have to begin that programme in a few years.

Mr. LITTLEFIELD. But this bill only provides one.

Mr. RIXEY. Yes; but there is now no necessity for any. We have forty new battle ships and armored cruisers, about half of which are not yet completed, and they are not paid for by $50,000,000.

Mr. LITTLEFIELD. That is a matter of no concern.

Mr. RIXEY. Yes; but the gentleman must realize that it is a matter of considerable concern. It is time enough to replace them when they become obsolete.

Mr. LITTLEFIELD. I suppose I fully realize the fact that a battle ship that is not now completed is not 20 years old. I suppose I realize the further fact that we began twenty years ago to build the Navy, and there are some ships now 20 years old. Those are the ships that are to be replaced by building new ships every year. Now, if my statement is correct, we ought to have two vessels in this bill to maintain the existing units. If the 20-year-old ships go out at the rate of two every year, then we ought to put in two ships. It is not a question of whether they are paid for.

Mr. RIXEY. The gentleman's premises are entirely wrong. Our ships are comparatively new, the oldest not over 15 or 16 years, and one-half not yet completed.

Mr. TALBOTT. But they were not all authorized at once.

Mr. LITTLEFIELD. Of course not.

Mr. RIXEY. They could not be built at one time. We have not a battle ship that is obsolete.

Mr. LITTLEFIELD. What about the *Texas?*

Mr. RIXEY. I will say that I understand the *Texas* is yet a good ship. She never was a first-class battle ship.

Mr. LITTLEFIELD. How old is she?

Mr. RIXEY. I do not know. I understand it was authorized in 1886. It was probably completed within four or five years after that date. It is probably 15 or 16 years old and I believe is the oldest ship in the Navy. We owe $50,000,000 on those already authorized, and we ought to divide it up and pay $25,000,000 a year until it is paid, and we can then appropriate $25,000,000 every year to take the place of the obsolete vessels. If the naval bill is to be kept within the limit of $100,000,000 annually, we should only replace obsolete ships.

Mr. TALBOTT. Do we owe $25,000,000 or $1,000,000 on a completed war vessel?

Mr. RIXEY. I do not suppose that we owe anything on a completed war vessel.

Mr. TALBOTT. The gentleman means that we shall stand obligated to pay $25,000,000 when the vessels already authorized are completed?

Mr. RIXEY. Yes; we owe on contracts already let and to be paid when the vessels are completed $50,000,000, which will go to the shipbuilders and for armor and armor plate.

Mr. TALBOTT. They are contracts under existing law and existing appropriations, and some of them will not be completed for three or four years.

Mr. RIXEY. Yes.

Mr. TALBOTT. When we authorize this vessel there will be a time limit, and the next year the gentleman will make the same argument that on uncompleted vessels we owe so much money. We do not owe the money until the vessel is completed.

Mr. RIXEY. It is not to be paid except as the vessels are completed, but the contracts are made and we are obligated for the money. We are building thirteen battle ships and six armored cruisers, and we owe $50,000,000, and we can apply that money for the next two years and then there will be plenty of time to authorize new ships. We have not the men now to command the ships that are already in commission. The condition will probably be worse when the thirteen new ships are added to the Navy.

Why not look to the question of providing officers and men for the new ships? Not much pressure for that, but unlimited pressure for new ships, costing nearly $11,000,000 each, the money for which goes almost entirely to the shipbuilders and the armor-plate trust. Little wonder at the never-ceasing demand for the authorization of more ships.

The two battle ships authorized in the last naval bill, a little over twelve months ago, are not yet contracted for; and yet we are now urged on, as if the safety of the country depended on it, to authorize the Navy Department to contract for another ship to cost nearly $11,000,000. If this is done, then the Navy Department will be authorized to make contracts for three battle ships, costing over $25,000,000. In my judgment there is no justification for this condition.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAWSON. Mr. Chairman, the gentleman from Virginia [Mr. RIXEY] has called attention to the real point at issue in this debate. The question is not, as some gentlemen seem to think, a question of the increase of the Navy; it is simply a question of maintaining the present efficiency of the Navy. As the President said in his annual message to Congress last December:

> We have most wisely continued for a number of years to build up our Navy, and it has now reached a fairly high standard of efficiency. This standard of efficiency must not only be maintained, but increased. It does not seem to me necessary, however, that the Navy should—at least, in the immediate future—be increased beyond the present number of units. What is now clearly necessary is to substitute efficient for inefficient units as the latter become worn out or as it becomes apparent that they are useless. Probably the result would be attained by adding a single battle ship to our Navy each year, the superseded or outworn vessels being laid up or broken up as they are thus replaced.

The Secretary of the Navy in his last annual report to Congress has this to say of our naval policy:

> The aggregate of our battle ships, armored cruisers, and coast-defense vessels built, building, or authorized would seem, according to present indications, sufficient to provide for any contingencies within the limits of probability. * * * This does not at all mean that we should give up building new ships; on the contrary, the necessity for vessels of an improved type to take the place of those now recognized as obsolete, or evidently destined to become such, has grown plain and urgent.
>
> Our programme of naval construction for the future, in so far as it relates to our fighting fleet alone, should consist in substituting five new battle ships and two new armored cruisers for the oldest vessels of these types on our register, and five more battle ships for the ten coast-defense vessels of the monitor type, and that these substitutions should be made, at latest, within the next six years.

Now, the gentleman from Virginia [Mr. RIXEY] states that he is in favor of maintaining the present efficiency of the Navy. The gentleman from Ohio [Mr. BURTON] has called attention to the fact that if the battle ship proposed in this bill is authorized it could not be built until 1910 or 1912, and possibly later. Before that time shall have arrived there will be at least four of the present battle ships and two armored cruisers which, in the opinion of the Secretary of the Navy, should be replaced by new and efficient ships. The battle ship *Texas* was authorized by Congress in 1886, and, as the gentleman from Virginia states, the average life of a battle ship is twenty years.

Mr. RIXEY. When was that battle ship completed?

Mr. DAWSON. I could not tell. I do not know when it went into commission; but it seems to me it is fair, inasmuch as we are only making an authorization in this bill, to compare the dates of authorizations. In 1890 the *Indiana*, the *Massachusetts*, and the *Oregon* were authorized; so that in three years from this time twenty years will have expired since their authorization. Now, as everyone knows, the strength of the Navy is represented by the strength of the ships that can take their places in the line of battle. The lesson of the war between Russia and Japan was that the Russian navy was crushed by the concentration of the fire from the heavy guns on the Japanese ships. The lessons of modern warfare have proved that efficiency in the line of battle rests with the big guns, and it rests in concentration of fire. The 16,000-ton ships which we are now building contain four turrets, with two 12-inch guns in each turret. Subsidiary batteries have been dispensed with to a large degree. Other nations appear on the sea with vessels of greater speed and better protection, carrying ten 12-inch guns, with turrets so arranged that they can point six of those guns straight ahead or six on a broadside. An enlightened naval policy dictates that in point of efficiency our Navy should be up to the highest standard.

The gentleman from Virginia [Mr. RIXEY] has stated that we are building more battle ships than England is. I have here the report of the Board of Admiralty of the British nation, submitted by them to Parliament and through Parliament to the public.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RIXEY. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the time of the gentleman from Iowa may be extended for five minutes. Is there objection?

There was no objection.

Mr. DAWSON. Mr. Chairman, I have heard it said that England and the other great nations have decided not to build any more battle ships until the question of international disarmament is settled by the next Hague conference. The report of the board of admiralty in this particular may be of interest. Here is what they say:

> At the present time strategic requirements necessitate an output of four large armored ships annually, and unless unforeseen contingencies arise, this number will not be exceeded. The period of building is to be two years, and therefore four ships will be laid down each year, and there will be eight ships in course of construction in any one year either in the dockyards or by contract. While the board anticipates at present that the output of four large armored ships a year should suffice to meet our requirements, there would be no difficulty whatever in increasing this output to whatever extent may be necessary in consequence of any increase of naval power abroad.

Mr. RIXEY. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. Yes.

Mr. RIXEY. The statement I made was based upon the report of the chairman of the Committeee on Naval Affairs. It is headed "The strength of the principal naval powers," and under the head of "Great Britain, battle ships, first class," he has the statement that they are building 99,050 tons; that France is building 89,190 tons; that Germany is building 78,000 tons, and the United States 196,200 tons, which is nearly twice what Great Britain is now building in battle ships.

Mr. DAWSON. I do not see any conflict between that statement and the statement that I made. Here is England building four battle ships a year.

In the face of the recommendation of the President and the Secretary of the Navy as to the need of new vessels of an improved type to replace obsolete ships, opposition arises in this House to the construction of a single battle ship, and a battle

ship simply to replace one of those which is now or must soon be put into the reserve.

Mr. BURTON of Ohio. Does the gentleman from Iowa think that we should measure our Navy by that of Great Britain?

Mr. DAWSON. No; I do not.

Mr. BURTON of Ohio. What share of its navy does he think we ought to have in the United States?

Mr. DAWSON. I do not know as I would care to go into proportions, but I do not think it is necessary for us to maintain a Navy equal in size to that of Great Britain.

Mr. BURTON of Ohio. Then is not the comparison based on the statement that they are laying down four battle ships a year fallacious?

Mr. DAWSON. No; but when you come to compare four to nothing, it has a part in this debate.

Mr. BURTON of Ohio. But it is not four to nothing.

Mr. DAWSON. But if the amendment of the gentleman from Ohio prevails it will be four to nothing.

Mr. BURTON of Ohio. But there are ships under construction, finished year by year. One other thing, I would like to ask the gentleman from Iowa, what is the date of the document from which he read?

Mr. DAWSON. This is dated November 30, 1905, and was submitted to Parliament December last.

Mr. BURTON of Ohio. Is it not true that the chancellor of the exchequer has said since that time that the reason for carrying out certain recommendations was simply because it was a legacy from the preceding ministry and that he favored a substantial abatement of the naval programme?

Mr. DAWSON. I have not seen that statement. I did, however, see a statement, carried in the Associated Press dispatches of last evening, that England was putting into her reserve a large number of ships and supplanting them with active fighting ships—fighting vessels of new and improved types. This dispatch states that since 1902 forty battle ships and cruisers have been removed from the active list and placed in the reserve.

Mr. BURTON of Ohio. That pertains, however, to the removal of those that have become useless or worn out. Is there any promise in that paragraph or in any programme presented to Parliament that they are to be replaced by new ships?

Mr. DAWSON. I will ask to insert the dispatch, as follows:

LONDON, *May 15.*

The rapidity with which Great Britain is removing from the navy all but her really efficient war ships was evidenced by a statement presented to Parliament to-day, showing that no less than forty battle ships and cruisers have practically been removed from the list since 1902.

The exact figures are: Eight battle ships, ten armored cruisers, and three protected cruisers removed from the fighting effective, while three battle ships and sixteen protected cruisers were reclassed, placing them on the list of ships of the smallest fighting value. During the same period the construction of thirteen new battle ships, eighteen armored cruisers, and four protected cruisers was commenced.

If we are to maintain our Navy on a comparative basis to the navies of the world we must pursue the same policy that they are pursuing—that is, when a battle ship becomes out of date, put it into the reserve, for coast defense or harbor defense, and replace it with a modern, up-to-date fighting machine, and that is all this committee proposes to do.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VREELAND. I ask unanimous consent that the gentleman's time be extended one minute.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman's time may be extended for one minute. Is there objection? [After a pause.] The Chair hears none.

Mr. VREELAND. I want to suggest to my colleague on the committee that his statement of England's building operations, as I understand it, is entirely too modest. As I understand it, England in the last three and a half years has authorized thirteen battle ships and eighteen armored cruisers, vessels which cost as much as a battle ship, in addition to the great building of torpedo boats, submarines, and cruisers of different types.

Mr. DAWSON. I thank you for the information.

Mr. BARTHOLDT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 72, line 4, after the word "dollars," insert the following: "*Provided, however*, That if at the second Hague conference any measure should be adopted for the limitation of the naval forces of the great powers, or for the settlement of international controversies by judicial decision and by means of arbitration treaties, the Secretary of the Navy shall have discretion to defer the construction of the ship herein provided for."

Mr. BURTON of Ohio. Mr. Chairman, a parliamentary inquiry. Does not the amendment to strike out the paragraph take precedence? Ought not that first to be voted upon?

The CHAIRMAN. The rule is that an amendment calculated to perfect a section or paragraph has priority over an amendment to strike out or substitute for a paragraph.

Mr. BURTON of Ohio. Is this really an amendment to perfect the paragraph?

The CHAIRMAN. It is an amendment offered to perfect the paragraph, and it has priority over the motion to strike out.

Mr. BARTHOLDT. For the information of my friend from Ohio, I will say I made sure by consulting the Chairman before I offered this amendment, and this is the only way for it to be considered, because in case the gentleman's amendment should be adopted, there would be no chance for my amendment to be voted upon at all; hence I offer it at this time.

Mr. BURTON of Ohio. In that case I will say to the gentleman there would be no occasion to offer the amendment of the gentleman from Missouri.

Mr. BARTHOLDT. There might be.

Mr. LITTLEFIELD. The rule is that a motion to perfect the paragraph always comes before a motion to strike out.

Mr. BARTHOLDT. Mr. Chairman, this is the amendment of which I gave notice in the course of general debate, and which I am happy to say the American press has generally indorsed since it has been printed in the RECORD. I offer it in good faith and in the hope that it may be adopted, believing as I do that a great majority of the constituency of every Member on this floor will favor my proposition if it is properly explained to them.

My position is different from the position of those who are opposing this battle ship for financial or other reasons. To the men interested in the movement for international arbitration or peace it is immaterial how many battle ships the different nations are constructing to-day, and I, for one, shall not antagonize this battle ship. I shall vote, if considerations of patriotism demand, if the national safety demands, if considerations of patriotism demand it, for ten or twenty more battle ships. I shall do it, of course, with all the scorn that is in me, because I abhor the system which makes them necessary. But the peace movement should not be confounded with any movement or any attempt to decrease naval expenses or military expenses here and there. If that movement succeeds, if there will be an agreement at The Hague this fall in favor of international arbitration, or in favor of some more civilized method by which to settle international difficulties than by war, why, then, the battle ships we are constructing now and which other nations have constructed will become absolutely unnecessary. They will be thrown in the junk shop. So I consider, Mr. Chairman, every addition to the Navy and every addition to the Army will not defer but will hasten the moment when nations will be compelled to come to an agreement of that kind. If nations go on at the present rate, the time is near when they will have reached the point of exhaustion, when they will be compelled to meet around the green table and discuss measures for the settlement of international difficulties by resorting to arbitration instead of resorting to war.

This amendment, as I said, does not antagonize the naval programme, but its effect will be to leave to the Government of the United States a free hand, so that if at The Hague an agreement should be reached, the President and the Secretary of the Navy will have discretion to construct or not to construct this battle ship. If an agreement is reached, of course, the construction will be unnecessary. If no agreement is reached, the naval programme as outlined in this bill will be proceeded with and a ship will be constructed. But the amendment serves another purpose. It is the only chance, my friends, for this House and this Congress to go on record as saying to the other nations that we are in sympathy with the efforts being made all over the world to reach an international agreement.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GRAHAM. Mr. Chairman, I ask that the gentleman have five minutes more.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GRAHAM] asks that the gentleman from Missouri continue his remarks for five minutes. Is there objection?

There was no objection.

Mr. BARTHOLDT. In this connection I desire to call to the attention of the House the action recently taken by the House of Commons of England. It appears from press dispatches that a member moved a resolution calling on the Government to take drastic steps to reduce the expenditures for armament, and press for a resolution of armament reduction by international agreement at The Hague conference. This resolution was discussed, and finally the representative of the Government, Sir Edward Grey, the foreign secretary, was called upon for an expression of opinion. He said he believed the declaration which was contained in Mr. Vivian's motion was worth having for the

effect it might have on other nations. There was a growing disposition, he said, in other countries for some reduction. He thought the question should be discussed at The Hague, but it would depend upon the responses of other nations. The Government welcomed the motion. He hoped the other nations would regard it as an invitation from the British House of Commons to respond to their feelings in the matter. And then the report goes on to say that the motion was adopted. Since the counter motion has been withdrawn, I take it, Mr. Chairman, that that motion was adopted unanimously by the House of Commons of England.

My amendment, gentlemen, gives you an opportunity to accept that invitation extended by England. It gives you a chance to say to the world that the American Congress, too, is ready to countenance the efforts which are being made in behalf of international peace.

Mr. GILBERT of Kentucky. Is it not absolutely certain that a battle ship will be built if your amendment passes and you leave it to the discretion of the President?

Mr. BARTHOLDT. It is not; because the amendment says if an agreement is reached as to the limitation of armament or an international agreement to settle difficulties by arbitration, in that case the Secretary of the Navy shall defer the construction of the battle ship.

Mr. COCKRAN. I should like to ask the gentleman from Missouri a question.

Mr. BARTHOLDT. Certainly.

Mr. COCKRAN. I recognize him as a great authority on this question of international arbitration. Is it his idea that by facilitating the construction of this ship and thus increasing our armament we will contribute to a universal conclusion in favor of disarmament? Do I understand him correctly?

Mr. BARTHOLDT. No.

Mr. COCKRAN. I understand the gentleman is going to vote for this particular ship upon that ground?

Mr. BARTHOLDT. No; not entirely upon that ground.

Mr. COCKRAN. I would like to know——

Mr. BARTHOLDT. I stated, as a general proposition, Mr. Chairman, that the increase of armament all over the world will have the effect of hastening the day when an international agreement will be reached.

Mr. COCKRAN. I understand the gentleman abhors the appropriation of money for these engines of destruction; but, nevertheless, will vote in favor of this particular one under the impression that by exhibiting this tendency to huge military establishments in its fullest development the world will become disgusted with it. Am I right?

Mr. BARTHOLDT. I am very glad the gentleman asked this question, because it gives me an opportunity to emphasize what I had forgotten.

The position of the friends of arbitration and peace upon this question is this: We say that as long as there is no international agreement, as long as nations must be ready to defend their rights by armament, just so long will the friends of arbitration and peace be ready to vote for such armament as may be deemed necessary by the Government for the national defense. They will not go further. They will not authorize armament for an aggressive war. But if the Government in its responsibility says to me that this battle ship is absolutely necessary for the defense of American interests, I am willing to vote for it.

Mr. COCKRAN. I will ask, is the gentleman voting for this battle ship because somebody else has told him it is necessary to our defense, or because in the exercise of his own judgment as a Member of this House, as well as an illustrious apostle of arbitration, he considers it necessary? Is he voting in favor of building this ship on his own judgment or on the judgment of somebody else?

Mr. BARTHOLDT. I am voting on my own judgment.

Mr. COCKRAN. On his own judgment. I would like to ask the gentleman if on his own judgment he believes the construction of this ship is necessary to our defense?

Mr. BARTHOLDT. I am not clothed with the authority or with the responsibility—and I am glad I am not—to say whether or not this battle ship may become necessary for the defense of our interests; but the gentleman will admit that it might. It might become necessary as long as there is no international agreement between the nations, as long as present conditions exist.

Mr. COCKRAN. I can not see upon what ground it can be considered necessary, according to the gentleman's own statement. But I ask the gentleman again, is he voting in favor of this measure upon somebody else's responsibility or his own?

The CHAIRMAN. The time of the gentleman has expired.

Mr. COCKRAN. I trust the gentleman's time will be extended a few minutes.

The CHAIRMAN. Is there objection to the time of the gentleman being extended for two minutes? [After a pause.] The Chair hears none.

Mr. BARTHOLDT. Mr. Chairman, I take it that when a naval bill is proposed here containing a provision for a new battle ship that that naval bill has not only the earmarks of the experts of the Navy Department, but that it has the approval of the officials of our Government who are responsible for conducting the Government's affairs. I take it that the President, the Cabinet, and all the powers that are conducting our Government to-day have been consulted and earnestly believe that battle ship to be necessary.

Mr. COCKRAN. Why does the gentleman, whom we all admire so much, exclude himself from the number of those powers?

Mr. BARTHOLDT. Because this is a question which belongs to diplomacy and not legislation.

Mr. COCKRAN. Then I understand the gentleman to say that in voting for this battle ship he is voting for it because he considers the House of which he is a Member has nothing to do with it, but outside parties think its construction advisable?

Mr. BARTHOLDT. Not at all.

Mr. COCKRAN. If the gentleman is voting for this battle ship because he, exercising his own judgment, believes it is necessary to our defense, then I would like to ask him from whom we are to apprehend danger, in order that I in my uninformed condition may get the benefit of his information in reaching a just conclusion. In discussing the advisability of constructing this huge battle ship, the gentleman says he will vote for it because it is necessary for defense, and then he adds that he has not reached this conclusion upon his own judgment, but on that of somebody else. Now, I ask if it be his conception of his duty as a Member of this House that he should cast his vote for the construction of this battle ship on somebody else's judgment?

Mr. BARTHOLDT. Now, I want to say to the gentleman, as one who has been to some extent identified with the movement for international arbitration and peace——

Mr. COCKRAN. That is the reason I asked the question.

Mr. BARTHOLDT (continuing). That I do not want to expose this movement to the charge of it being actuated by unpatriotic motives, nor do I want to lose, for the purpose of attaining my object, the support of those who are now clamoring for a new battle ship.

Mr. COCKRAN. The gentleman surely does not intend to vote for the construction of a battle ship in obedience to the clamor of its advocates in order to promote the reign of peace?

Mr. BARTHOLDT. I simply do not want to sacrifice the interests of the cause I have at heart in taking the position I take.

Mr. COCKRAN. Which cause? The cause of duty as a Member of this House or some other cause, supported by somebody outside the House?

Mr. BARTHOLDT. The cause of arbitration.

Mr. COCKRAN. Do I understand the gentleman to say that he is proposing to vote for this battle ship on this floor, not because he believes it necessary, but in order to win the favor of its supporters for a general scheme of arbitration?

Mr. BARTHOLDT. Oh, no; and the gentleman himself knows better.

Mr. COCKRAN. That is what I understood from the gentleman's statement.

Mr. BARTHOLDT. I stated my position fairly.

Mr. COCKRAN. I would like the gentleman to correct me if I am in error.

Mr. BARTHOLDT. If the gentleman had only honored me with his attention——

Mr. COCKRAN. The closest. The gentleman does me but faint justice when he suggests that I did not listen closely to every word of his.

Mr. BARTHOLDT. Mr. Chairman, all I can add in answer to the gentleman's question is to repeat what I said before—that the men who are responsible for the conduct of our Government are the best judges as to what armaments we need, and I take it that the legislative branch of the Government has but little connection with diplomacy. I take it——

The CHAIRMAN. The time of the gentleman has expired.

Mr. SLAYDEN. Mr. Chairman, concerning the relative merits of two battle ships of 16,000 tons each and one of twenty or more thousand tons I have nothing to say. Concerning the purely technical questions of the manner of construction and type of ships and of their relative fighting value I say nothing,

because I know nothing. My observations will be addressed solely to what I conceive to be the proper policy for this Government with relation to the Administration idea of developing a large and aggressive navy, and particularly along the lines which I think will and should lead to international agreements for arbitration.

Mr. Chairman, what I have to say and the way I shall vote will be found entirely consistent in that matter. I do not see how gentlemen can speak one way and vote another. It is impossible to follow the reasoning of Members who preach peace and feverishly prepare for war. To support the ideas of The Hague tribunal with mere lip service is not an important contribution to the cause of peace. A reduction in the world's armament is the chief purpose of The Hague court of peace, and this is an opportunity for the American supporters of that exalted idea to stand up and be counted on the side of righteousness.

The spirit of arbitration appears to be more in evidence in Europe, where one would expect to find greater difficulty in its execution, than here in America, where obstacles in the way of its application are so few and insignificant as not to be worth consideration.

In the United States we have no disputed boundaries. The last we had was with the powerful British Empire. It was submitted to arbitration and satisfactorily adjusted. The history of neither country suggests that a peaceful solution of the question was secured because either was afraid of the issue of war. A native of one and descended from the other, I am proud of the fact that both possess a high order of physical courage. I am still prouder of the fact that in a great crisis both have shown high moral courage also.

The outcome of that case ought to be an inspiration for the submission of all international quarrels to a court of arbitration.

Before the last general election in Great Britain Sir Henry Campbell-Bannerman, now prime minister, in an eloquent speech at Albert Hall, in London, said:

I rejoice that the principle of arbitration has made great strides, and that to-day it is no longer counted weakness for any of the great powers of the world to submit those issues which once would have been referred to the arbitrament of self-assertion and of passion to a higher tribunal. But it is vain to seek peace if you do not also ensue it. I hold that the growth of armaments is a great danger to the peace of the world. A policy of huge armaments keeps alive and stimulates and feeds the belief that force is the best, if not the only, solution of international differences. It is a policy that tends to inflame old sores and to create new sores; and I submit to you that as the principle of peaceful arbitration gains ground it becomes one of the highests tasks of a statesman to adjust those armaments to the newer and happier condition of things. What nobler rôle could this great country assume than at the fitting moment to place itself at the head of a league of peace, through whose instrumentality this great work could be effected?

Gentlemen who advocate a large and warlike navy in this country may question the sincerity of the prime minister's speech, because the British naval budget again provides for an increase of the sea power of Great Britain; but they are only casual students of the European situation who do not understand that the Liberal Government in England is driven, against its will, into these extravagant military expenditures.

Trade and political jealousies between England and Germany and the steady development of the sea power of the German Empire compel the British, who want peace and disarmament. to continue in a course which their better nature abhors and their judgment holds unnecessary if arbitration can be agreed upon. But these conditions do not vex the United States, and need not keep us out of the paths of peace, wisdom, and economy. The geographical isolation of our country, its vast population, and exhaustless resources put us into a class by ourselves. We have no neighbors who are dangerous, unless we except the Japanese, who are near the Philippines, and who, if they are half as clever as we have been led to believe, wouldn't take the islands if we offered them as a gracious gift.

Menaced by no one, endangered from no source whatever, why should we commit the folly of undertaking this mad shipbuilding competition with Great Britain? Even if England were not, as I firmly believe she is, our sincere friend, Canada, which we could easily invade from the land side and no doubt capture, is a hostage which she would not sacrifice. Canada is England's pledge of peace with us. But I do not like to even consider our relations with Great Britain from the point of view of possible hostilities. England is governed by enlightened statesmen and controlled by public opinion, which in all intelligent and free states is a higher and greater power still. Public opinion in England would not tolerate the thought of a war with the United States. It would be justly condemned as a crime, and any government which even coquetted with the idea of war with this country would be kicked out of Parliament House by an indignant public. Then, this being true, British naval development is not aimed at this country. Her statesmen do not want to commit suicide. They appreciate the importance to their own people of keeping the sea open to the great Anglo-American trade. Their people must be fed and clothed, and the grain and cotton of the United States are essential. Idle Lancashire looms and a hungry mob in London are more to be dreaded than a war with any power of continental Europe. English naval growth may be viewed as a suspicious and warlike circumstance by Russia, Germany, or France, but for this country it can only mean the certainty that we will continue to send cotton to Manchester and corn to London over a sea kept open mainly by British taxpayers.

All we need to do, Mr. Chairman, to maintain peaceful relations with the rest of the world is to adhere to the traditional American policies and stay at home and mind our own business. We ought at once to agree to treaties of arbitration with every civilized government on earth. We ought to begin by making such treaties with all the other American republics.

It would be an act of generosity and justice from a great, strong government to weaker states that are sincerely trying to develop the same political ideas. For great states with undisputed reserve military force to suggest such treaties to smaller and weaker ones would be an act of grace that would command the applause of just and peace-loving men throughout the world. Such treaties will surely come. A growing public sentiment will demand them. Shall we not secure for our country the honor of leadership in a cause so glorious? Shall we not secure the peace and happiness of America by doing this righteous and reasonable thing? It can not be denied that all the Central and South American countries view us with a certain degree of alarm. Ought we not to allay their apprehension by giving them the assurance of solemn treaties of arbitration that will evenly match the smallest and weakest nation against the strongest? Let us put this great Republic at the head of the league of peace.

THE LARGEST BATTLE SHIP.

Now comes our Committee on Naval Affairs and asks this House to authorize the construction of the largest and most formidable battle ship afloat. The fierce spirit of the committee is shown in the language of their bill, which asks for "one first-class battle ship, carrying as heavy armor and as powerful armament as any known vessel of its class." But as extreme as this language is, it is mild compared to that used by gentlemen in their speeches. They say that we must have a ship which will steam faster and farther and be altogether a more powerful engine of war than the new British ship, the *Dreadnought*. Does this suggestion grow out of the fact that our liberty or the integrity of our soil is threatened by any power on earth? Surely, sir, the most unblushing jingo will hardly have the presumption to say so. Is it merely to gratify national vanity? And if so, is it worth while putting our people to this great expense just to have the privilege of boasting that the greatest fighting machine afloat sails under the American flag? It is a sad commentary on the wisdom of our legislation that we can go on increasing commerce destroyers—for battle ships, in the last analysis, are essentially commerce destroyers—while our merchant marine does not grow.

It is generally understood that this unmatched battle ship will cost about $11,000,000 and that it will take nearly a million dollars per year to maintain and operate it.

To my friends from the South I want to suggest that the prime cost of the vessel represents the value of 220,000 bales of cotton at the rather high price of 10 cents a pound. Your constituents and mine will have to produce 20,000 bales of cotton each year just to meet the operating expenses of the ship.

One of the Representatives from Iowa [Mr. DAWSON], I believe, made an interesting speech here the other day in which he told of the bucolic glories of his State. Horses, cattle, sheep, and swine were eulogized for their contributions to the comfort and happiness of the human family. He grew most eloquent in telling how the barnyard fowls of Iowa preserved the balance of trade.

Even the wonderful fertility and industry of the Iowa hen will be worked overtime to meet these augmented and increasing expenses. At $1 per bushel, a price which is rarely received, it will take 11,000,000 bushels of wheat to pay for this one vessel that will certainly be worthless in twenty years, and may be obsolete even before it is finished. The farmers who are to earn this ship along with their daily bread by moistening the earth with the sweat of their faces will have to make an extra million bushels of wheat to pay for its operation for a single year. It will cost four or five million dollars more than we appropriate each year for our great Department of Agriculture. Yet we expect the Department to endure forever, and we know the ship will be in the scrap heap in a few years. I hope these

facts will be well considered by the man who makes the wheat and the cotton.

HOW IT MAY BE USED.

The only possible reason I can see for this departure from our heretofore relatively peaceful programme is that the great ship may be used in the Philippines. It will be so powerful in its armament and have guns of such wonderful range that even the most remote mountain fastnesses of the Philippines will very likely be in the zone of danger. It will be a useful ally of Governor Curry, of Samar, in his proposed war of extermination against the Pulajanes. After a little target practice the smallest band of these naked savages hidden away in the coast ranges will make an unavoidable target.

In this connection, Mr. Chairman, I want the attention of the committee to the remarkable suggestion recently made by this same Governor Curry. It is taken from the Associated Press reports in the New York World of May 13:

WEYLERISM FAVORED BY OFFICIALS IN PHILIPPINES—"EXTERMINATE THE BREED" IS THE WATCHWORD BORROWED FROM SPANISH GENERAL.

MANILA, *May 13, 1906.*

Superintendent of Schools Hoover, of Samar, and several native officials of that island have arrived here on their way to Baguio, Province of Benguet, the summer capital, to visit Governor-General Ide. Mr. Hoover says:

"Ninety-five per cent of the natives of Samar are anxious to have the fanatics exterminated and absolute peace established. The native officials are organizing volunteers, who are scouring the mountains, guarding trails, and capturing or killing outlaws. It is estimated that 300 Pulajanes still remain in the mountains."

Governor Curry, of Samar, has proposed to turn over the Pulajane districts to the Federal authorities, have martial law proclaimed, and the fanatics exterminated. If General Wood agrees, he will put two regiments, backed by naval gunboats, on the island and in the adjacent waters, to keep the outlaws from escaping to neighboring islands.

Governor-General Ide has reached no decision in the matter.

The Pulajane leader is 64 years old, and has been in the mountains forty years.

It will be observed that this wonderful school superintendent, Hoover—his name deserves to be embalmed on the roll of infamy—says that "95 per cent of the natives of Samar are anxious to have the fanatics exterminated and absolute peace established." This report goes on to say that "Governor Curry has proposed to turn over the Pulajane districts to the Federal authorities, have martial law proclaimed, and the fanatics exterminated." There it is again, Mr. Chairman. Extermination is what they want.

No doubt this little plan of the worthy governor and his Christian superintendent of schools will bring peace to the Pulajanes, but it will be the peace of the grave. Not one of these savages is to be left alive if the governor, engaged in "benevolent assimilation," and the school superintendent, engaged in the spread of Christian civilization, are to have their way. And who can doubt, after Mount Dajo, that they will be given their way? Against that, Mr. Chairman, I protest in the name of all true sportsmen and in the name of science. I demand, sir, that Governor Curry be compelled to give the Pulajanes the same periodical immunity we give to birds and other game in this country. If the governor were a true sportsman, he would surely make provision for a close season. Even Filipinos should not be killed out of season. They ought to be given an opportunity to restock the preserves. But he advocates a war of extermination, unremitting and unrelenting. It is unsportsmanlike and will destroy the game.

When these unhappy islanders have gone the way of the buffalo, when only a few specimens remain alive, confined in some corral in the Philippines for the entertainment of tourists or exhibited in a dime museum in New York, students of ethnology will regret that the ardor of Governor Curry was not stayed somewhere short of extermination. Then, sir, while it is yet time, in the name of science and of sport I ask that a few specimens of the Filipino savage be kept alive, even if this great battle ship should never be put into commission. [Loud applause.]

Mr. BARTHOLDT. Mr. Chairman, I ask unanimous consent to perfect my amendment by inserting three words.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to amend his amendment. Is there objection?

Mr. COCKRAN. Mr. Chairman, I will ask if the correction is ready?

Mr. BARTHOLDT. It is.

The CHAIRMAN. The Clerk will read the proposed amendment.

The Clerk read as follows:

Insert after the words "Hague conference" the words "to be held within the next twelve months."

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. VREELAND. Mr. Chairman, I sympathize entirely with the purpose of The Hague conference. I sympathize entirely with the efforts of the gentleman from Missouri who will be one of the representatives in that conference from this country, to impart to representatives of other great powers the knowledge that the United States of America stands to-day, as it has stood throughout all its history, in favor of a peaceful means of settling difficulties.

But, Mr. Chairman, I can not support the amendment which is offered to this bill. I do not believe that by adopting this amendment the House would select the best means of conveying through our representatives to The Hague conference the sympathy of the American Congress to the object of that conference. Mr. Chairman, the American people do not need to say to the nations of the earth that they are in favor of peace and in favor of arbitration. Through all our history we have taken the lead in settling great questions of national concern by submitting them to arbitration. We all remember the *Alabama* award. We remember the depredations of vessels built in England to prey upon the American merchant marine during the war between the States.

We remember that at the close of the civil war the United States demanded damages of Great Britain for the depredations of those vessels. We know, and all the words knows, that we were in shape to enforce our claims. We had a million and a half of the seasoned veterans of Grant's army. The iron ships which had been invented during that war had made useless the wooden vessels of the world. We were hardened by four years of warfare, we were flushed by victory, and yet under all those circumstances, with national pride and the national feeling aroused and indignant, we went into the treaty of Geneva and submitted that question to arbitration, out of which came the *Alabama* award. So that the American people do not need to convey to the world a new message, that they sympathize with the doctrine of arbitration.

Mr. Chairman, we all know that these commissioners who meet at The Hague next year are clothed with no power. We know that they can resolve, but they can not bind the nations which they represent. We know that in every case they must go back to the nations from which they come to secure from them approval of any action that is taken there. We know from past experience that it may be one, two, three, or even five years before the last of the nations that take part in that conference shall have acted upon and either approved or disapproved of the resolutions adopted in that peace convention. In the meanwhile, what is the Secretary of the Navy to do about this ship that we authorize? How long would he wait under the amendment offered to this bill? Why, it proposes that in two cases the building of this great ship shall be suspended. If that conference shall resolve to curtail armaments, then in that case the Secretary of the Navy must suspend. In case they resolve that all future questions shall be submitted to arbitration the Secretary of the Navy is directed, in his discretion, to suspend the operations of building this ship. Mr. Chairman, it seems to me that it would put the Secretary of the Navy in position where he would be criticised whatever he did, where he would be unable to know, as a practical proposition, what he should do. Mr. Chairman, I stand strongly in favor of sending our able representative to The Hague clothed with whatever authority the American Congress can give him, showing the sympathy of the American people toward the peaceful settlement of difficulties.

Mr. BARTHOLDT. Mr. Chairman, will the gentleman yield?

Mr. VREELAND. Yes.

Mr. BARTHOLDT. The gentleman seems to be laboring under the misapprehension that I am to be a delegate to The Hague conference. That is not the case.

Mr. VREELAND. Well, I am sorry that my friend is not to be a delegate, if that is true.

Mr. BARTHOLDT. I want to call the attention of my friend to the fact that after the first Hague conference every government signatory to The Hague convention within a reasonable time ratified the action of that body.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VREELAND. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for one minute. Is there objection?

There was no objection.

Mr. VREELAND. Mr. Chairman, I am sorry that the gentleman from Missouri is not to be a representative from this country in that conference. If he were, I should feel that our interests were left in safe and able hands, but let me suggest to the gentleman that instead of pressing this amendment upon the committee, instead of seeking to tie up and embarrass the building operations of the Navy, let him bring before this House

a joint resolution declaring the sympathy of the American Congress with the efforts of their representatives in The Hague conference to obtain peaceful methods of settling difficulties among nations. I would almost guarantee that unless objection is made by the leader of the Democratic side such a resolution would go through by unanimous consent.

Mr. WALDO. Mr. Chairman, there seem to be only two objections made here to the authorization of this large battle ship—one made by the gentleman from Minnesota [Mr. TAWNEY] that we have not the money to expend, and one made by the gentleman who put in the last amendment, the gentleman from Missouri [Mr. BARTHOLDT], and by the gentleman from Ohio [Mr. BURTON], that we ought to disarm in order to be leading the way toward the peace of the world.

Now, in the first place, in regard to the objection made by the chairman of the Committee on Appropriations, it seems to me that he is a little unfair in charging up to the Navy all the expenditures that have come as a result of the great civil war and of all the wars and troubles that we have since had.

Mr. TAWNEY. Mr. Chairman, if the gentleman will pardon me, the gentleman from Minnesota made no such charge. I did not charge this expenditure to the Navy, but I said that on account of these things we were this year expending 63¾ per cent of the total revenue of the Government.

Mr. WALDO. Mr. Chairman, I decline to yield to the gentleman. I think he made that same statement four or five times during his speech, but he did make the objection that because of the large expenditure we were now making as a result of the civil war we ought not to authorize this battle ship, and it amounts to the same thing in whatever words he sees fit to put it. When we appropriated one hundred and thirty-nine millions here for pensions, that met with the universal approval of everybody in the House. I do not recollect that the gentleman from Minnesota [Mr. TAWNEY] objected. We were all in favor of it. That expenditure is a necessary and proper one and has nothing to do with the question as to whether we ought to keep up our Navy.

In the first place, this authorization of a new battle ship does not call for the expenditure of any money at this time. It is left in the discretion of the President as to when it shall be built. No money is appropriated at this time and will not be before next year or some later time. If, as has been suggested here, the gentlemen who are interested in rivers and harbors are opposed to any further expenditure for the Navy until they can get a large appropriation for the improvement of their rivers and harbors will wait until next year, they can then present those considerations to Congress and have it then decided whether any money shall be expended for the further construction of the Navy.

It is objected by several gentlemen upon the floor of the House that there should be no further increase of our fleet; that, on the contrary, our naval power should be decreased; and that we should commence disarmament as an example to other great naval powers of the world, and that such a step on our part would be a direct advance toward the arbitration of all disputes between nations and tend to general peace throughout the world.

It seems to me that this is a mistaken view of the situation. No step toward disarmament can be taken by us until there is some general agreement to that end by the great powers of the world. No other great power is now taking any step toward a reduction of its navy. On the contrary, the navies of Italy, France, Germany, Japan, and especially Great Britain are being greatly increased both in number of vessels and number and weight of guns. We can not continue to be classed among the great world powers unless we not only keep our present Navy in repair and condition for service, but also largely increase our present fleet. We need a great navy, not for the purpose of menace or war, but for purposes of peace, to defend the Philippine Islands and our other insular possessions, to protect our citizens in all parts of the world from insult and oppression.

The question, then, is whether the American people desire to continue the policy of this Government which was commenced in 1883, to build and maintain a powerful and efficient navy. That is the real question. The Secretary of the Navy and the President have both stated that in order to keep the Navy up to its present efficiency, not to increase it, but to keep it up to its present efficiency and strength, there ought to be one battle ship at least authorized each year, and that is all this provision attempts to do. It still leaves it in the hands of Congress to decide next year whether we have sufficient money to go on with its construction. I believe that our country ought to lead in the way toward peaceful solutions of international disputes and differences, but the only influence that the United States has in that way is on account of its power, on account of its powerful Navy and great naval victories of late years. It is only a few months since our President received the congratulations of the world upon his success in bringing about peace between Japan and Russia. The reason that he had the power and influence to do that, that he was called upon to do it, was because we had become one of the great naval powers of the world. If our Navy had gone to ruin, if we were then disarming, we would have had little to say——

Mr. JOHNSON. May I interrupt the gentleman——

Mr. WALDO. I refuse to yield; I have only a minute or so, and the gentleman can take his own time later.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PRINCE. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended five minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. WALDO. I do not intend to say that we menaced Russia and Japan into making peace. Nobody believes that for a moment; but we all know that the peacemaker in the neighborhood is the strong man—among nations, the strong nation. It is not the weakling who has influence in the council of men or the council of nations.

Mr. COCKRAN. Will the gentleman allow a question?

Mr. WALDO. I can not yield; I have only a few moments. This is one of the reasons why, if we desire to keep up the power and influence of our country, we ought to keep up the Navy at least to its present efficiency. There is another reason why we who live on the coasts, both the east and west coast of our country, think that there ought to be an efficient Navy. It is not a great while since people on the Atlantic coast were in great fear of having their cities destroyed by the Spanish fleet. If the Spanish admiral had sailed to this country instead of to the West Indies, the damage to our seacoast would have been many times the cost of our whole Navy. Those people who lived directly upon the coast remember that time very well—that there was a general fleeing from all exposed quarters, and the harbor lights were put out on our Atlantic coast from Florida to the northern point of Maine. That recollection is something that appeals to us on the seacoast. I suppose those gentlemen who live on the prairies of Minnesota or other parts of the West two or three thousand miles from either coast never felt that fear; but it was not an idle fear by any means.

Another reason, it seems to me, why we ought to keep up our Navy is because we are now considering the question of the great increase of our merchant marine. Because we had no Navy at the beginning of the civil war, our merchant marine was practically wiped off the sea. We have never been able to get it back, because there was such an impetus given to the English trade that we never have recovered, and never will recover until Congress does something to that end.

We have before us a great measure looking toward the creation of a great merchant marine. There is little use in attempting to cover the seas again with American merchant vessels if we have not a powerful navy to protect our merchant ships in all parts of the world. We have to-day the largest commerce of any country in the world, but it is carried almost exclusively by foreign ships. You may sail the world over and scarcely see an American flag in a foreign port, except upon one of our war vessels. We are paying yearly an immense tribute in freight to England, Germany, and other foreign countries to transport our goods to the world—an immense sum that ought to support a great fleet of American deep-sea going ships, enrich our country, and keep always in existence a great force of experienced and hardy sailors to man our Navy and defend our coast and interests in case of war with any foreign power. It is impossible, no matter what pains we may take or money we may spend, to have any great merchant marine without a great navy to protect it. The two must go hand in hand. It is not properly a warlike measure, but a measure that tends to peace for our country, protection of its interests and its citizens in the farthermost parts of the world, and gives to us a great voice and influence in promoting the peace of the world.

The American people will never consent to the dismantling of our fleet and the abandonment of our great navy-yards. It is a beautiful and iridescent dream to think that peace is to reign continually throughout the world, and that we shall be respected at home and abroad without the power and the Navy to enforce respect and peace. We shall have peace ourselves, and can aid greatly in enforcing general peace throughout the world only so long as we are armed and able to command it. I believe that

the increase of our Navy must go on, and that the repair and building of war ships will and must continue until our nation is ready to fall into decay.

The gentleman from Ohio has referred to the fact that our war ships had been from two to four years behind in building, and gave that as one reason why we ought not to build any more naval vessels. If he will look at the paper he had before him at the time he will see that all of those ships that were two to four years, or even six years, behind in their date of completion were constructed in private shipyards of the country. There never has been one ship constructed in a private shipyard until the last—the *Louisiana*—that was constructed within the time limit of the contract. This is no reason why the building of war ships should be abandoned; it is no reason why we should abandon our Navy. But it is a very strong reason why we should keep our naval construction going on in the navy-yards, to compel private shipyards to complete their war ships on time and for reasonable prices.

It is, then, only a question of policy as to whether the new ships shall be built and repairs on the old ones be made in private or Government yards. The only objection made to the building of a proportion at least of the new war ships in our navy-yards is the claim that it will cost the Government more in its own yards than to have the ships built by private contract. If this were so, which, to say the least, is very doubtful, that reason would not be enough to overcome the many strong and cogent reasons for building in Government yards. In the first place, the excess of cost of the *Connecticut*, being built at the New York Navy-Yard, according to present figures, will not be over 9½ per cent over the cost of the original estimate. The alterations in the Government yards have been very much less than the alterations on the *Louisiana* at the Newport News yard. It is not known whether the private yard will not bring in a bill for loss in the construction of the *Louisiana* on the ground that she has cost more than they expected when they took the contract. Such claims have been made against the Government in the past, and are very likely to be in the future should it be found when the ship is completed that she has cost more than was expected when the contract and original estimates were made.

Naval Constructor Albert W. Stahl, at the hearing of the Naval Committee of the House, submitted the following table relative to certain private-built ships, showing that the total cost of such ships is considerably in excess of the contract price:

Comparison of contract price with total cost of certain ships.

	Monterey.	Olympia.	San Francisco.	Oregon.	Massachusetts.	Indiana.
Payments on account of contract	$1,647,728.64	$1,796,000.00	$1,423,231.50	$3,272,403.99	$3,045,576.48	$3,055,272.39
Extra to contractors for authorized changes	107,093.02	103,831.30	47,739.94	265,862.69	171,111.12	149,960.42
Work done by Government plans, inspection, etc	73,588.03	70,878.67	141,840.16	248,165.75	209,293.32	257,032.19
Hull armor	237,790.26	----------	----------	828,468.34	828,929.74	837,884.62
Armor for gun protection	190,534.38	141,522.62	----------	1,029,591.42	1,030,051.58	977,134.02
Speed premiums	----------	300,000.00	100,000.00	175,000.00	100,000.00	38,500.00
Trial-trip expenses	11,547.42	39,267.09	25,446.32	22,913.99	16,822.73	17,924.41
Care and preservation, insurance, etc	----------	32,525.86	----------	71,615.72	----------	----------
Total cost	2,268,281.75	2,484,027.54	1,738,257.82	5,914,021.90	5,401,844.97	5,333,708.05
Contract price	1,674,839.60	1,796,000.00	1,428,000.00	3,301,510.00	3,090,000.00	3,090,000.00
Excess of total cost over contract price	593,442.15	688,027.54	310,257.82	2,612,511.90	2,311,844.97	2,243,708.05

The navy-yard at New York had to be prepared for the construction of its first battle ship, the *Connecticut*. Many delays occurred in getting together the necessary plant, in obtaining the necessary force of experienced men. There were delays in obtaining material, while the private yards obtained their material with less delay. The men at the navy-yard worked eight hours per day, while at the private yards they worked from nine to ten hours. The pay at the navy-yard has been as much or more for eight hours' work than was received at the private yards for nine or ten hours' work. With all these difficulties, the excess of cost is only 9½ per cent at the Government yard.

There is little doubt that hereafter, provided work is continued, that ships can be constructed at less expense than was the *Connecticut*, so that on the question of cost there can be little or no advantage with the private yards. If we may take the experience of England, where shipbuilding has been continuous in public yards, the cost will be somewhat less in our navy-yards, if we keep sufficient construction work there to keep the plant in condition and a sufficient force of experienced men constantly together.

It is absolutely necessary that we should have one or more navy-yards on the Atlantic and on the Pacific coast constantly ready with a sufficient plant and a large and efficient body of experienced workmen to make the large repairs that are necessary to keep our great fleet in seagoing condition and ready for service. Such repairs must be made at once, whenever the fleet or any of its ships go into harbor from a voyage. It can be done much better in the Government yards and will cost only a fraction of the charges at private yards. The difference in this item alone will make up many times any difference in excess of constructing the vessels at the private yards, and that must be done in order to keep a force on hand to make repairs on ships whenever they come into port, so that the force of men may be diverted from construction work to repair work.

A war ship constructed at Government yards under the immediate direction and supervision of the officers of the Navy will be better built than a ship constructed at a private yard. There would be the same difference as between a house constructed by day work under the direction and supervision of a competent builder for his own use and a house built by a contractor only interested in building the structure as cheaply as possible so long as a sufficiently fair exterior is shown to secure a ready sale. A ship built at the Government yard would practically be worth from 15 to 20, probably 25, per cent more than one constructed at a private yard, and the difference in expenses for repairs would more than equal the 10 or 15 per cent difference which it is now claimed would be the additional cost.

The Government plants for shipbuilding at the navy-yards have cost millions of dollars. If shipbuilding is discontinued at the yards these plants will deteriorate and become practically valueless and the Government would be without means to construct or repair ships in case of war or other great necessity.

Until the Government started into the construction of ships itself the private yards have been from six months to forty-six months behind in the completion of ships, so that the loss of interest in the money invested has greatly exceeded any difference now claimed in the cost of construction at Government yards.

The Government ought to be prepared and able to construct new torpedo boats, submarines, or war ships generally, with such new and secret improvements as may have been or are likely to be made in her yards if constantly engaged in construction, so that such new inventions and secrets may not become the property of other nations.

Lastly, it is absolutely necessary that the Government should have a certain amount of construction in the Government yards in order that its officials and constructing engineers may have any real knowledge of the construction of war ships, of the best means, appliances, methods of building, of the cost, and of the time of construction. Such knowledge can not be obtained from books or the casual supervision of construction as the Government gives to ships constructed for it at private yards.

If the merchant-marine bill, which has already passed the Senate, should pass the House and become a law, there would be such an immediate increase in shipbuilding for the merchant service that all of the private yards of this country and many more new yards would be overloaded with work for private persons and corporations. It is not proposed to abandon the building of war ships in the private yards, but under such circumstances as these the Government would be obliged to abandon the building of ships in private yards unless at a largely increased expense of cost of building at Government yards.

It is urged that only a small proportion of the Government shipbuilding should be done in the Government yards; a sufficient proportion to keep the Government shipbuilding plant in repair and order and to keep together a sufficient body of experienced and skilled men to be ready for repair work or for especial construction work that might be necessary in case of war.

There are now under construction in private yards some twenty-seven naval ships of various kinds, the total contract price for which is nearly $80,000,000. Of this $80,000,000 there

still remains to be expended over $30,000,000. Certainly, under these circumstances at least, one ship ought to be kept under construction in each of the Government yards which is now prepared to do such work.

This country can not continue to be prosperous without great foreign commerce. It can not be assured that its commerce will not be swept away from the seas at any moment without a powerful navy. Congress has adopted the policy of sustaining and increasing the power of the Navy. The people have supported them in that policy, are supporting them, and will continue to support them. Such a Navy can not be maintained and kept properly equipped without great Government yards for the construction and repair of its ships. The Government can not now abandon the policy of building a portion of the ships to be added to the Navy in the Government yards without great loss in its shipbuilding plants and great detriment to its policy in maintaining and increasing its present naval force.

Mr. ROBERTS. At the opening of this debate the gentleman from Minnesota [Mr. TAWNEY], the chairman of the Committee on Appropriations, pointed out to the committee the great, and what I understood him to characterize extravagant, appropriations of the Fifty-seventh and Fifty-eighth Congresses along the lines of naval construction. Now, the gentleman from Minnesota was a Member of both of those Congresses, and I have no recollection whatever of his rising in his seat and calling the attention of either of those Congresses to the great folly upon which they were embarking. Yet to-day he rises and by inference, if not by direct charge, warns this committee that we are following in the footsteps of those two Congresses.

What are the facts? Why, Mr. Chairman, the programme recommended by the Naval Committee this year, of about 20,000 tons of new construction, is the smallest programme, with but one exception, that has been recommended since the second session of the Fifty-third Congress, in 1894, that exception coming in the first session of the Fifty-fifth Congress, in 1897. And I want to call the attention of the committee and of the gentleman from Minnesota [Mr. TAWNEY] to a fact which seems to have escaped his observation, that the two Congresses which he has criticised for extravagant appropriations for war ships were on the down-hill side in the matter of appropriations. The high-water mark in the building up of our Navy was reached in the third session of the Fifty-fifth Congress, when there was authorized over 105,000 tons of new construction. And since that time, down to and through the Fifty-seventh and Fifty-eighth Congresses, there has been a marked and steady decline in the number of tons that has been authorized, with the exception of the second session of the Fifty-seventh Congress, where there was a slight increase over the preceding Congress. But the next Congress after that reduced the tonnage so much that the average of reduction remained the same. Now, we are asking but 20,000 tons of new construction, and in this connection, Mr. Chairman, it seems to me the Committee on Naval Affairs has been somewhat unfortunate in the use of language in framing the bill. They say that, "For the purpose of further increasing the naval establishment." It seems to me we should have said: "For the purpose of maintaining the present efficiency of the naval establishment."

And I think I am warranted in that statement when we consider the message of the President of the United States and the Secretary of the Navy, both submitted to this Congress, in which they emphasize the fact that we should maintain the present efficiency of our Navy, and make no recommendation for further increase. I think I am fairly voicing the sentiment of the President, of the Secretary of the Navy, and of the members of the Naval Committee when I say that the recommendations this year are not along the lines of further increase of the Navy, but merely to maintain the present efficiency of the Navy we now have. That, I believe, is the policy of the committee and of the Administration, and I believe it should be the policy.

Not many years ago it was thought that we should build up a great Navy, that we should have at least forty-eight or fifty battle ships and armored cruisers and other craft in that proportion, but now the sentiment is that the Navy is large enough in the number of its units, but those units should be kept to the highest state of efficiency.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS. Mr. Chairman, I would like to have five minutes more.

The CHAIRMAN. The gentleman from Massachustts asks unanimous consent that he may continue his remarks for five minutes. Is there objection?

There was no objection.

Mr. ROBERTS. Now, what does the Secretary of the Navy say along those very lines:

I think it may be safely said that if the situation was not complicated by any unforeseen development, the programme of naval construction for the future, in so far as it relates to our fighting fleet alone, should consist of substituting five new battle ships and two new armored cruisers for the oldest vessels of these types on our register, and five more battle ships for the coast defense vessels of the monitor type, and these substitutions should be made at latest within the next six years.

Now, it seems to me the Committee on Naval Affairs can not be charged with extravagance in following the recommendation of the Secretary of the Navy, who asks this House to provide for only one new battle ship.

And why do we ask for one new battle ship when the recommendation of the Secretary was for two? Why, the testimony before our committee, uncontradicted, was that the battle ship now provided for in this bill would be the equal of any two battle ships now afloat, and any two battle ships now afloat, of the class last authorized by Congress, would cost $15,000,000, and yet we have, if this bill becomes a law, one battle ship at a cost of $10,000,000, which is the equal of any two that would cost together $15,000,000. During the general debate on this naval bill the gentleman from Ohio [Mr. KEIFER], himself a gallant soldier and an ex-Speaker of this House, made use of a gem of thought which it seems to me, Mr. Chairman, should be emblazoned in letters of gold and spread over the desk of the Speaker of this House, where Members not only of this, but of all future Congresses might constantly have it before their eyes. He said, referring to that great saying of the immortal Washington, "In time of peace prepare for war;" he would amend it by saying, "In time of peace prepare to maintain it."

And that, Mr. Chairman, is the very purpose of the recommendations of this year, not to enlarge the size of the present Navy, but to have every fighting unit in that Navy of the latest and most improved type. And the time has come, Mr. Chairman, as anybody can see by looking at the ages of our present battle ships, when Congress must devote itself to a serious consideration of that point. Otherwise we shall see our present Navy deteriorate from year to year. And I do not believe it is the wish or desire of any Member on this floor, or of the American people, that the present Navy, in which they take so much pride, shall be allowed to deteriorate from its present standard.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. OLMSTED having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bill and joint resolution of the following titles; in which the concurrence of the House of Representatives was requested:

S. 6128. An act to authorize the construction of a bridge across the Pend d'Oreille River, in Stevens County, Wash., by the Pend d'Oreille Development Company; and

S. R. 59. Joint resolution relative to the appropriation for the native schools and reindeer enterprise in Alaska.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate joint resolution of the following title was taken from the Speaker's table, and referred to its appropriate committee, as indicated below:

S. R. 59. Joint resolution relative to the appropriation for the native schools and reindeer enterprise in Alaska—to the Committee on the Territories.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The gentleman from Texas [Mr. GILLESPIE] is recognized for ten minutes.

Mr. GILLESPIE. Mr. Chairman, I am opposed to the item in this bill providing for an additional battle ship, calling for an expenditure of probably $10,000,000. I am opposed to it because I believe it is unnecessary and, therefore, will be an unjustifiable burden placed upon our people. Every right-thinking American citizen believes in this country's having an adequate Navy, but in considering the adequacy of our Navy there are two points from which to view it. One is a navy sufficient for purely defensive operations and the other not only for defensive, but for aggressive operations as well.

I insist that in view of our history and the general American spirit that a navy strong enough for our self-defense is all that we ought to have. Our people are now burdened with an annual naval expenditure exceeding $100,000,000, a sum much too large, in my opinion. It is a folly scarcely short of madness for us to enter the list with European nations in the struggle for the largest, most destructive, and expensive navy. They, at least, can appeal to the virtue of necessity behind their programme. England, France, and Japan can reasonably say: "Our foreign trade must continue or our people starve," but the United States can put up no such plea. Our country, compared to theirs, is but in its youth. We have vast acres of undeveloped territory. Our boundless resources have scarcely been

touched. Our energies, properly organized and distributed, can find employment at home for a century to come.

Besides, Mr. Chairman, in every true sense, the American idea of commerce is based upon the idea of peace and not war. Trade arrangements between nations, as between individuals, are the result of agreement, where the minds of the contracting parties must come together by mutual consent, and I insist that it is wholly un-American, it is un-Christian, it is against the boasted civilization that we claim, to look upon commerce as any other than the product of peace, and he who views it from any other standpoint has his face turned to the setting rather than the rising sun.

Mr. Chairman, it strikes me as a cold, inhuman, dollar-blinded policy that would throw this nation of ours backward and call forth its lower rather than its higher virtues; that would place before us the dollar and say to us: "Sacrifice all to get this."

I call attention to an able speech delivered on the floor of this House on Saturday, May 5, 1906, by a Member of this House from Massachusetts, Mr. WEEKS, a gentleman for whom I have the very highest regard from a personal standpoint, and whose ability and patriotism none can dispute. I think this speech furnishes the keynote to the naval programme which is being, with great adroitness, placed before the American people. The fundamental idea is commerce—an extension of our commerce through the power of our Navy.

Mr. Weeks says:

The wars of the future will be waged for commercial or humane reasons, as have nearly all wars since the time of the first Napoleon. We, in common with all the great nations of Europe, have reached a condition where we produce more manufactured goods than we consume. We are all looking for markets. To insure our having a fair chance to trade with the whole world the open-door policy must be maintained, especially in the Orient; but if we were lacking in physical power, it is safe to say that the door to our trade in many localities would be closed. Gentlemen speak of the triumphs of diplomacy as indicating the folly of maintaining a large navy, but diplomacy would lose many of its laurels if a navy did not exist to insure a hearing and compel a respectful consideration of our demands.

Again:

Our trade commenced to increase about the time our Navy commenced to develop. Our Navy is our one advertising medium in the Orient. The fact that we showed great strength during the Spanish-American war, great physical power, appeals to those people. They buy goods of nations which show to them that they have physical strength.

Again:

But the fact is, Mr. Chairman, we need a navy large enough to meet the commercial rivals whom we would have to meet in case of difficulty. In other words, our building policy, in my opinion, should be placed upon what our rivals are doing.

Mr. Chairman, while this picture drawn by the gentleman from Massachusetts to my mind has its cold, compassionless eye fixed upon the dollar, blinded to all else; while no impulse of our higher Christian civilization stirs its features; while its ears appear to be deaf to the calls of the higher and nobler works of humanity, yet I must confess that the picture is true.

Mr. Chairman, let us consider for a moment how much heartlessness, cruelty, and audaciousness, not only to our people, but to the peoples upon whom we depend for our foreign trade, are involved in this proposition. This is a demand of the manufacturers of this nation. Only yesterday, in New York, the manufacturers' association with a whoop indorsed ship subsidy. They long ago said to our consuming masses:

Pay to us more for our products than you can get them for in the world's markets with free competition. Let us build up a great American manufacturing industry, and through home competition you will get manufactured products as cheaply as you can in the open world market.

They appealed to our patriotism, and we acceded to their demands, and we have borne the burden through the heat of the day. The time came when, through home competition, our people were getting cheap home-manufactured goods. The home market was preserved to our manufacturers.

Then these same manufacturers made new demands upon our people. They said to us:

You have given us aid. This aid is expressed in the increased capital represented by our stocks and bonds. We can not submit to home competition. It means our destruction as surely as foreign competition. Therefore you patriotic Americans who wish to keep up your American industries must permit us to consolidate and combine our industries so as to throttle home competition.

By word, expressed in the Sherman antitrust law, we have repudiated this demand, but by acts in letting this law remain a dead letter we have acceded to the demands of our manufacturers. We have permitted this consolidation and combination to grow and spread rapidly until no part of our country and no industry is free from its blighting touch. Home competition is practically destroyed, tariff duties are at their highest point, and just to the extent that home competition has been destroyed our people have been forced to pay higher prices for home-manufactured articles.

Now the proposition is submitted to us:

You Americans, through your patriotism, have poured your money into our coffers. We have denied you the benefit of home competition, which we promised you; you have acceded to our demands and are paying the additional heavy bonus to us. We still appeal to your patriotism and say to you the whole industrial fabric of America will tumble to ruins if you do not agree to still keep out foreign competition and submit to our trust prices. It is true we have not complied with our promises; we are making more than you can consume, but it is not wise for us to increase your consumptive capacity by lowering to you the cost of home-manufactured articles; we must keep the home market up, and therefore our surplus must go to the foreign consumer. You just be good Americans and submit to our programme as to the foreign market, and here it is: It is true the foreigner is willing to send his ships to our shores and take our products to foreign markets cheaper than we can carry them in our own ships, but we want our ships to act as commercial agents and find new fields and enlarge old ones for our products, but our ships can not compete with foreign ships; with your aid we have forced them to pay more for construction, more for labor. They require a bonus, a subsidy, and we, the manufacturers of America, want you good Americans not only to submit to what you have already submitted to with a patience that is a supreme wonder, in view of the American spirit of fair play, but we want you, the great mass of consumers of America, to pay, for our benefit, this additional bonus to American ships. It is true this will have a tendency to drive foreign ships off the seas, and it is true these same foreigners are the largest consumers of the great agricultural surplus of this nation, but we are not looking after the interests of agriculture.

Further, when we go to extend the market for our manufactured products and drive the foreign manufacturers from these fields, and the foreign manufacturer begins to look toward the source of strength of his new competitor and sees the immense tariff wall that keeps him out of the American market, he is liable to become irritated and realize the sense of injustice to him. He is apt to try to raise a tariff wall against us, and thus shut the door of trade against us as we have against him. To overcome this, we require a navy as strong as the strongest of our competitors, but you good Americans must furnish us the navy. Tax yourselves as you are already doing, at an annual rate of over $100,000,000; continue to build immense battle ships; furnish us the bravest of your sons to man these battle ships; give them freely as an offering to our greed. You good Americans, sacrifice them upon the altar of your country. Let American mothers suffer in silence at the loss of loved ones. Why should we stop to consider that when it stands in the way of extending our foreign markets?

Mr. Chairman, this whole programme is full of impudence, injustice, and cruelty as against the great agricultural interests of this country especially, and also in every other respect. The agricultural interests have too little regard paid to them on the floor of this House. The banking interests of this country have able champions here, the manufacturers have able champions here, the railroads have able champions here; but, I ask, where is the committee of this House that stands here and demands and insists upon the rights of agriculture, not only in spending a few paltry thousands in the distribution of seeds and the establishment of experimental stations here and there; but where is the committee of this House that takes care of the interests of agriculture in this country in the way of securing cheaper implements, cheaper machinery and tools, lower taxation, something that is a positive and direct benefit to the American farmer? Look the situation over, and the answer comes back to you: "There is no such committee in the great American Congress." Every other interest is taken care of here. Direct and specific measures tending to promote them come before this House and are ably advocated by members from the committees having these interests in charge.

It is true we all profess great interest in the American farmer—and this is not a mere profession; it is a genuine feeling—but I ask the practical question, What committee of this House has the interest of the American farmer directly under its care and is here insisting upon those measures that will make his burdens lighter by taking off him unjust and unreasonable restrictions and by giving him the privilege to buy what he must consume and use at a better advantage?

We say the American farmer has no right to ask direct aid at the hands of the United States Government. This is true; but also the one eternal truth remains, so far as national legislation is concerned, that the farmer has the right to demand of the Federal Government that the heavy burdens placed upon him by the selfishness of other interests, which has found expression in legislation, be lifted from his shoulders. I long for the day to come in the American Congress when the Committee on Agriculture will be so organized that it will be composed of able, patriotic men who will look at all legislation affecting the agricultural interests of this country from the standpoint of agriculture—men who will insist upon the rights of the American farmer, so that we will no longer present to the world the shameful spectacle of putting the American farmer in the background and letting all the benefits that we would have flow to him first pass through the hands of other interests that are organized and stand next to the seat of power.

Mr. Chairman, the American farmer is organizing, and he ought to organize. There is no other way to force the organization of such a committee in this House. We tax ourselves, we endure heavy burdens, we sacrifice the lives of our sons, and make heavy the hearts of our mothers, all in the interest

of the American manufacturer, but what have we done to protect the American farmer?

In his name and in the name of the highest and best interests of the American people, in the name of the Christian civilization which we claim, I object to this increase of the American Navy.

Mr. COCKRAN. Mr. Chairman, for various reasons, amongst which my physical condition is the strongest, I did not intend to participate in this debate. The amendment offered by the gentleman from Ohio [Mr. BURTON], however, involves so much that is essential, in my judgment, to the credit of this Republic, the welfare of this people, and, indeed, the prospects of humanity that I can not allow this discussion to close without doing all that may be in my power to impress its importance on the committee.

Mr. Chairman, at the outset I ask attention to the extraordinary position assumed by the gentleman from Missouri [Mr. BARTHOLDT]. He proposes to vote in favor of constructing this enormous battle ship, not because he favors extensive armaments, but because he professes a desire for general disarmament. If I understand his argument, he proposes that we increase our armaments to such an extent that in time the waste will become so enormous and so obvious that we ourselves and all the world will recoil from it. Surely, sir, this means that in his opinion, the virtuous end at which he aims must be reached through immediate profligacy. For my part, I believe that vice should be cured by abstinence, not by satiety; by refraining from it altogether, not by indulging it until the capacity for indulgence shall be exhausted. I do not think the gentleman from Missouri will make as creditable an appearance before the next session of the International Peace Congress as his friends would wish, and as many of his admirers may expect, having supported by his vote the very policy of which he expresses abhorrence so eloquently upon this floor and elsewhere.

Mr. Chairman, I have looked through all this debate for a single ray of light on one aspect of this proposal to construct a battle ship larger than any in existence, which seems to me the crux of the entire question. Gentleman on the other side all say we must have an "adequate" Navy, but not one has told us what he means by that qualification. To the direct question what kind of a navy is an adequate navy, the answer is always evasive though seldom temperate. When members of the Naval Committee are asked, "Must we have a navy as large as that of Great Britain?" they answer, "No;" "Must we have a navy as large as that of Germany?" gentlemen become vague, but vehement; "Must we have one as large as France?" they become still more indistinct in meaning, though much more sonorous in rhetoric. If that word "adequate" could be defined, then we might at least have a basis of intelligent discussion.

While no one among the supporters of this proposal will tell us just what, in his opinion, constitutes an adequate navy, they are all unanimous and vociferous in saying they want a navy, a great navy, solely for defense—not to make war, but to maintain peace. This phrase seems to have soothed consciences naturally averse to violence and to have converted advocates of peace into supporters of huge armaments. The gentleman from Missouri [Mr. BARTHOLDT], for instance, seems to have persuaded himself that it is consistent to vote for armaments while advocating disarmament; that in voting to retain this section he is yet animated by an abhorrence of the very thing for which it provides. The gentleman from Missouri may not suspect it, but when he professes to be animated by a desire for peace while voting preparations for war he is not by any means original. He is using the language by which every invader, every aggressive conqueror, every land pirate, every disturber of the peace of the world since the beginning of time justified his violences. Did Napoleon Bonaparte ever admit that he wantonly disturbed the peace of nations for the mere love of war? Did not every proclamation by which he began a contest, even that against Russia, declare it was undertaken for the sole purpose of establishing peace and making it permanent? On that pretense, with that avowed object, did he not compel more than once all the nations of Europe to take up arms and engage in struggles which their own interests would have led them to avoid? Has the gentleman from Missouri [Mr. BARTHOLDT] forgotten that when Napoleon III strangled the French Republic and established on its ruins his empire of corruption and aggression he launched that enterprise of treason, of bloodshed, and of violence with a declaration that "The Empire is peace?" Yet, with this unbroken record of men the most prone to war, the most lustful of conquest, the most reckless in aggression, the most pitiless in plunder, always professing love of peace while planning schemes of violence, the gentleman from Missouri [Mr. BARTHOLDT] believes that he can bear an effective part in promoting general disarmament and establishing the reign of peace throughout the world while he comes in here and votes for an increase of armament by adding to our Navy the largest battle ship ever constructed in the world, apparently under the impression that engines of war and carnage and destruction are effective implements of peace.

Mr. BARTHOLDT. Of course, the gentleman does not desire to misrepresent me.

Mr. COCKRAN. It is the last thought in my mind.

Mr. BARTHOLDT. In one word I can definitely state my position.

Mr. COCKRAN. With the understanding, of course, that it will not be taken out of my time, I yield the floor for as long as the gentleman may desire.

Mr. BARTHOLDT. I do not go as far as some who are insisting that we shall have a navy as big and as powerful as would be strong enough to enforce the peace of the world, as, for instance, our friend Captain Hobson.

Mr. COCKRAN. How far in that direction does the gentleman from Missouri go?

Mr. BARTHOLDT. But on the other hand I do not want to go to the other extreme and deny to the Government that which it says it must have for defense.

Mr. COCKRAN. How far will the gentleman go in voting moneys to build naval vessels professedly for defensive purposes? My object in taking the floor is to get light on that particular point. What does the gentleman fix as the limit of his complaisance?

Mr. BARTHOLDT. I am willing to trust to the judgment of the Government on that.

Mr. COCKRAN. There I differ with the gentleman radically and irreconcilably. I believe that he and I and every Member of the House have taken an oath each one to exercise his own judgment on every proposition involving the expenditure of public money. There is but one way by which a dollar of the public treasure can be spent, and that is through an appropriation made by a vote of this House. There is but one excuse for an appropriation, and that is a conscientious belief by the House that it is necessary to provide for some public requirement. On the existence and sufficiency of that requirement each Member of this House must exercise his own judgment, under the dominion of his own conscience. No Member of this House can conscientiously vote for any disposition of public money on any judgment but his own. He can not accept the judgment of another, for that would be to abdicate his own functions, which would be a renunciation of his duty and a violation of the oath which he has taken to discharge it.

I do not think the gentleman from Missouri is in a creditable position at home or abroad when he stands on this floor and announces that he will vote an enormous sum out of the Treasury of the United States for the construction of a battle ship, not because he who is charged with the duty of guarding the public funds believes that the expenditure is necessary, but because it is judged advisable by somebody else upon whom the Constitution places no responsibility for public expenditures and in whose hands it places no authority over them.

Mr. Chairman, we are not trusted with the public purse to dispose of its contents as a matter of courtesy between departments. Before that trust was reposed in us we were required to give our solemn oath that we would exercise it for the highest interest of the American people according to our own conception of what is most likely to promote their well-being. Neither the gentleman from Missouri nor any other Member has any right to open the doors of the Treasury and allow one dollar to be withdrawn from it unless he is satisfied, according to his own judgment and his own conscience, that the appropriation is essential to the public welfare. The surrender of his authority by a Member of this House into the hands of any other person, whoever he may be, whether an officer of the Government, however exalted, or a suppliant for its favor, is an evasion of duty, and that is not a creditable attitude for the gentleman whose fame is dear to the people of Missouri, and whose intelligent exercise of his own judgment on the propriety of every expenditure is due to this House, of which he is a Member, and to the country, whose interests this House is bound to safeguard.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent that the gentleman from New York have time to conclude his remarks.

Mr. FOSS. I think, Mr. Chairman, that we ought to fix the time.

Mr. COCKRAN. I will not be very long—not over ten minutes.

Mr. FOSS. I will not object to ten minutes.

The CHAIRMAN. The gentleman from New York asks that his colleague's time be extended ten minutes. Is there objection?

There was no objection.

Mr. COCKRAN. Mr. Chairman, let us see whether the gentleman from Missouri and the other gentlemen on that side do not deceive themselves utterly and egregiously when they tell us that they favor the construction of this enormous ship, this huge engine of destruction, solely as a precaution for preserving peace.

The gentleman from Pennsylvania [Mr. BUTLER] published a speech in the RECORD of the 10th, which had for its caption: "The man with the gun; is he an evil?" where, in rhetoric that is almost rhapsodical, he is painted as the hope of progress, the rampart of peace, the bulwark of civilization.

Reading that interesting effusion, I was struck with what seems to be a glaring injustice perpetrated, though quite unconsciously, by the gentleman from Pennsylvania. Why has he lavished all his praises on one exponent of force while excluding from the scope of his panegyric all other agents of violence? While he rejoices in the activity and hopes for the permanence of the man at the gun, why does he not lament the disappearance of "the man with the tomahawk," who may have been of less actual efficiency, but who was certainly of equal enthusiasm in the destruction of human life? Why does he begrudge a word of praise to "the man with the bludgeon," whom people less enlightened than the gentleman from Pennsylvania send to jail or the scaffold when in the exercise of his activities he beats or kills a traveler on the public highway? Why is the gentleman forgetful of "the man with the brass knuckles," who, though he does not rise to the dignity of homicide, is yet deeply convinced that peace is demoralizing, and who, though he does not often destroy his neighbor's life, yet always does his humble but diligent best to reduce the pulchritude of his neighbor's countenance? [Laughter and applause.]

Mr. Chairman, it seems to me that notwithstanding the carefully studied language employed by its supporters it is the spirit of savagery that has been let loose in support of this proposal to construct the biggest engine of destruction in the world. Not one single argument has been advanced to the reason or intelligence of this House. There is but one redeeming feature in all this rhetoric. It shows that this country is still governed by a strong love of peace, since the men who favor building this battle ship pretend it is intended not for aggression, but for defense. But, sir, this assertion is more creditable to their ingenuity than to their candor. Defense against whom? Where is the foe that menaces us? The transparent character of this pretense becomes obvious the moment we examine it. In the face of this action, any attempt on our part to take the lead in a movement for peace becomes extravagant and farcical. How can we pretend to be sincerely desirous of peace while we are taking the lead in constructing machinery of war? The gentleman from Missouri apparently believes that we can establish peace upon the basis of eloquence; that while we are multiplying the engines of war we can become effective agents for peace merely by professing attachment to it. If peace can be established upon the basis of eloquence, we have but to send him to attend an international conference and the white dove will spread her wings over this continent and all the civilized world. [Laughter and applause.]

Mr. BARTHOLDT. Oh, Mr. Chairman, I would substitute for myself there the gentleman from New York [Mr. COCKRAN].

Mr. COCKRAN. If I had the same faith as the gentleman from Missouri [Mr. BARTHOLDT], I would be glad to accompany him as his humble acolyte. But I do not mind now taking the House into my confidence and saying that in my judgment there is but one way to secure peace throughout the world, and that is to make justice its basis. All the arguments for arbitration, all the treaties that can be put upon paper will not make men submit to injustice. While one single element of injustice enters into the government of men, there will be resistance, and that resistance will cause either redress or war.

Mr. Chairman, the whole civilized world was once under the dominion of a single government. There was no organized power on earth to dispute its authority. But it was built upon injustice, on conquest, on servitude, on plunder; it depended on force and coercion, and although there was no organized government anywhere to resist it, from the depths of the forest savage tribes emerged in swarms, swept across its plains, devastated its fields, burned its villages, sacked its towns, scattered its legions, razed its very foundations, so that not a fragment of that vast empire remains in existence to-day. And if peace could not be maintained upon wrong, though one government exercised all the power of the world, do you suppose it can be made permanent on such a foundation now through a combination of independent governments each inflamed by jealousy and anxious to share the plunder which any one of them has been successful in levying?

Mr. Chairman, peace will be established throughout the world, and will be permanent, when all the nations agree that the moral law is binding on governments no less than on individuals. The moral law of nations is embodied in our own Declaration of Independence, in the principle there for the first time formulated that the sole, legitimate basis of government is the consent of the governed. When that principle is universally applied, no disturbance of international peace will be possible. Not merely has this country, in proclaiming its own independence, announced the doctrine which must for evermore be the moral law of nations, and therefore the sole foundation of peace, but it has preached the most forceful lesson of peace for a hundred years when, though it remained almost wholly unarmed, it proved itself the most powerful in war and the most fruitful in industry—the most influential member in the family of nations, not through the size of its armaments, but through the virtue of its people and the splendor of their achievements. What people has ever been so potent in their influence or so prosperous in their possessions? Is any gentleman here ashamed of our history? Is any gentleman here ashamed of the record that we made in 1812, when, with not 10 per cent of the tonnage which we faced, we overthrew the supremacy of our foe upon the sea and wrote a new and glorious chapter in the annals of nations battling for the right and triumphing in the struggle?

Is any gentleman ashamed of the record we made in more recent years when we accomplished the first great triumph of arbitration by compelling submission to the Geneva tribunal of questions between England and this country growing out of the civil war? And at that time I do not think we had a single vessel that could be called a first-class battle ship. When have we enjoyed greater consequence in the estimation of the world than when we were practically unarmed? But gentlemen will say that times have changed; that we are now a world power, and as the scope of our influence has widened sources of attack have multiplied. This vagueness of speech is one of the disguises behind which vicious proposals become formidable.

If gentlemen be sincere in the statement that they favor constructing this ship as a precaution against attack, why do they hesitate to point out the direction from which they expect it to come? Where is this enemy whom we fear? Where is this foe that threatens us? Against whom are we arming?

Human nature has not changed since those ancient days pictured so eloquently by the gentleman from Pennsylvania [Mr. BUTLER]. Men still pursue profit as they pursued it then, except that they have become more intelligent as to the way by which it can be reached most rapidly and gathered in greatest abundance. If we had anything that another nation desired, if we held anything to which another nation could make a reasonable claim, I would acknowledge there is but one way to keep it, and that is by arms. But what have we that any nation covets? What have we that any nation would take, even if we offered it? Does anyone here believe that we could make a present of the Philippines to any other country, even if we gave along with the islands $2 in cash for every one of their inhabitants? [Laughter and applause.] There is no gentleman on either side of this Chamber who does not admit the taking of these islands was a national calamity. Some of us believe it was a grievous error, for which there is no excuse or palliation. Others tell us it was a visitation of Providence; that this country obeyed the will of Heaven when these brown men were forced into subjection; that our military forces were agents of progress when they fired civilizing bullets into the bodies of natives who would not accept the lessons of civilization through their intellectuals. But we all are agreed that the acquisition of the archipelago was not a national benefit, but the assumption of an onerous national burden.

Does anyone suppose that in view of our experience any nation of the world would take these islands from us as a gift? If they ever do go to another power, then I pray it may be to mine enemy. [Laughter.] What else do we possess which any other power would accept even as a free gift? Does anyone suppose that if we offered to present a State of this Union, or one of our Territories, to any nation in the world, the offer would be accepted? And if there be nothing on the surface of this globe which we possess that any other nation desires, is there anything possessed by any other nation that we covet, that we would take by force of arms, or that we would be willing to accept? About what, then, can we ever go to war? On what ground can anyone assail us, or are we likely to attack any other power? What, then, in the name of common sense, be-

comes of the pretense that this increase of armament by the addition of an enormous battle ship is necessary to our defense? I admit a certain force in the appeal to imagination and national pride when we are urged to place among our possessions anything which is the biggest of its kind on earth. Mr. Chairman, I am somewhat sensible to an appeal of that character myself. This is the biggest country in the world, and the biggest things proper to the sphere in which she moves are her natural possessions and her suitable adornment.

I want the biggest things on earth in every field where our history, our tradition, our civilization invites us to compete for preeminence. I would like to see the largest engine of production developed by American genius. I abhor the thought that we would engage in a competition to produce the most effective engine of destruction. [Applause.] What is there that would justify us in arming against our neighbors? I ask once more, gentlemen on the other side, especially the gentleman from Missouri [Mr. BARTHOLDT], since there is no thirst for territory on our part to gratify or on the part of any other nation that we are concerned to resist. I pause for an answer. There is none and there can be none. Some gentlemen talk vaguely about an open door in China, as though we could institute an active and prosperous commerce with a 12-inch gun. Some gentlemen seem to think that if we want to sell goods in the east an American war ship must be near by, but I don't think anyone seriously believes war ships can be turned into vessels for transporting freight.

Does anybody believe that force can play any part in peaceful commerce? Do not gentlemen realize that to the extent we waste our national treasure in constructing these destructive engines we withdraw it from the productive enterprises which are the legitimate fields of peaceful and profitable competition between civlized men?

Before sitting down I ask any gentleman on the other side to point out one single tangible, comprehensible reason why our Navy should be increased. Now, Mr. Chairman, I believe that we have to-day a navy far in excess of our needs; certainly a navy far in excess of any need that has been pointed out upon that side. I would like to know if there be any reason which this debate has not disclosed that could justify such an increase as the one proposed by this bill in our naval armament?

Mr. CHARLES B. LANDIS. May I interrupt the gentleman?

Mr. COCKRAN. Certainly.

Mr. CHARLES B. LANDIS. In view of the fact that in 1898 the gentleman's constituents in New York City demanded that the entire American Navy be sent to New York City and to Boston to defend the metropolis of the Republic against the Spanish fleet, does he not think that a navy large enough for the rest of the country ought to be established in case we have the same sort of a situation again? [Applause.]

Mr. COCKRAN. Mr. Chairman, I am delighted to welcome that applause. Fairy tales well told always amuse the thoughtless. [Laughter.] I never heard any such demand made by anyone in New York City. I myself live on Long Island in the summer time, between the place where a hostile squadron approaching New York by the Sound would be most likely to anchor, and Willets Point, which is one of the main defenses of the city on that side. Had the Spanish war ships ever attempted such an attack, my house would have been exactly in the line of all the shots exchanged between vessels and ports. Any missiles that fell short of their objective would in all probability have rained on my roof, yet I never thought of moving. I never asked for protection. I never lost a minute's sleep by mistaking peals of thunder for the roar of cannon. And I don't believe anybody was more disturbed than I, unless he was moved by hope of an appropriation. That always intensifies terror or at least quickens expression of apprehension. [Laughter and applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. COCKRAN. I ask for five minutes more.

Mr. TALBOTT. Will the gentleman permit a question?

Mr. COCKRAN. I shall be glad to answer a question.

Mr. TALBOTT. Do you know what brought about the war between England and the United States in 1812?

Mr. COCKRAN. Yes, sir; I think I do. I think I am not utterly ignorant of my country's history.

Mr. TALBOTT. Was it not because we denied the right of the British navy to search and impress seamen from our vessels?

Mr. COCKRAN. Certainly.

Mr. TALBOTT. Do you believe that if we had a navy to compare with that of Great Britain at that time they would have dared to do that or attempted to do that?

Mr. COCKRAN. I know that we made Great Britain sorry that she ever attempted it, and I know this much——

Mr. TALBOTT. Do you think the English Government would have attempted to take what they claimed were their citizens from our vessels of the American Navy——

Mr. COCKRAN. I have never been able to fathom the intentions of the English Government. When the gentleman asks me to explain what the British Government would have done in a certain case, he manifestly asks me to enter a domain of speculation where I could accomplish no useful result. I do know that with an armament not 10 per cent so strong as that of Great Britain we drove her forces from our shores and upset her supremacy on the seas. In the light of that history I would rather stand upon the resources of American valor whenever danger may arise than adopt a policy through which the treasure of the country must be wasted in enormous amounts every year under a groundless apprehension.

Mr. TALBOTT. There is no trouble standing upon the history of that question. Does not the gentleman think we could have stopped the impressment of American seamen on a merchant vessel if we had had a navy then in comparison with the one we have now?

Mr. COCKRAN. Mr. Chairman, there is no prouder page in American history than the page that tells the story of that insult and the way it was avenged. It was wiped out most completely and effectually by a people who armed themselves when occasion for using arms arose, and who proved themselves invincible in war, though they had not previously spent years wasting their treasure in ridiculous and unnecessary armaments.

Mr. CHARLES B. LANDIS. I would like to ask the gentleman if he does not think, if we had had a larger navy, an adequate navy, that this Republic would have been protected against the humiliation of seeing its Capitol burned in 1812?

Mr. COCKRAN. Mr. Chairman, again I can not undertake to say what might have happened if something else had occurred. I decline to enter into that domain of speculation. [Laughter.] But this I do say, that we have spent upon these perfectly useless and senseless preparations for events that can in all human probability never occur more than enough to build a capitol as fine as this in every State of the Union, and to establish broad and easy highways between all of them for the benefit of the American people and the promotion of intercourse and commerce between the States. [Applause.]

Mr. SLAYDEN. I would like to ask the gentleman what he thinks would be the result if Great Britain would undertake with the Navy that we now have to enforce any demand?

Mr. COCKRAN. Into that speculation I decline to enter. I have never had any confidential relations with the British Government which would justify me in speaking with authority of its aims or proposals. [Laughter and applause.]

Mr. COCKS. I would like to ask the gentleman, my distinguished colleague, if we did not have some fear at the time of the Spanish war?

Mr. COCKRAN. I can not answer for the gentleman, but looking at him here now as he appears on the floor of the House, I must say if he ever was afraid he has recovered from the fright so completely that by this time he must have forgotten it. [Laughter.] And after all, when it comes to paying $100,000,000 or $150,000,000 a year—I think we have spent about a billion since the Spanish war for naval purposes—to keep the roses of confidence in the gentleman's cheeks, it is rather a large price even for such a valuable result. I think it would be the part of patriotism to seek some other and less costly method for preserving his happiness. [Applause.]

Now, Mr. Chairman, there has been one valuable suggestion running through all these interruptions, and I desire to submit it to the sober judgment of this committee. There might have been plausible excuses for huge armaments in the past when the questions to which gentlemen have referred were still pending, but when, nevertheless, we managed to sustain our dignity and protect our interests successfully without a big or, to use the euphonious term now current, an adequate navy. It is but a few years ago since we had several—I will not say burning, but certainly pressing—questions in different directions. The existence of Cuba as a Spanish possession at our doors was such a serious and constant menace to our peace that it might have justified extensive military establishments. With Canada we had a series of disputes touching boundaries and fisheries. Of these the most important are all now settled. We have not to-day with any nation in the world a single serious question undecided that I know of. And at this moment, when there is less occasion for a navy than ever in our whole history, this House is invoked in the sacred name of patriotism to

establish a bigger navy than we found necessary in the midst of distracting complications. Against that course of folly and extravagance I protest. [Applause.]

Mr. VREELAND. I desire the gentleman to state during the remainder of his time how large a navy, in the opinion of the gentleman, the United States ought to maintain, if any.

Mr. COCKRAN. I will answer very frankly, Mr. Chairman, that a navy equal to that which was strong enough to force arbitration upon reluctant England after the close of our civil war, when our credit was so low that gold commanded a high premium in our currency, would be, in my judgment, a big enough navy now, when we have no question to settle and no powerful country to coerce, either by moral or physical force.

The CHAIRMAN. The gentleman's time has again expired.

Mr. BATES. Mr. Chairman——

Mr. COCKS. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended.

Mr. GOLDFOGLE. Mr. Chairman, I ask that the gentleman have leave to conclude his remarks.

Mr. COCKRAN. I am practically through, but I am ready to answer any question that may be asked. [Applause.] As no one answers, Mr. Chairman, I will not detain the committee further. [Applause.]

Mr. BATES. Mr. Chairman, just a word in answer to the gentleman from New York. In 1890, sixteen years ago, the Congress of the United States authorized the building of three first-class battle ships. Their names were the *Indiana*, the *Massachusetts*, and the *Oregon*. Within the next two years Congress authorized the building of two cruisers and a battle ship, the *Minneapolis*, the *Brooklyn*, and the *Iowa*. Those vessels were all authorized within three years—six first-class battle ships and cruisers within three years and in time of profound peace. And they had scarcely been in commission, they had not more than learned their way through the waters, when events broke out which made the names of those battle ships and cruisers household words. I would like to ask the gentleman from New York [Mr. COCKRAN] if he or any other American became ashamed of the names of the *Indiana*, the *Massachusetts*, the *Oregon*, the *Minneapolis*, the *Brooklyn*, and the *Iowa*, and the deeds of valor performed by them in a war for humanity in which this Government and this country engaged?

Mr. COCKRAN. Does the gentleman wish me to answer that?

Mr. BATES. Yes; if you please.

Mr. COCKRAN. Why, Mr. Chairman, I think I was the first in this country, at the first public meeting ever held in this country, before the close of Mr. Cleveland's Administration, to urge intervention in Cuba to stop the fusion of bloodshed and the perpetration by the Spanish Government of the very outrages that government is organized to prevent. But I was careful then to say that this country would be glorious in interfering for liberty and justice, but if she undertook to make that intervention the excuse for perpetrating conquests herself, our position would be indefensible. And I believe so yet. [Applause on the Democratic side.]

Mr. BATES. Yes; the gentleman was very eager for war then in spite of his pacific remarks to-day; but could we, would we have dared to have entered into that war in 1898 had we not with forethought and prudence authorized, six and eight years before, the very ships which, when once engaged, shed so much luster on the American Navy and the American name? In his former remarks he used the words "a useless and senseless event which never can occur." I would like to ask the gentleman from New York how he knows now, in the year of grace 1906, what may occur in the next few years any better than he could have known when these battle ships and cruisers were authorized by Congress merely on the assumption that something might occur in the future which never then was dreamed of? [Applause.]

Mr. COCKRAN. The gentleman, I suppose, desires me to answer. I have endeavored to point out that every question about which there was any possibility of foreign complications has been settled. We, to-day, have nothing that anybody covets and nobody has anything we covet, and so long as there is no possible ground for war I do not believe that this country should rush in and make it for the mere fun of doing it.

Mr. BATES. Mr. Chairman, I remember that as late as the winter of 1898 some able writer in one of the great magazines in this country wrote a series of articles with splendid irony on "Our late war with Spain," treating as absurd the idea that it could ever occur, and within ninety days this country, impelled by the wishes and demands of all our people, without regard to party, was engaged in a foreign war. What, I ask, Mr. Chairman, would have been our chances in the waters of the Atlantic Ocean that summer had we not had faith in the efficiency of those vessels which I have just named?

I desire also to call the attention of the gentleman from New York to another fact.

Mr. COCKRAN. I would like to ask the gentleman a question.

Mr. BATES. I would ask the gentleman if he is mindful of the fact that the life of one of these battle ships is only about twenty years, and that twenty years has now passed since the authorization of the Texas and of these battle ships and cruisers which I have named, or will before any ship we can to-day authorize can be taken from the docks or be available?

Mr. COCKRAN. Does the gentleman ask my opinion as a naval expert?

Mr. BATES. I merely call the attention of the gentleman to this fact.

Mr. COCKRAN. I beg to say there might be some doubt as to whether I could qualify as a naval expert, but the gentleman can tell us whether these ships and cruisers are out of service or in service.

Mr. BATES. Why, Mr. Chairman, they are still in service, but their time is drawing to a close.

Mr. COCKRAN. Who fixes the time?

Mr. BATES. The naval constructors of the Navy Department of this Government give it as their opinion that the average life of a battle ship or cruiser is about twenty years, and before a ship that we would authorize to-day could be finished the life of these battle ships and these cruisers will practically have come to an end.

Mr. COCKRAN. I would like to ask the gentleman what sized navy he thinks we ought to have in order to make our defense perfect?

Mr. BATES. I will answer the gentleman. I believe that the naval establishment of this country ought to be carried on along the lines which were adopted in 1883, 1884, and 1885, when we first decided that we would have a first-class modern navy. In time of profound peace, before any excitement caused by the Spanish war had arisen or before public opinion had been especially aroused on this subject, from 1885 up to the time of the Spanish war, one ship annually on the average was authorized by Congress, and that is what we favor now.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COCKRAN. I ask that the gentleman have another minute.

Mr. MAHON. Regular order!

The CHAIRMAN. This is the regular order.

Mr. BATES. I ask unanimous consent that my time may be extended one minute in order that I may answer the question of the gentleman from New York.

The CHAIRMAN. Is there objection?

Mr. COCKRAN. Make it five minutes for the gentleman from Pennsylvania.

The CHAIRMAN. The Chair hears no objection.

Mr. COCKRAN. I ask the gentleman now if he can tell us what he considers a proper navy, not in general terms, but how many ships he thinks we ought to have and of what tonnage?

Mr. BATES. In a day of profound peace sixteen years ago, in 1890, we authorized a tonnage of 38,000 tons. In 1895, in a day of profound peace, when no war was dreamed of, we authorized a tonnage of 29,000 tons.

Mr. COCKRAN. Is the gentleman speaking of the total tonnage in existence during those years or of the new ships added each year?

Mr. BATES. I am giving the total in tonnage authorized each year—that is, battle ships, cruisers, gunboats, etc.

Mr. COCKRAN. Mr. Chairman, I am afraid that the gentleman and I are talking at cross purposes.

Mr. BATES. The total can be easily ascertained. In 1896 35,000 tons were authorized, about as much as we authorized last year. Now, in answer to the question what is a sufficient navy for this country, I believe that the efficiency of the present Navy ought to be maintained. To do this it is necessary to add one or two ships each year to replace those which become obsolete and are laid aside.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BATES. The country at large, the people who send us here, desire a strong Navy, and I believe it should be kept up to its present efficiency, and that we ought to authorize at least one of the largest class of fighting machines this year. [Loud applause.]

Mr. FOSS. Mr. Chairman, I think we have had a very full debate upon this proposition, and I move to close debate on the paragraph and amendments thereto in fifteen minutes. I desire to state that of that time I want ten minutes myself. [Cries of "Vote!"]

The CHAIRMAN. The gentleman from Illinois moves that all debate upon the pending paragraph and amendments thereto be closed in fifteen minutes.

Mr. TAWNEY. I trust that out of that time the author of the amendment may have the other five minutes.

Mr. FOSS. I desire to make a few remarks.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois, which is not debatable.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WILLIAMS. Division! Divide the time equally.

The committee divided; and there were—ayes 136, noes 42.

So the motion was agreed to.

Mr. FOSS. Mr. Chairman, I now yield three minutes to the gentleman from New York [Mr. VREELAND].

Mr. VREELAND. Mr. Chairman, the associations in opposition to the building of a battle ship in this House to-day must excite considerable interest among the Members on account of their seeming incongruity. I have no fault to find with the gentleman from Minnesota for opposing this bill. The position of chairman of the Committee on Appropriations in this House during my membership in it has carried great weight on this floor. But that, Mr. Chairman, has not been because of any power conferred upon the chairman of that committee by the rules of this House. That great power and authority has come to the chairman of the Committee on Appropriations by reason of the great power and knowledge, the fairness and candor in debate by that man who during my term here was chairman of that great committee and who to-day is the Speaker of the House of Representatives. [Applause.]

Mr. Chairman, I believe that the gentleman who succeeded him, my friend from Minnesota [Mr. TAWNEY], has in him the material to make a great chairman of the Committee on Appropriations, but I believe he never will be able to exert the influence in this House to which he has a right to aspire, except by proceeding in debate with candor, with strict accordance to the facts, and with accuracy of statement, which attributes, I am sorry to say, did not characterize him, in my judgment, in the attack he made on the bill before the committee.

I believe the statement of the chairman of that committee going out to the country conveys a false impression. It conveys an impression of extravagance in naval expenditure under cover of facts presented by him which does not exist. I believe it is unfair to state to the country that expenditures for pensions, expenditures for care of parks, expenditures for cemeteries are made necessary by the present military programme being carried out for the United States.

I asked the gentleman the question if he did not consider pensions rather the result of lack of preparedness on the part of the nation than as a result of preparation for war. Why, Mr. Chairman, suppose we had not been prepared for the war with Spain?

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BURTON of Ohio. Mr. Chairman, while I believe the adoption of the amendment of the gentleman from Missouri would place the naval programme in a better position than the adoption of the provision in the pending bill, I can not see my way clear to support it. It would leave the decision as to whether we should proceed with the battle ship to the result of The Hague conference. One of the chief glories of a nation, as well as to an individual, is to be a leader, to do something decisive. Why need we wait for The Hague conference? We are strong enough with the nations of the world to take this stand right here to-day that we will not proceed with this colossal battle ship. [Applause.] But it is said that the building of the proposed battle ship is merely maintenance; that it is not extension. Can you call the building of a ship greater than any ever constructed on this side of the Atlantic, as large as any ever constructed, maintenance of the Navy? What will be the result when this ship is built? On the one hand it may prove to be a failure, but if it is a success every influence will be brought to bear to substitute for every other battle ship in our Navy one of the same type.

And so I say the construction of two battle ships, or three battle ships, might not mean as much for the enlargement of the Navy and for the continuation of this ambitious naval programme as does this one ship which is provided for in the bill. I trust that the House may to-day strike out this provision and proclaim thereby that this country stands for peace, and that in this great progressive era we are ready and willing to run the risk of war, provided we are able to take the leadership for a time when the disputes between nations shall be settled as those between individuals—by peaceful methods. [Applause.]

Mr. FOSS. Mr. Chairman, as I understand the question before the committee, the vote will come first on the amendment offered by the gentleman from Missouri to postpone the completion of this battle ship until we hear from the peace conference. We had the first meeting of the conference in 1899. It was called by the Czar of Russia, and in that call special emphasis was laid upon the question of the disarmament of the military forces. What was the result? After a resolution had been passed by that peace conference the nations of the world started in to build their naval establishments larger than ever before. France has authorized 340,000 tons of ships since the peace conference of 1899; England has authorized 662,000 tons; Japan, 191,000 tons; Germany, 350,000 tons; and, in addtion to that, the United States, Russia, and Italy, nearly 600,000 tons of ships: in all 2,000,000 tons of ships since the last peace conference, or what is equivalent to 100 battle ships of 20,000 tons each.

Not only that, but the Czar of Russia has been at war with Japan in one of the greatest conflicts of the ages, where the men engaged in battles on the land numbered more than perhaps any previous battles in the history of the world. And in that war there occurred the greatest naval engagement the world has ever seen, where there was the greatest tonnage of ships and the deadliest instruments of warfare. So I say, Mr. Chairman, if that has been the result of the last peace conference it is ridiculous to postpone the building of this battle ship until the next peace conference meets. In this connection I would like to read the call for this next peace conference, issued by the Czar of Russia. It is as follows:

> The Imperial Government, believing that it is necessary only to examine questions which press with particular energy, inasmuch as they arise from the experience of recent years, and without touching on those which belong to the limitation of military and naval forces, proposes therefore as a programme for the conference the following points.

Mr. Chairman, the Czar of Russia in his call for the second peace conference eliminates the whole question of the disarmament of nations. Now, if under the first peace conference the result was that the nations of the world built larger naval and military establishments than ever before, when the Czar of Russia called them together to determine upon that question, what will be the result now that he has eliminated that whole question from the second peace conference?

Mr. BARTHOLDT. Mr. Chairman, will the gentleman yield?

Mr. FOSS. I must decline to yield, for I have only just a moment.

It is very amusing to hear gentlemen on this floor talking about peace, wonderful words of peace, beautiful words of peace, lovely words of peace. I wish that some of these distinguished gentlemen who talk about peace in times of peace might be permitted to go out on the firing line and meet the enemy in time of war and deliver these magnificent eulogies on peace, beautiful peace, lovely peace!

Mr. COCKRAN. Does the gentleman apprehend war?

Mr. FOSS. I do not believe in that kind of peace, Mr. Chairman. I do not believe in that sickly, sentimental kind of peace that is not backed up by preparation for war. [Applause.] That is the kind of peace that surrenders upon first demand. But the kind of peace that I believe in is the peace for which our fathers always stood—that peace that is honorable among men and justifiable of God; that peace that never makes surrender of national duty or of national obligation or of national honor; that peace, in other words, that is always backed up by preparation for war. [Applause.]

There are other questions that have been introduced into this debate. The gentleman from Ohio [Mr. BURTON] the other day impressively raised his hand and said, "Who would fight us?" and the gentleman from New York [Mr. COCKRAN] asked that same question upon this floor to-day. One month before the Spanish-American war broke out the gentleman from Ohio [Mr. BURTON] might have raised that same hand and with the same emphasis asked that same question, yet one month later he himself voted for war upon this floor. [Applause.]

The gentleman from Ohio has spoken of the size of ships. Of course there are arguments on both sides.

ARGUMENTS ADVANCED AGAINST BIG SHIPS.

1. GREATER TARGET AREA.

True, and by this much:

The length of the *Connecticut*, of 16,000 tons, is 450 feet; her beam, 77 feet.

The length of the *Dreadnought*, of 18,500 tons, is 500 feet; her beam, 82; which figures exceed the *Connecticut* by 50 feet and 5 feet, respectively.

This makes a greater target area of about 250 square feet, not a very serious matter. There would be some increase due to extra height, but it would be as unimportant.

2. DECREASED HANDINESS DUE TO SIZE.

While if the *Dreadnought* had a single rudder she would not turn so well as a smaller ship, yet even then that fact is not of great importance, since in fleet actions ships follow each other, as did the Japanese battle ships, and there is not the same necessity for great handiness as there was in the old days of single-ship actions.

It happens, however, that the *Dreadnought* is to have double rudders, and these, with her four screws, are expected to give her much greater handiness than is possessed by the present battle ships. The advantages of double rudders have been demonstrated and no doubt is felt that the *Dreadnought* will have great handiness.

3. INCREASE IN DRAFT WITH REFERENCE TO DRAFT OF HARBORS, AND IN BEAM, BOTH AFFECTING SIZE OF DRY DOCKS.

The *Dreadnought* will draw 28 feet, which is a few feet more than our deepest battle ships and armored cruisers. We already have merchant ships entering our principal harbors drawing over 30 feet, and steps are in progress which will give us deep-water channels for any vessels which enter our principal harbors.

DEPTHS OF VARIOUS HARBORS, EXISTING AND PROJECTED—REPORT OF CHIEF OF ENGINEERS, UNITED STATES ARMY, FOR 1905.

Boston.—The river and harbor act of June 13, 1902, provides for 35 feet depth at mean low water from Charleston Navy-Yard to the sea. June 30, 1905, the channel was dredged to 27 feet and more at mean low water. Twenty-seven feet draft can be carried at low water and any draft at high water.

New York.—Gedney channel to be 30 feet at mean low water. June 30, 1905, channels navigable at mean low water by ships drawing 30 feet. Mean rise of tide 4½ feet. Project adopted 1899 to make East channel 40 feet deep at mean low water.

Delaware.—River and harbor act of March 3, 1899, provided for a 30-foot channel from Philadelphia to the sea. June 30, 1905, at mean low water and at shoalest part of river 22 feet draft could pass.

Baltimore.—Thirty-foot draft at mean low water can now be carried to this city.

Norfolk.—June 30, 1905, at mean low water vessels of 28 feet draft can go to navy-yard. Rise of tide about 3 feet.

Charleston.—The depth of 27 feet at mean low water has been secured. The freight steamer *Manhattan*, drawing 26.5 feet, entered the port during 1904, and was the largest vessel which ever entered the port. Rise of tide 5.2 feet.

Key West.—Key West Harbor accommodates vessels drawing about 27 feet. Rise of tide 2.6 feet.

Tampa Bay.—Project of 1899 contemplates channel from sea to Port Tampa of 27 feet; so far secured 24 feet at mean low water. Rise of tide 1.5 to 2 feet.

Galveston.—Harbor has in part 30 feet depth. Depth on outer bar 27.25 feet.

Pensacola.—Thirty-foot channel to city and bay.

Mobile (Ala.).—About 25 feet draft can be carried.

Mississippi Passes.—At present 30-foot depth, work going on to secure 35 feet.

It must not be forgotten that our battle fleet is not expected to enter many of our ports. Its work is on the high seas, and only the principal harbors should be visited by them. This is really the case now, because, except to give liberty, the battle ships are kept where drills and exercises can be carried on.

Necessity really only exists for our battle fleet to visit strategical points of importance, such as dockyards and naval stations or possible naval bases.

As far as dry docks go, our best docks are of 32 feet depth.

4. The greater fineness of hull necessary for high speed makes it difficult to carry heavy end weights. Probably quite true.

5. It is stated that there would be a serious decrease of structural strength if important structural members are damaged owing to heavy end weights and great length.

Perhaps true; but greater protection gives less likelihood of such damage. In any event, it is an architectural question, like the building of a bridge, and it would seem that the strength would increase with size.

6. The results due to disabling motive power or steering gear of a big ship would be more serious than for a smaller ship, as there would be fewer big ships than small ones; but the chance of such disabling would be very much less, owing to the greater invulnerability of the bigger ships in these details.

7. *Increased cost.*—Seven million five hundred thousand dollars for 16,000 tons to $10,000,000 for 20,000 tons.

True, but you get more in proportion; and if it is necessary to win, the cost will not count.

The claim that a greater number of small units was better than fewer large vessels was not difficult to sustain when the small battle ships carried practically the same number of big guns as the larger ones; but now we propose a step which has so much gain in big guns and so little further liability to damage on account of size that it becomes worth while. The increase from the *Iowa*, of 12,000 tons, to the *Connecticut*, of 16,000 tons, was not accompanied by an adequate increase of battery power, though other less important gains were made.

It is true that any considerable increase in size should be accompanied by some material gain in battle power sufficient to justify the increased cost. The *Michigan* and *South Carolina*, of 16,000 tons, while not throwing any more metal than the *Connecticut* class of the same size, yet will be militarily more efficient, because they carry a uniform number of 12-inch guns; having eight of these, they have twice as many as the *Connecticut*. The *Dreadnought*, of 18,500 tons, carries ten, giving the same broadside of eight as the *Michigan* class, and our proposed battle ship of about 20,000 tons should carry twelve 12-inch guns.

As to when we have reached the point where increase in size involves too large a loss in proportion to the whole by losing one unit, that is a question for most serious consideration. While all advantages lie with a fleet of the largest battle ships, there is yet a limit to size, determined by the loss which one unit would be to the whole force, and the effect this might have on the conduct of the war. At the beginning of the Japanese-Russian war the loss of two Japanese battle ships—which was such a large proportion of their whole force of battle ships—was a source of much embarrassment to the Japanese, and materially modified their plans.

What the limit of size must be, due to this consideration, is yet to be determined, and it must principally be left to experts to decide; but it may be stated that so far we have not yet reached it since the greater naval powers are agreed on a general increase in size. Of them all, the only one with modern war experience, Japan, builds the largest, one of 19,400 tons. It is evident she has no doubts.

ARGUMENTS FOR BIG BATTLE SHIPS.

1. By a considerable increase in displacement such as we contemplate, we obtain a substantial increase in battery power, which more than doubles the fighting efficiency of our battle ships. The *Maine*, *Kearsarge*, and others of about 12,000 tons had four 12-inch guns, the 16,000-ton *Michigan* and *South Carolina* will have eight 12-inch, while the 18,500-ton *Dreadnought* carries ten 12-inch, and a 20,000-odd tons, if authorized by the House, may be expected to carry twelve 12-inch. What is possible on the limit of cost fixed by this House has not been fully worked out, but it is certain that the battle ship produced under this appropriation will not be surpassed in efficiency by anything which floats.

The *Dreadnought*, of 18,500 tons, and our 20,000-ton ship, could, with her enormous battery and greater speed, take their own position away from a half dozen or more *Kentuckys* or *Maines* and destroy them in detail, the bigger and newer vessels' heavier armor protecting them at the greater range they would choose from the few 12-inch carried by the smaller vessels.

2. For a given efficiency as a fighting vessel, we build cheaper in large vessels than in a number of smaller ones; we also decrease materially the cost of maintenance and operation per ton of displacement.

Mahan says:

> It is much more expensive to put the same aggregate tonnage into two ships than in one. You get less military efficiency at higher cost. You need two captains for one, nearly twice as many officers, and crews which, while they may not be double of the one ship, will exceed it by a very large percentage.

He uses this argument in favor of the survival of the battle ship, though personally he is in favor of small or medium battle ships.

3. In big ships we are able to secure a more stable gun platform, and carry the heavy guns higher, thus being able to fight the battery in weather which smaller vessels would be seriously hampered by. The *Indiana* class and the *Iowa*, and, indeed, the later battle ships of this size, are really "coast-line battle ships," as they were called, which carry their guns so low that they are seriously hampered in anything of a sea.

It must be borne in mind that the ship is of no importance except to carry guns which are able to fire in all weathers.

4. Since the weight of hull for the same strength is relatively less in the larger ship, there is more margin of weight for additional speed or coal. By the ability to carry more coal, the bigger ships are less dependent on colliers and coaling stations and more able to keep the sea and pursue their legitimate functions.

The greater displacement provides greater engine weight, which, combined with the increased fineness of the ship's hull, gives a considerable increase in speed from 18 to 20 or 21

knots. This means a considerable strategical advantage in being able to reach a given locality or scene of action quickly and an increased tactical ability to maneuver on the day of battle, which enables an admiral commanding such ships to get the advantage of position and destroy his enemy ship by ship.

In the battle of the Sea of Japan the Russian battle ships at the head of the column were driven out of the firing line one after the other by the Japanese battle ships of greater speed, while those Russian battle ships that were opposed by the Japanese armored cruisers escaped any serious injury. The big guns on the big ships did the work.

5. The same tonnage in big ships, giving better sea speed, better protection, and more big guns, would triumph over the same tonnage in a greater number of smaller vessels.

6. A fleet of big battle ships occupies less sea room than the same tonnage of smaller speed and is more easily controlled, especially in smoke or fog.

By concentrating big guns in big ships we can have much closer formations—a short line or column—permitting more rapid maneuvers, far more effective fire at long range, and more perfect control by the flag officer over his command. This last is of prime importance, since successful signaling can not be accomplished at long distances.

This ability to maneuver with facility, combined with the greater speed in big ships, enables the admiral to concentrate his fire on and destroy a portion of the enemy's ships to the exclusion and isolation of the others—where the enemy's fleet is composed of smaller battle ships.

7. The bigger battle ship has stronger hull, thicker armor, and better all-around protection to vital parts. She can therefore continue fighting long after receiving a fire which would disable smaller and not so well protected vessels. She has an all-around armor belt, and practically all her men are behind armor, so that she is not so likely to suffer disastrous losses in personnel as smaller ships would of the present-day type, and as the Russians did.

8. By having a uniform battery of big guns much space is saved in storing ammunition, more can be carried, and greater speed made in getting charges to the guns, owing to greater simplicity of apparatus and less confusion.

9. Handiness, which was formerly such a great factor in single-ship actions, can no longer be considered of importance, as ships now fight in fleets and do not require close maneuvering and quick turning.

10. The Japanese have the advantage, which no other nation with a strong fleet possess, of practical experience with battle ships in an important sea fight; for this reason, the decision of Japan—and her ally England, who alone of other nations has been given the benefit of her experience—for big battle ships must carry exceptional weight.

WHAT OTHER COUNTRIES ARE BUILDING IN THE WAY OF BIG SHIPS.

England.—The *Dreadnought*, of 18,500 tons, and ten 12-inch guns (authorized 1904).

Germany.—Two battle ships of about 19,000 tons, carrying either fourteen 11-inch or sixteen 11-inch guns; speed about 21 knots. One armored cruiser of 15,000 tons, with eight 11-inch guns and six 6.7-inch guns, and ten destroyers of 570 tons.

France.—Six battle ships of about 18,000 tons, with 21 knots speed, four 12-inch and twelve 9.6-inch and sixteen 5-inch guns; ten destroyers of 490 tons; twenty submersibles of 398 tons.

The programme given above for France is to be supplemented in 1907 by a seventh battle ship of 18,000 tons, and this will be followed by laying down six battle ships of 20,000 or 21,000 tons, with speed of 19 knots and batteries of six 12-inch and eight 9.4-inch guns. This programme will provide France, by about 1913, with fourteen first-class battle ships of from 18,000 to 21,000 tons.

Russia.—The Czar has approved the following programme, spread over nine years: Twelve battle ships of not less than 17,000 tons, four cruisers of 12,000 tons, seven cruisers of 12,700 tons, four cruisers of 6,700 tons; forty-six destroyers of 400 tons; eighteen torpedo boats of 300 tons; ten submarines; seven gunboats of 100 tons; nine monitors for home ports; one mining vessel. Total cost of programme, about $190,000,000.

EXPERT OPINION ON WAR LESSONS AND BIG SHIPS.

French naval experts say the battle ship must be more prominent than ever in the navies of the future, and are loud in their denunciation of their past policy which has resulted in a lack of battle ships in the French navy, and a predominance of small vessels and torpedo and submarine craft. They are resolved now to lay down and build as quickly as possible six of the largest size, like the *Dreadnought*. The authorities who voice this opinion are M. Pelletan, the present minister of marine; M. Lockroy, former minister of marine; M. Bertin, chief naval constructor; Admiral Fournier; Admiral Gervais, and M. Charles Bos.

Secretary of the Navy Bonaparte has announced himself in favor of the big-gun big ship, going so far, indeed, on the advice of the Chief Constructor of the Navy, as to advocate a battle ship larger than any now building; i. e., of about 20,500 tons, to carry twelve 12-inch guns.

Admiral Dewey is strongly in favor of big battle ships, carrying a uniform battery of heaviest guns, and has advocated one of about 18,600 tons trial displacement, to carry ten 12-inch guns.

In an interview last September, in the New York Herald, Admiral Dewey was asked what lessons the American Navy has learned from the Japanese-Russian war, and he replied:

More big ships, more big guns, and good shooting. The American Navy needs, more than anything else, battle ships of 18,000 tons, carrying 12-inch guns, with a few—like 3-inch—for defense against torpedo-boat attacks.

The Admiral further said:

I have changed my mind on this subject. When the *Oregon* came out, I agreed with a great many other naval officers that it was an ideal craft, ready to meet the enemy at each and every range, but I now realize that the modern battle is fought at a range of 3 or 4 miles, and at that range your 8-inch guns are nothing but so much dead weight on the ship. You might as well be firing with a pistol. No; it is the big ships, such as the English are building, and the big guns that decide the battle.

The results of the discussion of Admiral Dewey's views in favor of big battle ships in England show that there is practical unanimity of opinion among naval officers as to the necessity for big guns and big ships, in England, France, Germany, and the United States.

Count E. Reventlow, a well-known German naval expert, stated that he entirely concurred with Admiral Dewey's views as to the lessons to be derived from recent naval actions in the Far East. In doing so he stated that he voiced the opinion of a majority of German naval experts, who believe that in future naval battles will be decided by heavily armored battle ships possessing primary batteries of 12-inch guns and secondary batteries of small, quick-firing guns to repulse torpedo boats. Count Reventlow believes a new type is to be built for Germany of at least 18,000 tons. The question of larger ships, with heavier armor and guns, has passed, as settled, from the field of naval experts.

OUR NEED OF A STRONG NAVY.

No nation can exist commercially and exert its proper political influence among the nations of the world without a navy strong in proportion to its wealth and the ambitions and commercial necessities of its population.

The United States for years has been in an agricultural period, but it is now getting deep into a manufacturing age. So involved is the country now in manufactures that it is already beginning to make more than can be sold at home and is seeking foreign buyers.

The time is near when we must turn our serious attention to the capture of the trade of the undeveloped countries and there compete in safety with the commerce of other nations. With expanding foreign commerce we can no longer afford to pay out freight charges to foreign shipowners, so that building up of a new commercial fleet will be a necessity. This fleet and this trade will lead our citizens in the different parts of Africa, South America, and the Far East, where American commerce has not yet made much impression, and in the struggle which will ensue no weapon which will advantage our trade should be withheld. Our business men, our consular and diplomatic officers can not do without that security and backing which is afforded by our flag floating over a fleet of adequate strength. In the comparatively uncivilized regions where our trade must seek customers, our men-of-war must accompany the merchant and protect him and the American interests which he represents. Besides the American goods which are introduced in foreign countries to our interest, there is the vast volume of American capital seeking profitable investment—all of which must be adequately protected by our men-of-war. American money is constantly looking for opportunities to build railroads, establish steamer lines, engage in building operations of all kinds, and compete in such enterprises with enterprising foreigners. This money will not be risked unless security for it is certain. To-day American capital is hesitating on account of the unsettled conditions in China, and it will not be invested there until reasonable security is assured.

The Navy is the long arm of the nation, the force which it is able to swing to any given locality to enforce its policy and guard its commercial and political interests.

Our foreign commerce is growing, and a navy is needed to protect it; and even without an increasing carrying trade our

foreign interests require and must be given complete protection. History shows that no nation has had a large fleet of merchant vessels for any great length of time without a corresponding naval force for its protection. The merchant fleet may rise before or fall after the naval fleet, but its existence is short in the absence of a strong naval fleet. In the history of nations the decay of commercial power and wealth may be generally seen to have been due to loss of naval power, though occasionally it has been due to other causes; but it is certain that the existence of one is a sure sign of the existence of the other. Carthage, Athens, Venice, and Holland all had at one time large naval fleets and great commerce, which fell together. Holland's trade was destroyed after the defeat of De Ruyter by the English, and what little she has since regained has been under the tolerating protection of stronger nations possessing navies.

DEFENSE OF OUR COASTS.

We have an enormous extent of coast line, we have Alaska, Porto Rico, Hawaii, and the Philippines, and we have the obligation to guard and protect Cuba and maintain her neutrality. To satisfactorily perform these obligations we must have a strong sea-going fleet; we can not have a fort at every important point on account of the cost in money and men, even if forts were an absolute defense, which Port Arthur shows they are not. Forts are very necessary to us for the partial protection of our richest cities, behind which lie our navy-yards and supply stations. If we have a strong, efficient navy our forts will probably not have to fire a gun.

It must be ever remembered that the only sure defense of any country, and the only permanent assurance of peace, is for the fleet to seek out its enemy on the high seas and cripple or destroy it, so that the offending country can be placed under adequate bonds to keep the peace. It does not suffice to simply drive the enemy a few miles away from our coast and then wait in uncertainty for another attack, for during that period of anxiety commerce is paralyzed and the business of the country is held up. Safety can only be assured by the destruction of the enemy's fleet, and such victory can only be accomplished by concentration of the fighting fleet and its efficient use against the enemy. We can not afford to scatter our fighting vessels along our coasts in response to the ignorant demands of frightened towns and cities. We must keep our ships together and get out and fight on the high seas to properly defend our coasts and our homes.

MONROE DOCTRINE.

The humorist of the House has said that "the Monroe doctrine is as big as the Navy and no bigger," and that is a truism we may easily forget.

PANAMA CANAL.

While the Panama Canal will strategically give us a great advantage in that we can move our battle fleet from one coast to the other, and thus meet an enemy from any direction, yet owing to the great volume of trade which will flow through it and the consequent increased responsibilities we will confront, our need for a very strong navy will not, in my opinion, be lessened in the least. With the opening of the Panama Canal the trade routes of the world will instantly readjust themselves, and the Caribbean will become a scene of great activity and commercial strife. The islands and ports of the West Indies will assume greater importance and our dominant influence of right must be maintained by sea strength. We will have such fortifications at the ends of the canal as will enable us to temporarily stand off an enemy until the fleet can arrive, but our fleet must be able to defend that canal and maintain its neutrality. We have guaranteed its neutrality and must be prepared to maintain it. We have a treaty with England which gives us reasonable security in that quarter, but with no other power. We do not want to spend two hundred millions for a canal which could be destroyed in twenty-four hours by a nation having a navy superior to our own. We must have an adequate fleet to defend it and keep it open. We need a navy to back up our foreign policy and protect our growing interests the world over. [Applause.]

APPENDIX.

OUR NEED OF A STRONG NAVY.

[By Benjamin S. Baker.]

The chief functions of our Navy are:

(1) To prevent war—

a. By making other nations fear to attack us.

b. By giving weight to our diplomacy through which the causes of war may be avoided.

(2) To wage war successfully when a conflict is decided upon.

(3) To redress isolated violence to our citizens or trade by show of force or actual use of force. Our dealings with Turkey and the Algerine pirates are examples.

Our Navy is already large enough to protect our citizens. It is conceivable that some isolated hostile act or acts might precipitate a war, but that possibility is slight and wholly overshadowed by other considerations demanding a strong fighting force.

Trade is the source from which the cause of future wars are likely to spring. International law, with regard to private, individual rights has made armed redress in the case of other first-class naval powers unlikely. There are, however, possibilities of serious trouble when the commercial interests of two nations clash.

The attitude of other powers toward our commercial interests abroad will be largely influenced by their feeling that we are able and ready to protect those rights by naval force. This is a mere truism, but will bear restating. The views on certain topics of a physically big man command a respect that is due as much to his size as to the justice of his opinions; this, of course, in instances when one side or the other believes in fighting for his views. The Chinese boycott is an example. If China had our present naval power and we her lack of it, the Peking Government could, with perfect safety, have given official encouragement to the recent attacks on our trade and forced us, by means of damage to our business, to change our exclusion laws. The result of even the unofficial boycott shows how our foreign trade is our chief vulnerable point. Another instance was provided by the Russo-Japanese war. If Japan's navy had been overwhelmingly superior to Russia's at the beginning of the negotiations of 1903, there would have been no war. Had Japan been too weak in her navy, Russia would either have won the war or secured full control in Manchuria and Korea without a war. In that event the threat and probability of commercial exclusion from Manchuria, in defiance of treaty, would have been transferred to the United States and other powers.

If we alone should choose in such a case to urge our rights under treaty with China, only superior naval force, or better, adequate naval force, at our disposal could make Russia respect our rights. Other instances within the range of possibility can easily be imagined.

Trade as the subject-matter of war not merely involves national prestige and self-respect, but it concerns the very essence of national prosperity. It is obvious that the greater our foreign trade the greater is our stake in its security, the greater the possible damage to us of hostile action, and the greater the need of guarding against that damage by the only possible instrument—a strong fighting Navy. Here the matter of isolated injury comes into the chief category, for violence to our merchants or their goods and ships abroad means a lessening of prestige that carries money loss, unless a navy is available to force a righting of the wrong. If trade is to be safe, the flag must be ready to follow trade wherever trade is threatened with unjust treatment.

Great Britain furnishes an example which the United States will soon parallel. The prosperity of the British Empire is absolutely dependent on the security of her seaborne commerce. That security has been obtained by her great navy, the cost of which has been in the strictest sense an insurance cost, an outlay absolutely effective and as obviously needed. The United States will not parallel the opium coercion of China, but it will use every fair means to increase its foreign trade, and with every increase it will become more vulnerable through that trade.

"Commerce insurance" is therefore a perfectly sound term to apply to the cost of our naval establishment.

The need of this insurance may be questioned. But no folly can be more complete than reliance on the idea that there can never be another war.

With the possibility of war in the future, it is easily demonstrable that the prevention of war through possession of a strong navy is cheaper in dollars and cents than the cost of even a brief war. A calculation of the cost to America of the war with Spain—counting as cost the direct outlay on Navy and Army, destruction of material, pensions, damage claims, and the disturbances to business—will show that a navy of such strength as to have prevented Spain from going to war would have been far cheaper than the war. This is regarding only the financial side and omitting entirely human misery and suffering.

A strong navy is additionally necessary through the tendency, for which the United States is largely responsible, to make private property not meant for use by the belligerents exempt from capture. Commerce destruction is one of the most effective forms of naval warfare, and most quickly and surely disastrous to the losing side. We have tried to do away with that, and the end will probably be soon reached.

But in narrowing thus the area of attack, we have intensified the process of waging a naval war. In confining the outcome of wars to the armed navies of the belligerents, we have made war far more critical. When once a war might be spread over the whole seas, it is now restricted to the issue of a very few great combats. We have put all our eggs in one basket, and staked everything, so to speak, on one chance. The improvidence of taking chances under such an arrangement is too obvious to require argument.

With the issue of wars narrowed to relatively so small a question, and with a growing foreign trade making us more vulnerable, it is the part of prudence to make our naval provision with reference to conflict with such powers as may most possibly come into serious conflict with us. While we do not need to follow the British two-navy standard, we ought to remember that the geographical situation which gives us immunity from land invasion enlarges our naval needs.

We must have an Atlantic fleet strong enough to cope with any possible attack on this side of the continent, and we must have a Pacific fleet strong enough to strike a decisive blow in the Far East, when every power strong enough to engage us in war has interests through which it is peculiarly assailable.

China, also, is a coming problem. She will one day have a navy, and that navy could do us the gravest harm without taking the trouble to visit our Pacific coast.

Our possession of the Philippines is a point of the greatest importance in our favor. An adequate fleet based there will not only smooth the way of our diplomacy in the Far East, but in the event of war would enable us to deal a decisive blow at any European power. Every European power would appreciate that fact. With reference to conflict with any European power in the East, our Philippine fleet should have measurably the advantages that Togo's fleet had over the Russian.

In regard to commerce destruction, we must consider the temptation an adversary would have to destroy or capture our goods in transit, even if it had already pledged itself to their immunity. The fortune of some future war might easily be determined by commerce destruction. It is unreasonable for us to rely on our enemy's regarding his pledge not to destroy commerce if he should think himself able to win the war by violating his pledge.

The precedent of the *Alabama* arbitration is not really in conflict with this supposition.

If it be urged that an enemy who destroyed our commerce might be forced to arbitrate afterwards, the answer is that the only adequate force would be an American Navy strong enough to have defeated him in the first place.

This brings up the value of a strong navy in promoting interna-

tional arbitration as a substitute for decision by means of war. Abundant precedent shows that it is the strong power, not the weak one, that secures arbitration. A big navy justly used is like the policeman or the civil process that brings the delinquent into court.

WHY WE NEED A BIGGER NAVY.

[By Walter Scott Meriwether, in Harper's Weekly, March 10, 1906.]

According to a recent estimate by Representative GEORGE E. FOSS, chairman of the House Naval Committee, our naval appropriation act for the current year carried $100,000,000, and yet, on the basis of per capita, this is a little more than $1 for each man, woman, and child in the country. It is only about 4 per cent of our foreign trade during the past year, which amounted to about $2,500,000,000. It is 14 per cent of our annual governmental expenditures, a less percentage than was expended upon the Navy one hundred years ago. It is only one-tenth of 1 per cent of our national wealth. It is about one-third of what this country annually expended in premiums on fire insurance, yet one hostile ship of war winning to New York's harbor approaches could start a work of destruction that would bankrupt every insurance company here and abroad, while the amount of damage she could cause would be more than sufficient to maintain for more than one hundred years a navy thrice as big as the one we now possess.

There will be many to assert that this is inconceivable, many to contend that no nation has fleets powerful enough to force an entrance past the batteries which guard New York. Thanks to the panic which the Spanish-American war brought to the seaboard citizen and which was reflected in the halls of legislation, that is doubtless true, but what if there should be a coalition of powers against this Republic? That is not inconceivable, and, according to one well-known English observer, not even unlikely.

"It is only the knowledge that the sea barrier is impenetrable," writes Lieut. Carlyon Bellairs, of the royal navy, "which will effectually prevent the expanding Teutonic, Slavonic, and Latin races of Europe from contemplating aggression on the American continent. If unable to do so singly, nothing but sea power will prevent them from trying to effect their purpose in combination."

To the credit of our own Navy men, it may be said that they long ago urged this type; long before the eastern war had proved in practice what they had so long asserted in vain. They had also insisted that small ships are bad economy, for the reason that the smaller the tonnage the greater the cost of fitting out. In illustration of this, it may be said that for their size torpedo boats are the most expensive vessels afloat.

"There was," says the admiral (Admiral Sir Cyprian Bridge), "not a single Russian ship attacked, much less destroyed, by torpedo boats until she had been seriously maltreated by the Japanese guns, and it is perfectly true that if there had not been a single Japanese torpedo craft within 500 miles of the scene of action not one of the Russian ships which were destroyed would have got away. All such probably would have been added to the number of prizes taken into Japanese ports if no torpedoes had been fired at all."

DISARMAMENT.

[From Arbitration and The Hague Court, by John W. Foster.]

In the circular letter of the Russian minister of foreign affairs of January 11, 1899, following the rescript convoking the conference, the subjects to be submitted for consideration were set forth in detail, and the first of these was as follows:

"1. An understanding not to increase for a fixed period the present effective of the armed military and naval forces, and at the same time not to increase the budgets pertaining thereto, and a preliminary examination of the means by which reduction might even be effected in future in the forces and budgets above mentioned."

In a conference with the British ambassador, following the rescript, the Russian minister of foreign affairs said that the Emperor, although deeply impressed with the desirability of a general disarmament, did not look for an immediate realization of the aims he had so much at heart, but he desired to initiate an effort, the effects of which could only be gradual.

When the conference came to consider the question, while there was much sympathy felt with the noble ideas entertained in the Czar's rescript, it was found that the subject was of a very complex character, and that it would be difficult, if not impossible, to reach any agreement which would meet the Czar's desires. The long discussion which ensued is of much interest, but I can indicate something of its spirit by extracts from the speeches of the representatives of Germany and France. General von Schwarzhoff, in the course of a discourse of some length, said:

"I can hardly believe that among my honored colleagues there is a single one ready to state that his sovereign, his Government, is engaged in working for the inevitable ruin, the slow but sure annihilation, of his country. I have no mandate to speak for my honored colleagues, but, so far as Germany is concerned, I am able to completely reassure her friends and to relieve all well-meant anxiety. The German people is not crushed under the weight of charges and taxes; it is not hanging on the brink of an abyss; it is not approaching exhaustion and ruin. Quite the contrary; public and private wealth is increasing, the general welfare and standard of life are being raised from one year to another. So far as compulsory military service is concerned, which is so closely connected with those questions, the German does not regard this as a heavy burden, but as a sacred and patriotic duty to which he owes his country's existence, its prosperity, and its future.

"I return to the propositions of Colonel Gilinsky (Russian) and to the arguments which have been advanced, and which, to my mind, are not quite consistent with each other. On the one hand, it is feared that excessive armaments may bring about war; on the other, that the exhaustion of national wealth will make war impossible. As for me, I have too much confidence in the wisdom of sovereigns and nations to share such fears. On the one hand, it is pretended that nothing is asked but things which have existed for a long time in some countries, and which, therefore, present no technical difficulties; on the other hand, it is said that this is truly a very difficult question, the solution of which would require a supreme effort. I am entirely of the latter opinion. We shall encounter insurmountable obstacles, those which may be called technical in a somewhat wider sense of the term. I believe that the question of effectives can not be regarded by itself alone, disconnected from a number of other questions to which it is quite subordinated.

"Such questions, for instance, as the state of public instruction, the length of time of active military service, the number of established regiments, the effectives of each army unit, the number and duration of the drills or military obligations of the reserves, the location of the different army corps, the railway system, the number and situation of fortified places. In a modern army all of these belong together and form the national defense which each people has organized according to its character, its history, and its traditions, taking into account its economical resources, its geographical situation, and duties incumbent upon it. I believe that it would be very difficult to substitute for such an eminently national task an international convention. It would be impossible to determine the extent and the force of one single portion of this complicated mechanism." * * *

He then proceeded to amplify the reasons mentioned and to maintain that in order to preserve the equilibrium as to armaments governments must be left free to chose the means best suited to their requirements.

Notwithstanding the support given to the Russian proposition by France, one of the most martial of the nations, and by various other governments, the objections voiced by the German delegate were too serious to be overcome. The sentiment of the members was that the conference should avoid forming majority and minority parties, and hence nothing should be put forth as its action which could not command a practically unanimous support. The most that could be accomplished, therefore, was a general expression of sentiment on the subject in the following declarations, which were unanimously adopted:

"The conference is of opinion that the restriction of military changes, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.

"The conference expresses the wish that the governments, taking into consideration the proposals made at the conference, may examine the possibility of an agreement as to the limitation of armed forces by land and sea and of our budgets."

While there was much regret felt at the failure to adopt some initiative for the limitation of armaments, it was something gained that a public declaration by such a body was made that the present military establishments are a heavy burden on the world, which it is extremely desirable, in the interest of the material and moral welfare of mankind, should be restricted, and that it is the duty of the governments of the earth to seek to reach an agreement to that end.

Tonnage of vessels authorized since Hague Conference.

France	340,344
England	662,797
Japan	191,443
Germany	350,445
Total	1,545,029

For which money is appropriated. This does not include the German programme, which is outlined and authorized until 1917. The money for the ships is appropriated from year to year, and the programme is subject to change—such as the recent change to 18,000-ton battle ships.

OFFICE OF NAVAL INTELLIGENCE, *March 7, 1906.*

Tonnage of ships authorized from 1900 to 1906.

FRANCE.

1900.	
Armored cruisers:	
Condé	10,000
Jules Ferry	12,550
Léon Gambetta	12,550
Destroyers, 6 of 300 tons	1,800
Torpedo-boat destroyers, 11 of 40 tons	440
Submarines, 6 of 48 tons	228
Total	37,628
1901.	
Battle ships:	
Patrie	14,865
République	14,865
Armored cruiser—Victor Hugo	12,550
Torpedo-boat destroyers, 10 of 305 tons	3,030
Torpedo boats, 12 of 88 tons	1,058
Submarines, 8 of 106 tons	848
Total	47,216
1902.	
Battle ships:	
Démocratie	14,865
Liberté	14,865
Justice	14,865
Verité	14,865
Armored cruisers:	
Jules Michelet	12,550
Ernest Rénan	12,550
Destroyers:	
Stylet	330
Tromblon	330
Torpedo boats, 16	800
Submarines, 13	871
Total	86,891
1903.	
Armored cruiser Edgar Quinet	13,700
Destroyers, 4, each 350	1,400
Torpedo boats, 25, each 80	2,000
Submarines, 19, each 301	5,719
Total	22,819
1904.	
Armored cruiser, 1	13,644
Destroyers, 2, at 355	710
Torpedo boats:	
1 at 86	86
50 at 26	1,300
Total	15,740
1905.	
Armored cruiser, C 17, Waldeck Rousseau	13,700
Destroyers, 4, each 340	1,460
Torpedo boats, first class, 20, each 80	1,600
Submarines, 16, each 301	4,810
Total	21,570

1906.

Battle ships, 6 at 18,000 tons	108,000
Submersibles, 20 (400 to 500 tons)	480

SUMMARY FOR FRANCE.

1900	37,628
1901	47,216
1902	86,891
1903	22,819
1904	15,740
1905	21,570
1906	108,480
Total	340,344

ENGLAND.

1900.

Battle ships:	
Albermarle	14,000
Montagu	14,000
Armored cruisers:	
Monmouth	9,800
Bedford	9,800
Cruisers and scouts: Challenger	5,880
Sloops and gunboats:	
Espiegle	1,070
Fantome	1,070
Torpedo boats:	
No. 98	128
No. 99	128
Total	55,876

1901.

Battle ships:	
Queen	15,000
Prince of Wales	15,000
Armored cruisers:	
Cornwall	9,800
Suffolk	9,800
Berwick	9,800
Cumberland	9,800
Donegal	9,800
Lancaster	9,800
Cruisers and scouts: Encounter	5,880
Sloops and gunboats:	
Odin	1,070
Merlin	1,070
Teal	1,070
Moorhen	1,070
Torpedo boats:	
No. 107	128
No. 108	128
Total	99,216

1902.

Battle ships:	
King Edward VII	16,350
Dominion	16,350
Commonwealth	16,350
Armored cruisers:	
Devonshire	10,700
Hampshire	10,700
Argyll	10,700
Roxburgh	10,700
Antrim	10,700
Carnarvon	10,700
Cruisers and scouts:	
Amethyst	3,000
Topaze	3,000
Sloops and gunboats:	
Clio	1,070
Cadmus	1,070
Destroyers:	
Derwent	534
Eden	527
Exe	540
Erne	550
Ettrick	540
Ribble	550
Usk	550
Teviot	550
Itchin	550
Foyle	550
Torpedo boats:	
No. 109	194
No. 110	194
No. 111	194
No. 112	194
No. 113	194
Submarines, Nos. 1, 2, 3, 4, 5, each 120 tons	600
Total	128,401

1903.

Battle ships:	
New Zealand	16,350
Hindustan	16,350
Armored cruisers:	
Duke of Edinburg	13,550
Black Prince	13,550
Cruisers:	
Adventure	2,940
Forward	2,945
Pathfinder	3,000
Sentinel	2,940
Diamond	3,000
Sapphire	3,000
Torpedo-boat destroyers, 9	5,084
Submarines A1, A4	720
Total	83,429

1904.

Battle ships:	
Africa	16,350
Brittania	16,350
Hibernia	16,350
Swiftsure	11,800
Triumph	11,800
Armored cruisers:	
Achilles	13,550
Cochran	13,550
Natal	13,550
Warrior	13,550
Cruisers:	
Attentive	2,940
Foresight	2,945
Patrol	3,000
Skirmisher	2,940
1 (not built)	3,000
2 (not built)	3,000
3 (not built)	3,000
Torpedo-boat destroyers, 16	9,600
Submarines A5, A14	3,000
Total	160,275

1905.

Battle ships:	
Lord Nelson	16,500
Agamemnon	16,500
Armored cruisers:	
Minataur	14,600
Defence	14,600
Shannon	14,600
	14,600
Torpedo-boat destroyers, 14 at 550 (not built)	7,700
Submarines, B1, B10	3,000
Total	102,100

1906.

Battle ship Dreadnought	18,500
Armored cruiser Invincible	15,000
Torpedo-boat destroyers:	
Five ocean torpedo-boat destroyers	
One special type torpedo-boat destroyer	
Twelve coastal	
Submarines, 11	
Total	33,500

SUMMARY FOR ENGLAND.

1900	55,876
1901	99,216
1902	128,401
1903	83,429
1904	160,275
1905	102,100
1906	33,500
Total	662,797

JAPAN.

1901.

Armored cruisers:	
Nissiu	7,294
Kosuga	7,294
Protected cruisers:	
Mitaka	3,365
Tsushima	3,365
Otowa	3,000
Torpedo-boat destroyers, 8 at 375	3,000
Torpedo boats:	
6 at 150	900
5 at 120	600
15 at 85	1,275
Total	30,093

1903.

Battle ships:	
Kashima	16,000
Katori	16,000
Satsuma	19,000
Armored cruisers:	
Kurama	15,000
Tsukuba	13,500
Protected cruiser Tone	4,800
Dispatch boat Yodo	1,200
Destroyers, 25 at 310	8,050
Submarines, 5	1,000
Total	94,550

1904.

Battle ship Aki	19,000
Armored cruisers:	
Ibuki	14,000
	14,000
Protected cruisers:	
	5,000
	5,000
River gunboat	150
Repair ship	4,000
Destroyers, 15, at 310	4,650
Submarines	1,000
Total	66,800

SUMMARY FOR JAPAN.

1901	30,093
1903	94,550
1904	66,800
Total	191,443

GERMANY.

1900.

Battle ships	
Mecklenburg	11,830
Schwaben	11,830
Armored cruiser Prinz Adalbert	9,050
Protected cruisers:	
Medusa	2,660
Amazone	2,660
Gunboat Panther	977
Torpedo-boat destroyers, S102 to S107 (400 tons each)	2,400
Total	41,407

1901.

Battle ships:	
Braunschweig	13,200
Elsass	13,200
Armored cruiser Freidrich Carl	9,050
Protected cruisers:	
Frauenlob	2,715
Arcona	2,715
Undine	2,715
Torpedo-boat destroyers G 108 to G 113 (400 tons each)	2,400
Total	45,995

1902.

Battle ships:	
Preussen	13,200
Hessen	13,200
Armored cruiser Roon	9,500
Protected cruisers:	
Hamburg	3,250
Bremen	3,250
Berlin	3,250
Gunboat Eber	977
River gunboat Tsingtau	168
Torpedo-boat destroyers S 114 to S 119 (420 tons each)	2,520
Total	49,315

1903.

Battle ships:	
Lothringen	13,200
Deutschland	13,200
Armored cruiser Yorck	9,500
Protected cruisers:	
München	3,250
Lübeck	3,250
Torpedo-boat destroyers S 120 to S 125 (420 tons each)	2,520
Total	44,920

1904.

Battle ships:	
Pommern	13,200
Hannover	13,200
Armored cruiser "C"	11,600
Protected cruisers:	
Leipzig	3,250
Danzig	3,250
Königsberg	3,250
Training-ship tender	(?)
Surveying vessel Planet	650
Torpedo-boat destroyers S 126 to S 131 (420 tons each)	2,520
Total	50,920

1905.

Battle ships:	
"O"	13,200
"R"	13,200
Armored cruiser "D"	11,600
Protected cruisers:	
"O"	3,420
Ersatz Wacht	3,420
Ersatz Blitz	3,420
River gunboat	168
Tender Ersatz Hyäne	(?)
Surveying vessel "B"	650
Mining steamer "A"	(?)
Torpedo-boat destroyers G 132 to G 137 (485 tons each)	2,910
Total	51,988

1906.

Battle ships:	
Ersatz Bayern	[a] 18,000
Ersatz Sachsen	[a] 18,000
Armored cruiser "E"	[a] 14,500
Protected cruisers:	
Ersatz Pfeil	[a] 3,500
Ersatz Comet	[a] 3,500
Mining steamer "B"	(?)
Torpedo-boat destroyers, 12 (700 tons each)	[a] 8,400
Total	[a] 65,900

SUMMARY FOR GERMANY.

1900	41,407
1901	45,995
1902	49,315
1903	44,920
1904	50,920
1905	51,988
1906	65,900
Total	350,445

[a] Probable displacement.

Shipbuilding programme of 1906 to 1917.

Year of first installment.	Naval programme of 1900, and new estimates.			Torpedo-boat destroyers.	Cost, including armament (million marks).
	Battle ships.	Large cruisers.	Small cruisers.		
1906	2	1	2	12	117
1907	2	1	2	12	131
1908	2	1	2	12	136
1909	2	1	2	12	148
1910	2	1	2	12	148
1911	1	2	2	12	147
1912	1	2	2	12	144
1913	1	1	2	12	137
1914	1	1	2	12	126
1915	1	1	2	12	119
1916	1	1	2	12	112
1917	2		2	12	113
Total	[a] 18	[b] 13	[c] 24	144	

[a] Including one battle ship of former naval programme.
[b] Including six under new estimates.
[c] Including one of former naval programme.

This increases the force of 1917 by six armored cruisers (first class), forty-eight torpedo-boat destroyers, submarines.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken; and the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Ohio, to strike out the paragraph.

The question was taken; and on a division (demanded by Mr. BURTON of Ohio) there were—ayes 93, noes 129.

Mr. BURTON of Ohio. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. BURTON of Ohio and Mr. Foss were appointed tellers.

The House again divided; and the tellers reported—ayes 103, noes 135.

So the amendment was rejected.

Mr. WILLIAM W. KITCHIN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read:

The Clerk read as follows:

Strike out, on page 71, in line 22, all after the words "United States" down to the end of line 14, on page 72, and insert in lieu thereof the following: "In accordance with the latest improvements in the construction of ships and the production of armor and armament, the Secretary of the Navy is hereby directed to prepare plans and specifications for the best type of seagoing battle ships, carrying the most suitable armor and armanent, and to submit to Congress a general description of such type of battle ship on the first Monday in December next; and said Secretary, in preparing said plans and description, shall review and further consider what should be its displacement, what should be the form and location of its turrets, what should be the number and kind of its guns of various sizes, what torpedo tubes, if any, it should contain, to what extent electricity should be used for auxiliary purposes, and all other questions which have arisen and are now pending among naval architects and ordnance experts concerning the construction of battle ships under modern conditions; and the said Secretary shall, to such an extent as he may deem expedient, report to Congress in connection with said description his opinion upon the foregoing questions."

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken; and the amendment was rejected.

Mr. FITZGERALD. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 71, strike out all, commencing with line 25, page 71, down to and including line 14, page 72, and insert:

"One first-class battle ship, carrying the heaviest armor and most powerful armament for a vessel of its class upon a trial displacement of not more than 16,000 tons, to have the highest practicable speed and great radius of action, and to cost, exclusive of armor and armament, not exceeding $4,400,000."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and the amendment was rejected.

The Clerk read as follows:

Three torpedo-boat destroyers, to have the highest practicable speed, and to cost, exclusive of armament, not to exceed $750,000 each.

Mr. MUDD. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by inserting, after line 12, page 72, as follows:

"One steel floating dry dock, to be so constructed as to serve the purpose of a repair ship and capable of being propelled or towed to any place that may be necessary for the use of the fleet, or any part thereof, for such purpose, to cost not exceeding $1,250,000, of which amount the sum of $100,000 is hereby appropriated."

Mr. JOHNSON. Mr. Chairman, I make the point of order on that.

Mr. TAWNEY. Mr. Chairman, I make the point of order that that is a violation of clause 2 of Rule XXI.

Mr. MUDD. I do not disguise the fact, Mr. Chairman, that this amendment is substantially a reinstatement, if it should prevail, of the provision in the bill that came from the committee, and it is in the nature of a committee amendment for that purpose, and I offer it by authority of the committee. Mr. Chairman, this amendment occupies a somewhat different footing under this paragraph than it did under the paragraph of which the original provision was a part. The beginning of this section reads as follows:

That for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed by contract or in navy-yards as hereinafter provided.

My contention is that anything that by fair intendment can be said in pursuance of this language to constitute a part of the naval establishment or be considered a natural necessary incident thereof, is in order under this paragraph. Now, Mr. Chairman, the amendment upon its face states in effect that the dry dock shall be capable of following the fleet anywhere for the purpose of repairs to ships, and it is to be especially so constructed as to serve the purpose of repair of ships. In that connection, in addition to the observations I made the other day, I want to call attention to one decision. It is not for the Chair to inquire now whether what I state in the amendment be accurate in point of fact or not. The amendment on its face states that the dock shall be so constructed as to be in fact, a repair ship, and a ship capable of being propelled or towed to follow the fleet. Now, to read from Hind's Precedents:

Mr. TAWNEY. What page?

Mr. MUDD. It is 355 of the Manual; not the Parliamentary Precedents. Mr. Chairman, I read from the Manual, which was prepared by the same gentleman who prepared the Parliamentary Precedents, on page 355, as follows: "The admissibility of an amendment should be judged from the provision of its text rather than from the purpose which circumstances may suggest." I refer also to a decision made by the gentleman from New York [Mr. SHERMAN] in the Fifty-seventh Congress. I think it was on page 889 of the RECORD of the Fifty-seventh Congress, first session. The present Speaker of the House, who was then chairman of the Committee on Appropriations, offered a provision for the establishment in the vicinity of Manila of a military post, including construction of barracks and quarters for officers, hospitals, etc. The point of order was made against it, and the chairman of that committee admitted that the point of order would lie. Immediately the chairman of the committee, the present Speaker of the House, changed his amendment to the following form: "For the proper shelter and protection of officers and enlisted men of the United States lawfully on duty in the Philippine Islands, to be expended in the discretion of the President, $500,000." It was admitted in the debate that the amendment was for the same purpose as the amendment that had been previously offered, to which the point of order it was admitted would lie. I will read the language of Mr. Richardson, of Tennessee, upon page 889, in which he said:

This is simply an indirect effort to carry his point and accomplish that which the gentleman could not accomplish directly.

That was admitted to be the fact, but the ruling of the Chair, which is found on page 895 and from which I read briefly, is to the following effect:

It is for the Chair to look * * * at the text of the amendment and not at the purpose of the amendment. That idea of the Chair is strengthened by rulings of former occupants of the chair.

In the last Congress, when the amendment for irrigation was proposed, amendment after amendment was ruled out of order by the then occupant of the chair, the committee understanding all the time that each preceding amendment was intended for the same purpose as the preceding was, until finally an amendment was proposed in such form that the Chair ruled it in order, holding at that time that it was the text that must govern the Chair rather than the purpose back of the amendment.

It seems to the Chair that the question to be determined here is whether this amendment as it appears, as it reads, regardless of the purpose that may be back of it, is an appropriation provided for by existing law. It is not for the Chair to determine what is the privilege of the amendment. Jefferson, in his Manual, says, "It is not for the Chair to draw the question of consistence within the vortex of order."

Mr. Chairman, I could read from several competent expert authorities to convince the Chair that the floating dry dock of the character that we are now building, and propose to build with further improvements in the future, can be fairly considered as one of the boats of the fleet, but I do not have to prove that because, according to the ruling which I have just read, if the amendment upon its face is regular and within the rule, the Chair can not look behind that into its purpose or to discover a contrary purpose, and that amendment practically is for the purpose of including in this bill a repair ship for the use of the fleet and to follow the fleet wherever it goes, and comes properly under the head of increase of the Navy.

The CHAIRMAN. The Chair is prepared to rule. The authorities are in harmony upon the proposition that dry docks are not an essential part of the equipment of the Navy proper. The present occupant of the chair so held a few days ago, and this amendment, the Chair thinks, is within the principle laid down by the Chair in that decision. The Chair sustains the point of order.

Mr. MUDD. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Maryland [Mr. MUDD] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding after line 17, page 72, as follows: "One large steel vessel, capable of lifting, receiving, and docking the largest battle ship afloat, to be so constructed as to answer the purposes of a self-docking dry dock and repair ship, to cost not exceeding $1,250,000, of which amount the sum of $100,000 is hereby appropriated."

Mr. TAWNEY. Mr. Chairman, I make the point of order against that amendment. It is the same amendment, and offered for the accomplishment of the same identical purpose as the amendment which the gentleman offered a moment ago contemplated.

The CHAIRMAN. The Chair is of the opinion that the amendment is obnoxious to the rule, and sustains the point of order.

Mr. MUDD. Mr. Chairman, I respectfully appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Maryland appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and the decision of the Chair was held to be the judgment of the committee.

The Clerk read as follows:

And the contract for the construction of said vessels shall be awarded by the Secretary of the Navy to the lowest best responsible bidder, having in view the best results and most expeditious delivery; and in the construction of all of said vessels the provisions of the act of August 3, 1886, entitled "An act to increase the naval establishment," as to materials for said vessels, their engines, boilers, and machinery, the contracts under which they are built, the notice of any proposals for the same, the plans, drawings, specifications therefor, and the method of executing said contracts shall be observed and followed, and, subject to the provisions of this act, all said vessels shall be built in compliance with the terms of said act, and in all their parts shall be of domestic manufacture; and the steel material shall be of domestic manufacture, and of the quality and characteristics best adapted to the various purposes for which it may be used, in accordance with specifications approved by the Secretary of the Navy; and not more than one of the vessels provided for in this act shall be built by one contracting party: *Provided*, That the Secretary of the Navy may build any or all of the vessels herein authorized in such navy-yards as he may designate, and shall build any of the vessels herein authorized in such navy-yards as he may designate should it reasonably appear that the persons, firms, or corporations, or the agents thereof, bidding for the construction of any of said vessels have entered into any combination, agreement, or understanding the effect, object, or purpose of which is to deprive the Government of fair, open, and unrestricted competition in letting contracts for the construction of any of said vessels: *Provided*, That the limit of cost, exclusive of armor and armament, of the battle ship Connecticut, authorized by the act of Congress approved July 1, 1902, be increased to $4,600,000, and that the limit of cost, exclusive of armor and armament, of each of the two training vessels authorized by the act of Congress approved March 3, 1903, be increased to $410,000: *And provided further*, That the limit of cost, exclusive of armor and armament, of each of the two colliers authorized by the act of Congress approved April 27, 1904, be increased to $1,550,000.

Mr. HAYES. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 72, line 21, after the words "expeditious delivery," insert the following:

"*Provided*, That any bid for the construction of any of said vessels upon the Pacific coast shall have a differential of 4 per cent in its favor, which shall be considered by the Secretary of the Navy in awarding contracts for the construction of said vessels."

Mr. HAYES. Mr. Chairman, as I understand it, this is the provision that has been in nearly all naval appropriation bills for some years, and it is necessary in order to permit the institutions engaged in the building of ships on the Pacific coast to have opportunity to secure some of these contracts. This differential is rendered necessary on account of the higher price of wages on the Pacific coast and the high price of material, and the fact that freight must be paid from the East on the armor plate and all heavy material used in the construction of these ships. Heretofore, I believe, this House has pursued this policy, because it has been thought wise to maintain upon the Pacific coast, or to enable private persons to maintain plants where large ships of this kind may be constructed. As before stated, I believe that this is substantially the same provision as has been incorporated in most of the naval appropriation bills for many years.

Mr. FOSS. Mr. Chairman, I would state that for a number of years this preferential was allowed, but during the last few years, or since the bidding on the part of some of the shipbuilding companies on the Pacific coast, they have demonstrated

that they could build as cheaply there as they can on the eastern coast. There was one case that I recall where their bid was less than that of the eastern shipbuilders. And I say that, in view of this fact, the Department has not in the last few years recommended this differential.

Mr. GILLETT of California. Mr. Chairman, in relation to this amendment I desire to say only a few words. A few years ago a differential of 4 per cent was allowed to ships built on the Pacific coast. I understand also there was a bid made independent of such a differential, for which a loss was suffered. Now, it seems to me that the policy of maintaining a navy-yard on the Pacific, a yard in which war ships can be constructed and repaired, is a wise one and should be encouraged. There are thirty-eight vessels in the course of construction to-day, as I understand it, in the United States. Of these there are but two in the course of construction on the Pacific slope. They are about completed. In a month or two the work will be done. Therefore we ask Congress at this time, considering the conditions existing there in San Francisco, to extend to the coast this favor. It is true that we can not build vessels on the Pacific coast as cheaply as they can be built in the East, on account of wages being higher there and on account of the expense in transporting material to so great a distance; but we can build as good ships on the Pacific coast as can be constructed in any yard in the world, as was evidenced by the construction of the great battle ship *Oregon*. But the people of San Francisco, the mechanics and laborers resting there now within their tents and huts, are seeking a job. They want employment and are deserving of it. We want to keep the mechanics and laborers of the Union Iron Works employed, and therefore we ask that we have a chance to bid on this battle ship. I do not believe that the Government will lose much in doing it, because let it once be known that this differential is given in favor of the Pacific coast, and it will force down bids on the eastern coast. Leave out of the bill the differential we ask for, and the bids will be high; but if eastern builders must bid against the coast, knowing we have the advantage in the bidding by reason of this differential, it will force their bids down, and if the Pacific coast does not secure the prize the Government will get the advantage of lower bids. We ask the Members of this House to do what has been the practice in the past, allow this differential, and give our mechanics and laborers on the coast a chance to get a job at this time, when their necessities are so great. We have only two vessels on the coast being constructed, against thirty-six now being constructed in the East. The East will furnish the material, the laborers in the East will make the material, and all that is asked is to permit our laborers to build the ship, and thus secure their share of what it costs to construct the magnificent ship which this bill calls for and which will be the greatest war ship in the world.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from California [Mr. HAYES].

The question was taken; and the Chair announced that the noes seemed to have it.

Mr. GILLETT of California. Division, Mr. Chairman.

The House divided; and there were—ayes 74, noes 86.

Mr. HAYES of California. Tellers, Mr. Chairman.

Tellers were ordered; and Mr. Foss and Mr. HAYES of California were appointed tellers.

The House again divided; and there were—ayes 78, noes 76.

So the amendment was agreed to.

Mr. TAWNEY. Mr. Chairman, I want to offer an amendment at the end of line 10, page 74.

The CHAIRMAN. The gentleman from Minnesota [Mr. TAWNEY] offers an amendment, which the Clerk will read.

The Clerk read as follows:

At the end of line 10, on page 74, insert: "*Provided*, That no part of this appropriation shall be expended for armor for vessels herein authorized, except upon contracts for such armor when awarded by the Secretary of the Navy to the lowest responsible bidder, having in view the best results and most expeditious delivery."

Mr. FOSS. Mr. Chairman, I reserve the point of order.

Mr. TAWNEY. The amendment is a limitation upon the appropriation, or so much of the appropriation as carried here for armor to be used in connection with the construction of the vessels authorized.

Mr. FOSS. I want to say to the gentleman that the amendment should be offered to the paragraph down below, I think, headed "Armor and armament." The paragraph above is exclusive of armament.

Mr. TAWNEY. I withdraw the amendment until we reach the bottom of page 74.

Mr. DUNWELL. Mr. Chairman, as a Member of this House I have the honor to represent in part that noble metropolis which comprises in its citizenship one-twentieth of the population of this great nation, and a more enlightened, broad-minded, intelligent community does not exist on the globe. It is in their name and in their interest that I desire to say a word regarding these battle ships and their construction. Within the confines of the great city from which I come is located the most important navy-yard in the United States. A few years ago it was determined by Congress in its wisdom to provide for the building of one of the new United States battle ships at that yard. Accordingly the order was issued; the yard was furnished with machinery and the other essentials of construction; a force of men the equal of any ever assembled was called together, and the great work began. It is now practically finished. The ship is named the *Connecticut*, after a glorious State—one of the original thirteen. There she sits on the placid waters of the bay, the pride of modern naval architecture, the grandest ship the American Navy has ever known, the noblest specimen of the shipbuilder's art now floating on the waters of the world.

Mr. Chairman, we want more ships like her. We want some of them constructed, as she has been, in the navy-yards of the United States. We do not consider that it would be wise or just or creditable to the country to permit that splendid body of American artisans to disperse, never to come together again; that wonderful machinery, procured and constructed at so much expense and with so much care, to rust away and decay.

The plant and equipment of the Brooklyn Navy-Yard are among the very best in the country, manned by upward of 2,000 of the best shipbuilders in the world.

The time allowed for the building of the *Connecticut* was forty-one months, and she will be in commission before the expiration of that time. Never before has this happened since our modern naval programme began.

It is claimed by some of those who oppose the Government's building its own ships that the *Connecticut* has cost 9 per cent more than her sister ship, the *Louisiana;* but, considering the average amount of time over the time limit consumed in the construction of ships heretofore built in private yards, which is fully two years, and computing the interest on the contract price of these two ships, we have these results:

Cost of *Connecticut* in excess of cost of *Louisiana*	$378,000
Interest on $8,400,000 for two years	1,008,000

It is an acknowledged fact that the construction of the *Louisiana* would have been delayed to the extent that every other battle ship has been heretofore, had it not been for the splendid work and hustling powers of the builders of the *Connecticut*.

Leaving all the various indirect benefits of this description, and they are many, out of the consideration, we claim that the vastly superior construction of the *Connecticut* and the fact that she will not so soon or as often need repairs, makes her worth at least $500,000 more than her sister ship.

One of the principal causes, moreover, of the increased cost of the *Connecticut* over the *Louisiana* lies in the fact that the working day in the navy-yards of the Government is eight hours long, while ten hours represents the day in private yards. The Government day is fixed by law made by the Government. Would it be just, then, think you, for the Government after fixing the working day's duration, to deprive its citizens of the privilege of working for their bread because they enjoy the benefit of this benign Government regulation regarding labor?

There can be no doubt, in my judgment, that if the construction of battle ships is continued in the navy-yards there will be a still further reduction of time consumed in their building, and, besides that, a great additional reduction in cost, and that a still further advance will be made in the perfection of their sea power.

We believe that the work is better and more carefully done, and that the difference in the merit of the work is parallel to the difference between building houses by contract and by days' work. It would be far better, it strikes me, for the Government to pursue a generous policy toward their own shops and their own men than to shut them out entirely from any competition and permit all the work of the Navy to be done by the contract labor of the private yards.

Many gentlemen on this floor are advocates of the betterment of American labor. Here is an opportunity to prove our good faith in this matter and to sustain the eight-hour day, which the Government has prescribed, by causing the building of one of the three great battle ships already provided for in one of the navy-yards of the United States.

I am willing that it be put down as a part of my creed that I believe in peace, that I also believe in a great American navy as a conservator of peace. I believe, too, that the more powerful the nation is, the more it can command peace. Our noble country is now the wealthiest and most powerful on earth

and able to take the position which of right belongs to her. "Where Macgregor sits, that is the head of the table." Let us remember that and take Macgregor's place at the board of the nations, for of right it is clearly ours.

[Mr. GOLDFOGLE addressed the committee. See Appendix.]

Mr. RIXEY. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Virginia [Mr. RIXEY] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

The Secretary of the Navy is hereby authorized, in his discretion, to contract for or purchase subsurface or submarine torpedo boats, to an amount not exceeding $1,000,000, after such competitive tests as he shall see fit to prescribe, to determine the comparative efficiency of the different boats for which bids may be submitted: *Provided*, That such competitive tests shall take place within six months from the date of the passage of this act.

Mr. UNDERWOOD. Mr. Chairman, I desire to amend this section by striking out the proviso, in lines 16 to 18, on page 74, that reads, "*Provided*, That such competitive tests shall take place within six months from the date of the passage of this act," and offer the following proviso in lieu thereof.

The CHAIRMAN. The gentleman from Alabama offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out the proviso, in lines 16, 17, and 18, page 74, and insert: "*Provided further*, That the Secretary of the Navy is hereby authorized to consider designs for improved submarine torpedo boats presented by any individual or corporation who may have patented or designed or built submarine torpedo boats; and if, after careful consideration, the Secretary is of the opinion that any of said designs embody features which indicate clearly the development of greater efficiency in actual service than has been or probably can be obtained in submarine boats hitherto built or in course of construction for the United States Navy, then in such case the Secretary of the Navy is authorized, in his discretion, to have constructed by contract or in navy-yards, under such conditions as he may prescribe, one or more submarine boats upon such designs hereinbefore mentioned as fulfill the foregoing requirements as to superior efficiency; and the Secretary of the Navy is furthermore authorized to purchase said designs at such reasonable compensation as may, in his discretion, appear suitable, if said purchase is considered to be necessary for the best interests of the naval service; and in the event of said purchase of designs by the Secretary of the Navy, the designer shall specifically guarantee the Navy Department, by suitable bond or otherwise, to the satisfaction of the Secretary of the Navy, against all liability for the use of any and all patents which are embodied or used in said designs."

Mr. ROBERTS. Mr. Chairman, I raise the point of order on the amendment, that it is clearly legislation.

Mr. UNDERWOOD. Can I have order so that I can hear the gentleman's point of order?

The CHAIRMAN. The gentleman from Massachusetts raises the question of order that the amendment changes existing law.

Mr. UNDERWOOD. Mr. Chairman, in reference to the point of order I will state that the object of this amendment is to open wide the door of competition for building submarine torpedo boats. The section to which the amendment is offered provides that a million dollars shall be appropriated for the purchase or contract for of subsurface or submarine boats. The section further provides that competitive tests of these different boats shall be made—that is, of boats already built a test shall take place within six months after the passage of this act.

Now, the result of the passage of this section of the bill without amendment would be this: There are but two companies that build boats and have got submarine boats built to-day in the United States. One of those companies is known as the Electric Company, which builds what was formerly known as the Holland boat. The other, the Lake Company, builds what is known as the Lake boat. They both have boats that could enter this competition. But the Navy Department takes into consideration the question of speed in considering these boats; and, as I understand it, it is generally conceded that the old Holland boat, built by the Electric Company, can make 7½ knots an hour of speed, while the Lake boat, although a very useful boat for submarine diving and some other purposes, as at present built, is generally conceded to have a speed limited to 5 knots an hour; and that would be considered in the test. The effect of this section as it appears in the bill would limit the competition to the boat of the Electric Company and eliminate all other competitors. In other words, the effect of this section, if you pass it as it stands to-day, is a provision that we shall appropriate a million dollars to buy boats from the Electric Company.

Now, they are good boats; they are effective boats; I believe in building submarine boats. I believe it is an evolution in naval affairs. I believe an effective submarine boat will in the future be the greatest protection to the shores of America from a foreign enemy; but I believe it is an evolution. It is simply in its infancy to-day. I do not believe it has reached the period where it has passed beyond the experimental stage. And I believe every opportunity should be given the Navy Department and its officers to test the efficiency of such boats.

Mr. ROBERTS. I make the point of order that the gentleman is not talking to the point of order.

The CHAIRMAN. The gentleman from Massachusetts makes the point of order that the gentleman from Alabama is not confining his remarks to the point of order.

Mr. UNDERWOOD. Well, Mr. Chairman, I am trying to explain what the section provides, and then what my amendment will provide, and see whether it is existing law or whether it is not under the amendment.

Mr. ROBERTS. Well, Mr. Chairman, the argument of the gentleman is in favor of the amendment if he gets by the point of order.

The CHAIRMAN. The gentleman will address himself to the point of order and continue in order.

Mr. UNDERWOOD. I am trying to continue in order, and I do not see how I can show that it is not contrary to existing law unless I can first show what is the provision of the section. But I will try to observe the admonition of the Chair.

Now, as I stated, Mr. Chairman, this provision before the committee provides for these submarine torpedo boats. It provides how this competition shall take place; and in my judgment limits the competition to one company. That being the case, and believing that we ought to open the door to a wider competition, I have prepared for the purpose of offering here an amendment that would open the door of competition wide to the world.

Now, the question of order is as to whether this amendment is applicable and germane to the section. No point of order has been made against the section of the bill. Therefore, an amendment that is germane and a limitation, a proper limitation, on the section of the bill must be in order, because no point of order has been made against the provision of the bill; and I will not, without the Chair desires me to do so, continue the argument on that point.

Mr. BOWIE. Mr. Chairman, I have another point of order—the House is not in order.

The CHAIRMAN. The committee will be in order. Does the gentleman from Massachusetts desire to be heard on the point of order?

Mr. ROBERTS. The amendment offered by the gentleman from Alabama is clearly legislation, in that it permits and authorizes the Secretary of the Navy to purchase plans of boats. There is no law to-day allowing the Secretary of the Navy to purchase the plans of any boat. That point of order on that part of the amendment is clearly good; and if one part of the amendment is subject to the point of order, the whole amendment is bad.

The CHAIRMAN. The paragraph authorizes the Secretary of the Navy to contract for the purchase of subsurface or submarine torpedo boats to an amount not exceeding $1,000,000, and provides for a competitive test to determine the better type of boat. It is probable, although the Chair does not undertake to decide that question, that the provision for competitive tests is not in order, but no point of order having been made to it, that provision is subject to amendment by any proposition that is germane to the idea of competition; and the Chair construes this amendment to mean the elaboration of that proposition, and therefore holds it in order.

Mr. ROBERTS. If the Chair will pardon me, the provision in the bill provides for a competitive test of boats, not of designs or plans, but actually constructed boats, and it seems to me that the Chair can not fairly hold that plans can be put in fairly with that language in competition with the constructed boat.

The CHAIRMAN. The Chair holds that the purchase of plans may be an incident to the element of competition, and overrules the point of order.

Mr. UNDERWOOD. Now, Mr. Chairman, I would like to ask the courtesy of the committee for ten minutes to explain the amendment.

Mr. FOSS. I would like to finish this bill to-night, and I think we can do so, for we are practically at the end of the bill.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that he may proceed for ten minutes in discussing his amendment.

Mr. FOSS. I will not object to five minutes.

Mr. UNDERWOOD. Oh, I am entitled to five minutes.

Mr. BUTLER of Pennsylvania. I dislike very much, Mr. Chairman, but I think I must object. I am a member of the Naval Committee, and have not asked the attention of the House for five minutes this afternoon.

Mr. COCKRAN. That is the loss of the House.

Mr. BUTLER of Pennsylvania. Rather the relief of the House.

Mr. COCKRAN. It is the loss of the House, I insist.

Mr. UNDERWOOD. Mr. Chairman, if the House will listen to me, I will try and explain the substance of my amendment in the five minutes that I am entitled to. In the first place, I want to say the amendment was not prepared by myself, but was prepared by the Navy Department at my request. The Navy Department is taking no part in this matter, but they prepared an amendment at my request that would open this question of competition to everybody. This amendment was prepared by the Navy Department so that competition will be open to anybody who wanted to submit plans.

Now, I understand that there are gentlemen who have boats, who desire to enter into this competition, boats that they claim will produce a speed of 25 knots an hour. I am reliably informed that one of these boats has been tested, in miniature boat, and the report is on file in the Navy Department showing a production of 22 knots of speed an hour. Now, if that is the case, and I understand it is a fact, that there is a miniature boat that has been tested that will produce 22 knots an hour, isn't it folly for this House to tie the hands of the Navy Department and say that we shall not have any competition, that you shall only buy the old boats, boats we have tried before, that have only shown a speed of 7½ knots an hour, when it is possible to produce a boat that will bring the speed up to over 20 knots an hour, that can run down a battle ship in the offing? I think it would be folly for us to make such a limitation on the bill.

The only provision in this amendment I offer, the only desire I have is to open the matter to fair competition to every one, so that everybody may have a fair test and that there shall be no monopoly in the building of these boats.

Mr. SULLIVAN of Massachusetts. Will the gentleman yield for a question?

Mr. UNDERWOOD. I will.

Mr. SULLIVAN of Massachusetts. Does the gentleman inform the House that there is no competition in this matter?

Mr. UNDERWOOD. I stated that this competition as it stands limits the competition to boats that are built and to plans and specifications as we usually build ships. My understanding is that there are but two companies that could compete within the six months. One is the Lake and the other is the Electric. I am further informed, and I believe from a reliable source, that the Holland boats show a speed of 7½ knots, and the Lake boat only about 5 knots, and as the Navy Department construes the speed as an element in the competition, it practically limits the competition to the Holland boats, and therefore there is no competition.

Mr. SULLIVAN of Massachusetts. And the gentleman seeks to open the door of competition wider?

Mr. UNDERWOOD. So wide that these men who claim that they have a boat—they may not have it—may enter the competition. Give them a chance to demonstrate whether they have a boat that can make 22 knots an hour.

Mr. SULLIVAN of Massachusetts. And the gentleman anticipates that the Government will thereby probably get a better boat at less cost?

Mr. UNDERWOOD. That is what I hope to do.

Mr. MUDD. I understand that there is another boat that can get ready for the test in six months.

Mr. UNDERWOOD. I don't think it could.

Mr. SULZER. Why not make it twelve instead of six months?

Mr. UNDERWOOD. Because it has been customary to build ordinary boats——

The CHAIRMAN. The time of the gentleman has expired. The Chair will recognize the gentleman from Massachusetts [Mr. ROBERTS].

Mr. SULZER. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Alabama be extended for one minute.

The CHAIRMAN. The Chair has already recognized the gentleman from Massachusetts.

Mr. ROBERTS. Mr. Chairman, I will yield one minute out of my time that the gentleman may ask a question.

Mr. SULZER. Mr. Chairman, I would like to know why twelve months would not be long enough.

Mr. UNDERWOOD. Twelve months might be long enough, but it is customary in building ships of the Navy to take competitive plans as well as competitive boats. As a matter of fact, the taking of competitive boats is a new departure in building a navy.

Mr. SULZER. These boats can be built very quickly.

Mr. UNDERWOOD. I will say to the gentleman that the form of this amendment is not mine. It was prepared in the Navy Department. It is what the Navy Department think would bring about the proper thing.

Mr. ROBERTS. Mr. Chairman, I can not yield any longer. Mr. Chairman, there is one thing I wish to call to the attention of the committee with regard to the amendment offered by the gentleman from Alabama. This matter of plans being submitted to the Navy Department has been thoroughly gone over in the committee, and it was decided that that was not the proper thing to do, and for this reason: When the Government started out on the development of submarine boats it advertised for plans and it got plans, and the result of that advertisement was universal disapproval by those whose plans were not accepted, and the plans that were accepted turned out to be a failure; so that the boat built under them was not a success and the parties who built it had to refund to the Government its money. In view of the trouble the Department has had heretofore in this matter of plans, the Department prefers now that we should have boats, and when anybody has an idea that is of any value it is desired that they shall incorporate that into a concrete form and bring it to the Department, and within the provisions of a bill reported by the committee there is scope enough to give the most complete competition and the widest latitude tests possible.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, will the gentleman yield for a question?

Mr. ROBERTS. If I can have my time extended I will, but I must decline to yield under the circumstances. If we are to go back after thirteen years of progress in the development of submarine warfare to the first principles of considering plans, then we are practically at a standstill in this important arm of national defense, and I submit that the Department should keep advancing in this matter.

I want to call attention to one point in the amendment of the gentleman from Alabama, which provides that the men submitting plans shall furnish a bond to the Government to protect the Government from any infringement suits. The gentleman says his amendment was drawn up by the Department. As a matter of fact, that amendment was suggested by the attorney of a man who has a submarine boat in his head, and he admits and has admitted to the Committee on Naval Affairs in a communication over his own signature that he was tied up in lawsuits; that he is being sued for infringements and for failure to comply with his contracts, so that if this provision were adopted the result of it would be to bring the Government into a lawsuit over certain patents which may or may not have any effect on the matter of the development of these submarine boats. I believe if anybody has a boat built we should try that boat. I want the broadest competition.

Mr. UNDERWOOD rose.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. FOSS. Mr. Chairman, I call for a vote.

Mr. GARRETT. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman from Alabama [Mr. UNDERWOOD] what he knows with reference to the statement made by the gentleman from Massachusetts [Mr. ROBERTS] that the amendment offered by the gentleman from Alabama was prepared by an attorney in this city.

Mr. UNDERWOOD. Mr. Chairman, the gentleman asks me whether this was prepared by an attorney of another boat company.

Mr. ROBERTS. Not of another boat company.

Mr. UNDERWOOD. I will state that an attorney in the city of Washington who wanted to come into competition in this matter presented an amendment and asked me to offer it. I told him that I would not offer it until I had submitted it to the Navy Department. I did submit it to the Navy Department. It was not satisfactory to them and they returned the amendment that I have offered—not the one the attorney presented me—as one which they said would open this question to competition, and which the Navy Department sent back to me. Now, if they had some attorney in the Navy Department who prepared this plan I do not know about it, but I received this amendment back in a letter under the signature of the Secretary of the Navy.

Mr. ROBERTS. May I ask the gentleman a question? Does the gentleman wish the committee to understand that the Navy Department approves of this amendment?

Mr. UNDERWOOD. No; I do not. I did not say so.

Mr. ROBERTS. Did not the Secretary of the Navy send another letter to the gentleman expressly disapproving or rather withdrawing any supposed approval of this?

Mr. UNDERWOOD. I have not said that the Secretary of the Navy approved this amendment.

Mr. ROBERTS. That was the impression the gentleman sought to convey when he said the Department prepared it.

Mr. UNDERWOOD. I did not seek to give that impression at all. I simply said that I asked the Navy Department to prepare an amendment that would open this whole question to competition of everybody, and they sent back the amendment that I have sent to this desk, and I did not say that they approved it or that they would disapprove it.

They sent me that amendment as one that would open this question to fair competition.

Mr. ROBERTS. Now, is it not a fact that amendment was prepared by the bureau chief and not by the Secretary or Assistant Secretary?

Mr. UNDERWOOD. I do not know as to that; it came in the letter.

Mr. ROBERTS. Does not your letter expressly state so?

Mr. UNDERWOOD. I think not.

Mr. ROBERTS. I have a copy here.

Mr. UNDERWOOD. It came in the letter, and whether it was prepared by a bureau chief, an attorney in the Department, or the Secretary himself, I do not know, but it came to me from the Secretary of the Navy, and I wish the House to understand that I do not say that the Secretary is taking any active part in this one way or the other, that he is in favor of the proposition or against it, but I say he is authority for the fact that if you pass that amendment you will give free competition to everybody and not create a monopoly in passing this proposition.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I desire to address the committee briefly, and I move to strike out the last two words. Mr. Chairman, it seems to me that the Committee on Naval Affairs is taking an extraordinary interest in the apparent attempt to shut out competition in the purchase of submarine boats. I am a good deal of a landlubber, and do not know anything about submarine boats, but I understand the application of the principle of competition, and the amendment offered by the gentleman from Alabama is to provide competition, so that the United States may buy better boats at less cost, and I do not understand how gentlemen of the committee can defend a proposition that seeks to exclude competition, to keep the Government in the clutch of a monopoly, and provide, possibly, inferior boats and increase its bill of cost for that item. I have not heard any clear explanation yet of the extraordinary attitude of the Committee on Naval Affairs, and I will say that since I have been a Member of this Congress my mails have been flooded with literature pointing significantly to a state of affairs in connection with submarine boats that needs something more than a mere glossing over by this House. I believe it needs to be looked at beneath the surface; that Congress itself should conduct a little submarine investigation of this question. [Applause.] Now, the gentlemen says that the House ought not to provide a means of competition in order to give good boats at a fair price, and he bases that argument upon this fact and this fact alone, that thirteen years ago, forsooth, plans were submitted and the scheme went awry, and because there was failure thirteen years ago to provide an effective means of competition, that the Naval Affairs Committee shall turn its face forever against all plans for providing competition.

It seems to me that, after the lapse of thirteen years in the progress of time and in the march of invention, some means must have been found to provide boats better than those that were designed and constructed thirteen years ago, and the Government ought not to deny to itself the benefit of the march of science and the progress of invention. But if it follows the lead of the Committee on Naval Affairs it will do so. We ought to give to the Secretary of the Navy, what obviously he would be glad to have, the means of getting competition upon these submarine boats, so as to give the people of the United States all that they can get for their money and the very best article that that money would purchase. I say I am a stranger to the subject, but it has a most sinister aspect, it seems to me, and I say it boldly, and I ask that some gentleman give a better explanation of the attempt to exclude competition than has so far been given by the Committee on Naval Affairs. [Applause.]

Mr. GREGG. Mr. Chairman, I move to strike out the last three words. The chief argument of the gentleman from Massachusetts is that this committee by the provision in its bill is trying to cut off competition. Now, such is not the case. When this matter was up before the committee it was understood that there was a wrangle between two institutions which make the submarine boats—that is, the Lake Torpedo Boat Company and the Electric Boat Company. We understood that the Lake Torpedo Boat Company contended that it had not heretofore had a fair chance in the competition, and the provisions of this bill were submitted to two gentlemen of the committee for the purpose of preparing it and so wording it that both concerns should have a fair chance and a square deal in the competition. At that time we did not know of any other concern in this country proposing to build submarine boats.

Mr. HILL of Connecticut. May I ask the gentleman? I have understood there were no hearings before the committee on this subject. How could it be possible for them to be heard? I never heard of them asking to be heard.

Mr. GREGG. The matter was discussed—that is, the complaint of the Lake Torpedo Boat Company.

Mr. HILL of Connecticut. By whom?

Mr. GREGG. By the committee.

Mr. HILL of Connecticut. But I understand that hearings were not held on the subject.

Mr. GREGG. That matter was up, and we understood that the Lake torpedo-boat people claimed that they had not had a fair show, and it was referred to two gentlemen of the committee, and they worded this provision in the bill so as to meet the criticism that had been made upon the Navy Department before.

Mr. PARSONS. Will the gentleman yield?

Mr. GREGG. I have but five minutes, and the gentleman can talk after I get through. It is not a question of opening up competition by this amendment at all; but the effect of this amendment, if adopted, would be to prevent the construction of any torpedo boats at all. There has sprung a "new Richmond in the field." It is the J. P. Holland Torpedo Boat Company, which does not propose to offer a boat for competition, but only plans for a boat.

The Government tried accepting plans once and got badly left. Since then its policy has been to make anybody that wanted to sell the Government a torpedo boat build a boat and present it to the Government, and the Government would then test the different competing boats and decide which one they wanted. This provision as drawn in the bill is in conformity with that adopted plan.

Mr. SULLIVAN of Massachusetts. Just a moment.

Mr. HILL of Connecticut. Will the gentleman permit a question?

Mr. GREGG. I have said I could not yield, and I can not. I only have five minutes, and it is so late I could not ask an extension of time. If we adopt this amendment it will be a backward step, and if we go to experimenting with plans again we will meet another failure, as we did with our first experiment, which will discourage the buying of such boats, and will, in my judgment, amount to our having no more for some time at least.

Mr. SULLIVAN of Massachusetts. How do you know that?

Mr. GREGG. I judge by our past experience.

Mr. SULLIVAN of Massachusetts. You are making a prediction.

Mr. GREGG. If these people want to build a boat, and come up and present it to the Government and have it compete with other boats, they can do it under the provisions of this bill. It is claimed that they can not build one in six months. Mr. J. P. Holland, in a letter to the chairman of the Naval Affairs Committee [Mr. Foss], says that his boat can be built in six months. If they can do so why do they not build their boat and come up and compete with other boats? The fact is that they simply want to build a paper boat instead of an actual boat. They want to sell to the Government their plans—their boat on paper—and have the Government take all the chances on the boat being a success. I want us to buy a boat and not ideas as to how to make a boat.

Mr. PARSONS. Mr. Chairman, I move to strike out the last three words. I wish to call the committee's attention to the fact that the proviso providing for a competition of boats states that the competition must take place within six months, and not even six months from the time the appropriation takes effect, but six months from the date of the passage of the act. From the Navy reports it requires eighteen months to build a submarine torpedo boat; consequently this proviso for competition among boats provides only for a competition among boats that are practically already constructed. [Cries of "Vote!"]

Mr. COCKRAN. Mr. Chairman, I move to strike out the last four words. I would like to ask the chairman of the Naval Committee what objection there can be to accepting the amendment of the gentleman from Alabama [Mr. UNDERWOOD]? What is the objection that swayed and governed the committee in excluding competition by Mr. Holland, who is himself the original inventor of the boat which will be built under the operation of this provision?

Mr. FOSS. I would rather the gentleman would ask the question of the gentleman from New York [Mr. VREELAND], who

had charge of the framing of this provision. I must confess, so far as I am concerned, that I have very little faith in submarine boats, anyway.

Mr. COCKRAN. The million dollars, then, it seems, would go where the gentleman has no faith. It is evident money travels much more swiftly than faith.

Mr. FOSS. The committee, however, saw fit to put it in, and I shall stand by the action of the committee.

Mr. COCKRAN. A million dollars is a very substantial monument to faith, Mr. Chairman. Those of us who do not have that faith now, for lack of information, surely have the right to ask for enlightenment. What is the objection, I want to ask some gentleman on the committee, to giving the Secretary of the Navy discretionary power to avail himself of such improvements and inventions as may be made in this field, which is admittedly novel, by adopting the amendment proposed by the gentleman from Alabama [Mr. UNDERWOOD]?

Mr. VREELAND. When the gentleman has concluded his remarks, I will answer.

Mr. COCKRAN. I have no remarks to make. I merely wanted to put a question.

Mr. VREELAND. The gentleman seems to be making remarks.

Mr. COCKRAN. I am merely propounding a question.

Mr. SULLIVAN of Massachusetts. Does not your proviso exclude competition from everybody but two concerns?

Mr. VREELAND. I have not the floor at present. When I am recognized, I will answer the question.

Mr. COCKRAN. I have submitted the question. I have only taken the floor for the purpose of asking information.

Mr. VREELAND. Mr. Chairman, I move to strike out the last five words.

Mr. Chairman, it is true that I helped to frame the provision on submarines that has gone into the bill, but I do not want the House to assume too much on that account. I am not strongly attached to submarines upon their performances to date. There was no desire on the part of the Committee on Naval Affairs to shut out competition. They desired the most open and free competition. My personal wish was to turn the whole subject over to the Secretary of the Navy without reserve, and to turn over to him $500,000 or $1,000,000, and leave it absolutely at his discretion as to where it should be spent if he should think best to spend it. We have no facilities for testing submarines in our committee rooms; there are no facilities in this House for testing them. I therefore desired to turn the subject over to the Secretary of the Navy, where it could be treated upon its merits.

Mr. TAWNEY. Will the gentleman from New York permit a question, just for information?

Mr. VREELAND. Yes.

Mr. TAWNEY. What information did the committee have to justify it in fixing the limit of time to six months? That is the thing that is bothering me.

Mr. VREELAND. The gentleman from Texas [Mr. GREGG] has stated the reason why the committee finally put in the provision as to six months' time. We all remember the controversy between the Lake and Holland people a few years ago, when Members of Congress were ready to exclaim: "A plague on both your houses." We remember the recriminations that were thrown out each side, and we remember the dark hints as to what they could tell to the country if they wished. We desired to avoid that. We knew that there were only two submarine establishments at present building boats in this country. Our judgment is that if there is any other firm that wants to build a submarine boat it has ample time to build it before the time limit in this bill expires. But we were not willing, Mr. Chairman, to leave it open until another year, and for the benefit of some man who has no yard in which to build boats, who has simply plans to sell to the Government from which the Government could build a boat and test it at its own risk and its own expense. We have all received this literature from these different interests.

Mr. COCKRAN. I merely wish to ask a question. This amendment of the gentleman from Alabama does not make anything incumbent upon the Secretary of the Navy, as I understand it, but it leaves him free to accept these plans, if, in his judgment, they embody a distinct improvement upon the submarine boats now in existence. Does the gentleman's understanding of the amendment concur with mine?

Mr. VREELAND. I would say, Mr. Chairman, it is not the purpose or intention of the Committee on Naval Affairs to have the Government buy plans. None of these boats that have been bought by the Government at a large expense have been any too satisfactory. We do not want to buy the plans and the imaginations of the inventor as incorporated in the plans, but we want him to put his own ideas and his own money into that boat and present it to the Government and submit it to such tests as the Government shall see fit to prescribe. Then, if it comes up to those tests, the Secretary of the Navy is authorized to pay out the money of the Government in purchasing it.

Mr. COCKRAN. On that status, if the plan for a boat is vastly superior to any now in existence and the inventor does not happen to have the means to construct that boat himself, the gentleman's policy would be to deny the Government the chance to get the benefit of it?

Mr. VREELAND. I think the gentleman from New York [Mr. COCKRAN] will acknowledge that he never met an inventor in his life who did not have plans for something superior to anything else.

Mr. COCKRAN. That is not my question. Will the country be denied the benefit of the invention even if the Government be convinced of its merit?

Mr. VREELAND. I have stated to the gentleman that we do not desire to have the Government purchase plans even if indorsed by the inventor and by the gentleman from New York.

Mr. COCKRAN. But I speak of the approval of the Navy Department.

Mr. VREELAND. We want those plans to be incorporated in the vessel and that vessel tested according to tests prescribed by the Government, and then we are willing to say that the Government shall pay out a million dollars for it if it comes up to the ideas of the inventor.

Mr. COCKRAN. I will ask the gentleman this question, and see if I am correct in my interpretation of his position: However perfect the invention may be according to the plans, however satisfactory it may be to the Navy Department, the policy of the Naval Committee is to prevent the Department from getting the advantage of that invention, unless the inventor builds a boat himself?

Mr. VREELAND. That is it; unless the man who proposes this submarine were to put up his own money or the money of somebody else whom he can interest—perhaps the gentleman from New York [Mr. COCKRAN]—and test these boats before they are purchased by the Government. That is precisely the opinion of the committee.

Mr. SULLIVAN of Massachusetts. Will the gentleman yield?

Mr. VREELAND. I would be glad if the gentleman would permit me to complete another paragraph.

Mr. SULLIVAN of Massachusetts. Just a simple question I desire to ask the gentleman.

Mr. VREELAND. Very well.

Mr. SULLIVAN of Massachusetts. Suppose we bought the plans of the inventors and after accepting them, construction began. Would not the Government have the right to reject the finished work if it did not stand the test, just the same as if the Government did not buy the plans originally?

The CHAIRMAN. The time of the gentleman has expired.

Mr. VREELAND. I ask five minutes more.

Mr. BOWIE. I object.

The CHAIRMAN. The gentleman from New Jersey [Mr. GARDNER] is recognized.

Mr. GARDNER of Massachusetts. I desire to offer an amendment, which I wish to have considered pending until this amendment is disposed of.

The CHAIRMAN. The gentleman from Massachusetts will be recognized at the proper time to offer his amendment.

[Mr. GARDNER of New Jersey addressed the committee. See Appendix.]

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Massachusetts [Mr. GARDNER] has an amendment to offer.

Mr. GARDNER of Massachusetts. I offer an amendment which I desire to be pending.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 74, line 17, strike out the word "six" and insert the word "twelve."

Mr. GARDNER of Massachusetts. I offer this with the understanding that it is to be pending.

The CHAIRMAN. The gentleman is entitled to the floor to discuss the amendment.

Mr. FOSS. I desire to move that all debate on the paragraph and amendments thereto end in five minutes.

Mr. SULLIVAN of Massachusetts. Regular order, Mr. Chairman.

Mr. GARDNER of Massachusetts. Mr. Chairman, I offer that

amendment, which strikes out the word "six" in the words of the proviso and inserts the word "twelve," for this reason: I have been very much impressed with the statement of the gentleman from Texas to the effect that a competition of a paper plan is not what we want, but a competition of real boats. That, I think, is very forceful, and for that reason I would rather see that these vessels practically should be stricken out and then receive something in construction rather than pencil and paper and submit those boats to a test. But, on the other hand, I am very much impressed by the argument that six months is too short a time to give to Mr. J. P. Holland, or any other inventor, in which to prepare a boat for that sort of competition.

Mr. FOSS. I will say to the gentleman that I am willing to accept the amendment as far as I am concerned.

Mr. GARDNER of Massachusetts. On the statement of the chairman of the committee, who says he is willing to accept the amendment, I will yield the floor.

Mr. FOSS. Now, Mr. Chairman, I move that debate on the pending paragraph and all amendments be closed.

Mr. GARDNER of New Jersey. Mr. Chairman, I rise to oppose the motion.

The CHAIRMAN. The question is not debatable. The question is on the motion of the gentleman from Illinois that all debate on the pending paragraph and amendments be closed.

The question was taken; and the motion was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Massachusetts.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Alabama [Mr. UNDERWOOD].

The question was taken; and on a division (demanded by Mr. UNDERWOOD) there were—ayes 84, noes 90.

Mr. UNDERWOOD. I ask for tellers.

Tellers were ordered. The Chair appointed as tellers Mr. VREELAND and Mr. UNDERWOOD.

The House again divided; and the tellers reported—ayes 80, noes 92.

So the amendment was rejected.

Mr. GARDNER of New Jersey. Now, Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 74, strike out all from line 11 to line 18, inclusive, and insert the following:

"For purchase of the even-keel submersible torpedo boat Lake $275,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; and, further, the Secretary of the Navy may contract for the purchase of submersible, submarine, or subsurface torpedo boats to an amount not exceeding $725,000: *Provided*, That the Secretary of the Navy shall, in contracting for the expenditure of this amount, provide for one cruising even-keel submersible torpedo boat to have an actual radius of action of 1,000 miles."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New Jersey.

The question was taken; and the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

Armor and armament: Toward the armament and armor of domestic manufacture for vessels authorized, $15,145,000.

Mr. TAWNEY. Mr. Chairman, I now offer the amendment which the gentleman in charge of the bill has agreed to accept.

The Clerk read as follows:

After the word "dollars," in line 25, page 74, insert:

"*Provided*, That no part of this appropriation shall be expended for armor for vessels herein authorized, except upon contract for such armor when awarded by the Secretary of the Navy to the lowest responsible bidder, having in view the best results and most expeditious delivery."

Mr. FOSS. I understand the gentleman only seeks to get open, free, and fair competition?

Mr. TAWNEY. That is all.

Mr. FOSS. I will accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

The question was taken; and the amendment was agreed to.

Mr. RIXEY. Now, Mr. Chairman, I offer an amendment in the very words of the last appropriation bill. That provision directs the Secretary of the Navy to cause a thorough inquiry to be made as to the cost of armor plate and of an armor plant, the report of which shall be made to Congress.

The CHAIRMAN. The gentleman will send his amendment to the desk.

The Clerk read as follows:

Add as an independent section, after line 25, page 74, the words:

"*And provided further*, That the Secretary of the Navy shall cause a thorough inquiry to be made as to the cost of armor plate and of an armor plant, the report of which shall be made to Congress."

Mr. DALZELL. I make a point of order against that that it is new legislation.

Mr. RIXEY. Mr. Chairman, this provision was carried in the bill which was passed about a year ago, and is the present law. When the Secretary of the Navy was before the committee he stated that he had not made the investigation, that his attention had not been called to it.

I suppose it is conceded that there is not time to make the investigation between this and the 1st day of July, and this amendment is for the purpose of giving the Secretary further time. The amendment is drawn in the identical words of the provision carried in the last appropriation bill, and is the law now. I suppose if it was proper a year ago it is proper now, especially as the Secretary of the Navy has not made that report. He has not the time to make it before the 1st of July, and this is to give him the opportunity to do what he was ordered to do a year ago.

The CHAIRMAN. The Chair is prepared to rule on the point of order. The Chair is of the opinion that the amendment involves new legislation, and the point of order is sustained.

Mr. WILLIAM W. KITCHIN. Mr. Chairman, I move to strike out the last word of the paragraph of the bill last read. It seems to me remarkably strange that the Navy Department has not made investigation into the cost of armor plate and an armor plant, and has not made report to Congress as the law of Congress directed it to do. That law was enacted on the 3d day of March over a year ago. Over fourteen months have elapsed since that law was approved, and yet the Navy Department, one of the executive branches of this Government, has apparently treated this mandate of Congress with contempt, and ignored its provisions.

The price of armor plate is a question that has been vital in every Congress for many years. It has been charged repeatedly, and as I believe truly, that the Government has been held up by these armor-plate companies, and that these companies have charged the Government exorbitant prices. The Rohrer board some years ago reported to Secretary Herbert that the cost was less, as I recollect it, than $250 a ton. In the Fifty-sixth Congress some of us filed our views in which we discussed this question. For years we paid $545 per ton. We made a fight against it. Then the price came down about $100 a ton. Last year the Midvale Company bid $398 a ton, which was more than $50 less per ton than the Carnegie and Bethlehem armor-plate factories bid for Class A armor. With that low bid the Midvale Company got the contract for only about one-third of the armor needed—the old companies getting the balance at the higher prices. Congress, after much discussion of that question for years, writes into the statute books a requirement that the Secretary of the Navy make investigation of the cost of armor and an armor plant and report to Congress, but our law is treated, as I have said, with apparent contempt. What excuse has been given for it? What defense can any Member on the other side give for this neglect of the Navy Department? Did we not have a right to make that requirement? Were we not within our constitutional powers when we called upon an Executive Department to make this investigation and to report? Will any dispute our right to do it? Can any deny that we did it according to law? Yet this great body that holds the purse strings of the nation will remain silent at this failure to observe the law. When this law is attempted to be rewritten into the statute the gentleman from Pennsylvania [Mr. DALZELL] raises a point of order against it.

It seems to me the gentleman from Pennsylvania would be glad to again write this into the law and to again call the attention of the Navy Department to this omission on its part. [Applause.] Why should anybody object to again calling for this information? Is there anybody that will say that we do not want it? Is there anybody who will say that this Congress is not entitled to have the information sought? Is there anybody who will say that these great armor-plate companies are above and beyond the right of Congress to investigate? Are they only to be considered? Are the people of this country to have no rights in regard to armor plate? I will be glad, Mr. Chairman, to hear some defense of this Department and to hear some reasons from any advocate on this floor why this requirement should not have been obeyed by the Navy Department. I shall be glad to learn the objections to this plain provision of the law and why it has been ignored. [Applause.]

Mr. BUTLER of Pennsylvania. Mr. Chairman, I would like in reply to the gentleman from North Carolina, my colleague upon the committee, to promise here to join him in obtaining an answer from the Department to that resolution, which was appended to this bill last year. I agree with him that the Navy Department should have answered it. The only excuse for failing to answer lies in this statement, that the Secretaries have changed. Mr. Paul Morton was Secretary of the Navy

when this resolution was directed to the Department. Mr. Bonaparte is now the Secretary. The law exists, and the passage of this bill will not repeal the amendment made to the bill last year. I will join with the gentleman in the request that the Navy Department answer that resolution, so that we may have the facts inquired for. [Applause.]

Mr. RIXEY. Mr. Chairman, I desire to know if an amendment to the section last read—armor and armament—is now in order?

The CHAIRMAN. The Chair will state that we have not yet passed that paragraph, and an amendment to it is in order.

Mr. DALZELL. Mr. Chairman, I desire to say one word in response to the gentleman from North Carolina, as to the information sought to be had by reason of the resolution to which he refers. There are on file now a number of reports upon this identical subject, made by the Navy Department in pursuance of resolutions of Congress, and I have in my hand a letter which is addressed to the chairman of the Committee on Appropriations by the Secretary of the Navy, which I will read. It is as follows:

NAVY DEPARTMENT,
Washington, April 11, 1906.

SIR: Replying to your letter of the 4th instant, in which you refer to the provision in the current naval appropriation act to the effect "that the Secretary of the Navy shall cause a thorough inquiry to be made as to the cost of armor plate and armor plant, the report of which shall be made to Congress," and request to be advised whether any investigation has been made under this direction, and, if so, that a copy of the report be sent you, I have the honor to inform you that no investigation has as yet been undertaken under the above-mentioned direction, in which, as you will observe, Congress fixed no time for the presentation of the report.

Attention is respectfully invited to the exhaustive investigations into these matters which have been made in prior years by Congress and the Navy Department. The results of these investigations are shown in the following public documents: Senate Report No. 1453, Fifty-fourth Congress, second session, February 11, 1897; Senate Document No. 147, Fifty-fifth Congress, first session, June 9, 1897; House Document No. 154, Fifty-fourth Congress, second session, January 5, 1897; statements before the Committee on Naval Affairs, United States Senate, May 19, 1897; Senate Document No. 127, Fifty-fifth Congress, second session, February 8, 1898; House Document No. 95, Fifty-fifth Congress, second session, December 7, 1897.

Attention is further invited to the fact that since the dates of these prior investigations the Midvale Steel Company has entered as a competitor in the field of armor manufacture, and is now supplying armor at a lower price than are other companies.

Very respectfully,

CHARLES J. BONAPARTE,
Secretary.

Hon. J. A. TAWNEY,
Chairman Committee on Appropriations,
House of Representatives.

In addition to that, I desire to say that we have the cheapest armor in the United States that is furnished to any nation in the world. We have the best armor-plate factories in the United States that exist anywhere in the world, and there is no monopoly. On the contrary, there is very active competition.

Mr. WILLIAMS. Mr. Chairman, the gentleman from Pennsylvania has clearly shown that the Secretary of the Navy treated the request of Congress with just sufficient respect to write a letter to the chairman of some committee referring Congress to some investigations that had taken place away back in 1897. Everybody knows that the cost of making armor plate has changed very much from that time, and that American manufacturers can make it very much cheaper now than they could at that time, and it seems to me that what the gentleman from Pennsylvania has said and what he has read does not at all answer what has been said by the gentleman from North Carolina. It remains true that the Secretary of the Navy has treated a solemn resolution of request passed by this body with more than contempt. He not only has not answered it in the authoritative and official manner in which he should have answered it, but he has treated it cavalierly and as a matter that he could dismiss by writing a letter to the chairman of some committee of this House. It seems to me that the gentleman from Pennsylvania, his colleague [Mr. BUTLER], is right, and that the Secretary of the Navy owes it to the House to answer its request. The gentleman does not contend that there has been any specific reply to this specific resolution. [Applause.]

Mr. RIXEY. Mr. Chairman, I desire to offer an amendment to the paragraph.

The CHAIRMAN. The Clerk will report the same.

The Clerk read as follows:

Add after the word "dollars," in line 25, the following: "*Provided*, That no part of this appropriation shall be used for armor for the battle ships South Carolina and Michigan to cost over $398 per ton."

Mr. RIXEY. Mr. Chairman, as I understand it, all the armor plate which is necessary for ships under contract has been contracted for, and the contracts given to the Bethlehem and Carnegie and Midvale companies. The last contracts aggregated about 16,500 tons. On that proposition the Midvale Company bid $398 and the Bethlehem and Carnegie companies bid identically the same amount, $445.

Mr. TAWNEY. If the gentleman will permit, he is mistaken about the last contract. The amount was 3,676 tons, and for the next to the last contract the amount was 14,420.

Mr. RIXEY. Perhaps the quantity was divided. I do know this, that there has been no good reason shown why the contract for all was not given to the Midvale Company. Admiral O'Neal, one of the best bureau officers of ordnance that we have ever had, stated that the Midvale Company was prepared to make as good armor plate as either the Carnegie or the Bethlehem companies; but the Navy Department only gave 6,000 tons of the 16,500 tons quantity to the Midvale Company, and gave the balance of the contract, about 10,000 tons, to the Bethlehem and Carnegie companies, at $55 a ton more.

Mr. TAWNEY. Will the gentleman permit another interruption?

Mr. RIXEY. I will.

Mr. TAWNEY. The amendment which I had the honor to offer a few moments ago, and which was accepted by the gentleman in charge of the bill, I think will correct the evil of which the gentleman from Virginia is complaining, which is of not heretofore accepting the lowest bid when that bid was made by a responsible bidder, willing and capable of complying with the plans and specifications submitted by the Department.

Mr. RIXEY. I was in favor of the amendment which the gentleman from Minnesota offered, but the impression has recently gotten out that the Midvale company is now in the same combination with the Bethlehem and Carnegie companies.

Mr. DALZELL. I deny that.

Mr. RIXEY. I do not assert it as a positive fact, but you admit that the Bethlehem and Carnegie companies have an agreement on prices.

Mr. TAWNEY. I will say to the gentleman from Virginia my information, and I get my information not only from Members of Congress, but from people interested in the subject, is that there is absolutely no combination between those two concerns and there can not be under present conditions.

Mr. RIXEY. If there is no combination it would not take them long possibly to make one. Now, this fact remains: In the last two contracts the Midvale company offered to furnish as good armor plate at $398 as the Government was buying of the other companies for $445. If the Midvale company can make as good armor plate and can furnish it for $398, then we should not pay beyond that for what is needed, and this amendment should be adopted.

Mr. DALZELL. Mr. Chairman, just one word. I entirely agree with the gentleman from Virginia [Mr. RIXEY] that the United States ought to get its armor plate at the very least possible cost, and there ought to be competition. And that there is a very bitter competition is a conceded fact at this time. It seems to me, with the provision that was put on this paragraph by the amendment offered by the gentleman from Minnesota [Mr. TAWNEY], that these armor-plate contracts shall not be let except after competition and at the lowest and best bids. It will be very foolish for us, purely as a business matter, to say that the Secretary of the Navy shall not be able to make a contract unless at a certain specified figure. It does not seem to be a particularly good business proposition.

Mr. RIXEY. Does not the gentleman remember that two years ago we paid this Bethlehem company and the Carnegie company $545 a ton?

Mr. DALZELL. I do.

Mr. RIXEY. We then put a limitation on that. We would not pay over $445, and this provision is simply in line with the policy that was adopted at that time.

Mr. DALZELL. It seems to me the Government is perfectly protected by the amendment offered by the gentleman from Minnesota, and, as I said, it is not a good business proposition to say that the Secretary of the Navy shall not contract for armor plate unless at a specific sum named by Congress.

Mr. OLMSTED. Is it not a fact that at one time when Congress put a limit on armor plate the Secretary of the Navy was unable to get any?

Mr. DALZELL. That is true.

Mr. TAWNEY. I move to strike out the last two words. I offered the amendment requiring the Department to accept the lowest bid for armor plate, with knowledge of the fact that there is active competition between the manufacturers of armor plate in this country. And, believing that that competition must necessarily and will continue, I am satisfied the Government will get its armor plate at the lowest possible cost if we require the Department to avail itself of this competition and accept the lowest bid. I will state, Mr. Chair-

man, why I believe this. The Bethlehem and Carnegie companies, which now belong to what is known as the "steel trust," use the Krupp process in the manufacture of armor plate. The Midvale people use their own process, which is the only American process. The Krupp process is owned by an international trust, of which the Bethlehem and Carnegie companies are constituent parts.

Mr. BUTLER of Pennsylvania. Only the Carnegie.

Mr. TAWNEY. The Carnegie Company. My purpose in offering that amendment was this: I do not think that the Navy Department has treated the manufacturer of armor plate by the American process with fairness in the past, because, after giving them a contract for 6,000 tons in 1900, when it came to bid on the next contract they were refused the contract, although their bid was very much below the other bidder. Finally, the Secretary of the Navy bet the Midvale Company a thousand tons of armor that it could not complete the contract it then had. That the then Secretary said to the Midvale people, "If you will manufacture and deliver the armor you now have a contract for, you can then have a contract for a thousand tons of armor." The Midvale people accepted this condition. They proceeded with the manufacture of the armor included in their first contract. That armor made by an American company with the only known American process has proved under the most severe tests to be equal, if not superior, to the armor made with the Krupp, or foreign, process, and the Midvale people have won the bet by getting the contract for the insignificant amount of 1,000 tons.

Believing that this company can manufacture an armor equal to any manufactured in the world, and the competition between the manufacturers using these two different processes will continue, I think it is better to have the price of armor plate to be determined by competition which, in my judgment, will result in securing armor plate at a lower cost than if we fix as the limit of cost the lowest amount bid on the last contract.

Mr. FINLEY. Has the gentleman from Minnesota [Mr. TAWNEY] any doubt that the Government will be able to obtain armor plate at $398 a ton?

Mr. TAWNEY. I have. The Midvale Steel Company's last bid was $398 a ton. It was not known, however, at that time—and I will say in justification of the action of the Department—to a certainty that the Midvale company would be able to produce this armor. They have since that time produced it. It has stood the test and they are fulfilling their contract. There is no reason therefore why their bids in the future should not be considered, and if the lowest, that their bid should not be accepted.

Mr. FINLEY. I think the gentleman misunderstands my question. I asked him if he had any doubt that the Government would be able to obtain armor plate at $398 a ton?

Mr. TAWNEY. Class A armor plate at $398 a ton, and Class B armor plate at $393 a ton.

Mr. FINLEY. Then, if it is a fact that the Government can obtain armor plate, is there any good reason why it should not do so?

Mr. TAWNEY. I think there is. I believe they are capable and will be able to produce armor plate at less than $398 a ton, and if this limitation is on you will never get it for less than that amount. But if you will continue the provision and leave the matter of price to be determined between these two competitive manufacturers, you will get armor plate at a lower price than $398 a ton.

Mr. FINLEY. Just there, if that is true, is it not a fact that this limitation will prevent the Government paying more than $398 to the Bethlehem Steel Works?

Mr. TAWNEY. It would certainly prevent the Government from paying more than $398 a ton.

Mr. FOSS. Mr. Chairman, I move to close the debate on this paragraph.

Mr. WILLIAMS. Before that is done, I would like to ask the gentleman from Illinois [Mr. Foss] a question. It will not take over a minute or two. I would like to ask the gentleman whether he knows why the Secretary of the Navy did what the gentleman from Virginia [Mr. RIXEY] has shown that he did, to wit, that notwithstanding the fact that armor plate was priced to him at $398 a ton, he bought armor plate from others at $55 a ton more than that? Has any explanation come from the Department about that?

Mr. FOSS. I will say to the gentleman that when those bids were made the Navy Department looked into the capacity of the plant, and at that time they gave to the Midvale Steel Company as much armor as they were capable of making.

Mr. WILLIAMS. In the opinion of the Midvale Company or in the opinion of the Navy Department?

Mr. FOSS. Of the Navy Department. The Navy Department investigated the capacity of this company.

Mr. WILLIAMS. Did the Midvale Company say that that was all they were capable of manufacturing, or did they contend that they could manufacture it all?

Mr. TAWNEY. The capacity of the Midvale Steel Company plant is equal to the demand of the Government, if that company was required to furnish all of the armor plate at the present time, but it was not in 1903.

Mr. FOSS. At that time the Midvale Company had just erected the armor plant and had just gone into the manufacture of armor plate.

Mr. WILLIAMS. I wondered if there was any good excuse or reason for the conduct of the Department. I wanted the country to know the facts.

Mr. FOSS. There was a good reason.

Mr. WILLIAMS. The Midvale Company at that time admitted it could only manufacture a thousand tons?

Mr. FOSS. In the first contract that they got the Secretary of the Navy, as I recall it, advertised for 16,000 tons, and the Midvale Company got 6,000 tons, and the 10,000 tons remaining was divided between the Bethlehem Company and the Carnegie Company. That is as I recall it now. That was done after an investigation into the capacity of the Midvale plant. The Navy Department were willing to give the Midvale Company all they could take and manufacture within the required time.

Mr. WILLIAMS. Did the Midvale Company bid only for 6,000 tons?

Mr. FOSS. I think they bid for more. I am not sure.

Mr. WILLIAMS. I hear the suggestion here that they bid for all of it and offered to give the Department a bond to deliver it. Now, does the gentleman know whether that is true or not? And if it is true, then what reason had the Navy Department for spending any more money for armor plate than was required?

Mr. FOSS. I do not know whether that is true or not, but I do know at the time the Navy Department made a very careful investigation into the capacity of the Midvale Company to carry out their contract, and gave them what they believed they were capable of manufacturing, so as not to delay the construction of our ships.

Now, Mr. Chairman, I will move that the debate on this paragraph and amendments be closed.

The CHAIRMAN. The gentleman from Illinois moves that the debate on the pending paragraph and all amendments thereto be now closed.

The question is on the motion of the gentleman from Illinois [Mr. Foss].

The question was taken; and the motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RIXEY. Division!

Mr. WILLIAMS. I suggest that the committee rise.

Mr. FOSS. I will say to the gentleman that this is practically the last paragraph in the bill; the next is simply the totals.

Mr. WILLIAMS. Well, all right.

The committee divided; and there were—ayes 58, noes 116.

So the amendment was rejected.

The Clerk resumed and concluded the reading of the bill.

Mr. FOSS. Mr. Chairman, I move that the committee rise and report the bill, with the amendments, to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the naval appropriation bill and had directed him to report the same back with amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. FOSS. Mr. Speaker, I move the previous question on the bill and amendments to its final passage.

The previous question was ordered.

Mr. ROBERTS. Now, Mr. Speaker, I wish to ask a separate vote on the amendment on page 15 of the bill, and I propose to ask a roll call. I suggest to the chairman of the committee that he move the House adjourn.

Mr. FOSS. I would say to the gentleman from Massachusetts——

The SPEAKER. Is there a separate vote asked for upon any other amendment?

Mr. ROBERTS. None other that I care to ask for.

The SPEAKER. Does any other gentleman desire a separate vote on any other of the amendments? If not, the question will be taken on the other amendments in gross.

Mr. WILLIAMS. Mr. Speaker, I ask the attention of the gentleman from Illinois. The understanding was that at this stage of the proceedings a motion was to be made to adjourn.

Mr. FOSS. I am about to make the motion.

Mr. WILLIAMS. The Speaker was about to put the question on the adoption of the other amendments. I suggest that we adjourn now and take the matter up to-morrow.

Mr. FOSS. There is no opposition to these other amendments, I will say to the gentleman from Mississippi. The previous question has been ordered.

Mr. WILLIAMS. I understand that; but the Chair, before I interfered, was just about to put the motion to the House on the other amendments, when I objected.

The SPEAKER. That is correct.

Mr. WILLIAMS. Now, that is what I do not want done this evening.

Mr. FOSS. Is there any objection to these other amendments?

Mr. WILLIAMS. That is what I do not know. That is what I want to find out. [Cries of "Regular order!"] I hope the gentleman will move to adjourn now. That was our understanding. [Cries of "Regular order!"] I move that the House do now adjourn.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WILLIAMS. I call for a division, Mr. Speaker.

The House divided; and there were—ayes 60, noes 113.

Mr. WILLIAMS. There is no quorum present.

Mr. WILLIAM W. KITCHIN. Yeas and nays!

The SPEAKER. It does not require a quorum on a motion to adjourn.

Mr. WILLIAMS. I beg pardon.

Mr. PAYNE. Regular order, Mr. Speaker.

Mr. WILLIAM W. KITCHIN. I call for the yeas and nays.

Mr. WILLIAMS. I shall now call for a separate vote on each amendment.

Mr. PAYNE. The demand is too late.

The SPEAKER. We will first dispose of the motion to adjourn.

Mr. WILLIAM W. KITCHIN. I am still trying to ask for the yeas and nays.

Mr. WILLIAMS. I call for a vote on the first amendment, and following that on each amendment.

The SPEAKER. A demand for a separate vote, in the opinion of the Chair, is in time upon each amendment.

Mr. WILLIAM W. KITCHIN. I ask for the yeas and nays.

The SPEAKER. One moment.

Mr. WILLIAM W. KITCHIN. I renew my demand for the yeas and nays.

The SPEAKER. One moment. The Chair is trying to ascertain the facts. The Chair takes the word of the gentleman from North Carolina that he was on his feet demanding the yeas and nays on the motion to adjourn.

Mr. WILLIAMS. The parliamentary situation now. I hope the Speaker will not forget that the demand has been made for a separate vote on each amendment.

The SPEAKER. The fact will dwell in the memory of the Speaker.

Mr. PAYNE. I hope the Speaker will not forget that the demand was made after the motion had been made to adjourn.

Mr. WILLIAMS. I beg the gentleman's pardon.

The SPEAKER. Both gentleman happen to be at this time out of order.

The question was taken on ordering the yeas and nays.

The SPEAKER. A sufficient number——

Mr. BUTLER of Pennsylvania. Mr. Speaker, will it be in order for the House to adjourn?

The SPEAKER. Well, there is nothing in order, the yeas and nays having been ordered under the Constitution; but it would be——

Mr. WILLIAM W. KITCHIN. I ask unanimous consent that the call of the roll be dispensed with, and that another vote be taken on the motion to adjourn.

Mr. FOSS. If the gentleman will just withdraw his demand for the yeas and nays.

The SPEAKER. The Chair will state the question. The gentleman asks unanimous consent to vacate the order for the yeas and nays, and that a vote may be taken de novo on the motion that the House adjourn.

Mr. WILLIAMS. Reserving the right to object, I would like to ask the gentleman from Illinois in charge of the bill a question. If the unanimous consent is granted which is now asked, will the gentleman himself move to adjourn?

Mr. FOSS. I will.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. FOSS. I move that the House do now adjourn.

The motion was agreed to.

And accordingly (at 6 o'clock and 8 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Interior, transmitting a copy of the journal of the executive council of Porto Rico for the second session of the third legislative assembly—to the Committee on Insular Affairs.

A letter from the Secretary of the Interior, transmitting, with a copy of a letter from the Commissioner of Indian Affairs, a protest of Sac and Fox Indians relating to readjustment of certain annuities—to the Committee on Indian Affairs, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of T. B. Norman, administrator of estate of William B. Irwin, against The United States—to the Committee on War Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. COOPER of Wisconsin, from the Committee on Insular Affairs, to which was referred the bill of the House (H. R. 17293) to authorize the leasing of the Batan Island Military Reservation for coal-mining purposes, reported the same with amendment, accompanied by a report (No. 4214); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the House (H. R. 17661) providing that the inhabitants of Porto Rico shall be citizens of the United States, reported the same with amendment, accompanied by a report (No. 4215); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the House (H. R. 18206) to provide for the exemption from taxation of all bonds issued by the government of Porto Rico for the construction of public highways, bridges, and other public improvements, reported the same with amendment, accompanied by a report (No. 4216); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CUSHMAN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 19108) to authorize the construction of a bridge across the Pend d'Oreille River, in Stevens County, Wash., by the Pend d'Oreille Development Company, reported the same without amendment, accompanied by a report (No. 4217); which said bill and report were referred to the House Calendar.

Mr. COOPER of Wisconsin, from the Committee on Insular Affairs, to which was referred the bill of the Senate (S. 5512) defining the qualifications of jurors for service in the United States district court in Porto Rico, reported the same without amendment, accompanied by a report (No. 4218); which said bill and report were referred to the House Calendar.

Mr. ALEXANDER, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 5533) to appoint an additional judge for the southern district of New York, reported the same without amendment, accompanied by a report (No. 4221); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HEDGE, from the Committee on Coinage, Weights, and Measures, to which was referred the bill of the Senate (S. 6022) to amend section 6 of an act entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," approved March 14, 1900, reported the same without amendment, accompanied by a report (No. 4222); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, de-

livered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GRAHAM, from the Committee on Claims, to which was referred the bill of the House (H. R. 7548) for the relief of Mary V. Shaw, reported the same with amendment, accompanied by a report (No. 4219); which said bill and report were referred to the Private Calendar.

Mr. DAWES, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 3507) to correct the military record of George H. Keating, reported the same with amendment, accompanied by a report (No. 4220); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. JENKINS: A bill (H. R. 19371) to authorize the purchase of portraits of certain ex-Chief Justices of the United States Supreme Court—to the Committee on the Library.

By Mr. HINSHAW: A bill (H. R. 19372) to authorize and instruct the Secretary of the Treasury to pay for paving the street in front of lots 12, 13, 14, and 15, in block 51, in the city of York, Nebr.—to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Arizona: A bill (H. R. 19373) permitting the Secretary of the Interior to lease certain mineral lands—to the Committee on the Public Lands.

By Mr. MORRELL: A bill (H. R. 19374) to prohibit shanghaiing in the United States—to the Committee on the Merchant Marine and Fisheries.

By Mr. FOWLER: A bill (H. R. 19375) to increase the efficiency of the classified civil service of the Government, for the retirement of superannuated and disabled employees therein, and to create a retirement fund therefor at the expense of the employees thereof—to the Committee on Reform in the Civil Service.

By Mr. SHERMAN: A bill (H. R. 19376) to confirm the boundary line between the Creek Nation, Indian Territory, and Oklahoma—to the Committee on Indian Affairs.

By Mr. NEEDHAM: A bill (H. R. 19377) to create a United States court of customs appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes—to the Committee on Ways and Means.

By Mr. SHERMAN: A bill (H. R. 19378) to amend section 7 of the act of Congress approved May 27, 1902—to the Committee on Indian Affairs.

By Mr. ANDREWS: A bill (H. R. 19379) providing for the manner of selecting and impaneling juries in the United States courts in the Territories of the United States—to the Committee on the Judiciary.

By Mr. SCOTT: A joint resolution (H. J. Res. 156) providing for the purchase of material and equipment for use in the construction of the Panama Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER: A joint resolution (H. J. Res. 157) permitting the waiving of the alien immigration law in the case of Anna Margaret Zeigler—to the Committee on Immigration and Naturalization.

By Mr. BOWIE: A resolution (H. Res. 523) asking the Speaker to appoint a committee to investigate the existing tariff schedules—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ACHESON: A bill (H. R. 19380) granting an increase of pension to Nancy A. Trover—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19381) granting an increase of pension to Samuel R. Caldwell—to the Committee on Invalid Pensions.

By Mr. AIKEN: A bill (H. R. 19382) granting a pension to Charles J. Tribble—to the Committee on Pensions.

Also, a bill (H. R. 19383) granting an increase of pension to Lucy Tucker Catlett—to the Committee on Pensions.

Also, a bill (H. R. 19384) granting an increase of pension to Susan E. Hernandez—to the Committee on Pensions.

Also, a bill (H. R. 19385) granting an increase of pension to Agnes E. Calvert—to the Committee on Pensions.

By Mr. ANDREWS: A bill (H. R. 19386) granting an increase of pension to Robert Stewart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19387) granting an increase of pension to John N. Enearl—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 19388) for the relief of the estate of Zachariah Leatherman—to the Committee on War Claims.

By Mr. CHAPMAN: A bill (H. R. 19389) granting an increase of pension to Lewis Marquis—to the Committee on Invalid Pensions.

By Mr. DAWSON: A bill (H. R. 19390) granting an increase of pension to William R. Sears—to the Committee on Invalid Pensions.

By Mr. DENBY: A bill (H. R. 19391) granting a pension to Margaret A. Murrihy—to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 19392) for the relief of James H. C. Mann—to the Committee on Military Affairs.

Also, a bill (H. R. 19393) for the relief of Milton Minor—to the Committee on War Claims.

Also, a bill (H. R. 19394) granting a pension to Ephriam D. Prewitt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19395) granting a pension to Nimrod Nelson—to the Committee on Pensions.

Also, a bill (H. R. 19396) granting a pension to Columbus Johnson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19397) granting an increase of pension to Benjamin Roberts—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19398) granting an increase of pension to Counsel F. Dye—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19399) granting an increase of pension to Charles B. Love—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19400) granting an increase of pension to Washington M. Brown—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19401) granting an increase of pension to Campbell Cowan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19402) granting an increase of pension to Benjamin J. Bowman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19403) granting an increase of pension to Serena Johnson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19404) granting an increase of pension to Elias S. Falkenburg—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19405) granting an increase of pension to John Sadler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19406) granting an increase of pension to John W. Sexton—to the Committee on Pensions.

By Mr. FASSETT: A bill (H. R. 19407) to correct the military record of James Hoffman—to the Committee on Military Affairs.

By Mr. FLETCHER: A bill (H. R. 19408) granting an increase of pension to Elisha Brown—to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 19409) granting an increase of pension to William Phipps—to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 19410) granting a pension to Lydia A. Patnaude—to the Committee on Invalid Pensions.

By Mr. GARDNER of New Jersey: A bill (H. R. 19411) granting an increase of pension to James L. Estlow—to the Committee on Invalid Pensions.

By Mr. GARRETT: A bill (H. R. 19412) granting an increase of pension to Jefferson K. Smith—to the Committee on Invalid Pensions.

By Mr. HARDWICK: A bill (H. R. 19413) granting an increase of pension to Sarah A. Allen—to the Committee on Pensions.

By Mr. HASKINS: A bill (H. R. 19414) for the relief of Frances A. Bliss—to the Committee on War Claims.

By Mr. HOUSTON: A bill (H. R. 19415) granting an increase of pension to Sara Ann Revis—to the Committee on Pensions.

By Mr. KNOWLAND: A bill (H. R. 19416) granting an increase of pension to Antonio Macello—to the Committee on Invalid Pensions.

Mr. LILLEY of Pennsylvania: A bill (H. R. 19417) for the relief of Charles N. Warner—to the Committee on Military Affairs.

Also, a bill (H. R. 19418) granting a pension to Eleanor J. Bell—to the Committe on Invalid Pensions.

Also, a bill (H. R. 19419) granting an increase of pension to Walter Reynolds—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19420) granting an increase of pension to Eliza A. McKean—to the Committee on Invalid Pensions.

By Mr. MEYER: A bill (H. R. 19421) granting an increase of pension to Ella A. Hodges—to the Committee on Pensions.

Also, a bill (H. R. 19422) to authorize the Secretary of the Treasury to refund certain moneys collected by the United States—to the Committee on War Claims.

By Mr. PATTERSON of South Carolina: A bill (H. R.

19423) for the relief of Bethesda Baptist Church, of Bamberg County, S. C.—to the Committee on War Claims.

By Mr. SMITH of Arizona: A bill (H. R. 19424) granting a pension to Alice I. Simpson—to the Committe on Invalid Pensions.

By Mr. SMITH of Iowa: A bill (H. R. 19425) granting an increase of pension to Henry C. Tucker—to the Committee on Invalid Pensions.

By Mr. SPERRY: A bill (H. R. 19426) granting an increase of pension to George N. Griffin—to the Committee on Invalid Pensions.

By Mr. SPIGHT: A bill (H. R. 19427) for the relief of the heirs of Nancy Baker, deceased, of Senatobia, Miss.—to the Committee on War Claims.

By Mr. STANLEY: A bill (H. R. 19428) for the relief of John Anderson—to the Committee on War Claims.

By Mr. STEPHENS of Texas: A bill (H. R. 19429) providing for the restoration to the rolls of the Klamath Agency, in the State of Oregon, of certain Modoc Indians in the Indian Territory—to the Committee on Indian Affairs.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 10394) granting an increase of pension to John Behymer, and it was referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Wadsworth Post, Grand Army of the Republic, Rocky Ford, Colo., against the proposed monument to Captain Wirz, executed for cruelty to prisoners at Andersonville, and calling for legislation prohibiting display of the Confederate flag—to the Committee on the Judiciary.

By Mr. ACHESON: Paper to accompany bill for relief of George W. Trover—to the Committee on Invalid Pensions.

By Mr. AIKEN: Paper to accompany bill for relief of Lucy Tucker Catlett—to the Committee on Pensions.

Also, paper to accompany bill for relief of Agnes E. Calvert—to the Committee on Pensions.

By Mr. BARCHFELD: Petition of the Leader, of McKees Rocks, and the Signal, of Carnegie, Pa., for an amendment to the post-office regulations to make legal all paper subscriptions—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Patriotic Order Sons of America, favoring bill H. R. 18673, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BATES: Petition of Grange No. 1034, of Saegerstown, Pa., for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Pennsylvania: Petition of the Patriotic Order Sons of America, favoring bill H. R. 18673, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Walter M. Booth, of Pittsburg, Pa., against subsection 3 of section 7 of the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BUTLER of Pennsylvania: Petition of E. F. Firth, master of Grange No. 1085, and C. P. Barnard, master of Grange No. 1263, for the Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. DAWSON: Petition of Germania Kranken Unterstuetzungs Verien, of Davenport, Iowa, for bill (H. R. 18024) for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. DUNWELL: Petition of the American Humane Society, against bill H. R. 47, relative to continuous time limit of live stock on cars in transit—to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of the Building Contractors' Council of Chicago, against the anti-injunction bill (H. R. 18171)—to the Committee on the Judiciary.

By Mr. GARRETT: Paper to accompany bill for relief of Jefferson K. Smith—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petition of Elmer L. Coombs, 1311 Wesley street, Wilkinsburg, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Patriotic Order Sons of America, headquarters of the national committee, favoring bill H. R. 18673, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, paper to accompany bill for relief of James R. Mullen—to the Committee on Invalid Pensions.

By Mr. HARDWICK: Paper to accompany bill for relief of Sarah R. Allen—to the Committee on Pensions.

By Mr. HENRY of Connecticut: Petition of the Northeast Hardware Dealers' Association, for a parcels-post system in the United States—to the Committee on the Post-Office and Post-Roads.

By Mr. HINSHAW: Petition of citizens of York, Nebr., for an appropriation for laying a sidewalk in front of the Government property and paying for paving in district No. 1 the sum of $2,500—to the Committee on Public Buildings and Grounds.

By Mr. HOWELL of New Jersey: Petition of H. E. Pickersgill, of Perth Amboy, N. J.—to the Committee on the Post-Office and Post-Roads.

By Mr. KNOWLAND: Paper to accompany bill for relief of Antonio Macells—to the Committee on Invalid Pensions.

By Mr. LACEY: Petition of 68 citizens of Newton, Iowa, against all liquor selling in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. LAMB: Petition of citizens of Third Congressional district of Virginia, for Sunday closing of the Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

By Mr. LEGARE: Paper to accompany bill for relief of Susan E. Hernandez—to the Committee on Pensions.

By Mr. LILLEY of Pennsylvania: Paper to accompany bill for relief of H. W. Bardwell—to the Committee on Invalid Pensions.

By Mr. LOUD: Petition of citizens of Michigan, against the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. McKINLEY of Illinois: Petition of Decatur Council, No. 219, United Commercial Travelers of America, against passage of bill H. R. 4549, for consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. MACON: Paper to accompany bill for relief of estate of E. A. Mays—to the Committee on War Claims.

By Mr. PATTERSON of South Carolina: Paper to accompany bill for relief of Bethesda Baptist Church—to the Committee on War Claims.

By Mr. ROBINSON of Arkansas: Paper to accompany bill for relief of W. D. Barnett—to the Committee on War Claims.

By Mr. SHERMAN: Petition of the wholesale grocers of Oneida County, N. Y., for bill H. R. 18279, relative to 10 per cent on teas and coffee from Canada—to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: Petition of Childress Lodge, No. 146, International Association of Machinists, for bill H. R. 10069, relative to pay of mechanics of the first class in the Gun Factory of Washington Navy-Yard—to the Committee on Naval Affairs.

By Mr. SULZER: Petition of the national committee of the Patriotic Order Sons of America, favoring bill H. R. 18673, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of General William F. Barry Garrison, Regular Army and Navy Union, No. 30, against House joint resolution 31, relative to changing the name "Regular Army and Navy Union of the United States" to "Army and Navy Union, United States of America"—to the Committee on Military Affairs.

Also, petition of the American Federation of Labor, favoring full representation of the Federal Government at the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

Also, petition of the National Business League, of Chicago, Ill., for the merit system in appointments to the consular service—to the Committee on Foreign Affairs.

Also, petition of William J. Mallory, for the Calder bill, relative to compensation of employees in navy-yards who have lost arms or legs by accident through no fault of their own—to the Committee on Naval Affairs.

By Mr. THOMAS of Ohio: Petition of the United Presbyterian Church and the Presbyterian Church of Northfield, Ohio, for an amendment to the Constitution abolishing polygamy—to the Committee on the Judiciary.

By Mr. TYNDALL: Paper to accompany bill for relief of F. V. Le Sieur—to the Committee on War Claims.

By Mr. VAN WINKLE: Petition of Prosperity Council, No. 250, Junior Order United American Mechanics, of West Hoboken, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WEBB: Paper to accompany bill for relief of James Waldrup—to the Committee on Pensions.

Also, paper to accompany bill for relief of Nancy Baker—to the Committee on War Claims.

SENATE.

THURSDAY, *May 17, 1906.*

The Senate met at 11 o'clock a. m.

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

The Vice-President being absent, the President pro tempore, Mr. FRYE, took the chair.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SCOTT, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal is approved.

SAC AND FOX INDIANS OF THE MISSISSIPPI.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the superintendent of the Sac and Fox Indians of the Mississippi in Oklahoma remonstrating against the enactment of legislation providing for the readjustment of the annuities of the Sac and Fox Indians of the Mississippi between those residing in Oklahoma and those in Iowa, and to adjust existing claims between the two branches in regard to their annuities, etc.; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

EXECUTIVE COUNCIL OF PORTO RICO.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a copy of the journal of the executive council of Porto Rico, third legislative assembly, second session, January 8 to March 8, 1906, etc.; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Pacific Islands and Porto Rico.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H. R. 395, concerning foreign-built dredges.

DISASTER AT SAN FRANCISCO.

Mr. CULLOM. Mr. President, I ask to have read at the desk and put into the RECORD a letter from the Acting Secretary of State, giving a translation of a note received in relation to the San Francisco disaster. It did not get into the general record. I ask that the letter of the Acting Secretary of State and the accompanying paper be read.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF STATE,
Washington, May 16, 1906.

Hon. SHELBY M. CULLOM,
Chairman of the Committee on Foreign Relations,
United States Senate.

SIR: Referring to the President's message of May 3, 1906, I have the honor to inclose a translation of a note from the Austro-Hungarian ambassador at Washington, conveying messages of sympathy from both houses of the Reichsrath in view of the disaster which has occurred at San Francisco.

I have the honor to be, sir, your obedient servant,

ROBERT BACON,
Acting Secretary.

(Inclosure from ambassador of Austria-Hungary May 10, 1906.)

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN EMBASSY,
Washington, May 10, 1906.

YOUR EXCELLENCY: As I am informed by the imperial and royal minister of foreign affairs, the Lower House of the Reichsrath authorized its president, at the session of April 24 last, to express to the United States Government through diplomatic channels the deep-felt sympathy of the Austrian Lower House on account of the earthquake catastrophe at San Francisco.

Likewise, the first president of the Upper House requested the imperial royal premier, on behalf of said House, to convey through the minister of foreign affairs to the United States Government the expression of the warmest sympathy at this great and deeply regrettable calamity.

In pursuance to instructions received, I have the honor hereby to communicate to Your Excellency these expressions of sympathy on the part of the Austrian Lower House and the president of the Upper House, and I avail myself of this opportunity to renew to you the assurance of my most distinguished consideration.

HENGELMULLER.

His Excellency Mr. ELIHU ROOT,
Secretary of State, Washington, D. C.

Mr. CULLOM. I ask also that another letter from the Secretary of State be read with reference to another government.

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

DEPARTMENT OF STATE,
Washington May 12, 1906.

Hon. SHELBY M. CULLOM,
Chairman of the Committee on Foreign Relations,
United States Senate.

SIR: Referring to the President's message of May 3, 1906, I have the honor to inform you that the Argentine Republic was inadvertently omitted from the list of countries which expressed their sympathy with this Government on account of the disaster at San Francisco.

I have the honor to be, sir, your obedient servant.

ELIHU ROOT.

PETITIONS AND MEMORIALS.

Mr. PLATT presented the petition of Hugh J. Grant, of New York City, N. Y., and a petition of the National Grange, Patrons of Husbandry, of the United States, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

Mr. KEAN presented the petition of H. E. Pickersgill, of Perth Amboy, N. J., praying for the adoption of an amendment to the postal laws relative to newspaper subscriptions; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Columbus Grange, No. 58, Patrons of Husbandry, of Columbus, N. J., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented sundry petitions of citizens of Montclair, N. J., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which were referred to the Committee on Education and Labor.

Mr. ALLEE presented petitions of I. T. Parker, lieutenant-governor, and sundry other citizens of Wilmington, Del.; of the State Council secretary, Junior Order United American Mechanics, of Wilmington, Del., and of Union Council, No. 159, Junior Order United American Mechanics, of Sandy Bottom, Va., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of the executive committee of the Delaware Peace Society, of Wilmington, Del., praying for the enactment of legislation providing for an agreement with other governments to make the Philippine Islands neutral territory; which was referred to the Committee on Foreign Relations.

He also presented petitions of sundry citizens of Stanton, New Castle, and Wilmington, all in the State of Delaware, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a memorial of the trustees of the New Castle County, Del., Workhouse, of the State of Delaware, remonstrating against the enactment of legislation to restrict the interstate transportation of prison-made products; which was referred to the Committee on Education and Labor.

He also presented sundry memorials of citizens of Georgetown and Wyoming, in the State of Delaware, remonstrating against the enactment of legislation to abolish private car lines; which were ordered to lie on the table.

He also presented petitions of Anna L. Cockran, of Baltimore, Md.; of the Westchester Woman's Club, of Mount Vernon; of the Sorosis, of New York City, and of the Federation of Women's Clubs of New York City, all in the State of New York, praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which were referred to the Committee on Education and Labor.

He also presented a petition of the Organization of the General Slocum Survivors, of New York City, N. Y., praying for the enactment of legislation for the relief of the victims of the *General Slocum* disaster; which was referred to the Committee on Claims.

He also presented sundry petitions of citizens of Wilmington, Del., remonstrating against the adoption of the so-called "Warner-Foraker amendment" to the railroad rate bill; which were ordered to lie on the table.

Mr. GALLINGER presented a petition of the Chardonnet Artificial Silk Company, of New York City, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented the petition of Joseph A. Burkart, of Washington, D. C., praying for the enactment of legislation to increase the salaries of justices of the peace in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. SCOTT presented the petition of O. R. Noland, of the State of West Virginia, praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

HOT SPRINGS RESERVATION, ARK.

Mr. BERRY. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 8976) to change

the line of the reservation at Hot Springs, Ark., and of Reserve avenue, to report it favorably without amendment, and I ask unanimous consent for its present consideration. It is very short, and will take only a moment.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. BERRY, from the Committee on Public Lands, to whom was referred the bill (S. 5913) to authorize the sale of certain lands in the city of Mena, in the county of Polk, in the State of Arkansas, reported it without amendment.

Mr. KITTREDGE. I am directed by the Committee on Interoceanic Canals to report a bill providing for the construction of a sea-level canal connecting the waters of the Atlantic and Pacific oceans. I ask that the bill be read twice and placed on the Calendar.

The bill (S. 6191) to provide for the construction of a sea-level canal connecting the waters of the Atlantic and Pacific oceans, and the method of construction, was read twice by its title.

The PRESIDENT pro tempore. The bill will be placed on the Calendar.

Mr. McLAURIN, from the Committee on Claims, to whom was referred the bill (S. 1816) for the relief of the Citizens' Bank of Louisiana, reported it without amendment, and submitted a report thereon.

Mr. FRAZIER, from the Committee on Claims, to whom was referred the bill (H. R. 12252) for the relief of the heirs at law of Massalon Whitten, deceased, reported it without amendment, and submitted a report thereon.

Mr. PERKINS, from the Committee on Forest Reservations and the Protection of Game, to whom was referred the joint resolution (H. J. Res. 118) accepting the recession by the State of California of the Yosemite Valley grant and the Mariposa Big Tree Grove, and including the same, together with fractional section 5 and 6, township 5 south, range 22 east, Mount Diablo meridian, California, within the metes and bounds of the Yosemite National Park, and changing the boundaries thereof, reported it without amendment, and submitted a report thereon.

Mr. CLAPP, from the Committee on Claims, to whom was referred the bill (S. 6166) for the relief of Edwin S. Hall, reported it without amendment, and submitted a report thereon.

Mr. MORGAN. I am instructed by the Committee on Interoceanic Canals, to whom was referred the bill (S. 5965) to establish the plan of a ship canal to be constructed in the Panama Canal Zone, ceded to the United States by the Republic of Panama, under the provisions of the treaty promulgated on the 26th day of February, 1904, to report it back adversely. I ask that it be put upon the Calendar with the adverse report. I ask that the report of the minority of the committee may be printed.

The PRESIDENT pro tempore. The Senator from Alabama asks that the views of the minority on the bill which he reports from the committee may be printed. Is there objection? The Chair hears none, and it is so ordered. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. CULLOM introduced a bill (S. 6192) granting an increase of pension to John Coker; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALLEE introduced a bill (S. 6193) granting an increase of pension to Elizabeth N. Dunn; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6194) to increase the efficiency of the classified civil service of the Government, for the retirement of superannuated and disabled employees therein, and to create a retirement fund therefor at the expense of the employees thereof; which was read twice by its title, and referred to the Committee on Civil Service and Retrenchment.

Mr. DICK introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6195) granting a pension to Margaret Hawthorn;

A bill (S. 6196) granting an increase of pension to William R. Perdue; and

A bill (S. 6197) granting an increase of pension to Charles E. Henry.

Mr. DICK introduced a bill (S. 6198) to correct the naval record of Charles A. Bradley; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also introduced a bill (S. 6199) for the relief of John Thomas Power; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. LONG introduced a bill (S. 6200) granting a pension to Charles W. Helvey; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLAY introduced a bill (S. 6201) for the relief of the village of Graysville, in Catoosa County, Ga.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

IMPROVEMENT OF CONNECTICUT AVENUE EXTENDED.

Mr. GALLINGER submitted an amendment proposing to appropriate $20,000 to grade and improve Conneticut avenue extended, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On May 16:

S. 4094. An act to amend section 4426 of the Revised Statutes of the United States; regulation of motor boats;

S. 4976. An act to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives;

S. 2296. An act restoring to the public domain certain lands in the State of Minnesota;

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah; and

S. 5796. An act to authorize the construction of a bridge across the Missouri River and to establish it as a post-road.

TRANSPORTATION OF PETROLEUM.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying report, referred to the Committee on Interstate Commerce.

To the Senate and House of Representatives:

I transmit herewith a full report of the Commissioner of the Bureau of Corporations in the Department of Commerce and Labor on the subject of transportation and freight rates in connection with the oil industry, referred to in my message of the 4th instant, it having been delayed in printing.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 17, 1906.*

REGULATION OF RAILROAD RATES.

The PRESIDENT pro tempore. The morning business is closed, and the Chair lays before the Senate House bill 12987.

The Senate resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

The PRESIDENT pro tempore. The question is on concurring in the first amendment made as in Committee of the Whole as amended. Without objection, it will be concurred in.

Mr. BEVERIDGE. I believe the first amendment is on page 1, beginning at line 7.

The PRESIDENT pro tempore. It is.

Mr. BEVERIDGE. I desire to move to strike out the word "and" on line 8, and the words "except natural or artificial gas," on line 1, page 2.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 1, strike out the last word on the page, the word "and," and at the top of the page, the first five words on that page, "except natural or artificial gas."

Mr. TALIAFERRO. Is an amendment to the amendment in order?

The PRESIDENT pro tempore. One has just been offered by the Senator from Indiana.

Mr. TALIAFERRO. Is an amendment to that amendment in order?

The PRESIDENT pro tempore. It is not.

Mr. TALIAFERRO. I ask the Senator from Indiana to consent to a modification of his amendment. I send it to the desk and ask to have it read.

The PRESIDENT pro tempore. If there is no objection, the proposed amendment will be read.

The Secretary read as follows:

Except natural gas for municipal purposes.

Mr. BEVERIDGE. I will say to the Senator from Florida that I shall, after a moment, be very glad to accept his suggestion as a modification of the amendment which I have just moved. At the present time I wish the amendment to stand as I have offered it.

Mr. President, I do not desire to delay, and I shall not delay the Senate at all except to call attention to precisely what it is that we will vote on in voting upon this amendment. As the amendment was originally proposed by the Senator from Massachusetts [Mr. LODGE] it included the transportation of oil and gas by pipe lines. The question was asked of the Senator from Massachusetts, when the word "gas" had by some means or other gone out, why gas should be excluded and oil alone included in the transportation of these substances by pipe lines, and the Senator said gas ought also to be included.

Thereafter the Senate twice upon this subject voted the word "gas" into the amendment, so that the transportation by pipe line should include gas as well as oil. Thereafter the words "for municipal purposes" were added. So the Senate on this question twice voted to include the word "gas" as well as the word "oil." Thereafter a motion was made late in the day—I remember it very well—in considerable confusion, striking out the words "except for municipal purposes." Many Senators voting under a misapprehension voted for that, and when it was carried, it was found that the effect of it was to take natural gas transported by pipe lines out of the operation of this provision.

It is for the purpose of restoring natural gas to the provisions of this act, so that it will include natural gas as well as oil, that I make the motion to amend by striking out the words "and except natural or artificial gas." In that way, Mr. President, gas as well as oil will be included in the operation of the bill.

The PRESIDENT pro tempore. Does the Senator from Indiana accept the modification suggested by the Senator from Florida?

Mr. BEVERIDGE. Not just yet. I will do so in a moment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Indiana to the amendment made as in Committee of the Whole.

Mr. FORAKER. Mr. President, I want to address the Senate upon this amendment, and we will not be in a hurry about voting on it, I imagine, if it is to be insisted upon in this form. I have already addressed the Senate two or three times in regard to this matter. I think it is one of the most important matters connected with this legislation.

I wish to call the attention of Senators to what we have done and what we are now invited to do with respect to this kind of property interest. I have illustrated by telling of our situation at the city of Cincinnati. The interest I have in this amendment is one that belongs and pertains to that locality. I have already explained that we are just now taking steps to make a large investment of money. Five million dollars it is estimated will be required. The money is now being raised for the purpose of constructing and putting into operation a pipe line from the city of Cincinnati to the natural-gas fields of West Virginia, a distance of 274 miles, where the parties interested have acquired large fields from which they expect to draw natural gas.

That is a purely individual enterprise. It requires the amount I have indicated, because, according to the estimates of the engineers, it is found that that is the amount which will be required to put in the kind of a pipe which is necessary, a 16-inch pipe, as I am informed. The object is to expend that amount of money in order to take natural gas to the city of Cincinnati, not alone for municipal purposes, but also for manufacturing purposes, because the people engaged in manufacturing there, the people who have factories, mills, foundries, and machine shops want cheap fuel for those purposes. If when they have done that they are to be required to open the pipe line to everybody who may have natural gas to send to market, taking it to the other towns that may be along the line through which the pipe will pass; if that should be required, in addition to what they want to do for the city of Cincinnati, it will require still another pipe line, I suppose, and another expenditure of $5,000,000, so that the people who have no thought of becoming common carriers, who are simply trying to take care of their own local business, will be put into the business of common carriers against their will and be required to spend not only the $5,000,000 which their necessities require, but $5,000,000 more for a doubtful enterprise, in order that they may meet the requirements of the whim of somebody.

Mr. BEVERIDGE. Will the Senator permit me?

Mr. FORAKER. Yes; if the Senator does not take too much time.

Mr. BEVERIDGE. I will take no time except to address to the Senator the same question I addressed to him yesterday, when he was making the same speech he is making now. Might not the same situation the Senator describes be also true of oil transported in pipe lines?

Mr. FORAKER. Yes; I imagine it would be true of oil, and I do not think you have any more right to do it in the one case than you have in the other.

Mr. BEVERIDGE. That is the whole thing.

Mr. FORAKER. In other words, I think the individual or the corporation, because you may speak of it in either way, for the terms of this amendment are "any corporation or any person or persons"—any individual, therefore, has a right, in carrying on his business in connection with it, to make use of oil, to make use of natural gas, or to make use of water, and may at his own expense put down pipes to meet the necessities of that business. I do not think the Congress of the United States has any right to make of that man a common carrier because his pipe line happens to cross a State line.

Mr. BEVERIDGE. Then the Senator is not in favor of this provision with reference to oil any more than with reference to natural gas.

Mr. FORAKER. I am not speaking about oil, but about natural gas.

Mr. BEVERIDGE. The only point is that you must treat both alike.

Mr. FORAKER. To treat both alike is what I am trying to do; and I say you have no right to make a common carrier out of a private individual who is transporting for his own particular business and has no thought or purpose of accommodating the public.

Now, Mr. President, we adopted this amendment (and to this I call the attention of Senators) before we had adopted the amendment offered by the Senator from West Virginia [Mr. ELKINS], which prohibits any common carrier from carrying any product or commodity in which it has any interest, direct or indirect, as an owner of any kind.

Now, what will be the consequence? We spend $5,000,000 to carry our own natural gas from West Virginia to the city of Cincinnati. When we spend that money and are in a situation to serve our purposes, we are told by the Congress of the United States, "You are a common carrier and must carry for everybody except only for yourself. You can not carry anything that belongs to you." What is that except confiscation of property?

It may be that it is confiscation of oil. I leave that for the Senator to comment upon; but it is confiscation of any kind of property to do the same thing; and I want to say that it is not creditable to the Senate of the United States so to legislate. On the contrary, it seems to me it is entirely discreditable.

Now, Mr. President, just one word. It seems to me the difficulty about this is not met by the addition of the words "for municipal purposes," for that is but a very limited and restricted use. It is a municipal purpose to light the streets of a municipality, but it is not a municipal purpose to supply natural gas to citizens under private contract, to supply it to factories, foundries, and machine shops. That is not a municipal purpose. The way to remedy this is not, therefore, by adding words of that kind, for they do not help, but by adding after the word "transportation," as I suggested to the Senator from Massachusetts when he offered it, the words "for the public." The only person who is a common carrier is one who transports for the public.

It has been said that these pipe lines are organized under statutes that call them common carriers. That is true to a certain extent, but it does not necessarily make them common carriers in the sense that they have the right to exercise the power of eminent domain—certainly not outside the State of their creation, where this corporation has gone with its pipe line. To give the power of eminent domain must be a case where private property is being taken for a public use, for the use of the public generally, not for the interest of some individual or some particular locality, such as may be indicated in these instances.

Now, what is the objection to putting in the words "transporting for the public?"

Mr. BACON. Mr. President, I should like very much to hear the Senator, but when he turns his face in the other direction it is impossible to do so.

Mr. FORAKER. I thank the Senator for calling my attention to the fact that I was not speaking loud enough for him to hear, for I want everybody to hear, for if there is anything about this bill I am in earnest about it is this.

It seems to me, when we adopted this amendment, we acted unwisely, if I may say that without appearing to criticise the Senate, and surely it was unwise when later on we voted that we would not only make a private pipe line a common carrier, but that we would deny to it the right to carry the very product that it was organized and constructed to carry.

The result would be as I have said, and that is all I can say, and it seems to me that is enough. If our people build this pipe line, it is for our use and for our benefit, not for the pub-

lic. We do not want to go into competition with anybody else. If anybody else is to pipe gas out of that same territory, let him put in a pipe line, as we are doing.

Mr. BACON. Will the Senator permit me to ask him whether or not he has suggested any phraseology which will meet such a case as that which he now has in view?

Mr. FORAKER. Yes.

Mr. BACON. And at the same time not destroy the general purpose of the provision?

Mr. FORAKER. I think I have. I would be glad if the Senator from Georgia, who has the bill on the desk before him, will look at line 8, page 1, and see what I have suggested, namely, that after the word "transportation," the first word in the line, we insert "for the public," for I understand that any pipe line transporting for the public we would have the right to treat as a common carrier. But surely we have not reached the point where an individual can not have a pipe line of his own for water or for gas or for oil, or for anything else he may want it for. I called attention to the fact that this applies to persons as well as to corporations.

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Certainly.

Mr. CULBERSON. I ask the Senator if his purpose is not carried out in the phrase beginning at line 3, page 2, "who shall be considered and held to be common carriers within the meaning and purpose of this act," because in the case he mentions the company will not be a common carrier when only carrying gas for itself, and it will not be brought within the meaning of this act according to its own provision?

Mr. FORAKER. I have not heard of anybody putting that interpretation on that language. I called attention to it when the matter was under consideration a few days ago, and a different view was taken of it. It does not make it very clear, but if you were to put in the words "for the public," after "transportation," then there could not be any question about it, and I can not understand why that should be objected to. If there is anybody transporting in a pipe line of any commodity, no matter what it may be, for the public——

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. FORAKER. Certainly.

Mr. STONE. I desire to ask the Senator from Ohio a question. He speaks of the situation at the city of Cincinnati and the purpose to connect the city with gas fields in West Virginia. Suppose his amendment should be agreed to, inserting the words "for the public," if gas should be transmitted to a reservoir, as I suppose it would have to be, and stored in that way in the city of Cincinnati and from thence transported to foundries and individual homes, would not that be a transmission for the public as much as if you transmit oil through pipes to reservoirs for sale? So how would that amendment help the Senator's case?

Mr. FORAKER. That shows the wisdom of having two or three minds directed to the same point. The Senator misapprehends what was in my mind, and what the Senator has just now expressed did not occur to me, the force of which I recognize. What I had in mind was any pipe line that is transporting for the public in the sense that it is transporting for all who bring to it the commodity which they want transported. I think that would be a common carrier under the law, and there is no objection to regulating it.

Mr. TELLER. I suggest to the Senator that perhaps he could use the term "transportation for hire" or "for compensation." I think that is better than the term he suggests.

Mr. FORAKER. Anything at all which indicates that when we get our property into operation it is not to be confiscated by act of Congress will satisfy me. I am not stickling for words, but I am for the substance.

Mr. SCOTT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FORAKER. Certainly.

Mr. SCOTT. Mr. President, West Virginia perhaps is more interested in the discussion of this question than any other State in the Union, and I want to say that we have a number of pipe lines that are owned by corporations and that are owned by individuals to carry and transport gas from West Virginia out of the State. We have the West Virginia Natural Gas Company, we have the Manufacturers' Gas Company, and we have a number of lines that run to Pittsburg to individual manufacturers, who own their territory, drill their own wells, and carry their own gas to their own mills.

So I say, Mr. President, that this provision which the Senator from Indiana is trying to put into the bill will be a great injustice to our people and a great injustice to the people who are taking the gas out of our State. Now, Mr. President——

Mr. BEVERIDGE. Will the Senator allow me?

Mr. SCOTT. No, sir; I do not yield. I have not the gift of language which the Senator from Indiana has, and consequently I do not want to be interrupted.

Mr. President, the fact is we can not bring the large manufacturing establishments of Cincinnati and Pittsburg into the State of West Virginia. If we could, we would be very glad to build a wall around our State and keep the gas within our own borders. But as we can not do that, we want to have all the privileges that we can possibly get, so that our people can dispose of their gas and territory to these different manufacturers, to these different companies, and get as much for it as they can. With this restriction, it will stop development, just as the Senator from Ohio [Mr. FORAKER] says. The Cincinnati company which is coming into the southern part of our State at an expense of $5,000,000 is not going to come up there if the privileges under which they started out to build this line are taken away from it, and I hope it will not be the pleasure of the Senate to strike out, and insert the amendment the Senator from Indiana suggests.

Mr. LODGE. Mr. President, I think the amendment as it originally stood, "excepting natural gas for municipal purposes," was the correct form, but the question of natural gas is an entirely secondary question to my mind. The question involved here is the great traffic in oil. If you put in the words "transportation for hire" or "transportation for the public," you absolutely destroy this amendment so far as its effectiveness is concerned. The method of getting the oil is, as a rule, that the Standard Oil Company or the Pure Oil Company, which are the two great carriers of oil, buy it of the well owner and carry it, and they would immediately say they were not carrying for the public; that they were carrying for themselves. That is the reason why the word "public" or "transportation for hire" put in there would immediately wreck this amendment.

My object, I state frankly, in this amendment is to bring the pipe lines of the Standard Oil Company within the jurisdiction of the Interstate Commerce Commission. I do not see why that great corporation, with its enormous traffic in this article, should alone be exempted from the supervision and regulation of the Government. I care very little about the natural-gas feature in the amendment, but I do want to bring the Standard Oil Company somewhere within the reach of the law, and, owing to the method in which most oil is bought and handled, if you put in the words "for the public," after "transportation," you practically kill the amendment.

Mr. BEVERIDGE. Mr. President——

Mr. LODGE. Wait a moment; I should like to finish. These companies have the right of eminent domain, as I showed the other day. They are declared to be common carriers by statute in many of the States in which they operate. A letter was forwarded to me from a counsel of the Standard Oil Company hostile to this legislation, in which he admitted that they were common carriers east of the Mississippi.

Mr. President, there is no reason in the world why that corporation, with that great traffic in one of the most essential articles of use, should alone escape. They ought to be somewhere where they can be supervised and regulated. They carry oil for independent refineries. The independent refineries in other parts of the country try to get oil from their own wells or from other wells, and sometimes they will carry it and sometimes they will not; but they carry for independent refineries, showing that they are ordinary carriers when they choose to be. They hold, as it is now, the entire oil industry of the country by the throat. If there is nothing wrong, if everything is right, if they are public benefactors, they will not suffer from having the Interstate Commerce Commission look into this matter and see that the business is properly carried on. There need not be any apprehension in that regard.

Now, the additional amendment, known as the "coal-land amendment," has been brought up, and it is said it would be a great hardship on them, because they will not be able to carry their own oil under that amendment, as the railroads are forbidden from carrying their own coal, if they own the mines, for general sale. It does not prevent them from carrying the oil, I suppose, for their own use, but it will prevent them, undoubtedly, if they own the wells. Suppose it becomes necessary to separate these pipe lines and make the carrying of oil a distinct business from the production or refining of oil, is there anything wrong in that? We are about to compel the railroads to make some arrangement to get rid of their coal

lands all over the country, and either sell them or put them in the hands of holding companies. Why should we be so much afraid that it is going to be a great hardship on the Standard Oil Company if they are obliged to make an arrangement that their carrying lines shall be independent and that the carrying shall be general for all the oil producers of the country?

Mr. FORAKER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly.

Mr. FORAKER. Who has been talking about hardship upon the Standard Oil Company?

Mr. SCOTT. The Senator from Ohio was talking about gas.

Mr. LODGE. I am talking about oil. I am not disturbed about gas. I am talking about the effect of the amendment the Senator from Ohio proposes, inserting the word "public."

Mr. FORAKER. I have not offered any amendment, Mr. President; I only suggested it, and what I said to the Senator aside I say to him on the floor of the Senate—leave the amendment as it is. I do not care anything about the other provision. I want to protect natural gas in the way I have indicated.

Mr. LODGE. I did not suggest that anybody had said it would be a hardship.

Mr. TALIAFERRO. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Florida?

Mr. LODGE. I yield to the Senator from Florida.

Mr. TALIAFERRO. I wish to ask the Senator from Massachusetts if he will not address himself to the constitutionality of an act that brings one of these pipe lines under the operation of this law and excludes all the balance of them. I am not a lawyer, and I should like to hear from a lawyer on that subject.

Mr. NELSON. Will the Senator from Massachusetts yield to me a moment?

Mr. LODGE. Certainly.

Mr. NELSON. I will in my own time answer that question and call the Senator's attention to a decision of the Supreme Court bearing on the point.

Mr. LODGE. All pipe lines owned by any company within the United States and within the Territories of the United States are made common carriers. What the Senator alludes to is a peculiar case in the Zone of Panama, an area which is under a peculiar jurisdiction and where the Government is ready to give a revocable license to anybody who chooses to lay pipe lines there. I do not care to enter into that discussion.

I took the floor to say this only because I want to preserve what I regard as the essential part of this amendment, and that is to bring the Standard Oil Company, which is the principal carrier, and the other carriers of oil within the jurisdiction of the Interstate Commerce Commission. I think it would be a gross injustice to leave them out. Owing to the manner in which the oil business is done, I have not the slightest doubt that if you put in the words 'transportation for hire," or the words "transportation for the public," you immediately release all those lines, because their method of doing business is to buy the oil first at prices which they make themselves, because they alone are able to take it to market.

Mr. GALLINGER. Mr. President, the Senator from Indiana [Mr. BEVERIDGE] has twice suggested that the amendment as it now stands was agreed to at a late hour in the day when there was great confusion in the Chamber.

Turning to the CONGRESSIONAL RECORD of May 4, it will be found that the debate on this amendment commenced on page 6502 and that the Senate adjourned, after it had indulged in debate covering seven pages of the CONGRESSIONAL RECORD, at the hour of 5 o'clock and 5 minutes p. m., having held an executive session in the meantime. It will be noted on page 6504 that on the amendment proposed by the Senator from Massachusetts as amended there was a roll call and there were seventy-five Senators who responded to their names. So it is perfectly apparent that the Senate perfectly understood what it was doing with reference to this matter.

It was the Senator from Massachusetts [Mr. LODGE] who suggested to the Senator from Ohio [Mr. FORAKER] that "in order to make the purport of the amendment clear it be made to read 'except natural or artificial gas.'" Upon that the amendment of the Senator from Ohio was adopted. Afterwards the Senator from Rhode Island [Mr. ALDRICH] moved to strike out "for municipal purposes," and that amendment was likewise adopted. Then, as I have said, upon a roll call, to which seventy-five Senators answered, the amendment of the Senator from Massachusetts as amended was agreed to.

I simply rose for the purpose of showing that the Senator from Indiana is mistaken when he says the Senate voted in confusion and did not know what it was doing when it adopted this amendment.

Mr. BEVERIDGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield to the Senator from Indiana?

Mr. GALLINGER. While other Senators have declined to yield, I know the Senator ought to have a chance, and I yield to him.

Mr. BEVERIDGE. I wish to say to the Senator that he will see by looking at the pages of the CONGRESSIONAL RECORD that that interpretation can not be correct for this reason: It shows that earlier the amendment was adopted which inserted "natural gas;" that then another amendment was adopted which excepted "natural gas for municipal purposes;" that the Senate had twice expressed its opinion upon this subject, and finally that they struck out "natural gas" altogether. So the Senate understood it in the first two votes but did not understand it in the last vote.

Mr. GALLINGER. That does not follow at all. It simply emphasizes what I have said, that the Senate, with great deliberation, went over this entire subject, and the fact that the Senate changed its views upon the question afterwards does not prove that the Senate did not understand what it was doing in the first place or in the latter case.

Mr. BEVERIDGE. Then the Senate did change its views?

Mr. GALLINGER. Certainly; and——

Mr. BEVERIDGE. And in fifteen minutes.

Mr. GALLINGER. And the Senator from Indiana frequently changes his views.

Mr. BEVERIDGE. But, Mr. President——

Mr. GALLINGER. If he did not, I would not regard him as highly as I do, because I know he does not belong to the class who never change their views.

Mr. President, that is all I care to say. The Senate perfectly understood what it was doing. If the Senate wishes to reverse its action, that is within its competency; but it is not proper to have it stated and let it go undisputed that we acted without intelligence in adopting the amendment which the Senator from Ohio desired to have incorporated in the bill.

Mr. NELSON. Mr. President, I desire briefly to call attention to one feature of this controversy, in regard to the proposition that pipe lines carrying oil can not be placed under the Interstate Commerce Commission unless they do a general business for the public. The question principally involved in that matter has been passed upon by the Supreme Court of the United States in a case which came from Minnesota. In 1893 the legislature of that State passed a law providing that all warehouses and elevators for storing and handling grain along the route of any railroad should be subject to the control and jurisdiction of the Minnesota railroad and warehouse commission. An elevator company at Lanesboro, in the southern part of Minnesota, denied the right of the State to exercise jurisdiction over that elevator, because they insisted that they were simply buying grain for their own use, for their own business; that they were not doing a general public-elevator business; that they bought grain from the farmers and shipped it to their own consignees at terminal points, and hence were not subject to public control.

The Supreme Court held that that position was untenable; that they were there occupying a position of a public market place, buying grain from every farmer who came there, weighing it, and grading it on their own scales, and therefore that it was a public business, and that the public had a right to control it.

So, Mr. President, with the oil pipe lines. The Standard Oil Company has a large pipe line running through the country. That pipe line has many feeders. Private parties build pipe lines to the trunk line to run the oil from their own wells, which are connected with the pipe lines of the Standard Oil Company, which company buys from these various small dealers. The different parties who have these feeding lines from their wells ship their oil to the trunk line. Their relation to the public is exactly the same as that of the elevator company to which I have referred in Minnesota. We have as much right to control such pipe lines as the public have a right to control that grain elevator at Lanesboro, in Minnesota. The Standard Oil Company purchases oil from the independent shipping oil owners, who have built little feeding lines connected with the trunk line of the Standard Oil Company. It purchases their oil and holds a monopoly of the use of the main line; and unless it is put under the control of the Interstate Commerce Commission, it can carry on its business with impunity, and practically destroy all the independent dealers and the independent lines.

If you put into the amendment of the Senator from Massa-

chusetts such an amendment as has been suggested, that these companies shall not be subject to the jurisdiction of the Interstate Commerce Commission unless they do a general business for the public, you will thereby entirely destroy the whole amendment, and will make it of no force and effect whatsoever. The amendment as it now stands is all right, and in respect to that matter should not be emasculated or changed.

Mr. FORAKER. Mr. President——

Mr. NELSON. As to the question of natural gas, I have no particular interest in that, but I think the amendment proposed by the Senator from Massachusetts ought to stand in the bill unamended and unchanged.

Mr. FORAKER. Will the Senator from Minnesota allow me to say a word in his time, as I can not do so in my own time?

Mr. NELSON. Certainly.

Mr. FORAKER. There seems to be a misapprehension among Senators as to why I contend that this amendment as it now stands shall remain without any change. The debate has arisen upon the motion of the Senator from Indiana [Mr. BEVERIDGE] to strike out the words "natural gas or artificial gas." I want the amendment to stand just as it now is.

Mr. TALIAFERRO. Mr. President, I inquire if the Senator from Indiana [Mr. BEVERIDGE] has accepted the modification I suggested?

Mr. BEVERIDGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Indiana?

Mr. TALIAFERRO. I yield to the Senator.

Mr. BEVERIDGE. For the purpose of permitting the Senator from Florida to offer the amendment which he has suggested as a modification of mine, I withdraw the amendment which I offered in order that the Senator may move his amendment, because I think that his amendment is better than the one I have offered.

Mr. TALIAFERRO. Mr. President, on page 1, line 8, of the bill I move to strike out, after the word "except," down to and including the words "artificial gas," in line 1, on page 2, and insert the language I send to the desk.

The PRESIDENT pro tempore. The amendment to the amendment made as in Committee of the Whole will be stated.

The SECRETARY. On page 1, line 8, after the word "except," it is proposed to strike out "water and except natural gas or artificial gas" and insert "except natural gas for municipal purposes."

Mr. TALIAFERRO. Mr. President, I have no interest near or remote——

Mr. SCOTT. Will the Senator allow me just a moment to inquire why limit the amendment which he is going to offer? Why not put in the word "manufacturing?" The great bulk of the gas taken out of our State is for manufacturing purposes.

Mr. TALIAFERRO. Because, Mr. President, I want to show to the Senate that the very line sought to be excluded from the operation of this act by the Senators from Ohio and West Virginia should, in the interest of the public, be brought under the terms and provisions of the act.

I have no interest whatever, near or remote, in oil pipe lines, natural gas, or anything of that character, but I do desire to see this bill become a law in such a form as will meet the very natural and just demands of the public at large. I am in favor of having these provisions extend to every agency engaged in interstate commerce, and I see no reason whatever why in including the pipe lines of this country a natural-gas pipe line should be excepted.

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Missouri?

Mr. TALIAFERRO. Certainly.

Mr. STONE. I ask the Senator what is his reason for including water pipe lines under the provision of this act?

Mr. TALIAFERRO. In consonance with my suggestion that every commodity, every agency entering into the interstate commerce of this country should be brought within the provisions of the act. That is my reason and my only reason.

I do not concede that the act applies except where the companies engaged in the business enter into the interstate commerce of the country, and where they do enter into the interstate commerce of the country I think they should be brought under the provisions of this act.

The distinguished Senator from Ohio [Mr. FORAKER], in addressing himself to this subject on Tuesday last, stated, in part, as follows:

> If when we get to the oil fields, having spent our $5,000,000, which we are having a great deal of trouble to raise——

Mr. FORAKER. The Senator will allow me to say that should be "gas fields." I was not going into oil fields.

Mr. TALIAFERRO. I presumed the Senator referred to gas, but I have read the RECORD as it is. The Senator from Ohio continued:

> and which we could not raise at all if it were known that this provision would become a law, we shall be required to receive all the natural gas other people may see fit to bring to our pipe and transport it from the place in West Virginia where the gas is found down to Huntington, we will say, dump out a lot of it there for the accommodation of that city, and on to Maysville, etc.

Mr. President, I want to know what the purpose of this act is unless it be to bring these carriers into such relations with the public that the public may be served by them? If this natural-gas pipe line from the gas fields of West Virginia to Cincinnati is conveying that gas for interstate commerce, there is no earthly reason why it should not be brought within the provisions of this act.

Mr. FULTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Oregon?

Mr. TALIAFERRO. I do.

Mr. FULTON. Do I understand the Senator to contend that he would prohibit any person from laying a pipe line for his own use exclusively?

Mr. TALIAFERRO. I do not. I make no such contention. I say that when the article conveyed enters into the interstate commerce of the country the medium of conveyance——

Mr. FORAKER. Mr. President——

Mr. TALIAFERRO. The agency of conveyance ought to be brought within the provisions of this law.

Mr. FORAKER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Ohio?

Mr. TALIAFERRO. I do.

Mr. FORAKER. I do not take any issue with that proposition of the Senator, but that is not this case. The case I put is one where we are not transporting an article in order to put it into the interstate commerce of the country.

Mr. TALIAFERRO. Then my contention is, Mr. President, that that pipe line would not come under the provisions of this act.

Mr. FORAKER. All I want is to make it clear that it does not, and it is clear as it now stands.

Mr. TALIAFERRO. We can not make it clear, Mr. President, by inserting the word suggested by the Senator from Ohio without destroying the entire provision.

Mr. FORAKER. Mr. President, I do not want any other words. I want it to stand precisely as it stands now, but if there is to be any change I want it to be so changed that it will preserve what the Senator says already appears in the amendment.

Mr. TALIAFERRO. The Senator from Indiana [Mr. BEVERIDGE] was correct when he stated that the Senate had already twice passed upon this question. Subsequently, under the management—the skillful management—of the Senator from Rhode Island, the Senator from Ohio, and the Senator from Montana, the position, the judgment, the expression of the Senate has been absolutely changed as it appears in this bill to-day. The question was distinctly put by the Senator from Ohio to exclude his particular pet line from the operation of this bill and the Senate as distinctly voted it down.

Mr. FORAKER. The Senator referred to me in some way that I could not understand, as there was so much confusion. Will the Senator please indulge me to the extent of repeating what he said?

Mr. TALIAFERRO. It is almost impossible, Mr. President, for me to repeat what I said.

Mr. FORAKER. Well, the Senator referred to the Senator from Ohio about something, and I should like to know what it is.

Mr. TALIAFERRO. I think I stated that the Senator from Ohio distinctly submitted to the Senate a proposition to exclude his pet company from the operation of this act, and that the Senate quite as distinctly voted it down, and yet we find here in the bill this morning, as it lies on the desks of Senators, the action of the Senate, taken soberly and distinctly after debate of the question, absolutely reversed on this important point.

Mr. FORAKER. Very well. I will wait, however, until the Senator concludes.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Wyoming?

Mr. TALIAFERRO. I yield.

Mr. CLARK of Wyoming. I desire to say to the Senator from Florida that there is a very great fear, and, I think, a justifiable one, that if the word "water," which he proposes to strike out of his amendment, is stricken out, it will work irrep-

arable damage to the great irrigation works now operating and under construction in the West; and unless the Senator has some special reason why he desires that to go in, I suggest to the Senator that no harm will be done by not including that in the words to be stricken out.

Mr. BEVERIDGE. I hope the Senator from Florida [Mr. TALIAFERRO] will heed the suggestion of the Senator from Wyoming [Mr. CLARK].

Mr. TALIAFERRO. I will ask if that will make the amendment satisfactory to the Senator?

Mr. CLARK of Wyoming. I prefer the words as they are in the bill upon our desks, but if the Senator's amendment is to be adopted, I do not think it can be adopted without irreparable injury to those irrigation works of which I have spoken.

Mr. BEVERIDGE. I think water should be excluded when used for irrigation works and other public purposes.

Mr. TALIAFERRO. Mr. President, I have no objection to the suggestion. Water enters so slightly as a commodity into the interstate commerce of this country that I have no objection to putting into this bill anything which, if omitted, would impose a hardship on my friends in the West—none whatever—and if the Senator desires to propose a modification of the amendment which will meet his views, I shall be glad to hear it.

Mr. CLARK of Wyoming. I will ask the Senator if he has any insuperable objection to excepting the word "water" from his amendment to strike out?

Mr. TALIAFERRO. I will not object to that modification of the amendment, so that the amendment will read "except water and except natural gas for municipal purposes."

Mr. President, if I were a lawyer I would feel disposed to address myself to the question of the constitutionality of an act that imposes conditions upon one set of people and excepts all others in the same class of business; but, not being a lawyer, I shall content myself with speaking merely of the equities here involved. I know that the only ground upon which we can claim that this bill is a fair and proper one is to make it general in its application. I favor extending its provisions to all of the important agencies engaged in interstate commerce. It is for that reason, and that reason alone, that I have suggested this amendment, being moved to it by the fact that the Senate has already, as I said, on two different occasions voted to sustain it.

Mr. FORAKER. Mr. President——

Mr. TALIAFERRO. On yesterday, Mr. President, the bill was emasculated, on the suggestion of the Secretary of War, by eliminating the pipe lines being constructed across the Isthmus of Panama.

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Ohio?

Mr. TALIAFERRO. I will, in a moment.

Mr. FORAKER. I thought the Senator's time had expired.

Mr. TALIAFERRO. To-day an effort is being made further to emasculate this bill by inserting the exception suggested by the Senator from Ohio. Mr. President, it is practically asked in this Senate to write the word "discrimination" in this paragraph of the bill. We can not afford to go before the country on a proposition to prevent discriminations when we ourselves propose to write discrimination in the law in this conspicuous manner. I hope that the Senate will go back to its original proposition, agreed to after this case was fully discussed, and place this amendment in the bill as it was before.

Mr. FORAKER. The Senator from Florida referred to me in the course of his remarks, but there was so much confusion in the Chamber, or rather in this part of it, that I did not hear distinctly what he said. I asked him to repeat what he said. After I had been told the nature of his remarks, he did repeat in part what I am told he said. The RECORD will show whether he repeated all of it. Senators sitting about me say that the Senator remarked that, after twice defeating my proposition to have natural gas lines excepted, then later, "under the skillful manipulation of the Senator from Ohio, his pet measure was taken care of."

Mr. TALIAFERRO. Mr. President——

Mr. FORAKER. Did the Senator make such a remark or am I in error?

Mr. TALIAFERRO. My recollection is that I said "under the skillful management," but if the Reporter says I used the word "manipulation," I stand by that.

Mr. FORAKER. Mr. President, all I wanted to know was whether or not the Senator had said it, in order that I might say to the Senator that there is no excuse whatever for him to make such a remark as that. I presented the proposition to the Senate, and it was debated very thoroughly. I want the Senator's attention, if he will honor me with it. After it had been twice voted down in the form in which I presented it, I abandoned it. Other Senators sitting about me in the Chamber, recognizing, as they expressed themselves here on the floor, that they had done an unwise thing and an unjust thing—some other Senator, without my knowing he intended to do it, offered the amendment which was adopted by the Senate by a unanimous vote. I did not know it was to be offered. I did not ask anybody to offer it. The first I knew of it, it was presented to the Senate, and when it came to a vote, without one word being said by me, it received seventy-five votes and not one vote against it.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Yes.

Mr. BAILEY. Does the Senator refer, when he says it was unanimously adopted, to the vote on the pipe-line amendment?

Mr. FORAKER. To the vote on the amendment excepting natural gas.

Mr. BAILEY. Well, as a matter of fact, the exception was not adopted by a vote of 75 to nothing, but the general amendment was adopted.

Mr. FORAKER. Well, the general amendment was.

Mr. BAILEY. Including the particular amendment to which the Senator has referred; but that by itself was not adopted by a vote of 75 to nothing.

Mr. FORAKER. Yes——

Mr. TALIAFERRO. Mr. President——

Mr. FORAKER. Wait just a moment.

Mr. TALIFERRO. I understood the Senator was speaking in my time, and he might accord me an interruption.

Mr. FORAKER. I said in a moment I would grant the Senator the privilege.

The PRESIDENT pro tempore. The time of the Senator from Florida [Mr. TALIAFERRO] has expired.

Mr. FORAKER. I want to say now, so that the Senator will understand, that the RECORD was handed to me by the Senator from New Hampshire [Mr. GALLINGER], and my attention was called to the vote. I said, when I made the remark about a unanimous vote, that the vote had direct reference to this amendment to the amendment; but I recall, since the Senator from Texas [Mr. BAILEY] reminds me of it, that the vote probably was on the acceptance of the amendment as it now stands. This particular amendment was agreed to, as the Senator from New Hampshire now points out to me, without division.

Mr. BEVERIDGE. No; that was some other amendment.

Mr. FORAKER. Well, however it may be, Mr. President, please allow me to proceed. The amendment was thoroughly discussed. The Senate certainly knew what it was doing; it was thoroughly informed, and whether it was or not, what I want to call the Senator's attention to is the fact that he is in error when he says it was due to my management or my manipulation or my anything else. I do not do anything in a surreptitious way. I do not do anything, so far as I am aware, except in the open, where everybody can see and know and understand.

Mr. TALIAFERRO. The Senator ought not——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Florida?

Mr. FORAKER. Certainly.

Mr. TALIAFERRO. The Senator ought not to put words in my mouth, Mr. President, that I did not use.

Mr. FORAKER. Will the Senator tell me what words I put in his mouth?

Mr. TALIAFERRO. I said a while ago, as I recall—and the notes of the stenographer will bear me out—that under the skillful management of the Senators from Ohio and Rhode Island and Montana the action of the Senate had been reversed. Now, the Senator from Ohio disclaims, and I am entirely willing to accord the credit to the other gentlemen.

Mr. FORAKER. I knew the Senator would recall his charge, so far as I am concerned, when he was informed of the truth. As I have stated, I had no knowledge that the amendment was to be offered, and was quite surprised when it was offered. Until I heard it read from the desk I had abandoned all hope of getting the kind of amendment I thought we ought to have. Now, Mr. President, I do not want to add to the discussion of the merits of this question.

Mr. CLAY. Mr. President, will the Senator allow me to ask him a question?

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. FORAKER. Certainly.

Mr. CLAY. I want to understand this question in order to vote on it. I understand these gas companies to which the Senator referred are private companies, with private lines, hauling

their own gas, and the contention of the Senator from Ohio is this: In the event they are not excepted, then the Elkins amendment will apply to them and they can not haul their own gas, and, consequently, can not do business. Is that the contention of the Senator from Ohio?

Mr. FORAKER. That is the effect of it, as I understand, taking these two amendments together.

Mr. BEVERIDGE. The same would be true of oil under similar circumstances.

Mr. FORAKER. Let those who are taking care of oil look after that. I refer that to the Senator from Indiana, who has perhaps studied that feature, but it is true with us, as every man knows.

What I want to make clear is that I do not want to change this amendment. This discussion arises upon a motion made by the Senator from Indiana [Mr. BEVERIDGE] to strike out from the amendment as we adopted it in Committee of the Whole. I do not want that motion to prevail.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Certainly.

Mr. BAILEY. Mr. President, if these companies, although incorporated, are engaged only in carrying their own gas and have not exercised the right of eminent domain, then no law of Congress could make them common carriers; but if they have exercised the great right of eminent domain, then they can not be heard to say that they are engaged only in their private business, because neither individuals nor corporations engaged in private enterprises are permitted to exercise the right of eminent domain. I ask the Senator from Ohio if the particular company which he has in mind has exercised the right of eminent domain?

Mr. FORAKER. It has not—that is, not yet.

Mr. BAILEY. Then no law can make it a common carrier against its will.

Mr. FORAKER. If the Senator will allow me to conclude, they are only in the preliminary stages. They are just now organizing the company and raising money to put in these pipe lines. They may have to exercise the power of eminent domain before they get to the gas fields, 300 miles away, but they hope they may not.

Mr. BAILEY. Then they can not be heard to say, after having exercised that right, that they exercised it for a private purpose.

Mr. FORAKER. Mr. President, I think if the Senator will look carefully at the authorities, he will find the test is not whether they exercise the power of eminent domain, but whether or not that power is exercised in the taking of private property for what is in the language of the authorities a public use. I do not think this would come——

Mr. BAILEY. It can not be taken for any but a public use.

Mr. FORAKER. Well, there are authorities, and authorities conferred by statute, and while it is true——

Mr. BAILEY. But no statute can confer an authority on any Commonwealth in this Union to take private property except for a public use.

Mr. FORAKER. Mr. President, I remember that a case was decided in the Supreme Court of the United States within the last year that came up from Colorado—I believe the Senator from Colorado will perhaps remember about it—where there was some question whether, under the statutes of Colorado, the corporation had a right to exercise the power of eminent domain to get a strip of ground along which to dig an irrigating ditch, I believe it was, through somebody's premises.

Mr. BAILEY. That is a public use.

Mr. FORAKER. The Senator says, without any trouble, that is a public use, but the Supreme Court of the United States, in deciding the case, said they would hold in that case, because of its particular facts, that it was a public use, but that the rule was not to be construed as a broad one applying to all such cases. It is a very instructive case. I do not want to stop, though, to discuss that, and the Senator will excuse me if I ask to pass on, because my time is about to expire.

What I want the Senator to understand is that I am not asking for any change in this amendment. I am simply asking that there be no change made. Leave it just as it is.

Mr. BACON. Mr. President, I desire to ask the Senator a question, with his permission.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. FORAKER. Certainly.

Mr. BACON. I want to ask the Senator as to the intention of this proposed pipe-line interest. Is it understood that the municipality, or whoever will own this pipe line, will own its own gas wells, or will it take gas from other producers?

Mr. FORAKER. It owns its own. It has gone into that territory and acquired these gas lands and is boring its wells and making the necessary preparations for securing the gas and raising the money with which to put in the pipe lines to transport the gas.

Mr. BACON. There is no contemplation of taking the gas from other people?

Mr. FORAKER. None whatever.

Mr. BACON. No power in their charter to do so.

Mr. FORAKER. None whatever. It might become necessary, possibly in order to get the gas, to buy the gas from somebody else; but there is no purpose at any time to transport the gas of anybody except its own gas.

Mr. BACON. Very well; it will be its own gas if it buys it from other people.

Mr. FORAKER. Yes.

Mr. BACON. But the point to which I desire to ask the attention of the Senator is this: If they accumulate their supply of gas, not only by using the product of their own wells, but by purchasing the product of wells of others, and, after that accumulation of it, transport it through their own pipes to Cincinnati, in another State, for the purpose of distributing it and selling it out to other parties to be used for manufacturing and other purposes, I suppose the Senator would concede that under those circumstances that would certainly be interstate commerce. It would be on all fours with the case cited by the Senator from Minnesota, where the private elevator men bought from individuals the product of their grain farms and after passing it through their elevators sold it to other individuals.

Mr. FORAKER. It is gas which it supplies to its own customers at its own place of doing business. This gas will be brought to Cincinnati, turned into the pipes through which artificial gas is now supplied, this gas being substituted for artificial gas—and that is all. The Senator may call that interstate commerce or the business of a common carrier if he likes, but it does not strike me it is either. It wants to substitute natural for artificial gas. It gets a permit, it goes to where the gas is, and it transports it for its own particular purpose.

Mr. BACON. Does the Senator dispute the proposition that if a municipality buys gas in West Virginia from other producers of gas, transports it through its own pipes to Cincinnati, and then sells it to individuals for manufacturing purposes that would be clearly an interstate-commerce transaction?

Mr. FORAKER. It might be; but we do not contemplate doing that. There might possibly arise in the future a contingency when they would do that. That illustrates one of the difficulties of making a pipe line like this a common carrier. Only the individuals who want to transport their own gas would construct it or put it in operation, for who knows when the gas will become exhausted? It may last one year or ten. Sooner or later we are bound to expect it will become exhausted. Then you have to take up your common-carrier pipes and do something else with them. Who will help do that?

Mr. BACON. If the Senator will pardon me a moment, this provision of the bill, while it affects directly his particular interest, is one intended to be entirely general and to affect all pipe lines used in transporting gas. Now, if there is such a pipe as that which I suggested to the Senator, where the owners of the pipe line buy gas from different producers and then transport it through their pipes to another State to be distributed to consumers, that would make a case where it would be eminently one of interstate commerce, and where, according to the spirit of the bill, as clearly set forth by the Senator from Florida, there ought to be Federal control.

Mr. SCOTT. Will the Senator from Georgia allow me to ask him a question?

Mr. BACON. If I am able to hear the Senator in the midst of the noise, I will be very happy to answer the question, if I can.

Mr. SCOTT. In what condition, if this amendment is adopted, will it leave the great steel and iron and pottery companies and others in Pennsylvania and Ohio who own their own pipe lines, control their own wells, and carry their own gas out of the State of West Virgina, for the sole purpose of manufacturing in their own factories?

Mr. BACON. I do not think they would be common carriers, and the bill would not apply to them.

Mr. SCOTT. They use the gas for manufacturing purposes.

Mr. BACON. It is for their own manufacturing purposes, as I understand. If the purpose is to get a supply of gas from West Virginia, carried through pipe lines to Pennsylvania, and to sell it to other manufacturing enterprises, that——

Mr. SCOTT. But it is for their own use. Bear that in mind. The company owns its own pipe lines.

Mr. BACON. I am endeavoring to bear it in mind, and I

am endeavoring to answer the question the Senator asked me. I say that if the pipe line is exclusively the property of the manufactory using the gas, and if they only use the gas which they themselves produce in West Virginia, they can in no sense be called a common carrier. They are not serving the public in any particular. But if they are buying gas in West Virginia and transporting it to Pennsylvania and selling it to others, they are common carriers, and we have to frame the bill so as to meet all cases. If it is entirely a private enterprise, in which the production and the transportation and the use in manufacture are solely the act of one industry or enterprise, it does not fall under the provisions of this bill. It does not reach such a case at all.

Mr. CULBERSON. Mr. President, I simply want to state, in view of the interruption I made a while ago of the Senator from Ohio, my construction of this statute as it appears now.

The first section of the bill as it has been amended provides in effect that the provisions of this act shall apply, among others, to *any* corporation or any person or persons engaged in the transportation of oil or other commodity by means of pipe lines, and that they shall be considered as common carriers within the meaning of this act. Nothing is left to the courts for construction, but the statute itself declares that any corporation, or any person or persons engaged in transporting oil by pipe lines—of course, as interstate commerce—are common carriers, and are declared to be such in this act of Congress, subject to the authority of this act, by the Interstate Commerce Commission.

Now, that is the first section. When we turn to the bottom of page 5 of the print of the bill of this morning we have this language:

> From and after May 1, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or district of the United States to any other State, Territory, or district of the United States or to any foreign country any article or commodity manufactured, mined, or produced by it. * * *

We have the first section declaring these corporations common carriers. We have the amendment at the bottom of page 5, and continuing on page 6, providing that it shall be unlawful for any common carrier subject to this act, after 1908, to carry any commodity produced by it or owned by it, except what may be necessary for the conduct of its business as a common carrier.

There seems to be no question about that construction, Mr. President, and it is for the Senate to say whether it desires to declare a corporation is a common carrier which does not carry for the public, but solely for itself, and whether, after 1908, no corporation or person shall transport any oil or other commodity produced by itself. These are the contradictory provisions of this law, as I see it.

Now, you take the oil companies in Texas, for instance. They are not common carriers in the sense that that term has been used by the law writers and the decisions, because they do not carry for the public for hire. But they transport their own oil, for instance, from the town of Humble or the town of Saratoga or other places to the Gulf of Mexico, and load it on ships for transportation to foreign countries and ports in the United States. That may be an interstate shipment. But the pipe lines which some of the companies use to conduct the oil from the place of its production to the Gulf are not used for the public and for the carrying of oil for the public, and yet this statute as we have it now declares that they are common carriers, and that after 1908 they shall not carry oil which they have produced or purchased.

Mr. SPOONER. Except for the public.

Mr. CULBERSON. They can not carry any more of it than is necessary for their business as common carriers, and, as a matter of fact, the companies to which I have referred are not in the business of common carriers.

Mr. FORAKER. I want to ask the Senator a question, and that is this: As the effect of leaving these two provisions stand we would have absolute confiscation, would we not, of that class of property?

Mr. CULBERSON. I do not know that it would go to that extent. They might go out of the business of producing oil and go into the exclusive business of carrying oil for the public and save their pipe lines in that way.

Mr. FORAKER. But if they did not have a supply from the public sufficient to occupy them, they would be practically out of the business?

Mr. CULBERSON. Surely. That is the construction I put upon this law. It is for the Senate to say whether it desires that that law shall stand, if that is the proper construction of it.

Mr. LODGE. I should like to ask the Senator from Texas a question before he takes his seat.

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Massachusetts?

Mr. CULBERSON. I yield the floor.

Mr. LODGE. I want to ask the Senator a question before he takes his seat, if he will permit me.

Mr. CULBERSON. Certainly.

Mr. LODGE. Is it not true that, according to the provision on page 5, to which the Senator has referred, if a railroad owns coal lands, it has got to get rid of those coal lands or cease to carry the coal from the mines which it owns—that is, as a part of interstate commerce.

Mr. CULBERSON. I think so, but the difference is this: The prime business of the railroad is the carrying of freight, but the prime business of the oil companies is producing oil. That is the difference between the two cases. It is proper to drive a transportation company out of the producing business; but does it necessarily follow that it is right to drive the producing company out of the carrying business for itself?

Mr. LODGE. I confess I do not see a very broad distinction.

Mr. FULTON. Mr. President, I agree very largely with the position taken by the Senator from Minnesota [Mr. NELSON], that this provision as it stands is quite satisfactory. Certainly we ought not to go further, and I submit to the Senate this proposition: We are committing to a railroad commission an enormous amount of work, if they shall take care of and properly look after and regulate the legitimate transportation business of the country. We have included in that work the matter of pipe lines, so far as they shall be carriers of oil. That was done in response to a very evident public demand. The public temper requires that character of legislation.

But, Mr. President, I have yet to hear that there is any public demand for bringing within the operations of this bill pipe lines that are engaged in the business of conducting natural gas from the field to the market. It has been argued that simply because some of these corporations are public corporations in the sense that they have been endowed by their charters with the right of eminent domain, they are necessarily common carriers. I submit that that is not necessarily true. If a corporation, for instance, is engaged in carrying natural gas or artificial gas for the purpose of lighting a city, it would be perfectly proper to empower such a corporation to exercise the right of eminent domain. It would probably be necessary for it to establish pipe lines to the gas fields in order to bring the product to the city and distribute it. Its principal business, the main purpose of the corporation, would be the furnishing of gas to manufacturing institutions or for the purpose of lighting, and it would be necessary and incidental to the main purpose of the corporation that it should establish gas lines and employ the power of eminent domain. That would not make it a common carrier. That would not be the purpose for which it was organized, and it ought not necessarily to be made or declared to be a common carrier, even assuming that we can do that. I do not undertake to say we can.

But the main thought that influences me in taking the position against any enlargement of the provisions of the bill as it is is this: This Commission will have sufficient work to do if it shall properly carry out and discharge the duties that have already been imposed upon it, and there seems to be no particular demand for including these gas pipe lines, and therefore we ought not to broaden the operation of this bill beyond what seems to be a public necessity and a demand at the present time.

Mr. CLARKE of Arkansas. Mr. President, the primary purpose of the pending bill is to correct certain evils which have grown up in connection with the transportation of interstate commerce. It is barely possible that abuses in connection with the oil industry have attained such proportion as to be properly grouped in that class. But my information about the extent of the gas fields is not sufficiently accurate to justify me in believing that we ought to include the piping of natural gas in this bill, for the reason that there has been no such widespread complaint about abuses in connection with interstate distribution thereof as there has been in the case of the transportation of ordinary freight by railway carriers. The natural-gas business is a peculiar one. It is highly speculative, and, as the Senator from Ohio has well said, no one can tell whether a certain field will produce for one year or ten. It is not a commodity whose extent and supply are capable of visible and definite measurement; it is not like the forests or the fields, where tonnage is perpetually to be obtained. And in the case of a gas field, unless a pipe line is constructed by the gas company itself the gas will not be transported at all.

The amendment would be bad enough if the intention was to regulate the cost of carrying gas where there were gas wells

offering gas for transportation other than the ones owned by the company able to build and operate the pipe line. But there is no justice at all, in my judgment, in providing that after the 1st of May, 1908, the gas company shall go out of the business of transporting its own oil and sell out its pipe lines to an independent corporation. It might possibly be that the wells owned by the corporation that originally constructed the pipe line would be the only interest in the field. The gas company would be put in a condition in conforming to what is now known as the "Elkins amendment," where it would have to dispose of either its gas wells or its pipe line, if it could find anybody to purchase either separately, or to adopt some plan of evading the law, which is the most probable course.

I think we had better confine this bill to the correction of the evils that have been so conspicuous as to challenge the attention of the country and to demand a remedy at the hands of Congress.

As long as the provision remains in the bill depriving the common carrier of the right to haul its own products as interstate commerce after May 1, 1908, I think we ought to be careful how we include pipe lines. In our State we have some little indications of gas. What they will amount to can not now be foretold. There is no reason why in the outset the gas business should be penalized, and these people notified that after May 1, 1908, they will not be allowed to transport their own products through their own pipes. I do not think that is a rational disposition of the matter.

With respect to water, I am likewise doubtful. I believe water ought to be stricken out. Outside of the transportation of freight, as that term is popularly understood, I think the only industry that ought to be included in the bill is that of oil.

Mr. BEVERIDGE. I ask that the amendment proposed by the Senator from Florida may be stated.

The SECRETARY. On page 2, line 1, it is proposed to strike out the words "or artificial gas" and insert in lieu thereof "gas for municipal purposes."

Mr. TALIAFERRO. "Natural gas."

Mr. FORAKER. Where does that come in?

The SECRETARY. After the word "natural," in line 1, page 2, strike out the words "or artificial gas," and insert in lieu thereof the words "gas for municipal purposes."

Mr. FORAKER. That is what I hope will be voted down.

Mr. TALIAFERRO. I accepted the amendment proposed by the Senator from Wyoming "except water and except natural gas for municipal purposes."

Mr. BEVERIDGE. Mr. President, my sole and only interest in this matter is that the principle of equality shall be applied to this legislation. We include coal within the provisions of this act, which is used for fuel and that is right. We include oil within this act, which is a product of coal and which is used for fuel, and that is right. Why should we not also include in this act gas, which is a product of oil and is also used for fuel?

The Senator from Ohio [Mr. FORAKER] says that he is speaking about gas, and therefore is not interested in oil. The Senator from Massachusetts [Mr. LODGE] says he is speaking about oil, and therefore is not interested in gas. But ought not the Senate to think about both and include both within the provisions of this act?

Mr. President, not one reason has been here adduced why, as a general proposition, gas should not be included within the provisions of this act as well as oil, except the specific instance cited by the Senator from Ohio. But much as we would all like to legislate for specific instances, laws are made for general application. I do not think we ought to discriminate in favor of the Standard Oil Company; neither should we discriminate against it—this is a Government of laws and not of instances. All offenders alike should be subject equally to the reign of law. Why should we specify one and not also apply the same provision to other companies? Why should we include oil and not apply the same provision to gas, which is a product of oil and is used for the same purposes?

It was suggested here the other day that rich men should have speedier punishment than the poor. That is destructive of that equality of rights which is the heart of liberty. Let rich and poor be equal before the law. That is all that either has a right to ask. Whether a company be little or big, whether it be engaged in the business of transporting gas or of transporting oil, certainly the same general law ought to apply. All companies, little and big, all men, rich and poor, should have the same treatment.

Mr. President, it has been suggested that it would very injuriously affect certain properties, certain manufactures, and certain other business located——

Mr. SPOONER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Wisconsin?

Mr. BEVERIDGE. Yes.

Mr. SPOONER. If the Senator's proposition is correct, why should not water companies be included?

Mr. BEVERIDGE. Water companies should not be included, for the excellent reasons given——

Mr. FORAKER. Mr. President——

Mr. BEVERIDGE. Pardon me. Wait until I answer the Senator from Wisconsin first. I said there had not been given one public reason, generally applicable, why gas should not be included. If one reason, which is sufficient, which is generally applicable, could be adduced by the Senator why gas should not be included, I would not support the amendment of the Senator from Florida. But in the case of water such a public and general reason has been given. It is used extensively for irrigation purposes. That is a public reason and not a private reason, not a personal reason. It is a thing which affects great masses of people and not one or two companies. That is my answer to the Senator from Wisconsin.

Mr. FORAKER. Let me ask the Senator why, if we are not to take individual interests into consideration, we do not include common carriers by water in this bill and make this bill applicable to them?

Mr. BEVERIDGE. Perhaps carriers by water should be included.

Mr. FORAKER. The Senator might have made a motion to amend. He would have had the support of at least one other Senator if he had seen fit to do so. But they were left out because, by common consent, there is really no complaint about them, though I think there ought to be complaint, because they do more discriminating in freight charges than any other class of carriers.

Mr. BEVERIDGE. I want to call the particular attention of the Senator from New Hampshire [Mr. GALLINGER] to how this question arose. I think I can show to the Senator from Florida and to every other Senator that there was not any management by the Senator from Ohio or anyone else, skillful or otherwise, in this thing. It is one of the incidents that occurs daily in legislation.

The Senator from Massachusetts offered an amendment, as to every part of which he was equally enthusiastic, which included gas. Later on, by some process, I do not know what, gas went out, and I rose and asked the question why gas should not be included as well as oil. And the answer was that there was no reason in the world. Therefore, the Senate voted to include gas. Thereafter it was thought that gas for municipal purposes should be excepted and the words "except for municipal purposes" were added. So the Senate twice voted to put gas under the operation of this bill, except for municipal purposes. Thereafter, though I am sure not by any management, but in a moment of confusion, a motion was made by some Senator to strike out the words "except for municipal purposes." And many Senators voted for that, under the impression that it struck out all exceptions. But afterwards we found it did not.

Now, as to what the Senator from New Hampshire and the Senator from Ohio said about those votes, if the Senate was right in its first two votes upon this question, which were adopted without division, then it was wrong on its last vote upon this question. It was not wrong because it had been "managed." It was wrong because the Senate had changed its mind.

Mr. GALLINGER. It got new light.

Mr. BEVERIDGE. No; on the contrary, there was not one single word of debate upon the last motion which put this bill in the position in which it stands in this respect.

Mr. GALLINGER. The Senator thinks; he does not know.

Mr. BEVERIDGE. It may be; but the confusion at that time was so great that it did not indicate that the Senate was particularly thinking about this question. If it was, I will ask the Senator how it happened that the Senate so quickly, without a word of debate, without a reason being given, in fifteen minutes changed its mind from two deliberate votes which had been taken after full debate.

So, Mr. President, that is the way this matter arose. That is the reason why——

Mr. GALLINGER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from New Hampshire?

Mr. BEVERIDGE. Certainly.

Mr. GALLINGER. If the Senator will permit me, I think if he goes to the RECORD (and it includes, I believe, a great deal more than I suggested this morning) he will find that the motion made by the Senator from Ohio was once voted down and the Senator asked for the yeas and nays and we did not give

them to him. That is the record. Subsequently at the suggestion of the Senator from Illinois [Mr. HOPKINS], the words "except water and except natural or artificial gas for municipal purposes" were inserted.

Mr. BEVERIDGE. Were voted in?

Mr. GALLINGER. Were voted in.

Mr. BEVERIDGE. Without a division.

Mr. GALLINGER. Without a division. Subsequently the words "except water and except natural or artificial gas for municipal purposes" were again voted in.

Mr. BEVERIDGE. That is correct.

Mr. GALLINGER. Again, the Senator from Rhode Island [Mr. ALDRICH] moved to strike out "for municipal purposes," and that was agreed to.

Mr. BEVERIDGE. That was agreed to without debate, and that is the vote to which I refer.

Mr. GALLINGER. Then a vote was taken on the amendment as amended, and seventy-five Senators, who, I suppose, knew what they were voting on, voted for it. That is the chronological history of this very important question, which the Senator says was adopted in confusion when Senators did not know what they were doing.

Mr. BEVERIDGE. The Senator confirms precisely what I said, except that he adds one more count to the indictment. As the Senator has shown, and as I said, the subject of gas was twice voted in without limitation as to municipal purposes, and the Senator from Ohio called for the yeas and nays; and then, on the question of voting out gas, which is the third time——

Mr. FORAKER. There was no third time about it. One vote was taken without a division. I called for the yeas and nays, and the Senate did not give me a second.

Mr. BEVERIDGE. Very well, then, let it stand as I originally stated it and as the Senator from New Hampshire confirms it. That is, the Senate, after full debate, voted gas in without a division.

Mr. FORAKER. Will the Senator let me interrupt him?

Mr. BEVERIDGE. Certainly.

Mr. FORAKER. The Senator sits near me, and he must know the truth of what I stated a while ago, that after the last vote was taken Senator after Senator came to me and said they voted under a misapprehension, and there was a general regret that the vote had been settled. Thereupon the amendment was offered which was adopted without a division.

Mr. BEVERIDGE. Of course that is true if the Senator says it is; but let me tell the Senator what my experience was. After the final vote, which reversed the first two votes of the Senate and which was had without debate, whereas the first two votes were had with debate, several Senators came to me, or, rather, we engaged in talk, and we all agreed that we had voted under a misapprehension and did not know that we were voting to strike out natural gas. But the fact remains that twice the Senate voted this matter in without a division, after full debate, and then they voted it out without debate and without a division.

Mr. President, as I said at the beginning, I now close by saying that I have no interest at all in supporting the amendment of the Senator from Florida, except only the interest of seeing the rule of equality applied to this law. When I see a Senator rise and give a general public reason why any subject should be excluded from a law, I should be then willing to vote for the proposition, but until I do hear such a reason I shall be compelled to support a proposition which includes gas which is used for fuel as well as oil which is used for fuel, as well as coal which is used for fuel. Why should coal, why should oil, be included, and why should gas, which is merely a form of oil, be excluded? I have yet to hear one public and general reason why this exclusion should be made.

Mr. LODGE. If the Senator will excuse me a moment, I desire simply to ask him a question.

Mr. BEVERIDGE. Certainly.

Mr. LODGE. The Senator referred to me as equally enthusiastic. I favored his amendment and do now, and I shall vote for it because I think it is just, but when he said I was equally enthusiastic I think he must have forgotten the day this debate occurred. I will merely quote one sentence, and I repeated it many times. In answer to the Senator himself, I said:

> I will say to the Senator from Indiana that I agree with him entirely as to the soundness of his proposition, but I do not desire to hamper this amendment with any unimportant points.

Mr. BEVERIDGE. Very well. I am willing to agree that the Senator was and is unequally enthusiastic. That is all. The reason why I made that remark was merely because I felt that, in the Senator's flaming indignation against the Standard Oil Company transporting its products, he was somewhat cooling toward the transportation of natural gas, which is a product of oil.

Mr. GALLINGER. If the words "for municipal purposes" were used, would the Senator vote for it?

Mr. BEVERIDGE. Certainly. That is the amendment of the Senator from Florida, and I withdrew my amendment because I thought the amendment of the Senator from Florida was much better.

Mr. CLARKE of Arkansas. I wish to suggest to my friend from Indiana that every objection to the amendment would be cured if he put at the end of the provision——

The PRESIDENT pro tempore. Is the Senator from Arkansas speaking in this own time or in the time of the Senator from Indiana?

Mr. CLARKE of Arkansas. I am only calling attention to the fact that every objection to the amendment would be removed by making an addition to another clause, by inserting at the end of the matter that appears in the first paragraph on page 6, "provided that this provision shall not apply to carriage by pipe lines of commodities other than oil." That would relieve from the condemnatory provisions of that part of section 1 these gas and water lines. They would be permitted to carry on their own business, but would be subject to regulation as to price for carriage of other business.

Mr. FORAKER. Will the Senator send his amendment to me?

The PRESIDENT pro tempore. The Senator from Arkansas is not in order. He has already addressed the Senate on this amendment.

Mr. TELLER. Mr. President, I wish to say a word in reply to the suggestion made by the Senator from Ohio with reference to the decision he referred to. That decision was made in a case that came up from the State of Utah and not from Colorado.

Mr. FORAKER. I was going to so state to the Senator. I sent to the Library and got the case, and I found it was Utah instead of Colorado.

Mr. TELLER. It is one involving a principle very well established, as asserted by the Senator, in our part of the country. In the arid regions we have an entirely different law from that in the eastern country or in what we call the "rain belt." The Supreme Court of the United States in several cases have recognized the difference, and have recognized the fact that the law is different in Colorado, Montana, and Utah from what it is in New York and Pennsylvania. There is there no doctrine such as exists in Pennsylvania and New York of riparian ownership or riparian rights.

The constitution of Colorado, California, Utah, and, I think, of all the Western States, provides, in substance, that the water of the streams belongs to the States and is to be kept and used for public use. So we have a different condition as to the right of eminent domain from what they have in a State where the water is sought, perhaps, to be taken for a mill race or something of that kind. When the western country was settled, we found a law there which probably had existed for a thousand years in the settled portions, taking New Mexico, where there had been a settlement and where proper irrigation had been in use for untold ages. We found not a written law, but an unwritten law, with reference to the use of water. We have applied that in the western country and the courts have sustained that rule.

The constitution of California provides that the right of eminent domain may be exercised in the case of ditches and various other things, and the courts, both at home and the United States Supreme Court, have held that that applies to an individual case. If a man has a farm and chooses to bring water on it and his neighbors object to his crossing their land, he can cross that land, although nobody is to use the water except himself. They have declared that the use of water for irrigation purposes is a public use. I have before me three decisions of the Supreme Court (I am not going to read them in the few moments I have) recognizing that to be the law, in which the court says in distinct terms the law is entirely different in the arid region from what it is in the East.

The Senator from Indiana says, I think, that the water companies should be included. If the Senator from Indiana were at all familiar with the conditions, he would never have made that statement.

Mr. BEVERIDGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Indiana?

Mr. TELLER. Certainly.

Mr. BEVERIDGE. The Senator entirely misunderstood me. I said that a general and public reason had been given why

water should be excluded from the operation of this act, and I said that if a reason equally strong, equally public, and equally general could be given for gas I would also vote to exclude that. The Senator misunderstood me.

Mr. TELLER. I certainly misunderstood the Senator.

Mr. BEVERIDGE. Yes, indeed.

Mr. TELLER. I supposed he said that water ought to be included.

Mr. BEVERIDGE. Not at all, but the exact reverse. I said that a general and public reason had been given why it should be excluded from the operations of this act.

Mr. TALIAFERRO. Mr. President——

Mr. TELLER. The junior Senator from Montana [Mr. CARTER] objected the other day to the terms used here, and we excepted water because he thought it might interfere with the irrigation of our arid region. I agreed with him in that.

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Florida?

Mr. TELLER. Certainly.

Mr. TALIAFERRO. I presume the Senator understands that water is excepted under the bill?

Mr. TELLER. I understand that; but I did understand the Senator from Indiana to say that he thought it ought to be included, and therefore I wanted to say a few words on that subject.

Mr. BEVERIDGE. Oh, no; not at all.

Mr. TELLER. Now, Mr. President, I want to say merely a word about these private companies. If I build a railroad to a forest and haul the logs to a mill and have them converted into lumber, and that is the only use I put it to, I do not believe that I can be made by an act of Congress a public carrier.

We have, I will venture to say, in the State of Colorado, the same in Utah and the same in Montana, several hundred railroads and tramways and bucket lines, sometimes 3 or 4 miles long and sometimes even less. In the State of Washington, going up the Snake River, you will see these bucket lines bringing wheat from the high table-lands down to the river. The people who produce the wheat own the lines. The people who produce the ore that is transported over the lines own the lines. Even if they have the right of eminent domain given to them by the constitution of their States, as we do have, they can not be made public carriers. You can only make a public carrier when in fact it becomes a public carrier. If the city of Cincinnati wants to build a pipe line for her own use to bring gas or to bring water, it does not make any difference which, there is no reason on the face of the earth why we should declare it a public carrier, and, in my judgment, it would be a futile act if we attempted it. We can not do it.

I have heard it stated around here in the last hour that there are two things which must be determined: First, does the concern, whatever it be, whether individual or corporate, do interstate business? If it does, and does it for the public, then it is a common carrier.

I have heard it stated that they would become common carriers if they had exercised the right of eminent domain. That I deny, Mr. President, for the right to exercise eminent domain depends not upon our authority, but upon the authority of the State that gives them their existence. As I said, our Constitution and our statutes confer upon individuals, when engaged in mining or in irrigating or in farming, the right to condemn land, because the country could not be habitable unless that right were given.

The case the Senator from Ohio called attention to arose upon a conflict between a farmer who wanted to carry water across another man's land to his own, where the whole question involved was only $40. This shows that at times it is impossible to secure the right of way by any fair method. Recognizing that fact the Supreme Court of the United States declared in three cases I have on my table, and I could produce half a dozen more, that under those conditions the State had a right to declare that it was a public use, and the right of eminent domain could be exercised by the individual for his individual use and his individual benefit and nobody else's.

Mr. ELKINS. I should like the attention of the Senator from Florida [Mr. TALIAFERRO], who proposed this amendment. I ask the Senator from Florida if his amendment confines the exception to gas for municipal purposes?

Mr. TALIAFERRO. It does.

Mr. ELKINS. What do you mean by the words "for municipal purposes?"

Mr. TALIAFERRO. I will let the Senator define that.

Mr. ELKINS. I should like to ask the Senator if that means the cities themselves having the gas or allowing a company that brings the gas there to light the cities and to furnish gas as fuel for domestic purposes—that is, to the people—for light and fuel, but not for manufacturing purposes?

Mr. TALIAFERRO. I take it "municipal purposes" means the material that is paid for by moneys arising from the taxation of the people of the municipality.

Mr. ELKINS. Would not the Senator be willing to allow the use of gas, under his amendment, for domestic purposes—that is, for furnishing heat and light to the people?

Mr. TALIAFERRO. The object of the amendment is to get gas to the people for their domestic consumption at reasonable rates.

Mr. ELKINS. Will the Senator accept as an amendment the words "domestic and municipal purposes?"

Mr. TALIAFERRO. No, I can not, because it would leave the monopoly in the hands of the carriers of the gas; and I desire that the demands of the public shall be served by competitors who will deliver the goods at reasonable rates.

Mr. ELKINS. In connection with the selling of gas for domestic consumption, the words "domestic consumption" have a definite meaning—they mean for lighting and heating purposes, but not for manufacturing purposes. By using the term "for municipal purposes" it might be construed that it will apply only to cities and towns; that they could buy gas for their own use and for public use, but could not allow domestic consumers to have it for purposes of lighting and heating.

Now, Mr. President, on this point of gas for manufacturing purposes, it is a very close question in my State. We are a large gas-producing State. The people of West Virginia are apprehensive and much concerned because States adjoining are taking gas out of the State and using it for manufacturing purposes, for the reason that this helps build up manufactures in Pittsburg, Toledo, and Cleveland and discourages manufacturing interests in the State of West Virginia, where the gas is produced. The legislature has tried, but in vain, as it did in Indiana, to find some way to prevent the exhaustion of gas in West Virginia by pumping it out of the State into these adjoining States.

To the extent that this amendment might be a help to West Virginia, I would favor it, but I do not want to do anything that will build up the manufacturing interests of Pennsylvania and Ohio with gas taken from West Virginia, if I can help it.

Mr. KNOX. May I ask the Senator a question?

Mr. ELKINS. Certainly.

Mr. KNOX. Is it the desire of the Senator to cut off all commercial relations between West Virginia and the other States of the Union?

Mr. ELKINS. Not at all; and the Senator knows it is not. I am glad to have his State a purchaser of our commodities, all things being even; but I would rather use our gas to build up our manufactures than to allow his State to build up manufactures with West Virginia gas.

Mr. KNOX. I presume the great desideratum would be to move Pittsburg into West Virginia.

Mr. ELKINS. If we could it would be the greatest blessing that ever fell in the pathway of West Virginia. We can not very well extend the line of West Virginia to take in Pittsburg. If we can conserve the gas of West Virginia for the use of our own people, it will be helpful in building up plants and factories in our State, and in the interests of West Virginia this is what I desire.

Mr. BEVERIDGE. May I ask the Senator from West Virginia a question?

Mr. ELKINS. Certainly.

Mr. BEVERIDGE. Does the Senator see any reason why this law should apply to oil taken from West Virginia to Pittsburg and should not apply to gas taken from West Virginia to Pittsburg?

Mr. ELKINS. I do not see any. I suppose it ought to apply equally to both commodities, because they are of general use, and gas is quite as important and essential in manufacturing as oil. It is more so, perhaps, in the manufacturing of steel and iron products.

Mr. SCOTT. May I ask my colleague a question?

Mr. ELKINS. Certainly.

Mr. SCOTT. What would he do with the companies, now, that own their own pipe lines, their own oil drills, their own wells, and carry the gas to Pittsburg for manufacturing purposes? Does he propose to make them common carriers?

Mr. ELKINS. I do not believe you can legislate a fact. I do not believe you can legislate the Shoreham Hotel a common carrier. If pipe lines are owned by private individuals for their own use and for transporting their own gas and oil, they are not and can not be made common carriers.

Mr. SCOTT. My colleague has made a provision that where coal is owned by a railroad company and the railroad is owned

by the same party they must be separate. Now, would he separate the pipe lines from the manufacturer, from the man who owns the product?

Mr. ELKINS. If a man or corporation owns its own pipe line and did not condemn the right of way, but acquired it by purchase, and is transmitting gas through his or its own pipe line, built with his or its money, I do not believe Congress can make the man or corporation a common carrier.

While I do not wish to do injustice to any pipe line in West Virginia or elsewhere, yet I do not wish in any way to aid or facilitate the taking of gas from West Virginia to build up manufacturing interests in other States. I want to preserve and save the gas of West Virginia to build up factories in West Virginia. As I understand it, the pipe lines of West Virginia, both for transporting gas and oil, are owned by corporations that transport only their own products and not those of producers. The Standard Oil Company purchases the gas of all other producers and then transports it to the market through its pipe lines. The people of West Virginia receive every day in the year about $30,000 from the sale of oil. None of our oil producers transport their oil, as I understand it.

Mr. CLAY. Mr. President, I wish to say a word. I know we are anxious to get a vote, and I am going to say but a few words.

In my opinion, the argument made by the senior Senator from Texas [Mr. CULBERSON] has not yet been answered. The senior Senator from Texas stated the case in such a way that I am not able to get over it.

Now, what does the senior Senator from Texas say and what does this bill say? This bill makes every corporation engaged in the transmission of oil a common carrier. Every private corporation transmitting its own oil or transmitting its own gas is made a common carrier by the amendment of the Senator from Massachusetts [Mr. LODGE].

When you take the amendment offered by the Senator from West Virginia [Mr. ELKINS], which has been adopted, that amendment provides that no common carrier engaged in interstate commerce shall transport its own products. Now, taking the two together, what do they mean? Taking the two together, Mr. President, they mean that every corporation engaged in transporting oil or gas from one State to another, if acting for itself and not for the public, under a strict construction is closed down.

Mr. BEVERIDGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Indiana?

Mr. CLAY. Certainly.

Mr. BEVERIDGE. That applies as well to oil as to gas, does it not?

Mr. CLAY. I concede that. I am not arguing against the amendment.

Mr. BEVERIDGE. Therefore, no matter what the point of the senior Senator from Texas may have been, this amendment, on the principle of equality, should go in. The argument of the Senator from Texas does not militate against the amendment of the Senator from Florida.

Mr. CLAY. I can understand well why a railroad, a common carrier engaged in the carrying of all classes of freight, ought not to be permitted to haul its own products in competition with another shipper. A corporation organized for the purpose of doing business exclusively for the public and not for the purpose of going into a private business should not be permitted to transport its own products in competition with the shipper. But now you have these pipe lines, constructed for the purpose of transporting gas and oil, placed under the provisions of this act. They were organized and constructed for the purpose of hauling gas and oil for the respective companies and not for the public.

I do not believe that the amendment of the Senator from West Virginia, which prevents the common carrier from hauling its own product, should apply to a private company engaged exclusively in hauling its own oil or gas.

Mr. LODGE. Mr. President——

Mr. CLAY. In one moment. After thousands and millions of dollars have been invested in private concerns, and the money invested at a time when no such law was in existence, you come along now and pass a law practically confiscating their property. Now I will yield to the Senator from Massachusetts.

Mr. LODGE. I understand the Senator's proposition to be that a carrier, a railroad, ought not to be a producer.

Mr. CLAY. Yes.

Mr. LODGE. And that a producer, as the Senator from Texas tersely put it, may properly be a carrier. What I want to suggest to the Senator is that this amendment makes the pipe lines and the oil companies subject to all the provisions of the bill. If the Senator thinks there is an injustice, the place to remedy it is on page 5, at that amendment, and not at this one. To change this one would take them out of the bill altogether.

Mr. CLAY. I agree with the Senator, and I was coming to that proposition.

Mr. LODGE. The exception comes in there.

Mr. CLAY. I was coming to that proposition. I was coming to the proposition that the provision inserted in the bill by the Senator from West Virginia providing that carriers engaged in interstate commerce shall not transport their own products in competition with shippers ought not to apply to pipe lines constructed for private use and not engaged in doing business for the public.

I believe a proviso of that kind ought to be adopted. I am perfectly willing to see it adopted to the amendment on page 5; but clearly to my mind we make them all common carriers. The private company, engaged in transporting its own oil or gas through pipe lines constructed at its own expense, should not be deprived of the privilege of transporting its own oil or gas. These lines are used for no other purpose, and if they can not be used for this purpose then they must be abandoned. The rule should be different for railroads, because they exercise the right of eminent domain and were chartered to do business for the public. The railroads should not be permitted to engage in mining and selling coal or any other commodity, because, in the distribution of cars, they will discriminate against independent shippers.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Florida [Mr. TALIAFERRO]. [Putting the question.] The noes seem to have it. The noes have it, and the amendment is rejected.

Mr. TALIAFERRO. I call for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDENT pro tempore. The yeas and nays are refused, and the amendment is rejected. The question is on concurring in the amendment as amended.

Mr. BACON. I hope the amendment as amended may be read, so that we will know exactly what it is.

Mr. GALLINGER. It was amended yesterday.

Mr. BACON. I understood the Chair to state as amended, and for that reason I desired that it should be read.

The PRESIDENT pro tempore. It was amended by adding at the end of line 6, page 1, the words stricken out yesterday on the motion of the Senator from Illinois [Mr. HOPKINS].

Mr. LODGE. The question is on concurring to the amendment made in Committee of the Whole as amended.

Mr. GALLINGER. As amended.

The PRESIDENT pro tempore. It was amended by striking out the words moved yesterday by the Senator from Illinois [Mr. HOPKINS].

Mr. TELLER. We struck out what provision?

Mr. LODGE. We struck out the Panama provision.

The PRESIDENT pro tempore. The question is on concurring in the amendment made as in Committee of the Whole as amended.

The amendment as amended was concurred in.

The PRESIDENT pro tempore. The Secretary will state the next amendment made as in Committee of the Whole.

The SECRETARY. On page 3, after line 4, the Senate, as in Committee of the Whole, agreed to insert:

> The term "common carrier," as used in this act, shall include express companies and sleeping-car companies.

The amendment was concurred in.

The PRESIDENT pro tempore. Does the Senate desire to have read the next amendment made as in Committee of the Whole on page 4, after line 8; which was read four times yesterday?

Several SENATORS. Oh, no!

Mr. GALLINGER. I understood the Senator from Texas [Mr. CULBERSON] had a modification of that amendment which he proposes to offer, and he is not now in the Chamber.

Mr. SIMMONS. I am sure the Senator from Texas has a modification of that amendment which he desires to offer, and, as has just been stated, he is not now present.

Mr. GALLINGER. I am informed that the Senator from Texas has prepared a modification of that amendment, and I hope he has done so. I am sure we do not want to adopt the amendment as it now stands.

Mr. SIMMONS. The Senator from Texas desires to modify the amendment, I am sure.

Mr. GALLINGER. I ask that the amendment may be passed over.

Mr. BAILEY. Mr. President, in order that this amendment may be passed over until my colleague [Mr. CULBERSON] returns to the Chamber, I will occupy the floor upon a matter apart from this.

Yesterday I called the attention of the Senate to an attack upon me which had appeared in certain newspapers. That attack was based upon an allegation that ex-Senator Chandler had addressed to the President of the United States, or to some member of his official family, a communication impeaching my fidelity to the cause of railroad regulation. Immediately after I had concluded what I then said to the Senate I addressed to ex-Senator Chandler a letter, a copy of which I will ask the Secretary to read from the desk.

The PRESIDENT pro tempore. Without objection, the letter will be read.

The Secretary read as follows:

UNITED STATES SENATE,
Washington, D. C., May 16, 1906.

Hon. WILLIAM E. CHANDLER,
Washington, D. C.

MY DEAR SIR: Partisan Republican newspapers are charging that you have at some time written a communication to the President, or to some member of his Administration, impugning my good faith with reference to the pending railroad rate bill. I would thank you to send to me a copy of any communication which you have made to the President, or to any member of his Administration, and which could possibly have been made the basis of any such charge.

Very respectfully, yours, J. W. BAILEY.

Mr. BAILEY. I will now ask the Secretary to read the matter which I send to the desk.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

The game of the railroad Senators is to support BAILEY'S amendment and induce him to agree to a broad right of review. What that is to be is not certain, but the prinicpal object is to "beat him"—meaning the President. Mr. TILLMAN, however, considers himself as acting with the President to pass the review clause with the minimum amount of court power and will not enter into any such game.

APRIL 11, 1906.

Mr. LOEB: Please hand this to the President privately. I am hearing an important case all day to-day, but could see him if he wished to see me at 1 o'clock.

WILLIAM E. CHANDLER.

Mr. BAILEY. Now, Mr. President, I ask the Secretary to read the letter of Mr. Chandler, which I send to the desk.

The PRESIDENT pro tempore. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

SPANISH TREATY CLAIMS COMMISSION,
Washington, D. C., May 16, 1906.

Hon. J. W. BAILEY,
United States Senator.

DEAR SIR: I have your letter of to-day, and I inclose to you a copy of a memorandum sent by me to the White House on the morning of Wednesday, April 11. I think the memorandum was not dated, but my retained copy is dated April 11. I did not therein give the President any assurances as to your attitude relative to the so-called "game," because I had not seen you and did not feel authorized by anything Mr. TILLMAN had then said to give any assurance in your name. At 9.15 p. m. I saw Mr. TILLMAN and talked with him fully, and he then told me that neither he nor yourself were entering into games with the railroad Senators, and at 9.30 I saw the President and told him what Mr. TILLMAN had said and that he need have no apprehensions on the subject. I inclose to you copies from my diary. April 13 I saw Mr. Moody, and again on the 14th, and arranged with him to see Mr. TILLMAN and yourself on the next day, Sunday, the 15th.

Yours, truly,

WM. E. CHANDLER.

Mr. BAILEY. Now I ask the Secretary to read the extract which I send to the desk from the diary of Mr. Chandler.

The PRESIDENT pro tempore. Without objection, the paper will be read.

The Secretary read as follows:

[The diary.]

April 11, at 9.15 p. m., saw Senator TILLMAN at Colonial about railroad rate legislation. At 9.30, at White House, saw President Roosevelt alone upstairs. Talked of railroad rates and many other things for more than an hour. He was very gracious. At about 10.30 to Colonial with TILLMAN until 11.45.

Mr. BAILEY. Mr. President, I now wish to call the attention of the Senate for a moment to the genesis of this slander. In the New York Tribune of yesterday there appears this statement:

One of the disquieting rumors which found circulation on the Democratic side of the Chamber to-day was that Senator TILLMAN had written ex-Senator Chandler that he sorely mistrusted the sincerity of Senator BAILEY'S methods; that he suspected the Texan of treating with Mr. ALDRICH, but that he, TILLMAN, was keeping a close watch on his Texas friend and would not give him any opportunity to "sell out to the conspirators." It was even rumored that Mr. Chandler had left this note in the hands of the President, and that it might at any time be forthcoming, to the chagrin of the Senator from South Carolina and the discomfiture of the Senator from Texas.

When the Senator from South Carolina [Mr. TILLMAN] very promptly and very properly branded that, the New York Tribune of this morning modified its lie in some small particulars. It declares now that—

It is a further fact that a copy of the memorandum alleged to have been signed by Mr. Chandler—

Nothing about one signed by Senator TILLMAN now, but—

signed by Mr. Chandler, which is printed above, has been circulated among Democrats in the Senate, and it was on this copy that the Tribune correspondent's assertions were based. Democratic Senators who exhibited the memorandum maintain that the original, signed by Mr. Chandler, is in the possession of the President.

Mr. President, I have made diligent inquiry of Senators on this side to find, not if one of them had been circulating that statement—because not one of them would be base enough to circulate behind the back of an associate a paper intended to reflect upon his honor or his good faith. No matter what may be my relations, personal or political, I believe—indeed, I know—that every Senator on this side is an honorable man and would scorn to circulate in secret a document calculated to reflect upon one of his associates; but I have made inquiry and, so far as I have been able to learn, no Democratic Senator had ever seen a copy of this paper until to-day. I did not know until this morning that Senators on that side had seen it, but I say now that the President showed it to a Member of the House of Representatives in the presence of a Senator on that side yesterday. If it is desired, I can call the name of the Senator on that side in whose presence the President himself read it.

Now, Mr. President, if there had never been another word written or spoken by ex-Senator Chandler except this memorandum, there is not a syllable in it that justifies the statement that he impugns my good faith. He says:

The game of the railroad Senators is to support BAILEY'S amendment and induce him to agree to a broad right of review.

He does not say that I was playing that game; but I will say that the railroad Senators, as he calls them, played it very successfully with some other folks. They played it so successfully that they secured their broad review without having to accept an anti-injunction amendment.

More than that, Mr. President, the ex-Senator, in this statement, does not impeach the honesty of even those whom he calls "the railroad Senators." He does not say they were trying to serve the great corporate and special interests concerned. He says their "principal object is 'to beat him,'" meaning the President. That is an object with which I ought to have keenly sympathized; but I did not at that time. I repeat that this document imputes no unpatriotic purpose to even the men whom he describes as "railroad Senators;" and he says their "principal object" was to beat the President.

But, Mr. President, suppose that this document had charged that Senator BAILEY was playing the game with the railroad Senators and that Senator BAILEY intended to give them the right of a broad review even without his anti-injunction amendment, would it lie in the mouths of these people to assail me with a statement like that? Does not the Senate know, and does not the country know, that on last Saturday the President denounced one statement of ex-Senator Chandler as an unqualified and deliberate falsehood, and yet on Monday the President's friends were circulating a slander against me, based upon a grossly distorted statement made by him.

Suppose Senator Chandler had charged me with disloyalty to this cause, could men of decency and of honor have quoted him in support of that charge after they had denounced him as bearing false witness? I leave the country to pass judgment on the conduct of men who denounce a witness when he speaks contrary to their recollection and in forty-eight hours invoke the statement of that same witness to assail the good faith of an honorable gentleman.

Mr. President, I also leave it to the country to say whether the President of the United States treated that memorandum as an impeachment of my good faith. It was dated on the 11th day of April, and on the 14th day of April, only three days afterwards, I was urged to attend a conference arranged by the President of the United States with the Attorney-General of his Cabinet. Does it seem possible that a President, distrusting the good faith of any man, would invite that man to confer with his law officer respecting the very measure upon which his good faith was questioned? It passes my belief. To invite a Senator to a conference while distrusting him and conceal from him that distrust is an act of hypocrisy which can not be fitly described. The President did not consider that memorandum as any impeachment of my good faith; and the proof that he did not is that, with it before him, and through the very man who sent it to him, and within three days, he asked me to confer with his Attorney-General upon a vital legal question. It is inconceivable that a President, with the

proof before him or with what he regarded as proof before him, or even with a suspicion in his mind, would permit his Attorney-General to transmit to me the form of an amendment upon which his friends and our friends were expected to unite. I have no words to express my contempt of a man who treats with others whom he suspects of treachery. Only traitors do that.

The morning paper contains a statement from the correspondent whose story I denounced on yesterday. It does not seem to have disturbed him much, because he says that I denounced the President and practically overlooked him. I suppose he regards it as being overlooked to be denounced as an unqualified, deliberate, and malicious liar. In this statement he says:

In the very outset of the negotiations he was conducting Chandler prepared and left at the White House a written memorandum for the benefit of the President. I have not the text of that memorandum before me, but, quoting from memory, it says.

"Quoting from memory." He must have seen it. Where did he see it? Let the answer come from others. He did not see it in my hands, because I had not seen it until within the last two days. He did not get it from Chandler. Who else had it? It is addressed to Loeb, with a request that it be submitted to the President.

Again, he says:

I know I am correct in the statement that during the course of the negotiations William E. Chandler, who since has accused the President of falsehood, made an oral report either to the President himself or to some one representing him, which was much more specific.

How does he *know* it? Where did he learn it? From whom did he receive the information? Was it from the man to whom it is said Chandler communicated it? I leave the country and the Senate to say.

Mr. President, I know the fortunes of war. I know that whenever circumstances happen to place any man in the forefront of the battle he must bear its brunt; and I make no complaint that I was compelled to bear my part in this controversy. I know that war means killing, and I cheerfully accept the chances of it. If it be civilized warfare, no murmur shall ever escape my lips; but in this century of civilization and progress, when the gospel of a "square deal" is upon the tongues if not in the hearts of men, our political adversaries ought at least to fight with the common fairness of the prize fighter—they ought not to strike below the belt.

I have in my time made many mistakes. I have in my time been accused of many things. My enemies delight in describing me as rash, headstrong, intemperate in speech and action, and, unfortunately, they too often have good reason for that description. My friends complain that sometimes I am arbitrary and dictatorial; and many times I concede the justice of their criticism. I have made many mistakes of judgment. I have done some men wrong, but when I became convinced of it, thank God, I have always had the manliness to acknowledge it and to tender my apology. But amongst all the accusations that have been made against me, no man ever before imputed to me a lack of candor, or charged me with duplicity; and no man ever shall and escape my denunciation. When a man so accuses me, it matters not where I am or who he is, I will write the "liar" across his forehead, so that in after years all men may know him and all honest men may shun him.

The PRESIDENT pro tempore. The question is on the amendment known as "the pass amendment." Is the Senate ready for the question?

Mr. BEVERIDGE. The senior Senator from Texas [Mr. CULBERSON], I think, has not offered his substitute. It was, I think, agreed that that might be passed over, Mr. President.

The PRESIDENT pro tempore. The amendment will be passed over. The next amendment will be stated by the Secretary.

The SECRETARY. On page 5, beginning with line 25, the following paragraph was inserted as in Committee of the Whole:

From and after May 1, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or district of the United States to any other State, Territory, or district of the United States or to any foreign country any article or commodity manufactured, mined, or produced by it or under its authority or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary or used in the conduct of its business as a common carrier.

Mr. TILLMAN. Mr. President, I regard this as one of the most far-reaching and important amendments that it is proposed to incorporate in the bill now under consideration. The words in the bill that have just been read are a substitute for the original amendment proposed by the Senator from West Virginia [Mr. ELKINS]. I have not bothered myself, Mr. President, about coupling my name with any provision of this bill. There is not in it any so-called "Tillman amendment;" but I think that a brief recital of the facts would make it permissible for me to claim as much credit or discredit—whichever it may turn out to be—for the idea involved in this proposition as any other Senator.

While it is known as the "Elkins amendment"—although the language is not that of Mr. ELKINS, it having been prepared by the Senator from Mississippi [Mr. MCLAURIN] and the Senator from Texas [Mr. CULBERSON]—I recall the fact to the attention of Senators that on the 24th of February, the evening after the majority of the Interstate Commerce Committee had intrusted this bill to my keeping, to be reported without amendment, in an interview given out to the newspapers, I declared that it was not my purpose to be made a clown of in any effort to cast ridicule upon this proposed legislation; that if Senators who had charged me with this duty had any such purpose I would not lend myself to it, and that I would endeavor, in every way possible, to secure a practical and good railway rate law. I further stated that there were two important amendments which I wished to see incorporated in the bill. One of these was the idea embraced in this amendment, to wit, the divorce of the business of transportation from the business of production—to make a public carrier a public carrier and nothing else.

The other was a provision to compel interstate-commerce roads to give connections by means of switches or other appliances, so these little branch lines could gain access to the markets. That idea had been discussed and pressed with great earnestness by the Senator from West Virginia in committee, and I am perfectly willing that he should claim the paternity of it. But, so far as this other proposition is concerned, I think it never would have received the attention it has in the eyes of the people of the country and that the Senator from West Virginia himself never gave it the serious consideration which he afterwards did until I presented to this body the memorial of the Red Rock Fuel Company, pointing out the iniquities and outrages perpetrated on that corporation by the Baltimore and Ohio, and also followed, as it was, by the letter from the governor of West Virginia, Mr. Dawson, proclaiming the fact that the State of West Virginia was absolutely at the mercy of the three railroad systems entering it, so far as getting to market was concerned.

Then Senators will recall that day after day for a week or more every morning I presented in this Chamber and had read letter after letter from various coal producers, pointing out the absolute helplessness of the independent operators because of the fact that the Pennsylvania road and the Baltimore and Ohio road and the Chesapeake and Ohio road and the Norfolk and Western road absolutely dominated the bituminous and the anthracite coal fields of the two States of Pennsylvania and West Virginia, and that their property was being confiscated. So much for the genesis of this proposition.

But my attention has been called to the fact that the amendment that is incorporated in the bill as it stands, which it is proposed to concur in, does not cure the evil.

I have here a communication from a gentleman engaged in coal production, and he points out that this amendment would not prevent the ownership of coal properties by the ownership of stock in coal companies; that it would not prevent the control of coal companies by officials of railway companies; that it would not touch the ownership of railroads by coal companies or the common ownership of railroad companies and coal companies. Here is a letter prepared by an independent coal operator, in which the scheme by which this amendment can be evaded is elaborated and pointed out in detail. I have not time to read it, but I ask to have it incorporated in my remarks.

The PRESIDENT pro tempore. The Chair hears no objection.

The letter referred to is as follows:

WASHINGTON, D. C., *May 15, 1906.*

Hon. B. TILLMAN,
United States Senate.

MY DEAR SIR: So far as I have read the debates on the rate bill now before the Senate, you fail to touch one of the most important points in the railroad discrimination. As a rule the railroads do not own coal mines, but the principal owners and managers of railroads do. Let me illustrate in my crude way:

Suppose Cassatt, Murray & Co. own a big railroad. Suppose the same men—Cassatt, Murray & Co.—own large bodies of coal lands contiguous to this railroad; that the same Cassatt, Murray & Co. organize a coal company to mine coal and give it the name of the Susquehanna Coal Company. Suppose the Susquehanna Coal Company leases the land of Cassatt, Murray & Co. for the purpose of mining coal for market and pay a royalty, and that the railroad gives preference to this coal company in furnishing cars. You will readily see that a suit under the proposed Elkins substitute will not hold water. Nobody knows this better than the author of the substitute.

It seems to me that what is necessary is to frame an amendment requiring the railroads to prorate cars in proportion to the capacity of the operating coal companies. For instance, suppose A, B, and C are coal operators and competitors; that A's capacity is 100 tons of coal per day; that of B 50 tons, and C 25 tons. You will see that A needs twice as many cars as B, and that B needs twice as many cars

as C. Suppose, however, that the railroad company owned by Cassatt, Murray & Co. agrees to furnish cars in proportion to the capacity of the competing companies as above and that cars have been sent to the yards for C, the smallest producer; A learns this, and as he is covetous to the last degree and has more money than C, who has limited means, he (A) bribes some switchmen (as is constantly done) to run C's cars on to A's tracks, and he does so. The railroad company can claim that it has no such knowledge; that it ordered cars sent C as requested.

One of the things that should be done, so it seems to me, is to so frame an amendment compelling equitable prorating of cars and compel the car accountant of the railroads to keep a separate set of books for coal cars, which should at all times be open to the inspection of the public, showing the number of coal cars owned by the railroad or used by the railroad, where they are at any and all times, and to make the railroad responsible if some switchmen should make a mistake, intentionally or otherwise, and run C's cars onto A's tracks.

As a Republican who always votes the Republican ticket, let me suggest that you consult some expert railroad or coal man, when you will find that the above is the way the railroads operate coal lands; not the companies, but the owners of the railroads, own the lands and practice such subterfuges as I mention above.

Very respectfully, D. J. ROBERTS.

The penalty of a car accountant for making a false entry of coal cars should be imprisonment.

Mr. TILLMAN. Mr. President, there are differences of opinion among able lawyers whom I have consulted, and I have before remarked in the Senate that this question is so perplexing and has so many ramifications and there are so many complex conditions, so many methods of evasion, that it is difficult, without a long and well-guarded enactment, to accomplish what we are trying to do without overdoing it and perpetrating great injury and wrong in certain instances. I have prepared what appears to me to be a much stronger and more efficacious provision, which I send to the desk and ask to have read as a substitute for the pending amendment.

The SECRETARY. In lieu of the amendment agreed to as in Committee of the Whole it is proposed to insert the following:

After May 1, 1908, it shall be unlawful for any common carrier to engage in the transportation of interstate commerce, if such common carrier shall at the time be interested, directly or indirectly, by stock ownership or otherwise, in the article or property which is the subject-matter of such commerce, or if it be interested at the time, directly or indirectly, by stock ownership or otherwise, in the mines or factories producing such commerce; or if at the time any officer, director, agent, or employee of such common carrier be interested, directly or indirectly, by stock ownership or otherwise, in the business of buying or selling such article or property which is the subject-matter of such commerce, or in the mines or factories producing the same; or if at the time stockholders owning more than 10 per cent of the capital stock of such common carrier be interested, directly or indirectly, in the business of buying or selling such article or property which is the subject-matter of such commerce, or in the mines or factories producing the same.

This section shall not prevent a common carrier from mining coal or carrying articles or property for its own use or for the use of its officers, directors, agents, employees, or stockholders.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from South Carolina. [Putting the question.] By the sound the "noes" have it.

Mr. TILLMAN. I ask for the yeas and nays.

Mr. CLAY. Let me ask the Senator a question. Does he ask for the adoption of this amendment in lieu of the amendment already adopted?

Mr. TILLMAN. Yes, sir.

Mr. MCCREARY. I ask that the amendment of the Senator from South Carolina may again be read.

The PRESIDENT pro tempore. The amendment will again be read.

The Secretary again read the amendment.

The PRESIDENT pro tempore. The Senator from South Carolina demands the yeas and nays on the question of agreeing to the amendment.

Mr. TILLMAN. For the present I will withdraw that request. I desire to say a word in regard to the amendment. Having spoken on the original amendment, I now wish to mention some of the reasons why I want to substitute this.

It is easy to see that the provision which is now in the bill, while very broad, is also very loose; and while it is a step, and a very long one, in the right direction, and will undoubtedly do a great deal of good, the amendment which I have now offered may be too drastic. I had hoped, however, that we could incorporate this in the bill, knowing that in conference an important matter like this, so far-reaching in its consequences, would be very carefully considered, and every right and interest protected and guarded that it is possible to protect. But it is very clear to any man who thinks that if the officers of a railroad are permitted to own a mine, or if the railroad itself is permitted, through ownership or joint ownership or some other subterfuge or trickery, to have an interest in a coal mine, there will inevitably be favoritism in dealing with that coal mine and transporting its product, and that it will be impossible, without some drastic provision like this, to prevent the evils which every person recognizes.

Now, then, feeling that possibly this may be too strong, but expecting that it would be modified in conference if it be found to be dangerous, I offered it. It shows what I am trying to do. As I said, we have taken a long step forward. It may be wiser to wait a while and let the courts interpret the provision already in the bill. But, recognizing that the Senate will not vote this measure in, I withdraw the demand for the yeas and nays; I do not withdraw the amendment, but leave it as it is, already voted down. I want to ask the Senate to incorporate in this provision, in line 7, page 6, after the word "indirect," the words "by partnership, stock ownership, or by any arrangement whatsoever." Thus the broad provision in regard to the public carrier being prohibited from transporting anything which it produces, will be broadened and more particularized by the words I have used. I will repeat them. After the word "indirect," in line 7, on page 6, insert the words "by partnership, stock ownership, or any arrangement whatsoever."

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from South Carolina. [Putting the question.] By the sound, the "noes" have it.

Mr. TILLMAN. I will have to ask for the yeas and nays on that, because if the Senate is unwilling to put that in, it might just as well strike out the whole provision. I honestly believe you can not only run a freight train through this provision so far as the law goes, but there are holes in it through which you might drop the Washington Monument.

The PRESIDENT pro tempore. On this amendment the Senator from South Carolina demands the yeas and nays. Is there a second?

Mr. CULBERSON. May we have the amendment again stated?

The SECRETARY. On page 6, line 7, after the word "indirect," it is proposed to insert "by partnership, stock ownership, or any arrangement whatsoever;" so that, if amended, it will read:

Or produced by it or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, by partnership, stock ownership, or any arrangement whatsoever, except such articles or commodities as may be necessary or used in the conduct of its business as a common carrier.

The PRESIDENT pro tempore. Is there a second to the demand of the Senator from South Carolina for the yeas and nays?

Mr. TILLMAN. If the Senate could vote on it again, it might adopt the amendment. I ask for a division.

Mr. PILES. Mr. President, if it is in order, I should like to make a few remarks in reference to this amendment, as it would destroy practically every industry in the State of Washington if it should be adopted. I reserved the right to offer to this paragraph of the section when the bill reached the Senate an amendment providing that it shall not have application to timber or the manufactured products thereof. I might just as well present the amendment now, and my remarks with reference thereto, if it is proper. I move to amend the section, in line 4, page 6, after the word "commodity," by inserting "other than timber and the manufactured products thereof."

The PRESIDENT pro tempore. The Senator can not offer the amendment now.

Mr. PILES. I will discuss the question anyway.

Mr. TILLMAN. I will say to the Senator from Washington that, so far as I am personally concerned, I am perfectly willing and anxious to except any industry. I mentioned the other day that there were lumber roads that had been built by the owners of the trees, and unless they had been allowed to build their own railroads, the lumber would never have gotten to market. I am perfectly willing to except lumber and its products.

Mr. PILES. That is all right.

Mr. TILLMAN. I am after coal and coke, two of the necessaries of life.

Mr. PILES. A few words on the question of coal. I do not know what the conditions are in West Virginia that may call for drastic legislation of this character, but the State of Washington is one of the great coal-producing States of this Union. We are engaged in producing coal largely by small railroads. It is true that the great transcontinental railroads own coal mines in our State, and have owned them for a great many years, for the simple reason, I suppose, that private individuals did not see fit to engage in the coal-mining business to a very large extent in the early history of the State of Washington. The railroads acquired coal-mining properties and developed those properties to a very large extent. But, on the other hand, there are private persons and companies engaged in mining and transporting coal in the State of Washington.

Mr. President, I know, for instance, in my own home city, in the early history of that country the people turned out en

masse for the purpose of constructing, or aiding in the construction, of a little line of railroad—which is now some 38 miles in length—to the coal mines, in order that they might have some product to send to market and get ready money into that new country. That road exists to-day, and to my personal knowledge its stock is, or was, owned by another transportation company. It is run in connection with a steamship line, and it carries freight and passengers for hire for the people living along the line of the road. But the transportation of outside freight is a mere incident to its business. The principal business of that road is to carry the coal mined by its stockholders up in the mountains down to the city of Seattle, and there it is transported by steamers to California and other domestic ports, where it is sold. That steamship line is indirectly, at least, interested in that railroad. Is it the intention of Congress to put that railroad out of business? Is it the intention of Congress to put that steamship line out of business? I think not.

Mr. President, that is but one incident. Many more might be cited. That road is doing nobody any injury. It and the mines which it reaches employ hundreds of men in a great and beneficial industry. The steamship line operated in connection with it is engaged in building a great commerce. Shall this railway company, this steamship company, and other companies conducting great industries on similar lines be put out of business? That is exactly what will be done if the amendment of the Senator from South Carolina is adopted, because it provides, in effect, that the steamship line shall not own any stock in the railroad company, and the railroad company shall own no stock in the steamship line, and if such ownership shall exist it will be unlawful for the steamship company to transport from the State of Washington to the State of California, for instance, the coal carried by the railroad company to the city of Seattle for transshipment.

But let me go one step further, Mr. President. In the development of the great Pacific Northwestern country we have opened up the most magnificent forests in the world. We have done it by building great logging railroads into the forests. We are not logging in that country with horses and wagons or oxen. We are logging by means of railroads. Those railroads, running from 5 to 40 or 50 miles back into the forests, necessarily penetrate the valleys. People to a certain extent have settled in those valleys and have builded for themselves homes. Their little freight, as a matter of accommodation more than anything else, and some passengers, are carried by the logging railroads. Those logging roads own sawmills on tide water, or the mill companies own the logging roads. The roads take the timber to the sawmills, where it is sawed into lumber. The mill companies own their own schooners, both steam and sail. When the timber is sawed into lumber it is transported on these schooners to all parts of the maritime world.

If, then, these little logging roads can not own stock in the sawmills, or the mill companies can not own stock in the logging roads or own such roads outright, the great lumber industry, which employs in the woods 30,000 men alone, and which employs in the woods and in the mills and in the various industries connected with the manufacture of lumber in the State of Washington alone upward of a hundred thousand men, and has an annual pay roll of something like $60,000,000, will be seriously retarded if not wholly destroyed.

Mr. President, I think it is time for Congress to call a halt. We came here to enact legislation upon this great question which would be beneficial to the people. The people of this country have had one object in view, if I understand them aright, and that is to create some tribunal before which they can appear and submit their grievances. Every man in this country has a right to go into court and complain of any man who does him an injury, or with respect to whom he assumes that he has a grievance. The shippers of this country came to the conclusion that they were entitled to have some forum before which they could present their grievances with reference to the railway rates in this country. And finding they had none, except that afforded by the common law, which was worse than nothing, they wanted Congress to enact a rate law, and that was all they wanted in this bill, in my judgment. They did not want Congress to indict the great industries of this country. They did not want Congress to stifle the energies and the industry of man; and I protest in the name of the great Pacific Northwest against the injustice that is about to be inflicted upon those people, and I hope the Senate will not permit the amendment to prevail.

Mr. McLAURIN. Before the Senator from Washington takes his seat, I should like to ask him a question.

Mr. PILES. Certainly.

Mr. McLAURIN. If the words I shall read were inserted after the word "carrier," in line 1, page 6, would they not meet the objection of the Senator from Washington?

whose principal business is common carrying.

It seems to be the desire of the Senate to prohibit common carriers, whose principal business is common carrying, from engaging in the business of mining, but not to prohibit producers from providing their own means of transportation for their freight when they make the transportation business incidental to their main business. It seems to me if the words "whose principal business is common carrying" were inserted just after the word "carrier," in line 1, page 6, it would meet the objection of the Senator from Washington.

Mr. PILES. "Whose principal business is that of an interstate-commerce carrier." Is that what I understand the Senator to say?

Mr. McLAURIN. The words I would suggest are "whose principal business is common carrying."

Mr. PILES. I think that would greatly benefit the amendment as it now stands; it would make it a great deal better; but I want to insert the word "interstate"—"whose principal business is that of an interstate carrier." But I think that this amendment should be defeated altogether. It is too large a question to be dealt with in this way. In my judgment too much mischief may be done by the enactment of this proposed law at the present time.

Mr. ELKINS. Mr. President, the purpose of this amendment, which was adopted by such a large majority when the bill was under discussion in Committee of the Whole, is to make a start toward divorcing production and transportation. I think the amendment is drawn as mildly as it can be and accomplish anything.

The Senator from Washington [Mr. PILES] makes an appeal here that logging roads in his State shall be excepted, or that, on account of their being handicapped so much by this amendment, it should not go into the law. If I understand the Senator's position, and if these logging roads are owned by lumber companies and incidental to their business, the law would not apply to them; or, if I understand, if these are intrastate logging roads or private roads they do not come under the operation of the law, nor are they interstate carriers.

Mr. PILES. Will the Senator pardon me for a moment?

Mr. ELKINS. Certainly.

Mr. PILES. It is provided that this bill shall be applicable to carriers partly by rail and partly by water. I have endeavored to demonstrate that these logging roads are carrying partly by rail and partly by water, and it is not only interstate, but it is foreign commerce.

Mr. ELKINS. Which company owns—the steamship company, the lumber, or the railroad company?

Mr. PILES. One company owns the logging road and the sawmill and the steam schooners.

Mr. ELKINS. Which owns?

Mr. PILES. One company.

Mr. ELKINS. Which is the owning company?

Mr. PILES. I do not recall. In some cases it may be the lumber company, and in others it may be the railway company.

Mr. ELKINS. That is the very thing which produces the confusion here. If the lumber company owns this little line of railroad, 20 or 30 miles long, as an incident to its business, then this proposed law does not apply.

Mr. FLINT. I will answer by saying that one company organized under the laws of the State of California is engaged in the business of milling and also of operating a railroad and conducting a steamship line.

Mr. ELKINS. Those are very extraordinary powers to give to one company.

Mr. FLINT. Under the laws of our State——

Mr. ELKINS. Why do they not take in banking?

Mr. FLINT. They can do everything in my State but banking.

Mr. ELKINS. Here is a great——

Mr. PERKINS. I will state to the Senator, if he please, that in Alaska there are now projected a number of corporations which propose to develop the iron, the copper, the galena, and other mineral resources, and that same company will own the vessels which will transport the ores from Alaska to Tacoma.

Mr. ELKINS. Senators may get up and talk about these cases on the distant frontiers. What I wish to do is to correct the abuses which have grown up; to provide that railroads shall not engage in business in competition with shippers on their lines; that railroads shall not own thousands of acres of coal lands, and mine the coal and ship it over their own lines to market and freeze out and crush independent operators and individuals; that they shall not seize and become owners of whole sections of States, and monopolize the business of min-

ing and shipping coal, when they are organized and incorporated to only transport freight and passengers. If railroads can engage in the coal, coke, lumber, and iron-ore business, it will be only a question of time when they will drive out of business all other shippers of these commodities. The fact is the people do not want and will not permit railroads to engage in business in competition with their own shippers.

This is the main question. If incidentally during production and transportation it works injustice to small enterprises or to large ones, like those alluded to in California, Washington, and Oregon, the great principle contended for should not be prevented from becoming law because it might injure some smaller interest.

Mr. President, I insist that this amendment has due regard, so far as it can, to the rights and interests of all railroads and all producers. The question is, Will Congress permit the coal interests in the States of Pennsylvania, Ohio, West Virginia, and other States to be turned over to the railroad interests? Unless we provide some remedy of his kind, that will be the result.

I do not agree with the suggestions made by the Senator from California and the Senator from Oregon or the Senator from Mississippi. I think the Senate acted wisely when it passed this amendment, and I hope that it will remain a part of the law and be adopted by the Senate.

The PRESIDENT pro tempore. The yeas and nays have been demanded on the amendment proposed by the Senator from South Carolina [Mr. TILLMAN], and the Secretary will call the roll.

The yeas and nays were ordered.

Mr. FLINT. I understand that the amendment offered by the Senator from Washington is accepted by the Senator from South Carolina?

Mr. TILLMAN. I have no right to accept.

The PRESIDENT pro tempore. It is to an entirely different part of the section from that to which the amendment of the Senator from South Carolina is offered.

Mr. TILLMAN. I ask that my amendment may be read.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 6 of the bill, line 7, after the word "indirect," insert "by partnership, stock ownership, or by any arrangement whatsoever."

The PRESIDENT pro tempore. The Secretary will call the roll on agreeing to the amendment proposed by the Senator from South Carolina.

The Secretary proceeded to call the roll.

Mr. MALLORY (when his name was called). I have a general pair with the Senator from Vermont [Mr. PROCTOR]. I do not know how he would vote on this question, and therefore I withhold my vote.

Mr. McLAURIN (when Mr. MONEY's name was called). My colleague [Mr. MONEY] has a general pair with the Senator from Wyoming [Mr. WARREN]. I will let this announcement answer for the day.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON].

Mr. SMOOT (when Mr. SUTHERLAND's name was called). My colleague [Mr. SUTHERLAND] is unavoidably absent from the Senate to-day. If he were here, he would vote "nay."

The roll call having been concluded, the result was announced—yeas 23, nays 42, as follows:

YEAS—23.

Berry	Culberson	Hansbrough	Rayner
Burkett	Dolliver	La Follette	Simmons
Carmack	Foster	Latimer	Stone
Clark, Mont.	Frazier	McLaurin	Taliaferro
Clarke, Ark.	Gamble	Newlands	Tillman
Clay	Gearin	Overman	

NAYS—42.

Alger	Daniel	Kean	Pettus
Allee	Dick	Kittredge	Piles
Ankeny	Dillingham	Knox	Platt
Blackburn	Dryden	Lodge	Scott
Brandegee	Elkins	Long	Smoot
Bulkeley	Flint	McCumber	Spooner
Burnham	Foraker	Millard	Teller
Carter	Frye	Nelson	Warner
Clapp	Fulton	Nixon	Wetmore
Clark, Wyo.	Gallinger	Penrose	
Crane	Hopkins	Perkins	

NOT VOTING—24.

Aldrich	Burton	Hemenway	Money
Allison	Cullom	Heyburn	Morgan
Bacon	Depew	McCreary	Patterson
Bailey	Dubois	McEnery	Proctor
Beveridge	Gorman	Mallory	Sutherland
Burrows	Hale	Martin	Warren

So Mr. TILLMAN's amendment was rejected.

The PRESIDENT pro tempore. The Chair calls the attention of the Senator from Texas [Mr. CULBERSON] to the pass amendment, which was laid over in his absence. It is now before the Senate.

Mr. CULBERSON. Mr. President, it is not my desire to provoke any additional discussion on this subject——

Mr. STONE. The amendment offered by the Senator from South Carolina to the amendment was just voted on, and——

The PRESIDENT pro tempore. That has been disposed of.

Mr. STONE. But the amendment itself has not been agreed to.

The PRESIDENT pro tempore. It has not been concurred in. That question will be taken up after this amendment is disposed of.

Mr. CULBERSON. I was proceeding to say that I have no desire to provoke additional discussion on the subject of a free pass, and I do not believe the Senate would be glad to have it done. I have, however, redrafted the amendment as passed by the Senate, including every subject which was acted on by the Senate, but I think it is in better form, avoiding repetitions, etc. If I may submit it in this form now, I ask leave to do so.

The PRESIDENT pro tempore. The Senator from Texas offers an amendment, which will be read.

The SECRETARY. In lieu of the matter inserted as in Committee of the Whole, beginning on line 9, page 4, insert:

No carrier subject to the provisions of this act shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passengers except to its officers, agents, employees, surgeons, physicians, actual and bona fide attorneys, and members of their immediate families; to ministers of religion, inmates of hospitals and charitable and eleemosynary institutions; to indigent, destitute, and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge under arrangements with boards of managers, and female nurses that served during the civil war; to ex-Union soldiers and sailors and ex-Confederate soldiers; and to owners and care takers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery: *Provided*, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of carriers, and members of their immediate families, nor to prohibit any carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitations, nor prevent such carrier from giving free or reduced transportation to laborers transported to any place for the purpose of supplying any demand for labor at such place. Any carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, and any amendment thereof.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. HANSBROUGH. Is the amendment open to an amendment?

The PRESIDENT pro tempore. It is not. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The amendment is now open to amendment.

Mr. HANSBROUGH. I offer an amendment to come in after the word "dollars," line 4, page 5.

The PRESIDENT pro tempore. The Senator from North Dakota offers an amendment to the amendment just agreed to.

Mr. HANSBROUGH. It comes in immediately after the penalty clause in the amendment agreed to. It extends it to the person accepting the pass. That is the purport of my amendment.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. After the words "two thousand dollars," at the end of the penalty clause, insert:

And any person, other than the persons excepted in this provision, who uses, or who solicits or accepts for himself or other person, any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty and fine.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLLIVER. I desire to offer an amendment. After the words "ministers of religion," where it occurs, I move to amend by adding "local and traveling railroad secretaries of the Young Men's Christian Association."

Mr. HALE. I move, in addition to the words to be inserted on the motion of the Senator from Iowa, to insert "all football and baseball players."

Mr. DOLLIVER. Mr. President——

Mr. HALE. I do not seek to antagonize the amendment of the Senator from Iowa. I shall vote for that, because I think it ought to be in, and in addition to that I want these other deserving and popular persons to have the benefit of passes.

Mr. DOLLIVER. Mr. President, there may be hidden in the suggestion of the Senator from Maine a very fine form of humor, although I do not think it lies upon the surface of it. There are in the United States 300 Railway Young Men's Christian Associations. The secretaries of those associations are giving their time practically without reward to help to serve the great body of railway employees of the United States.

Mr. DANIEL. Will the Senator allow me to ask him a question?

Mr. DOLLIVER. Certainly.

Mr. DANIEL. I have understood that those secretaries are employees of the railroad companies. The members of the association are, and they are, too, as I have been informed, so that they are already embraced in the term "agents and employees."

Mr. DOLLIVER. The members of the associations are employees of the railroad. The traveling secretaries are not employees of the railway, but give their entire time to serving their fellow-employees in matters of very great importance, not only as to their physical, but to their intellectual and moral life. I regard the provision as more important and more practical even than the exception made in favor of clergymen, who are traveling oftentimes not upon the business of their parish.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Iowa [Mr. DOLLIVER].

The amendment to the amendment was agreed to.

Mr. HALE. Now, Mr. President, I move my amendment.

The PRESIDENT pro tempore. The Senator from Maine offers an amendment, which will be stated.

The SECRETARY. Insert after the amendment just agreed to the words "football and baseball players."

The amendment to the amendment was rejected.

Mr. McLAURIN. I move to insert after the amendment offered by the Senator from Iowa what I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Following the amendment agreed to on motion of the Senator from Iowa [Mr. DOLLIVER], it is proposed to insert:

Widows and orphans.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Mississippi.

Mr. McLAURIN. I will have to ask for the yeas and nays on that.

The yeas and nays were not ordered.

The amendment to the amendment was rejected.

Mr. GALLINGER. After the words "civil war," almost in the middle of the amendment, I move to add "or war with Spain." There is no reason why that should not be included. This is in good faith.

The PRESIDENT pro tempore. The amendment offered by the Senator from New Hampshire will be stated.

The SECRETARY. After the words "civil war" insert the words:

Or war with Spain.

The amendment was rejected.

The PRESIDENT pro tempore. The question is on agreeing to the amendment as amended.

Mr. BEVERIDGE. In view of the fact that the amendment is again being loaded down with cumbersome provisions which were added yesterday, and which the Senator from Texas today tried to change and reduce, I offer an amendment which I move as a substitute, and which contains the simple limitations which were first had without all these conditions. I offer it as a substitute for the entire amendment.

The PRESIDENT pro tempore. The Senator from Indiana offers an amendment, which will be stated.

The SECRETARY. In lieu of the amendment intended to be proposed insert the following:

That no carrier engaged in interstate commerce shall hereafter, directly or indirectly, or by any device, give free transportation, except to the officers, agents, and employees, attorneys, physicians, and surgeons of the carrier issuing the same, and members of their immediate families, to ministers of religion and inmates of hospitals and eleemosynary and charitable institutions and indigent sick persons.

Provided, That said carrier of interstate commerce may, by arrangement with other carriers of interstate commerce, provide for free transportation of its bona fide employees, officers, agents, attorneys, physicians, and surgeons, and their families, over the lines of such other carriers in connection with said free transportation over the lines of the carrier providing said free transportation.

Provided further, That nothing herein contained shall prevent such carrier from giving free or reduced transportation to laborers transported to any place for the purpose of supplying any demand for labor at such place.

Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Indiana [Mr. BEVERIDGE].

The amendment was rejected.

The PRESIDENT pro tempore. The question is on concurring in the amendment as amended.

The amendment as amended was concurred in.

The PRESIDENT pro tempore. The next amendment made as in Committee of the Whole is at the bottom of page 5, which the Secretary will read.

The Secretary read as follows:

From and after May 1, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or district of the United States to any other State, Territory, or district of the United States or to any foreign country any article or commodity manufactured, mined, or produced by it or under its authority or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary or used in the conduct of its business as a common carrier.

Mr. PILES. Mr. President, I move that the amendment be amended by inserting after the word "commodity," in line 4, on page 6, the words "other than timber and the manufactured products thereof."

The PRESIDENT pro tempore. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. On page 6, in line 4, after the word "commodity," it is proposed to insert "other than timber and the manufactured products thereof."

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Washington to the amendment made as in Committee of the Whole. [Putting the question.] The ayes have it; and the amendment to the amendment is agreed to.

Mr. PILES. I move to further amend the amendment by inserting, on page 6, line 1, after the word "carrier," the words "whose principal business is that of a common carrier."

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Washington to the amendment made as in Committee of the Whole. [Putting the question.]

Mr. GALLINGER. Let us understand that, Mr. President.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. By the sound the "noes" have it.

Mr. LODGE. Mr. President, I object to having amendments run through in that way.

Mr. GALLINGER. So do I.

Mr. LODGE. This is a very important amendment; and I think we have some reason to discuss it. I do not even know where it is proposed to insert it in the bill, owing to the way it has been hurried through.

Mr. ELKINS. The amendment was proposed to be inserted on page 6, line 1.

Mr. LODGE. I do not think that even the amendment offered by the Senator from Washington [Mr. PILES] in regard to timber was carried.

The PRESIDENT pro tempore. That amendment was declared to be carried.

Mr. LODGE. I should like to have it pointed out where the last amendment is to come in.

The PRESIDENT pro tempore. The amendment will be again stated.

The SECRETARY. On page 6, line 1, after the words "common carrier," it is proposed to insert "whose principal business is that of a common carrier;" so that as proposed to be amended the amendment will read:

From and after May 1, 1908, it shall be unlawful for any common carrier whose principal business is that of a common carrier to transport from any State, Territory, or district of the United States., etc.

Mr. ELKINS. Mr. President, I understand that amendment was rejected.

The PRESIDENT pro tempore. It was declared to be rejected by the Chair——

Mr. ELKINS. Yes; it was declared to be rejected by the Chair.

The PRESIDENT pro tempore. By the action of the majority of the Senate.

Mr. CLAY. I am sure the Senator from West Virginia will accept the amendment which I now offer, as the words I propose were in the amendment as it was originally drawn. In line 8, on page 6, after the word "necessary," I move to strike out the words "or used in" and insert "and intended for its own use."

Mr. ELKINS. I accept the amendment.

The PRESIDENT pro tempore. The Senator from West Virginia can not accept the amendment. The amendment must

be acted on by the Senate. The amendment to the amendment will be stated.

The SECRETARY. On page 6, line 8, it is proposed to strike out the words "or used in" and to insert "and intended for its own use."

The PRESIDENT pro tempore. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. STONE. Mr. President, I desire to call the attention of the Senator from West Virginia [Mr. ELKINS] particularly to the question which seems to be raised by the section as it now stands. It might work serious injury to those who are owners of pipe lines. I know very little about pipe lines, but that is evidently growing to a large business. The first section of the bill as it has been agreed to provides that:

Any corporation or any person or persons engaged in the transportation of oil or other commodity, * * * shall be considered and held to be common carriers within the meaning and purpose of this act.

The provision at this time before the Senate forbids any common carrier transporting any commodity of its own manufacture or production, unless it be carried for its own use in the conduct of its own business. The Senator from South Carolina [Mr. TILLMAN] says that will include coal. To be sure, it will include coal; and that may be very well. I have voted for the provision to exclude railroad companies from engaging in the mining of coal; but where a company is engaged in the production of oil, is it desirable to forbid that company to transport its oil, even though it be not for the purpose of using it in the business of transportation, but to forbid it transporting its oil to its reservoirs for sale or for refinement or for whatever it may be?

Mr. ELKINS. Will the Senator allow me to ask him a question?

Mr. STONE. Yes; but I have asked the Senator a question.

Mr. ELKINS. Has the Senator an amendment prepared to offer there?

Mr. STONE. I had prepared an amendment as a tentative proposition; but I am not sure whether or not it ought to go in. My amendment is to add, at the end of this provision, after the word "carrier," in line 9, on page 6, this proviso:

Provided, That this provision shall not apply to any corporation, person, or persons engaged in the transportation of oil or other commodity by means of pipe lines only.

Mr. LODGE. Mr. President, if I understand the amendment, it is to except the oil pipe lines from the operation of this amendment, and that is all.

Mr. STONE. Yes, sir; that is all. That is the purpose of it—that is to say, to except them from the operation of the pending amendment, which would forbid them from transporting through their own pipes their own production.

Mr. LODGE. I do not believe in excepting them, but I do not want to take the time of the Senate in discussing the matter.

The PRESIDENT pro tempore. Does the Senator from Missouri offer that amendment?

Mr. STONE. Yes, sir; I do offer it.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 6, line 9, after the word "carrier," it is proposed to insert:

Provided, That this provision shall not apply to any corporation, person, or persons engaged in the transportation of oil or other commodity by means of pipe lines only.

Mr. MALLORY. Mr. President, I should like to inquire of the Senator from Missouri if, in his judgment, it is in the power of Congress to prohibit a pipe-line company, conducting a business of its own, from transporting its product if it does not transport it for hire, but simply transports its own product? Can a declaration made by Congress that such parties shall be common carriers make them common carriers when, in fact, they are not?

Mr. STONE. I have not believed, Mr. President, that the pipe lines constructed by a company or an individual, for use solely in his or its own business, or for the transmission of his or its own product and used for that only, would be subject to the provisions of this proposed law. But the first section of this bill does provide that all pipe-line companies engaged in carrying oil or other commodities from one State or district to another shall be considered common carriers.

Mr. MALLORY. What I wanted to inquire of the Senator was, would a declaration by Congress to that effect make them common carriers if, in fact, they were not common carriers; if they were simply carrying their own products at their own expense, and were not engaged in transporting oil for hire?

Mr. STONE. But suppose they are common carriers?

Mr. MALLORY. That would alter the case.

Mr. STONE. Suppose they are common carriers—that is to say, they construct a line of pipes and may carry for hire under the provisions of this law—they having exercised the right of eminent domain, become common carriers; is it the purpose of the law to forbid them transporting their own products through their own pipes?

Mr. BACON. I want to call the attention of the Senator to the fact that I think he misreads this sentence and altogether misconstrues it. I do not understand the first part of the first section to declare that all corporations so engaged are common carriers. The words are words of limitation, not of a declaratory character at all. The reading of it is this:

That the provisions of this act shall apply to any corporation or any person or persons—

Leaving out now the intervening words—

who shall be considered and held to be common carriers.

What corporation and what person? Such corporations and such persons as shall be decided to be common carriers. It does not say that all persons and all corporations so engaged shall be common carriers; but it says they shall be deemed to be within the provisions of this act if they are held to be common carriers—such of them as are held to be common carriers. I repeat, the words are words of limitation, and not words of declaration.

Mr. STONE. Mr. President, I care nothing whatever about the amendment; and as there seems to be a disposition to disagree to it, I will withdraw it.

The PRESIDENT pro tempore. The amendment of the Senator from Missouri [Mr. STONE] to the amendment is withdrawn; and the question is on concurring in the amendment made as in Committee of the Whole as amended.

Mr. DICK. Mr. President, I desire to offer an amendment. I move to amend, on line 25, page 5, by striking out the word "eight" and inserting "ten," so as to make the date there "May 1, 1910."

The PRESIDENT pro tempore. The amendment proposed by the Senator from Ohio to the amendment made as in Committee of the Whole will be stated.

The SECRETARY. On page 5, line 25, it is proposed to change the date from "1908" to "1910;" so as to read:

From and after May 1, 1910, it shall be unlawful for any common carrier, etc.

The PRESIDENT pro tempore. The question is on the amendment to the amendment.

Mr. TILLMAN. That has been voted down once by a yea-and-nay vote.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question is on concurring in the amendment as amended.

Mr. GALLINGER. I move to strike out the word "eight" and insert "nine." It will be remembered that on a vote of the Senate "1911" was once placed in the bill, and again "1909."

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 5, line 25, it is proposed to change the date "1908" to "1909."

The PRESIDENT pro tempore. The question is on the amendment to the amendment made as in Committee of the Whole. [Putting the question.] By the sound the "noes" have it.

Mr. GALLINGER. I ask for the yeas and nays on that.

The yeas and nays were not ordered.

The amendment to the amendment made as in Committee of the Whole was rejected.

Mr. PILES. I now move to amend, on page 6, line 9, after the word "carrier," by inserting the following:

Provided, That the Interstate Commerce Commission may by order except from the provisions of this section any carrier whose principal business, in the opinion of the Commission, may not be that of a common carrier.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Washington [Mr. PILES] to the amendment made as in Committee of the Whole, which will be stated.

The SECRETARY. On page 6, line 9, after the word "carrier," it is proposed to insert:

Provided, That the Interstate Commerce Commission may by order except from the provisions of this section any carrier whose principal business, in the opinion of the Commission, may not be that of a common carrier.

Mr. McCUMBER. Mr. President, I want to ask the Senator how the Commission is to determine what is the principal business? Is it to be determined by the quantity of business? Is it to be determined by the net profits of any particular character of business? What basis would the Senator lay down for the purpose of determining whether one business is the princi-

pal and the other merely collateral to it? Sometimes they may be even. One may be greater one year and another may be greater the next year; and so it may be in any particular month. It seems to me that the Senator is trying to get something in there that would be so vague that it would destroy itself.

Mr. PILES. Mr. President, I admit that there may be cases where it would be difficult for the Commission to determine with accuracy the principal business of the company; but a great injustice is going to be done to some of the great industries of this country if this provision of the bill carries as it now stands. Take, for instance, the company I mentioned a while ago, which will give a perfect answer to the Senator's question.

Mr. McCUMBER. May I make a suggestion to the Senator right there?

Mr. PILES. Certainly.

Mr. McCUMBER. I listened to the argument of the Senator and I confess that it did not appeal to me, because in the case which he gave if the railway is owned by anyone, it is owned by the stockholders, while if the stockholders own the railroad, the stockholders also own the lumber or the timber in just the same proportion that they own the railroad, and it would be the simplest thing in the world——

Mr. PILES. Suppose the carrier owns the stock.

Mr. McCUMBER. It would be the simplest thing in the world if it were among ten persons, each holding a tenth, that each of those ten persons would own one-tenth of the lumber industry, and form another corporation. Therefore, it is really unnecessary to make any exception to this rule.

Mr. PILES. Will the Senator allow me to ask him a question?

Mr. McCUMBER. Certainly.

Mr. PILES. Suppose the stock of one company be controlled by another carrier?

Mr. McCUMBER. Then this does not touch it if it is owned by another carrier.

Mr. PILES. But the amendment of the Senator from South Carolina, to which I was addressing myself a few moments ago, does.

Mr. LODGE. Mr. President, as the Senator from North Dakota [Mr. McCUMBER] has pointed out, it would be impossible to find a basis for such decisions as this. I think there is also another very fundamental objection. I do not think we ought to put it in the power of the Interstate Commerce Commission to exempt one company from the law if it chooses to say that its principal business is not in its opinion that of a common carrier.

The PRESIDENT pro tempore. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question recurs on the amendment made as in Committee of the Whole as amended.

The amendment as amended was concurred in.

The PRESIDENT pro tempore. The Secretary will state the next amendment made as in Committee of the Whole.

The SECRETARY. Beginning in line 10, page 6, the Senate, as in Committee of the Whole, adopted the following amendment:

Any common carrier subject to the provisions of this act shall promptly, upon application of any shipper tendering interstate traffic for transportation, construct, maintain, and operate upon reasonable terms a switch connection with any private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same; and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against any such shipper.

The PRESIDENT pro tempore. The question is on concurring in the amendment.

Mr. LA FOLLETTE. I offer an amendment to that amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. In section 1, page 6, after line 20, in the amendment already read, it is proposed to add the following:

If any common carrier shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper, such shipper may make complaint to the Commission, as provided in section 13 of this act, and the Commission shall hear and investigate the same and shall determine as to the safety and practicability thereof and justification and reasonable compensation therefor, and the Commission may make an order, as provided in section 15 of this act, directing the common carrier to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the Commission other than orders for the payment of money.

Mr. LA FOLLETTE. Mr. President, the amendment to which I propose the amendment read by the Secretary is, I think, an important one, and if it is important, it certainly is worth while to add to it an enforcing provision. Such a provision is absent from the amendment under consideration. All that my amendment proposes to do is to provide for the enforcement of the amendment heretofore adopted by the Senate.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Wisconsin to the amendment.

The amendment to the amendment was agreed to.

Mr. LODGE. May I have that amendment stated again?

The PRESIDENT pro tempore. The amendment will be again stated.

The Secretary again read Mr. LA FOLLETTE's amendment to the amendment.

Mr. LODGE. The amendment of the Senator from Wisconsin is in the nature of a penalty clause to be attached to this particular paragraph of the bill. We have a general penalty clause that covers every infraction of the provisions of the bill, and it seems to me it is needless to add a penalty clause to each section.

Mr. ELKINS. Mr. President, I think this amendment ought to be adopted. I thought of providing a penalty clause and thought also of the suggestion of the Senator from Massachusetts, but I can see no objection to the amendment offered by the Senator from Wisconsin.

Mr. GALLINGER. There is no necessity for it.

Mr. LA FOLLETTE. May I interrupt?

The PRESIDENT pro tempore. The Chair will regard the question as an open question.

Mr. LA FOLLETTE. The amendment which I have offered is not a penalty provision at all. It is simply an enforcing provision, without which the paragraph is defective. I know the view that is entertained by the Commission with respect to that paragraph—that it would be inoperative unless such a provision be added to it.

Mr. NELSON. I think the Senator from Wisconsin [Mr. LA FOLLETTE] is right. His amendment is needed in order to give force and effect to what may be called "the switch amendment" of the Senator from West Virginia [Mr. ELKINS]. The amendment of the Senator from Wisconsin gives the Interstate Commerce Commission power directly to act in the premises, and I think the amendment of the Senator from West Virginia is incomplete without the amendment of the Senator from Wisconsin. I think the amendment to the amendment ought to be adopted.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Wisconsin to the amendment.

The amendment to the amendment was agreed to.

The amendment made as in Committee of the Whole as amended was concurred in.

The next amendment made as in Committee of the Whole was, on page 6, after line 20, to insert:

It shall be the duty of carriers engaged in interstate commerce to give equally good service and accommodations to all persons paying the same compensation for interstate transportation of passengers.

The amendment was concurred in.

Mr. LA FOLLETTE. Before leaving section 1, I desire to offer an amendment to the pass amendment, or the substitute of the Senator from Texas [Mr. CULBERSON] as finally adopted.

After the word "families," in line 5 of the substitute amendment which was finally adopted, I move to add the words which I send to the desk.

The PRESIDENT pro tempore. That amendment has been agreed to in the Senate and is not open to amendment.

Mr. LA FOLLETTE. But it is a part of this section, Mr. President.

Mr. LODGE. That does not make any difference.

Mr. LA FOLLETTE. I supposed until we passed the section it would be open to amendment.

The PRESIDENT pro tempore. The Chair would hold otherwise.

Mr. LA FOLLETTE. Then I do not offer my amendment.

The PRESIDENT pro tempore. The next amendment made as in Committee of the Whole will be stated.

The next amendment made as in Committee of the Whole was, on page 7, line 4, after the word "shall," to insert "file with the Commission created by this act and."

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 7, line 6, after the word "showing," to insert "all."

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 7, line 7, before the word "transportation," to strike out "the."

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 7, line 7, after the word "transportation," to strike out down to and including the word "route," in line 9, and to insert:

Between different points on its own route and between points on its own route and points on the route of any other carrier by railroad or by water when a through route and joint rate have been established.

Mr. LODGE. In order to make that amendment conform to the rest of the bill, I move to insert after the word "railroad," in line 11, the words "by pipe line."

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 7, line 11, after the word "railroad," it is proposed to amend the amendment by inserting the words "by pipe line."

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Massachusetts to the amendment.

Mr. FORAKER. What is that amendment?

Mr. LODGE. I will say to the Senator from Ohio it is simply to make applicable to pipe lines on joint routes the same requirement for schedules of rates, etc., to be kept open to inspection, that is made in regard to other carriers.

Mr. FORAKER. At what point in the bill is the amendment to come in?

Mr. LODGE. In line 11, after the word "railroad," to insert "by pipe line."

The PRESIDENT pro tempore. There should be a comma after the word "railroad."

Mr. LODGE. Insert a comma after the word "railroad," and then after that the words "by pipe line."

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Massachusetts to the amendment.

The amendment to the amendment was agreed to.

The amendment made as in Committee of the Whole as amended was concurred in.

The PRESIDENT pro tempore. The Secretary will state the next amendment made as in Committee of the Whole.

The SECRETARY. On page 7, line 16, after the word "separately," strike out the word "the" and insert "all."

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 7, line 17, before the word "icing," to insert "storage charges."

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on line 18, after the word "require," to insert "all special privileges or facilities granted or allowed."

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 7, line 20, after the word "part," to strike out "of" and insert "or."

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 7, line 21, after the word "charges," to insert "or the value of the service rendered to the passenger, shipper, or consignee."

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 7, line 24, after the word "be," to insert "kept."

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 8, line 4, after the word "inspected," to insert:

The provisions of this section shall apply to all traffic, transportation, and facilities defined in section 1 of this act.

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 8, line 23, before the word "and," to strike out "established" and insert "filed."

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 8, line 25, after the word "days'," to strike out "public notice" and insert "notice to the Commission and to the public, published as aforesaid."

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 9, after line 12, to strike out, beginning with the word "And," in line 13, down to and including the word "force," in line 21.

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 9, after line 21, to insert:

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 10, beginning with the word "Every," in line 5, to strike out down to and including the word "same," in line 10.

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 10, line 10, after the word "Every," to strike out "such."

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 10, line 11, after the word "carrier," to insert "subject to this act."

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 10, line 14, after the word "party," to strike out, beginning with the word "And," down to and including line 21 on page 11.

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was, on page 12, beginning with the word "If," in line 3, to strike out down to and including line 4 on page 13.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 13, after line 4, to insert:

No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 13, after line 21, to insert:

That in time of war or threatened war preference and precedence shall, upon the representation of the President of the United States of the need therefor, be given, over all other traffic, to the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was, on page 14, after line 2, to insert:

That section 1 of the act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, be amended so as to read as follows:

"That anything done or omitted to be done by a corporation common carrier subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons, except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000: *Provided*, That any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

"In construing and enforcing the provisions of this section, the act,

omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper, as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act."

Mr. LODGE. I desire to offer an amendment to the paragraph which has just been read. In line 11, page 15, after the word "shall," I move to insert the words "knowingly and willfully."

Mr. TILLMAN. Mr. President, I have had very little experience in the law, but what little I have had, in one instance had to do with those very words. When they were inserted, the difficulty of proving that it was willfully done destroyed the opportunity to inflict punishment. I think the Senator will emasculate and practically take all the backbone out of our effort to stop this vicious and infamous business of giving rebates if he undertakes to put those words in. I hope he will not insist upon the amendment.

Mr. LODGE. Mr. President, it seems to me merely just to put in those words. On page 14, where it is a mere question of a fine for not publishing tariffs and rates, it is required to be a willful failure, and on page 15 we propose to inflict—very properly, as I regard it—the punishment of imprisonment. To provide that the officers controlling a railroad shall be held and put in prison for, perhaps, the mere error of a subordinate a thousand miles away—a mere mistake—would be an injustice that nobody would wish to embody into law. This is the usual provision.

Mr. WARNER. Will the Senator from Massachusetts let me call his attention to the fact that on page 17, line 8, where it is only a fine, the act is required to be knowingly and willfully done?

Mr. LODGE. I was going to call attention to that. When we come to deal with that portion which applies to the carrier, to the other party to the transaction we want to end, in the amendment as introduced by the Senator from North Dakota and carried, the words "knowingly and willfully" are put in. Now we require that, and require it properly, where it is proposed to impose a fine alone upon the shipper, and yet, as it stands, we would impose imprisonment upon the officer of any railroad whether it was through intention or whether it was a mere accident. It seems to me that it would be grossly unjust to leave out those words.

Mr. McCUMBER. I wish to call the Senator's attention to one other feature in this matter, and that is that these penalties apply to all kinds of discriminations. The law specifies simply an unlawful or unjust discrimination. That presupposes that there may be some character of discrimination which is not unjust, and the line of demarcation between the just and the unjust is one which will have to be determined by the court in nearly every instance. Therefore a person might act in the very best of faith, supposing that he is conforming entirely to our requirements, and yet, being unable to know what the court may hold in the matter of an unjust discrimination as against a just discrimination, he would be held guilty and punished, although he did it unknowingly and not willfully. For this reason alone, it seems to me, the words should be put in.

The Senator from South Carolina will understand, of course, that every man is presumed to intend that which naturally flows from his acts, but when the act itself is not of a criminal nature, "willfully" or "maliciously" or "intentionally" ought to be included.

Mr. FULTON. I should like to suggest to the Senator that the words "knowingly and willfully," if inserted, should be inserted after the word "solicit," so as to qualify the words "accept or receive" and also qualify the word "discrimination." The reason I suggest that is this: It is impossible, it seems to me, that a carrier should offer or grant rebates without knowing it or should offer or grant terms other than those named in its schedules without knowing it. It might be possible that one would accept or receive a rebate, it might be possible that a discrimination would be made, without it being done knowingly.

Mr. LODGE. I think it is perfectly possible that a clerk at some distant point might give a mistaken rate; but a man can not very well solicit a discriminatory rate without knowing it. We apply it to the whole. I do not see why we should be so very tender to the shipper, and then take this exceptional course established or published in the schedules without knowing it. toward the officers of the roads.

Mr. FULTON. Here is the distinction. The shipper may accept or receive a rebate or a rate other than that which is established or published in the schedules without knowing it. That might be possible. But that a representative of a transportation company could offer or grant a rebate without knowing it, it seems to me is practically impossible.

The clerk or the agent at the distant point, to whom the Senator refers, has the schedules before him and knows what the published and established schedules of rates are, and there could not be any reason or any chance for him to make a mistake. I think, however, the words "knowingly and willfully" might properly be inserted after the word "solicit," between that and "accept," so as to read, "knowingly and willfully accept or receive any such rebates, concession, or discrimination," etc.

Mr. LODGE. It covers not only rebates, but concessions, discriminations, and every sort of infraction of the orders of the Commission. I prefer to have the question taken on the amendment at the point I offered it.

The PRESIDENT pro tempore. The Senator from Massachusetts offers an amendment, which will be stated.

The SECRETARY. On page 15, line 11, after the word "shall," insert "knowingly and willfully;" so that if amended it will read:

Every person or corporation who shall knowingly and willfully offer, grant, or give or solicit, accept or receive.

Mr. FORAKER. Mr. President, I favor the adoption of the amendment that the Senator from Massachusetts [Mr. LODGE] has offered. I do not rise, however, to speak to that, but only to put in the RECORD something I did not have at my command when I was speaking upon this amendment a few days ago. There was a good deal of discussion as to how it came about that in the enactment of the Elkins law the provision of imprisonment for violations of the interstate-commerce act was eliminated from the statute. I said in that connection that I understood that the Interstate Commerce Commissioners had recommended in their official reports that we abolish the provision for imprisonment, and I said, in addition to that, that at the time of the hearing before the Interstate Commerce Committee members of the Interstate Commerce Commission who appeared before the committee recommended that imprisonment be abolished.

There having been some dispute of that proposition, I have taken the trouble to look it up, and I now have here, which I send to the desk, the report of the Committee on Interstate and Foreign Commerce, of the House of Representatives, made on the Elkins bill—Senate bill 7053—a report made February 12, 1903. It is a report which embodies in part the testimony of both Mr. Knapp, Chairman of the Interstate Commerce Commission, and Mr. Fifer, who was at that time a member of the Interstate Commerce Commission, and who appeared in that capacity. I ask the Secretary to read first what is marked on page 3, an extract from the testimony of Mr. Knapp, and then to read from the following page the extract that is marked from the testimony of Mr. Fifer.

The PRESIDENT pro tempore. The Secretary will read as requested, if there is no objection.

The Secretary read as follows:

Hon. Martin A. Knapp, Chairman of the Interstate Commerce Commission, said:

* * * * * * *

"It is idle to suppose that you can apply criminal remedies in the state of the criminal law for the correction of such abuses. It does not happen; it will not happen. But I believe that if the corporation could be indicted, if the officials, the subordinate officials, the competitors, or their representatives, or anybody having knowledge of the transaction could be examined before the Commission and compelled to disclose the facts on which the corporation was liable, then the corporation could be indicted and mulcted with a fine. Until that can be done, and corporation carriers be subjected to large pecuniary losses as a result of these offenses, not much will happen to correct them in the way of criminal remedies.

"Mr. STEWART. Do you not think that imprisonment in addition to a fine would have a good effect?

Mr. KNAPP. No, Mr. Stewart, I do not. While I regard these offenses as involving, in many cases, a very high degree of moral turpitude, and I think there are more serious wrongs against order and the inalienable rights of the citizen than burglary or larceny, still we have to take the facts as they are and public sentiment as it exists, and in view of that it is my judgment that punishment by imprisonment instead of being an aid is a hindrance. It is a thing which operates against getting information necessary to convict.

Mr. STEWART. Do you think a fine, however large, would deter these large corporations?

Mr. KNAPP. Yes; and then there is another reason. You can not do anything to a corporation except fine it, and it does not quite satisfy the sense of justice to say that the real offender shall only be fined, while some paid subordinate in lesser degree may possibly go to jail. Now, I believe that if we could get this law in shape where it would be practically feasible, and in many cases comparatively easy to prove the offense against the corporation, and that corporation could be held to pay a large fine, it would not be simply the pecuniary loss, but the publicity—the fact that the railroad had been indicted and compelled to pay a large fine—would operate as a powerful deterrent, and I do not think we shall get along very far in preventing rate cutting by criminal methods until you gentlemen change the law in that regard.

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Hon. Joseph W. Fifer, a member of the Interstate Commerce Commission, said:

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"Now, how are you going to prevent, how are you going to stop, these violations of the act which are made criminal? You have been told by my colleagues that there is no penalty denounced against the carrier by the law, and that is true. Gentlemen, these violations are what the law calls malum prohibita, and I care not what certain individuals may think of it, mankind generally hold that the same moral turpitude does not attach to an act of that kind as does to a crime, which is malum in se, such as burglary and larceny, crimes in the absence of all law.

"And you can see, bearing that in mind, what a great difficulty confronts the Commission when it undertakes to enforce the criminal features of the act. Many statutory prohibitions, acts that are made misdemeanors by a statute, a short time ago were no offenses at all. Yesterday the act violated no law; to-day it is made a penal offense, and the offender is subject to a heavy fine and a term in the penitentiary.

"These men have friends; they have standing in the community. The whole community may know that they have at different times violated the law, but they have just as many friends as they had before. They are not ostracised in society; and you undertake to convict one of them and you meet great difficulties. Now, what should be done? Judge Knapp has told you, and in that I agree with him, that the corporation itself should be made subject to indictment, and upon conviction it should be punished; of course, it can not be imprisoned; it loses no caste in society, and every person who is cognizant of the facts can be compelled to testify and there is no immunity; and you know, as practical men, under those circumstances you can get testimony and you can get conviction, and if the penalty is large enough, fixed by the law, it will be just as much of a deterrent as the other, and the testimony will be easily acquired."

Mr. FORAKER. Mr. President, I put that in the RECORD, as I have already indicated, only for the purpose of showing authoritatively and conclusively how it came about that the Interstate Commerce Committee reported a bill favoring the abolition of imprisonment. It was not, as it has been stated in this Chamber during the progress of this debate, at the request of any railroad. I never heard of any request of that nature. But it was upon the recommendation made in their reports, as I understood those reports at the time and understand them now, and upon the recommendation orally and before the committee in the form in which it has just been read at the desk of different members of the Interstate Commerce Commission that that action was taken. It was taken not until after we were satisfied, by what those charged with the duty of enforcing the law told us, that it had become a practical impossibility to enforce the law. That action was not taken until they had satisfied us of that by the representations they made to us.

I stated some days ago, when this amendment was under discussion, that I was one of the last members of the committee to agree to the abolishment of imprisonment, not that I doubted what they said to us, but because I thought it was bad policy under all the circumstances. I did not doubt what they said, because they had knowledge and I did not have knowledge, and I thought I could understand how they might have had the experience and might have reached the conclusions and the opinions of which they were giving us the benefit. But, however, all that may be the sentiment abroad in the country, as it is here in this Chamber, is of such a character that I think we should restore that provision. Therefore I voted for it when the Senator from Massachusetts [Mr. LODGE] offered the amendment some days ago. But I have an idea that the result of practical experience under it will prove to be just what those Commissioners said it was when it was in force before. It will be, to employ the language of Chairman Knapp, a hindrance instead of a help.

Mr. LA FOLLETTE. Mr. President, whatever controversy there was between the Senator from Ohio [Mr. FORAKER] and myself with respect to this matter relating to the position taken by the Commission in its reports made to Congress, I asserted that no recommendation could be found in the reports of the Commission for the abolition of the penalty of imprisonment for violations of the interstate-commerce law. I maintain that is so. The Senator from Ohio some days ago submitted to me the document, extracts from which he caused to be read. It has been found that two of the Commissioners, in the many times the Commissioners have been before the committees of Congress testifying with respect to these matters, under examination made the statements which have just been read.

It is a fact, however, that the reports of the Commission made to the Congress have emphasized their position, as a body, that the penalty of imprisonment should not be abolished. It is a further fact that in one of their reports they cite the persistency of railroad companies in urging before the committees of Congress the abolition of imprisonment as a penalty.

Mr. GALLINGER. Mr. President, as I remember the matter, during the entire time that the imprisonment clause was in the law there was but one conviction, and that of a subordinate, who perhaps ought not to have been punished with any great severity. In view of that fact, and in view of the further fact that the Interstate Commerce Commissioners had testified before a committee of Congress, as I was aware, that in their judgment it was not desirable to retain that clause in the law, I voted against inserting it in the present bill. It is true the minority that voted against it was not very large, the distinguished Senator from Alabama and I constituting the minority.

I have not changed my mind about it. I believe it is, to use a somewhat common phrase, "a water haul" at best; that it will not result in the better enforcement of the law. But the Senate has decided otherwise, and of course the Senator from Alabama and I bow gracefully to the decision of the Senate.

The PRESIDING OFFICER (Mr. KEAN in the chair). The question is on agreeing to the amendment proposed by the Senator from Massachusetts.

Mr. PETTUS. I ask that the amendment be stated.

The SECRETARY. On page 15, line 11, after the word "shall," insert the words "knowingly and willfully," so that if amended it will read:

Every person or corporation who shall knowingly and willfully offer, grant, or give, or solicit, accept, or receive any such rebates, etc.

Mr. BAILEY. Mr. President, I am afraid we are about to make a serious mistake when we make it a crime or a misdemeanor for a shipper to accept a rebate, because if the carrier which gives a rebate commits a crime and the shipper who receives a rebate commits a crime, the Government is left without a witness against either, except under the most extraordinary circumstances. The shipper can never receive a rebate until after the carrier has paid it; and if we exempt the shipper from criminal prosecution, then the Government can indict the carrier and summon every shipper to court to testify about the transaction. But when you summon a shipper and put him on the witness stand, if, in accepting the rebate he has committed a crime, he has a right to seal his lips; and I do not believe that the fine which this bill imposes upon him is a sufficient deterrent to compensate the Government for the loss of the shipper's testimony.

My own opinion is that it would be better to strike out that part of this law which penalizes the act of the shipper, so that the Government may have the right to summon him to the trial of an indicted carrier and compel him to bear witness to the transaction. We have agreed that a mere fine is not adequate to the correction of the evil, and we are restoring the penalty of imprisonment. Yet while we are strengthening again the law against the carrier we are defeating convictions under it by closing the mouth of the very men upon whose testimony the conviction could be secured.

Mr. KNOX. Mr. President——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Pennsylvania?

Mr. BAILEY. Certainly.

Mr. KNOX. Under the law now, as I understand it, you can call the shipper. The fact that it is a misdemeanor and he participated in it is no reason why he can not be compelled to give his testimony. The only thing he does is to secure immunity.

Mr. BAILEY. The Supreme Court has said you can do that, but the Senator from Pennsylvania will agree with me that that is a very doubtful decision. Assume that the decision makes the law; I do not believe that it meets the purpose and intention of the constitutional protection. The Constitution does not say that a man shall not be compelled to bear witness against himself unless the Government grants him immunity. But the court, with the help of Congress, has added that qualification which our fathers did not make.

The Senator from Pennsylvania knows better than I do, because his experience in the courts was longer and more varied than mine, that it frequently happens that out of one transaction and the knowledge procured by the prosecuting officers upon that trial comes a knowledge upon which other prosecutions may be based, not a prosecution relating to the very transaction under judicial examination, but other transactions, and the immunity does not go as far as the Constitution intended the protection to reach.

The shipper owes the public really no obligation. The carrier's obligation is to transport every man and to transport every man's property for a fair compensation, and to transport every man and every man's property for the same compensation as he charges everybody else for a like service. But the shipper is under no such obligation to the public. I do not question the power of Congress to denounce as a crime the conduct of a shipper who accepts rebates, but I do believe that the penalty against the shipper will interfere with the Government's successful prosecution of the carriers——

Mr. CLARKE of Arkansas. Will the Senator from Texas yield for a question?

Mr. BAILEY. Certainly.

Mr. CLARKE of Arkansas. Could not both purposes be accomplished by converting the proceeding against the shipper who wrongfully receives a rebate into a civil action?

Mr. BAILEY. That is true; and I should very well like to see that. I was going to suggest that we make it a crime to solicit a rebate from a railroad. Then when one of these overgrown combinations tells a railroad traffic manager that unless it is given a rebate it will give its shipments to some other railroad, the railroad manager would have some inducement to tell the district attorney that he was satisfied that this corporation is securing rebates. The district attorney will ask: "Why are you so satisfied?" and the answer will be: "Because they told me that if I did not give them rebates they would ship over the other line."

That is not conclusive, but it is sufficient to put the district attorney upon inquiry. I would like to follow the suggestion of the Senator from Arkansas, which is, in some measure, covered by an amendment proposed the other afternoon by the Senator from North Dakota, and couple with that a provision making the solicitation of a rebate an offense. Then you can use the carrier's testimony against the soliciting shipper and you can use the shipper's testimony against the rebating carrier. You would, in my opinion, do more practical good in that way toward the accomplishment of the end which I assume we all desire than by this provision.

Mr. McCUMBER. Mr. President, I think the Senator is a little ahead of the time, possibly, in the argument upon this proposition, as we have not quite reached it, but inasmuch as he has raised the question, I wish to say to the Senator that I believe the object is not so much to punish some one as to secure a certain result, the absolute elimination of the rebate business or any other special discrimination.

I invite the Senator's attention to the fact that where one single dollar has been obtained in rebates by the solicitation of the railroad companies one thousand dollars have been extorted from the railway companies by the great corporations or trusts. They, therefore, are the principal criminals in this transaction.

I do not wholly agree with the Senator from Texas in the annunciation of the doctrine that the shipper owes no public duty whatever.

Mr. BAILEY. Will the Senator permit me to ask him a question?

Mr. McCUMBER. Certainly.

Mr. BAILEY. A rebate could not be obtained without soliciting it, and therefore the mere solicitation of it would be as much a crime——

Mr. McCUMBER. But it might be offered without any solicitation.

Mr. BAILEY. I have never known anybody to hunt somebody else to give them something unless the other people were asking for it. There may be such philanthropists as that engaged in the railroad business, but I am not aware of it. I think they never part with any of their earnings except for the purpose of increasing the earning in time to come. So it seems to me that if you punish the solicitation rather than the acceptance you enable the Government to use both witnesses, whereas otherwise you can use neither of them without violating what, in my opinion, is a sound view of the Constitution.

Mr. McCUMBER. I think the Senator will agree with me in the statement that the usual method by which rebates are secured is that a great corporation, having an immense amount of shipments, goes to a railway and says to that railway, "We have a sufficient amount of business which, if taken away entirely from your company, would cripple you to a great extent. We wish to get some advantage over our adversaries, and unless you can give us a rebate sufficient to make it an object to us to ship over your lines we can immediately ship over any other line between the great fields of production and the fields of consumption." The railway company, through its agent, its traffic manager, desiring to protect the railway against the loss of this business, is practically compelled to accept the proposition or solicitation, or, in better words, the extortion, on the part of the great trust. I think I could name five of the great trusts in this country which to-day are receiving in rebates yearly more than two and a half million dollars.

Now, if we strike directly at the root of this evil, at the guilty party, by any process, we then will accomplish a great deal more than we will to strike at the party from whom the extortion is made. If we were to excuse either, I would far rather excuse the railway company and get after the great corporations that enforce the rebate; and I am certain that the result would be far better.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Texas?

Mr. McCUMBER. Certainly.

Mr. BAILEY. The Senator has reached a point which I intended next to suggest. If we are going to punish them at all and thus deprive the Government of the benefit of their testimony, let us put them in the penitentiary, just like you do the railroad officers.

Mr. McCUMBER. It is very much easier, Mr. President, to collect a sum of money than it is to send a man to the penitentiary. Sometimes the collection of a large sum of money by a great corporation is more effective than the penitentiary sentence of some one who is simply the unimportant agent of that company. You are striking more directly at the heart of the company when you compel it to pay back thrice over the sum that it has received.

Mr. BAILEY. That is precisely the same argument which has been made against restoring the penalty of imprisonment against the carrier. If it is good as against the shipper it must be good as against the carrier.

Mr. McCUMBER. There is no doubt but that it has its good points.

Mr. BAILEY. My belief is that if these five great companies have been collecting two and a half million dollars in rebates, the fine of a few thousand dollars is a mere bagatelle to them.

Mr. McCUMBER. Certainly.

Mr. BAILEY. Then put the officers who collect it in the penitentiary, and we will at least relieve the country of their depredations for a time.

Mr. McCUMBER. But if they have collected $3,000,000 and are compelled at the end of the year to pay back $9,000,000, that will be the last of rebates, so far as these corporations are concerned.

Mr. BAILEY. But if we are to judge by the size of the fines that have been heretofore imposed, the fines provided in this bill will, I hardly think, compel any five corporations or any 500 corporations to pay $9,000,000. If imprisonment is the sovereign remedy, let us apply it to both.

Mr. McCUMBER. The Senator directed his argument, as I understood it, to the proposition which was contained in the amendment I offered and was adopted.

I agree with the Senator. In my opinion it would be better to make a civil action out of it, and make it a forfeiture to the Government; and then in a civil action let the Government recover three times the amount and make the limitation fully six years.

I have drawn an amendment to that effect, and I will offer it when we reach that point. It differs from the other only to the extent of making it a civil action, making the forfeiture inure to the benefit of the Government, so as to make it the proper party to the action, and providing that whenever the Attorney-General has reason to believe that such rebates are being accepted he may bring the action in the proper court to recover three times the amount.

A similar bill has already passed the House. I do not think it is as good, because it divides and subdivides it into about four different characters of actions—one where it is knowingly done, one where it is done through inadvertence, and there is another division which I have not in mind at the present time. But I think the reports of the press of the conutry, which to some extent I believe represent the sentiment of the country, will justify me in the assertion that nothing will reach more directly toward this evil than an immense fine—not imprisonment, but an immense fine—by a civil or criminal action, and preferably a civil action against those great trusts.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Massachusetts to the amendment, which will be read.

The SECRETARY. On page 15, line 11, after the word "shall," insert "knowingly and willfully."

The amendment to the amendment was agreed to.

The SECRETARY. On page 16, also insert, beginning with line 8——

Mr. GALLINGER. Throughout the bill the phraseology, where it says "An act to regulate commerce and acts amendatory thereof," is the usual phraseology, but on page 15, in two instances, line 5 and line 9, it says "the acts amendatory thereto." I move to insert the word "thereof" instead of the word "thereto" in those two cases. It is simply to preserve uniformity.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 15, line 5, strike out "thereto" and insert "thereof," and in line 9 strike out "thereto" and insert "thereof."

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The question is on concurring in the amendment as amended.

Mr. STONE. Mr. President, I listened to the discussion just had between the Senator from Texas [Mr. BAILEY] and the Senator from North Dakota [Mr. MCCUMBER], which seems not to have resulted in any direct proposition as the amendment stands. It is clearly intended to reach shippers as well as carriers and I concur in the view that it ought to reach shippers as well as carriers. There has been some doubt expressed, however, both in and out of the Senate, as to whether the phraseology here does include the shipper. With a view of putting that beyond doubt, I offer an amendment. After the word "corporation" in line 11, page 15, I move to insert a comma and the words "whether carrier or shipper" and a comma.

The PRESIDENT pro tempore. The Senator from Missouri offers an amendment, which will be read.

The SECRETARY. On page 15, line 11, after the word "corporation," insert a comma and the words "whether carrier or shipper" and a comma.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Missouri to the amendment.

The amendment to the amendment was agreed to.

Mr. GALLINGER. On line 17, page 16, let the word "thereto" be stricken out and the word "thereof" be inserted.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 16, line 17, after the word "amendatory," strike out "thereto" and insert "thereof."

The amendment to the amendment was agreed to.

Mr. CULBERSON. Mr. President, I desire to take advantage of the situation just for a moment to make a statement.

On the 21st of March I proposed, expecting to offer it later, an amendment to the pending bill in the shape of a separate section prohibiting corporations engaged in interstate commerce from contributing to campaign committees. Since that paper was prepared the Committee on Privileges and Elections, April 27, 1906, reported favorably a bill unanimously, which accomplishes, if it passes, what was designed by the amendment to which I have referred. I therefore desire to state at this time that I will not offer the amendment as I had otherwise intended to do, and will ask that the bill reported favorably from the Committee on Privileges and Elections may be printed in the RECORD.

The PRESIDENT pro tempore. The Chair hears no objection, and the order is made.

The bill referred to is as follows:

A bill (S. 4563) to prohibit corporations from making money contributions in connection with political elections.

Be it enacted, etc., That it shall be unlawful for any national bank, or any corporation organized by authority of any laws of Congress, to make a money contribution in connection with any election to any political office. It shall also be unlawful for any corporation whatever to make a money contribution in connection with any election at which Presidential and Vice-Presidential electors or a Representative in Congress is to be voted for or any election by any State legislature of a United States Senator. Every corporation which shall make any contribution in violation of the foregoing provisions shall be subject to a fine not exceeding $5,000, and every officer or director of any corporation who shall consent to any contribution by the corporation in violation of the foregoing provisions shall be subject to a fine of not exceeding $1,000.

Mr. MCCUMBER. I move to amend the pending amendment made as in Committee of the Whole by inserting, after the word "the," in line 9, on page 16, the words "willful and intentional;" so as to read:

In construing and enforcing the provisions of this section, the willful and intentional act, omission, or failure, etc.

The PRESIDENT pro tempore. The Senator from North Dakota offers an amendment to the amendment, which will be read.

The SECRETARY. On page 16, line 9, before the word "act," insert "willful and intentional."

Mr. MCCUMBER. This is simply in conformity with the other amendment that was accepted of like words on the previous page. I simply call the Senate's attention to the fact that in this section the act or omission of an officer or agent who is the mere employee of the company to do any certain act makes the company itself absolutely liable. In other words, not even a willful act, not even an intentional omission, but the slightest omission, on the part of one of the officers would hold the balance of the officers liable, because all officers having knowledge afterwards are made a party to any of these offenses. It seems to me that in constructing a criminal statute we ought not to convict one person upon the unintentional omission at least of another person.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment made as in Committee of the Whole.

Mr. NELSON. Mr. President, that is a most dangerous amendment. Under it it will be almost impossible to convict any corporation. Unless you can show that an employee of a corporation has done any of these acts willfully and intentionally you can not make the corporation guilty. It is entirely different from the other case, where the question was as to convicting an employee of the corporation. In that case it was proper enough to require that the act should be willful and intentional, but to inject this qualification here practically renders it impossible to convict any corporation, because it will always have the excuse that the employee did it unintentionally and not knowingly.

Mr. TILLMAN. Mr. President, I wish to call the attention of the Senator from North Dakota to line 11, on page 16, the clause "acting within the scope of his employment." This shows that in this case an employee would necessarily be acting willfully and maliciously and knowingly, and, therefore, I hope the amendment to the amendment will not be adopted.

The amendment to the amendment was rejected.

The amendment as amended was concurred in.

The PRESIDENT pro tempore. The Secretary will read the next amendment made as in Committee of the Whole.

The SECRETARY. On page 16, after line 23, the Senate, as in Committee of the Whole, inserted the following:

That section 10 of said act entitled "An act to regulate commerce," approved February 4, 1887, be amended by adding thereto the following:

"Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier, subject to the provisions of this act, or for whom, as consignor or consignee, any such carrier shall transport property from one State, Territory, or District of the United States to any other State, Territory, or District of the United States or foreign country, who shall knowingly and willfully, by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money, or any other valuable consideration, as a rebate or offset against the regular charges for transportation of such property, as fixed by the schedules of rates provided for in this act, shall be deemed guilty of a fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district where such offense was committed, in addition to any other penalties provided by this act, be subjected to a fine equal to three times the sum of money so received or accepted, and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and in the trial for such offense, all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action may be considered, and the said fine shall be three times the total amount of money or three times the total value of such considerations so received or accepted, as the case may be: *Provided*, That the foregoing penalties shall not apply to rebates or considerations received prior to the passage and approval of this act."

Mr. MCCUMBER. I offer what I send to the desk as a substitute for that amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

Mr. MCCUMBER. It is from line 24, on page 16, to line 6, on page 18.

The SECRETARY. It is proposed to substitute for the remainder of section 2, beginning in line 24, on page 16, and ending in line 6, on page 18, the following:

Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier, subject to the provisions of this act, or for whom, as consignor or consignee, any such carrier shall transport property from one State, Territory, or district of the United States to any other State, Territory, or district of the United States, or foreign country, who shall knowingly and willfully, by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transportation of such property, as fixed by the schedules of rates provided for in this act, shall, in addition to any penalty provided by this act, forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and the Attorney-General of the United States is authorized and directed, whenever he has reasonable grounds to believe that any such person, corporation, or company has knowingly or willfully received or accepted from any such common carrier any sum of money or other valuable consideration as a rebate or offset as aforesaid, to institute in any court of the United States of competent jurisdiction a civil action to collect the said sum or sums so forfeited as aforesaid; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action may be included therein, and the amount recovered shall be three times the total amount of money or three times the total value of such consideration so received or accepted or both, as the case may be: *Provided*, That the foregoing penalties shall not apply to rebates or considerations received prior to the passage and approval of this act.

Mr. CLARKE of Arkansas. Mr. President, I think this bill would be very materially improved if that amendment should be adopted. It goes about the business of punishing the shipper who solicits and accepts rebates in the same businesslike way that he goes about the matter of getting the rebate. It is by

making civil action the remedy by which the penalty is to be recovered, instead of a criminal prosecution. We thus get rid of the troublesome question of venue. In criminal prosecutions it is necessary to establish the fact that the rebate was received within a limited territorial jurisdiction.

Then, again, we escape a rule of law that is frequently resorted to for the purpose of defeating justice, and that is that in the prosecution of a criminal action the guilt of the defendant must be established by proof that shows this to the jury beyond a reasonable doubt, while in a civil action, such as is provided for in the pending amendment, the case of the United States can be made out by a preponderance of the testimony offered.

We also escape another rule of law; and that is that persons who are indicted for an offense can not be compelled to testify against themselves, whereas in a civil action either the plaintiff or the defendant may be called as a witness at the option of the other.

It presents a remedy more effective, and therefore a more desirable way of doing what we are seeking to do. I express the hope that there will be no opposition to the amendment on the part of those who believe that the shipper who solicits and receives a rebate should himself be punished. It is only a matter of method, and I think it so far preferable to a criminal prosecution that the mere statement of the difference between the two is all that it is necessary to say about it.

Mr. NELSON. Mr. President, this proposed substitute introduced by the Senator from North Dakota, as well as the amendment reported from the Committee of the Whole, ought not to be in the bill. If Senators will examine the bill, commencing on line 2, page 17, and extending down to the end of line 6, on page 18, they will find that it is substantially covered by the reenactment of the so-called "Elkins law," so far as the penalty is concerned. I call the attention of Senators to the fact that the penalty provided is much stronger and greater. On page 15 you will find this provision:

> Every person or corporation who shall offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000.

What is the penalty provided in the amendment offered by the Senator from North Dakota [Mr. McCUMBER], and also in the substitute offered by the Senator from Arkansas [Mr. CLARKE]? It is just three times the amount of the rebate given in a single case. That rebate may be only fifty or sixty dollars in a single case and you fine the man three times that amount; whereas in the preceding paragraph the fine is from $1,000 to $20,000. The preceding paragraph covers the whole case, and the penal provisions are much stronger and better. Therefore, Mr. President, that entire amendment should be rejected.

Mr. CLARKE of Arkansas. May I ask the Senator from Minnesota a question?

Mr. NELSON. Certainly.

Mr. CLARKE of Arkansas. The substitute offered by the Senator from North Dakota, and not by myself, provides that all rebates received within six years may be included in a single civil action.

Mr. NELSON. You can not include them all in one indictment.

Mr. CLARKE of Arkansas. We are not going to do so. It is not proposed to indict anybody. The remedy prescribed is by means of a civil action.

Mr. McCUMBER. It is evident that the Senator from Minnesota [Mr. NELSON] was not in the Chamber or that he did not hear the reading of the substitute. The substitute provides for a civil action instead of a criminal action, and fixes the statute of limitations at six years. It provides for three times the amount of any money received and three times the value of any discrimination in favor of the shipper for a period of that many years. It is not at all inconsistent with any other provision in the bill.

Mr. NELSON. Then it is an entire substitute for the amendment beginning on page 17, commencing with line 2?

Mr. McCUMBER. It is.

Mr. NELSON. Does it only relate to civil actions?

Mr. McCUMBER. That is all.

Mr. NELSON. Then I have no objection to it.

Mr. KEAN. I will say to the Senator from Minnesota that it follows very much the line of a bill already passed by the House of Representatives and now before the Judiciary Committee of the Senate.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from North Dakota [Mr. McCUMBER] to the amendment made as in Committee of the Whole.

The amendment to the amendment was agreed to.

The amendment made as in Committee of the Whole as amended was concurred in.

The next amendment made as in Committee of the Whole was, on page 19, line 20, after the yord "reasonable," to strike out the words "and fairly remunerative."

The amendment was concurred in.

Mr. TILLMAN. I am glad the Senator from Iowa [Mr. ALLISON] is in his seat, because he can possibly give me some light on a question that is causing me a good deal of uneasiness. It has been suggested to me that the words "in its judgment," in lines 19 and 20, on page 19, might possibly render this bill unconstitutional, as involving the delegation of legislative power to the Commission. I should like to have the Senator tell us what his opinion is about those words, and whether or not, in his judgment, they ought to stay in the bill.

Mr. ALLISON. Mr. President, I do not feel that I am sufficiently familiar with the law upon this subject to give the Senator a complete answer; but I will say that, in my judgment, those are essential words to be retained in the bill. They constitute a part of the judicial-review provision which is found in the next section, and it is the opinion of many of the best lawyers with whom I have come in contact that those words ought to be retained. I think it would be very harmful to strike them out, and I hope the Senator from South Carolina will not insist upon doing so.

Mr. TILLMAN. Mr. President, I am not insisting on striking them out; I have not even moved that they go out; but I want to get some good advice from some source, because if this bill shall fail and the Supreme Court shall declare that those words destroy its constitutionality, I want the responsibility to rest on those who put them in the bill and who wish to keep them in it. The bill had those words in it when it came from the other House, and I understand there is a very strong and urgent desire on the part of those who have agreed to the recent compromise arrangement that has obtained on the other side of the Chamber, that they shall stay in. But there must be some good reason for their staying in; and if the constitutionality of the bill shall be destroyed by their remaining in, I want the responsibility to rest where it will belong. I want to move to strike them out simply on the ground of lack of constitutionality.

Mr. ALLISON. Mr. President, I am quite sure that those words are of value in this bill. If we are to have the Commission do what we intend by this bill it shall do, namely, to fix a maximum rate which shall have the force and power of a statute, I think those words are essential; and I fear very much that to strike them out would simply put the Commission in a position where it could only establish or recommend a rate which would be reviewed in all its details by the court. Therefore I hope that the words will not be stricken out, and that the Senator will not move to strike them out.

Mr. TELLER. Mr. President, those words were in the bill when it came from the other House about three months ago.

Mr. ALLISON. They were.

Mr. TELLER. I have interviewed a large number of Senators who are friends of this bill, and I have never succeeded in getting anybody to tell me in what respect the words to which the Senator from South Carolina [Mr. TILLMAN] refers were desirable. They have all given me the same statement the Senator from Iowa [Mr. ALLISON] now makes, that in their judgment those words are desirable, but they fail to say why. Will the Senator from Iowa now tell us why he thinks they ought to be there, and what their office is?

Mr. ALLISON. Mr. President, I believe their office is to give the Commission the power to establish just and reasonable rates—the power to say what a just and reasonable rate is.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from North Dakota?

Mr. ALLISON. Certainly.

Mr. McCUMBER. I merely want to ask the Senator a question. I raised the point the other day when I stated that I considered we were very close to the danger line on that proposition. I wish to say to the Senator that it seems to me that we have fixed a standard. That standard which Congress has fixed, and up to which the Commission must measure all its ideas, is the requirement that the rate fixed must be just and reasonable. That is our standard. It is the Congressional standard, if I may use those words.

Mr. ALLISON. It is our standard.

Mr. McCUMBER. All the Commission can do is to exercise its judgment in accordance with this standard. Is there not danger, if, in another section fixing the order, you say that the Commission shall exercise its judgment, instead of the judgment of Congress, that you have conferred the rate-making

power upon the Commission instead of that power being exercised by Congress itself?

I do not believe, if I may interrupt the Senator, that the courts will give any meaning to the words "in its judgment;" but if they do give any meaning to them at all, if they say they mean what they say, then, according to my judgment, this bill would be absolutely unconstitutional because it would transfer the rate-making power from Congress to the Commission; and if they do not give it any meaning whatever, then what is the use of those words being there?

Mr. ALLISON. Mr. President, it seems to me that the Commission must exerices its judgment whether those words are in or out of the bill.

Mr. McCUMBER. But must it not exercise the judgment of Congress, and not its judgment?

Mr. ALLISON. When the Commission has exercised its judgment, or its will, or its opinion, or whatever you may please to call it, as respects the particular case before it, it becomes then the judgment of Congress.

The PRESIDENT pro tempore. The next amendment adopted as in Committee of the Whole will be stated.

Mr. CLARKE of Arkansas. Mr. President, before we pass from section 3, I desire to offer the amendment which I send to the desk. I will not undertake to debate it, but I will call the Senate's attention to its character and the purpose I have in presenting it.

The PRESIDENT pro tempore. The amendment of the Senator from Arkansas will be stated.

The SECRETARY. On page 19, after line 4, it is proposed to insert as an independent paragraph the following:

The Commission shall determine, from investigation and hearing appropriate to the inquiry, the proportions of the entire traffic of any carrier whose rate or rates has been challenged in the manner provided in this act which pertain to interstate and intrastate traffic, respectively, and when said relative proportions of said traffic are so ascertained the Commission shall consider, in fixing a just and reasonable rate under the provisions of this act, the revenue derived from intrastate traffic as part of the gross income of said carrier and make due allowance therefor in establishing the basis for prescribing said just and reasonable rate.

Mr. CLARKE of Arkansas. Mr. President, this amendment is intended to give to the Commission the power to correct a defect that has been disclosed by a decision of the Supreme Court of the United States. In the case of Smythe *v.* Ames, a case that involved the validity of the action of the railway commission of the State of Nebraska, the court said that, in fixing a State rate, it was not competent for the commission to take any notice of the fact that the carrier was also engaged in interstate business, and that the State rate must be fixed with reference to State business. I take it for granted the same rule will apply when the Interstate Commerce Commission proceeds to fix a rate on interstate business. It is obviously unjust to leave out of view the fact that carriers are engaged in carrying both kinds of commerce. There is no reason why there should not be an ascertainment of the relative proportions in volume of the traffic carried by a carrier, so that when the Interstate Commerce Commission proceeds to fix a fair rate for that part carried as interstate commerce it shall know the entire income and the entire business done by the carrier. The valuation and the volume of business are the two principal factors in the problem of fixing rates, and there is no reason why there should exist any doubt on that subject. I believe the Commission ought to be authorized to determine, as one of the preliminary subjects of the investigation, the amount of interstate business done by the road and the amount of State business done by it, so that in fixing its rate notice may be taken of that circumstance and that it may be given such weight as it is legally entitled to have.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Arkansas [Mr. CLARKE].

The amendment was rejected.

Mr. TELLER. On page 19, lines 19 and 20, I move to strike out the words "in its judgment."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 19, in lines 19 and 20, it is proposed to strike out the words "in its judgment."

Mr. TELLER. Mr. President, a few moments ago I asked the Senator from Iowa [Mr. ALLISON] a question in regard to these words in order that I might get some light on the subject, which, as I have said, I have been for some time trying to get. It is not to be presumed that these words are in the bill for nothing; and we ought to have somebody tell us what they are in for. It is not enough for the Senator from Iowa or some other Senator to tell us that he thinks the words are important. Why are they important? What influence are they to have? In the common language of the country, "What figure do they cut?" Do they mean anything? If they do not mean anything, good legislation requires us to strike them out. I think I know what some Senators on the other side think these words mean. Some of them contend that they will take the question whether or not the rate is a proper rate out of the hands of the courts.

Now, I do not know whether that is what they mean, but if it is, then it is equivalent to saying that the rate shall be final and complete and that the court shall not interfere with it. Do the Senate of the United States want to say that? If they do, let us say it affirmatively. It will be just as safe to say that the court shall not interfere with the rate as to put in something that may be construed by the court into saying that. If the court should believe that that is a declaration that the court can not consider the question, I have not much doubt what will become of the rate bill. I know we hear it stated—it is in the air—that in the great compromise which took place the other day the words "and fairly remunerative" should go out and the words "in its judgment" should not go out. I think I heard something stated on the other side equivalent to that the other day, that that was a thing to be left in. I am willing to leave it in if anybody can show that it will be beneficial to this bill. I am willing to leave it in if anybody can show me that it is not dangerous to leave it in the bill. I believe it to be dangerous, and until I can hear from somebody—with all these constitutional lawyers we have here, cornfield lawyers and all kinds of lawyers—until somebody can suggest some reason why it is there, it seems to me we ought to strike it out. I will wait.

Mr. DOLLIVER rose.

Mr. TELLER. The junior Senator from Iowa is on his feet. Perhaps he can tell me what it means. If he will not take too much time, I will be glad to have him do so.

Mr. DOLLIVER. I will not undertake to do it on terms of that sort.

Mr. TELLER. I will give him all the time I have if he will just tell us what the purpose of it is.

I do not want him to say "I think it is important." I want to know why it is important. I want to know what is the object. I want to know its office—what its effect is, or what the Senator thinks it will be.

Mr. DOLLIVER. Mr. President, taking the floor, then, in my own right, I will state, in a brief way, what are the import and significance of these words. I feel a little delicacy, after all that has happened, to intrude into the domain of constitutional law. At the same time I think I will be pardoned if I point out briefly the line that separates two schools of constitutional thought in respect to this matter. One is represented in a bill introduced in the Senate some time ago by the honorable Senator from West Virginia [Mr. ELKINS]. It will be perceived that this question arises twice in section 4 of the House bill—first, in connection with the condemnation of the rate complained of and, second, in connection with the fixing of the rate that is to be observed in the future. In both these cases the House bill confides a discretion to the Commission. As to the rate complained of, it says if it shall be the opinion of the Commissioners that the rate is unreasonable, they shall condemn it; and as to the rate fixed by the Commission, it says they shall determine and prescribe what will be, in their judgment, a reasonable rate.

Now, the opposite school of opinion is illustrated in the bill introduced by the Senator from West Virginia. It says:

That whenever any rate, fare, charge, or regulation established by any common carrier or carriers for any transportation or other service subject to the act approved February 4, 1887, entitled "An act to regulate commerce," or any act amendatory thereof, shall be unjust and unreasonable or otherwise contrary to law, the Interstate Commerce Commission shall have power, after granting a full hearing to the carrier or carriers affected, to make an order directing the carrier or carriers to modify such rate, fare, charge, or regulation, etc.

And as to fixing the rate the bill says:

But the Commission shall not have power to modify any rate, fare, charge, or regulation established by the carrier or carriers to a greater extent than shall be necessary in order to remove the injustice and unreasonableness or unlawfulness thereof.

It will be perceived, therefore, that if the court hold that the Commission made an error in fixing the rate or in condemning the existing rate, the power of review carries with it full control of the very questions that the Commission has examined into.

The opposite notion is embodied in this bill; that the condemnation of the existing rate shall be in the discretion of the Commission, the words "in their opinion" carrying that idea; and in the fixing of the new rate, the theory of the House bill is that the Commission shall determine as well as prescribe, and the words "in its judgment" carry out that idea. An idea similar to that——

Mr. SPOONER. Will the Senator from Iowa allow me to ask him a question?

Mr. DOLLIVER. Certainly.

Mr. SPOONER. Is there not a distinction between "in their opinion" and "in its judgment?"

Mr. DOLLIVER. I think there is no difference. The honorable Senator from Texas [Mr. BAILEY], introducting an amendment to this bill, evidently was of opinion that the power of Congress over the rate only authorizes the Commission to fix a rate just and reasonable in fact, for on March 21 he introduced this amendment, beginning after the word "what," in line 19, on page 10, to strike out all down to and including the word "prescribed," in line 5, on page 11, and insert the following:

A rate or charge which shall afford a just compensation to the carrier or carriers for the service or services to be performed and a regulation or practice which shall be just and reasonable. The rate or charge, regulation or practice so determined and prescribed shall be the only lawful rate or charge, regulation or practice, and the carrier or carriers shall not thereafter demand or collect any other rate or charge or follow any other regulation or practice.

On the same day the Senator from Texas [Mr. BAILEY] submitted the following amendment:

Insert the following:

"Any carrier or person, or corporation, party to such complaint, and dissatisfied with the rate or charge, regulation or practice so established and prescribed, may file a bill against the Commission in any circuit court of the United States for the district in which any portion of the line of the carrier or carriers may be located, alleging that such rate or charge will not afford a just compensation for the service or services to be performed, or that the regulation or practice is unjust and unreasonable; and if upon the hearing the court shall find that such rate or charge will not afford a just compensation for the service or services to be performed, or that the regulation or practice is unjust and unreasonable, it shall enjoin the enforcement of the same: *Provided, however,* That no rate or charge, regulation or practice prescribed by the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of the court. Said proceedings shall have precedence over all other cases on the docket of a different character, and the court shall have power to make orders to secure the attendance of persons from any part of the United States, and the existing laws relative to evidence and proceedings under the acts to regulate commerce shall be applicable. Either party to said proceeding shall have the right to appeal directly to the Supreme Court of the United States, and such appeal shall have precedence in said Supreme Court over all other cases of a different character pending therein."

Now, therefore, it will be perceived that the authority of the Commission granted in these amendments is to fix a rate which shall be a just compensation to the carrier for the service performed and reasonable, and whether they have done it or not is made a question for the courts.

Following that idea, the amendment of the honorable Senator from Texas as to review confides in the court the exact jurisdiction that his amendment had already confided to the Commission. I will not discuss the question whether the review that is provided for in his amendment is broad or narrow, but I will say that it does not take a very great lawyer to perceive that the jurisdiction which his amendment gives to the court is exactly the same jurisdiction that he gives to the Commission and is conveyed in exactly the same language.

Now, in drafting this bill the framers of it, I will say, were guided very largely by the speech delivered at Pittsburg by the honorable Senator from Pennsylvania [Mr. KNOX] on the 3d of November, a speech which reads almost like a judgment from the Supreme Bench. His notion evidently was that the Commission ought to have the discretion to prescribe the rate, for he says:

The Commission should have the power, if it finds the complaint well founded, to declare what shall be a just, fairly remunerative, and reasonable rate or practice to be charged or followed in place of the one declared to be unreasonable.

He does not say the Commission shall have authority to fix a just and reasonable rate, but to declare what shall be a just and reasonable rate to be followed in the future; and adopting the principle laid down in that speech, the honorable Senator from Pennsylvania, who, without disparagement to anybody else in this Chamber, is looked upon as one of the most careful and learned of our lawyers, introduced a bill, section 4 of which is as follows:

SEC. 4. That whenever, after full hearing upon such complaint, the said Commission shall determine that any existing rate or rates or practice whatsoever affecting the same, or any regulation or practice whatsoever as aforesaid, relating to any of the aforesaid services or transportation or incidents thereto, to be unjust, unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act or the acts named in section 1 of this act, it shall be the duty of the Commission to declare and order what, in its judgment, will be a just, reasonable, and fairly remunerative rate or rates, charge or charges, practice or regulation to be charged, imposed, or followed in place of the rate or rates, charge or charges, regulation or practice declared by it to be unjust, unreasonable, unjustly discriminatory, or unduly preferential, under the provisions of any act referred to in section 1 hereof: *Provided,* That when the Commission shall order a rate reduced such reduced rate shall be the maximum to be observed by the carrier, and when the Commission shall order a practice to be changed its order shall be observed by the carrier.

The House bill was not probably drawn after the language of the Senator from Pennsylvania, but it was drawn after a statute of the State of Massachusetts, and I refer to the statute, which is contained in the second volume of the revised laws of that State, page 1034, giving to the commission of that State power to fix the milk rate. I read only that part of it which involves this idea:

SEC. 247. Upon the petition of one or more persons who desire to forward milk by the can over any railroad or any portion or portions thereof, the board of railroad commissioners, after notice to the railroad corporation and a hearing, shall ascertain and compare the tariff established as aforesaid for milk by the can with the rate or price charged or received as aforesaid for milk in large quantities over such railroad or such portion or portions thereof; and if the former is, in the judgment of the board, unreasonably high, as compared with the latter, the board shall revise said tariff and shall fix such rates for milk by the can as in its judgment are fairly proportionate to the rate or price for milk in large quantities, including in both cases the same care and preservation of the milk and the return of the empty cans, as aforesaid; and shall notify the corporation in writing of the rates by the can so fixed over such railroad or such portion or portions thereof; but milk received by one railroad corporation from another shall not be considered as received at the point of junction of the two roads in comparing and fixing as aforesaid rates for milk by the can tendered at such point of junction.

Mr. FORAKER. Let me ask the Senator, if I do not interrupt him, what is the effect of their doing that? Does that rate go into operation without——

Mr. DOLLIVER. Yes, without any appeal; and the penalty for its violation is $5 per can.

Mr. FORAKER. Does the railroad commission of Massachusetts make rates in the way indicated?

Mr. DOLLIVER. They make the milk rate only. I have no doubt that that statute was carefully drawn. If we desire to say that the Commission shall not deal with a rate at all unless it is in fact unreasonable and unjust, that leaves the question open to the courts to say whether the Commission ought to have acted at all or not. That is avoided in this bill by giving discretion to the Commission to find whether the rate is unreasonable.

If we desire that the Commission shall simply be clothed with the power to fix a just and reasonable rate, and we put it in that language, it may be contended that we pass directly to the courts the whole question whether they have complied with the statute. The object of this bill is to confide in the Commission a discretion, first, as to the condemnation of the existing rate, and, second, as to the rate which shall take its place; and we fail in that purpose by merely striking out the words "in its judgment," because the whole sentence would be left there, which obviously confides a jurisdiction and discretion to the Commission. It says they shall determine and prescribe. By striking out the words "in its judgment," in my opinion you do not reach the seat of the constitutional difficulty at all, because you have still left there the power in the Commission to pass upon that question, to determine it and to prescribe the rate.

I do not want the words "in its judgment" stricken out, because the country has come to believe that it is a part of the backbone of the new section 15. With that discretion vested in the Commission, it makes very little difference what jurisdiction you give the court, because the opinions of the court are almost uniform that they will not review a discretion confided to an administrative board, except where there has been abuse or the finding is in conflict with constitutional rights.

Mr. TILLMAN. Is the Senator prepared to declare, as a constitutional lawyer, that those three words will not vitiate the constitutionality of this bill?

Mr. DOLLIVER. As I said in opening, I have never posed as a constitutional lawyer, but I have sought counsel of great constitutional lawyers upon that question, including the Attorney-General, and I rest with confidence in his opinion in respect to that. His notion is that these words are perfectly consonant with sound constitutional principles, and I will add that the experienced lawyers on the Commission, for there are very excellent lawyers on the Interstate Commerce Commission, are unanimously of the opinion that those words ought not only to be preserved in the bill, but that they are entirely consistent with the constitutional limitations which we are bound to observe.

Mr. TILLMAN. All I want to be sure of is that there shall be no danger of this provision being destroyed by the Supreme Court as being unconstitutional. If the Senator and his friends are content to take the responsibility of letting them stay in, on the plea that they narrow the court review, and then the Supreme Court declares them unconstitutional, all right; I am satisfied.

Mr. DOLLIVER. If the Supreme Court decides that Congress can not confide that discretion to the Commission, but that its power is limited to requiring the Commission to fix a just and reasonable rate, passing over to the courts the ques-

tion whether they have done so or not—if this bill is found unconstitutional upon that ground, it will simply indicate that the whole scheme of undertaking to manage this business by a commission is impracticable, and will drive every one of us to the position which has been so ably defended by the Senator from Ohio [Mr. FORAKER], that we ought to go directly to the courts without the intervention of the Commission at all.

Mr. KNOX. Mr. President, it has not been my intention to make any observation upon this proposed amendment to strike out of the bill the words "in its judgment," but it seems to me that I am constrained by the references that have been made by the junior Senator from Iowa [Mr. DOLLIVER] to some of my public utterances upon the subject, to at least explain that they have no relation whatever and were not intended to have any relation to the proposition whether these words should remain in the bill. It was perfectly obvious, from the reading of an extract from the short remarks I made in Pittsburg—which, by the way, were confined to fifteen minutes, and were at the tail end of a Pittsburg banquet, and, of course, are not to be regarded as a man's most solemn utterances—that they indicate no predilection for the use of those words.

However, it gets pretty close home when the Senator reads from a bill which I prepared and submitted to the Senate in which those words are found, and which, without explanation, would indicate that in my judgment they should remain in the bill. But I think I have a sufficiently adequate explanation for their appearance in the bill which I proposed.

The Senate will remember that when that bill was presented on the 22d day of February, I stated to the Senate the purposes which I entertained, and as it is all contained within a few lines I will read:

> Mr. President, it has been very generally reported, and it is the fact, that I have recently, upon request of different persons interested in the rate-regulation measures now pending before the Senate, submitted my views as to a provision which I deem essential to the certain constitutionality of the bill passed by the House of Representatives. I presented my views by taking out of the bill which I now offer section 5, and that section can not be thoroughly understood independent of its context. It is not my expectation that the bill which I now introduce will receive any further consideration from the committee than they may choose to give it as throwing light upon a provision for review in the courts of the action of the Commission, and if it is of any assistance in that direction I shall be more than satisfied.

The sole purpose that I entertained and expressed at that time in submitting the bill at all was to throw some light upon the proposition of a court review and not with any idea of indicating my views as to the power of the Commission.

The circumstances under which that bill was put together the night before its presentation were these: I had been invited to express my notions of a court review, and I had done so by taking out of the loose leaves of some notes I had made in the nature of a bill this fifth section and had submitted them to the gentleman who had made the inquiry of me. It was not twenty-four hours until I read in various newspapers that I entertained certain views in relation to court review which were not the ones I really entertained, and not the ones which were indicated upon the paper I had submitted.

I therefore felt that it was just to myself that I should let the public know, through the presentation of a bill, exactly what my views were upon that subject; and having been gratuitously arraigned as a railroad Senator I thought it was also just to myself that I should submit my entire work in connection with this bill, so that it might be obvious that I had been laboring upon the side of the public as well as laboring upon the side of the great carriers that are to be affected by this measure, in respect to providing what I regarded as an essential provision—the insertion of a court review.

I instructed one of my clerks to put the manuscript together. He had a short time before been in consultation with the secretary of the Interstate Commerce Commission upon some little details of this bill, and from the secretary of the Interstate Commerce Commission he had received the suggestion that the words "in its judgment" ought to go into the section of the bill which I was preparing. That never came under my eye until this bill was printed and read in the Senate, and I would have corrected it then, except that I had limited the purpose for which I had presented the bill, as I have already explained to the Senate, to throwing light solely upon the question of court review. So, without saying whether I believe they should or should not be inserted in the bill, I want it emphatically understood that if any harm comes to this bill by reason of their presence I must not be held accountable because of anything I have said heretofore.

Mr. President, that seems to make it essential for me to say what I think about the insertion of those words in the bill. I could not stop at this point and be entirely frank with the Senate nor fair to myself. I do not see that they perform any useful function at all. If they mean anything at all, they endanger and jeopardize the bill. If this legislation is going to be sustained in the Supreme Court, in my opinion it is going to be sustained upon the proposition that this is not a delegation of legislative power to the Commission, but that it is the enactment of a rule, with power conferred upon the Commission to apply it to particular cases as they arise.

The Supreme Court has stated time and time again, and has stated very recently, that when you undertake to delegate legislative power to an administrative body you undertake to do that which you have no power under the Constitution to do; and it seems to me it would be flying in the face of that decision and inviting disaster to write into this bill the very thing the Supreme Court has indicated we can not lawfully insert in it.

Mr. DOLLIVER. Before the Senator from Pennsylvania resumes his seat, I will ask him whether he does not recognize the fact that such a criticism as he has just made is not removed by the elimination of the words "in its judgment," but that it inheres in the whole sentence, "shall determine and prescribe what will be a just rate."

Mr. KNOX. In reply I will state that I do not think the broad question of power is free from doubt. I have indicated to the Senate that, in my judgment, Congress possesses the power to enact a rule and delegate the application of that rule to an administrative body. But it is a close question, and you are treading too close to the other side when you weigh this bill down with words which would seem to me to indicate that legislative discretion is intended to go with the conference of this power.

Mr. TILLMAN. Will the Senator from Pennsylvania answer me a question before he sits down? Does the Senator consider that if these words are left in, the breadth of the court review is at all narrowed? Has not the court the same power, and will it not exercise the same power without them as it would with them?

Mr. KNOX. I do not see how it affects the court review provision at all.

Mr. TILLMAN. That is what I wanted to know.

Mr. BAILEY. Mr. President, the Senator from Iowa [Mr. DOLLIVER], referring to an amendment which I offered to the bill, tells the Senate, I understand, that the amendment which I offered was as broad as it could be made. Did I understand the Senator correctly?

Mr. DOLLIVER. I said that the jurisdiction conferred upon the court was conferred in exactly the same language as the jurisdiction conferred upon the Commission, and without saying whether it was broad or narrow I said that the court could exercise over the order of the Commission exactly the same jurisdiction that the Commission exercised over the railroad rate.

Mr. BAILEY. Mr. President, the Senator from Iowa loses sight of the fact that under no form of language which can be devised will it ever be possible to prevent the courts from determining whether a given rate affords the carrier a just compensation for its service.

The Senator from Iowa also overlooks the fact that my amendment imposed upon the carrier the necessity of proving a negative in the court—a negative, it is true, which was susceptible of proof; and yet a negative is always difficult to prove. Under the amendment which I offered no order of the Commission establishing a rate could ever be set aside until the carrier had established to the satisfaction of the court that the rate afforded less than a just compensation for the service.

I would like for the Senator from Iowa to tell the Senate if he thinks that under the language of this bill the court can be prevented from condemning a rate which affords the carrier less than a just compensation for its service.

Mr. DOLLIVER. Mr. President, I think that under this bill the court will deal only with the order of the Commission. I believe that to be the intention.

Mr. BAILEY. But what is the order? The order establishes a rate. Does the Senator mean that the court can not inquire into the justice and reasonableness of the rate?

Mr. DOLLIVER. Mr. President, I think that the court will inquire into the whole question, but will not disturb the order of the Commission unless it finds that the rate fixed is so unjust and so unreasonable as to be a violation of property rights in a constitutional sense.

Mr. BAILEY. That is very general, and everybody will agree to it. Certainly I would not disagree with it. But what are the property rights guaranteed by the Constitution? Let us be a little more definite. The one property right guaranteed by the Constitution which relates to this question is that the carrier shall not be compelled to render a service without the shipper

pays a just compensation. I provided that the carrier might go into the court, might allege that the rate was not a just compensation, and when the carrier had demonstrated to the satisfaction of the court that the rate was not a just compensation for the service, then the court could enjoin it. Neither the Senator from Iowa nor any Senator in this body will contend that under such a state of facts it is within the power of Congress to prevent the court from condemning such a rate.

Mr. DOLLIVER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. Certainly.

Mr. DOLLIVER. Does the honorable Senator from Texas contend that he gave any other jurisdiction than that to the Commission?

Mr. BAILEY. Absolutely none as to the rate. The only other jurisdiction which I gave to the court was over practices and regulations—and, mark you, that in a large degree was copied word for word from this bill itself—the only difference between the regulations and practices for which I provided was that they should be "just and reasonable," whereas the Hepburn bill provided that they should be "just, fair, and reasonable."

Mr. DOLLIVER. But, Mr. President, the honorable Senator omitted from the word "what," in line 19, on page 10, everything down to and including the word "prescribed."

Mr. BAILEY. Yes.

Mr. DOLLIVER. So that the authority which he gave the Commission was to prescribe a rate or charge which shall afford a just compensation to the carrier. Then in his next amendment, as I understand it, he provided that the carrier complaining of the order could go into the court alleging that such a rate or charge will not afford just compensation for the service or services to be performed, and that the court should hear that question; and my notion was that he passed over to the court the exact question which had been within the jurisdiction of the Commission. I got at that solely because it seemed to be in the same language.

Mr. BAILEY. Mr. President, the Senator forgets that the Commission establishes the rates with the best lights before it. When those rates are once established by the Commission, under my amendment the carrier had to affirmatively show to the court that they denied to it a just compensation for the service. Not only so, but while the Commission was not limited by the ordinary rules of evidence, when you reached the court it was limited; and therefore it required an incomparably stronger case in the court to condemn an order of the Commission than it could ever have required in the Commission to establish the order. Now, what the Senator has in his mind is that I omitted the words "in its judgment."

Mr. DOLLIVER. And the words "shall determine and prescribe."

Mr. BAILEY. I think I used the words "shall determine and prescribe," but whether I did or not, the Senator forgets that in addition to the authority to the Commission I sought to avoid the very doubtful question which the Senator from Pennsylvania [Mr. KNOX] says exists—the question as to the power of Congress to delegate to the Commission the right to fix the rate; and I went further, after charging the Commission, an administrative body, with the power to establish and prescribe the rate, I provided that the rate when so established and prescribed should thereafter be the only lawful rate. So that the carrier, coming into the court to attack the rate which they were required to charge, attacked not the Commission's rate, but the rate established by Congress upon the ascertainment of the Commission. I am by no means sure that I escape the difficulty, if difficulty there be, even in that way, but it is certain if that difficulty can be escaped I thus escaped it.

My own opinion is that the words "in its judgment" either mean nothing or they are fatal to this bill. It is my opinion that the very purpose for which they are inserted here, if considered by the court to be their object, will invalidate this section of the act. The purpose for which they were inserted was to prevent the court from saying whether this was a just and reasonable rate. If the Supreme Court of the United States shall determine that these words were inserted in the bill for the purpose of denying to the judiciary the right and power to examine into the justice of the rate, they will hold this section unconstitutional, precisely as they held the Minnesota law unconstitutional.

In that case the supreme court of Minnesota declared that the purpose of the legislature, plainly manifested in the act itself, was to make the rates established by the commission conclusive and final and to prevent a judicial inquiry into their justice or reasonableness. The Supreme Court of the United States, accepting the construction placed upon the Minnesota act by the supreme court of that State, said that a law which denied the carrier the right to inquire into the justice and the reasonableness of the rate deprived it of its property without the due process of law, and therefore was null and void; and they will hold this law to be null and void if they are compelled to hold that it was the purpose of Congress to place the order of the Commission beyond judicial investigation.

I omitted those words for the additional reason that they seemed to me plainly and expressly to import a delegation of legislative power. The Senator from Iowa knows as well as I do that there are numerous cases in the States where the enactments of State legislatures have been held void because they contained these very words in one case and very similar words in other cases. With a grave doubt, and that doubt made graver by recent intimation of the Supreme Court in the Northern Securities case, I thought it wise to guard against every danger. Until the decision in the Northern Securities case in which the court expressly declared that it had never decided the question as to the power of Congress to fix railroad rates, I had been in the habit of accepting it as reasonably well established that we could create a commission and through it regulate railroad rates.

In case after case coming up from the various States the court had employed language that seemed to place that power of Congress beyond the realm of doubt, and yet, when in the Northern Securities Company's case it was urged that if the Federal Government saw fit it could protect the public against such combinations for prescribing railroad charges, the learned justice who delivered the opinion, answered that argument by saying that the court had never yet decided that Congress possesses the power to prescribe railroad rates and fares.

In a still more recent case it seems to me there was a direct and distinct intimation that legislative power could not be delegated in this way, and we are thus admonished that every safeguard should be thrown around this law and every dangerous word and phrase should be eliminated from it.

I feared that if the words "in their judgment" mean anything they are full of danger, and if they are not dangerous then they are meaningless, and for that reason I left them out of the amendment which I drew.

Mr. President, I regret that the court did not adhere to the old doctrine first laid down in Munn *v.* The State of Illinois, that the fixing of a rate was a legislative function, and that the appeal was to the ballot box and not to the court, because I believe as firmly as I do in my own existence that the right kind of a commission is better qualified to establish a just and reasonable rate than any court ever yet organized or any court which ever will be organized in the history of this Republic. I therefore do not feel that it would either be dangerous or unjust to the railroads to commit that question to the Commission without judicial review.

But in case after case the court has kept receding from the doctrine of Munn *v.* The State of Illinois until in one of the latest cases, reported in 176, the justice who delivered that opinion said the idea that these rates can be fixed and judicial examination excluded can not be tolerated. Every time they have spoken on the subject in the last twenty years they have increased the emphasis with which they have asserted the right and duty of the courts to inquire into the justice and the reasonableness of the rates.

If it should happen that we put useless and fatal words into the body of this act and thus destroy it, no man can foresee the result. What are called the "conservative" Senators are just as anxious to pass a constitutional bill as we are. I believe that even the railroads themselves want to make this bill constitutional, because they realize that this is probably the mildest bill that any Congress will ever pass again; and they apprehend that if this act should be declared invalid and a new appeal taken to the country upon this question a more drastic law would be the consequence. Therefore, the railroads themselves want this law made valid.

As for my part, I want it made valid not only because it is our duty to make it so, but also because I fear that if the Supreme Court should hold it unconstitutional the people would lose hope and interest, and all effort at restraining the avarice of the common carriers would be abandoned. I remember how it happened with the income tax. If I had been told before the Supreme Court condemned that law that the people would accept that decision patiently and would make no effort, either in the way of a constitutional amendment or otherwise, to escape from it, I would have told the man who said it that he little understood the temper of the American people. Yet when, in our platform, we ventured to complain in respectful language against that decision the country condemned us for criticising it instead

of the court for making it, and the demand for an income tax, just and wise as I know it to be, has passed from our political discussions.

I fear that if a similar fate should overtake this law in the court a similar fate would overtake it in the great forum of the people, and therefore I beseech its friends to take no chance of making it invalid.

Mr. FORAKER. Mr. President, I had nothing to do with putting these words ["in its judgment"] in this bill, but I have heard reasons assigned for their presence here. There were two general reasons assigned, neither one of them good, in my opinion. The first reason assigned was that spoken of by the Senator from Iowa [Mr. DOLLIVER], when he said the purpose was to make it clear—I am not trying to quote his exact language—that the Commission was to determine, according to its discretion, what the rate should be that they would prescribe to take the place of the rate that was condemned. The other reason the Senator from Iowa did not mention, but it was given to me as a reason, aside from that which he did mention, for the presence in the bill of these words. It was in the minds of the men who put these words in the bill, as I was told, that they were trying to follow the rule laid down in the case of Field against Clark.

Now, how unlike this is to that case will occur to every Senator the minute I cite it. In that case the President was to ascertain a certain state of facts, and when he ascertained a certain state of facts to exist, he was to issue his proclamation, which the Supreme Court held was merely an administrative act, and when he had performed that administrative act the legislation of Congress, conditioned upon the performance of that admistrative act by the President, was to go into effect.

It was said by gentlemen who explained this provision to me that they were not giving to the Commission the power to make rates in the absolute sense in which the Senator from Texas provided in his bill, but they were giving to the Commission power to exercise a discretion to examine into the matter, to reach a conclusion, to make an announcement, to put it in the form of an order, and then, by operation of law now and here made, the Congress was to adopt that administrative act of the Commission, and the law was then to go into effect, according to the discretion so named by the Commission, as a rate made by Congress and not by the Commission.

I say neither one of these reasons seemed to me to be sound. Speaking of the last one first, it does not make any difference that the language is expressed in the form in which I find it, for, as I said here, speaking on this point on a previous occasion, it is but a mere juggle of words, and the Supreme Court or any other court coming to interpret this language will look through the jugglery to see what it is in fact that the Commission is authorized to do.

The court will find that, in the first place, whether these words be in or be out of this statute, the Commission is to exercise discretion, is to exercise judgment, is to name a rate, and that the rate so named by the Commission, as the result of its investigations and the exercise of its judgment and discretion, is to go into effect and be the rate that is to control as the maximum rate. In other words, Mr. President, the purpose of this law is, and will remain, whether these words stay in or go out, to give to the Commission the power to name a maximum rate. Now, I say it does not make any difference whether you say "in its judgment" or not, so far as the legal effect is concerned; for the fact will remain that it is the Commission not only making the rate, but making it in the exercise of its judgment and discretion.

Mr. CLAPP. If the Senator will pardon me a moment, I wish to make a suggestion; but I wish that some older Senator would make it.

It is the experience of Senators every afternoon when we get along to this hour—nearly 6 o'clock—that it is impossible to get the attention that ought to be given during the discussion of a subject of this kind; and it does seem to me that it would be better, with this important matter before us, to take an adjournment now until to-morrow morning.

Mr. FORAKER. I should like to go on, if the Senator does not object.

Mr. CLAPP. Would the Senator not rather go on in the morning, when there will be a full attendance of Senators to listen to the discussion?

Mr. FORAKER. Very well; but I want to be considered as holding the floor.

Mr. GALLINGER (to Mr. CLAPP). Move to adjourn.

Mr. CLAPP. I move that the Senate do now adjourn until 11 o'clock to-morrow morning.

Mr. TILLMAN. I hope the Senator will not do that. Every man here wants, and I particularly want, to get this bill through. I want to get to a vote; and I think we can soon get to the point when we can dispose of all the amendments and order a reprint of the bill, and to-morrow we can vote on it finally. So I hope the Senator from Minnesota will withhold his motion.

Mr. CLAPP. I withdraw it; but in a matter of this importance, which we have been considering for months and months, and upon which we want, above everything else, to be right, if we can be right in the settlement of this question, it does seem to me wise, in the closing hours of a long day's session of the Senate, that we should not try to settle the pending question.

Mr. FORAKER. I can say all I want to say in three minutes, if I may be permitted to do so. I was almost through.

Mr. CLAPP. I withdraw the motion.

Mr. FORAKER. Mr. President, I had reached the point where I wanted to say that it does not, in my judgment, make any difference in legal effect whether these words remain in or out of the bill, except only in this sense: With the words remaining in the bill it will be as though we had written across the face of it: "This bill is unconstitutional and we expect it so to be held." That is what they mean in legal effect if they stay there. I have pointed this out very frequently and I have dwelt on it so elaborately on so many different occasions that I do not want to go into the argument again.

It means that, Mr. President, for the reason that all concede we can not delegate legislative power. Now, what is legislative power except only for us to give to somebody else the exercise of a discretion that we ourselves are charged with the duty of exercising? Who is it that is to determine what is just and reasonable? The Commission, according to this bill; but what, Mr. President, is the power that Congress has in the making of rates, assuming now, for the sake of the argument, that it has power to fix rates, which I do not admit; but, assuming that Congress has the power to make rates, what is the power of Congress? It is the power to fix a rate that is just and reasonable. We can not make any other rate; and if we confer upon the Commission the power to make a just and reasonable rate, we not only confer a legislative power, but we divest ourselves in favor of the Commisison of every particle of legislative power we have with respect to the subject. For the Commission to make a just and reasonable rate is for the Commission to do all that Congress can do.

Mr. FULTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. I do.

Mr. FULTON. I ask the Senator if he does not concede that if Congress has the power to prescribe rates and may vest it in the Commission, or effect it through the Commission. then the retention of these words would not affect the validity of the bill?

Mr. FORAKER. My attention was diverted for a minute. I did not catch what the Senator said.

Mr. FULTON. Does the Senator think that the retention of these words in the bill will affect its validity, if it shall be held that Congress has the power to prescribe rates through the Commission?

Mr. FORAKER. That is just what I am saying. It does not make a bit of difference, except only that the courts will not need to go beyond the language of the bill if the words stay in.

What is it to delegate legislative power? It is to give to somebody else the exercise of legislative discretion. The legislative discretion in question is to fix a just and reasonable rate. If we say we will not do that, but we will create an agency to do that very thing and invest it with power to exercise its judgment and discretion, we have delegated the very power that we ourselves have.

I will say with these words in the bill it is a perfectly plain case. No court in this country, in my judgment, will hesitate to say that those words make this law unconstitutional without going beyond it to reason about it; but if you strike them out, the court will of necessity, in my judgment, reach precisely the same conclusion, because then the court will say "What is it the Commission is to do? It is to prescribe a rate." "Prescribe" is a legislative word; it indicates legislative action. What kind of a legislative rate is it to make? One that is just and reasonable. How can it make a just and reasonable rate, except only by exercising precisely the discretion and judgment that Congress itself would have to exercise if it undertook to make a just and reasonable rate?

So I say, Mr. President, in my opinion it does not make any difference, as to the validity of this bill, whether we strike these

words out or leave them in; but I am in favor of striking them out, because to leave them in is, as I said a while ago, as though we were to write across the face of the act, "This act is unconstitutional."

Mr. CULLOM. Does the Senator regard it as unconstitutional?

Mr. FORAKER. I do. I regard this proposed law as unconstitutional, and I do not believe you can help it. Mr. President, you can not now "make a silk purse out of a sow's ear" any more than you could when that utterance was first made.

The trouble with this bill is that it is fundamentally wrong, in my opinion. The Government has no power, in my opinion, acting through Congress, to make these rates. I have dwelt upon that heretofore, and the Senator from Texas has called attention in a most impressive way to what was said by the Supreme Court in one of its latest utterances, in the Northern Securities case.

In the second place, conceding that we have the power, it is agreed upon all sides that we can not delegate that power. What is the power that we have? It is the power to make just and reasonable rates. If we say we will not make them, but we will appoint somebody else to do it, we are abdicating our authority in that respect and undertaking to give that somebody else that authority; and that, I think, is fatal to this bill, because it is not like the case that has been supposed where a definite standard has been created. To say you shall make a just and reasonable rate is not a definite standard, for whoever undertakes to make a just and reasonable rate can not make it by a mathematical calculation. You have got to do it by the exercise of discretion, and it is legislative discretion; and that is what I think will kill this bill, if nothing else does.

Mr. TILLMAN. I move that when the Senate adjourns to-day it be to meet at 11 o'clock to-morrow morning.

The PRESIDENT pro tempore. The question is on the motion of the Senator from South Carolina.

The motion was agreed to.

Mr. TILLMAN. I now ask that the bill be reprinted with the amendments which have been incorporated into it up to the stage we have reached.

The PRESIDENT pro tempore. The question is on the motion of the Senator from South Carolina that the bill be ordered to be reprinted with the amendments which have been incorporated into it.

The motion was agreed to.

Mr. HALE. Mr. President, I should like very much to see the Senate come to a vote on the the amendments; but it is evidently impossible to do so to-night, and therefore I move that the Senate do now adjourn.

The motion was agreed to; and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 18, 1906, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May 17, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read.

Mr. PAYNE. Mr. Speaker, I move that the Journal be approved.

The motion was agreed to.

FOREIGN-BUILT DREDGES.

Mr. GROSVENOR. Mr. Speaker, I call up the conference report on the bill H. R. 395, concerning foreign-built dredges.

The Clerk read the report and statement, as follows:

CONFERENCE REPORT.

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H. R. 395, concerning foreign-built dredges, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

C. H. GROSVENOR,
E. S. MINOR,
THOS. SPIGHT,
Conferees on the part of the House.

WM. P. FRYE,
J. H. GALLINGER,
JAMES H. BERRY,
Conferees on the part of the Senate.

STATEMENT.

The difference between the bill as it passed the House and the bill as it passed the Senate is an amendment offered by the Senate exempting from the operation of the first section of the bill certain dredges now engaged in the work of the Galveston Harbor.

The Senate added to the list of names one called the "Sea Lion," and the House disagreed to that amendment.

C. H. GROSVENOR,
E. S. MINOR,
Managers on the part of the House.

Mr. SULZER. Mr. Speaker, I would like to have some explanation of this conference report.

Mr. GROSVENOR. The contract for the building of the harbor at Galveston was made with a corporation that brought into the United States four steam dredges. Having progressed somewhat upon the line of their work they found it necessary to build in Europe and bring over another dredge which was named the "*Texas*." That dredge was a special dredge, of a special size, intended for a special work of projecting the material far up into the city in the process of building up where it was desired. The *Texas* was destroyed on the way over and the *Sea Lion* was contracted for to take the place of the *Texas*.

Now, this bill proposes that hereafter foreign-built dredges shall come under the regular laws of the United States in regard to foreign-built ships, but inasmuch as this contract for the work in Galveston was made when no such law existed, the committee is of the opinion that the dredges already here ought to be exempt, and then comes the question of the *Sea Lion*, which is not yet completed and is shortly to be brought over.

There is no existing dredge, as it is represented to us, that can do the particular work that this dredge is intended to do, and the committee of the city of Galveston represents to the committee that if that dredge should be forbidden to come here, it would suspend the work of construction at Galveston Harbor perhaps a year and a half. Now, the proposition is that these particular dredges may be documented in the United States, and that hereafter all dredges shall be treated as other foreign ships are treated.

Mr. SULZER. Then I understand that if this bill becomes a law these dredges can be used at Galveston, and afterwards at any other port in the United States.

Mr. GROSVENOR. Such are the terms of the bill. It directs that they may be documented, which means to give them a register.

Mr. STEPHENS of Texas. As I understand the gentleman, the *Sea Lion* was built especially for work at Galveston?

Mr. GROSVENOR. Built especially for that work; and the representation to us is that unless they have that dredge they can not do the work, and they would be delayed in the construction of another one perhaps a year and a half.

Mr. STEPHENS of Texas. I desire to state that that is correct, and I hope that there will be no opposition to this conference report.

Mr. GROSVENOR. Strongly as the members of the committee would oppose, ordinarily, the bringing of foreign-built vessels into the country to be documented, yet the circumstances and conditions at Galveston seem to us to demand it in this case.

Mr. SULZER. Where were these dredges built abroad?

Mr. GROSVENOR. I do not know.

Mr. SULZER. How much are they worth?

Mr. GROSVENOR. I do not know that.

Mr. SULZER. This bill would permit four or five of them to come in and receive American registry or documenting?

Mr. GROSVENOR. Four are here now, and are pretty well worn out. It will only permit one other to come in.

Mr. LOUDENSLAGER. What portion of the bill prevents the future bringing in of other dredges?

Mr. GROSVENOR. The whole bill does.

Mr. LOUDENSLAGER. What part of it?

Mr. GROSVENOR. And more than that, it forfeits such dredge to the United States.

Mr. MUDD. Has this bill any relation to the awarding of future contracts?

Mr. GROSVENOR. None whatever. Here is the first section of the bill, which says that foreign-built dredges shall not, under a penalty of forfeiture, engage in dredging in the United States unless documented as a vessel of the United States.

Mr. LOUDENSLAGER. What was the Senate amendment?

Mr. GROSVENOR. Our bill provided that this act should not apply to any foreign-built dredges now at work in the waters of the United States. The Senate—and wisely—feel-

ing that there might be other foreign-built dredges somewhere at work, named these dredges so as to confine the operation of the law to the particular dredges named.

Mr. LOUDENSLAGER. And the Senate amendment authorizes the documenting of these foreign-built dredges by the Commissioner of Navigation?

Mr. GROSVENOR. Yes.

Mr. PERKINS. Let me ask the gentleman if this provision is a reenactment of the present law or a new provision?

Mr. GROSVENOR. A new provision. The law did not cover dredges. The gentleman will understand that these dredges had already been at work and that the law at that time permitted them to bring such dredges here, so that there seemed to be a great injustice in striking a blow at them after they had made this contract and were at work under the contract.

Mr. OTJEN. Mr. Speaker, I would like to ask the gentleman a question. Why should not those dredges be then confined to the work at Galveston?

Mr. SULZER. That is the point.

Mr. GROSVENOR. They are not confined to the work at Galveston.

Mr. OTJEN. According to this bill that the gentleman proposes to pass they will be permitted to work anywhere in the United States.

Mr. GROSVENOR. After they are through with the work down there.

Mr. OTJEN. Would it not be right to confine them to the contract at Galveston?

Mr. GROSVENOR. Oh, it would be a rather hard provision. The Senate concluded not to do that, and the House concluded to concur. It would be a rather hard provision. They are being worn out and will probably be about destroyed by the time the work is done. Mr. Speaker, if no other question is asked, I shall ask for a vote.

Mr. SULZER. Mr. Speaker, I wish to call attention——

The SPEAKER. Does the gentleman yield?

Mr. SULZER. Mr. Speaker, I would like to have a few minutes.

Mr. GROSVENOR. Why, the gentleman does not want to oppose this, does he?

Mr. SULZER. Yes; I am going to oppose this kind of a conference report, and point out some inconsistencies in this special kind of peculiar legislation.

Mr. GROSVENOR. Very well.

The SPEAKER. Does the gentleman yield?

Mr. GROSVENOR. Mr. Speaker, I demand the previous question on the conference report.

Mr. SULZER. Mr. Speaker, I hope the previous question will be voted down.

The SPEAKER. The question is on ordering the previous question on the conference report.

The question was taken; and on a division (demanded by Mr. SULZER) there were—ayes 161, noes 32.

Mr. SULZER. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman demands the yeas and nays. As many as favor ordering the yeas and nays will rise and stand until counted. [After counting.] Two gentlemen have voted—not a sufficient number—and the yeas and nays are refused.

So the previous question was ordered.

The SPEAKER. The question now is on agreeing to the conference report.

The question was taken; and the conference report was agreed to.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives, by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and joint resolution of the following titles:

On May 16, 1906:

H. R. 6101. An act for the relief of the estate of Charles M. Demarest, deceased;

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind.;

H. R. 13946. An act for the relief of Charles L. Allen;

H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvement at the expense of persons, companies, or corporations; and

H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across Roanoke River at or near Weldon, N. C.

CORPS OF DENTAL SURGEONS.

Mr. HULL. Mr. Speaker, the Committee on Military Affairs reported the bill (S. 2355) to reorganize the corps of dental surgeons attached to the Medical Department of the Army, with certain amendments. The Clerk in having it printed made an error in section 4, and printed that section as though it were not an amendment. I ask unanimous consent for a reprint of the bill in accordance with the report of the committee.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. WILLIAMS. Mr. Speaker, this is merely the correction of a clerical error, and I shall make no objection.

The SPEAKER. The Chair hears no objection, and it is so ordered.

NAVAL APPROPRIATION BILL.

The SPEAKER. The previous question has been ordered on the naval appropriation bill.

Mr. WILLIAMS. Mr. Speaker, on yesterday I demanded a separate vote upon each amendment. I wish this morning to withdraw that demand, except upon the amendment offered by the gentleman from California [Mr. HAYES] to give a preference of 4 per cent to the Pacific slope ship building.

The SPEAKER. Is a separate vote demanded on any other amendment?

Mr. NEEDHAM. Mr. Speaker, I make the point of order that the gentleman from Mississippi [Mr. WILLIAMS] is too late with his demand for a separate vote on the amendment referred to, inasmuch as the record shows that a motion to adjourn intervened after the demand for a separate vote.

The SPEAKER. The motion to adjourn is in order at any time. In the opinion of the Chair the point of order is not well taken. The taking of a vote on amendments in gross must be by unanimous consent. It is an irregular procedure. Ordinarily, in fact, without unanimous consent, a vote would have to be taken upon all amendments separately, but the practice has grown up and has resulted in much saving of time and great convenience to the House, and if no separate vote is demanded, then a vote in gross is usually taken. But as consent never was given to take the vote in gross in this case, it seems to the Chair that the demand is in time and the Chair therefore, overrules the point of order.

Mr. ROBERTS. Mr. Speaker, I desire to know if it is understood that there is to be a separate vote on the amendment on page 15?

The SPEAKER. The Chair understands that separate votes have been demanded on two amendments by the gentleman from Mississippi and by the gentleman from Massachusetts. Is there objection to taking the vote upon the remaining amendments in gross? [After a pause.] The Chair hears none. The question is on agreeing to the amendments indicated.

The question was taken; and the amendments were agreed to.

Mr. ROBERTS. Mr. Speaker, the amendment I have in mind, upon which I demand a separate vote, is the amendment which provides for the purchase of anchors, cables, chains, and so forth, in the open market, which I think was offered by the gentleman from Ohio [Mr. GROSVENOR] in the name of the gentleman from Michigan [Mr. LOUD].

Mr. GROSVENOR. It was presented by the gentleman from Michigan in the name of the gentleman from Ohio.

The SPEAKER. No separate vote has been reserved, so far as the Chair recollects, upon this subject, except upon the so-called Grosvenor amendment.

Mr. ROBERTS. Mr. Speaker, that is what I have in mind.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 16, line 6, after the word "dollars," insert: "*Provided*, That after January 1, 1907, no part of said sum shall be expended in the manufacturing in any Government navy-yard of any chains, anchors, or cordage which can be obtained in the free markets of the country at less cost than manufacture of the same article will cost in the navy-yards, by bids at the solicitation of the Department or in such manner as the Department may choose: *And provided further*, That all such articles shall be of standard and quality to be fixed by the Navy Department."

Mr. ROBERTS. Mr. Speaker, to save time I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and there were—yeas 119, nays 129, answered "present" 19, not voting 114, as follows:

YEAS—119.

Acheson	Bates	Burke, Pa.	Cooper, Pa.
Adams, Pa.	Bede	Burton, Ohio	Cromer
Adams, Wis.	Bennett, Ky.	Butler, Pa.	Crumpacker
Alexander	Birdsall	Calderhead	Curtis
Allen, Me.	Bishop	Campbell, Kans.	Dale
Bannon	Boutell	Campbell, Ohio	Dalzell
Barchfeld	Brick	Chaney	Darragh
Bartholdt	Buckman	Cole	Davis, Minn.

Dawes	Hepburn	McCreary, Pa.	Smith, Iowa
Deemer	Hermann	McGavin	Smith, Samuel W.
Denby	Higgins	McKinlay, Cal.	Smith, Pa.
Dickson, Ill.	Hill, Conn.	McKinley, Ill.	Smyser
Dixon, Mont.	Hinshaw	Mann	Snapp
Draper	Howell, N. J.	Marshall	Southwick
Dwight	Howell, Utah	Miller	Sperry
Edwards	Hughes	Moon, Pa.	Stafford
Esch	Hull	Mouser	Stevens, Minn.
Foster, Ind.	Kahn	Murdock	Tawney
Gardner, Mich.	Keifer	Needham	Taylor, Ohio
Gardner, N. J.	Kennedy, Nebr.	Nevin	Thomas, Ohio
Gilbert, Ind.	Kinkaid	Norris	Townsend
Gilbert, Ky.	Lacey	Olmsted	Tyndall
Gillett, Cal.	Landis, Chas. B.	Payne	Volstead
Graff	Le Fevre	Perkins	Vreeland
Graham	Lilley, Pa.	Pollard	Wanger
Grosvenor	Littauer	Rives	Wilson
Hale	Longworth	Samuel	Wood, N. J.
Hamilton	Loud	Scott	Woodyard
Hayes	Loudenslager	Sherman	Young
Hedge	McCleary, Minn.	Smith, Cal.	

NAYS—129.

Adamson	Floyd	Knowland	Roberts
Aiken	French	Lamb	Robertson, La.
Ames	Fulkerson	Landis, Frederick	Robinson, Ark.
Bankhead	Gardner, Mass.	Law	Rucker
Bartlett	Garner	Lawrence	Russell
Beall, Tex.	Garrett	Lee	Ryan
Bennet, N. Y.	Gill	Lester	Shackleford
Bonynge	Gillespie	Lever	Sherley
Bowers	Gillett, Mass.	Lewis	Slayden
Bowie	Glass	Lindsay	Smith, Md.
Brantley	Goldfogle	Littlefield	Smith, Tex.
Broocks, Tex.	Granger	Livingston	Spight
Brownlow	Greene	Lloyd	Stanley
Brundidge	Gregg	McCarthy	Stephens, Tex.
Burgess	Griggs	McKinney	Sterling
Burleson	Hardwick	McLachlan	Sullivan, Mass.
Burnett	Haskins	McNary	Sulloway
Calder	Heflin	Macon	Sulzer
Candler	Henry, Conn.	Maynard	Talbott
Capron	Henry, Tex.	Moon, Tenn.	Taylor, Ala.
Clark, Fla.	Hoar	Mudd	Thomas, N. C.
Clark, Mo.	Holliday	Murphy	Tirrell
Clayton	Houston	Page	Towne
Cocks	Howard	Parker	Underwood
Cooper, Wis.	Hubbard	Patterson, N. C.	Waldo
Currier	Humphrey, Wash.	Patterson, S. C.	Wallace
Cushman	Hunt	Pujo	Webb
Dawson	Johnson	Randell, Tex.	Weeks
De Armond	Jones, Va.	Reeder	Williams
Dixon, Ind.	Jones, Wash.	Rhinock	Zenor
Dunwell	Keliher	Rhodes	
Ellerbe	Kitchin, Wm. W.	Richardson, Ala.	
Fitzgerald	Kline	Rixey	

ANSWERED "PRESENT"—19.

Bell, Ga.	Davey, La.	Goulden	Otjen
Burton, Del.	Flood	Hay	Reid
Chapman	Foster, Vt.	Humphreys, Miss.	Watkins
Conner	Fuller	Jenkins	Wood, Mo.
Cousins	Gaines, W. Va.	Meyer	

NOT VOTING—114.

Allen, N. J.	Foss	McDermott	Shartel
Andrus	Fowler	McLain	Sheppard
Babcock	Gaines, Tenn.	McMorran	Sibley
Beidler	Garber	Madden	Sims
Bingham	Goebel	Mahon	Slemp
Blackburn	Gronna	Martin	Small
Bowersock	Gudger	Michalek	Smith, Ill.
Bradley	Haugen	Minor	Smith, Ky.
Brooks, Colo.	Hearst	Mondell	Smith, Wm. Alden
Broussard	Hill, Miss.	Moore	Southall
Brown	Hitt	Morrell	Southard
Burke, S. Dak.	Hogg	Olcott	Sparkman
Burleigh	Hopkins	Overstreet	Steenerson
Butler, Tenn.	Huff	Padgett	Sullivan, N. Y.
Byrd	James	Palmer	Trimble
Cassel	Kennedy, Ohio	Parsons	Van Duzer
Cockran	Ketcham	Patterson, Tenn.	Van Winkle
Davidson	Kitchin, Claude	Pearre	Wachter
Davis, W. Va.	Klepper	Pou	Wadsworth
Dovener	Knapp	Powers	Watson
Dresser	Knopf	Prince	Webber
Driscoll	Lafean	Rainey	Weems
Ellis	Lamar	Ransdell, La.	Weisse
Fassett	Legare	Reynolds	Welborn
Field	Lilley, Conn.	Richardson, Ky.	Wharton
Finley	Little	Rodenberg	Wiley, Ala.
Flack	Lorimer	Ruppert	Wiley, N. J.
Fletcher	Lovering	Schneebeli	
Fordney	McCall	Scroggy	

So the amendment was rejected.

The Clerk announced the following pairs:

For the vote:

Mr. BROOKS of Colorado with Mr. BYRD.

Mr. CONNER with Mr. SULLIVAN of New York.

Mr. MINOR with Mr. LOVERING.

Mr. PEARRE with Mr. HAY.

For the day:

Mr. ANDRUS with Mr. RUPPERT.

Mr. COUSINS with Mr. WILEY of Alabama.

Mr. DAVIDSON with Mr. FLOOD.

Mr. BABCOCK with Mr. COCKRAN.

Mr. BINGHAM with Mr. HEARST.

Mr. BLACKBURN with Mr. SMALL.

Mr. BURTON of Delaware with Mr. BELL of Georgia.

Mr. CASSEL with Mr. BUTLER of Tennessee.

Mr. FASSETT with Mr. SIMS.

Mr. KETCHAM with Mr. RAINEY.

Mr. KENNEDY of Ohio with Mr. FIELD.

Mr. KNAPP with Mr. LAMAR.

Mr. LAFEAN with Mr. FINLEY.

Mr. LORIMER with Mr. HUMPHREYS of Mississippi.

Mr. OLCOTT with Mr. MCLAIN.

Mr. OVERSTREET with Mr. TRIMBLE.

Mr. RODENBERG with Mr. DAVIS of West Virginia.

Mr. PARSONS with Mr. MOORE.

Mr. PRINCE with Mr. SOUTHALL.

Mr. SIBLEY with Mr. WATKINS.

Mr. SOUTHARD with Mr. JAMES.

Mr. WACHTER with Mr. HILL of Mississippi.

Mr. WADSWORTH with Mr. VAN DUZER.

Until further notice:

Mr. BURKE of South Dakota with Mr. DAVEY of Louisiana.

Mr. DOVENER with Mr. SPARKMAN.

Mr. DRISCOLL with Mr. RANSDELL of Louisiana.

Mr. FOSS with Mr. MEYER.

Mr. FOSTER of Vermont with Mr. POU.

Mr. BROWN with Mr. CLAUDE KITCHIN.

Mr. HITT with Mr. LEGARE.

Mr. HUFF with Mr. WOOD of Missouri.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. KNOPF with Mr. WEISSE.

Mr. MCCALL with Mr. BROUSSARD.

Mr. LILLEY of Connecticut with Mr. REID.

Mr. MADDEN with Mr. GARBER.

Mr. OTJEN with Mr. PADGETT.

Mr. POWERS of Maine with Mr. GAINES of Tennessee.

Mr. REYNOLDS with Mr. MCDERMOTT.

Mr. SCHNEEBELI with Mr. PATTERSON of Tennessee.

Mr. WM. ALDEN SMITH with Mr. SHEPPARD.

Mr. WATSON with Mr. LITTLE.

Mr. WELBORN with Mr. GUDGER.

Until May 18, 1906:

Mr. CHAPMAN with Mr. HOPKINS.

Until May 24, 1906:

Mr. FULLER with Mr. RICHARDSON of Kentucky.

For the session:

Mr. BRADLEY with Mr. GOULDEN.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

On page 72, line 21, after the words "expeditious delivery," insert the following: "*Provided*, That any bid for the construction of any of said vessels upon the Pacific coast shall have a differential of 4 per cent in its favor, which shall be considered by the Secretary of the Navy in awarding contracts for the construction of said vessels."

The SPEAKER. The question is on agreeing to the amendment.

Mr. NEEDHAM. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. As many as are in favor of ordering the yeas and nays will rise and stand until counted.

Mr. NEEDHAM. Mr. Speaker, the demand for the yeas and nays was a mistake; I meant division.

The House divided; and there were—ayes 102, noes 100.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 121, nays 118, answered "present" 17, not voting 125, as follows:

YEAS—121.

Adams, Wis.	Cooper, Wis.	Grosvenor	Loud
Alexander	Cromer	Hale	McCarthy
Allen, Me.	Crumpacker	Hamilton	McCleary, Minn.
Bannon	Currier	Haugen	McCreary, Pa.
Barchfeld	Curtis	Hayes	McGavin
Bartholdt	Cushman	Hedge	McKinlay, Cal.
Bates	Dale	Hepburn	McKinley, Ill.
Bede	Darragh	Hermann	McKinney
Bennet, N. Y.	Davis, Minn.	Higgins	McLachlan
Bishop	Dawes	Hinshaw	Mann
Bonynge	Dawson	Holliday	Marshall
Boutell	Denby	Howell, Utah	Miller
Brooks, Colo.	Dixon, Mont.	Hughes	Minor
Brownlow	Draper	Humphrey, Wash.	Mondell
Buckman	Dunwell	Jones, Wash.	Mouser
Burke, Pa.	Esch	Kahn	Murphy
Butler, Pa.	Fletcher	Keifer	Needham
Calder	Foster, Ind.	Kinkaid	Nevin
Calderhead	French	Knowland	Norris
Campbell, Kans.	Gardner, Mich.	Landis, Chas. B.	Perkins
Campbell, Ohio	Gardner, N. J.	Landis, Frederick	Powers
Capron	Gilbert, Ind.	Law	Rives
Chaney	Gillett, Cal.	Le Fevre	Samuel
Cocks	Graff	Littauer	Scott
Cole	Graham	Littlefield	Slemp
Conner	Greene	Longworth	Smith, Cal.

Smith, Samuel W.	Stevens, Minn.	Thomas, Ohio	Wilson
Smyser	Sulloway	Towne	Young
Southwick	Sulzer	Tyndall	
Sperry	Tawney	Volstead	
Sterling	Taylor, Ohio	Waldo	

NAYS—118.

Acheson	Ellerbe	Kennedy, Nebr.	Richardson, Ala
Adams, Pa.	Fitzgerald	Kitchin, Wm. W.	Rixey
Adamson	Flood	Kline	Roberts
Aiken	Floyd	Lacey	Robertson, La.
Ames	Foss	Lamb	Robinson, Ark.
Bankhead	Gaines, W. Va.	Lawrence	Rucker
Bartlett	Garner	Lee	Russell
Beall, Tex.	Garrett	Lester	Ryan
Bennett, Ky.	Gilbert, Ky.	Lewis	Shackleford
Birdsall	Gill	Lindsay	Sherley
Bowers	Gillespie	Livingston	Sherman
Bowie	Gillett, Mass.	Lloyd	Slayden
Brantley	Glass	Loudenslager	Smith, Md.
Brick	Goldfogle	McNary	Smith, Tex.
Broocks, Tex.	Granger	Macon	Spight
Brundidge	Gregg	Maynard	Stafford
Burgess	Hardwick	Meyer	Stanley
Burleson	Hay	Moon, Pa.	Sullivan, Mass.
Burton, Ohio	Heflin	Moon, Tenn.	Talbott
Candler	Henry, Conn.	Mudd	Thomas, N. C.
Clark, Fla.	Henry, Tex.	Olmsted	Underwood
Clark, Mo.	Hoar	Page	Wallace
Clayton	Houston	Patterson, N. C.	Wanger
Dalzell	Howard	Patterson, S. C.	Webb
De Armond	Hubbard	Payne	Weeks
Deemer	Hull	Pollard	Wiley, Ala.
Dickson, Ill.	Hunt	Pujo	Williams
Dixon, Ind.	Johnson	Randell, Tex.	Zenor
Dwight	Jones, Va.	Rhinock	
Edwards	Keliher	Rhodes	

ANSWERED "PRESENT"—17.

Bell, Ga.	Finley	Griggs	Reid
Burnett	Foster, Vt.	Humphreys, Miss.	Watkins
Chapman	Fuller	Jenkins	
Cousins	Gardner, Mass.	Lever	
Davey, La	Goulden	Otjen	

NOT VOTING—125.

Allen, N. J.	Goebel	Mahon	Smith, Ky.
Andrus	Gronna	Martin	Smith, Wm. Alden
Babcock	Gudger	Michalek	Smith, Pa.
Beidler	Haskins	Moore	Snapp
Bingham	Hearst	Morrell	Southall
Blackburn	Hill, Conn.	Murdock	Southard
Bowersock	Hill, Miss.	Olcott	Sparkman
Bradley	Hitt	Overstreet	Steenerson
Broussard	Hogg	Padgett	Stephens, Tex.
Brown	Hopkins	Palmer	Sullivan, N. Y.
Burke, S. Dak.	Howell, N. J.	Parker	Taylor, Ala.
Burleigh	Huff	Parsons	Tirrell
Burton, Del.	James	Patterson, Tenn.	Townsend
Butler, Tenn.	Kennedy, Ohio	Pearre	Trimble
Byrd	Ketcham	Pou	Van Duzer
Cassel	Kitchin, Claude	Prince	Van Winkle
Cockran	Klepper	Rainey	Vreeland
Cooper, Pa.	Knapp	Ransdell, La.	Wachter
Davidson	Knopf	Reeder	Wadsworth
Davis, W. Va.	Lafean	Reynolds	Watson
Dovener	Lamar	Richardson, Ky.	Webber
Dresser	Legare	Rodenberg	Weems
Driscoll	Lilley, Conn.	Ruppert	Weisse
Ellis	Lilley, Pa.	Schneebeli	Welborn
Fassett	Little	Scroggy	Wharton
Field	Lorimer	Shartel	Wiley, N. J.
Flack	Lovering	Sheppard	Wood, Mo.
Fordney	McCall	Sibley	Wood, N. J.
Fowler	McDermott	Sims	Woodyard
Fulkerson	McLain	Small	
Gaines, Tenn.	McMorran	Smith, Ill.	
Garber	Madden	Smith, Iowa	

So the amendment was agreed to.

The following additional pairs were announced:

For the vote:

Mr. BURLEIGH with Mr. GAINES of Tennessee.

Mr. BRADLEY with Mr. GOULDEN.

Mr. SMITH of Iowa with Mr. BYRD.

For the balance of the day:

Mr. RODENBERG with Mr. GRIGGS.

Mr. MAHON with Mr. BURNETT.

Mr. MORRELL with Mr. SULLIVAN of New York.

Mr. GRONNA with Mr. STEPHENS of Texas.

The SPEAKER. This vote is so close that the Chair will order a recapitulation of it.

The vote was recapitulated.

The result of the vote was then announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The question was taken; and the bill was ordered to be engrossed, and read a third time, and it was accordingly read the third time.

Mr. BUTLER of Pennsylvania. Mr. Speaker, I move to recommit the bill, and on that motion I demand the previous question.

The SPEAKER. The gentleman from Pennsylvania [Mr. BUTLER] moves to recommit the bill to the Committee on Naval Affairs, and on that motion demands the previous question.

The question was taken; and the previous question was ordered.

The SPEAKER. The question is on the recommitment of the bill to the Committee on Naval Affairs.

The question was taken; and the Speaker announced that the noes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The House divided; and there were—ayes 53, noes 157.

So the motion was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the bill was passed.

Mr. FOSS. Mr. Speaker, I ask that the Clerk may have authority to change the total. It is simply a matter of addition.

The SPEAKER. The gentleman asks unanimous consent that the Clerk may change the total in a certain particular, which the Clerk will report.

The Clerk read as follows:

On page 33, line 16, change the first word in the line from "eight" to "seven;" so it will read:

"Total public works, navy-yards and stations, $2,748,450."

Mr. WILLIAMS. Mr. Speaker, reserving the right to object, I wish to state that I would dislike very much to object to a request of that sort, but a bill which carries with it the newly announced principle of protection within the Union in giving Government contracts I think ought to be met with an objection to everything requiring unanimous consent. I shall, therefore, object.

The SPEAKER. The gentleman from Mississippi objects.

Mr. FOSS. Mr. Speaker, I ask that I may have permission to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

On motion of Mr. Foss, a motion to reconsider the vote by which the bill was passed was laid on the table.

TRANSPORTATION AND FREIGHT RATES IN THE OIL INDUSTRY.

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith the full report of the Commissioner of the Bureau of Corporations in the Department of Commerce and Labor on the subject of transportation and freight rates in connection with the oil industry referred to in my message of the 4th instant, it having been delayed in printing.

THEODORE ROOSEVELT.

WHITE HOUSE, *May 17, 1906.*

BRIDGE ACROSS PEND D'OREILLE RIVER, WASHINGTON.

The SPEAKER laid before the House the following Senate bill, a similar House bill being on the Calendar.

The Clerk read as follows:

A bill (S. 6128) to authorize the construction of a bridge across the Pend d'Oreille River, in Stevens County, Wash., by the Pend d'Oreille Development Company.

Be it enacted, etc., That the Pend d'Oreille Development Company, a corporation organized under the laws of the State of Washington, its successors or assigns, be, and they are hereby, authorized to construct, maintain, and operate a wagon bridge and approaches thereto across the Pend d'Oreille River at or near Big Falls (sometimes called Metaline Falls), in Stevens County, in the State of Washington, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. JONES of Washington. Mr. Speaker, I desire to offer an amendment, which I have submitted to the chairman of the committee, and it is entirely satisfactory to him.

The Clerk read as follows:

In line 6, after the word "wagon," insert the words "railroad and foot."

The amendment was agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

On motion of Mr. JONES of Washington, a motion to reconsider the vote by which the bill was passed was laid on the table.

House bill 19108, on the same subject, was ordered to lie on the table.

ENTRY OF AGRICULTURAL LANDS IN FOREST RESERVES.

The SPEAKER laid before the House the bill (H. R. 17576) providing for the entry of agricultural lands in forest reserves, with a Senate amendment, which was read.

Mr. SMITH of California. Mr. Speaker, I move that the House nonconcur in the amendment, and ask for a conference.

The motion was agreed to.

The SPEAKER announced the appointment of Mr. LACEY, Mr. SMITH of California, and Mr. BURNETT as conferees.

LEAVE TO EXTEND REMARKS.

Mr. HILL of Connecticut. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the naval appropriation bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

OSWEGO, N. Y.

Mr. PAYNE. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 13938) to extend the privileges of the seventh section of the act approved June 10, 1880, to the port of Oswego, N. Y.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. ALEXANDER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 13938, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 13938) to extend the privileges of the seventh section of the act approved June 10, 1880, to the port of Oswego, N. Y.

Be it enacted, etc., That the privileges of the seventh section of the act approved June 10, 1880, entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," be, and the same are hereby, extended to the port of Oswego, in the State of New York.

Mr. PAYNE. Mr. Chairman, as the House knows, the port of Oswego is an old port of entry, situated on Lake Ontario. The object of this bill is simply to extend the privileges of the act of 1880, so that goods destined for the port of Oswego that come through any other port of entry in the United States may go there in bond and be examined and appraised at the port of Oswego and the duties there paid. There are a whole set of officers at Oswego, and it will not cost the Treasury a dollar to extend that privilege.

Mr. SULZER. I would like to ask the gentleman from New York if this bill has been unanimously reported by the Committee on Ways and Means.

Mr. PAYNE. It has been unanimously reported by the Committee on Ways and Means.

Mr. MANN. Mr. Chairman, may I ask the gentleman from New York a question? Is this one of those collection districts he is creating like some of those other districts to which the gentleman is opposed?

Mr. PAYNE. This is a district that pays the Government a good deal more than it costs to collect the revenues that come there. It has a full set of clerks and appraisers and all the officers necessary to carry out the provisions of this bill without a single penny of tax to the Government.

Now, Mr. Chairman, if there are no more questions, and no further debate and no amendments, I move that the committee rise and report the bill with a favorable recommendation.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ALEXANDER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 13938, and had directed him to report the same back to the House with the recommendation that it do pass.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

On motion of Mr. PAYNE, a motion to reconsider the vote by which the bill was passed was laid on the table.

NATURALIZATION BILL.

Mr. BONYNGE. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15442, the naturalization bill, and pending that motion I ask that general debate on the bill be closed in one hour.

The SPEAKER. The gentleman from Colorado moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the naturalization bill, and pending that motion he asks unanimous consent that general debate be closed in one hour.

Mr. WILLIAMS. I object.

Mr. BONYNGE. Mr. Speaker, I move that general debate be closed in one hour.

Mr. WILLIAMS. I objected for the purpose of finding out what the request was.

Mr. BONYNGE. That general debate on the naturalization bill should close in an hour and it be then considered under the five-minute rule.

Mr. WILLIAMS. I have no objection to that.

Mr. HEPBURN. Mr. Speaker, I desire to raise the question of consideration.

Mr. BONYNGE. I raise the point of order that the question of consideration is not now in order, for the reason that the only way it can be determined is by voting down the motion to go into Committee of the Whole House.

The SPEAKER. The Chair is prepared to rule. The question of consideration would come as indicated if raised. It can not be raised pending the motion to fix the time that debate shall run. Is there objection to closing general debate in one hour? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, how is that time to be controlled?

The SPEAKER. Under the rule and by the Chair.

Mr. MANN. That means that whoever gets the floor is entitled to the floor for an hour.

The SPEAKER. In the opinion of the Chair the hour would go to whoever got the floor.

Mr. MANN. Well, unless some arrangement is made I shall object.

The SPEAKER. The gentleman is too late.

Mr. HEPBURN. Mr. Speaker, I desire to say that if the motion should be voted down I wish to call for the regular order——

Mr. BONYNGE. I call for the regular order.

Mr. GOLDFOGLE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDFOGLE. When the naturalization bill was up in Committee of the Whole House some time ago, there were twenty-four minutes remaining on this side when the matter was under general debate. I would like to ask whether that twenty-four minutes is still reserved?

The SPEAKER. No; general debate by unanimous consent is to close in one hour after the House goes into Committee of the Whole.

Mr. GOLDFOGLE. I should like to ask the chairman of the committee to consent to an additional twenty-four minutes which was reserved at that time.

Mr. PAYNE. Regular order, Mr. Speaker.

The SPEAKER. The gentleman from New York calls for the regular order.

Mr. BONYNGE. Mr. Speaker, I ask for a modification of the unanimous consent that was given a moment ago.

The SPEAKER. The gentleman can present another proposition, but general debate after going into Committee of the Whole is limited to one hour. The only way he can get rid of it is by unanimous consent.

Mr. HEPBURN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. HEPBURN. If this motion should be voted down, would it not then be competent to move to go into Committee of the Whole House on the state of the Union for the purpose of considering the bill which was made a special order for this time—the pure-food bill?

The SPEAKER. The Chair presumes that if this motion fails another privileged motion would be in order. The question is on the motion of the gentleman from Colorado, that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15442—the naturalization bill.

The question was taken; and the Chair being in doubt, on a division there were—ayes 114, noes 60.

So the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. LAWRENCE in the chair.

Mr. BONYNGE. Mr. Chairman, I ask unanimous consent to have read from the Clerk's desk certain amendments which the committee propose to offer at the proper time. I ask to have the amendments read now for information of the committee before general debate is had.

The CHAIRMAN. Without objection, the Clerk will read the proposed amendments for the information of the committee.

There was no objection.

The Clerk read as follows:

Amendment No. 1: Line 20, page 4, after the word "alien," insert the following words: "*Provided, however*, That no alien who, in conformity with the law in force at the date of his declaration, has declared his intention to become a citizen of the United States shall be required to renew such declaration."

Amendment No. 2: Line 21, page 4, strike out the word "five" and insert in lieu thereof the word "seven."

Amendment No. 3: Line 12, page 5, after the word "petition," insert the following words: "*Provided*, That if he has filed his declaration before the passage of this act he shall not be required to sign the petition in his own handwriting."

Amendment No. 4: Line 3, page 10, after the word "States," add the following words: "*And provided further*, That the requirements of this section shall not apply to any alien who has, prior to the passage of this act, declared his intention to become a citizen of the

United States in conformity with the law in force at the date of making such declaration."

Amendment No. 5: Line 23, page 13, strike out the words "certificate therefor" and insert in lieu thereof the words "duplicate thereof."

Amendment No. 6: Line 7, page 20, after the word "court," insert the words "or his authorized deputy or assistant;" and in line 8, page 20, strike out the words "any other person."

Mr. BONYNGE. Mr. Chairman, I ask unanimous consent that the hour's time may be equally divided, one-half to be controlled by myself and one-half by the gentleman from New York [Mr. GOLDFOGLE].

The CHAIRMAN. Is there objection to the request made by the gentleman from Colorado? [After a pause.] The Chair hears none, and it is so ordered. The gentleman from Colorado is recognized for thirty minutes.

Mr. BONYNGE. Mr. Chairman, I do not desire to take up any time at the present time. I occupied the floor for something like two hours when we were in Committee of the Whole before, and I will now ask the gentleman from New York [Mr. GOLDFOGLE] to consume some of his time.

Mr. GOLDFOGLE. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. WHARTON].

Mr. WHARTON. Mr. Chairman, I propose when this bill is taken up for consideration by sections, to offer the following amendment to section 9:

Strike out in lines 22 and 23 the words "write in;" in line 23, after the word "or," strike out the word "in;" in lines 23 and 24 strike out the words "and who can not read, speak, and understand the English language;" and insert in line 22, after the word "not," the words "read, write, speak, and understand;" so that the same as amended shall read:

"That no alien shall hereafter be naturalized, or admitted as a citizen of the United States who can not read, write, speak, and understand his own or the English language: *Provided*, That this requirement shall not apply to aliens who are physically unable to comply therewith, if they are otherwise qualified to become citizens of the United States."

Upon this section of the bill under consideration, providing that hereafter no alien shall be naturalized or admitted as a citizen unless he can write in his own language or the English language, and who can not read, speak, and understand the English language, is a provision that is un-American, unpatriotic, and ill-advised for many reasons. It is not the true test of citizenship in any material sense. As I view the subject, a man may make just as good a citizen, though ignorant and unable to parse a sentence in English as many of those who can do so, and sometimes better. It isn't his ability to master a certain language, or to drill his mind in grammatical construction, that determines his desirability for citizenship.

Many aliens come to our shores who have the aspiration present in the breast of all men to better their conditions in life. These immigrants are not familiar with our language; they are poor, uneducated, and downtrodden; they have suffered the tortures of poverty and are struggling to overcome them, and often make superhuman efforts to get to our country—the promised land—in order to get rid of the sore-creating burdens they have borne at home. We claim equality of all men—not by reason of birth, breeding, or favor—but the equality which comes from individual effort, which says to everybody, "Get out and hustle, strive, and fight the battle of existence, and our country will place no stumbling block in your path, place no burden on your shoulders to keep you down because you were of lowly birth, or because you were not lucky enough to be born with a silver spoon in your mouth."

The average alien when he gets here takes his personal belongings on his shoulder and cheerfully turns his face toward the West, the South, or the North, willing to encounter hardships, endure sufferings, and meet privation after privation for his chance to compete with the millions already there. He hasn't anything to fall back on except two brawny hands. He must work to keep himself provided with the necessities of life; work to provide the hungry mouths of the little flock and the faithful, hard-working spouse he has brought with him and who share his lot, good or bad as it may be. He can't go to an office at 9 o'clock in the morning and home at 5 in the afternoon. His toil starts early with the blast of a whistle, with the sound of a gong, or with the rise of the sun; hard, laborious, physical toil in the shop, the factory, the mill, or the field. There he labors hour after hour till the day's work is done, and then home to seek rest and shelter. Shall this man—can this man—sit up half the night trying to learn to read and write and speak and think in English? If he be unusually energetic and thirsts for knowledge, he will get it after he has had his supper by reading a paper, book, or magazine printed in the tongue he has been taught from infancy; printed in the tongue he has always known, printed in the only tongue in which he can read and think intelligently. His thoughts seek expression in his language, because he thinks in his language. If he seeks information from others, it is natural for him to go to those who are of his race. He can make them understand him, and he can understand them; he has more confidence in his ability to express himself intelligently and to understand accurately and with less fear of mistake among those who speak his language than in any other.

Mr. BARTHOLDT. Mr. Chairman, I would like to ask the gentleman a question. Does this amendment provide that he must be able to read and write his own language?

Mr. WHARTON. Yes; he can not be naturalized or admitted as a citizen of the United States if he can not read, write, and speak, and understand his own or the English language.

Mr. BARTHOLDT. Suppose he is not able to write his own language, and suppose he has no opportunity in this country to learn how to read and write his own language, or how to read and write the English language, what will then be done with him? Is he to be barred for all time from the boon of American citizenship?

Mr. WHARTON. If he can not read or write some language, I do not see that there is very much chance for him. I believe there should be some provision, some qualification, for a man who becomes a citizen and who is clothed with the powers of citizenship in this country; and I believe if he be able to read and write in his own language so that he can understand it, or so that anybody else can understand it, that is sufficient. If educational qualifications proposed by section 9 are required, you simply build up a class of citizenship based upon what we call the classes, and not the masses. It puts a test upon him which is not fair.

Can you say that this man will not make a good citizen? It's the man's heart and intentions toward our principles, our Government, and our country that should, that must count. If he be able to understand our institutions and has a desire to be in accord with them, it does not make him any the less desirable as a citizen because he doesn't know how to describe them on paper or express them in the English language.

If our country were in need of soldiers to defend it against attack, this man could and would fight and stop the bullets and steel projectiles of the enemy as well as any other man in the same ranks who occupies the proud distinction of membership in this honorable body, and we would not reject him because he didn't happen to know how to write in his own or our language or because he couldn't speak our tongue.

The foreigners who come to us have to work and labor and toil, so that their children may receive the benefit of an education, and they can't stop to undo the education they themselves received and learn it all over again in our tongue. The difficulties in the way are apparent at a glance. The mind is matured, formed, and set, so that thought works in natural and prescribed processes. It is not the supple, pliable, and impressionable thing which is given to the young. A tree can be made to grow in any direction or angle when a sapling, but when it gets its growth it is firmly rooted and the fibers securely formed. Try and change its course and failure follows; yet, though the tree grows in a certain direction, it may still bear fruit, the same as one trained in a different bent. So it is with the man; he may be as heartily and earnestly interested in our Government and our country and may strive to fulfill the duties of citizenship just as loyally as if he had a thorough knowledge of our tongue.

I have many thousands of foreigners in the district which I have the honor to represent on the floor of this House; and though normally it is about 10,000 Democratic, and though many foreigners can not read or write or even speak English, yet they were able to think and decide and change from the Democratic party and vote the Republican ticket, and thus help to swell the majority of President Roosevelt by many thousands of votes. While, in the main, many of them are untutored and unskilled in the science of our language or their own, they are a shrewd and common-sense people, and they quickly saw it was to their interest and the country's interest to change their votes, and it is pretty generally agreed that in that respect they were not far from wrong. Now, I don't propose that these people, or those who come to us hereafter and are like them, shall be deprived of citizenship because they are unfortunate enough to be unable to write in our tongue, or because they are unfortunate enough to be unable to read, speak, or understand the English language as we do. They are the right sort if they have our interest and our welfare at heart and make that interest and welfare their interest and welfare; if they can understand and appreciate the duties required and expected of them as citizens of this United States; if they are earnestly striving to uplift themselves and their families, and if they are of good moral character and can understand in any way or any tongue, whether theirs or ours, concerning the rights,

duties, obligations, and necessities devolving upon them by reason of their acquisition of the inestimable privilege of citizenship. They should be granted the right which, in all justice to them and to ourselves, should be showered upon them as one of the great blessings of our free American institutions and force the world to acknowledge the truth of our boast of the equality of all within the confines of our own progressive country. [Applause.]

Mr. BONYNGE. Mr. Chairman, just a moment or two to state another amendment. In the amendments that were read from the desk two amendments that the committee intends to offer were omitted, and I desire to call the attention of the Committee of the Whole to those amendments. On page 3, line 2, after the word "State," an amendment will be offered to insert the words "or Territory," so that the Territorial courts having a seal and clerk and jurisdiction in actions in law in which the amount in controversy is unlimited, will be entitled to naturalize aliens. Another amendment that will be offered by the committee will be to lines 1 and 3, on page 14, which relate to the fees to be charged for naturalization. The fees prescribed by the bill at the present time are $1 when the declaration of intention is made. That will remain the same. Then, in line 1, of page 14, the word "three" will be inserted in lieu of the word "five;" and in line 3 of page 14 the word "three" will also be inserted in lieu of the word "five," so that the total fees for naturalization under the amendment that will be offered by the committee will be $7 instead of $11.

Mr. STAFFORD. Will the gentleman permit a question to be put right here regarding the fees?

Mr. BONYNGE. Yes.

Mr. STAFFORD. I would like to ask the gentleman what are the fees now provided by statute?

Mr. BONYNGE. No statute of the United States regulates specifically the fees in naturalization proceedings. The fees are now regulated by the different States of the Union, and vary in every State, so we have about as many different fees charged for naturalization as we have States of the Union—pretty nearly as many.

Mr. STAFFORD. In arriving at the revised figures of $3 for the filing and docketing of the petition and the $3 for the issuance of the certificate, what rule has the gentleman followed in determining the proposed fees?

Mr. BONYNGE. We endeavored, Mr. Chairman, to ascertain as near as we could, and it was largely a matter of conjecture, what the expenses of the national supervision of naturalization would be. We were at first inclined to think that it would take at least $11, which we provided in the bill. Upon further consideration we have concluded that the fees provided for by the amendment which we will offer will be sufficient to pay the expenses, and it is our desire to charge only a sufficient amount to cover the expenses of naturalization.

Mr. STAFFORD. As I understand, one half of these fees is to be retained by the various clerks and the other half is to be sent to the Department of Commerce and Labor.

Mr. BONYNGE. Yes; for the purpose of maintaining the national bureau.

Mr. STAFFORD. Is the gentleman acquainted with the law of 1898, which compels the clerks of the United States courts when they receive fees in naturalization cases to turn them over in toto into the Treasury of the United States rather than retain them as they had been doing theretofore?

Mr. BONYNGE. There was some reference to that statute during our hearings. The member of the committee who has this particular section especially in charge [Mr. BENNET] will undertake to take care of that provision when we reach the section. Now, Mr. Chairman, I did not take the floor to consume the half hour which is allotted to this side. I answered a great many of these questions when the bill was under consideration before. I simply desired to have these amendments before the committee during the general discussion, and unless the gentleman from New York desires to take the floor, I will yield ten minutes——

Mr. GOLDFOGLE. I rose for the purpose of asking a question of the gentleman.

Mr. BONYNGE. A very short question I will answer.

Mr. GOLDFOGLE. What are the fees now in Federal courts for naturalization?

Mr. BONYNGE. I think they vary in the different States.

Mr. GOLDFOGLE. What is the minimum?

Mr. BONYNGE. I can not answer the question; there is no general statute regulating fees in the Federal courts.

Mr. STAFFORD. If the gentleman will pardon me, there is a statute which regulates the fees of clerks for all services.

Mr. BONYNGE. But no fees for naturalization are regulated.

Mr. STAFFORD. The general law covers all instances of naturalization, and they are not allowed to charge any more for naturalization than for like services in other cases.

Mr. BONYNGE. No; probably not.

Mr. SMITH of California. May I ask the gentleman a question?

Mr. BONYNGE. You must make the question short or my half hour will be consumed.

Mr. SMITH of California. I am going to make it short. On page 6, line 11, I want to ask the gentleman what is meant by the word "district;" whether it means District of Columbia, district court, or Congressional district?

Mr. BONYNGE. What page and line?

Mr. SMITH of California. Page 6, line 11. What is intended by the word "district," which seems quite indefinite?

Mr. BONYNGE. Why, it means the District of Columbia and the district of Alaska.

Mr. SMITH of California. Might it not mean Congressional district or judicial district or anything else just as well?

Mr. BONYNGE. No; we have three subdivisions in continental America: We have the States, the Territories, the District of Columbia, and the district of Alaska, and in the connection in which that word is used I can not conceive how anybody can misunderstand it.

Mr. SMITH of California. It refers there in certain cases to the jurisdiction of Federal courts.

Mr. BONYNGE. I must ask the gentleman not to enter into an argument now upon that section.

The CHAIRMAN. The gentleman from Colorado declines to yield further.

Mr. BONYNGE. I yield five minutes to the gentleman from Pennsylvania [Mr. ADAMS].

The CHAIRMAN. The gentleman from Pennsylvania is recognized for five minutes.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I rise to express my interest in this bill, being a member of the committee and having sat through all of the hearings, not only in this session of Congress, but in previous ones; and those hearings being fortified by the commission which was appointed to investigate and report on this subject, I think this legislation deserves almost if not the unanimous support of this House.

I am particularly interested and would call the attention of the House to the second provision of importance in this bill, which is that those who are about to become naturalized as citizens of the Republic should be made to establish the fact that they propose to live in this country. Having had to do somewhat with the foreign relations of our country, I have had brought to my attention the great abuse in this regard. People from the Far East come here and make their declarations of becoming citizens and then take out their papers and return to the East, where they claim the citizenship of this country in order to protect themselves against many of the annoyances which are imposed upon them by their native country. It has been carried to such an extent that we have had several annoying cases where we have been obliged to step in and protect these quasi citizens against difficulties in which they have become involved through business reasons and others in the country in which they reside.

I have no desire, Mr. Chairman, to put any restrictions except proper ones upon those who wish to enjoy the great privileges of citizenship of the United States, but I have a very strong protest to make against anyone who wishes to secure that great privilege, a privilege that should be prized by the applicant, for the purpose of simply using it as a matter for his business interests and to seek the protection of this country when he may become involved in any difficulty abroad. So much has this been abused that we have, in the case of Jerusalem, nearly 1,000 people who have secured our citizenship and who seek protection in this country whenever they may get involved in any difficulties there. The provisions of this bill throw a safeguard around this abuse. In my judgment it is one of the most important features of this proposed legislation. It will tend to prevent this imposition on the liberality with which we extend the right to foreigners to become citizens of the United States, and I trust that that provision will receive the hearty support of the House.

The provision, also, which insists that they shall be able to read and understand the English language is certainly a proper one. I am one of those, Mr. Chairman, who believe it proper to admit immigrants to this country without the educational test, although when that bill comes, as it stands, I mean to vote for it, because we had better have that restriction than none at all. But, sir, the admission of a man to this country merely to earn a living is a very different proposition from allowing him

to become a citizen to participate in the making of laws and the election of Members to this House and to participate in our Government.

Mr. GOLDFOGLE. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from New York [Mr. GOLDFOGLE]?

Mr. ADAMS of Pennsylvania. I would like to do so, but I have only five minutes.

To allow him to participate in the freedom of our Government and the election of Representatives is a very serious responsibility, and I think any reasoning and thinking man will see the force of the proposition that the man who is to participate in the election of Members of Congress and other officers of our Government at least should be able to understand the English language and read it. How else can he inform himself on the principles of our Government? How else can he receive information on the questions that may be involved in the election?

Mr. MCNARY. Will the gentleman yield?

Mr. ADAMS of Pennsylvania. I decline to yield.

How else can he inform himself on the issues involved in the election about to take place unless orally informed or unless he can read the public press that may inform him on the issues involved?

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOLDFOGLE. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. GOULDEN].

Mr. GOULDEN. Mr. Chairman, during the month of March in a discussion with the gentleman from Tennessee [Mr. HOUSTON] I questioned the veracity of the reports made by Marcus Braun, the special inspector of immigration.

Since then I have investigated the matter fully, have interviewed the Secretary of Commerce and Labor, and desire at this time to withdraw the charges made on that occasion against that gentleman.

The subject under discussion, namely, House bill No. 15442 from the Committee on Immigration and Naturalization, is of vital importance. It provides for the establishment of a bureau of immigration and naturalization, and for a uniform rule for the naturalization of aliens throughout the United States.

I have studied this question for years, watched the operation of existing laws, and introduced bills in the last and present Congress to remedy the glaring evils prevalent under our present statutes.

The United States grand jury for the southern district of the State of New York having had so many cases of false naturalization, sale of certificates, and a general miscarriage of the laws on this subject that they spent months in 1903 investigating the matter. The discoveries made were truly appalling. Convictions on a fair trial were set aside on account of technicalities, or the conflict between the State and Federal law. [Applause.]

Hearings on bill No. 12762, introduced by me early in the Fifty-eighth Congress, were held by the Committee on Immigration and Naturalization. The first of these occurred March 15, 1904. In this connection I desire to quote the testimony of Clarence S. Houghton, esq., and Joel M. Marx, esq., assistant United States attorneys of New York, on the bill referred to and given before the committee on the date mentioned:

Mr. HOUGHTON. Mr. Chairman and gentlemen of the committee, at the suggestion of General Burnett, the United States district attorney for the southern district of New York, with the assistance of Mr. Marx, the special assistant United States district attorney, who was assigned especially to prosecute these naturalization cases, I drafted this bill No. 12762, simply as a temporary measure.

You can all realize that a question as important as this is—that is, the naturalization of aliens—will require a great deal of consideration, because it is a very important matter. The question of making aliens citizens goes right into the vitals of this country. So that in drafting this bill I studied very carefully the laws that we already have and tried to keep those laws as nearly as possible what they are to-day, but to simply remedy such defects as our experience in the city of New York during the past eight months led us to believe should be remedied in the statutes as they now stand, by amending certain of the statutes of the United States.

In order to give you an idea of the evils of naturalization, I will simply run over the subject very hastily, as I find my time is short, so that when I come to speak of these different paragraphs you can know what I am talking about.

It seems that last March an alien appeared as a witness for a friend of his who desired to become a citizen of the United States. He applied to the clerk of the district court for the southern district of New York. The clerk, upon examining the paper which he produced to show that he was a citizen, found that it was a forged paper, forged throughout; that is, the seal of the court was a forgery, the signature of the clerk of the court was a forgery, and the printing upon the paper was a forgery. As a result of that we started an investigation to find out where these forged papers came from, and assistants were sent to us from the Department of Justice to carry on this work. We found that a set of men in the city of New York had a plant by which they were printing these certificates of naturalization, having a counterfeit seal of the court, and one man being employed to copy, as nearly as he could, the name of the clerk of the court. It is rather interesting to know how and why these men made a plant of their own to supply these certificates of naturalization.

We now have a charge pending against the clerk of the court for the southern district of New York for issuing improperly certificates of naturalization. He would, according to the evidence that we have, obtain a certificate bearing the proper seal of the court and the signature of the clerk, but with the name of the applicant not filled in. He would then dispose of that certificate, in blank, without the name of the applicant. The applicant would take it outside and would fill in the name of the party desiring it; and for doing this the clerk received a certain sum of money. After a while he began to increase his prices, so that these Italians who we found were carrying on this plant thought it would be cheaper to make naturalization certificates themselves, which they did.

Now, in the city of New York—I must speak of that, because our work has been there—we find this naturalization fraud in almost every particular that you can think of. Not only, as I say, have these papers in blank, that have the seal of the court and the signature of the clerk upon them, filled in, but papers already filled in are taken out, the name is erased from them, and they are sold to other Italians. I am speaking particularly of Italians, because our work has been directed in that line. The name has been filled in. Then they get what they call certified copies, or duplicate certificates, from the court which issued them. Those certificates are obtained and are sold to other parties, or the name is erased therefrom and other names inserted.

Then, again, an alien who can not answer the questions that will be put to him by the clerk of the court and by the judge of the court will get a friend of his to come in, and he will substitute for the alien demanding the paper; the paper will be issued in the name of the alien requiring it or asking it, but it will be passed by the substitute, on account of the substitute.

Then, again, gentlemen, we have this: Aliens who are not entitled on account of age to the final papers (which I here designate as the certificate of naturalization), even though they have been coached up as to the questions that are propounded to them, will go into the court and swear that they are 18 or under the age of 18, so that they can get the final papers without the necessity of having a first paper. So that, gentlemen, they acquire these papers in any manner that they possibly can. An alien will go into court; he will obtain a paper by fraud, because, for instance, his witness will come in and swear that he was under the age of 18 when he arrived in this country, and he himself will corroborate that by swearing that he was under the age of 18.

He will take that paper. He may stay here a few years in this country, and then he will go abroad and sell it to another alien friend of his; or if he has an alien friend in Italy whom he wants to bring over to this country, he will send that paper over to Europe. The friend will take that paper and represent himself as a citizen when he passes through the immigration department. Not only that, but when aliens here have finished with their papers, they send them abroad and sell them. So that, gentlemen, it is necessary, in this temporary bill, to provide against certain abuses that we have found out through the prosecution of these cases.

There is one other thing of which I want to speak before going farther, and that is the matter of first papers. Under the municipal laws of the city of New York, in order to allow an alien to peddle he must either show the first paper—the declaration of intention—or he must show his certificate of naturalization. Consequently these aliens come in, and they will obtain a first paper; they will go up to the aliens' bureau and secure their license; then they will go and dispose of this first paper or declaration of intention to a friend and he will go and get a license, and they will send that from friend to friend.

Mr. BONYNGE. Substituting different names?

Mr. HOUGHTON. The same name.

Mr. BONYNGE. The same name?

Mr. HOUGHTON. The same name, and, unfortunately, there is no law now on the statute books of the United States prohibiting the selling of this declaration of intention; so that you will find that my first paragraph here is practically the same as in the Revised Statutes as they exist to-day.

Mr. BONYNGE. Pardon me just a moment, Mr. Houghton. In reference to getting these licenses under the same name—then does not the license run to half a dozen people of the same name?

Mr. HOUGHTON. It will run to a dozen; but you see——

Mr. BONYNGE. And does each man continue his business under a license under a different name than his own, then?

Mr. HOUGHTON. Under a different name than his own.

Mr. MARX. Perhaps the gentleman does not understand the necessity for a license. These are licenses which are issued to push-cart peddlers to go through the streets.

Mr. BONYNGE. Yes; I understand that. Then half a dozen people carry on their business under the same name?

Mr. MARX. Half a dozen people under one name, just as if there were half a dozen different people of the same name?

Mr. BONYNGE. Yes.

Mr. MARX. The license clerk, of course, could not tell the difference, because there is nothing in the paper to indicate a difference, or to indicate that they are the same people.

Mr. GOULDEN. Will Mr. Houghton explain before he goes any further, why these naturalization papers are so important in relation to employment in the city bureaus?

Mr. HOUGHTON. Oh, yes; I forgot to mention the object of these aliens, especially the Italians (or any other alien immigrants who come over here), in becoming naturalized citizens. Under the municipal law of New York no alien can be employed in a city department. He must be a naturalized citizen; and as the pay is excellent, of course the first object of every Italian who comes over to New York is to secure employment under the city. So he goes and gets a paper, whether he is entitled to it or not, either by substitution, false witness, or erasure, paying twelve or fifteen dollars for it, goes to the civil service, is passed there, and obtains employment. That is the object.

Going back now to this bill, gentlemen, paragraph 2 was inserted for this reason: In a case which I tried——

Mr. ADAMS. One minute, Mr. Houghton. This paragraph will not make any change in the time?

Mr. HOUGHTON. No; that is the same.

Paragraph 2 is slightly different, because there I say: "Any oath or affidavit required or authorized in this act may be taken before a judge, clerk, deputy clerk, or special deputy clerk of the courts named and specified in paragraph 1," that paragraph giving the same courts as the old act, before whom naturalization proceedings may be instituted.

The object of this paragraph, gentlemen, is this (I cite cases because our experience comes from cases which we have tried): I tried the case of a man who appeared as a witness in a naturalization case. He

was a man who had appeared many times as a witness in order to obtain naturalization papers for his friends. In that case, appearing as a witness, he took the oath before the deputy clerk of the court issuing the certificate of naturalization. In it he swore that he had known the applicant for five years, which he must do under the statute. It was proved that he had not known him for five years; he had only known him for a month or two. The paper was held up; the certificate was not issued because of certain other facts that the judge found out. But inasmuch as the law of the State of New York allows an oath to be taken before the clerk or deputy clerk of a court, we contended that inasmuch as he had made a false affidavit in a naturalization proceeding he was subject to indictment in the Federal courts.

At the first trial there was a disagreement by the jury. At the second trial he was convicted. Before sentence was passed counsel for the defendant raised the point that, inasmuch as the oath had been taken before a deputy clerk, and there was no statute of the United States permitting that oath to be taken before a deputy clerk of the court, notwithstanding the State court allows it, the Federal court had no jurisdiction. The judge wrote an elaborate opinion sustaining the contention of counsel, and the defendant was discharged. Now, it has been held by the court of appeals of the State of New York that the State courts do not have cognizance of offenses of this character. Consequently——

Mr. ROBB. Will you allow me to interrupt you?

Mr. HOUGHTON. Yes.

Mr. ROBB. Was your attention called to the prosecution of those naturalization frauds in St. Louis?

Mr. HOUGHTON. Yes.

Mr. ROBB. Before Judge Adams?

Mr. MARX. There is a higher decision than that of Judge Adams, and that is the decision of the circuit court of appeals of the United States, as reported in two Federal cases; and the decision of the court of appeals of the State of New York may not have been called to his attention.

Mr. HOUGHTON. So that we stand in this predicament, so far as our jurisdiction is concerned—that in the great city of New York, where we have so many cases, we can not prosecute these people in the State courts, and, under the learned decision of Judge Thomas, we can not prosecute them in the Federal courts.

Mr. ROBB. The change that you make is putting in the words "deputy clerk" and "special deputy?"

Mr. HOUGHTON. I am specifying the officers before whom they may be executed, and putting the words "any oath" in this act.

Mr. MARX. You see, paragraph 2 of the old act simply says "the oaths required in paragraph 1." That refers to a declaration of intention. This covers every oath.

Mr. HOUGHTON. Every oath.

Mr. MARX. Because it has been held that the oath of a witness which is taken upon a final examination is extra judicial and can not be punished; and consequently this makes it apply to every oath.

Mr. HOUGHTON. Yes. Now, I will hurry along. There is so much in this, gentlemen, that I do not know just what to say and what not to say.

Paragraph 3 is entirely new.

The object of that paragraph is that we may have some description by which we can go at the time an alien gets his first papers, as we call them, or makes his declaration of intention. An alien will apply for first papers, and he will give incorrectly the date of his arrival, and give his age as eighteen or seventeen—for what purpose? So that he can sooner obtain his final papers. So that, gentlemen, this is a matter of great importance. If he produces, before the clerk who issues this declaration of intention, a certificate from the port of entry showing his age, the date of his arrival, and some description of him, then the clerk of the court, looking at that, the minute he asks these questions, can tell whether he is answering falsely or correctly. Then again, gentlemen, it will save substitution, because we will have a description. When these aliens come in, as they do every day, and say, "I have lost my declaration of intention, will you give me another one?" the clerk will at once refer to this certificate. He can refer to that, and from the description and from the answers to the questions that are put to him he can see whether the man who originally obtained this declaration of intention has really lost it, or whether the man before him is somebody else coming in and trying to get a declaration of intention under the name of another person, which is done every day.

So that provision is for identification, and to enable the clerk of the court to see whether the applicant, when he is being examined for the purpose of issuing to him his first papers, is telling the truth or not.

Mr. MARX. If the gentlemen of the committee have no objection, I will break in wherever a suggestion has been omitted.

Mr. GOULDEN. This is Mr. Marx, gentlemen, special assistant United States attorney, who had charge of these cases.

Mr. MARX. As the time is so short, it might perhaps be better if I would break in wherever Mr. Houghton forgets any particular point, and that will save a subsequent statement on the subject.

With regard to this question of identification by means of a certificate from the Commissioner of Immigration, that certificate will absolutely and correctly give the age of the immigrant, because in all foreign countries except England, in such countries as Italy, the country that we have mainly in view, no man can leave without obtaining a passport, and of course the passport is issued on the certificate of his birth, and certain other papers; so that when he comes to the port of New York he has in his possession a passport which correctly gives the date of his birth.

Consequently, at the first step in his process of becoming a citizen, we have the correct date of his birth; so that when we ask the Commissioner of Immigration to take the date from his records (we practically do that by compelling the man, before he can file his declaration of intentions, to produce this certificate of the Commissioner of Immigration), we have on record the correct date, not from the man's memory, not as he and his friends would wish us to have it, but as it actually appears from the certificate of his birth at the place where he was born in Italy. In that way, by means of this certificate, we know exactly the date on which the man was born; and no man can then say that he arrived in the United States under the age of 18 if such was not the case. That is the object of the certificate, in addition to furnishing the description of the alien, which prevents any possibility of any mistake being made as to his age at the time of arrival.

You will note that there is a further qualification there in regard to the counter signature of the final paper. That really comes in later, but it might, perhaps, have a place here, and might be an additional security against the possibility of these declarations of intention being improperly issued to two or three people using the same piece of paper. While that would, perhaps, be something of a hardship if a man has only been a year or six months in the country, it is still a protection, through the commissioner's certificate, against the man's misrepresenting his age, because his first declaration would then be followed right through to his final papers.

Mr. HOUGHTON. Paragraph 5 is based upon the old law, with the exception that in the old law, in addition to the oath of the applicant, his residence must be proved by one witness, a citizen of the United States. I have put in here "two citizens," for this reason:

Of course when an applicant appears in court finally, he as well as his witness is subject to examination as to his qualifications to obtain his second paper. The judge, by examining two witnesses instead of one, will obtain the truth of the residence of an applicant much better than with one. One witness may be primed; the applicant may be primed as to what he will say when he is produced before the court. But you can readily see that if there are three persons—that is, the applicant and two witnesses—when they appear in court and are subjected to the examination by the court as to the right of the alien to obtain the paper, the danger of swearing falsely is made much less, because it is not probable that three persons, the alien himself and his two witnesses, could so swear falsely that the judge before whom the application is made would not detect it. It is simply as a matter of precaution that I have put that in, so that the examining judge can see, from the mouths of three persons—that is, the applicant and the two witnesses—whether or not the applicant himself is entitled to the certificate of naturalization.

Then it goes on practically the same as the old section. I will say that here on page 4, line 8, there is a typographical error. After the word "affidavit" it should read "by two citizens of the United States," should you decide to allow that to remain in.

Mr. MARX. Right on that point, Mr. Houghton, one thing has been forgotten. There is a change in this language, "the oath of the applicant shall in all cases be required to prove his residence," etc. That is in line 6, page 4. The old act is practically the same thing, except that the old act says that "the oath of the applicant in all cases shall not be proof of the facts required," and on that account the courts held that those oaths were extrajudicial, because not required or not efficient under the statute. Consequently, in order to get around a certain decision in the Federal courts in 30 Federal Reporter, we have changed the language of the statute. The old language was, I think, "But the oath of the applicant shall in no case be allowed to prove his residence." We have changed that so as to make it an affirmative provision, "The oath of the applicant shall in all cases be required," thus making it a judicial oath. Consequently, if there is any falsity in the oath, it can be punished.

Then, in addition to that, an affidavit by two citizens of the United States corroborating the oath of the applicant is required. That, in conjunction with the previous paragraph (paragraph 2) makes falsity in that affidavit punishable as perjury in the United States court, which at present it is not. That was rendered necessary by the decision in the Gottskrau case, in 30 Federal Reporter. I have not the page of that case, but it might be interesting to look it up, for you will find it annotated right down to this very last case. That was really the foundation of the first decision, which led up to the decision that the United States courts have no jurisdiction; and the State court having none, the culprit can go.

I might say right here (if you will allow me to digress) that while we have not yet reached the conclusion of the cases we have endeavored to indict these witnesses for aiding and abetting in the obtaining of certificates of citizenship by fraud and false testimony, and I really think that in that I will succeed. So far no demurrer has been interposed to the indictments, and I think that when we get to the final point the circuit court of appeals will sustain our contention; but while we are amending the law, we might as well make it perfect and not be required to go to the courts and ask them to give us an interpretation to help us out.

Another thing following that very paragraph, which has perhaps slipped Mr. Houghton's mind for the minute, because he did not have it marked, is this——

The CHAIRMAN. Gentlemen, I am sorry to call your attention to it, but we have not the permission of the House to sit after 12 o'clock.

Mr. MARX. Can I have just about five minutes?

The CHAIRMAN. Yes; we will extend the time.

Mr. MARX. Because this is the gist of the whole thing.

The CHAIRMAN. Well, go right along.

Mr. HOUGHTON (to Mr. Marx). Go right ahead and say whatever you have in mind.

Mr. MARX. This is the gist of the whole bill.

Mr. HOUGHTON. Yes; right here.

Mr. MARX (reading from page 4 of the bill). "All the proceedings required in this condition to be performed in the court shall be recorder by the clerk thereof, and the said applicant at the time of making his application as aforesaid shall file with the clerk of the court, to be made part of the proceedings required herein, a certificate from the collector of the port at which said alien arrived., or from the commissioner of immigration of said port, as the case may be, showing his age, date of arrival, port of entry, the steamer by which he arrived, and a physical description of the applicant, which shall be countersigned by the said applicant in the presence of the officer who issues the same, who shall attest the same."

Now, gentlemen, that is this bill. Of course, this bill is practically the old law as it stands, with this addition, which cures all of the defects we have found. The other parts of the bill simply carry out this one general idea. Now, the idea of that is this:

First, every immigrant has his record at Ellis Island, when he lands. Of course that record as it stands now is in a jumbled condition. When we wish to trace it back, as we do in these prosecutions, if a man tells us he arrived on a certain date by a certain steamer, we can get the manifest of that steamer; but if he tells us a lie by one day, or gives us incorrectly the name of the steamer, we never can find it out, because there is no index and nothing by which we can prosecute our search.

Now, you can see how different it would be if, before the applicant can get his first papers, his declaration of intention, he must produce his certificate of landing from the Commissioner of Immigration—a fee for which is provided here, so as to reimburse the Commissioner for having an additional clerk to assist in this work. We do not provide for the additional clerk in this bill, because we were ignorant of the exact method of providing for new officers under these bills.

That is something that we have had no experience with; but there is a fee provided for issuing this certificate. Now, then, if we have this certificate when the man makes his declaration, we have filed in court a statement showing his age at the time of arrival, which prevents him from subsequently stating that he arrived at an earlier age

than he actually did. That accomplishes one thing. Then, in order to prevent that same alien from taking his declaration of intention, getting two or three duplicates, and using those duplicates to get licenses for his various friends, we have this qualification that he shall countersign in the presence of the officer issuing the certificate; and that countersign goes through the entire bill up to the date of his naturalization; and it is provided in the bill that he shall countersign his final papers in the presence of the officer of the court granting the certificate of naturalization. So that by that means we have the counter signature, we have the signature of the applicant from the very minute he takes his first step in his process of becoming a citizen of the United States, and then we have the clerk of the court having each preceding paper before him before another paper is issued; and in that manner there can be no impersonation and no fraud.

That is the point of this provision.

That brings us back to the argument which I heard while I was sitting here, as to the educational qualifications of immigrants; and of course that is an open question, I admit. But in the United States, where citizenship is rapidly increasing in value, I think our citizenship should be worth something.

Mr. BONYNGE. You provide that the applicants must be able to write their names?

Mr. MARX. Well, if the man has any intelligence, the first thing he will do is to learn to write his name, and if he has no intelligence he can be taught to write his name, if he has enough brains to be willing to study for, say, a month. Consequently, we do not go as far as this bill that was discussed before we arose.

We do not compel the immigrant to have an educational qualification, but we compel him to have enough intelligence to be able to learn to write his name before he declares his first intention to become a citizen. And if citizenship in the United States is to be held so cheap that to attain it a man will not take the trouble to go to a school for a few weeks and learn to write his name, which we require as a safeguard to prevent fraud, then I say that man is not entitled to become a citizen.

Mr. ADAMS. I know they are so kept now; but are the records of the Immigration Bureau in such shape that this man can get his data easily?

Mr. HOUGHTON. Yes.

Mr. MARX. Why, if this bill passes, I suppose it can only apply to future immigrants. The bill provides for certain fees. Of course the immigration is so large that they will amount to a hundred times more than will be necessary to pay for the clerk. Consequently the Commissioner would be in duty bound, in order to be able to comply with the law, to have a clerk, and to keep these things in tabulated form, or, rather, indexed according to names, or even according to the first, second, and third letters of the names, for we have so many hundreds of thousands of immigrants every year that it would be absolutely necessary to tabulate the names and arrange them alphabetically up to the third or fourth letter of the names before they can be referred to readily. Then the Government will have a vast amount of money on hand from this source.

Mr. HOUGHTON. I just want to say this: This is a safeguard against the issuing of duplicates or certified copies; because, let me tell you, gentlemen, that every single day in our courts there is a line of men that reaches from here to the street, three-fourths of whom are not going in there to get their final papers, but to get duplicates; and there is no way on earth for the clerk of the court, or any man connected with the court, to tell whether the person who applies for the duplicate is a person who originally applied or not. They issue those duplicates, and these aliens take these duplicates and not only use them for their friends in the city, but send them over to Europe and out into the country; so that persons who are not entitled to vote upon them do so—they and their sons, if they have sons. They do that, gentlemen; and this is to prevent that.

Mr. DOUGLASS. Why should they issue these duplicates?

Mr. HOUGHTON. They do it; and I want to tell you, gentlemen, that in our investigation in New York City we found that when these people would appear before the civil-service boards, as they have to do, to pass the examination so that they can obtain positions in the city department, sometimes out of 25 papers 12 would be fraudulent; out of 40 papers 20 would be fraudulent; and that is the way it has been going on. They would be fraudulent in one way or another, as I have mentioned; and there would be a great many of those duplicates, fraudulent duplicates.

Mr. MARX. Mr. Douglass asked why they issue those duplicates. You can go to the clerk's office, and if the clerk refuses to issue you a hundred duplicates of any naturalization paper on record, not your own, but anybody else's, you can get a mandamus and compel him to issue them to you. That is because a duplicate is simply a certified copy of a court record, and anybody in the world is entitled to a certified copy of any court record which is not sealed, as is done in divorce cases.

Consequently this will be the only exception upon the statute books, and the clerk is authorized by law not to give a duplicate to anybody who can not countersign similarly to the signature upon his records. That is an absolute safeguard. Of course, we will admit that this law, as amended, is not perfect. We are working on these naturalization frauds, and we expect to take, perhaps, a year before we halfway clean up the citizenship of the United States and get rid of these fraudulently naturalized citizens. It will take us, perhaps, about a year. During that year we will live and learn, and by the time we get through cleaning them up we will know more precisely what is needed in this line. Yesterday we convicted two men, and sent one of them away on the spot for two years; the day before we sent about seven of them to the Kings County Penitentiary; and we have about fifty more to dispose of to-morrow and the next day and Friday. We hope to send them away for varying terms, and in that way we expect to prosecute, perhaps, fifteen hundred people in the city of New York during the next year, and so inflict the punishment upon the general community that they will not forget it for some time to come. But there will be a time when they will forget it, unless the law is safeguarded.

Mr. GOULDEN. Do these abuses prevail elsewhere?

Mr. HOUGHTON. Oh, yes; all over the country.

Mr. MARX. I had a case referred to me for investigation by the Department of Justice, it having been sent to the Department of Justice from the Department of State, where it was "up to" a judge in the State of New York, in one of the upper counties. After my investigation was completed the judge admitted that he was careless; and I told him that I thought he was almost criminally careless, but under the circumstances I was willing to consent to the cancellation of the certificate, and let it go at that. The Department was satisfied to have that course taken, because there was a possible element of doubt as to good faith on the part of the judge, and it was thought that a conviction would not lie. We, therefore, did not think we ought to smirch a man's character under such circumstances, especially as the man had been highly vouched for, and had only been on the bench about a year. But that is the situation all through the State of New York.

Mr. GOULDEN. Were many of these certificates sold?

Mr. HOUGHTON. Oh, a great many; and they have paid up to $65 for them.

Mr. MARX. Every man that has been arrested has admitted sales amounting to a hundred; and when a culprit admits that he sold a hundred the probabilities are that he sold a thousand. They have sold them from $12 as the minimum price up to——

Mr. HOUGHTON. Sixty-five.

Mr. MARX. I have had a bunch of them at $50.

Now, it does not stop at the State of New York. The Armenians do it up in Rhode Island. They have been prosecuted. The authorities there have endeavored to stop it. The trouble is that some of the clerks of the courts are in collusion with these people; I will admit that.

Some of the county clerks in the State of New York are willing to close one eye in these cases, because in that manner they are able to sell these papers; they sell these poor devils "red, white, and blue papers," as they call them, with a little ornamentation, a red, white, and blue American flag on them, and charge them $2.50 instead of a dollar. That extra dollar and a half goes into the county clerk's pocket. All that is stopped by this provision; and it prevents the possibility of these fellows walking up like a bunch of sheep and simply handing in their two dollars and a half and getting a paper whether they are entitled to it or not.

Mr. HOUGHTON. Now, gentlemen, General Burnett's letter to Mr. Goulden, which I dictated, explains the rest of these paragraphs.

Mr. GOULDEN. I am going to submit that.

Mr. HOUGHTON. The one in reference to giving power to the district attorney to summon witnesses is especially important.

Mr. MARX. If the gentleman will wait for just a moment on that one point——

Mr. BONYNGE. What is the point?

Mr. MARX. This is a new paragraph, which gives the district attorney power to subpœna all citizens of the United States for examination in the event of suspicion as to the genuineness of their papers.

Mr. ADAMS. What page is it on?

Mr. MARX. Page 7, paragraph 11. In the State of New York we do not need that law, because we have a superintendent of elections who is authorized by statute to subpœna all witnesses. This paragraph is copied from the State law, I believe, and is practically the same as the State law. We simply go to the superintendent of elections, and so long as he is in sympathy with this movement he subpœnas any voters whom we ask; and under the stress of that subpœna they are examined, and we can ascertain from their admissions whether their papers are genuine or not.

But outside of the State of New York, there is not any such law, and as this prosecution is going to continue, starting from New York as the center we are going to work westward; we are going up to Troy, then out to Buffalo; then we are going to work our way to Chicago and St. Louis, and go right to the coast and back, and clean up the citizenship throughout the United States. We need some such provision outside of the State of New York. We do not care for it for the State of New York, because we have that power there as long as we have a superintendent of elections who is willing; but outside of the State we need it very badly.

There is no law now in the United States permitting us to use the testimony of a person convicted of a crime. In the case that I referred to in the beginning, against the clerk of the court, we were obliged, because we had no law permitting us to use the testimony of a person convicted of a crime, to pardon five of these parties who had been implicated in naturalization frauds.

Mr. ROBB. You say that a man who is convicted of a crime can not testify?

Mr. HOUGHTON. He can not testify—not in the United States courts.

Mr. ROBB. Then there was a very grievous error in the prosecution of those cases in St. Louis.

Mr. MARX. That was under a State law, was it not?

Mr. ROBB. They were prosecuted in the Federal courts.

Mr. HOUGHTON. You can not do it in the Federal courts.

Mr. ROBB. These men were taken out of the penitentiary and sent down there to testify, and they were afterwards pardoned on the testimony given.

Mr. MARX. Counsel for the defense did not raise the objection then.

Mr. ROBB. A very able judge tried the case I know.

Mr. MARX. Well, he did not raise the objection; he may not have understood the point.

Mr. HOUGHTON. But it can not be done under the United States law.

Mr. BONYNGE. They pardoned them afterwards, you say?

Mr. ROBB. Yes; they pardoned them afterwards.

Mr. HOUGHTON. They can not do it under the United States law, and in the State of New York there is a provision to that effect; so, as I say, that point was raised on us.

Mr. BONYNGE. Which is your section, please?

Mr. HOUGHTON. Section 8, page 13. I have therefore put a section in there which so provides that we will not have to pardon persons convicted of a crime when we wish to use them to give evidence and trace out the line of a crime. Many a time we have to use a person convicted of a crime; and, as I say, in this case where we have had the clerk of the court on trial, we had to pardon five persons, because each one was a necessary link in proving our case and corroborating others. So that that is a very important section to be passed.

Mr. MARX. I would like to say just one word in conclusion——

The CHAIRMAN. I think we will have to adjourn here, gentlemen.

Mr. MARX. Just one minute, Mr. Chairman; it will not take me one minute. I want to say this—that during this year we will be learning more about this naturalization law; and if the bill in its present state is passed, and a commission, say of lawyers, is appointed to revise the naturalization laws between this session and the next session of Congress, we will then be in a position to get up an absolutely perfect naturalization bill.

After consultation with the President, Attorney-General, and the Secretary of Commerce and Labor, I introduced a joint resolution in lieu of the bills named, providing for the appointment of a commission of three to investigate the whole matter and to report a measure that would remedy the evils and simplify matters. This resolution was reported from the committee,

carrying with it an appropriation of $5,000 for the actual necessary expenses, but met with the opposition of the Speaker; hence failed being enacted into law.

The President, realizing the importance of the matter, however, named a commission consisting of three, one from the Attorney-General's office, one from the Department of Commerce and Labor, and one from the United States Treasury. This commission made a thorough examination, and two reports have been made, from which the committee, in the wisdom of its members and with some additions, have brought in by a unanimous vote bill No. 15442, now under discussion. It is a comprehensive measure, embodying the salient points of House bill No. 12762, introduced in 1903, and reintroduced in the present Congress in December, 1905, by myself, and known as No. 8424. [Applause.]

It is made up of thirty-two sections and, taken as a whole, seems satisfactory, except that portion of section 9 requiring an alien to be able to read, speak, and understand the English language. I would favor an amendment to strike that out, as the other portion of this section is sufficient to afford the proper protection to the sanctity of the ballot. I shall offer an amendment later striking out this clause, or at least these words, on page 9, section 9, line 24, "read" and "understand." The fees having been reduced by the committee, I have no objections to that section. If I had any other criticism to make, it would be that the bill is not drastic enough in its punishment of the crimes against the laws entitling aliens to the great boon of American citizenship. No one not familiar with the subject could possibly realize the extent of the evils and the dangers attending this matter of assimilating the alien into our body politic and making citizens that are to help us guard and advance our glorious free institutions. This bill will do much to stop fraud and to help purify the atmosphere in the matter of naturalization. It is therefore entitled to our favorable consideration. [Applause.]

Mr. BONYNGE. Mr. Chairman, I yield ten minutes' time to the gentleman from Indiana [Mr. CRUMPACKER].

Mr. CRUMPACKER. Mr. Chairman, the dominant purpose of the bill under consideration is to protect American citizenship against the fraudulent naturalization of aliens, and incidentally to impose additional qualifications on the right to become a citizen. The bill, in the main, is a good one. It contains a number of wholesome safeguards against fraudulent naturalization, and it provides for the cancellation of certificates of citizenship that have been procured through fraud and perjury.

In my opinion naturalization laws should be rigidly protected against fraud and imposition, and, on the other hand, they should be fairly liberal, so that practically all of the people who come from foreign countries to permanently identify themselves with us may be enabled to become citizens and share the privileges and immunities of citizenship and be required to assist in bearing the burdens of government and contributing toward its defense. I conceive it to be a very unwise policy for this or any other country to permit a substantial number of aliens to live permanently within its borders without enjoying the rights and bearing the responsibilities of citizenship. Our scrutiny and care ought to be directed, in the main, to the admission of aliens at our ports, in the first place. Our policy should be to admit no alien into this country for permanent residence whom we do not believe at the time of his admission will become fitted for ultimate citizenship, and I express the hope that at an early day Congress will enact a law imposing more rigid restrictions upon immigration. I do not mean to be understood as favoring such restrictions as will keep from our shores men of foreign birth who will thoroughly identify themselves with our civilization and our system of Government. This country owes much of the splendid condition it enjoys to-day to the contributions made toward its general advancement by men of foreign birth, and it has always been the policy of the Government to be liberal in admitting those from foreign countries whose presence here will tend to promote the general upbuilding of our civilization.

Some criticism might justly be made against the provision in the bill requiring a preliminary declaration of intention before ultimate citizenship can be granted. The bill provides that the preliminary declaration must be made not less than two nor more than five years before the final application for citizenship. In order to secure citizenship the applicant must be free from certain objectionable qualities described in the bill, and he must be able to read and understand the English language. In his preliminary declaration he is not required to possess the educational qualifications. By his declaration of intention an alien severs his allegiance to his foreign sovereign, and still he does not become a citizen of the United States. If he shall finally be unable to secure citizenship, he will be altogether without a sovereign to look to for protection in exigencies that might possibly arise. He will be a man without a sovereign. Of course an alien who lives in this country with the permission of this Government is bound to yield a temporary and qualified allegiance to the Government, and, on the other hand, the Government is obliged to secure to him a correspondingly qualified protection, but he is not a citizen. Many of the rights and privileges of citizenship, such as the ownership of land and the inheriting of property, denied in many of the States to aliens, do not belong to him. In my judgment, Mr. Chairman, it would be better to have no preliminary declaration of intention at all. The commission appointed by President Roosevelt a short time ago to investigate the subject of naturalization, in its report submitted to Congress last December, recommended the abolition of the declaration of intention. This country and Mexico are the only countries that require a preliminary declaration as a condition precedent to citizenship. The bill provides adequate means to ascertain the identity of an applicant for citizenship; so the preliminary declaration can subserve no useful purpose, and it may in some instances work an irreparable hardship. In the States of Arkansas, Indiana, Kansas, Michigan, Missouri, Nebraska, Texas, Oregon, and Wisconsin an alien may vote upon complying with the State laws, after having made his preliminary declaration to become a citizen of the United States. Under possible exigencies of American politics the election of a President and Vice-President and the determination of the policies of the Government might be determined by the votes of aliens. In all the other States no person is allowed to vote who is not a citizen of the United States. If the preliminary declaration of intention should be dispensed with, no alien could vote in the nine States I have mentioned. Sir, I believe the election laws ought to prevent anyone from participating in elections in this country until he has become a citizen of the United States.

There have been numerous frauds committed against the naturalization laws, chiefly in the large cities of the country. These frauds have been induced in the main by the desire to vote, to secure protection abroad, and to secure rights and privileges under the labor laws of some of the States and municipalities, which prevent anyone who is not a citizen of the United States from being employed in any public work. An alien who has declared his intention to become a citizen and yet can not comply with the requirement that he shall read and understand the English language in order to consummate his citizenship is denied employment in any kind of public work in a number of the States and cities. I have been informed that the State Department has considered a possible modification of treaties with foreign countries in order that immigrants from those countries may be entitled during their sojourn here to all the privileges and immunities of citizenship in so far as industrial rights are concerned. It would, in my judgment, be of very doubtful propriety for the Government to enter into treaties of that character. It would most likely excite deep feeling and hostility on the part of States and municipalities.

I desire to call the attention of the House especially to the abuses that grow out of the right of protection of naturalized citizens in foreign countries. A great many aliens come to this country, remain long enough to comply with the naturalization laws and secure certificates of citizenship, then return to the country of their nativity, take up permanent residence therein, and claim protection of the United States as American citizens. Many fraudulent certificates of citizenship have been issued to this class of aliens. Many certificates that are pure forgeries have been sold and claim has been made thereunder for the protection of this country in foreign lands. Abuses have become such that it is a constant source of embarrassment and irritation between the United States and certain foreign governments.

It is the policy of our laws to issue passports to all citizens who desire to travel abroad and to protect naturalized citizens in foreign countries to the same extent as native citizens are protected. The laws of the country and the policy of the Government have made absolutely no distinction between native and naturalized citizens either at home or abroad, and they should make no distinction. When an alien becomes a citizen of the United States in good faith he is entitled to all the privileges and immunities of citizenship wherever he may rightfully be, whether at home or abroad, but if an alien comes here with the intention of remaining only long enough to become naturalized and then to go to a foreign country for permanent domicile and claim the protection of this Government, it is a fraud not only against the United States, but it would be a fraud against the country to which he went to live.

In all of the non-Christian countries, excepting Japan, and in some semibarbarous countries the United States, under spe-

cial treaties, secures to American citizens living in those countries the right to be tried upon criminal charges, not under the laws and in the courts of those countries, but in American consular courts in accordance with American law and usages. This is what is called "the policy of extraterritoriality." It is the boast of this Government that it adequately safeguards the rights of citizens who are on trial for life or liberty, and the fact that these safeguards may be carried by American citizens into foreign countries where the rights and privileges of the individual are not so sacredly considered, is a privilege of inestimable value, but it is designed only for real American citizens.

A considerable number of our foreign-born population secure passports to foreign countries within a few months after they become citizens, and many of them never return to the United States and never expect to return when they leave this country bearing with them certificates of American citizenship. A great deal of irritation has been created, particularly in parts of Turkey, by subjects of that Empire who have come to America and gotten certificates of naturalization, returned there as permanent residents, and claimed protection of the American Government. Serious international troubles may possibly arise from this situation, and it is highly important that the Government protect itself as far as possible against this source of fraud and danger. It is said that there are over a thousand natives of Turkey who are permanently residing in the city of Jerusalem at this time who hold certificates and passports as American citizens and who claim the rights of American citizens in the country of their origin under the provisions of existing treaties. The Commission on Naturalization, speaking of this class of men, said:

> It appears from the records of the passport bureau of the State Department that approximately 16 per cent of the naturalized citizens who apply for passports are naturalized within six months of the date of their application—that is to say, they are naturalized, it is fair to assume, after they have determined to go abroad. Living in this country as aliens, they avoid the responsibility and duties of citizens; going abroad, they secure one of the highest privileges of citizenship—that of protection in case of need while in a foreign state. Some of them have come to the United States for no other purpose than to escape the duties of citizenship in their parent state and remain here only long enough to become naturalized as American citizens, when they leave our jurisdiction.

President Grant, in 1869, in his first annual message to Congress, in discussing this class of people, said:

> They reside permanently away from the United States; they contribute nothing to its revenues; they avoid the duties of citizenship, and they only make themselves known by a claim for protection.

Legislation has been repeatedly recommended by various Presidents that would authorize the State Department to relieve the Federal Government from the embarrassment of dealing with this class of individuals. The trouble is not confined to aliens who return to the country of their nativity, but many aliens secure naturalization under our laws, obtain American passports, and go to countries in the West Indies to carry on business, to live permanently, and claim protection as American citizens there.

Abuses of the rights of citizenship came to be so grievous and a cause of so much trouble to the Government that some years ago the State Department, without express authority of law, issued instructions to American diplomatic and consular representatives in foreign countries that where one born abroad had obtained naturalization under our laws and had returned to the country of his origin or to any other foreign country and taken up a permanent domicile and continued to remain therein for a period of five years, with no apparent intention of returning to the United States, that the protection accorded to American citizens should be withdrawn from him.

Citizenship is conferred upon aliens with the implied understanding that they are to become permanent residents of the United States, and for the rights and privileges they receive by virtue of their acquired citizenship they are in duty bound to yield allegiance to this Government, to contribute toward its maintenance, and assist in its defense. The class of individuals to which I have referred voluntarily expatriate themselves, and for all practical purposes become foreigners. They put themselves in a condition where they contribute absolutely nothing toward the maintenance of our Government. They can not be called upon to assist in its defense. By virtue of every principle of equity and fair dealing they have forfeited the right to claim protection from this Government.

Under the law as it exists at this time an applicant for citizenship is not required to state or prove that it is his intention to become a permanent resident of the United States if he shall become a citizen. The court granting citizenship may be apprised of the fact that it is his intention to permanently absent himself from the country and yet the right must be granted. One of the most salutary features of the bill under consideration is that it requires an applicant for naturalization to solemnly swear that it is his intention to become a permanent resident of the United States if citizenship shall be granted to him.

Section 17 of the pending bill contains provisions for the cancellation of fraudulent certificates of citizenship. If any alien shall impose upon the court by perjured testimony, or if a certificate has been issued in violation of law, the bill makes the certificate invalid and authorizes proceedings in any court of competent jurisdiction to cancel the certificate of citizenship, and notice of cancellation shall be sent to the Department of Commerce and Labor and duly recorded. Naturalization is a privilege of great value, and proceedings to establish it ought to be solemnly and rigidly observed. The boon of American citizenship must not be cheapened by lax and unconventional methods of courts and public officers who administer the law, but once granted it should endure for all time. It is conferred by the Federal Constitution and by laws authorized by the Constitution. When citizenship is once legally granted, of course it can not be invalidated, and it ought not to be, but no one questions that it is within the power of the Government to provide for the cancellation of certificates of citizens that have been fraudulently obtained. A certificate tainted with fraud is in the sense of the law no certificate at all.

When the time comes for proposing amendments to the bill, I intend to offer an amendment providing in effect that where an applicant secures a certificate of citizenship under the present bill, if it should become a law, and within five years after securing his certificate returns to the country of his nativity or goes to any other foreign country and takes up a permanent domicile therein, it shall be regarded as prima facie evidence of a lack of intention on his part to become a permanent resident of the United States at the time he applied for and obtained his certificate of citizenship, and in the absence of other evidence it will be sufficient to justify the court in a proper proceeding to cancel his certificate as fraudulent. The bill provides for cancellation of certificates of citizenship upon constructive notice where the holder of such certificate is out of the United States. I have no doubt of the power of Congress to make such provision. Citizenship is a status, and the cancellation of the certificate does not operate as a judgment in personam, but as a judgment in rem. The decree canceling a certificate simply operates upon a status that the holder of the certificate has obtained in this country, under its laws upon fraudulent representation; for instance, upon the representation that he intended to become a permanent resident of this country, when, in fact, he did not.

If this amendment should be adopted, it would afford a great deal of relief to the Government against the troublesome claims of holders of spurious certificates abroad. It will not altogether cure the evil, for an alien might reside in this country for five years to secure citizenship and might continue to reside here for five years after having secured it and then go abroad and permanently expatriate himself from this country and claim protection from this Government; but if it was understood that it required a residence in this country of at least ten years—five years before citizenship and five years afterwards—to enable the holder to secure the protection of American citizen in his permanent residence abroad, there would be little inducement for such people to attempt frauds against the naturalization laws of this country for such purpose. Of course citizens of the United States, whether native or naturalized, who are in foreign lands, on business or for pleasure or health, for any length of time do not and should not forfeit protection as citizens. The amendment I propose is aimed chiefly at the class of aliens who come here for the sole purpose of securing citizenship to be used abroad to protect them against the impositions and exactions of foreign countries where they intend to permanently live.

The effect of the amendment will not be to decitizenize an American citizen nor to take from a citizen any of his rights as such. It simply provides a rule of evidence by which courts may, in the absence of contrary proof, infer a fraudulent design on the part of the holder of the certificate in the first instance to secure citizenship for improper purposes. Fraud vitiates all proceedings and can be the basis of no right in law. It is in line with the theory of section 17 of the bill, and I am sure that its adoption would afford much relief to the country in a direction where some specific remedy is badly needed.

I will print in the RECORD as an appendix to my remarks a circular letter by the State Department to the diplomatic and consular officers of the United States on March 27, 1899, respecting the rights of holders of American passports in foreign countries.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NORRIS. Mr. Chairman, I ask unanimous consent that the gentleman's amendment may be read now for the information of the committee.

The CHAIRMAN. Is there objection to the amendment of the gentleman from Indiana being read at this time for the information of the committee?

There was no objection.

The Clerk read as follows:

Insert after line 25 on page 16 the following:

"If any alien who shall have secured a certificate of citizenship under the provisions of this act shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United State in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship."

PASSPORTS FOR PERSONS RESIDING OR SOJOURNING ABROAD.

DEPARTMENT OF STATE,
Washington, March 27, 1889.

To the diplomatic and consular officers of the United States.

GENTLEMEN: It has been represented to the Department that a greater uniformity than now prevails is desirable in the treatment of applications for passports from persons who allege American citizenship and who have been absent from the United States for a prolonged period and are unable or refuse to give a definite promise of return. Diplomatic officers and consular officers having authority to issue passports will, therefore, follow the general principles of this instruction; but wherever a doubt arises as to the propriety of issuing or withholding a passport, they will communicate all the facts of the case to the Department and await its instructions.

This Government does not discriminate between native-born and naturalized citizens in according them protection while they are abroad, equality of treatment being required by the laws of the United States. (Secs. 1999 and 2000, R. S.) But in determining the question of conservation of American citizenship and the right to receive a passport it is only reasonable to take into account the purpose for which the citizenship is obtained. A naturalized citizen who returns to the country of his origin and there resides without any tangible manifestation of an intention to return to the United States may therefore generally be assumed to have lost the right to receive the protection of the United States. His naturalization in the United States can not be used as a cloak to protect him from obligations to the country of his origin while he performs none of the duties of citizenship to the country which naturalized him. The statements of loyalty to this Government which he may make are contradicted by the circumstance of his residence, and are open to the suspicion of being influenced by the advantages he derives by avoiding the performance of the duties of citizenship to any country. It is not to be understood by this that naturalized American citizens returning to the country of their origin are to be refused the protection of a passport. On the contrary, full protection should be accorded to them until they manifest an effectual abandonment of their residence and domicile in the United States.

A passport is in its terms a statement that the person it names and describes is a citizen of the United States, and it is forbidden by law to issue one to any other than a citizen of the United States. (Sec. 4076, R. S.) The Secretary of State, and under him our diplomatic and consular officers, with certain restrictions, may grant and issue passports under such rules as the President prescribes. (Sec. 4075, R. S.) As a general statement, passports are issued to all law-abiding American citizens who apply for them and comply with the rules prescribed, but it is not obligatory to issue one to every citizen who desires it, and the rejection of an application is not to be construed as per se a denial by this Department or its agents of the American citizenship of a person whose application is so rejected.

A condition precedent to the granting of a passport is, under the law and the rules prescribed by authority of the law, that the citizenship of the applicant and his domicile in the United States and intention to return to it with the purpose of residing and performing the duties of citizenship shall be satisfactorily established. One who has expatriated himself can not, therefore, receive a passport.

Expatriation has been defined by Mr. Hamilton Fish as "the quitting of one's country with an abandonment of allegiance and with the view of becoming permanently a resident and citizen of some other country, resulting in the loss of the party's preexisting character of citizenship." Thus, a person "may reside abroad for purposes of health, of education, of amusement, of business for an indefinite period; he may acquire a commercial or civil domicile there, but if he do so sincerely and bona fide animo revertendi, and do nothing inconsistent with his preexisting allegiance, he will not thereby have taken any step toward self-expatriation. But if, instead of this, he permanently withdraws himself and his property and places both where neither can be made to contribute to the national necessities, acquires a political domicile in a foreign country, and avows his purpose not to return, he has placed himself in the position where his country has the right to presume that he has made his election of expatriation." There being no legislative definition of what constitutes expatriation, it is a fact to be determined by the circumstances surrounding each case that arises.

But even where expatriation may not be established, a person who is permanently resident and domiciled outside of the United States can not receive a passport. "When a person who has attained his majority removes to another country and settles himself there, he is stamped with the national character of his new domicile; and this is so, notwithstanding he may entertain a floating intention of returning to his original residence or citizenship at some future period, and the presumption of law with respect to residence in a foreign country, especially if it be protracted, is that the party is there animo manendi, and it lies upon him to explain it." (Mr. Fish to the President, For. Rels. 1873, 1186 et seq.) If, in making application for a passport, he swears that he intends to return to the United States within a given period, and afterwards, in applying for a renewal of his passport, it appears that he did not fulfill his intention, this circumstance awakens a doubt as to his real purposes, which he must dispel. (For. Rels. 1890, 11.)

The treatment of the individual cases as they arise must depend largely upon attendant circumstances. When an applicant has completely severed his relations with the United States; has neither kindred nor property here; has married and established a home in a foreign land; has engaged in business or professional pursuits wholly in foreign countries; has so shaped his plans as to make it impossible or improbable that they will ever include a domicile in this country—these and similar circumstances should exercise an adverse influence in determining the question whether or not a passport should issue. On the other hand, a favorable conclusion may be influenced by the fact that family and property connections with the United States have been kept up; that reasons of health render travel and return impossible or inexpedient, and that pecuniary exigencies interfere with the desire to return. But the circumstance which is perhaps the most favorable of all is that the applicant is residing abroad in representation and extension of legitimate American enterprises.

The status of American citizens resident in a semibarbarous country or in a country in which the United States exercises extraterritorial jurisdiction is singular. If they were subjects of such power before they acquired citizenship in the United States, they are amenable, upon returning, to the same restrictions of residence as are laid down in the beginning of this instruction, and for the same reasons; but if they are not in that category, their residence may be indefinitely prolonged, since obviously they can not become subjects of the native government without grave peril to their safety. The Department's position with respect to these citizens has uniformly been to afford them the protection of a passport as long as their pursuits are legitimate and not prejudicial to the friendly relations of this Government with the government within whose limits they are residing; and the Department has even held that persons who are members of a distinctly American community in Turkey and avail themselves of the extraterritorial rights given by Turkey to such communities may inherit their rights as American citizens, and that section 1993 of the Revised Statutes of the United States, which provides that "the rights of citizenship shall not descend to children whose fathers never resided in the United States," is not applicable, such descendants being regarded, through their inherited extraterritorial rights recognized by Turkey herself, as born and continuing in the jurisdiction of the United States. (For. Rels. 1887, 1125).

I am, gentlemen, your obedient servant, JOHN HAY.

The CHAIRMAN. Is there objection to the amendment of the gentleman from Indiana being read at this time for the information of the committee?

There was no objection.

The Clerk read as follows:

Insert after line 25 on page 16 the following:

"If any alien who shall have secured a certificate of citizenship under the provisions of this act shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship."

Mr. BONYNGE. Mr. Chairman, I now yield to the gentleman from Illinois.

[Mr. McGAVIN addressed the committee. See Appendix.]

Mr. GOLDFOGLE. Mr. Chairman, I now yield to the gentleman from California [Mr. SMITH].

Mr. SMITH of California. Mr. Chairman, I feel quite confident that this bill has been prepared with the subject of naturalization in the cities chiefly in mind. But applying it to the rural districts and the larger Territorial organizations of the West it seems to me it will work a very great hardship upon the class of foreigners who desire citizenship and against whom there is generally no objection. If the provisions in this bill were applied to the metropolis of San Francisco or Boston or New York I would not profess to know enough about the subject to discuss it, but I can see many hardships in the bill as applied to men working in the mines or in the lumber regions or on the ranches at a distance from the county seat. Under the law of California a person must be naturalized at least ninety days before election day. This bill provides that before he can be naturalized he must file his petition or his first papers in the matter ninety days before the final hearing—that is, six months, and it provides that at the time he files the original petition for naturalization he must have been in the State a year, thereby compelling a very large class of people through the West to be residents of the State for a year and a half before they can be naturalized. It provides again for the filing of a statement of such a complex nature that I am satisfied that at least a very large per cent of the people would make fatal errors in preparing such a statement if they were not assisted by an attorney.

Let us note briefly the procedure required by this bill for

gaining citizenship, having in mind a man who is not an attorney or one not accustomed to drawing papers:

First, he must make and fill in duplicate a petition in writing and duly verified, in which he states his name, residence, occupation, date and place of birth, the place from which he emigrated, date and place of arrival in the United States, and the name of the vessel on which he arrived; the time and place of declaring his intentions to become a citizen; if married, the names, ages, and birthplace of each member of his family. A somewhat lengthy statement as to his views and citizenship, polygamy, and his intentions as to remaining domiciled in the United States. Whether he has ever been denied naturalization, and if so, the cause, and show that that cause is now removed, "and every fact material to his naturalization, and required to be proved upon the final hearing of his application."

This long and technical petition shall be verified by two witnesses and who shall state in addition that they have personal knowledge that the alien has resided in the country five years, and in the State or Territory one year.

Preceding all this, the alien must have applied to the Department of Commerce and Labor and obtained a certificate of the time, place, and manner of his arrival in this country, and a copy of his "first papers," both of which must be filed with the foregoing verified petition. If he can not prove continuous residence by present witnesses, he may file depositions showing residence for part of the time, "upon notice to the Bureau of Immigration and Naturalization and the United States attorney for the district in which said witnesses may reside."

Each and all of these provisions appear to be jurisdictional. No wheel can turn until they have been complied with, and the bill does not seem to give the court any leeway in the matter of exercising the nonperformance of these multitudinous conditions. Certainly, here is a great deal of painstaking and technical work. How many aliens, remembering dates and our names of cities and courts but imperfectly, could comply with these demands? And what good purpose results from all of this circumstantiality? It will require the services of a pretty careful attorney to get all of these papers in shape, so as to give the court jurisdiction to hear the cause. And it should not be forgotten that the question of jurisdiction will follow this would-be citizen through all his vocations in life. If he be called to serve as a juror, grand or trial, or be called to serve the country in any civil or military capacity, or claims the protection of the flag which he thinks he has adopted, the legality of his naturalization will turn primarily upon the correctness of this apparently useless, but complex petition.

Petition being made and filed, the clerk gives ninety days' notice—a procedure of no practical value outside of half a dozen large cities—and sets the case for a "stated date" theretofore fixed by the rules of the court. If the alien is not present on the day fixed—and in large counties and among busy men it will very often be impossible for him to attend with his witnesses on a day fixed three months in advance—there is no provision for having the hearings continued, and, apparently, the whole proceeding would have to be begun over again.

It is clear to my mind, Mr. Chairman, that this procedure is entirely too complicated, that men who would make entirely satisfactory citizens will be deprived of the blessing of citizenship with no corresponding good in any other direction. I am willing to go a long way toward keeping undesirable foreigners out of this country, but substantially every one who should be permitted to come in should be permitted to enjoy the full blessings, privileges, and burdens of citizenship. If they are not fit to be citizens, let them be stopped at the gate of the nation. But having admitted them to our territory, no good will come from making naturalization complex and difficult. The provisions of this bill would work a great hardship on many miners, stockmen, and ranch men in my district, and I can not support it. [Applause.]

Mr. GOLDFOGLE. Mr. Chairman, I yield three minutes to the gentleman from Maine [Mr. POWERS].

Mr. POWERS. Mr. Chairman, I fully concur in what has just been said by the gentleman from California [Mr. SMITH]. I yield to no man in my desire that we should have no one admitted to citizenship but those who are capable of it and who will make good citizens. I believe that the first place where we should exercise the greatest care is in the admission of foreigners or immigrants, for I am a believer in the doctrine that this great continent of North America should belong to Americans, and that we should permit none to come here and settle who will not in process of time become worthy to share and uphold the blessings of this Republic. I have read this bill but cursorily, yet it seems to me that it does some things that are entirely uncalled for. I shall favor the amendment offered by the gentleman from Illinois [Mr. WHARTON] in reference to the reading and writing of some language, for I believe that there may be people who emigrate to this country after they are, say, 40 or 50 years of age and who have lived among their own people all the time—people speaking their language—who may not be able to read and write and speak the English language though they have resided in the country five years, and who yet would make good citizens. This bill requires that there should be furnished all the evidence, it seems to me, that is necessary, and more too, without the paragraph to which I wish to call attention. I find on page 9 a provision in the bill that, it seems to me, is entirely unnecessary and which will in many cases work a great hardship to many who may desire to become naturalized.

Commencing on line 17 there is the provision that at the time of filing his petition there shall be filed with the clerk of the court a certificate from the Department of Commerce and Labor, if the petitioner arrived in the United States since January 1, 1900, stating the date, place, and manner of his arrival in the United States, and the declaration or intention of such petitioner, which certificate and declaration shall be attached to and made a part of said petition. The previous sections of this bill make it necessary for him not only to declare, but to show by two witnesses who have known him intimately, that he has been here at least five years and will make a good citizen, loyal and well affected to the Government. I do not know, though there may be some such, of any statute by which every immigrant coming to this country is reported to the Bureau of Commerce and Labor and has been since 1890. Certainly I do know that there are many who would make excellent citizens that have come across the border from Canada, of which there is no record.

Mr. BONYNGE. Mr. Chairman, if the gentleman will yield to me for a moment, I will call his attention to the fact that that has been the practice since 1900, and by section 1 of this bill it is provided for by statute.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOLDFOGLE. Mr. Chairman, I yield one more minute to the gentleman from Maine.

Mr. BONYNGE. I call the attention of the gentleman to section 1 of the bill, which provides that he shall be given such certificate.

Mr. POWERS. Mr. Chairman, I wish to reiterate in reply what I have perhaps already stated, that there are a large number of immigrants coming to this country from the Dominion of Canada and from Mexico, and who have come here since 1890, of whom, I believe, there can not possibly be any record. Many of them would make the best citizens, and I think this section as it stands should be either amended or stricken from the bill.

Mr. GOLDFOGLE. Mr. Chairman, in the limited time remaining for general debate I will not have the opportunity to discuss as fully as I would wish the questions involved in the bill now before us. Whatever legislation may be necessary to safeguard our country against the commission of fraud in the naturalization of aliens ought to be enacted. To legislation that will tend to improve our naturalization laws, wherever within reason and fairness improvement can be made, there will be no objection. Every American citizen, whether native or foreign born, who desires to preserve in all their strength and greatness our American institutions would, of course, seek to keep up the excellent grade and quality of our citizenship and bring within its folds those who, being of good moral character, come to our shores with a bona fide intent to permanently dwell amongst us and to assimilate with the American people. While I congratulate the able and distinguished chairman of the committee, the gentleman from Colorado, who reports this bill, upon the arduous labor he has done and the able efforts and earnestness he has displayed in formulating the bill, I want to say that in my judgment there are several provisions in the pending measure that ought to be very much amended.

Looking at section 9 we find a provision that no alien shall hereafter be naturalized or admitted as a citizen of the United States who can not write in his own language or in the English language, and who can not read, speak, and understand the English language. In other words, it is proposed by the gentleman from Colorado that not only must the applicant be intelligent enough to read and write in some of the recognized languages, but he must be able to read, to speak, and to understand the English language too. The distinguished chairman of the committee is always guided by such a sense of fairness and impartiality that were he upon the bench of a court having power to naturalize he probably would give to the pro-

posed educational-test clause a liberal interpretation. But all judges are not alike—they do not think alike—and in the construction of laws and in the administration of them their views frequently differ widely.

Now, Mr. Chairman, there is no standard provided in the bill by which the judge who may be called upon to naturalize may determine the extent of the understanding of the English required of the applicant or of the applicant's English speaking and reading ability or capacity. As this bill is now framed, we are asked to confer, in connection with the proposed educational qualification, a power that the judge may exercise harshly or arbitrarily. Those of this House who have among their constituencies many foreign born can, I am sure, readily conceive of cases where applicants for naturalization can speak the English to an extent sufficient to having his meaning comprehended by his English-speaking neighbors; yet in such a case, though the applicant be ever so learned in his own language, the judge could say to him:

You do not speak the English as well; you do not read it as readily nor understand it as fully and clearly as I judge the law requires you should.

In districts where foreigners are not looked on with favor; in parts of the country where the spirit of true and fair liberality toward the foreign born has not yet found an abiding place, I can readily conceive of just such decisions being made by judges however honestly inclined. There might be as many different views upon the questions I have mooted as there are jurisdictions and tribunals for naturalization.

Do you not see the difficulty that can arise upon the clause which has been called the educational qualification clause. By what standard do you say the judge shall be controlled? Shall the applicant be required to speak the English grammatically? Shall he speak and understand it, and read it too, as well and as nicely as the judicial officer in a particular jurisdiction may require, though his views as regards the test differ ever so widely from that of judges in other jurisdictions?

Mr. Chairman, for all the purposes of an educational qualification, if one is to be imposed, it seems to me that it should suffice if the applicant can write in his own language or in the English language. What we want, after all, in our citizens is character, quality, moral worth, and a loyal attachment to the principles of our American Government. [Applause.]

Some of our very good patriotic American citizens of foreign birth are men who can not speak the English tongue or who speak and read it so poorly that had they to apply for citizenship under such a clause as the Committee on Naturalization proposes they would risk rejection. Yet these men have intelligently read the newspapers, the books, the publications printed in a foreign language. I can call to mind very many good citizens in different cities and towns of this country who have gained their knowledge of current events from the reading of newspapers published in the German, in the French, or some other foreign language. They have read with intelligence, with interest, and with deep comprehension books and periodicals published in the German, the French, or some other foreign language; yet many of these men, for some reason or another, have not acquired the use of the English.

Mr. Chairman, I assert without fear of successful contradiction that in New York City—yes, in many of the cities of this Union—there are thousands and thousands of good citizens of German, Russian, Polish, Hungarian, Roumanian, French, Austrian, Italian, and other foreign birth who have intelligently read the newspapers, books, and publications printed in their mother tongue, and are fairly conversant with our system of government and of their duty generally as American citizens. They are loyal to the flag, they are devoted to this country, and love and respect our institutions. They are morally good; they are law-abiding; they have been good husbands, fathers, home makers. They have, in their own way, through toil and thrift and industry, contributed to the welfare of the country, and have raised children who have been and are some of the brightest pupils of our public schools and colleges.

Many of these men came to our country after their school days had passed—they became part of the hard-toiling classes of the land—and though versed in the language of their own country, have not had an opportunity to acquire the use of the English language so as to read it, speak it, understand it as this bill requires they should. Would you exclude such men as I have described from citizenship?

My time is running on and I can not discuss this matter more in detail. This bill fixes the fees for naturalization at entirely too high a figure. The bill fixes the total fees in each case at $11. While the committee is willing to reduce that by about half, as I understand, even that figure would be rather high. You can not improve quality of citizenship by an increase in the present fees for naturalization. Whether he pay a dollar or a dozen dollars does not improve or take from his quality. An increase in fees is but the imposition of a hardship. Many of our present naturalized citizens when they were naturalized could ill afford to pay the fees which this bill would fix as a price for naturalization. Yet, poor as these men were, they through honest labor improved their condition, made good homes, provided for families, voted honestly and intelligently at the polls, and became worthy of the honor and the name of an American citizen.

I regard it a high honor for any man coming to dwell amongst us to be admitted to citizenship, for the proudest title he can bear is that of a citizen of this great American liberty-loving Republic. [Applause.] But when the applicant for this honor, which he should prize as I do, comes here with a bona fide intention to remain and conform to our laws; when he, too, comes morally and otherwise qualified, no unnecessary hardships should be imposed on him.

Before concluding I desire to add that I agree with the distinguished gentleman from Indiana [Mr. CRUMPACKER] in what he said regarding those who came here to get citizenship and then went abroad again to take up their domicile in foreign lands. When a man acquires the honor of citizenship he ought to be loyal and honest enough to our country to spend his wealth, large or small, in the land wherein he had the opportunity to acquire it. He owes it to his adopted country, which holds out to him protection both at home and abroad, that here, on this soil, he shall bring up his family, teach his children the value of American liberty and the beauty and greatness of American life and its vast opportunities. He should be willing to spend here that which he acquired here, and if he fails in this by returning to take up a permanent domicile in a foreign land again, he is unworthy of American citizenship and ought to be deprived by law of its protection. [Applause.]

But those who come here to dwell permanently amongst us in peace; who seek us not only for the betterment of their condition, but also for the admiration they bear for America; who, having dwelt among us for the requisite probationary period, give evidence that they understand generally our system of constitutional government, and that they appreciate the benefits and greatness of our American institutions; who have manifested by their conduct here that they are attached to the principles of our Constitution; whose moral character and other qualities are such as make for good citizenship—when such as these knock at our doors for citizenship we may welcome them into the grand band of citizenship of this great and glorious Republic. [Applause.]

I reserve the balance of my time.

Mr. BONYNGE. Mr. Chairman, I yield ten minutes to the gentleman from California [Mr. HAYES] or so much time as he may desire.

Mr. HAYES. Mr. Chairman, I approach the discussion of this very important bill without any prejudice whatever against foreigners in general or against any particular class of aliens. I agree with the gentlemen who have spoken that in any legislation of this kind we should have due regard for the rights of the aliens who have chosen to cast their lots with us, but I also maintain that the principal consideration should be the welfare of the Republic. I think in the past our laws have generally been administered with too little regard for the welfare of the people of the United States, and often with too much consideration for the privileges and feelings of the aliens seeking naturalization.

The loose and incomplete laws on naturalization that have heretofore been on the statute books of the United States, and their lax and even criminal administration, make up a record that is a disgrace to our country.

Many reports have recently been made by commissions and agents of the different Executive Departments of the Government, showing a condition that ought to bring the blush of shame to every American. We have a report of an agent of the Department of Justice, showing the result of an investigation made by him in the city which the gentleman who has just spoken [Mr. GOLDFOGLE] has the honor in part to represent upon this floor, showing that 25,000 fraudulent naturalizations, in his estimation, are at present in force in the city of New York.

In 1905 Joel M. Marx, a special assistant United States attorney, in his report to the Department of Justice, shows that, as a result of his efforts in New York City for two years prior to his report, 1,916 fraudulently obtained certificates of naturalization were canceled, 791 indictments were found for crimes connected therewith, 685 convictions were had, and only 3 acquittals, while 103 cases were still pending.

In the city of Detroit, Mich., recently the most glaring frauds have been brought to light, and it has been shown that many

perjuries and crimes in connection with the naturalization of aliens have been committed in that city. In San Francisco, too, within the last few months the United States district atttorney has instituted investigations which demonstrated that fraudulent certificates by the hundred have been issued in that city, and he has prosecuted and sent to the penitentiary several men for offenses committed in connection with these fraudulent certificates.

These prosecutions and disclosures have brought home to us in California, as similar disclosures and prosecutions in all parts of the country have brought to the attention of the people everywhere, the necessity for amendments and additions to the naturalization laws that will, so far as possible, put a stop to these practices which are constantly bringing disgrace upon the country and trouble and labor to its officials. Even a superficial study of the subject will, I think, convince anyone that many of these frauds and crimes could have been prevented by adequate laws and regulations on the subject of naturalization.

From the report of Marcus Braun, an official detailed by the Department of Commerce and Labor for work in Europe, it appears that he discovered that thousands of fraudulent naturalization certificates were held by aliens residing in Europe and Asia, claiming to be naturalized American citizens. Many of these certificates have been purchased outright. Many more have been procured by false impersonations, and still others by aliens coming to this country and residing long enough to procure them and returning to their native land on the first boat that departs after they are clothed with the dignity of American citizenship. These certificates are considered in certain quarters of Europe and Asia as very valuable, as when armed with them the citizens of Turkey, for example, can conduct themselves in an unlawful manner, can even plot against the government of the country in which they live, and rely upon their American citizenship to protect them.

I am advised by the State Department that in a very large percentage of the cases where naturalized American citizens call upon our foreign representatives for protection, investigation discloses the fact that their citizenship papers are fraudulent and absolutely void, and that they are not entitled to the protection of the United States. Doubtless many others who are not entitled to it, but whose naturalization papers can not be demonstrated to be illegal, receive the protection of our flag.

Nearly all students of the subject have for many years agreed that two very essential considerations should be kept in view in any legislation on this subject, viz., uniformity and Federal supervision of all naturalization proceedings.

It would seem that no argument is necessary to convince gentlemen that uniformity in the methods of conferring American citizenship is very desirable, if not imperatively necessary. At present there is no uniformity, the methods of naturalizing citizens being as various as the several courts that conduct these proceedings. The importance of uniformity becomes more apparent when we consider that the adoption of the fourteenth amendment makes it impossible for any State to protect itself against undesirable persons who may be citizens of the United States. The gentleman from Ohio [Mr. GOEBEL], in his speech upon this subject, reported at page 6424 of the RECORD of the present session, enters into a very learned discussion to show that the matter of the qualifications for citizenship should be left to the several States, and in support of his contention quotes quite at length from the opinion of the court in the Slaughterhouse cases (16 Wal.). The gentleman seems to have misapprehended in some respects the scope of that decision. The court in that case expressly states that no State has any power since the passage of the fourteenth amendment to fix any qualifications which its citizens who are citizens of the United States must have. One of the learned counsel in that case correctly states the law thus:

> Citizenship in a State is made by residence, and without reference to the consent of the State.

Mr. Justice Miller, delivering the opinion of the court, in speaking of privileges of citizens of the United States conferred by the fourteenth amendment to the Constitution, says:

> A citizen of the United States can of his own volition become a citizen of any State in the Union by a bona fide residence therein, with the same rights as other citizens of that State.

It therefore follows that if a court of the State of Massachusetts chooses to admit to citizenship a criminal or an anarchist, the State of New York must admit such citizen when he takes up his residence in the latter State, to all the rights and privileges incident to citizenship in the State of New York, and since the adoption of the fourteenth amendment the State of New York has no way of preventing this result.

Before the adoption of the fourteenth amendment the argument of the gentleman from Ohio would have been very pertinent and, no doubt, sound, but at the present time his argument upon this point has no application.

The gentleman also argues that Federal citizenship confers no political rights. It is true that per se the naturalization of an alien does not confer the right of suffrage, though it does other political rights. Suffrage has been repeatedly held to be not a right, but a privilege, which a State could extend or deny to any class of its citizens, but, as a matter of fact, the result of naturalization to-day in three-fourths of the States is to confer all political rights, including suffrage, upon the naturalized alien as soon as he gains the necessary residence within the State where he takes up his abode. This will continue to be so until the constitution of thirty-three of the States of the Union are amended.

From these considerations, and there are many others that might be suggested did I have the time, I submit to the committee that uniformity in the requirements for naturalization and in the methods employed in admitting aliens to citizenship becomes of the highest importance.

That Federal supervision and control of naturalization are absolutely necessary to prevent the frauds and crimes that for fifty years have been perpetrated in admitting aliens to citizenship, all students of the subject admit. In his annual message of 1884 President Arthur states:

> It might be wise to provide for a central bureau of registry, wherein should be filed authenticated transcripts of every record of naturalization in the several Federal and State courts, and to make provision also for the vacation and cancellation of such record in cases where fraud had been practiced upon the court by the applicant himself or where he had renounced or forfeited his acquired citizenship.

In 1885 President Cleveland, in his first annual message, used these words:

> I regard with favor the suggestion, put forth by one of my predecessors, that provision be made for a central bureau of record of the decrees of naturalization granted by the various courts throughout the United States now invested with that power.

In 1904, in his annual message, President Roosevelt backed up these recommendations in the following language:

> The courts should be required to make returns to the Secretary of State at stated periods of all naturalizations conferred.

A thorough Federal supervision was also recommended by C. V. C. Van Deusen, special examiner of the Department of Justice, in his report to that Department on June 14, 1905. Later in 1905 the Commission on Naturalization appointed by the President at the close of the last Congress made the same recommendation. The Committee on Immigration and Naturalization, recognizing the wisdom and necessity for this supervision and having that in view as one of the purposes to be attained by the present bill, have nevertheless carefully eliminated all provisions that, in their judgment, were not necessary to adequately secure such supervision.

My colleague the gentleman from California [Mr. SMITH), in his remarks a few moments ago, declared that—

> The procedure required by this bill is entirely too complicated, and that men who would make entirely satisfactory citizens will be deprived of citizenship, with no corresponding good in any other direction.

I beg to take issue with my colleague upon this subject, and venture to suggest that if he will consider this bill in connection with the necessity for uniformity and Federal supervision, I am satisfied that he will conclude with me that only such provisions are incorporated therein as are necessary to secure such desired uniformity and Federal supervision.

My colleague objects to the technical character of the papers required by the bill. I believe he will admit that this objection falls to the ground when he understands that the Government is to furnish all the blanks for these proceedings, and all that remains is for the applicant or the clerk of the court, or any person, to fill in the names, dates, etc. No legal knowledge is necessary to perform this small act. I fail to see where any hardship is imposed on the alien desiring naturalization other than those imposed upon him by the present law, except in the matter of fees, which it is proposed by this bill to somewhat increase, and in the matter of waiting ninety days after the filing of his petition before his final certificate can be issued. But this delay is necessary in order that the Government can examine the case to see whether there is any legal cause to deny his petition. Although in some cases this may work a little hardship, since the very purpose of the law would be defeated unless time were allowed the Bureau to investigate, it seemed to the committee that a few incidental inconveniences or hardships should have no weight as against the imperative necessity of providing for careful investigation, and, if necessary, resistance of the application for naturalization of aliens.

If the fees provided for in this bill are deemed by some gentlemen too high, I believe all will agree that they should be high enough to prevent the wholesale political naturalizations that for many years have been so common just prior to an election.

Mr. Chairman, I shall reserve the discussion of the various provisions of the bill in detail until those provisions are reached under the five-minute rule.

Mr. GOLDFOGLE. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from New York [Mr. GOLDFOGLE] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BONYNGE. Mr. Chairman, I yield a minute to the gentleman from New York [Mr. BENNET].

Mr. BENNET of New York. Mr. Chairman, I rise to say something that I assume my colleague on the committee from California [Mr. HAYES] would have said had he had the time, and that is this: That fraudulent naturalizations in the city of New York are not entirely, or not in the majority of instances even, the result of any bad action on the part of the court. But they were made possible by the loose system. They were counterfeits; they were duplicated; they were every kind of a bad certificate that could be gotten up under a loose system; but in the investigation they found that the Federal court there was under suspicion of collusion in only two cases out of the thousands. But the bad certificates are there, and they ought to be wiped out.

Mr. BONYNGE. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has four minutes remaining.

Mr. BONYNGE. How much time has the gentleman on the other side?

The CHAIRMAN. The gentleman from New York [Mr. GOLDFOGLE] has three minutes remaining.

Mr. BONYNGE. Mr. Chairman, I yield such time to the gentleman from California [Mr. HAYES] as he may desire of the time remaining to this side.

Mr. HAYES. Mr. Chairman, I just rise to state, in reply to the suggestion of the gentleman from New York, that he is quite correct that the great bulk of these fraudulent certificates have never seen the court at all, but there are no means provided for determining which are illegal and which are not, and this bill provides such a method.

Mr. GOLDFOGLE. Mr. Chairman, I yield the balance of my time to my colleague from New York [Mr. GOULDEN].

Mr. GOULDEN. Mr. Chairman, replying to the gentleman from California [Mr. HAYES] in regard to the large number of fraudulent naturalization papers, I want to say that the evidence before the United States district attorney and the investigations of the United States Federal grand jury in New York covering months will show there was a large number of fraudulent naturalization papers, but that these officials united in saying that it was not confined to the city or State of New York, but extended all over the United States.

Mr. HAYES. Mr. Chairman, if the gentleman will permit me, I will say that recently two men have been sent to the penitentiary—less than two months ago, in the city of San Francisco—for naturalization frauds, and the United States district attorney gave published notice that all holders of fraudulent naturalization certificates who should within the next sixty days deliver them up to be canceled would not be prosecuted. In the first thirty days 204 fraudulent certificates were delivered and canceled.

Mr. GOULDEN. I want to say that I simply desire to correct any impression that might prevail here and in the country at large that in New York perhaps more are guilty of these violations than any other section of the United States. New York, the great metropolis of the nation, is in fact less guilty in proportion to our number than other cities of the country.

Mr. WACHTER. Mr. Chairman, I want to corroborate what the gentleman said, because my friends in my own district sent seven men to the Maryland penitentiary for illegal naturalization.

Mr. GOULDEN. And I think the gentleman will bear me out that only a few were caught in his city, though Baltimore is as good and patriotic as any other section of the country. [Laughter.]

Mr. WACHTER. We are always second to New York in all good things.

Mr. NORRIS. Mr. Chairman, I would like to know if there are any other gentlemen that have confessions to make?

Mr. GOULDEN. I have no doubt that the gentleman [Mr. NORRIS] who has just taken his seat could make an equally strong confession and plausible excuse if he were given the time in which to do so and felt so inclined. [Laughter.]

Mr. BONYNGE. Mr. Chairman, I ask for the reading of the bill, if the time has been consumed.

The CHAIRMAN. The Clerk will proceed.

The Clerk read as follows:

SEC. 2. That the Secretary of Commerce and Labor shall provide the said Bureau with such additional furnished offices within the city of Washington, such books of record and facilities, and such additional assistants, clerks, stenographers, typewriters, and other employees as may be necessary for the proper discharge of the duties imposed by this act upon such Bureau, fixing the compensation of such additional employees within the appropriations made from time to time for that purpose.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. SULLIVAN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, line 14, after the word "employees," insert "drawn from the civil-service list."

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I would like to inquire of the gentleman in charge of the bill if he would have any objection to having this large force which is to be employed in the new Bureau drawn from the civil-service list?

Mr. BENNET of New York. Mr. Chairman, the law governing employees under the Commissioner of Immigration now provides that all the employees of his office must be taken from the civil-service list.

Mr. SULLIVAN of Massachusetts. Now, I will ask the gentleman if it follows from that as a necessary consequence that the employees provided for in this act will be taken from the civil-service list?

Mr. BENNET of New York. Unquestionably, because this is the same Bureau with simply a change in the name.

Mr. SULLIVAN of Massachusetts. Then, Mr. Chairman, I withdraw the amendment upon the gentleman's statement.

I offer another amendment to the same section.

The CHAIRMAN. The gentleman from Massachusetts [Mr. SULLIVAN] offers a further amendment, which the Clerk will report.

The Clerk read as follows:

Strike out all after the word "Bureau," in line 16, and substitute therefor the words "at such compensation as shall be provided by law."

Mr. SULLIVAN of Massachusetts. Mr. Chairman, we are creating a new bureau here for the enforcement of the law that we seek to pass, and it is necessary that Congress should pass upon the question of salaries to be paid to the large force of employees. I think it is contrary to sound policy to allow the head of this Department to fix the salaries and allow Congress to have no supervision of them. Now, at the very inception of this scheme it seems to me to be proper to have Congress pass upon the salaries that are to be paid to these employees. Therefore this amendment is offered, which provides that the compensation of the employees shall be fixed in a manner provided by law.

Mr. BONYNGE. If the gentleman will yield for a moment, that might do very well, I will say to the gentleman from Massachusetts [Mr. SULLIVAN], after the force is organized, but between this time and the next appropriation bill there will be no law fixing the salaries of these special employees, and therefore some such general provision as this seemed necessary to the committee for the first year. In the next year, when we have an appropriation bill, their salaries will be fixed in that appropriation bill.

Mr. SULLIVAN of Massachusetts. Now, let me ask when the law will begin to operate, if it passes at this session?

Mr. BONYNGE. In ninety days after the passage of the bill. The law would go into effect ninety days after the date of its passage according to section 32, but section 2 goes into effect immediately, in order that the Bureau may organize and may get its force of clerks.

Mr. SULLIVAN of Massachusetts. The question I want to ask the gentleman is this: Whether it would not be possible to have the Secretary of Commerce and Labor make an estimate now of the number of employees required and the salaries to be paid to them and submit that to Congress in time to have the matter provided for in the general deficiency bill before this Congress adjourns?

Mr. BONYNGE. I do not think that would be practical, Mr. Chairman. I do not think it is hardly necessary. This is a provision which will only be in existence for not more than six months.

Mr. SULLIVAN of Massachusetts. The trouble with it is, as I am informed, that the salaries paid now in that Department average higher than the salaries paid in any other Department of the Government, and that they were made higher, in the first place, in order that transfers would be made of employees from other and more poorly paid Departments to the Department of Commerce and Labor.

Mr. MANN. Is the gentleman's information certain in regard to that Department?

Mr. SULLIVAN of Massachusetts. It has been stated by the Department in the hearings before the committee.

Mr. MANN. The Department was not consulted when the bill was passed, and certainly that was not the intention in fixing the salaries in that bill.

Mr. SULLIVAN of Massachusetts. I will state it is my recollection that the Secretary of the Department himself at the time the Bureau was created came before the committee and stated that he purposely wanted the salaries made high so that clerks would get transfers from other Departments to his, and that he would have the best class of employees of all the Departments in Washington; and he is on record as saying it.

Mr. MANN. The gentleman is referring to the action of the Committee on Appropriations?

Mr. SULLIVAN of Massachusetts. I am.

Mr. MANN. Not to the action of the committee creating the Department that the gentleman referred to?

Mr. SULLIVAN of Massachusetts. I am speaking of the committee and the salaries submitted to it by the Department.

Mr. MANN. The Committee on Appropriations, not the committee that reported and passed the bill?

Mr. SULLIVAN of Massachusetts. I stand corrected in that particular. It was a statement to the Committee on Appropriations by the Secretary. Now, then, it seems to me that the Secretary of the Department, if he has the power, will fix these salaries on the same high plane, and I think it will be better to give the power to decide the number of employees and fix the salaries to the House. There is sufficient time to enable the Secretary to make an estimate of the number of employees that he will require and the proper salaries to be paid to them and furnish it to this Congress in time for it to act.

Mr. MANN. Is there an amendment to this section which gives the Secretary the power to fix the salaries?

Mr. SULLIVAN of Massachusetts. The section itself gives the Secretary power. It reads:

> Fixing the compensation of such additional employees within the appropriations made from time to time for that purpose.

That is in section 2.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Massachusetts.

Mr. TAWNEY. I would like to have the amendment read.

The amendment was again read.

Mr. TAWNEY. Mr. Chairman, I would like to ask the gentleman from Massachusetts, in the event of the adoption of this amendment, if the salaries of the clerks employed under this bill will be provided for just as the salaries of all the other clerks in the Department of Commerce and Labor are provided for, namely, by the Secretary submitting estimates to Congress and Congress fixing the salaries?

Mr. SULLIVAN of Massachusetts. Yes. That is what I hope will be effected by the amendment. That is what I am trying to secure. It is my opinion that there is ample time for the Secretary to ascertain the number of employees necessary for the purpose of enforcing the law. He can make an estimate and send it to the Committee on Appropriations and have it carried in the general deficiency bill, and that seems to me the proper line of action and much safer than to allow the heads of Departments to fix the salaries.

Mr. BONYNGE. I would have no objection to that amendment if it were possible to carry it into effect, so that the section could be operative as provided for by the bill. It must be remembered that after we pass this bill, if we do, in the House, it must go to the Senate, and it may there be passed, if it be passed during this session of Congress, just before we adjourn, possibly, when it will be beyond the power of the Secretary of Commerce and Labor to make any estimate and provide for any clerks or assistants in his Bureau until the next session of Congress, when we have an appropriation bill.

Mr. MANN. How would his clerks get paid, if an appropriation is not made by Congress?

Mr. BONYNGE. We have an appropriation in the bill itself.

Mr. TAWNEY. I do not think the gentleman's objection to the amendment is valid. If the bill passes, certainly the general deficiency bill will be the last thing that Congress will enact into law during the session, and the Secretary of Commerce and Labor, if the bill passes the House, on the theory of becoming law, can make an estimate of the number of clerks, and submit that estimate to Congress, which can put the items on the bill, and when the bill becomes a law the force will be provided for. That is done every session of Congress.

Mr. BONYNGE. Let me say to the gentleman that the Secretary will not make any estimate until the bill has been finally passed.

Mr. TAWNEY. He may make an estimate informally, as they do every day.

Mr. BONYNGE. He would hardly make it until after the bill is passed, so that he may know what the provisions of the bill are and what clerical force will be required. If this bill does finally pass, how would there be time for the Secretary to make an estimate as to the amount of money that would be required for the clerical assistance and have it put in an appropriation bill?

Mr. TAWNEY. If the bill were to become a law the last week of the session, I do not think it would require over twenty-four hours' time for the Secretary to make that estimate.

Mr. BONYNGE. I submit that if the gentleman will read the provisions of the bill and examine it closely he will change his opinion about that.

Mr. GARDNER of Massachusetts. Will the gentleman yield?

Mr. BONYNGE. I will yield to the gentleman.

Mr. GARDNER of Massachusetts. Mr. Chairman, this is only a question of how the additional clerical force shall be paid in the current year. As a matter of fact, the Secretary of Commerce and Labor already fixes the compensation for all the immigration officials, the officials in the Bureau of Immigration and Naturalization, except these additional clerks. He is just as familiar as is the Committee on Appropriations with the necessity required for the payment of these additional clerks in the coming year. He is doing it all the time, because under existing law all employees of the Immigration Bureau outside of the city of Washington do have their salaries fixed by the Secretary of Commerce and Labor and not by the Committee on Appropriations.

For one year, I think, at least, it is safe to intrust to the Secretary of Commerce and Labor, who is doing it every day, the duty of saying what these salaries shall be.

Mr. MANN. If the gentleman from Massachusetts were correct in stating that this provision only applies to one year I can see a good reason for it, but I think that is not the case. This provision which the gentlemen have put in the bill will give the Secretary of Commerce and Labor, so long as it remains the law, the power to fix the salaries in this particular Bureau, to fix them at whatever he may please, and give him a lever which he will use, as we all know, to increase salaries, not only in the Bureau of Immigration, but throughout the Department of Commerce and Labor, a power which will extend, because every Member of Congress will be constantly told that such and such an official in the Bureau of Immigration receives such a salary and "I have work of equal value and I want my salary increased."

Mr. GARDNER of Massachusetts. The gentleman is painting a wonderful picture.

Mr. MANN. The gentleman is painting a true picture.

Mr. GARDNER of Massachusetts. The gentleman is painting a picture as it exists to-day.

Mr. MANN. I beg the gentleman's pardon; it does not exist to-day in the District of Columbia, in the city of Washington.

Mr. GARDNER of Massachusetts. No; but in every other office of the immigration service in the United States.

Mr. MANN. The gentleman from Massachusetts is correct when he says we make a lump-sum appropriation for the control of this service outside of the city of Washington, outside of the departmental service, and it is a very serious question whether it is not a gross extravagance on the part of the Government. We all know the lump-sum appropriations constantly lead to great extravagance, and whether that be so or not, this gives power to the House in this particular section of the bill to increase salaries, in making appropriations, for one particular bureau of the Government, when no other bureau of the Government has that opportunity. I do not think the gentleman himself has any desire to do that. He wishes to confine the scope of this provision to one year, but this does not confine it to a year. This makes it in order at any time in the House to move to increase the amount of money appropriated for the Bureau and then let the Secretary fix the additional salary. It makes no limitation of salaries in this Bureau.

Mr. TAWNEY. If the gentleman will permit me, if this amendment is not adopted and the Secretary of Commerce and

Labor is authorized to fix the salaries in this particular bureau at such a figure as he may see fit, it will never be possible for Congress to provide for these salaries specifically unless there is legislation hereafter giving Congress that power. In other words, if the appropriation bill should carry specific authorization for these particular salaries, it would go out on a point of order.

Mr. MANN. It would be subject to a point of order because not authorized by law.

Mr. TAWNEY. Therefore it means that if authority is given to the Secretary of Commerce and Labor to fix these salaries now, that that authority will exist forever.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARDNER of Massachusetts. Mr. Chairman, I move to strike out the last word.

Mr. MANN. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. GARDNER of Massachusetts. Mr. Chairman, I have just moved to strike out the last word.

Mr. MANN. Oh, Mr. Chairman, if the gentleman wishes to object, I am perfectly willing.

Mr. GARDNER of Massachusetts. I will not object to the gentleman's request.

Mr. MANN. It is quite immaterial to the gentleman whether he objects or not. The gentleman is perfectly able to take care of himself on the floor.

Mr. GARDNER of Massachusetts. Mr. Chairman, a parliamentary inquiry. I ask now whether the gentleman's time and all other time has not expired on this amendment?

The CHAIRMAN. Debate on the amendment has expired, but the gentleman from Illinois [Mr. MANN] is recognized to speak for five minutes by unanimous consent.

Mr. MANN. Now, Mr. Chairman, I will be willing to yield to the gentleman a part of the time if he requires it. The result of the original proposition would be that, under the rules of the House, it will not be competent for the House to appropriate for the specific salaries, but they must appropriate a lump sum of money out of which the Secreatry shall fix the salaries. That, I say, is a wrong policy. It was not the intention, in my judgment, of the Committee on Immigration to adopt that policy, but that is the result of the language in the bill. It is a policy that Congress is endeavoring to get away from instead of endeavoring to go toward, doing away, as far as possible, with the policy of lump-sum appropriations for salaries, and it would be, in my judgment, a serious mistake to leave such a provision in the bill.

Mr. GARDNER of Massachusetts. Mr. Chairman, the gentleman is perhaps correct in thinking that Congress is trying to get away from that system. Such part of Congress, however, as is comprised in the Committee on Immigration and Naturalization is not. We have deliberately in the immigration bill retained the provision by which the Secretary of Commerce and Labor can fix the salaries out of the fund appropriated. Now, so far as this particular section is concerned, I personally should not object to it if it were so limited that after one year the Appropriation Committee, which is so anxious to have this additional duty, should have the privilege of fixing those salaries; but unless the amendment of the gentleman from Massachusetts [Mr. SULLIVAN] is so amended as to leave the present section operative for a year I hope that the committee will vote it down.

Mr. BENNET of New York. Mr. Chairman, I would like to ask the gentleman from Massachusetts [Mr. SULLIVAN] if he will not be willing to modify his amendment so as to make it apply to the fiscal year commencing July 1, 1907?

Mr. BONYNGE. That would be satisfactory to the committee.

Mr. SULLIVAN of Massachusetts. Well, I do not quite understand the meaning of the gentleman from New York.

Mr. BENNET of New York. Mr. Chairman, I move to strike out the last word. If this bill becomes a law at all at this session of Congress it will become a law very late in the session. The gentleman from Minnesota [Mr. TAWNEY] says that estimates can be sent in, and I presume that is true; but of what earthly good would estimates be which are sent in in the last twenty-four hours of a session or the last three days of a session? They would amount to nothing. Here is a new bureau, a new work created for the first time in the history of the country, with no precedents by which to guide it, nothing to indicate how much money will be necessary, and here is a bill that will bring into the Treasury probably $250,000 a year. It costs the country nothing, and this provision gives the Secretary the first year the right to organize his Bureau the way it ought to be organized, and after that first year the committee reporting this bill has no objection to the whole subject going under the jurisdiction of the Committee on Appropriations.

Mr. FITZGERALD. Mr. Chairman, will the gentleman yield?

Mr. BENNET of New York. Yes.

Mr. FITZGERALD. Under this language which authorizes the employment of all necessary assistants of every character, has not the Secretary the right to pay them out of the money appropriated in the bill without specifically using this other language which would make it impossible for Congress in the ordinary conduct of business to change those salaries?

Mr. BENNET of New York. Congress, of course, could regulate it by the amount of the lump sum that it appropriated.

Mr. FITZGERALD. But under the authority to employ such additional assistants, clerks, stenographers, typewriters, etc., the Secretary would have the power to fix the compensation without that clause which has given rise to the discussion at this time.

Mr. BENNET of New York. The gentleman means under existing law?

Mr. FITZGERALD. Under the law right in there. If he is given authority to employ help, he has the implied authority to pay them out of the fund appropriated.

Mr. BENNET of New York. That is given to him specifically in line 16, fixing the compensation.

Mr. FITZGERALD. That is the particular language to which objection is made, and he would have just as much authority without that.

Mr. BENNET of New York. The gentleman may be correct about that.

Mr. BONYNGE. Mr. Chairman, I understand the gentleman from Illinois [Mr. MANN] has framed an amendment which I think will cover the objection made.

Mr. SULLIVAN of Massachusetts. I wanted to find out the meaning of the gentleman from New York [Mr. BENNET]. Is it his desire that the Secretary shall determine the number and fix the amount of salaries until July 1, 1907?

Mr. BENNET of New York. Yes.

Mr. SULLIVAN of Massachusetts. And that after that Congress shall fix the salaries?

Mr. BENNET of New York. Yes.

Mr. BONYNGE. That is the amendment I understand the gentleman from Illinois will offer.

Mr. SULLIVAN of Massachusetts. I have no objection personally to that. I would be glad to accept that amendment.

Mr. MANN. Mr. Chairman, I offer the following amendment as a substitute, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 2, line 17, after the word "employees," insert the words "until July 1, 1907;" and after the word "made" strike out "from time to time;" so as to read, "fixing the compensation of such additional employees until July 1, 1907, within the appropriations made for that purpose."

Mr. SULLIVAN of Massachusetts. Now, Mr. Chairman, I think that is the best suggestion that has been made, and I desire to ask unanimous consent to withdraw my amendment so the vote may be taken upon the substitute amendment.

Mr. BONYNGE. And the committee is ready to accept it.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to withdraw his amendment. Is there objection? [After a pause.] The Chair hears none.

The question was taken; and the substitute amendment was agreed to.

The Clerk read as follows:

SEC. 3. That exclusive jurisdiction to naturalize aliens as citizens of the United States is hereby conferred upon the following specified courts:

United States circuit and district courts now existing, or which may hereafter be established by Congress in any State, United States district courts for the Territories of Arizona, New Mexico, Oklahoma, Hawaii, the district of Alaska, the supreme court of the District of Columbia, and the United States courts for the Indian Territory; also all courts of record in any State now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law in which the amount in controversy is unlimited.

That all judges, justices, clerks, and officers of such State courts, when acting in naturalization matters, shall be deemed to be officers and agents of the United States. That the naturalization jurisdiction of all courts herein specified, both State and Federal, shall extend only to aliens resident within the respective judicial districts of such courts.

The courts herein specified shall, upon the requisition of the clerks of such courts, be furnished from time to time by the Bureau of Immigration and Naturalization with such blank forms as may be required in the naturalization of aliens, and all certificates of naturalization shall be consecutively numbered and printed on safety paper furnished by said Bureau.

Mr. BONYNGE. Mr. Chairman, I offer an amendment. In line 2, page 3, after the word "State," insert the words "or Territory."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 2, after the word "State," insert the words "or Territory."

The question was taken; and the amendment was agreed to.

Mr. SULLIVAN of Massachusetts and Mr. HEPBURN rose.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. For what purpose does the gentleman from Iowa rise?

Mr. HEPBURN. I desire to make an inquiry of the gentleman in charge of the bill.

The CHAIRMAN. The Chair has just recognized the gentleman from Massachusetts to offer an amendment.

Mr. SULLIVAN of Massachusetts. I am willing to yield to the gentleman.

Mr. HEPBURN. Later on.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Massachusetts.

The Clerk read as follows:

Page 3, section 3, add after the word "unlimited," in line 5, "and all State courts of record having a seal and a clerk and which are next in rank below the nisi prius courts of such State."

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I am not familiar with the constitution of the courts in all the States and Territories, but my amendment seeks to retain jurisdiction in a class of courts in the State of Massachusetts which now exercise jurisdiction over the subject of naturalization and which exercise it well; in fact, to the satisfaction of everybody. In our State the municipal courts of the city of Boston and the district and police courts throughout the Commonwealth now naturalize aliens, and for the last few years they have done the bulk of that work. It has been found extremely inconvenient in practice to have men come from the western part of the State, perhaps a hundred and fifty miles, to a district court of the United States sitting in the city of Boston for the purpose of being naturalized. Therefore the district and police courts throughout the State have exercised that jurisdiction to the great convenience of those desiring to be naturalized and to the entire satisfaction of everybody concerned.

Mr. TAWNEY. Will the gentleman permit a question?

Mr. SULLIVAN of Massachusetts. Certainly.

Mr. TAWNEY. Are these courts which you have just now mentioned courts of record?

Mr. SULLIVAN of Massachusetts. They are all courts of record.

Mr. TAWNEY. Then they would be included in the language——

Mr. SULLIVAN of Massachusetts. No; because of the last few words; they are not courts of unlimited jurisdiction, and for that reason they would be excluded under the provisions of this bill. Now, I apprehend that there would be some difficulty in enforcing the law as I seek to amend it, and yet I believe that the hardships which will follow in enforcing the law will be greater than those which would follow if the law is amended. I know that there are courts in other States in the Union of the same class of which I speak which are perhaps not so competent to discharge the duties of naturalization courts as the courts in the State of Massachusetts, but I believe we ought not to take jurisdiction out of a class of courts that now exercise that jurisdiction properly to the satisfaction of all the citizens of the State and all of the political parties of the State and to the great convenience of the men who seek naturalization.

Mr. CRUMPACKER. Will the gentleman allow me? Under the amendment offered by the gentleman from Massachusetts the justice of the peace courts of Indiana would be included. Our supreme court has decided that they are courts of record, and the last legislature required them to keep a seal, so they are courts of record.

Mr. SULLIVAN of Massachusetts. Are they courts next in grade below the nisi prius courts?

Mr. CRUMPACKER. They are.

Mr. SULLIVAN of Massachusetts. Now, I want to be entirely fair in the matter. I will state that such courts under this amendment would exercise jurisdiction. Now, I will ask for information: Is it your opinion that these justice of the peace courts in the State of Indiana are not competent to naturalize aliens?

Mr. CRUMPACKER. Decidedly. I do not think they ought to have any voice in the question of citizenship at all.

Mr. SULLIVAN of Massachusetts. That is the difficulty, and I expected that.

Mr. CRUMPACKER. They are elected without any regard to their question of competency or qualification, as a rule.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. SULLIVAN] has expired.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to continue his remarks for five minutes. Is there objection?

There was no objection.

Mr. STAFFORD. Would the gentleman from Indiana have any objection to vesting jurisdiction in these matters in courts above the grade of justices' courts, and not having unlimited jurisdiction?

Mr. CRUMPACKER. Yes; I do not believe jurisdiction to confer citizenship upon aliens ought to be vested in any court except those of general original jurisdiction.

Mr. SULLIVAN of Massachusetts. Now, Mr. Chairman, the courts in the State of Massachusetts that I have spoken of will be excluded under the terms of this bill unless this amendment be adopted, and I fancy that there are many other States in which courts of the same class now exercising jurisdiction will be excluded also under the terms of this act. Under this act the only courts competent to naturalize aliens will be the supreme court of the State, the superior courts, which is our nisi prius court, and the courts of the United States. Now, the people from the western part of the State can not come to Boston conveniently, and I state positively that neither our supreme court, which is our highest court, nor the superior court, which is our nisi prius court, will ever take the time to naturalize aliens. The district, police, and municipal courts will be excluded by the provisions of the act, and the result will be that we will not have a sufficient number of courts under this act to properly transact the business of naturalization in the State of Massachusetts.

Mr. GARDNER of Massachusetts. Is it not true that the superior court sits in each county in the State of Massachusetts from time to time?

Mr. SULLIVAN of Massachusetts. Yes.

Mr. GARDNER of Massachusetts. And taking the counties outside of Suffolk, is it not true they would have plenty of time—in my county, for instance, which is Essex—to attend to naturalizations?

Mr. SULLIVAN of Massachusetts. I think not. I am quite sure they would not, Mr. Chairman. That is my judgment, at least.

Mr. GARDNER of Massachusetts. The gentleman is a lawyer and I am not. His judgment would be better than mine on that question.

Mr. SULLIVAN of Massachusetts. I know that there are questions now over which the superior court has jurisdiction which it never exercises. The probate courts in our State have the entire business of committing lunatics, and no attorney can get the justices of the superior court to exercise that function, and I apprehend that the same result will follow in the matter of naturalizations.

Now, while it may work some hardship somewhere else, I solemnly protest in the name of my State against stripping this class of courts of that jurisdiction which it has so well exercised in the past.

Mr. GARRETT. Relative to the suggestion of the gentleman from Indiana [Mr. CRUMPACKER], if the amendment of the gentleman from Massachusetts [Mr. SULLIVAN] is adopted it would confer jurisdiction upon justices of the peace of his State, has the gentleman from Indiana observed that the provisions state that the amount in controversy must be limited? And would that save the case in your State of Indiana?

Mr. CRUMPACKER. Does the gentleman's amendment provide that the amount in controversy shall not be unlimited?

Mr. SULLIVAN of Massachusetts. No.

Mr. CRUMPACKER. Under his amendment I do not see that Indiana would have the authority——

Mr. SULLIVAN of Massachusetts. Let me ask the gentleman from Indiana, suppose the limitation of $2,000 was put upon these courts, would that exclude the justices' courts of Indiana?

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. SULLIVAN] has expired.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I ask one minute more for the purpose of asking a question of the gentleman who has charge of the bill. Following out the suggestion of the gentleman from Tennessee [Mr. GARRETT], suppose we put a limitation to the amount of $2,000 upon the class of courts that are included in my amendment, would the gentleman then oppose my amendment?

Mr. BONYNGE. I would oppose the amendment, and I desire to be heard in opposition to the amendment.

Mr. POWERS. Mr. Chairman, I desire to occupy the time of the committee but a few minutes.

Mr. BONYNGE. I desire to be heard in opposition. Under

the five-minute rule I think one side is entitled to be heard in favor of the amendment for five minutes and the other side against the amendment for five minutes.

Mr. POWERS. Mr. Chairman, I rise to say something in opposition to the amendment, but I will give way to the gentleman if he wishes.

Mr. BONYNGE. Very well. I can be heard later.

Mr. POWERS. I am very desirous that naturalization should be conducted in courts that will give proper consideration. In my own State naturalization can only be obtained in the United States court, in the supreme court, and in the superior court. This bill allows naturalization in those courts. I do not believe it should be extended any further. I think that perhaps one reason why there have been spurious or false naturalization papers which gentlemen complain of is the fact that courts under these have been allowed to exercise that right.

Mr. MANN. Will the distinguished gentleman from Maine yield for a question?

Mr. POWERS. Certainly, sir.

Mr. MANN. He is undoubtedly in favor of giving a reasonable opportunity to a man to be naturalized if he wishes? The provision in this bill would prevent twenty-eight different courts in the city of Chicago from issuing naturalization papers, any one of which probably entertains a great deal more legislation than the ordinary court does.

Mr. BONYNGE. Will the gentleman just yield for a moment? In answer to the gentleman from Illinois [Mr. MANN], I desire to call the committee's attention to the fact that possibly for the same reason, namely, that there are twenty-eight courts in Chicago naturalizing aliens, it became necessary for this House only a few days ago—upon a bill introduced by the gentleman from Illinois, known as the "bill H. R. 18713"—to validate some thousands upon thousands of certificates of naturalization that had been improperly issued in the courts of the city of Chicago.

Mr. MANN. It showed how necessary it was to let the court have jurisdiction.

Mr. POWERS. Mr. Chairman, I decline to yield further.

Mr. MANN. Twenty-eight thousand; and you have proved it.

Mr. POWERS. Mr. Chairman, it seems to me that all of this large number of spurious naturalization papers enumerated by the gentleman are to be found—or nearly all of them—in our great cities, and it is there that the remedies must be applied. I have no doubt this may result very largely from the fact that it is in those cities where so many courts and so many different courts of unlike jurisdiction exercise the right of naturalization. Now, I live in a border State. I live in a district where there are a good many naturalizations. I live in a district and State where, as I stated to you, no courts but those that I have mentioned, namely, the United States court and the supreme and superior courts of the State, exercise the power and the right of naturalization, and I never yet have heard an intimation of a spurious naturalization paper ever having been granted either in my district or my State. Certainly there has never been any criminal prosecution or indictment of any person on any such charge.

There are a great many safeguards in this bill in reference to the declaration and all the preliminary proceedings, some of which, I think, are unnecessary and uncalled for. But I do believe that if we are to have naturalization that shall be correctly, legally, and wisely administered, which shall not be spurious, vicious, or granted without due and proper care and consideration, that we must have this naturalization confined and granted in courts of such jurisdiction and such standing that there can be no question about them and the judicial care that will be taken in every case. Therefore I am opposed to the amendment of the gentleman from Massachusetts [Mr. SULLIVAN]. As I have not the faith in the high standing and judicial learning of municipal and police courts as would lead me to deem it wise and safe to grant to them this power—though I do not desire to be understood as in any way reflecting upon these courts—they perform important functions, yet naturalization, in my judgment, is not a proper subject for their consideration.

Mr. GARRETT. The bill seems to limit the jurisdiction to those courts that have jurisdiction in cases at law.

Mr. POWERS. Yes.

Mr. GARRETT. Now, I think a few States, among which is my own, have separate chancery courts, so-called equity courts, that are of as high rank as courts of law. I do not know that this question is of so great importance in my State as it may be in some others where there are many immigrants.

Mr. POWERS. Will the gentleman allow me to ask him a question right here?

Mr. GARRETT. Certainly.

Mr. POWERS. Do not the same judges sit one hour as judges of a court of equity and the next hour as judges of a court of law, or are they separate and distinct judges? I mean law and equity judges.

Mr. GARRETT. They are separate and distinct, and have separate and distinct records.

Mr. POWERS. Then the law and equity judges are different persons?

Mr. GARRETT. They are different judges.

Mr. POWERS. You have chancellors?

Mr. GARRETT. We have chancellors and circuit judges.

Mr. POWERS. Perhaps there are a few States that yet have chancellors, as the gentleman has stated they have in his; but in nearly every State in the Union the same judges have both law and equity jurisdiction, and the almost universal rule is that they sit one day in equity and the same judges sit the next day or the next hour as judges at law, and they can change from the law to the equity side, and vice versa, as often as the causes before them require or as may be necessary.

Mr. GARRETT. There are four other States besides Tennessee that have chancellors.

Mr. HEPBURN. Mr. Chairman, I think we are about to make a mistake. The amendment of the gentleman from Massachusetts, in my judgment, ought not to prevail. I was about to ask the gentleman having this matter in charge what objection there would be to striking out all of that part of the paragraph after the word "territory" so as to take away from the State courts entirely jurisdiction over the subject of naturalization?

Mr. BONYNGE. I will say, Mr. Chairman, that that matter was presented to the committee. The committee did not feel that it would be just, for the reason that in many States the Federal courts only sit in one city. In some of the Western States the cities where the Federal court may hold its session is sometimes hundreds of miles from where the alien may live, and would require the alien to go to that place at great expense in order to be naturalized; and we felt that we might put in the provision we have, which gives the State courts of the highest original jurisdiction of every State and the Federal courts the power, so that there would be a court in every county in every State of the United States that could naturalize, and that was as liberal as we could be, and we ought to be that liberal. That was the object of the amendment.

Mr. HEPBURN. I supposed that would be the answer; and yet to my mind it is not a good one. I had hoped that this bill would be regarded as a new departure in the matter of naturalization. Heretofore the naturalization of foreigners has been a farce in this country. I have never known in fifty years of observation of but one refusal when a man applied for naturalization. I think that under the provisions of this bill a great majority of the courts could be convicted of an offense if they continued to naturalize men as they heretofore have done. I find that in section 25 it is provided:

That any person who knowingly aids, advises, or encourages any person not entitled thereto to apply for or to secure naturalization—

Shall be punished, etc. How often have judges admitted men to naturalization when they knew that they had no statutory qualifications, when they knew that they were not well affected toward the institutions of the United States, when they knew that there was no disposition on their part to secure the good order and happiness of the same. They know that often they are profoundly ignorant of the character, institutions, and principles of our Government, and what is necessary to the good order of society. Hundreds and thousands of men every year are naturalized where there is this flagrant disregard of the law. The courts admit men as a matter of course who file applications that are presented to the court, and it is often regarded as a joke rather than anything more serious—this naturalization of a citizen of the United States.

I am hopeful that this inaugurates a new era, that it imposes upon these men who seek naturalization the idea that a boon is being conferred upon them, that there is something in naturalization here that they ought to be suitors for, that they ought to be willing to make sacrifices for; and the idea of bringing up as an imposition upon the alien the consideration of a man having to travel 10, 15, or 100 miles in order to secure naturalization and citizenship in this country is to my mind farcical in the extreme. There are Federal courts everywhere within reasonable limits and within reasonable time.

They have ample opportunity for attending to this duty; they will attend to it if they are required to. Let me remind you that the frauds whenever they occur, the hundreds of men who are fraudulently and unjustly admitted to participation in our citizenship, are perpetrated in the State courts and not in the

Federal courts, and therefore I think if we are to make any change at all, we should go in the other direction and not loosen up the methods of naturalization.

Mr. McNARY. Mr. Chairman, everyone is agreed that we should do all possible to prevent frauds in naturalization, and if a bill can be drafted to bring about that result and make the process more secure it will receive ultimately the almost unanimous vote of this House. But it seems to me that the bill should not be so drafted as to be oppressive to the men who seek naturalization; that the man who seeks it honestly, earnestly, from a desire to become an American citizen should be welcome if he possesses the character and capacity to fulfill the requirements.

Let me say to the gentleman who has just spoken that no case has been adduced on this floor, to my knowledge or in my hearing, where any fraud has taken place in the State courts, but men have arisen on the other side who have testified to fraud in the United States courts. [Applause.]

Mr. BENNET of New York. Will the gentleman yield for an experience?

Mr. McNARY. Certainly.

Mr. BENNET of New York. In my own city, in the city in which I live and represent in part, one judge in one day naturalized 2,500 aliens, and he could not have done it honestly.

Mr. SULLIVAN of Massachusetts. A United States judge?

Mr. BENNET of New York. No; judge of a State court.

Mr. McNARY. That seems to settle that argument so far as the State of New York is concerned. [Laughter.]

Mr. BONYNGE. If the gentleman will yield——

Mr. McNARY. I will yield if the gentleman will extend my time.

Mr. BONYNGE. I will extend it as far as the time I occupy.

Mr. McNARY. Very well.

Mr. BONYNGE. I want to call the gentleman's attention to the fact that Judge B. C. Elliot, of Lafayette, La., was impeached and dismissed from the bench for fraudulent naturalization.

Mr. McNARY. Well, that makes two cases in the State courts where there have been dozens in the United States courts. I want to say that in the State of Massachusetts no accusation has ever been brought against the State courts, and I doubt very much indeed, though two cases have been mentioned, that outside of the large cities—cities like New York—many such accusations can be brought against the State courts. And for this reason, primarily, that the State court is limited in its district, limited in the number of the population which it serves, and the judge appointed to the bench is apt to be acquainted with the citizens of his district and also with the witnesses who come before him. He has a personal acquaintance with the most of them and is in a position to know personally whether or not the statements made by the applicant and the witnesses are correct or not. And from my point of view a court of that character is the most competent court to give naturalization, because it is acquainted with the men and the witnesses who come before it.

I wish to back up the remarks made by the gentleman from Massachusetts [Mr. SULLIVAN] that the superior court of Suffolk County is so crowded with business that originates not only in that county, but in all counties around, that it is a safe assertion that no naturalization will ever take place in that court, and if we can have the jurisdiction conferred upon the lower courts which have seals, under the limitation suggested by the gentleman, the judges of these courts will deal with a population with whom they are familiar and with witnesses with whom they are familiar, and the hardships otherwise imposed upon men in that county who seek naturalization will be done away with.

Let me say to you, gentlemen, it is not a fair thing to an alien who honestly desires to become a citizen that he shall be compelled to pay a large sum of money for that purpose; that he shall be compelled to travel a great distance for that purpose, or that he shall be compelled to wait an undue length of time. Let us make the requirements strict in many respects, but do not make provisions so burdensome and onerous that it will amount practically to the prohibition of an honest man who seeks honorable citizenship in this Republic. [Applause.]

Mr. GRAHAM. Mr. Chairman, I move to strike out the last two words.

Mr. BONYNGE. Mr. Chairman, I move that all debate upon the pending amendment be closed in five minutes.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, pending that motion, I would ask the gentleman if he will agree that I may substitute an amendment exactly similar except that it limits the jurisdiction to $1,000?

Mr. BONYNGE. Yes; I have no objection to that.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I ask unanimous consent to substitute for the amendment now pending the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 3, section 3, add, after the word "unlimited," in line 5, "and all such courts of record having the seal and a clerk with jurisdiction to the extent of $1,000 and next in rank below the nisi prius courts of such State."

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts that he substitute the amendment just read? [After a pause.] The Chair hears no objection, and it is so ordered. The question now is on the motion of the gentleman from Colorado that all debate on the pending amendment close in five minutes.

Mr. MANN. Mr. Chairman, I would ask the gentleman to make the time a little longer than that.

Mr. BONYNGE. Well, Mr. Chairman, we have already had a half-hour debate on this amendment; but I will extend that time five minutes longer, and ask in connection with it that the time be equally divided between those in favor of the amendment and those opposed.

The CHAIRMAN. The question is on the motion of the gentleman from Colorado that all debate on the pending amendment be closed in ten minutes, five minutes of which shall be in the control of those in favor of the amendment and five minutes in the control of those opposed to it.

The question was taken; and the motion was agreed to.

Mr. MANN. Mr. Chairman, I hope the Chairman will notify me at the end of two minutes. I fully sympathize with what actuated the gentleman in proposing the provision in the bill. We have a population of more than 2,000,000 people in my city, the city of Chicago, and we are just now creating twenty-seven new courts. Those courts may have and do have in some particulars jurisdiction over millions of dollars' worth of property in certain cases, but they are not courts which have unlimited jurisdiction at law or which have jurisdiction over an unlimited amount in controversy. Those will be barred. The gentleman refers to the fact that we just passed a bill validating naturalization in the criminal courts. The criminal court of our county has jurisdiction to try a man for his life and to order that he be hanged, but you say it is not a court of sufficient importance to naturalize a citizen. It will be a very great hardship, I say, gentlemen, in the city of Chicago upon thousands of people if this bill passes in the way that it reads now.

Mr. NORRIS. Will this amendment let in the courts referred to?

Mr. MANN. I think this amendment will let in those courts except the criminal court. If we have the other courts, very well. It is often a matter of great difficulty now in the city of Chicago to obtain the consent of a judge in an ordinary court to hear a naturalization case at all. I have known men seeking to be naturalized who went to court several times before they could obtain a hearing by the court for that purpose.

[Here the hammer fell.]

Mr. GRAHAM. Mr. Chairman, I favor the amendment restricting the naturalization to the United States courts for the reason that they are able, in my estimation, to take in all the business offered. The courts in the city of Pittsburg have a great deal of naturalization, and the United States court to-day is taking care of all the naturalization cases. The county courts have turned the business over voluntarily to the United States court, and the United States court hears all of the cases, and I want to say, for the benefit of my friend from Iowa [Mr. HEPBURN], who stated he believed he knew of no cases having been turned down by the United States courts, that there are hundreds of cases refused by the United States court in Pittsburg. Judge Buffington, of the United States district court, has a school established for the examination of candidates for naturalization, and the clerk, William T. Lindsey, prescribes certain days during each month when the applicants appear for examination. They are interrogated not only on their knowledge of the English language, but their acquaintance with the salient features of American history. They are put through a catechism that is searching and rigid, and a number of them are excluded. I think that the United States courts are able to handle this matter and do it better than the county courts. I want to state that the naturalization in Allegheny County frequently numbers from one to two hundred cases in a month. In former years, when our county courts naturalized, as the time approached for State and national elections, the Republican and Democratic committees paid the fees for final papers, and the rush upon the courts was terrific, and, of course, under the circumstances, the proper examinations could

not be made, and numbers of ignorant and unworthy applicants slipped through. Now, neither party advances the fees, and all applicants are referred to the United States courts, where, as I said before, the most rigid examinations are required, and, notwithstanding, an immense foreign population is attracted to our great manufacturing center, our new citizens will compare favorably with any section of the Union.

Mr. BONYNGE. Mr. Chairman, in 1903 the Department of Justice appointed a special examiner to examine into naturalization frauds. He made a report, and in that report is found the following language, to which I desire to call the attention of the committee. The special examiner was Mr. Van Deusen. He said:

The evidence is overwhelming that the general administration of the naturalization laws has been contemptuous, perfunctory, indifferent, lax, and unintelligent, and in many cases, especially in inferior State courts, corrupt. I find that it is and has been the practice of judges of State courts to hold evening sessions of court at the behest of political leaders for the sole purpose of naturalizing hundreds of aliens for political purposes, with a full knowledge on the part of the judges that the aliens have been bribed to become citizens and voters by the payment of their naturalization fees by the political organizations. These evils and frauds have existed for years, exist to-day, and will continue to exist and multiply until radical and stringent changes are made in the naturalization laws and a strict supervision of the administration imposed.

Nearly everyone, Mr. Chairman, who has spoken upon this floor to-day in reference to this bill has admitted that in the main these charges are correct; that we have had a very loose and lax system of naturalization in vogue in this country; that many have been naturalized improperly and improvidently and contrary to the provisions of the law. From such investigation as we have been able to give to this question we have concluded that the primary reason for the lax and loose administration of the naturalization laws has been because of the large number of courts of different characters of jurisdiction throughout the United States.

There are to-day some 5,000 different courts in the United States naturalizing aliens. So long, Mr. Chairman, as there are that number of courts engaged in this business we can not hope to have a uniform system of naturalization, and there was never a better demonstration and illustration of that fact than which I called to the committee's attention a few moments ago of what occurred in the city of Chicago. Now, it has not been the aim of the committee to make it difficult or impossible for worthy aliens to become naturalized, so we did not go to the extremes, as many urged us to do, and limit naturalization to the Federal courts. The naturalization of aliens is a Federal matter, and so there were some strong arguments that might be urged now, and were urged upon the committee in favor of limiting naturalization to the Federal courts alone, but the committee did not go to that extreme. On the contrary, we have provided that not only the Federal courts, but that the State courts of the highest original jurisdiction in every State might be authorized to naturalize aliens, and in every county in every State and in every Territory of the Union there is some court of highest original jurisdiction that will sit at different times throughout the year than can naturalize aliens under the provisions of this bill, and therefore I hope, Mr. Chairman, that the amendment that has been offered, and other amendments seeking to add to the courts that may engage in this business, may be voted down and the report of the committee approved by the Committee of the Whole House. I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken; and the amendment was rejected.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 3, line 5, strike out "unlimited" and insert in lieu thereof the following: "$1,000 or over."

The question was taken; and the amendment was rejected.

Mr. CUSHMAN. Mr. Chairman, I offer the following amendment:

On page 2, line 25, strike out the words "the district of" and insert the word "and;" so that it may read "for the Territories of Arizona, New Mexico, Oklahoma, Hawaii, and Alaska."

Mr. BONYNGE. Is Alaska now an organized Territory?

Mr. CUSHMAN. Alaska is an organized Territory, and the Supreme Court of the United States has so decided.

Mr. BONYNGE. Then I have no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, line 25, strike out the words "district of" and insert, after the word "Hawaii," the word "and;" so that it will read: "Territories of Arizona, New Mexico, Oklahoma, Hawaii, and Alaska."

Mr. CLARK of Missouri. I would like to ask if you are going to naturalize out in the Hawaiian Islands?

Mr. BONYNGE. Certainly.

Mr. CUSHMAN. That question is not particularly involved, but in this bill the designation of Alaska should be the correct legal designation, and it should be designated as the "Territory of Alaska" and not designated as the "district of Alaska," the Supreme Court having decided in two different cases that Alaska is an organized Territory.

Mr. CLARK of Missouri. There was some judge somewhere, I believe in Oregon, who naturalized a Chinaman out there not long ago, and if there are any more such judges around out there anywhere I am opposed to the amendment.

The question was taken; and the amendment was agreed to.

Mr. GARRETT. Mr. Chairman, I offer the following amendment, and I ask the attention of the gentleman from Colorado to the amendment, as I believe he will have no objection to it.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 4, after the word "law," insert "or equity, or law and equity."

Mr. BONYNGE. The committee will not object to that amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read:

Mr. WILLIAMS. Mr. Chairman, the Clerk is reading section 4. I have not heard all of section 3 read yet.

Mr. BONYNGE. It has been read.

Mr. WILLIAMS. Then I have an amendment to offer to section 3.

The CHAIRMAN. The gentleman from Mississippi [Mr. WILLIAMS] offers an amendment.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the language on lines 6, 7, and 8, down to and including the word "States," all on page 3.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 3, lines 6, 7, and 8, strike out the following language: "All judges, justices, clerks, and officers of such State courts, when acting in naturalization matters, shall be deemed officers and agents of the United States."

Mr. WILLIAMS. Now, Mr. Chairman, if this language is permitted to remain in the bill, we are making State judges and State clerks elected or appointed as State officers by the States or the people thereof "officers and agents of the United States," confusing two things which the Constitution and our forefathers were very careful, indeed anxious, to demark the one from the other. This bill will then mix them up irretrievably. Under our peculiar system of government each one of our two governmental agencies is supreme within the line of its powers. In the one case powers delegated, and in the other case, powers reserved, and to pass a bill upon any subject whereby officers appointed or elected in a State as State officers are made "officers and agents of the United States"—are made Federal officers—seems to be too plainly obnoxious to require any argument at all. I reserve the balance of my time.

Mr. BONYNGE. Mr. Chairman, I simply desire to say a word in answer to the gentleman from Mississippi [Mr. WILLIAMS]. The naturalization of aliens——

Mr. WILLIAMS. One word, if the gentleman will pardon me. I want to say this, too; in some of the States the State judge, clerks, etc., could not act at all without ipso facto vacating their positions. In Virginia, for example, and in several other States, State officers are forbidden by the constitution or by the laws to hold any office of emolument or profit under the United States Government.

Mr. BONYNGE. Mr. Chairman, under the Constitution the subject of naturalization is delegated to Congress. It is a Federal procedure, and so we might have reported, as I said a moment ago, a provision limiting the courts that could exercise jurisdiction in these matters to Federal courts. We sought to be more liberal and to extend the opportunity to State courts to act in such matters. It is necessary when they do so act, that they act as officers and agents of the United States. It has been held by the Supreme Court, in the case of Houston *v.* Moore, 5 Wheaton, page 1, that the declaration in the United States Statutes that has reference to this matter—

That certain State courts may hear and determine and act upon applications for naturalization is permissive merely, for Congress is without power to interfere with or control State courts except in so far as the Federal courts have appellate jurisdiction.

Now, of course, no State courts can be compelled to act by Congress. It is simply permissive. They may or they may not,

as they see fit, but when they do undertake to act in naturalization proceedings they must act in accordance with the statutes passed by Congress.

Mr. PERKINS. What is it intended exactly to accomplish by the use of this phrase:

They shall be deemed to be officers and agents of the United States?

Mr. BONYNGE. Because we are providing, Mr. Chairman, in other sections of the bill that returns shall be made by the clerks of these courts to the Bureau of Immigration and Naturalization at Washington, and that that Bureau shall have supervisory control over the naturalization proceedings, whether in State courts or in Federal courts.

Mr. PERKINS. And still, of course, if the courts——

Mr. BONYNGE. That they shall receive fees which shall be paid under the provisions of this act.

Mr. PERKINS. That is, the officers of the State courts will receive fees?

Mr. BONYNGE. Certainly; in order that they may be paid for the services they may render in performing this function for the National Government.

Mr. PERKINS. You do not intend to give the judges any fees?

Mr. BONYNGE. No; not the judges, but the judges will be responsible to the National Government for the proper administration of its laws in reference to naturalization.

Mr. PERKINS. Suppose a man who is judge of the State court should misbehave in this capacity, do you think he could be indicted or impeached under a Federal law?

Mr. BONYNGE. Certainly I do; unquestionably.

Mr. MANN. Does the gentleman think he could be impeached under the Federal law?

Mr. BONYNGE. I do not think he could be impeached. I did not notice the word "impeached" in the question.

Mr. MANN. May I ask if this is in the naturalization law?

Mr. BONYNGE. Not that exact language. Under the existing law there is no general bureau for supervising control over this subject.

Mr. MANN. Now, as I understand, there are certain fees to be collected by the clerks of the courts. In the city of Chicago there will be a very large amount of fees to be collected. The clerks are selected under a law fixing their compensation, but if you declare them to be Federal officials do they keep the fees or do they turn them into the treasury of the county, as the State law requires?

Mr. BONYNGE. I suppose the State legislature could regulate that as it saw fit. So far as the Federal Government is concerned, we authorize them to keep a portion of the fees.

Mr. MANN. If they are made Federal officers and you provide that they shall have certain money, can the State law change the law that we pass here?

Mr. BONYNGE. As to the disposition of what money they make from it, I think so.

Mr. MANN. I can not quite see myself the point of having this in. I can see embarrassments that may arise. The gentleman does not question that these officials will re required to make returns in any event, I suppose?

Mr. BONYNGE. I do not think they would have any control or supervision of them, unless they were acting as our officials and our agents, and we want to keep that control or that supervision, or else we can never have a uniform system of naturalization throughout the United States.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, I ask that the gentleman's time be extended five minutes. I want to ask him a question.

Mr. MANN. I am not through with him myself.

Mr. FITZGERALD. Mr. Chairman, I ask that the gentleman's time be extended five minutes.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] asks that the time of the gentleman from Colorado be extended for five minutes. Is there objection?

There was no objection.

Mr. FITZGERALD. The gentleman is familiar with the laws of the State of New York. Does he not believe that if this particular provision be enacted it will prevent every State court in New York from exercising powers to naturalize under this bill?

Mr. BONYNGE. I know of no reason why it should.

Mr. FITZGERALD. Are not the officials of the State of New York prohibited from accepting or filling any position in the Federal service to which compensation is attached?

Mr. PERKINS. I will state to the gentleman——

Mr. BONYNGE. I do not recall that law in New York. There may be such a one.

Mr. PERKINS. Under the jurisdiction of this act, which is now confined to the judges of the Supreme Court, the only courts which have unlimited jurisdiction, I very much doubt that they would act under the law by which they were pro tento made officers of the Government. I think they would decline the jurisdiction.

Mr. FITZGERALD. Mr. Chairman, I wish to call my colleague's attention to the fact that the clerks of those courts under this bill would be entitled to certain fees, and that in itself would prevent these clerks from acting in the naturalization cases as provided in the bill.

Mr. HINSHAW. They are entitled to fees now.

Mr. BONYNGE. Under some State laws they are.

Mr. SHERLEY. Will the gentleman allow me to ask him a question?

Mr. BONYNGE. I have no further time, but I will answer the gentleman a question.

Mr. SHERLEY. Will the gentleman tell the House what control, in his judgment, the Federal authorities have over clerks and judges in the State courts when they have taken jurisdiction in naturalization matters?

Mr. BONYNGE. Under section 4 of the bill it provides that there shall be an agent of the bureau who shall be authorized to examine the various forms used by these different clerks and officers acting in naturalization proceedings, to examine the records that are kept by them; and, then, under that supervisory control, to see that they are complying with the statute. I suppose the next question the gentleman would ask would be this: Then, presuming that they had violated any of the sections of the bill, what power would the National Government have in the premises? I will answer that question by saying, that if any officer of a State court violates any of the provisions of any section of the bill providing for criminal prosecution, we would ascertain the fact through the examination and we could punish such officer accordingly in the Federal court for such violation.

Mr. SHERLEY. Then you are going to make, by the terms of your bill, a judge of a State court amenable and tryable in the Federal courts, so as to be removed from office by provision of this bill?

Mr. BONYNGE. Why, if the State court acts under this bill, should it become law, he is certainly amenable to the Federal statute. He would be performing a duty which he need not take upon himself unless he saw fit to do so. It is only permissible; but if he takes the responsibility, if he assumes the responsibility, he will be amenable to the Federal Government. I will call attention to the fact that this is not a novel procedure. It has existed heretofore. I think he is amenable under existing statute. I know, in many instances, or at least I recall one at the present time where the Federal Government made the officers of elections in the States officers of the National Government, and if they violated the State laws regulating the election, the supreme court held——

Mr. FITZGERALD. They receive no compensation from the Federal Government for those services?

Mr. BONYNGE. No; they receive no compensation from the Federal Government; neither do they under this bill. They receive it from the applicants who apply for naturalization.

Mr. SHERLEY. The whole illustration the gentleman is using is one of the reasons why some of us are not disposed to mix State and Federal courts together.

Mr. BONYNGE. The gentleman must admit that he is not in accord with the Supreme Court of the United States so far as authority is concerned. He may doubt the wisdom of it, but, so far as the legality is concerned, the Supreme Court of the United States has settled, in my judgment, that proposition.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHERLEY. I move to strike out the last word.

I desire to say to the gentleman from Colorado that when he has heard me speak as to the constitutionality of the provision it will be time for him to argue the law point. I wanted the committee to know what was being undertaken, because, in my judgment, if it be possible to eliminate this mixing of State and Federal jurisdiction it is a wise thing to do. We have never had the Federal courts interfering with the State courts without the creation of friction, without creating scandal and a creation of evils greater than those they undertook to cure. For my part, I would rather see the provision as to the courts that could grant naturalization limited to Federal courts. I would rather have that than to have the Federal courts interfering with the State courts. Under the fourth section of this bill a judge of a State court would be subject to examination by a Department clerk of the Bureau of Commerce and Labor.

Mr. WILLIAMS. And under section 17 to imprisonment,

Mr. SHERLEY. If the officers of a court of unlimited juris-

diction of a State are to be subject to inquisitorial examination by clerks in the Department of Commerce and Labor, it is high time we abolish the State courts and simply make the whole thing a national government, without any State lines whatever.

Mr. BONYNGE. If the gentleman has not used all of his time, I desire to say in reply that I think the only remedy that could be applied for the condition which the gentleman has argued against is that which he has suggested himself; that either you will have to retain the provision that we have put in this bill, or else you will have to take the other horn of the dilemma and limit the naturalization proceedings to the Federal courts. As between these two propositions, I was in favor of the one that is contained in this bill, and I trust that the committee will be in favor of it.

Mr. WILLIAMS. Mr. Chairman, the gentleman says the only alternative to the provision I have moved to strike out would be to confer exclusive jurisdiction in matters of naturalization upon the Federal courts. I submit that that is not the only remedy, that there is a remedy much more at hand, and that is simply to adopt the pending amendment and strike out the obnoxious language.

Now, Mr. Chairman, the gentleman says he might have provided in this bill, or Congress might provide, that the Federal courts exclusively should have jurisdiction. There is no doubt about that proposition, and if it be a wise thing to do, why, then, go ahead and do it. That is something that we can do; that is something that Congress can do; but this thing that is attempted in this bill to be done is something that Congress ought not to attempt to do. I doubt if it is a thing that Congress can do. Let us take the language and consider it just a minute. What an anomaly it would be. Down in Virginia, for example, or in New York, a State officer acting under this bill, accepting the authority and power conferred upon him by this provision, would by the situation itself, in Virginia under the State constitution and also, as I understand it, in New York under their law, vacate the State office. So much if he doesn't. Then, if he does accept it, he becomes, under provision 17 in this bill, subject to be arrested—the State judge, the clerk of a State court—and thrown into jail by a Federal marshal, and the office to which he has been elected by the people of the State, or appointed by the governor of the State, becomes for the time being vacated by his imprisonment. Thus the machinery of one government, the Federal, can stop the machinery of the other, the State. In the one case the State officer acting vacates the State office by the constitution or law of the State, and in the other case he is torn from the bench and confined in prison by Federal authority.

Mr. WALDO. I would like to ask the gentleman a question.

Mr. WILLIAMS. I will yield.

Mr. WALDO. I want to ask the gentleman if under the present law a State judge or a State clerk could not be prosecuted in any United States court and sent to jail or State prison for a violation of the present naturalization law?

Mr. WILLIAMS. No; he could not as a Federal officer or agent, that I know of. A State court or a State clerk can be arrested as John Smith or Tom Jones like anybody else, carried into a Federal court and tried for a crime, wherever he is charged with one, and the Federal court has jurisdiction, but he could not be arrested for performance or nonperformance of any official duty and carried into a Federal court for that, except where in some cases Federal jurisdiction attaches as when he has violated an injunction or refused to obey a mandamus issuing out of a Federal court having jurisdiction of a subject-matter or something of that sort. But here you confer upon a man judicial power, a State judge, and then upon somebody else—a Federal officer—the right to imprison him in connection with the exercise of that judicial power.

Mr. WALDO. Is there any difference——

Mr. WILLIAMS. You can not arrest a Federal judge for a fault in the exercise of his judicial power, even by the provisions of this bill——

Mr. WALDO. I think that is a mistake if that is true.

Mr. WILLIAMS. I want to say this further, as a Democrat; I do not see how any man who understands even the A B Cs of Democracy can vote for this bill with that clause left in it. It is as absolutely impossible as for a Mohommedan to believe in polytheism.

Mr. CRUMPACKER. Does the gentleman believe that the State authorities could prosecute a State judge or the clerk of a State court for violating a Federal law; and if his theory is right, is it not true that it would necessarily deprive the State courts of the power that the bill seeks to confer upon them to naturalize aliens?

Mr. WILLIAMS. They could, if as a part of his conduct in connection with it he had committed forgery or perjury, or suborned it, or had accepted a bribe, or committed any other act which was a crime under the laws of the State. That is what I say—they can not serve, they would not serve, if I understand the gentleman's question.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. CRUMPACKER. Mr. Chairman, I move to strike out the last two words. I confess, Mr. Chairman, that the question discussed by the gentleman from Mississippi is an important one, a serious one, one that I have thought about a great many times in connection with the present system of naturalization. It provides a commingling of the Federal and State power in one officer.

Mr. WILLIAMS. If the gentleman will pardon me, there is no language like this which I propose to strike out in the present law.

Mr. CRUMPACKER. I admit there is perhaps no specific language like that in the present law, but I do not think language designating the State officers as Federal officers and agents for the enforcement of the naturalization law is of any significance whatever.

When a State court or the officers of a State court undertake to administer a Federal naturalization law, by the very nature of the undertaking they become Federal officers or agents in that particular work, and it does not make any difference whether the court shall be specifically designated a Federal court or the clerk a Federal clerk while so engaged or not. They are such whether this law says so or not. We can not add to or take from the fact that an officer who exercises Federal power is a Federal officer or agent in the execution of that power.

Mr. WILLIAMS. Then if that be true, why not strike out the language?

Mr. CRUMPACKER. I do not believe it is of any significance. The whole question resolves itself down to this: Whether Congress shall confer on the State courts the power to naturalize citizens of the United States, with the consent of the States. It can not be done over the objection of the States.

Mr. WILLIAMS. At present what is done under the naturalization laws is this: Congress, without making these people who are State court officials officers or agents of the Federal Government, simply agrees to allow State courts to act, and it accepts without question, in accordance with the comity that invariably prevails between the two systems of government, the result of the deliberations—the judgment—the conclusion of the State courts. This language changes that policy.

Mr. CRUMPACKER. If the gentleman is right in that, we had as well abandon all attempts to prevent fraudulent naturalizations of aliens. Unless the Government that confers citizenship can control the agencies of naturalization, all attempts to prevent fraud will be futile.

Mr. WILLIAMS. It has never thus far even attempted to do it. On the contrary, in comity, it has accepted the conclusions of the State courts, and neither "examined their methods" nor made them Federal "officers and agents."

Mr. GARRETT. Now, the powers to be performed by the State judges and by the Federal judges under the provisions of this act are precisely the same, are they not?

Mr. CRUMPACKER. Precisely the same.

Mr. GARRETT. If a Federal judge is guilty of malfeasance in office in connection with this act, how would he be punished? He can only be punished——

Mr. CRUMPACKER. Allow me to answer the question. The gentleman should not ask and answer the question. There are general laws for the punishment of Federal judges for general malfeasance in office. We can not make general laws to punish State courts and officers. Our power to punish State officers is necessarily confined to their action in the enforcement of Federal laws, and that is the reason for limited penal provisions in this bill.

Mr. GARRETT. Is it not true that the Federal judge could be punished only by impeachment?

Mr. CRUMPACKER. Not always. There are statutes authorizing the indictment and trial of Federal judges for crimes.

Mr. GARRETT. For malfeasance in office?

Mr. CRUMPACKER. Yes; for malfeasance in office. Malfeasance in office covers a great many things.

Mr. WILLIAMS. If the gentleman has the time, right along that line, the Federal Government can impeach a Federal judge. That is its way of getting at him.

Mr. CRUMPACKER. Impeachment is the way to remove him from office, but it is not a punishment for crime. It is a political proceeding to remove a judge from office and is in no

sense a bar to his prosecution in the criminal courts for the acts for which he is impeached.

Mr. WILLIAMS. I understand that a Federal judge who has committed murder can be indicted just the same as John Jones can.

Mr. CRUMPACKER. And if he has received a bribe as a judge he can be prosecuted for bribery.

Mr. WILLIAMS. And if he has committed forgery he can be indicted for that.

Mr. CRUMPACKER. Yes.

Mr. WILLIAMS. But I am talking now about his official conduct. The only way you can get at him for that alone is by impeachment. Either one of two things would follow if this bill put State judges in the place of United States judges. You would either have to impeach a State judge in the United States Senate, which is out of all question—of course you could not do it—or else, if you are going to deal with him at all, you would have to imprison him or fine him.

Mr. CRUMPACKER. The gentleman is entirely mistaken. Impeachment is not a punishment, it is not a criminal proceeding; it is simply a process for removing a man from office. Federal judges are amenable to the criminal laws of the country for bribery and other crimes and malfeasances in office just the same as any other officer is.

Mr. WILLIAMS. Removal from office is a punishment. There may be, after removal, additional punishment. And so would a State judge without this language which I want stricken out be amenable to the criminal laws both of the State and the United States. He can not commit forgery or bribery without punishment. He is punished, however, as a citizen and not as an "officer or agent of the United States."

Mr. BENNET of New York. Mr. Chairman, there are at least two people in jail to-day who would like to have heard this argument which proves that they can not be put in jail for the very thing which they are now serving sentence. One of them is named Lavine and the other Saverino. Both of them have been convicted in cases where this very question came up. In the case of Lavine *v.* United States (128 Fed. Rep., 826), Lavine was naturalized in a criminal court in the city of St. Louis. He was tried in the Federal court.

Mr. LITTLEFIELD. That is a court of criminal jurisdiction.

Mr. WILLIAMS. He was not a judge or a clerk. Nobody is denying that.

Mr. BENNET of New York. The principle is the same.

Mr. WILLIAMS. Oh, no.

Mr. BENNET of New York. If Congress can make one statute extend over a State court, it can make another. The particular statute in this case was the statute in relation to perjury, section 5429, United States Statutes, and the court held there that while as an original proposition it might be good law that the Federal Government could not confer power on a State court, the fact that it had done so and that that jurisdiction had been maintained for a hundred years precluded the court at this late day from raising any such question.

There was a similar case in the courts of the southern district of New York against Savarino, where the same thing was held. The Government can not impose any jurisdiction upon a State court. It can not make the State court naturalize one single alien; but when any judge, with the permission of a State, or any clerk of his court, with the permission of his State, assumes any jurisdiction which the Government tenders to him, then he comes under the jurisdiction of the United States Government and is subject to punishment for violating the statutes.

Mr. CAMPBELL of Kansas. I am informed that the clerk of the court in St. Louis, and also the marshal, their names being Garrett and Dolan, were both convicted and are both to-day serving terms in the penitentiary for fraudulent naturalization in the courts in St. Louis, and that they were convicted in the Federal courts.

Mr. BENNET of New York. Certainly.

Mr. CAMPBELL of Kansas. And these officers, Garrett and Dolan, were State officers elected by the people of St. Louis.

Mr. MANN. The gentleman stated a while ago there was a Louisiana case.

Mr. BENNET of New York. That was Mr. BONYNGE, of the committee.

Mr. MANN. Where was that officer convicted?

Mr. BENNET of New York. I have no personal knowledge of that.

Mr. BONYNGE. My recollection was he was impeached, probably by the State legislature.

Mr. HAYES. I would like to ask the gentleman from New York a question, or, rather, make an observation. Within the past two months, in San Francisco, Cal., the United States district attorney, has prosecuted and sent to the penitentiary a deputy clerk of the court of the county of San Francisco, a State court, for fraudulently naturalizing aliens. He prosecuted him and convicted him and sent him to the penitentiary within the last two months.

Mr. WILLIAMS. Nobody is denying——

Mr. BENNET of New York. I yield to the gentleman from Colorado.

Mr. BONYNGE. And, Mr. Chairman, I would state another instance where clerks of State courts are exercising jurisdiction in Federal matters. In the matter of making proof in all homestead laws, the clerks of the various State courts in the West are authorized, under certain emergencies, to act and to take the proof, and one of the clerks of one of the county courts in my State within the past two months has been convicted and sent to the penitentiary for fraud in the exercise of that jurisdiction.

Mr. BENNET of New York. I yield to the gentleman from Michigan.

Mr. YOUNG. I wish to ask the gentleman from New York this question: Does the gentleman think that this provision about which we are now disputing adds anything to the power or anything to the responsibility of judges, justices, and clerks in offices of State courts if they consent to act in naturalizations if the words were stricken out? In other words, would not they have the same power, would not they act under the same responsibility, would not they be amenable in the same manner to Federal law as if the words were in?

Mr. BENNET of New York. Mr. Chairman, my own individual judgment is they would, but to save the question this language ought to be left in the bill.

Mr. LITTLEFIELD. Allow me to say——

Mr. BENNET of New York. I yield to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. The gentleman does not seem to have understood the contention. That John Smith or Savarino or the clerk of the court could be arrested, indicted, tried, and found guilty of forgery or perjury in a Federal court or State court nobody has ever disputed. The proposition that we are making here is this: He was punished for a crime and not because he was an officer or agent of the Federal Government. He was punished because he committed perjury; he was punished because he committed forgery; the individual was punished for the crime and he was punished in a Federal court in one case and in the State courts in many cases. Now, then, the man could be punished whenever he commits a crime whether he is a Federal court clerk or a State court clerk, and it is unnecessary to withdraw the line of demarcation between our two governmental systems in order to punish him for crime.

The CHAIRMAN. The time of the gentleman has expired, and time for debate has expired.

Mr. YOUNG. Will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BENNET of New York. Mr. Chairman, I ask unanimous consent that my time be extended long enough to answer this question.

The CHAIRMAN. The gentleman asks that the time be extended for two minutes. Is there objection?

There was no objection.

Mr. BENNET of New York. As far as he went, the gentleman from Mississippi [Mr. WILLIAMS] is absolutely correct. What the man would be arrested and tried and convicted for would be crime. That is everything that a man is ordinarily tried and arrested and convicted for. He could be arrested, tried, and convicted whether this language was in the bill or not.

Mr. WILLIAMS. I beg the gentleman's pardon. A Federal officer can be dealt with by the Federal Government simply for malfeasance in office.

Mr. BENNET of New York. I have quoted two decisions, and as far as the line of demarcation goes, the circuit court of appeals of St. Louis held that the line of demarcation had been extinguished a hundred years.

Mr. WILLIAMS. Would the gentleman mind putting the language of that decision in the RECORD?

Mr. BENNET of New York. I have no objection.

The language referred to is as follows, taken from 128 Federal Reporter, at page 827 et seq.:

> Counsel for the plaintiff in error, however, contends with much cogency and ingenuity that a court of a State has no jurisdiction to admit aliens to citizenship (1) because Congress had no power under the Constitution to grant this authority to such a court; and (2) because, if it had that power, a court of common-law jurisdiction created by a State has no authority to accept or to exercise this power in

the absence of legislative permission so to do from the State which established it. His argument in support of his first position runs in this way: The Constitution provides that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish" (Article III, sec. 1), and that "the judicial power shall extend to all cases" specified in Article III, section 2. Congress has no authority to grant any portion of this judicial power of the nation to any other courts than those created under these sections of the Constitution. (Martin *v.* Hunter's Lessee, 1 Wheat., 304, 328–330; 4 L. Ed., 97; Houston *v.* Moore, 5 Wheat., 1, 27; 5 L. Ed., 19). The admission of aliens to citizenship is a judicial function. It is the exercise of judicial power. (Spratt *v.* Spratt, 4 Pet., 393, 407; 7 L. Ed., 171.) Therefore the Congress has no power to grant to a court of a State the judicial power to admit aliens to citizenship, and section 2165 and all other acts of Congress which by their terms bestowed this authority upon State courts are unconstitutional and void. In support of his second proposition he argues that a court of a State derives all of its powers from the political entity which creates it; that, while such a court may perform judicial functions permitted by national legislation in cases in which the general power to discharge these functions is granted or allowed to it by the legislation of the State which creates it, no new or additional authority can be conferred upon it by the laws of the nation, and none can be exercised by it unless it is granted by the State laws which create the court, and vest and define its jurisdiction, and, inasmuch as the legislation of the State of Missouri has never granted to any court of that State the power or the permission to naturalize aliens in accordance with the laws of the United States, none of the courts of that State may lawfully exercise this authority. To sustain this argument he cites the decisions of the Supreme Court to the effect that where jurisdiction may be conferred upon the national courts by Congress, and that jurisdiction is not made exclusive, the State courts may exercise it if by the Constitution and laws of their State they are competent to take it (Houston *v.* Moore, 5 Wheat., 1, 27; 5 L. Ed., 19; Claflin *v.* Houseman, 93 U. S., 130, 136; 23 L. Ed., 833); the cases in which State courts have declined to sustain actions for fines, penalties, or forfeitures imposed by acts of Congress for the violation of national legislation (U. S. *v.* Lathrop, 17 Johns, 4, 8–10; Ely *v.* Peck, 7 Conn., 239, 244); and the case of Ex Parte Knowles (5 Cal., 300), in which the supreme court of that State held that, while Congress had no power to confer jurisdiction upon the courts of a State to admit aliens to citizenship, yet such courts might exercise that power in cases where its existence was recognized by the legislation of the State which established it.

These propositions and arguments of the counsel for the plaintiff in error are plausible and cogent. They might well have challenged debate—possibly they might have changed the course of legislation and of action—if they had been presented to the Supreme Court one hundred years ago. At this late day, however, after the courts of the States have for more than a century, with the uniform acquiescence and consent of all the departments of the National Government and of the State governments, exercised this authority to naturalize aliens granted to them by the acts of Congress, there is one answer which is equally fatal to both the propositions which counsel for the plaintiff in error here presents. It is that the contemporaneous interpretation of the provisions of the Constitution relative to this subject by those who framed it, the concurrence of statesmen, legislators, and judges in that construction, the acquiescence and uninterrupted practice of all the Departments of the Government in the same interpretation for more than one hundred years, conclusively determine their meaning and effect, and place them beyond the realm of doubt or question. (Stuart *v.* Laird, 1 Cranch, 298, 308; 2 L. Ed., 115; Cohens *v.* Virginia, 6 Wheat., 265, 419; 5 L. Ed., 257; Prigg *v.* Pennsylvania, 16 Pet., 539, 620, 621; 10 L. Ed., 1060; Ex parte Gist, 26 Ala., 156, 164; Dean *v.* Borchsenius, 30 Wis., 237.) In the year 1790 the Congress passed the first act to establish a uniform rule of naturalization. That act empowered any common-law court of record in any one of the States to admit aliens to citizenship upon their compliance with the terms of the law, but gave no such authority to any court of the United States. (1 Stat., 103.) Many of the statesmen who sat in the convention which framed the Constitution were Members of the Congress which passed this law. This act of Congress is therefore a contemporary interpretation—a practical exposition of the meaning and effect—of the grant to Congress of the power to establish a uniform rule of naturalization by the very men who, as the representatives of the people of the United States, gave this authority to the legislative department of the National Government. From the day when this act gave the courts of the States the power to issue certificates of citizenship to qualified aliens to the present moment, through all the legislation and judicial action of more than a century, that grant to the State courts has been maintained undisturbed, and the power thus bestowed has been exercised by the courts of the States with the uninterrupted acquiescence of the legislative, executive, and judicial departments of the nation and of the States. (1 Stat., 414; Act April 14, 1802, c. 28, 2 Stat., 153, 155; Rev. St., sec. 2165; U. S. Comp. St., p. 1329; Claflin *v.* Houseman, 93 U. S., 130, 140, 23 L. Ed., 833; Robertson *v.* Baldwin, 165 U. S., 275, 279, 17 Sup. Ct., 326, 41 L. Ed., 715.)

This contemporaneous, continuous, and uniform affirmance of the constitutionality of the grant to the State courts of this power to naturalize aliens, and this uninterrupted practice of the State courts to exercise the power thus bestowed upon them, are too long continued, too strong, too obstinate to be controlled or shaken now. It is too late to question the constitutionality of the devolution of this authority upon the courts of the States or their jurisdiction to exercise it. Those issues have been settled by prescription and practice, and they are no longer open to debate or question.

Mr. YOUNG. Mr. Chairman, I would like to ask the gentleman from Mississippi this question.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last three words for the purpose of answering a question.

Mr. YOUNG. I wish to ask the gentleman from Mississippi this question: I agree with him fully in thinking that these words should be stricken out. But now I wish to ask him this: That provided they are struck out and some judge acts corruptly under the naturalization laws, then has the gentleman any doubt that he has been prosecuted under Federal law for his corrupt act?

Mr. WILLIAMS. I have no doubt but that he could be prosecuted in the State court or the Federal court, either one, whichever happens to have jurisdiction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. WILLIAMS].

Mr. MANN. I am opposed to the amendment offered by the gentleman from Mississippi [Mr. WILLIAMS]. A while ago cases were cited as to punishment of clerks.

Mr. BONYNGE. Yes.

Mr. MANN. Who will punish the judge?

Mr. BONYNGE. The Federal court, in the same way, I should say, if the judge were guilty of a violation of the Federal statute. I do not know of any law that exempts a judge of a State court from obeying a Federal statute when he undertakes to act under the provisions of a Federal statute.

Mr. MANN. If the judge is guilty of crime that is another thing. He can be punished, no matter who he is. But you can not impeach the judge in Congress, and undoubtedly we could not impeach a State judge, although he is deemed a Federal officer, and could the State impeach him when he is a Federal officer? Who will control the judges?

Mr. BONYNGE. The Federal courts.

Mr. GARDNER of New Jersey. I understood that the gentleman in charge of the bill within fifteen minutes to state that in a case of this kind the State of Louisiana did impeach.

Mr. MANN. I beg the gentleman's pardon. With the law as it is now, the judge of the State court enforces the Federal law. That is a matter that is permissive. That has been exercised ever since the foundation of the Government, but here is a proposition to declare that these people when acting as judges in that position are not State officers; they are no longer State officials. They are Federal officers. Now, very plainly the State legislature can not impeach a Federal official, and I do not think that Congress can impeach a State judge.

Mr. BONYNGE. They can not impeach a State judge, but I think we can punish him for the violation of a Federal statute.

Mr. MANN. We can punish him for the violation of the law.

Mr. BONYNGE. That is the way we would have control of him, and that is the only control we would have.

Mr. MANN. He has got to violate a specific law, and you make no provision in here where the judge violates the law, no matter who he may naturalize, if he follows what he calls a judicial interpretation. It is the difference that runs all through legal jurisprudence between the conviction of a crime and impeachment for misdemeanor.

The CHAIRMAN. The time for debate has expired.

Mr. ALEXANDER. Mr. Chairman, I rise to ask that the amendment offered by the gentleman from Mississippi be read.

The CHAIRMAN. The Clerk will read the amendment.

The Clerk again read the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. WILLIAMS].

Mr. MAHON. Mr. Chairman, I move to amend by striking out the last four words.

The bill makes the clerks and judges Government officers and agents of the United States. Now, the constitution of the State of Pennsylvania prohibits any official in that State acting in the capacity of a Government official, and the same is true in New Jersey.

Mr. PERKINS. And the same in New York.

Mr. MAHON. They can not act under this bill.

Mr. BONYNGE. If the gentleman from New York [Mr. BENNET] desires to make answer in reference to the State of New York, I would like to have him do so.

Mr. BENNET of New York. The gentleman has said there is a provision similar to the one he quotes in the State of New York. There is one somewhat analogous in our State court, and under such a provision they have held that while that language is in the constitution, while judges there are so restricted they can not even run for an office except the judicial office——

Mr. GOLDFOGLE. Will the gentleman pardon an inquiry for a moment?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MAHON] has the floor.

Mr. BENNET of New York. While the constitution there is so specific that a supreme court judge can not even run for an office except a judicial office, there have been from time to time powers other than those conferred by the constitution conferred on the supreme court judges by legislative action. The judges have exercised those powers; they have been upheld by the court, and they have not been removed or impeached.

Mr. PERKINS. Is it not a fact that in the exercise of all these different parts of jurisdiction they have continued to act as State officers? The trouble with your bill is that when they act in naturalization, you say expressly they shall act not as State officers, but as United States officers.

Mr. BENNET of New York. I think the answer to that is very plain. You can not compel a State court to naturalize an alien, but when a State judge acts under Federal statute he acts with the expressed or implied consent of his own State.

Mr. MAHON. Now answer my question. When you make them officers of the General Government of the United States, they are not acting as State officers?

Mr. BENNET of New York. We do not make them that.

Mr. MAHON. You do.

Mr. BENNET of New York. We say that while performing this function they shall be deemed for this purpose to be Federal officers.

Mr. MAHON. You better strike that out if you want your bill.

The CHAIRMAN. The question is on the amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WILLIAMS. Division.

The committee divided; and there were—ayes 82, noes 35.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 4. That the Bureau of Immigration and Naturalization is authorized from time to time to make or cause to be made by an agent or agents of such Bureau examinations of the methods employed in naturalization proceedings by any court or courts, to copy any records pertaining to naturalization in said court or courts, and to examine under oath in connection with this part of the business of such Bureau any clerk or other person connected with said court or courts, and to make from the records of said court or courts lists of persons who have been or shall be naturalized.

Mr. CAMPBELL of Kansas. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. CAMPBELL of Kansas. I rise for the purpose of moving to strike out section 4 of the bill.

Mr. Chairman, I would not place the whole responsibility of good citizenship upon courts or officers whose duty it is to see that the citizenship of the United States is guarded in every possible manner when naturalizing aliens. I would preserve a high standard of citizenship by closer inspection of immigrants rather than by creating complicated machinery for the naturalization of those who have been admitted to our shores.

Now, Mr. Chairman, what a humiliating spectacle it would be to see a bureau clerk go into the courts of the several States of the Union clothed with power to take the judge from his bench and the clerk from his desk and put them on the carpet and bring them to book at his will and pleasure. Why, no man has a higher regard for a bureau clerk or chief than I in the exercise of proper power in the bureaus of the Government, but I object to extending their power beyond proper limits. The humiliation is complete when a bureau says to a committee of Congress that a bill ought or ought not to become a law. They may exercise a censorship over legislation, but I object to their saying to a court that it has or has not administered the laws properly or justly.

Mr. OLMSTED. Where does the gentleman find any such power conferred on the Bureau?

Mr. CAMPBELL of Kansas. Section 4 extends the power of the Bureau of Immigration so as to authorize that Bureau "from time to time to make or cause to be made by an agent or agents of such Bureau examinations of the methods employed in naturalization proceedings by any court or courts," and to examine all court officers under oath.

Mr. OLMSTED. That does not authorize him to change it or to do anything to the judge.

Mr. CAMPBELL of Kansas. It authorizes them to go out and make an examination of the methods and proceedings of the courts and to examine all court officers under oath, including, of course, the judge.

Mr. OLMSTED. What is the objection to that?

Mr. CAMPBELL of Kansas. Why, the objection is that it would be humiliating to the courts to be examined by a bureau clerk touching their proceedings and to be praised or censured by him for their action.

Mr. GILBERT of Kentucky. I would like to ask the gentleman if it is not already the privilege of any American citizen to inspect the public records of any court?

Mr. CAMPBELL of Kansas. Certainly it is. Any Government officer has that power to-day. Throughout the whole country the officers of the Government, inspectors of immigration, and officers of the United States courts are arresting and prosecuting those who are charged with violating the immigration laws or the naturalization laws of the country, and they have access to the courts the same as any other officer or any other citizen without the additional and unwarranted authority that is conferred here.

Mr. MANN. Will the gentleman allow me to ask him a question?

Mr. CAMPBELL of Kansas. Certainly.

Mr. MANN. Would the chief of a bureau have the authority to call a judge before him and require him to answer a series of questions now without this law giving him that authority?

Mr. CAMPBELL of Kansas. No; and he ought not to have; but a subpœna of the United States district court would undoubtedly bring a judge or his clerk to court in a proper proceeding just the same as it would bring any other citizen, which would answer every purpose this section could serve, and the whole section ought to go out.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RICHARDSON of Alabama. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by inserting after the word "bureau," line 20, page 3, the following words: "within the usual business hours."

Mr. RICHARDSON of Alabama. Mr. Chairman, I have listened to the remarks of the gentleman as to the extensive power given in this paragraph. It certainly seems to me that there ought to be a reasonable limitation put upon the agents of the Bureau of Immigration and Naturalization, and I believe it is but fair and just to put in the words that I have offered in this amendment.

Mr. BONYNGE. Mr. Chairman, as far as the committee is concerned, we are ready to accept the amendment.

Mr. CAMPBELL of Kansas. Mr. Chairman, I insist on my motion to strike out the paragraph.

The CHAIRMAN. Any amendment to perfect the section is in order before the motion of the gentleman from Kansas to strike out the whole section.

Mr. SHERLEY. Mr. Chairman, I offer the following amendment, which I send to the desk.

The CHAIRMAN. The Chair will first put the motion on the amendment of the gentleman from Alabama.

The question was taken; and the amendment was agreed to.

Mr. SHERLEY. I now offer the following amendment.

The Clerk read as follows:

On line 23, page 3, strike out the words "and to examine under oath in connection with this part of the business of such bureau any clerk or other person connected with said court or courts."

Mr. OLMSTED. Mr. Chairman, I offer an amendment to the part proposed to be stricken out.

Mr. SHERLEY. I believe, Mr. Chairman, I have the floor.

The CHAIRMAN. The gentleman from Kentucky has the floor, and the Chair will recognize the gentleman from Pennsylvania afterwards.

Mr. SHERLEY. Mr. Chairman, the purpose of this amendment is to accomplish what is desired by the amendment of the gentleman from Kansas striking out the section, with this distinction: That I do believe it is important that you should have a proper examination made by some Government official looking to the gathering of statistics and information, to see that the courts are properly performing their functions.

Mr. LITTLEFIELD. And looking toward a uniform procedure.

Mr. CRUMPACKER. Does not the gentleman believe that the courts of the United States may now send an officer into the several courts of the States to gather information?

Mr. SHERLEY. I know of no law now existing that authorizes an officer of the United States courts to go in quest of any such information; but it is desired by the proposers of this legislation, as I understand it, to bring about a uniformity in procedure, and in order to accomplish that it is proper that an official of the Department should gather information. The improper point lay in giving that officer the power to put under oath an officer of the State court, and make the clerk and the judge testify as to their procedure. It was undignified; it was humiliating to the State courts and State officials. It ought not to be; but with the amendment I propose adopted, you will then have simply a section authorizing an employee in the Department of Commerce and Labor, from time to time, to make an investigation and examine the records of the court and report back to the Bureau of Commerce and Labor, against which I think no one ought to object.

Mr. BONYNGE. Mr. Chairman, I have consulted with my colleagues on the committee, and we are satisfied to accept as far as we can the amendment offered by the gentleman from Kentucky.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

The question was taken; and the amendment was agreed to.

Mr. WILLIAMS. Mr. Chairman, I desire to address the House for a minute upon the subject of the amendment offered